seeking financial assistance and aid. This special assistance was over and above what we have already given to the Mexican government in development aid and to support counternarcotics efforts. This body debated and ultimately approved a $20 billion bailout package to prop up the peso and save the Mexican economy from collapsing. Without this money, the Mexican economy would have surely fallen and today Mexico is on the road to recovery.

Now, just over 3 years later, how does Mexico repay us for our role in pulling them back from the brink of economic disaster? They repay us by attempting to drive up the price of crude oil. This is wrong and we need to stop it now.

AN AGENCY IN SHAMBLES

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

Mr. DUNCAN. Mr. Speaker, anyone who still believes big government works or that the Federal Government can do anything in an economical way should just read the daily newspaper almost any day.

Today it is the Forest Service. According to the Government Accounting Office, the Forest Service has lost $215 million. It has simply vanished. They cannot account for it. Can you imagine that? It would really take some doing to lose $215 million, but somehow the Forest Service has managed to do it.

A report being released today compiled from GAO reports describes the Forest Service as ''an agency in complete shambles.'' Yet at a hearing which begins in just a few minutes, the Forest Service will be requesting a $43 million increase in its budget. This agency in shambles has gotten huge increases in funding over the last decade and now it wants even more. Maybe the Forest Service can lose more than $215 million next year.

Mr. Speaker, we need to help every family in America by decreasing the government's budget and increasing the family's budget.

CAMPAIGN FINANCE REFORM

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

Mr. MILLER of California. Mr. Speaker, last night the Republican leadership pulled the campaign finance bill from the House Committee on Rules. They did so not because they feared that it would fail, they did so because they feared that it would pass. They feared for the first time that there would be a bipartisan coalition in this House that would support meaningful campaign finance reform when we were given an opportunity to offer that on the motion to recommit. So rather than recognize that a majority of this House, Republicans and Democrats together, want to reform our finance system for campaigns, they pulled the bill, because the Republicans are trying to manage a defeat. They are not trying to manage a victory. They do not want campaign finance reform to pass. They want it to fail.

The problem is now the bill has too many votes. So they have to go back and tinker with it to see if they can make sure that enough people will not approve it. Their bill will fail. Real reform will pass. That is their problem. They want to stifle working families from participating in campaigns and triple the amount of money that rich families can give to campaigns.

CUBA

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

Ms. ROS-LEHTINEN. Mr. Speaker, next Tuesday Capitol Hill will be visited by various organizations that support the repressive regime's agenda which promotes the myth that there is an embargo on food and medicine to Cuba. Mr. Speaker, nothing can be further from the truth. The United States is in fact the leading humanitarian aid donor country to Cuba, more than all of the nations of the world combined. The United States has sent more than $227 million in humanitarian donations to the people of Cuba.

The shortages of medicine and food in Cuba is caused by the misguided failed Marxist policy of the dictatorship and not what people incorrectly perceive as U.S. policy and U.S. laws. The regime redirects these supplies to tourist-only hospitals and hotels.

U.S. policy, in fact, which a majority of the American people support according to a new survey released just yesterday by the American Enterprise Institute, is not at fault for Cuba's ills. The facts are clear. The embargo that must be lifted is the embargo on freedom and human rights and democracy which Castro imposes on his people.

INTERNET IN UGANDA

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

Mr. DELAY. Mr. Speaker, as the President travels the continent of Africa, he has made a whole lot of promises. For example, earlier this week he promised to send taxpayers' money to Uganda to help them wire their schools for the Internet. We have schools right here in the District of Columbia with roofs that leak, and the President has promised money for the school districts of Uganda.

You would think that Bill Clinton is running for the President of Uganda. But I doubt that the people of Uganda would support the President's agenda of higher taxes and more Washington spending. I wonder if this is just another version of executive privilege.

Mr. Speaker, I hope the President returns soon. The way he is making promises in Africa, we can all kiss that surplus good-bye.

SMALL BUSINESS PAPERWORK REDUCTION ACT AMENDMENTS OF 1998

Mr. MCINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 396 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 396

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3310) to amend chapter 35 of title 44, United States Code, for the purpose of facilitating compliance by small businesses with certain Federal paperwork requirements, and to establish a task force to examine the feasibility of streamlining paperwork requirements applicable to small businesses. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(l)(6) of rule XI or section 303 or 311 of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform and Oversight. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Government Reform and Oversight now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. Points of order against the committee amendment in the nature of a substitute for failure to comply with section 303 or section 311 of the Congressional Budget Act of 1974 are waived. During consideration of the bill for amendment, the chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. MCINNIS) is recognized for 1 hour.

Mr. McINNIS. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

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

Mr. McINNIS. Mr. Speaker, this is a noncontroversial resolution. The proposed rule is an open rule providing for 1 hour of general debate equally divided between the chairman and ranking member of the Committee on Government Reform and Oversight. After general debate, the bill shall be considered for amendment under the 5-minute rule.

The proposed rule makes in order an amendment in the nature of a substitute recommended by the Committee on Government Reform and Oversight as an original bill for the purpose of amendment and provides that it will be considered as read.

Furthermore, Mr. Speaker, under House Resolution 396, points of order against consideration of the bill for failure to comply with clause 2(1)(6) of rule XI, or section 303 or 311 of the Congressional Budget Act of 1974 are waived. Likewise, points of order against the committee amendment in the nature of a substitute for failure to comply with section 303 or section 311 of the Congressional Budget Act are waived.

Mr. Speaker, House Resolution 396 also provides that the Chairman of the Committee of the Whole may accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD. Furthermore, the rule allows the Chairman of the Committee of the Whole to postpone votes during consideration of the bill, and to reduce votes to 5 minutes on a postponed question if the vote follows a 15-minute vote.

At the conclusion of consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Finally, Mr. Speaker, the rule provides one motion to recommit, with or without instructions. This rule was reported out of the Committee on Rules by voice vote.

Mr. Speaker, the underlying legislation, the Small Business Paperwork Reduction Act Amendments of 1998, is intended to reduce the burden of Federal paperwork on small businesses by requiring the publication of a list of all Federal paperwork requirements on small businesses, and requiring each Federal agency to establish one point of contact to act as a liaison with small businesses.

In my opinion, Mr. Speaker, this legislation is a good step forward. Clearly, the burden of Federal regulations on the American public continues to grow. In 1997, total regulatory costs were $688 billion. When these costs are passed on to the consumer, the typical family of four pays about $6,800 per year in hidden regulatory costs. Therefore, the publication of all the Federal paperwork requirements on small business may further enlighten decisionmakers on the hidden costs of red tape. I encourage my colleagues to support this rule, and the underlying legislation.

Mr. Speaker, I include the following letter:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, March 25, 1998.

Hon. GERALD B.H. SOLOMON,
Chairman, Committee on Rules,
House of Representatives, Washington, DC.

DEAR CHAIRMAN: I understand that the Committee on Rules is scheduled to meet to consider a rule providing for the consideration of H.R. 3310, the Small Business Paperwork Reduction Act Amendments of 1998.

As reported by the Committee on Government Reform and Oversight, the bill would reduce revenue by $5 million in fiscal year 1999 and $25 million over five years.

Consequently, the bill violates sections 303(a) and 311(a) of the Congressional Budget Act by reducing revenue first effective in a fiscal year for which a budget resolution has not yet been agreed to (fiscal year 1999) and by reducing revenue below the five-year revenue floor as established by H. Con. Res. 84.

However, I would note that last year the House passed H.R. 2675, the Federal Employees' Life Insurance Improvement Act of 1997, which increased offsetting collections by $6 million in fiscal year 1998 and $72 million over five years. H.R. 2675 was also reported by the Committee on Government Reform and Oversight.

Sincerely,

JOHN R. KASICH,
Chairman.

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

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Colorado for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.)

□ 1045

Ms. SLAUGHTER. Mr. Speaker, I do not oppose this rule; it allows all germane amendments to be offered. However, the rule does include several waivers of House rules that trouble me. The rule waives clause 2(L)(6) of rule XI which provides for a 3-day layover of the committee report accompanying this bill. This House rule allows Members time to study the report and decide whether they would like to offer or support amendments. While this requirement is often waived for pressing budget or appropriations matters, there is nothing in the record as to why the House must take up H.R. 3310 in such haste.

Of more concern are the waivers in this rule of the Congressional Budget Act. Some are technical waivers, common for bills considered before the annual budget resolution is passed. However, this rule also waives section 311 of the Congressional Budget Act. Section 311 prevents measures from being considered which exceed the spending limits or lower revenues that have been set by the current budget agreement. The loss of receipts because of this bill are not large, about $5 million annually, but again nothing in the record indicates why a small offset could not have been found that would have allowed the House to consider this bill without violating our Budget Act and its pay-as-you-go provisions. As we all know, strict adherence to pay-as-you-go rules has been a key in our ability to lower the deficit and to balance the budget.

Mr. Speaker, I also have questions about some provisions of the underlying bill, H.R. 3310. I support efforts to reduce paperwork requirements on small business, and I have supported the legislation that was passed by Congress to reduce the paperwork requirements such as the Paperwork Reduction Act and the Small Business Regulatory Enforcement Fairness Act, and the administration has streamlined regulations through its initiative to reinvent government and the implementation of the White House Conference on Small Business Recommendations.

There are aspects of the bill that I support. H.R. 3310 would require Federal agencies to publish paperwork requirements for small businesses so that they can know exactly what is required of them. It would require each Federal agency to establish a liaison for small business paperwork requirements to help small businesses comply with their legal obligations, and would establish a task force to consider ways to streamline paperwork requirements even further.

It is unfortunate, however, that the Committee on Government Reform and Oversight included other provisions in this bill that could be dangerous to the safety and the health of the American people. This bill would prohibit the assessment of civil penalties for most first-time violations of information collection or dissemination requirements if those violations are corrected within 6 months. The civil penalty provisions in this bill effectively remove agency discretion from regulatory enforcement decisions against first-time violators. Although this provision may sound good on the surface, it could cause serious problems. It could hamper agency efforts to take actions to protect the health and safety of the American people.

For example, this bill could make it more difficult to catch drug dealers by weakening the enforcement of the requirement in the financial institutions report cash transactions that exceed $10,000, a requirement that obviously helps law enforcement officials identify criminal activity.

The bill can make our highways less safe by weakening the enforcement of reporting requirements on the transportation of hazardous materials.

The bill could make medicines more dangerous to take by weakening the enforcement of the requirement that manufacturers report adverse effects.

This bill could make it more difficult to protect investors and pensioners by weakening the enforcement of requirements that create audit trails and prevent fraud.

The bill could make it more difficult to deter illegal immigration by weakening the enforcement of the requirement that employers document the eligibility of new employees.

The bill could make our workplaces less safe by weakening the enforcement of health and safety requirements on the job.

While the bill does contain some exceptions to the suspension of first-time paperwork fines, the standards are high. They quote actual serious harm to the public health or safety, unquote, or, quote, eminent and substantial danger to the public health and safety, end quote. In fact, this provision provides no relief to honest businesses doing the best they can to obey the law. It gives an unfair advantage to the small minority of businesses that try to undercut their competition by willfully violating or ignoring the law. If this bill became law in its current form, those businesses disinclined to follow the law would have no incentive to obey the law until they had actually been cited for violation.

As has been pointed out often on this floor the past few years, many agencies do not have sufficient resources to regularly check on the businesses they regulate. That means that enforcement of public health and safety protections depends on voluntary compliance. This provision would reward noncompliance with a law.

For these reasons, this bill is opposed in its current form by the administration, consumer groups, labor unions, and environmental groups. However, the rule we are debating will allow the House to solve many of the problems in this bill. The gentleman from Ohio (Mr. KUCINICH) and the gentleman from Massachusetts (Mr. TIERNEY) will offer an amendment that provides for agency discretion in the imposition of civil penalties against first-time violations. The amendment also requires agencies to establish policies or waive or reduce civil penalties for first-time inadvertent violations.

Mr. Speaker, I support an H. Res. 396 provision that any germane amendment can be offered under the 5-minute rule.

I urge my colleagues to support the passage of the Kucinich-Tierney amendment allowed by the rule.

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

Mr. MCINNIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. MCINTOSH).

Mr. MCINTOSH. Mr. Speaker, I rise in favor of the rule and the resolution and would like to share with my colleagues a brief outline of what this bill does and how it came forward to this floor.

We have had over 21 hearings, field hearings around the country, in our subcommittee, listening to Americans about the problems with regulations, and time and time again we heard from small businesses that they felt government was coming in and playing ''gotcha.'' They would try to comply with all the different forms that they have to fill out. Oftentimes they found that that in itself was an enormous undertaking that costs them a great deal of money, took away their time from growing their small businesses.

One person who came and testified in Washington, Teresa Gearhart, who owns a small trucking company with her husband in Hope, Indiana, she told us that her company does have enough business to grow and create five new jobs next year, but they cannot create those new jobs because they cannot afford to fill out all of the paperwork that would go with those additional employees.

We also heard from Gary Bartlett and G.W. Bartlett Company in my district who sent us a ream of paperwork that he has to fill out for each of his employees.

At one of our field hearings in Minnesota, Bruce Goman who is in charge of a construction company said that he very consciously keeps the size of his small business under 50 employees because of all the Federal paperwork.

Well, Mr. Speaker, our committee looked at this, we passed a bill in the House of Congress in 1995, and it was signed by President Clinton, that mandated the Federal agencies to reduce their paperwork by 10 percent. Sadly, they failed to live up to that. In the first year after that bill was passed, the agencies only reduced their paperwork by 2.6 percent, and it is projected that last year, in 1997, it was only by 1.8 percent.

So our committee considered what can we do to seriously cut back on unnecessary Federal paperwork. We bring this bill to the floor that does four key things. First of all, it would put on the Internet a list of all of the different paperwork that is required by a small business to fill out in order to do their job. Many of the businesses who spoke with us told us they want to comply with Federal regulations, they just do not know all of the different requirements, all the forms they have to fill out, all the paperwork they have to keep at their job site. This would put it into one place, make it widely available to small businesses around the country on the Internet.

Second, it would offer small businesses compliance assistance instead of fines when they have a first-time violation. This is critical. So many times, even President Clinton has acknowledged, that agencies tend to play ''gotcha'' with small businesses where they come in and they say, well, we do not really see any real problem here, but you do not have this form filled out right, so that is a $750 fine. Or, you do not have this material data sheet, that is a $1,000 fine. Now for a small business, that can be the difference between survival and going out of business.

So our rule says that if they can correct that without causing any harm to the public health or safety, without undermining criminal enforcement, without causing any serious jeopardy to the public, then that company can go ahead and correct that mistake and not be fined because they were inadvertently not filling out Federal paperwork correctly.

The third provision says that we are going to establish a paperwork czar in each of the agencies, someone that small business will know is going to give them the answer from EPA or OSHA or the Treasury Department for every agency about the paperwork that they need to fill out as a small business and someone who will be an advocate within the agency to cut back on paperwork so that the agencies can start to meet their goal.

And fourthly, it will set up a multiagency task force to say how do we go further, how do we consolidate all of the different forms the Federal Government has so that we actually reduce the amount of paperwork that small businesses have?

I appreciate the efforts of my colleagues on the other side of the aisle to work with us on this bill. I urge my colleagues to support the resolution and the bill when it comes to the floor.

Ms. SLAUGHTER. Mr. Speaker, I yield 10 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, before I rise in support of an open rule for debate on H.R. 3310, I want to commend my colleague, the gentleman from Indiana (Mr. MCINTOSH) for his efforts in not only developing the rule but also in developing an attempt at a bipartisan relationship on the underlying substance. Mr. MCINTOSH has certainly been open to the many discussions that we have had to try to improve the bill.

During this process today, we are hopeful that we will continue to see the kind of give and take here that can produce a better bill and can enable us to move this bill successfully out of the House. The gentleman from Massachusetts (Mr. TIERNEY) and I will be offering an amendment with that in mind.

In the meantime, as we go through this debate, I think Members of Congress need to look very carefully at the implication of this bill as it is currently formulated. It has been introduced under the title of paperwork reduction, yet it would have an enormous effect on the ability of Federal agencies to carry out and enforce the laws that have been passed by Congress. As it stands now, and I again say as it stands now, H.R. 3310 would grant mandatory waiver of civil fines to businesses that are first-time violators with a wide range of paperwork requirements.

Mr. Speaker, this language has been reviewed carefully by law enforcement officials in the Department of Justice, and they have raised a number of troubling issues. It is through information collection that law enforcement agencies can detect drug trafficking and money laundering. In turn, the Drug Enforcement Administration relies on written reports to ensure that controlled substances such as codeine and amphetamines are not diverted illegally. In order to carry out drug testing laws, the Department of Transportation requires reports from employers showing that their safety-sensitive employees have passed drug tests.

Under the bill's current language, DEA's oversight of dangerous drugs and the oversight of drug testing by DOT would be seriously undermined, and one of the reasons why it is important to have a rule where we can have open debate is to be able to bring into the record such testimony as was presented by the Federal Government in committee, where they talked about DOT requiring drug testing of safety-sensitive employees and various modes of transportation. When some entity involved in the drug testing process delays or deficiently reports the results of drug tests, it will delay the removal of employees from performing important safety functions.

Again, we would impose no fines for first-time violations even if the violation was intentional or careless and reckless. This was one of the concerns that was expressed in committee, and it is one of the concerns that needs to be fully aired in this discussion not only of the rule but in the underlying debate.

Furthermore, it has been stated that if a repair station fails to keep the necessary records showing that a required repair has been made to an aircraft, the Federal Aviation Administration generally will have to ground the aircraft for up to 5 days or longer until it can be shown that the aircraft was correctly repaired.

□ 1100

Grounding an aircraft could be extremely expensive for the airline as well as being disruptive for any passengers who had reservations on the flight in which the aircraft was to be used. Although the repair station may suffer contractually, we could not fine it for a first-time violation. Those remarks were made in committee, respecting the many difficulties which are inherent with the bill as it is drafted.

Now, Federal agencies believe that H.R. 3310, as it stands now, would interfere with the war on drugs, would undermine our ability to uncover criminal activity, would allow small businesses to evade drug testing statutes, and would harm our efforts to control illegal immigration.

The gentleman from Massachusetts (Mr. TIERNEY) and I will be introducing an amendment that is consistent with the underlying goals of this legislation to help small businesses with their paperwork requirements while protecting the health and safety of the public.

The Tierney-Kucinich amendment would ensure that Federal law enforcement agencies and others continue to have the tools they need to enforce many important statutes. It would do this by requiring all agencies to establish specific programs and policies to allow them to eliminate, delay, or reduce civil fines for first-time paperwork violations. It would mandate that agencies take a number of factors into account.

The amendment would ensure that paperwork reduction efforts are truly relevant to special circumstances. Agencies would be able to tailor their policies to the unique needs of the laws they are responsible to enforce, and congressional review of their policies would become a matter of course.

I urge my colleagues to support this open rule so that all of the implications of this bill can be fully and carefully examined. An open rule is important, Mr. Speaker, so that we can discuss the problems of a bill which currently grants mandatory waiver of civil fines to businesses that violate the law by failing to file reports, post OSHA notices in the workplace, or inform their communities about hazardous chemicals, so that we can talk about a bill which, in my estimation, currently would provide some protection for drug traffickers.

Law enforcement agencies which detect the drug trafficking and money laundering by using reports filed by businesses, we are told in the analysis that the Department of Justice did that.

This particular bill, as it is drafted, would cause problems in monitoring those important areas as well as encourage financial institutions to not report cash transactions that are more than $10,000.

Now, in the debate that will follow, we will go more into some of these details, but suffice it to say that the open rule is important.

I would like to conclude where I began these remarks on the rule, Mr. Speaker; and that is that I think that the gentleman from Indiana (Mr. MCINTOSH) has made a good-faith effort to attempt to come up with a bill that can be workable for all. I commend him on his efforts in that regard.

I have enjoyed the opportunity to work with the gentleman from Indiana (Mr. MCINTOSH). Again, I hope, as we go through this process today, we can find a way to improve this bill so that we can all come to an agreement.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Speaker, I thank the gentlewoman from New York for yielding to me.

Mr. Speaker, let me just start by saying that the gentleman from Indiana (Mr. MCINTOSH) and the gentleman from Ohio (Mr. KUCINICH) have done an admirable job of working through this bill.

There is much in this bill as it stands that can be supported. I think that everybody understands that small business has to have some relief from time to time over what might be overzealous application of the law. The idea of publishing in the Federal Register on an annual basis a list of the requirements applicable to small business concerns makes sense. That is fully supported by everybody that was involved in the drafting of this bill.

Establishing an agency point of contact where each agency must have a point of contact, a liaison for small businesses to work with, so that there can be ready compliance. And understanding what is entailed by compliance is something that everybody can support, as is the fact of establishing a tax force on the feasibility of streamlining information collection requirements.

That is why we need an open rule, so that we can talk not just about the things that we might disagree with, but those things that we find in this bill that are, in fact, good as it stands.

There are, however, the problems, as the gentleman from Ohio (Mr. KUCINICH) noted, with one provision in that bill. I congratulate, again, the gentleman from Indiana (Mr. MCINTOSH) on his continual work with the gentleman from Ohio (Mr. KUCINICH) and with me and the committee to try to resolve those differences.

Everybody here wants to make sure that business, particularly small businesses, has understanding and gets a break when it is deserved. We just want to make sure it is not a disincentive to filing some very serious documentation that protects the safety and the health and the welfare of the American people. I believe we can work toward that goal together through a good and open debate and through this rule.

Ms. SLAUGHTER. Mr. Speaker, I yield back the balance of my time.

Mr. MCINNIS. Mr. Speaker, this is an open rule. It is a good bill, and I urge its support.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MCINNIS). Pursuant to House Resolution 396 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3310.

□ 1106

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3310) to

amend chapter 35 of title 44, United States Code, for the purpose of facilitating compliance by small businesses with certain Federal paperwork requirements, and to establish a task force to examine the feasibility of streamlining paperwork requirements applicable to small businesses, with Mr. CALVERT in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from Indiana (Mr. MCINTOSH) and the gentleman from Massachusetts (Mr. TIERNEY) each will control 30 minutes.

The Chair recognizes the gentleman from Indiana (Mr. MCINTOSH).

Mr. MCINTOSH. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, today the House takes up a bipartisan bill that I introduced with the gentleman from Ohio (Mr. KUCINICH), H.R. 3310, the Small Business Paperwork Reduction Act. This bill would give small businesses relief from government paperwork and agencies freedom from the ''gotcha'' techniques to which the President often refers.

As you know, Mr. Chairman, the burden of government paperwork is significant. It accounts for one-third of the total costs of all Federal regulations or about $225 billion a year. It took 6.7 million man-hours to complete all of the Federal paperwork in 1996, 6.7 million man-hours of work to complete government paperwork.

Now, our bill amends the Paperwork Reduction Act, which needs to be strengthened because the agencies have not met the goals to reducing paperwork set by the Paperwork Reduction Act of 1995.

The Office of Management and Budget reported to Congress that, instead of reaching the 10 percent goal in 1996, paperwork was only reduced across the agencies by 2.6 percent. It is estimated to have been reduced only by 1.8 percent in 1997, all this in spite of what President Clinton proclaimed as policy for his administration.

I would like to quote from a speech that the President gave in 1995 in Arlington, Virginia: We will stop playing ''gotcha'' with decent, honest business people who want to be good citizens. Compliance, not punishment should be our objective.

I wholeheartedly agree with the President on that objective, and our bill is a mechanism for furthering that goal.

At our first hearing the subcommittee held 3 weeks ago in which several small business owners spoke about their concerns and frustrations with government paperwork. Theresa Gearhart, who owns a small trucking company in Hope, Indiana, came and told us about how her company could grow and could create five new jobs next year. But they can't create those jobs because of all the paperwork that would come with them.

To demonstrate to my colleagues exactly how onerous that burden is, Gary Bartlett in my district sent the Federal paperwork that was required to be completed for one new hire. This stack of paperwork is all of the paperwork that is needed for one new hire. So if you have a company with 25 employees, they would have to complete the following paperwork. This is half of it, Mr. Chairman, and this is the other half. For 25 employees, that is what a small business has to fill out every year in government paperwork. I think it is outrageous. I think it is ridiculous.

Let me read to my colleagues just what some of those forms are. There is the insurance information for COBRA; the EEO–1 form listing race and gender of all employees, which then have to be kept hidden because you cannot use race and gender in making employment decisions; the employee evaluation, another document for EEOC; the disciplinary notices that may go out also have to be documented for EEOC; IRS tax payment form for automatic withdrawal of funds that have to be filled out weekly; Federal IRS withholding forms that have to be filled out every year; directory of new hires to comply with the Federal deadbeat dad law; form for Federal loans for mortgages; FAA loan form; Fannie Mae; COBRA notification explaining coverage options available when an employee quits his job; FMLA, Family Medical Leave Act forms; W–2 forms, one to the employee, and one must be kept on file for 8 years; employment application to comply with Federal standards for criminal and drug checks; receipt of safety glasses.

That is very important Federal paperwork that needs to be filled out for every employee. Form 15 is a form for badge timecards which have to be tracked to comply with the Fair Labor Standards Act. Then there is the IRS Form I–9 which has to be kept active for each employee and kept on file for the employee 3 years after they have been hired; the W–4 form, for new hires to comply, again, with the deadbeat dad law; health insurance form to keep track of COBRA; OSHA injury and illness report form; an employee handbook for exempt employees, another EEOC form; employee handbook for nonexempt employees, another EEOC form; employee's copy of COBRA, which has to be signed and kept on file.

This is the paperwork that goes along with every job that is created in America. If we do not do something to cut back on unnecessary paperwork, reduce the amount of forms that have to be filled out, we are making it more and more difficult for small businesses in this country to create new high-paying jobs.

Now, one of small business' greatest fears is that they may not know about all of these requirements. Mr. Bartlett happened to have kept them on his site and has an employee who keeps track of all of them. But when you only have four or five employees, or maybe 25 employees, you cannot afford to hire another person just to keep track of all these forms.

This is all in spite of the fact that some agencies have, indeed, made steps to reduce their paperwork and have, indeed, adopted policy that would waive fines for unintentional violations.

Gary Roberts, the owner of a small company which installs pipeline in Sulfur Springs, Indiana, told us that he was fined by OSHA $750 because of a hazardous communications program that was not on site.

All of his employees had been trained to comply with that hazardous communications program. A copy of it was in the main office that Mr. Roberts kept on file. But when the OSHA inspector came and they ran the copy out to the job site, he said, That is not good enough. Even though you have corrected the violation, you still have to pay $750. OSHA would not waive the fine in spite of President Clinton's directive not to play ''gotcha''.

Now, the consensus among the witnesses is that the small business owners genuinely want to comply with these regulations, they want to be good law-abiding citizens. They do not like filling out the form, but if that is what they are required to do, they will do it to meet their obligations under the law. But, frankly, they are overwhelmed, and they cannot do their job and run a business at the same time as they are filling out all of this paperwork.

The legislation that we bring to the floor today will help correct that. It does four things, Mr. Chairman. It would require that a list of all of these regulations and any other regulation that a small business has to comply with will be put on the Internet so that every employer has access to that via computer and can know what is expected of them.

Second, it would offer small businesses compliance assistance rather than fines. Let me go back again to President Clinton's quote, because I think our bill does exactly what he wanted to do: We will stop playing ''gotcha'' with decent, honest, business people who want to be good citizens.

Compliance, not punishment, should be our objective. So we have incorporated in section 2 a waiver that says if a small business makes a mistake somewhere in this stack of forms, they did not fill out the box correctly, or they did not keep it up to date, but it was a harmless mistake that did not endanger public safety, did not threaten law enforcement activities, did not interfere with the Internal Revenue Service collection of taxes, that harmless mistake can be corrected, and they will not suffer a fine for doing that in their business.

□ 1115

I think it is common sense. I think it is what small businesses have been telling us they want government to do.

They want to be good citizens, they want our help, but they do not want to feel that they have to live in fear of a government agency that will come in and play ''gotcha'' if they happen to make a mistake in one of these stacks of forms.

Third, it would establish a paperwork czar in each of the agencies, someone where small business can go and talk to about the paperwork that they are required to do; someone who is an advocate for small businesses within the agency. Maybe over at the EEOC they could tell them, look, we have about 5 different forms here that we ask these businesses to fill out; why do we not think about consolidating that and just have one form that people can fill out for their employees? That is what is needed within the agency, to be an advocate for these small businesses. Finally, a multi-agency task force to study how we can further streamline these requirements.

Mr. Chairman, it would be my fondest dream if we could take these stacks of regulations for 25 employees and say, we do not need half of this. The government can get rid of half of this stack, and we can get all the information we need to know from those small businesses.

Now, I am pleased to say that this bill does have bipartisan support. There is some controversy that has come up around section 2, the provision that focuses on the suspension of first-time paperwork violations, and I want to say I appreciate the concerns that the gentleman from Massachusetts (Mr. TIERNEY) and the gentleman from Ohio (Mr. KUCINICH) have raised as we have tried to craft that provision. They have given us some insight into areas where we can actually do a better job in crafting that, and in the committee we made changes to that provision.

We created an exemption for if there were actual harm, an exception if there was a threat to public health and safety, an exception for any IRS form, and that, by the way, would include any form that is required under the Internal Revenue Code. There is also an exemption of the waiver for fines in cases where the fines would interfere or impede the detection of criminal activity. This exemption covers any case where the waiver of a fine would interfere with or impede the detection of an illegal drug transaction.

This bill now includes many of the factors that the gentleman from Ohio (Mr. KUCINICH) brought forward to our committee, and I want to thank him for his hard work on this bill as well. He deserves a lot of credit for it, he has given a lot of thought to this bill, and the factors that he asked us to include are frankly common sense factors for when the agency might decide that in spite of the fact we are requiring a waiver, this business does not deserve it, and we have written that into the bill.

They can say, no, you do not have 6 months to correct it, you only have 24 hours, because it is so important, it is a threat to public health and safety, or if it impedes their effort to detect criminal conduct, they can decide they are not going to waive a particular fine for a particular business.

One of the things that I think it is important to stress here, by the way, is that our bill does not exempt any small business from the requirement to fill out these forms; this provision merely says, if you make a mistake, you have 6 months to correct it. But the requirement still remains in place until we have a chance to go through the agencies form-by-form and reduce that paperwork.

Now, all of these exemptions will ensure that the bill and the waiver provision do not have any unintended or harmful consequences. As I have said, this bill is consistent with Vice President GORE's Reinventing Government Initiative and President Clinton's statement that I read earlier. In 1995, the President actually ordered the agencies to waive fines for small businesses so that they could correct their mistakes. Our bill builds on that initiative of the President, puts it into law, because frankly, the testimony we took at a lot of our field hearings and the hearings we had 3 weeks ago showed that the agencies are ignoring the President's directive and continuing to fine small businesses.

Mr. Chairman, I think it is critical that we protect our Nation's small businesses from these kinds of ''gotcha'' techniques. The bill retains all of the agency's enforcement powers, except for the civil fine. So if they find out there is a real threat that a law might be violated in a criminal action or a real threat or imminent threat to health and human safety, they can still come in with all of the criminal law powers that the agency has, they can still come in with all of the injunction relief that they have.

Mr. Chairman, many agencies today can actually shut down America's small business if they feel that a crime is being committed. This bill continues to give them all of those tools to make sure that a bad actor is not allowed off the hook. This bill does allow fines where there actually is harm that has been created.

So, Mr. Chairman, in conclusion, I would ask the Members of the House to pass the Small Business Paperwork Reduction Act today so that we can bring some sanity back into the process to go a long way toward helping our Nation's small businesses deal with the excessive paperwork, get back to their real business of creating jobs for American workers.

Mr. Chairman, I urge my colleagues to support this bipartisan effort to reduce the burden of government paperwork for all of our Nation's small businesses.

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

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

Mr. Chairman, let me just say that much of what the gentleman from Indiana (Mr. MCINTOSH) says is absolutely accurate, and I want to acknowledge his fine efforts and those of the gentleman from Ohio (Mr. KUCINICH) in trying to work at the committee level and the subcommittee level to make this a bill that would, in fact, be beneficial to the small businesses of this country. Much has been done in that regard and in that direction.

When the gentleman from Indiana (Mr. MCINTOSH), the chairman of the subcommittee, says that the President wanted to end ''gotcha'' politics or ''gotcha'' efforts in administration, he is absolutely right. But unfortunately, this bill has some major flaws that still exist that do not do anything with regard to moving that process along.

Let me initially say that there is nothing, and I think Mr. MCINTOSH acknowledges this, there is nothing that reduces paperwork in the current bill. There will be no particular small business, as a result of this legislation, should it pass, that will have to file one less piece of paper than it had to the day before it passed. What happens here is we have 3 out of 4 provisions of this bill that are, in fact, very good and very agreeable.

It makes sense that it has to be published in the Federal Register on an annual basis a list of the requirements applicable to small business concerns. No small business should have to wonder what its obligations are, what paperwork has to be filed; they should be able to readily go to the register and see exactly what the obligations are.

There should be one point of contact within every agency a small business can go to to find out what must be done to be in compliance with regard to the requirements of that particular agency, and that is a part of this bill that we can all get behind without any disagreement.

The idea of establishing a task force on feasibility of streamlining information and collection requirements is something that the entire committee, and in fact, the gentleman from Ohio (Mr. KUCINICH) worked very hard with the gentleman from Indiana (Mr. McIntosh) and others on that provision, so that we have a lot of this bill that makes absolute and perfect sense.

However, there are corrections that have to be made. The administration does not want a ''gotcha'' type of atmosphere out there, particularly with small business. It perfectly well understands the contribution that is made to our economy by small business, as does the gentleman from Ohio (Mr. KUCINICH), as do I, as do other members of the committee and subcommittee, but it should be noted in its present form, Mr. Chairman, in its present form, the administration strongly opposes H.R. 3310, because it believes it would waive fines for first-time violators of Federal information collection requirements and that that waiver provision could seriously hamper the

agency's ability to ensure safety, protect the environment, detect criminal activity, and carry out a number of other statutory responsibilities.

In fact, the statement of the administration policy issued, Mr. Chairman, says that if H.R. 3310 were presented to the President in its current form, the Attorney General, the Secretary of Transportation, the Secretary of Labor, the Administrator of the Environmental Protection Agency would all recommend that the President veto this bill.

Current law already requires agencies to help first-time small business violators who make a good faith effort to comply. The primary beneficiaries of this law as it is currently written, Mr. Chairman, would appear to be those who do not act in good faith and those who intentionally and willfully violate the applicable regulations.

That is not what I believe this committee has in mind, and it is not what people in small business would want. They want fair competition. They want to know that when they are obligated to file some piece of paper or a document for safety reasons, for health reasons, for environmental reasons, that, in fact, their competitor also has to meet that requirement.

This particular law, as it is currently written, is an absolute disincentive to people complying with their obligations to provide information, whether it is about the environment, whether it is about safety, whether it is about pensions, and this is what we have an objection to, and the gentleman from Ohio (Mr. KUCINICH) and I will present an amendment to this bill at a later point this morning.

Mr. Chairman, if one reads carefully the bill language, and the gentleman from Indiana (Mr. MCINTOSH) referred to an attempt by the majority here to correct some of the provisions of the bill, it still says that failure to impose a fine would have to be filed in order for there to not be a waiver. Well, many times the detection of a criminal activity does not require, under the fine or the failure to impose a fine, but in fact whether or not the paperwork was filed, so it should be the failure of filing the required documentation that is a consideration, not whether or not failing to impose a fine would in any way impede the detection of a criminal activity.

They also talk about the problem of having an imminent or substantial danger to the public, a violation present that would be a factor in that, but the fact of the matter is, proving what is imminent or proving what is substantial is a cloudy area that leads everyone to the belief that they can get away with not filing any of this documentation for however long it takes somebody to find them, to discover the situation, and then to point out the violation, and then only the second time would they stand any risk. So that disincentive impacts badly on all small business as well as the public in general, and the people that are working within these companies.

Mr. Chairman, H.R. 3310 as currently constructed prohibits agencies from assessing civil fines for the first-time, information-related violations. It removes agency discretion. It actually creates a safe haven for willful, substantial and long-standing violations. It would have a wide-ranging and substantive negative effect, because it does not merely address technical violations and reporting requirements, it applies to the failure to distribute important information to the public, such as warning consumers of the dangers of a product or prescription drugs, educating employees on how to handle hazardous materials, and adequately disclosing a broker's disciplinary history to an investor. It would weaken the incentive to comply with the law because small businesses would be sure that they would not be fined even if they were caught, and it would put complying businesses at a competitive disadvantage.

The exemptions that the gentleman from Indiana (Mr. MCINTOSH) states that he did put in the law are still inadequate to protect the public. They would prohibit fines for most first-time violations unless the agency met some very extensive burdens of proof that the violation actually caused serious harm, that the failure to fine impeded the detection of criminal activity. These are standards that simply raise the bar so high that nobody will be encouraged to meet their requirement to file and they will know that they can get away in the first instance.

Mr. TIERNEY. Mr. Chairman, I yield 8 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I thank the gentleman for yielding me this time. It has been a pleasure to work with both of my colleagues in trying to make this a better bill.

This bill that we are considering is the product of intensive bipartisan effort, and I think that since the beginning of our joint work on the bill, we have to realize that we have been focused on 2 goals: first, to help small businesses comply with paperwork requirements so that small business owners can devote more time to creating jobs for our people; and second, to make sure that the health and safety of the public and the integrity of environmental laws, worker protection and consumer protection laws are upheld.

I think we are all in agreement that small business is the backbone of our country, that small business creates the vast majority of new jobs, that small business owners work hard to build their communities; that small business needs to spend their time creating jobs, and it is the duty of the Federal Government to streamline paperwork requirements to allow small business to focus on job creation and economic development. We know that most small businesses obey the law. They are good Americans, I salute them, and I agree with both sides of the aisle, I think we are in agreement that we are both for small business.

But since the outset of this bill, we knew that the bill would go through improvements as we gain more and more information. I made this very clear in every statement that I made, both public and private, about the bill. In fact, every time that the gentleman from Massachusetts (Mr. TIERNEY) and I have consulted with agencies about the impact of the bill, we have made changes that have improved the legislation.

□ 1130

In turn, after hearing from small business owners recently, we have come up with more improvements in the bill that are consistent with our goals.

Based on the results of a hearing last Tuesday, we now have the benefit of the experience of a wide range of executive agencies, including the U.S. Department of Justice. All of these agencies, to one extent or the other, have implemented programs to help small businesses comply with their paperwork requirements.

At the same time, all of them are required to enforce a number of statutes. Oftentimes the ability of these agencies to protect the public interest depends, depends on the information that they collect through paperwork documents.

It has now become clear that one provision of the current draft of the bill, the mandatory waiver of civil fines, would in fact have the unintended consequence of making it more difficult to protect the health and safety of the public, of workers, of consumers, of all of those who are protected by law enforcement officials.

That, of course, was never my intent as a cosponsor, and when I heard this testimony from the U.S. Department of Justice, I have to say, Mr. Chairman, it gave me pause, because what the U.S. Department of Justice said was, ''The civil penalty waiver would have adverse effects that I am confident neither you nor any of the bill's other sponsors would intend. As I will describe, this position would interfere with the war on drugs, hinder efforts to control illegal immigration, undermine safety protections, hamper programs to protect children and pregnant mothers from lead poisoning, and undercut controls on fraud against consumers and the United States.''

The Department of Justice said that this result would put law-abiding businesses at an unfair competitive disadvantage, and could endanger the public. They go on to say, and I think it is critical that this be introduced into the RECORD in this debate, that the existing statutes and policies of the administration, and in particular, the President's memorandum of April 21, 1995, where he asked all agencies to reduce small business reporting requirements and to develop policies to modify or waive penalties for small businesses when a violation is corrected

within a time period appropriate to the violation in question, and in addition to that, the Department of Justice's current policies, where they say that the components with regulatory functions provide for the waiver of civil penalties in appropriate circumstances, we have policies right now that respect small business.

We need to go further, but the Department of Justice has said about this bill, as it is currently constituted, that we have to recognize that we have statutes and policies appropriate to recognize a good-faith effort to comply with the law, the impact of civil penalties on small businesses and other factors that may appropriately be considered in insisting on civil penalties. This policy compliments ongoing agency efforts specifically designed to help small businesses understand and comply with the law.

The Department of Justice says, and I agree, that we must continue our search for effective ways to streamline and simplify reporting and recordkeeping requirements that apply to small businesses. But efforts to streamline reporting need not undermine law enforcement or regulatory safeguards that protect the public from safety, health, or environmental hazards.

After hearing this, the gentleman from Massachusetts (Mr. TIERNEY) and I drafted an amendment which we think will meet the needs of small business for relief, and at the same time provide continued protections for the people of this country with respect to public health, public safety, and the environment.

I believe that we have provided an opportunity to produce a bill which can be agreed on, not only on both sides of the aisle, but will get the approval of the administration. But lacking that, we are missing an opportunity to be of service to small business.

I want to commend the efforts of the gentleman from Indiana (Mr. MCINTOSH), the chairman, to try to develop a better bill. We are not there just yet, Mr. Chairman, but we can keep trying. We have another hour.

I want to thank the gentleman from Massachusetts (Mr. TIERNEY) for the leadership he has shown on repeatedly insisting on protecting the rights of small business, at the same time regarding our obligation for the safety, the health, and the environment of the people of this country.

Mr. MCINTOSH. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, let me go through in some detail how this provision works on the suspension of fines for first-time violations.

Under the current law, what happens is paperwork is not filed or there is an error in the way the paperwork is filled out, or some other violation of the form not being in the right place at the right time. It is discovered by an agency, usually somebody who is coming in and inspecting a small business. Then there is a civil penalty. They are either written up on the spot or they receive in the mail a notice that they owe the government $750, $1,000, $2,000. That is the current law.

Now, what happens under our revision to the law has been greatly misunderstood by the agencies. When we hear about this ''might impede criminal violations, it might cause a threat to health and safety,'' I hear those all the time when we talk about government regulations.

Frankly, the agencies are a lot like traffic cops, where it is a lot easier to give out a speeding ticket than it is to apprehend a criminal who has been robbing somebody's house. So they like to give out speeding tickets, but they are a little bit nervous about going after the armed criminal who just robbed somebody's house.

But frankly, my preference would be that the agencies go after the bad guys and spend a little less time harassing innocent small businesses. So we have written a provision that would take care of this. First of all, if the paperwork is not filed or filed incorrectly, or not on site where it should be, it is discovered by the agency, then they have to go through a series of decisions before they assess a civil penalty.

First, does the violation cause actual harm? In that case there is a civil penalty, because if it has actually caused harm in some way, it is only fair that that business be penalized because of that harm. The failure to fill out the paperwork was a grave error and they should have taken care of it.

Second, if it threatens harm. So if there is no actual harm that occurred, but it might have caused actual harm in an imminent dangerous situation, then there is a civil penalty.

The third decision is, does it involve the Internal Revenue Act? We have explicitly exempted all of the paperwork that is required under the Internal Revenue laws of the United States. So there would be a civil penalty.

By the way, much has been made in the discussion of this bill about the $10,000 cash transaction that is often used for laundering drug money. But frankly, there is no basis for saying that that transaction would not be covered under the civil penalties.

I happen to have brought with me one of the forms that is required to be filled out when you have cash payments over $10,000. It is Form 8300. It is issued by the Internal Revenue Service. Every bank has to fill it out if they get a deposit over $10,000. It has an OMB circular number. Because of this provision that the Internal Revenue laws are exempt from our waiver provision, if you fail to fill this out, you are going to be subject to a civil penalty.

The fourth is if it interferes with the detection of criminal activity, which, by the way, is the reason they have people fill out this $10,000 form, because money launderers tend to drop large amounts of cash into a bank and then withdraw it quickly. On that ground, you would still pay a civil penalty if you fail to fill out the form.

Finally, if a violation is not corrected within 6 months, or if it is a serious violation, within 24 hours, then there is a civil penalty.

In every case, all we are saying is we are waiving the fine and allowing people time to correct the error. But we still have the injunctive relief, we still have the ability to come in and, if there is criminal fraud involved, say they are going to be subject to criminal penalties.

I was, frankly, a little disturbed to hear from the agencies that they are opposed to this bill. Then I went back and looked at their records under the paperwork reduction policy.

I noticed the Department of Labor, which opposes this bill, has failed to meet its 10 percent goal in both years. They only reduced it by 9½ percent in 1996 and by 8 percent in 1997.

The Department of Transportation, it has a somewhat mixed record. It actually exceeded its goal and reached 27 percent reduction in 1996, but then in 1997 something must have gone haywire, and they have increased paperwork by 32 percent, for a net increase from that agency.

The Department of Justice initially did a terrible job, and in 1996 only reduced paperwork by 1.4 percent. Last year they did a lot better. I will give them credit for that. They were at 14.5 percent reduction, but they still failed to meet the 20 percent goal.

EPA, the final agency listed in the statement of administration policy, they have actually increased paperwork in both years. It went up 4.5 percent in 1996 and 6.9 percent in 1997. So these agencies, it does not surprise me that they are advising the President that this is not a good bill.

Fortunately, and the President is in Africa, when he gets back he will have a chance to review the record and realize that what we are doing is putting into law what he said he wanted to do back in 1995.

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

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

Mr. WAXMAN. Mr. Chairman, that chart that says ''current law'' it seems to me is quite misleading, because nowhere in that chart does the gentleman indicate that just 2 years ago the Congress passed, and we all voted for it and heralded it as a great improvement, the Small Business Regulatory Enforcement Fairness Act.

That law, which is called SBREFA, was passed with strong bipartisan support. It calls on the agencies to use discretion not to impose civil penalties where there are other circumstances that ought to be factored in. It seems to me that should be reflected in the reality of current law.

Mr. McINTOSH. In fact, Mr. Chairman, the gentleman is correct, we did pass SBREFA 2 years ago. We gave the agencies discretion, as the gentleman mentioned, discretion to adopt policies that would allow a waiver of civil penalty. But as case after case has demonstrated, the agencies are refusing to

use that discretion. They continue to impose the civil penalties.

The key difference between SBREFA and our law is that we take it the next step. We say, by right the small agencies can correct the mistakes, unless it causes harm, threatens to cause harm, violates the Internal Revenue Service, would impede criminal detection, or is not corrected in 6 months.

Mr. TIERNEY. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, the statement was made that in case after case the agencies have not gone along with the discretion the Congress required them to use before they imposed civil penalties. I do not see how the gentleman can make that statement.

The law specifically requires each agency to file with the Congress whether they have employed this discretionary authority or not. The reports are due in the next couple of days. I do not think the gentleman from Indiana (Mr. MCINTOSH) has had any advance notice of it. He is making statements for which he has no backing, no authority. We ought to look at the reports from the administration on the exercise of SBREFA.

Mr. TIERNEY. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, first of all, it should be noted again, having looked at all this paperwork and posters that were put up, that there is no paperwork reduction even contemplated in H.R. 3310 as it is currently constructed. The only people that will now have to file less paperwork under this bill are people that said they want to be violating the law.

Law-abiding businesses are still going to have to file every piece of paper they ever filed, so that is not the issue. The issue is whether or not there will be a disincentive to file, and whether or not some businesses, law-abiding businesses, will be put at a disadvantage.

Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Chairman, I thank the gentleman from Massachusetts for yielding time to me.

Mr. Chairman, I rise today in opposition to H.R. 3310, the Small Business Paperwork Reduction Act, as it is currently constituted. This legislation is not only not needed and is unnecessary, but could in fact actually make the American workplace more dangerous than it currently is.

The United States Environmental Protection Agency states that this bill does not constitute a viable approach to addressing small business compliance with needed safety and health regulations. In fact, this bill would create disincentives for voluntary compliance, compromise consumer protection laws, and worker and passenger safety.

The AFL–CIO states this bill will weaken the pension safeguards currently in place to protect the American worker.

□ 1145

I agree with all of those who say that we must work to ensure that workers' retirement and health benefits will be there when we need them.

Information collection requirements are essential to a wide variety of protections on which we all must rely. A blanket provision waiving civil penalties for first-time violators could put the health and safety of our families and our communities at risk.

This bill is the start of a movement where the biggest and most powerful want more than what is offered. We must work together to protect the basic rights of our Democratic community.

I am reminded of something that A. Philip Randolph once said when he said that ''a community is only democratic when the humblest and weakest person can enjoy the highest civil, economic and social rights that the biggest and most powerful possess.''

Therefore, Mr. Chairman, I urge my colleagues to vote against this bill, which would instill substantive negative effects, hamper law enforcement, jeopardize human safety and health and environmental protection for working families.

Mr. TIERNEY. Mr. Chairman, would you instruct us as to how much time each respective side has remaining?

The CHAIRMAN. The gentleman from Massachusetts (Mr. TIERNEY) has 13½ minutes remaining. The gentleman from Indiana (Mr. MCINTOSH) has 9 minutes remaining.

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

Mr. MCINTOSH. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, in response to the query of the gentleman from California (Mr. WAXMAN) about do we see a problem, I would just mention to the gentleman the testimony we heard in subcommittee from Gary Roberts, the owner of a small company that installs pipelines in Sulfur Springs, Indiana. He was fined last May $750. This is after SBREFA had been passed and after OSHA was supposed to have adopted a policy in these areas. He had a hazardous communications program in his home office. His employees had been trained on that. When the inspector showed up at the job site, they brought the communications program to show the inspector right there as he was inspecting the job site, and yet Mr. ROBERTS was fined $750.

Now, I think there clearly is a problem. By the way, I do not think filling out this much paperwork for 12 employees has anything to do with democratic process. I am a big supporter of the democratic process, but it does not require this much paperwork for us to engage in the democratic process in this country.

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

Mr. TIERNEY. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I would point out that in fact we were all present at the subcommittee hearings when the witnesses came in, and could distinctly hear representatives from OSHA saying that they have in fact now in place a policy under SBREFA and they are, in fact, down to zero occasions when they fine somebody a civil penalty for failing to post or put paperwork in where it is appropriate. So I think we should have all the information when we move forward.

Mr. Chairman, I yield 5½ minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I thank the gentleman from Massachusetts (Mr. TIERNEY) for yielding me this time.

Mr. Chairman, I think what we have before us today is a solution in search of a problem. If we listen to the gentleman from Indiana (Mr. MCINTOSH), he is raising concerns that we have a paperwork problem for small business. We all are concerned about the paperwork burden on small businesses, and that is why the Congress responded just 2 years ago by adopting the Small Business Regulatory Enforcement Fairness Act or what is called SBREFA. This was passed with strong bipartisan support. We all heralded it as a way to reduce that paperwork burden. It called on the agencies to use discretion and not to impose a fine if there was some inadvertence in filing the necessary paperwork that was required by law.

We have seen other reforms by both Democratic and Republican Congresses, and we have seen this administration attempt to reinvent government so that it would be more efficient and fairer.

But what we have in this bill before us today is not a reduction in the amount of paperwork that would be imposed on small businesses but an excuse for small businesses not to file the paperwork required of them.

The administration witnesses from the Department of Justice and the Environmental Protection Agency and other areas of the Federal Government came in and said that what this would do would encourage some small businesses to intentionally refuse to file the paperwork required of them, and that could interfere with the war on drugs, hinder efforts to control illegal immigration, undermine food safety protections, hamper programs to protect children and pregnant mothers from lead poisoning, and undercut the controls on fraud against consumers and the United States. That seems to me a risk not worth taking if that will be the result of this legislation.

The legislation says not that we use discretion to not impose a civil penalty. The legislation that the gentleman from Indiana is proposing says that under no circumstances will we ever impose a fine for failure to file the paperwork on the first offense. And that just says no matter what, we are not going to have a fine.

Well, if one is laundering money and there is a requirement to report $10,000

transactions and an institution is involved in some skullduggery, they will decide that it will be in their interest not to file that information. They know they have a safe harbor, they can never be fined or anyone take offense at their failure to abide by that law.

Now, there are times when health and safety can be affected, but we are not going to know whether health and safety will be affected unless the paperwork has been filed that might indicate that there is a drug for which there are side effects or there is lead in a house that is being sold. But the seller, small business seller, does not disclose that fact, as is required by the law, because they do not want to discourage the purchaser from going ahead and buying the property. They know that they can get away without making these disclosures because of this legislation.

We are going to have before us an amendment by the gentleman from Ohio (Mr. KUCINICH) and the gentleman from Massachusetts (Mr. TIERNEY) that I think is a far more reasonable approach. It will say, in effect, that we should not go and impose a fine on small businesses if their inadvertence to file the paperwork was technical or inadvertent. If it involved willful or criminal conduct, we are not going to excuse that paperwork requirement. Or if they threaten to cause harm to health and safety of the public, consumers, investors, workers, or pension programs or the environment, we are not going to waive it. But if there were not that kind of matter, but in fact a good-faith effort to comply and rectify the violations, then there is no reason to have a civil penalty imposed.

There is going to be another amendment that we will have later today, and that is an amendment offered by the gentleman from Indiana (Mr. MCINTOSH), and it is going to say that we will prohibit the States from enforcing their own regulatory requirements. Now, all the Members of Congress who have come to this floor and extolled State's rights certainly ought to be opposing that amendment which will tell the States we are going to take away their ability to enforce their own laws and Federal laws and make all States abide by a one-size-fits-all approach that we in Washington will impose upon them.

Mr. Chairman, when we get into the amendment process, I would urge Members to support the Kucinich-Tierney amendment to make this bill worthwhile. If that amendment fails, then I want to point out that the administration is threatening a veto. In addition to that, the bill is opposed by the labor movement because they are worried about what it is going to do to workers, by environmentalists, by consumer advocates, by a wide range of groups that fear that this bill that sounds like it is doing something for small business is going to in fact do a great deal of harm to the American people.

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

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

Mr. Chairman, before yielding to my distinguished colleague, the gentleman from Missouri (Mr. TALENT) the chairman of the Committee on Small Business, let me point out, and I understand how in debate we sometimes exaggerate things around here, but as I showed all of our colleagues, what the gentleman from California (Mr. WAXMAN) said was simply not true: that automatically we would waive all fines under my bill.

Mr. Chairman, if there is a serious threat of harm to public health, if there is actual harm. And all of these provisions have been written into the bill, and in spite of the fact that they are there in black and white in plain English, the gentleman from California continues to say the same lines that he knows are not true, over and over again.

Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Missouri (Mr. TALENT) chairman of the Committee on Small Business.

Mr. TALENT. Mr. Chairman, I thank the gentleman from Indiana (Mr. MCINTOSH) for yielding me this time.

Mr. Chairman, the Committee on Small Business had concurrent jurisdiction over this bill, and I was happy to waive it in part because we have had so many hearings on this and these kinds of issues that I thought it really was not worth additional hearings or deliberations on the part of the committee, because to me, this just seems to me a very simple thing. Do we want to stand with and for the small businesspeople of this country against one of the things that irks them and demoralizes them and costs them the most, which is useless kind of government paperwork and arbitrary kinds of fines? Or do we want to stand with the government, with big government, with the regulatory state that believes that unless these people are minutely watched in all they do, they are going to go out and do all of these terrible things? It is a question of where we put our faith.

Mr. Chairman, all the bill says is we do not want agencies to fine small businesspeople for paperwork violations that do not matter to anything, that do not matter to the interest of the agency or public health and safety. They can check the paperwork violation, they can inspect them and tell them to do it over again and tell them to do it over in the future, but they cannot fine them.

Mr. Chairman, I do not want the agencies spending their enforcement time and effort tracking down people like Mr. Pat Caden of Caden's Restaurant in Tacoma, Washington, who was fined $1,000 because he had one missing material safety data sheet on handsoap, which he offered to provide by fax in 2 minutes. I want OSHA worrying about safety. I do not want them worrying about material safety data sheets that do not have anything to do with safety and that nobody even reads outside the context of an inspection.

Mr. Chairman, I do not want small businesspeople to feel like in order to do business in this country they have to pay protection to agencies, because that is what it amounts to. They come into the workplace and hit businesspeople with paperwork violations because that is easy for them to find. They pay the agencies $1,000 or $2,000.

Mr. Chairman, I hate to stop when I am in the middle of ''catharting.'' Mr. Chairman, businesses pay them fines of $1,000 or $2,000 and they go away for a while, just for a while. It is like the mob. They will leave people alone if they pay them protection. That is what this bill is about.

The argument on the other side seems to be that there are drug dealers out there, people smuggling in thousands and thousands of illegal immigrants who this bill will unleash, I suppose on the assumption that the possibility that the government might hit them with a fine for a paperwork violation is currently deterring them from selling millions and millions of dollars worth of illegal drugs on the black market or bringing in thousands and thousands of immigrants; that, Mr. Chairman, these people who are not deterred by the huge felony penalty for doing these things might be deterred by the prospect that INS might come on their workplace and fine them for a meaningless paperwork violation.

Again, we talk about the bill being a ''solution in search of a problem.'' The arguments against it are rationalization. It is just a question of where one stands. I would say that these kinds of bills do highlight the deep philosophical divisions in the House.

My faith is with the small businesspeople in this country, the private sector in the country, 99 percent of whom are trying to do good things in their communities for good reasons. All we are saying is, look, do not fine them for meaningless things. Agencies should concentrate their energies on health and safety or social justice in the workplace or environmental quality, and let businesses concentrate their efforts on building jobs and building the economic infrastructure in their communities and everybody will be better off.

□ 1200

Mr. TIERNEY. Mr. Chairman, I yield myself 30 seconds.

Let me just say that this idea, that this one side is in favor of small business and the other side is against small business, is ludicrous when we think of the time and the energy that went in, with the gentleman from Indiana (Mr. MCINTOSH) and the gentleman from Ohio (Mr. KUCINICH) working diligently to try to find some common ground so that small business could in fact get the benefit of this law.

I will speak at greater length about the particulars of it.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I was just shocked by the comments of the last speaker, because he said that we want to extol the virtues of small business, and we all agree to that, but then described Federal agencies, government employees that are trying to enforce the laws as equivalent to the mob. He said they are out for protection money. Is that the way we view government? It just seems to me an opening, a window to the mentality that would present this kind of legislation to us.

There are willful, intentional, reckless violations of the law that will not be in any way prosecuted under this legislation, because if it is a first-time offense, even if it were reckless and willful, then it would not be enforced.

How does my colleague justify doing that sort of thing, even if it is a reckless, willful violation of filing the report that indicates there is a hazard that workers may be exposed to? How can he justify that?

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

Mr. WAXMAN. I yield to the gentleman from Indiana.

Mr. McINTOSH. Mr. Chairman, in fact, we do not justify it because the bill does not allow that. It still requires people to fill out the paperwork. What it says is, if they can correct it and it causes no harm, they will not be zapped with a civil fine.

Mr. WAXMAN. Mr. Chairman, that is not what the bill says. The bill says there will be a safe harbor, that there may not be, under any circumstance, the imposition of a money penalty for a first-time violation even if it were willful.

I yield to the gentleman to explain why he would do that.

Mr. McINTOSH. Well, because in addition to a civil penalty, the agencies have the ability to enjoin the business from further conducting its affairs. That is not affected by our bill. They have criminal provisions if there is fraud or willful violation.

Mr. WAXMAN. Let me say, that is not adequate. The reason it is not adequate is because they are going to impose a worse scenario for small businesses if they expect the agency to come and get injunctions, if it is a drug company to shut them down. What is involved in getting this paperwork is to know if there are problems, and then try to clear them up, not give a safe harbor for those who willfully violate the law.

Mr. MCINTOSH. Mr. Chairman, I yield myself 1½ minutes.

Let me say very clearly, there is a huge difference here, because I think it may have been the gentleman from Massachusetts (Mr. TIERNEY) or the gentleman from Ohio (Mr. KUCINICH) who pointed out what all of us recognize, that probably 99 percent of America's small businesses are good actors; they are trying to comply, they are not willfully not following the rules and filling out the paper work.

In the case of the 1 percent who are bad actors, who are trying to commit a crime, trying to ignore the law, I think the agency should come in and hit them with whatever it takes to get them to comply with the law.

The real difference here is the view of small businesses, because the coalition that has been for the special interests here in Washington to oppose this bill thinks that what we do is give them a get-out-of-jail-free card.

I quote from an e-mail that they circulated this morning,

> They think small businesses are criminals, and that is, why they are opposing this bill is they think that the Nation's small businesses are criminals. We don't believe that.

And that is what the gentleman from Missouri (Mr. TALENT) was saying so emphatically. We think the vast majority of small businesses in this country are good, decent people who are trying to get a job done, trying to hire people and create jobs in their economy, and they do not deserve to be zapped by Federal agencies when they make an innocent mistake. That is what the essence of this bill is all about.

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

Mr. TIERNEY. Mr. Chairman, I yield myself 2½ minutes.

Let me just say to the gentleman from Indiana (Mr. MCINTOSH) that this debate was going on rather high ground for a while as we were talking about some matters of disagreement. We had a speaker come down and throw in some bombast, and I think it has sort of taken us in a different direction.

Personally, I represented small businesses for 20 years. I was a small business. I was president of the local Chamber of Commerce. There is no belief in my heart or soul that small businesses, on the whole, that people try to comply with the law, but I try to recognize fully, Mr. Chairman, that there are those who do not.

My colleague's bill does nothing for that law-abiding small business person who continues to comply with paperwork filing requirements because they, first of all, do not reduce the amount of paperwork to be filed. And if we want to do that, then why do we not get our committee to start sitting down and sifting through those blocks of paper and weeding out those that should not be filed any longer and those that should be consolidated? That would be a worthwhile effort.

But to have an absolute disincentive for those who do not want to be a law-abiding business and to put the law-abiding businesses at a disadvantage is not the way to proceed. What we ought to do is make sure the agencies exercise their discretion, that those who are not willful violators, those who do not impose a serious harm to the public good or to the environment, let them deal with it in that way and let them use their discretion. Which is exactly what SBREFA does, which is what our proposed amendment demands that they do is set in place a policy to make sure that those businesses that deserve a break get a break, but reserving the ability to fine those that need to be fined in order to have compliance so that good law-abiding businesses will not be put at a disadvantage.

The language of 3310, as it is currently constructed, simply does not do that. It says that before they can have a fine, they have to show that the failure to impose the fine would impede detection of a criminal activity. Well, it would not be the failure to impose a fine that would in fact impede detection of criminal activity; it would be the failure to file the requisite paperwork. So now they have given them a disincentive on that basis.

They talk about occasions where there is actual harm that they would then not be able to give a waiver. But what about the case where there is a propensity for actual harm, where the failure to file work leads us to believe there will be resulting harm, but it may not have happened yet, but we want to make sure it does not happen?

My colleagues talk about threatening imminent and substantial, dangerous harm, but those are hard burdens for an agency to prove before it can go in there and ask somebody who is integrally involved and knowledgeable about business, Mr. Chairman. And let me tell my colleagues, given the choice of having to make my case that my mistake on paperwork was inadvertent and failure to do that might be a civil penalty, I will take that any day, besides them coming down with very expensive legal proceedings on an injunction or a criminal action. That is when it gets onerous.

That is when agencies go well beyond their bounds, and that is where the gentleman from Ohio (Mr. KUCINICH) and I have an amendment that tries to address that so that small businesses and law-abiding business can move in the proper direction.

Mr. McINTOSH. Mr. Chairman, we have no further speakers on my side. I would like to reserve the balance of our time for closing if the gentleman from Massachusetts (Mr. TIERNEY) has any on his side.

Mr. TIERNEY. Mr. Chairman, I do have some speakers. Would the Chair please instruct us as to how much time is left on this side.

The CHAIRMAN pro tempore (Mr. DICKEY). The gentleman from Massachusetts has 2¾ minutes remaining.

Mr. TIERNEY. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut (Mr. GEJDENSON).

Mr. GEJDENSON. Mr. Chairman, I just want to commend the gentleman here, trying to change this bill. I was an original cosponsor. I believe in paperwork reduction. But what this bill would do, it would put in danger small businesses.

In my district, 90 people, including the president of the company, just lost their pension. Now, that happened even with the controls we have today. There is only one document really that gets filed on 401(k)s, which was the only pension these folks had, and that is Form 5500 from the Labor Department to find out if your 401(k) is really getting the money that it is supposed to be getting.

Under this bill, if you keep the original text, those workers are completely exposed. The biggest loser in this loss of the 401(k)? The president of the company, the head guy of the small business, because he had the biggest investment there.

This is not pro small business. This would support people who want to skirt and avoid the law and, frankly, would leave working families and small businessmen vulnerable in so many cases, so many cases where they buy products, where they have responsibilities to carry out for consumers.

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

Mr. MCINTOSH. Mr. Chairman, I understand that when there are no other speakers, I have the right to close. Is that correct? Which I am willing to do now if the gentleman is finished.

Mr. TIERNEY. Mr. Chairman, I have an additional speaker. But my colleague still has time left, I believe.

The CHAIRMAN pro tempore. The gentleman from Indiana may reserve for closing. Is that the intent of the gentleman?

Mr. MCINTOSH. Yes, it is, Mr. Chairman. I am prepared to close now if the gentleman is ready to proceed with amendments.

Mr. TIERNEY. We have one more speaker, if we might, Mr. Chairman.

Mr. Chairman, I yield the balance of the time to the gentleman from Ohio (Mr. KUCINICH).

The CHAIRMAN pro tempore. The gentleman from Ohio is recognized for 1¾ minutes.

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

I do not think there is anyone in this Chamber who believes other than that most small businesses are law abiding. And the earlier reference that those who are standing up for environmental protections, workplace protections, fighting money laundering, and promoting drug testing somehow believe that small businesses represent a criminal class is fairly ridiculous, and it is unfortunate to have that kind of reference in what has been otherwise an important debate.

The problem with the bill is that, and this is a central part that has to be remembered, is the process of agency determination only kicks in if a violation has been discovered, because a business which has failed to file paperwork, that violation may never be discovered.

This is a matter of what we do not know may very well hurt us. It is not useless paperwork to require filings that have to do with drug testing, food safety, to avoid stock fraud, to stop money laundering, to promote workplace safety, to promote air passenger safety, to promote a safe environment. I mean, this is part of the responsibility of the government. This is our government, the government of the people; and one of the things we have to do is to promote for the general welfare of the people. That is why we are here.

And so the gentleman from Massachusetts (Mr. TIERNEY) and I will be offering an amendment which seeks to install in this legislation that essential imperative of our responsibility as government officials.

The violations that are discussed here, once they are uncovered, the onus is still on the agency to prove that one of five conditions has been met in order for the business to be fined. This bill would tie the hands of law enforcement in this country, and I urge its rejection.

The CHAIRMAN pro tempore. The gentleman from Indiana is recognized for closing for 2½ minutes.

Mr. MCINTOSH. Mr. Chairman, in closing, let me return to the tone that we had at the beginning of this debate because I agree with the gentleman from Massachusetts (Mr. TIERNEY) that is a helpful one.

I do want to thank the gentleman from Massachusetts and the gentleman from Ohio for their input in this bill at the subcommittee and committee levels. We will not be able to have an exact meeting of the minds today on the amendment that they are offering, but some of the points that they raised have been very helpful in crafting this bill.

For example, Mr. GEJDENSON'S concern that perhaps 401(k) programs would be exposed because of this bill, I would reassure him that looking at section B(iii) that says, ''the violation is a violation of an Internal Revenue law or a law concerning the assessment of collection of any tax debt revenue or receipt.'' Well, section 401(k) is section 401(k) of the Internal Revenue Code; and so that paperwork would continue to be fully covered even under the civil fine provisions.

Let me close, Mr. Chairman, by saying that many of the Nation's small business leaders have spoken out in favor of this bill. The National Federation of Independent Businesses, NFIB; the National Small Business United; the National Association of Women Business Owners; Small Business Survival Committee, American Farm Bureau; National Beer Wholesalers Association; National Association of Metal Finishers; National Automobile Dealers Association, and the printing industries of America have all endorsed our bill, H.R. 3110.

I think it is a very good bill. It moves forward under the Paperwork Reduction Act where the agencies have failed to act. And in particular, the provision that is a waiver of the first-time fines for failure to fill out the paperwork, I think is a good provision. What it says to our Nation's small businesses is, we know we are giving you too much paperwork. If you happen to make a mistake somewhere along the line and it does not cause any harm, is not a threat to harm, does not impede criminal investigations, does not have to do with your obligation to pay taxes or to protect your pension fund, then you are going to be given a second chance.

I think that is all that we can do. When our Nation's small business and one that employees 25 people has to fill out this much paperwork, Mr. Chairman, I think the least we can do is say, we are going to be on your side and be forgiving if you commit a harmless error somewhere in those thousands of pages.

I would urge all of my colleagues to support this bill, join the NFIB and other small businesses and the Farm Bureau and other groups in finally bringing this legislation to pass.

Mr. EHRLICH. Mr. Speaker, I rise today to offer my support to H.R. 3319, the Small Business Paperwork Reduction Act Amendments of 1998, introduced by my colleague, Representative DAVID MCINTOSH.

Small businesses are the engine of our national economy. Numbering twenty two million today, small businesses generate approximately half of all U.S. jobs and sales. Compared to larger businesses, they hire a greater proportion of individuals who might otherwise be unemployed—part-time employees, employees with limited educational background, young and elderly individuals, and individuals on public assistance.

Yet the smallest firms carry out the heaviest regulatory burden. They bear sixty-three percent of the total regulatory burden, amounting to $247 billion/year. Firms with under fifty employees spend on average nineteen cents out of every revenue dollar on regulatory costs. Small businesses desperately need relief from the burden of government paperwork.

One of small businesses' greatest fears is that they will be fined for an innocent mistake or oversight. The time and money required to keep up with government paperwork prevents small businesses from growing and creating new jobs. Paperwork counts for one third of total regulatory costs or $225 billion. In 1996, it required 6.7 billion man hours to complete government paperwork.

H.R. 3310 will give small businesses the relief they need from the burden of paperwork. It will put on the Internet a comprehensive list of all the federal paperwork requirements for small businesses organized by industry as well as establish a point of contact in each agency for small businesses on paperwork requirements. This legislation encourages cooperation and proper compliance by offering small businesses compliance assistance instead of fines on first-time paperwork violations which do not present a threat to public health and safety. Lastly, it will establish a task force including representatives from the major regulatory agencies to study how to streamline reporting requirements for small businesses. This legislation goes a long way in addressing the demands for reform of many of my small businessmen and women in the Baltimore area and the 2nd District of Maryland.

Mr. Speaker, the Small Business Paperwork Reduction Act will bring common sense into the process and go a long way toward relieving small businesses of excessive paperwork and fines. Please join me in strongly supporting this common-sense paperwork reduction bill for small business.

Mr. ALLEN. Mr. Chairman, I rise today in opposition to H.R. 3310, the Small Business Paperwork Reduction Act Amendments of 1998. The intent of H.R. 3310 is worthy. For years, the small business community has voiced its concerns about the scope and burden of regulatory costs. These concerns were addressed in the Paperwork Reduction Act (PRA) and the Small Business Regulatory Enforcement Fairness Act (SBREFA) and by the Administration in their current efforts to streamline paperwork requirements.

Small business is responsible for 80% of the jobs that are created in our country. We are innovative and prosperous when our capital markets are efficient and the demands by the federal government reasonable. I was self-employed not too long ago and remember well the challenges that any small business faces. Some of these challenges are addressed by H.R. 3310: requiring the Office of Information and Regulatory Affairs to publish a list annually on the Internet and in the Federal Register of all the federal paperwork requirements for small business; requiring each agency to establish one point of contact to act as a liaison with small businesses; and establishing a task force to study the feasibility of streamlining reporting requirements for small businesses.

The central problem with H.R. 3310 is its provision suspending civil fines for first-time violations by small businesses when they fail to comply with reporting and record-keeping requirements. I believe that this well-intentioned provision may reduce compliance and hamper the government's role to protect the public. When pension administrators, banks, financial advisors, food and drug manufacturers, and employers violate the law, these violations would not be addressed, even if willful, until a second violation.

Under H.R. 3310, a pattern of noncompliance would be difficult to detect by the agency with jurisdiction. For instance, the Consumer Product Safety Commission's efforts to monitor product safety would be hampered. Compliance with the Residential Lead-Based Paint Hazard Reduction Act of 1992, which requires disclosure of lead-based paint hazards to prospective renters or buyers, would be reduced. The same applies to OSHA and ERISA requirements.

The case is clear that the burden of paperwork requirements does not outweigh public health, safety, and financial security considerations. While the title of H.R. 3310 is appealing, I believe its enactment would have serious, negative consequences on our nation. That is why I voted against H.R. 3310.

The CHAIRMAN pro tempore. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 3310

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 ''Small Business Paperwork Reduction Act Amendments of 1998''.

SEC. 2. FACILITATION OF COMPLIANCE WITH FEDERAL PAPERWORK REQUIREMENTS.

(a) REQUIREMENTS APPLICABLE TO THE DIRECTOR OF OMB.—Section 3504(c) of chapter 35 of title 44, United States Code (commonly referred to as the ''Paperwork Reduction Act''), is amended—

(1) in paragraph (4), by striking ''; and'' and inserting a semicolon;

(2) in paragraph (5), by striking the period and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

''(6) publish in the Federal Register on an annual basis a list of the requirements applicable to small-business concerns (within the meaning of section 3 of the Small Business Act (15 U.S.C. 631 et seq.)) with respect to collection of information by agencies, organized by North American Industrial Classification System code and industrial/sector description (as published by the Office of Management and Budget), with the first such publication occurring not later than one year after the date of the enactment of the Small Business Paperwork Reduction Act Amendments of 1998; and

''(7) make available on the Internet, not later than one year after the date of the enactment of such Act, the list of requirements described in paragraph (6).''.

(b) ESTABLISHMENT OF AGENCY POINT OF CONTACT; SUSPENSION OF FINES FOR FIRST-TIME PAPERWORK VIOLATIONS.—Section 3506 of such chapter is amended by adding at the end the following new subsection:

''(i)(1) In addition to the requirements described in subsection (c), each agency shall, with respect to the collection of information and the control of paperwork—

''(A) establish one point of contact in the agency to act as a liaison between the agency and small-business concerns (within the meaning of section 3 of the Small Business Act (15 U.S.C. 631 et seq.)); and

''(B) in any case of a first-time violation by a small-business concern of a requirement regarding collection of information by the agency, provide that no civil fine shall be imposed on the small-business concern unless, based on the particular facts and circumstances regarding the violation—

''(i) the head of the agency determines that the violation has caused actual serious harm to the public;

''(ii) the head of the agency determines that failure to impose a civil fine would impede or interfere with the detection of criminal activity;

''(iii) the violation is a violation of an internal revenue law or a law concerning the assessment or collection of any tax, debt, revenue, or receipt;

''(iv) the violation is not corrected on or before the date that is six months after the date of receipt by the small-business concern of notification of the violation in writing from the agency; or

''(v) except as provided in paragraph (2), the head of the agency determines that the violation presents an imminent and substantial danger to the public health or safety.

''(2)(A) In any case in which the head of an agency determines that a first-time violation by a small-business concern of a requirement regarding the collection of information presents an imminent and substantial danger to the public health or safety, the head of the agency may, notwithstanding paragraph (1)(B)(v), determine that a civil fine should not be imposed on the small-business concern if the violation is corrected within 24 hours of receipt of notice in writing by the small-business concern of the violation.

''(B) In determining whether to provide a small-business concern with 24 hours to correct a violation under subparagraph (A), the head of the agency shall take into account all of the facts and circumstances regarding the violation, including—

''(i) the nature and seriousness of the violation, including whether the violation is technical or inadvertent or involves willful or criminal conduct;

''(ii) whether the small-business concern has made a good faith effort to comply with applicable laws, and to remedy the violation within the shortest practicable period of time;

''(iii) the previous compliance history of the small-business concern, including whether the small-business concern, its owner or owners, or its principal officers have been subject to past enforcement actions; and

''(iv) whether the small-business concern has obtained a significant economic benefit from the violation.

''(3) In any case in which the head of the agency imposes a civil fine on a small-business concern for a first-time violation of a requirement regarding collection of information which the agency head has determined presents an imminent and substantial danger to the public health or safety, and does not provide the small-business concern with 24 hours to correct the violation, the head of the agency shall notify Congress regarding such determination not later than 60 days after the date that the civil fine is imposed by the agency.''.

(c) ADDITIONAL REDUCTION OF PAPERWORK FOR CERTAIN SMALL BUSINESSES.—Section 3506(c) of title 44, United States Code, is amended—

(1) in paragraph (2)(B), by striking ''; and'' and inserting a semicolon;

(2) in paragraph (3)(J), by striking the period and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(4) in addition to the requirements of this Act regarding the reduction of paperwork for small-business concerns (within the meaning of section 3 of the Small Business Act (15 U.S.C. 631 et seq.)), make efforts to further reduce the paperwork burden for small-business concerns with fewer than 25 employees.''.

SEC. 3. ESTABLISHMENT OF TASK FORCE TO STUDY STREAMLINING OF PAPERWORK REQUIREMENTS FOR SMALL-BUSINESS CONCERNS.

(a) IN GENERAL.—Chapter 35 of title 44, United States Code, is further amended by adding at the end the following new section:

''§ 3521. Establishment of task force on feasibility of streamlining information collection requirements

''(a) There is hereby established a task force to study the feasibility of streamlining requirements with respect to small-business concerns regarding collection of information (in this section referred to as the 'task force').

''(b) The members of the task force shall be appointed by the Director, and shall include the following:

''(1) At least two representatives of the Department of Labor, including one representative of the Bureau of Labor Statistics and one representative of the Occupational Safety and Health Administration.

''(2) At least one representative of the Environmental Protection Agency.

''(3) At least one representative of the Department of Transportation.

''(4) At least one representative of the Office of Advocacy of the Small Business Administration.

''(5) At least one representative of each of two agencies other than the Department of Labor, the Environmental Protection Agency, the Department of Transportation, and the Small Business Administration.

''(c) The task force shall examine the feasibility of requiring each agency to consolidate requirements regarding collections of information with respect to small-business concerns, in order that each small-business concern may submit all information required by the agency—

''(1) to one point of contact in the agency;

''(2) in a single format, or using a single electronic reporting system, with respect to the agency; and

''(3) on the same date.

''(d) Not later than one year after the date of the enactment of the Small Business Paperwork Reduction Act Amendments of 1998, the task force shall submit a report of its findings under subsection (c) to the chairmen and ranking minority members of the Committee on Government Reform and Oversight and the Committee on Small Business of the House of Representatives, and the Committee on Governmental Affairs and the Committee on Small Business of the Senate.

''(e) As used in this section, the term 'small-business concern' has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 631 et seq.).''.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''3521. Establishment of task force on feasibility of streamlining information collection requirements.''.

The CHAIRMAN pro tempore. During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

Are there any amendments to this bill?

□ 1215

AMENDMENT NO. 1 OFFERED BY MR. KUCINICH

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

The CHAIRMAN pro tempore (Mr. DICKEY). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. KUCINICH:

Page 4, strike line 10 and all that follows through page 6, line 25, and insert the following:

''(B) establish a policy or program for eliminating, delaying, and reducing civil fines in appropriate circumstances for first-time violations by small entities (as defined in section 601 of title 5, United States Code) of requirements regarding collection of information. Such policy or program shall take into account—

''(i) the nature and seriousness of the violation, including whether the violation was technical or inadvertent, involved willful or criminal conduct, or has caused or threatens to cause harm to—

''(I) the health and safety of the public;

''(II) consumer, investor, worker, or pension protections; or

''(III) the environment;

''(ii) whether there has been a demonstration of good faith effort by the small entity to comply with applicable laws, and to remedy the violation within the shortest practicable period of time;

''(iii) the previous compliance history of the small entity, including whether the entity, its owner or owners, or its principal officers have been subject to past enforcement actions;

''(iv) whether the small entity has obtained a significant economic benefit from the violation; and

''(v) any other factors considered relevant by the head of the agency;

''(C) not later than 6 months after the date of the enactment of the Small Business Paperwork Reduction Act Amendments of 1998, revise the policies of the agency to implement subparagraph (B); and

''(D) not later than 6 months after the date of the enactment of such Act, submit to the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate a report that describes the policy or program implemented under subparagraph (B).

''(2) For purposes of paragraphs (1)(B) through (1)(D), the term 'agency' does not include the Internal Revenue Service.''.

Mr. KUCINICH. Mr. Chairman, I want to again commend the gentleman from Indiana (Mr. MCINTOSH) for the efforts that we have made throughout many long and arduous hearings over this important bill. I regret that we have not been able to come to an agreement, but I still can say that I admire his dedication and his willingness to attempt to craft a mutual agreement, and I look forward to an opportunity to work with him again on another occasion, hopefully something that could reach a mutual conclusion.

The amendment that the gentleman from Massachusetts (Mr. TIERNEY) and I are offering today is consistent with the goals that we have set out for this legislation, to help small business while protecting the health and safety of the public. I want to tell the gentleman from Massachusetts how much I have appreciated his assistance in trying to bring this bill back to a point where it is going to benefit small business and the public.

This amendment is also consistent with past action by the Congress on small business issues, issues such as SBREFA which the gentleman from California (Mr. WAXMAN) so ably spoke to a moment ago. This amendment would require, and I emphasize the word ''require,'' all agencies to establish specific policies and programs to allow them to eliminate, delay or reduce civil fines for first-time violators of paperwork requirements. In putting together those policies, agencies would be required to take into account a number of factors. Those factors would include, first of all, the seriousness of the violation and whether it involved willful or criminal conduct. Agency policies must include whether the small business is making a good faith effort to comply with applicable laws and correct the violation as quickly as possible. It would also mandate that the agency look at the previous compliance history of the business and whether the small business gained an economic advantage or competitive advantage by its action.

Furthermore, the amendment includes a strict time frame for agencies to take these actions. Within 6 months agencies would have to implement these policies and report back to the Committee on Government Reform and Oversight. This amendment would ensure that paperwork reduction efforts are truly relevant to the special circumstances of all industries. Agencies would be able to tailor their policies to the unique needs of the statutes that they are responsible to enforce and congressional review of these policies would become a matter of course.

Mr. Chairman, in passing this amendment, Congress would be responsive to the concerns raised by the Department of Justice and other Federal agencies. During committee consideration of this bill, we heard testimony from the U.S. Department of Justice, the Department of Transportation, the Securities and Exchange Commission and OSHA. All of these agencies raised serious questions about the impact of H.R. 3310 on drug enforcement, employee protections, drug testing statutes and our ability to ensure that investors have the information they need to make wise decisions. The Department of Justice said that the current language in H.R. 3310, and I quote, could interfere with the war on drugs, hinder efforts to control illegal immigration, undermine food safety protections, hamper programs to protect children and pregnant mothers from lead poisoning and undercut controls on fraud against consumers and the United States.

Some examples. Without this amendment, the bill would protect drug traffickers. Law enforcement agencies detect drug trafficking and money laundering using reports filed by businesses. H.R. 3310 would encourage financial institutions to not report cash transactions that are more than $10,000. Without this amendment, this bill would undermine our ability to uncover illegal activity. The Drug Enforcement Administration relies on written reports to ensure that controlled substances are not diverted illegally. H.R. 3310 would encourage pharmacies to not report their distribution of controlled substances.

Finally, without our amendment, it would undercut drug testing statutes and public safety. The Department of Transportation requires reports from employers showing that drivers and other safety sensitive employees have passed drug tests. The current language would give an incentive to businesses to avoid reporting. With this amendment, with the Kucinich-Tierney amendment law enforcement officials would continue to have the tools they need to combat illegal drugs, guard the environment and protect the health and safety of our citizens. We will then have legislation that I believe will attract additional bipartisan support and the support of the administration.

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

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

Mr. TIERNEY. Mr. Chairman, I again just reiterate the long road that this bill has taken and the fine work of the gentleman from Ohio in trying to make sure that it in fact does what everybody expresses is their intention, and that is aid small businesses.

Mr. MCINTOSH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, a lot of debate is going on right here about whether or not this bill is in the interest of the Nation's small business. Let me quote for my colleagues from a letter from the NFIB, the voice of small business, the Nation's largest small business organization. In their letter they point out that

this bill will build on past efforts to reduce the flow of government red tape by taking steps to reduce the paperwork burden for small business. Importantly, the bill requires Federal agencies to waive civil fines for first-time paperwork violations so that small businesses can correct the violation. This provision provides small business owners with a one-time warning that they should comply with paperwork requirements, not a blank check to disregard government rules and endanger the welfare of their employees. Small businesses must still correct the violation under this legislation.

The text of the letter is as follows:

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, March 17, 1998.

Hon. DAVID MCINTOSH,
Chairman, Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the 600,000 members of the National Federation of Independent Business, I am writing to express our strong support for the ''Small Business Paperwork Reduction Act Amendments of 1998.'' We appreciate your leadership in moving forward with this legislation to address one of the perennial concerns of small business owners.

The burden of federal government paperwork continues to rank high among the top concerns of NFIB members. In our 1996 edition of Small Business Problems and Priorities, federal paperwork ranked as the seventh highest concern of our members. Because of their size, government paperwork hits small business particularly hard.

This bill will build on past efforts to reduce the flow of government red-tape by taking steps to reduce the paperwork burden for small business. Importantly, the bill requires federal agencies to waive civil fines for first time paperwork violations so that small businesses can correct the violation. This provision provides small business owners with a one-time warning that they should comply with paperwork requirements—not a blank check to disregard government rules and endanger the welfare of their employees. Small businesses must still correct the violation under this legislation.

We believe this legislation includes incentives for small business owners to comply with paperwork requirements by providing them with an agency point of contact, a one-time suspension of fines, and encourages further government action to streamline paperwork. We hope it receives the full support of your subcommittee and the full committee.

Sincerely,

DAN DANNER,
Vice President.

Mr. Chairman, this amendment, as well intended as it is, frankly would gut that provision in the bill, because it does nothing more than reenact the requirement in SBREFA that the agencies adopt a policy in appropriate circumstances, with discretion. What we have seen since SBREFA has been enacted is that the agencies have failed to meet the requirement on reducing paperwork and when they do have policies, continue to impose fines for innocent paperwork violations. I would like to point out the severity of the failure of the agencies to actually live up to SBREFA and submit for the RECORD a list of the performance standards as reported from OMB agency by agency. Several of them have actually increased their paperwork requirements since that law was passed. The Commerce Department went up by 8.8 percent last year, interior by 16.3 percent, Transportation by 32.7 percent, EPA by 6.9 percent, FEMA by 7.7 percent, NSF by 4.9 percent, and the Office of Personnel Management by 4.4 percent. That is in spite of the mandate from Congress to reduce their paperwork by 10 percent each year. So the agencies are not paying attention to SBREFA. To merely reenact the requirement there that they adopt the policy in this area will fail to protect our Nation's small businesses.

I am with NFIB, that we need to keep the bill as written and we need to actually do what is good for our Nation's small businesses and sadly reject the effort of our colleagues to try to bring back SBREFA. We need to move forward in this area and keep the bill as it is written.

The document referred to is as follows:

TABLE 3.—TOTAL INFORMATION COLLECTION BURDEN BY AGENCY

	Fiscal year 1995 total hour burden	Fiscal year 1996 total hour burden	Estimated fiscal year 1997 total hour burden	Percent change from fiscal year 1995 to fiscal year 1996	Est. percent change from fiscal year 1996 to fiscal year 1997
Government Totals	6,900,931,627	6,722,553,928	6,599,717,955	−2.6	−1.8
Totals, excluding Treasury	1,569,633,594	1,369,708,498	1,305,372,478	−12.7	−4.7
Departments:					
Agriculture	131,001,022	107,248,206	96,361,525	−18.1	−10.2
Commerce	8,239,828	7,960,779	8,663,555	−3.4	+8.8
Defense	205,847,538	152,490,315	127,479,302	−25.9	−16.4
Education	57,554,905	49,111,300	44,000,000	−14.7	−10.4
Energy	9,187,531	[1] 4,656,053	[1] 4,167,682	−49.3	−10.5
HHS	152,615,502	137,540,947	123,004,913	−9.9	−10.6
HUD	33,769,554	37,245,148	35,742,755	10.3	−4.0
Interior	4,165,429	4,357,370	5,069,683	4.6	+16.3
Justice	36,670,323	36,162,128	30,910,453	−1.4	−14.5
Labor	266,447,906	241,077,975	221,847,999	−9.5	−8.0
State	8,678,480	[2] 596,789	598,475	−93.1	+0.3
Transportation	91,022,665	66,167,487	87,832,271	−27.3	+32.7
Treasury	5,331,298,033	5,352,845,430	5,294,345,477	0.4	−1.1
Veterans Affairs	11,133,887	9,434,552	6,974,355	−15.3	−26.1
Subtotal	6,347,632,603	6,206,894,479	6,086,998,445	−2.2	−1.9
Agencies:					
EPA	103,066,374	107,655,255	115,056,000	4.5	+6.9
FAR	22,146,676	23,445,460	23,348,937	5.9	−4.1
FCC	22,644,046	23,879,914	22,002,682	5.5	−7.9
FDIC	8,502,121	8,633,570	7,974,929	1.5	−7.6
FEMA	5,175,501	4,802,083	5,172,159	−7.2	+7.7
FERC [1]	.....	5,157,268	5,157,268	.....	0
FTC	146,149,460	146,148,091	146,139,841	0.0	−0.0
NASA	9,561,494	9,228,714	8,813,813	−3.5	−4.5
NSF	5,691,560	5,760,203	6,043,963	1.2	+4.9
NRC	8,726,244	9,942,882	9,493,835	13.9	−4.5
OPM	1,038,719	933,086	974,490	−10.2	+4.4
SEC	191,527,284	142,105,083	135,774,892	−25.8	−4.5
SBA	2,355,150	2,288,365	2,160,000	−2.8	−5.6
SSA	25,307,594	25,679,475	24,606,701	1.5	−4.2
Subtotal	[3] 553,299,024	515,659,449	512,719,510	−6.8	−0.6

[1] The paperwork burden for the Federal Energy Regulatory Commission was contained in the DOE burden inventory in FY 95 but counted separately in later years.
[2] State's FY 96 reduction is attributable to the expiration of OMB number 1405–0018 (8 million hours).
[3] Subtotal includes a total of 1,406,801 hours of burden from AID, GSA, NARA, and USIA.

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

Mr. Chairman, let me begin my remarks by commending the bill's sponsor as well as the amendment's sponsor for the thoughtful discussions that has unfolded on the House floor. I think that the tone and the depth of the debate has been extremely interesting. I want to also commend the bill's sponsor and the amendment's sponsor for advancing a very important public purpose of providing meaningful paperwork reduction to the small employers across the country.

I have spent probably the last 2 or 3 years in this Chamber focusing on how we expand employer-based retirement savings opportunities for the Nation's workforce. I have concluded that providing paperwork reduction is an important part of expanding the opportunity for employers to offer work-based retirement savings. We have simply made it too complex, too confusing, too cumbersome and we have actually discouraged employers from doing just what we want to encourage them to do, provide a retirement benefit for their workers.

I have joined this effort at paperwork reduction. We have passed some on defined contribution plans, we have got some that is proposed and under consideration for defined benefit plans. One of the things that I have learned as we have worked in this area of paperwork reduction for retirement benefits is that it is vitally important to get it right. Therefore, the amendment before us deserves very careful consideration. I would urge its adoption. I think that the bill overreaches relative to retirement benefits. Let me give my colleagues a couple of examples of where it would.

One of the requirements, one of the regulatory requirements of an employer offering retirement benefits to their employees is that they provide a summary plan description to the employee alerting the employee as to the benefit they are receiving. This can be very important. In a defined contribution plan, for example, it is quite often structured so the employer will match the employee's contribution into the retirement savings account. The employee, for example, for every dollar up to 3 percent of salary for example, the employer will match dollar for dollar. Imagine the situation, if you will, where the employer forgets to notify the employee that that program is available, that that match is available into the retirement account. The employee does not know of this retirement benefit, the employee does not exercise their opportunity to gain retirement savings, and there is nothing, virtually nothing the Department of Labor can do under the bill to respond to that situation.

We need to have our workforce have retirement benefits at work and we need to have them alerted to what those benefits are. I think the amendment would be much more appropriate than the bill itself relative to that issue.

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

Mr. POMEROY. I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Chairman, I appreciate the gentleman's comments but I want to ask the gentleman, is he aware that there is a specific exemption which covers all IRS regulations and all IRS paperwork requirements and that as a result of that exemption, ERISA, the act that he has just been discussing, is exempted; that is, the paperwork violation about which he is concerned which comes under ERISA is not covered; that is, is exempted from this provision?

Mr. POMEROY. I would be happy to respond. The regulatory requirement to which I was speaking is originally based in the ERISA legislation, but based in the Department of Labor. And so it is certainly my impression that the legislation before us does not waive that one, that it would be applicable as a Department of Labor requirement on small business.

Mr. SHADEGG. If the gentleman will yield further, it is my understanding and perhaps we can get a clarification from staff, that the exemption of ERISA from the provisions; that is, of all the IRS code and therefore of ERISA, takes care of the specific issue that he is raising.

Mr. POMEROY. I have another issue that I will raise in that respect, but I would love the clarification, that ERISA in total is not subject to the act. That is not my understanding.

Mr. SHADEGG. That is my understanding.

Mr. POMEROY. Can the gentleman clarify that?

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

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

Mr. TIERNEY. The fact of the matter is that ERISA only partially deals with the collection of money issues. There are many other provisions of ERISA that deal with the collection of information for other pertinent and very valuable reasons that would not be involved with this particular exclusion concerning the internal revenue law.

Mr. POMEROY. Reclaiming my time, that is precisely my point. This is not an IRS ''you owe the money'' deal. This is a requirement on the employer that they notify the employee of what their retirement benefits are. It is my belief that that would be dealt with under the act, that part of ERISA is not exempted.

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

Mr. Chairman, I rise in opposition to the Kucinich amendment and in support of the legislation as introduced. Let me make it clear why I feel that is appropriate. Under existing law, SBREFA as we have passed it, the Small Business Regulatory Enforcement Fairness Act, which was passed in 1996, the language in this proposed amendment, is already present law. That is to say, in the amendment now being offered, any agency which regulates small business would be required to establish a policy or program in appropriate circumstances for first-time violations of a paperwork requirement. The existing law, a copy of which I am holding here in section 223(a), already says that all agencies are required, and I quote, to establish a policy or program under appropriate circumstances for the waiver of civil penalties.

☐ 1230

The requirement that is embodied in this amendment is already in existing law.

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

Mr. SHADEGG. Certainly I yield to the gentleman from North Dakota.

Mr. POMEROY. Mr. Chairman, this is just for purposes of clarifying our earlier exchange.

I would point to page 4 of the bill, lines 22 through 25, as addressing the violation or violations of Internal Revenue law or laws asserting the assessment or collection of any tax debt, revenue or receipt, and the provision of ERISA to which I was referring was the requirement that an employer alert the employee of the retirement benefits in the plan. That is something that I believe we want to encourage, and I am afraid a blanket exemption as contained in the bill, unlike the proportional language dealt with in the amendment, would be an overreach, would be too much of a correction in that respect.

Mr. SHADEGG. Reclaiming my time, Mr. Chairman, it appears we have different interpretations, as occasionally happens. My understanding from the staff on our side is that because we get an IRS deduction for the establishment of a benefit plan which complies with ERISA, that everything that is required to comply with that and that is in order to get the benefit, one is required to do these certain things. That is, in fact, a provision of the IRS Code brought into this under ERISA and that it would apply.

Mr. POMEROY. Mr. Chairman, I thank the gentleman.

Mr. SHADEGG. Certainly.

To return to my point, Mr. Chairman, I think first of all, it is important for Members to understand that the language of the amendment is already the language of existing law. We have already told agencies to establish a policy or program under appropriate circumstances for the waiver of civil fines.

That language, I think if now reenacted, would make this bill almost meaningless, and I think it is important for Members to understand that this bill, as written and as introduced and brought here by the committee, covers first-time paperwork violations.

And it seems to me quite clear that when you understand that we are leaving in place the ability to punish the underlying substantive offense, the underlying violation of the law, and when we are only talking therefore about the paperwork violation, that is, the failure to file the paperwork from which one might discover the underlying violation, I have a difficult time seeing the problem and a difficult time accepting an amendment which would gut that.

But beyond that, it is very important to understand that what this legislation does is it applies to first-time violations only. When we think of the businesses across America, no business can start business and exist and be profitable with the heavy paperwork burdens they have, and have to file literally dozens, if not hundreds, if not thousands of these forms, and there was plenty of testimony before the committee about the paperwork burden.

But the point here is that for any kind of a violation that might reveal a pattern of conduct that might result in harm, a one-time violation is not going to cause a serious problem. The form is going to have to be filed over and over and over again. This simply says that for the first violation there should not be a penalty, and it only says that in certain circumstances. If health and safety is still implicated, then there can be a penalty.

I will remind the Members of the discussion earlier about the gentleman who was visited at his restaurant. He was missing one form. The form was a data sheet about the safety of something in his restaurant. It was a soap in his restaurant, not a harmful product. He was fined $1,000 by OSHA. During the OSHA visit, his store manager called the company and had the data sheet, material safety data sheet, faxed to the office. It was there within that period of time, there within a matter of minutes, and OSHA still imposed the $1,000 fine.

Mr. Chairman, I think that makes no sense, and I think this is a reasonable piece of legislation on which we have tried to work with the other side in a bipartisan fashion, and they have proffered language which has improved it. I urge the rejection.

The CHAIRMAN. The time of the gentleman from Arizona (Mr. SHADEGG) has expired.

(On request of Mr. DELAY, and by unanimous consent, Mr. SHADEGG was allowed to proceed for 2 additional minutes.)

Mr. SHADEGG. I urge the rejection of the amendment as being an amendment that would set this legislation so far back as to make it nearly meaningless, and I urge the adoption of the bill as proffered by the committee.

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

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

Mr. DELAY. I really appreciate the statement that the gentleman from Arizona makes, Mr. Chairman, and I too rise in support of this legislation and, frankly, in opposition to this gutting amendment. And I appreciate the gentleman standing against this amendment.

I am just amazed at the liberal opposition to this legislation.

It must represent a really a low point.

It must really represent a low point in their anti-small business efforts; now we understand the real motives of the far left. The liberals are in favor of more paperwork, they want more work for government.

Mr. Chairman, it seems to me that the liberals are in favor of more paperwork, they want more work for government bureaucrats, they want more profits to be wasted on redundant forms and silly Federal regulations and requirements. I got to tell my colleagues, Karl Marx must be turning over in his grave. Is this the once proud left wing, is this all they have to fight over?

I too oppose this gutting amendment, Mr. Chairman, and support this commonsense legislation. I just think we ought to give small businesses a break today.

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

Mr. Chairman, I want to thank the Members on the other side for the title of this bill, the Small Business Paperwork Reduction Act. That is a terrific title, and it is hard to imagine that any one of us could oppose a bill like that, except for the content of the bill. But that is a great title.

But the fact is that we have got two proposals in front of us. One is the Kucinich-Tierney amendment, and I believe that is the right sort of amendment because it gives our agencies the kind of flexibility that we need.

The other side has gone on about how the bill, as drafted and as reported out by the committee, only deals with paperwork violations. But there are paperwork violations and others. The fact is that for many of our agencies there has to be a regular period of reporting.

I want to mention a couple of things. The principal deputy, an associate general for the Department of Justice, has testified that automatic probation for first-time offenders would give bad actors little reason to comply until caught, and that would work to the economic detriment of those hard-working small business owners who work hard to comply with the law. And that is my fear about this particular legislation.

If we approve this legislation, we are creating a set of incentives, and among those incentives are an interest of some people in taking the reporting requirements less seriously; and, in my opinion, that hurts the legitimate small business owner who is out there trying to comply with the law, and helps those who are trying to get away with one thing or other.

As my colleagues know, the Department of Justice has also said that this bill could interfere with the war on drugs, hinder efforts to control illegal immigration, undermine food safety protections, hamper programs to protect children and pregnant mothers from lead poisoning, and undercut controls and fraud against consumers and the United States.

I am very concerned about this bill in a number of different respects, and I want to turn to one of them in particular. We have a set of protections that are designed to protect our safe drinking water, and self-monitoring and reporting are the foundations of the Clean Water Act and the Safe Drinking Water Act. These reporting requirements are designed to give State and Federal environmental protection officials knowledge of environmental compliance before any harm occurs.

Under H.R. 3310, the agency would have to prove the failure to report the pollutant, and not just the existence of the pollutant, posed a substantial and imminent threat before it could assess fines. And I do not think that relying on EPA inspections is a viable alternative. The EPA only has enough staff to inspect our 200,000 public water systems once every 40 years.

What we need is an effective system of reporting, and if my colleagues look at the Tierney-Kucinich amendment, what it is doing is saying that rather than a blanket exemption for all first time offenders, what they are doing is directing every agency to develop policies to deal with first time so-called paperwork violations.

That is a far more sensible approach. It is a kind of approach that I think makes sense. It is a kind of approach that will give our small businesses the relief they need, and yet not let people off the hook when they do not create any incentives for people not to keep the kinds of records that help keep our public safe in a wide variety of different areas.

As Franklin Raines has said, and I will yield in one second, the primary beneficiaries of section 2(B) would appear to be those who do not act in good faith and those who intentionally or willfully violate the applicable regulations.

That is what we are concerned about on this side of the aisle, and I urge my colleagues to support the Kucinich-Tierney amendment.

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

Mr. ALLEN. I yield to the gentleman from Indiana.

Mr. McINTOSH. First, Mr. Chairman, I want to make sure the gentleman is aware of section 2 that says in the case of imminent and substantial danger to public health or safety, the agency can continue to impose a civil fine.

Second, let me state for the record I do appreciate the work of the gentleman from Ohio (Mr. KUCINICH) and the gentleman from Massachusetts (Mr. TIERNEY) on this amendment. We disagree about it. I do believe that it would ultimately gut this key provision in our bill. But he has worked in

good faith in the committee in trying to develop this legislation, and I want to say in particular that many of the provisions in our bill that make sure that in cases of an imminent danger to public health and safety are there with the good work of the gentleman from Ohio (Mr. KUCINICH). We did not go as far as he wanted to in the language, and so we are debating his amendment, but I appreciate his good work on this.

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

Mr. Chairman, let us try to understand what is at issue. If small business did not do something that was technically required in terms of filing some paperwork, or if their failure to comply adequately was inadvertent, they acted in good faith, no one thinks that they ought to have a penalty imposed upon them.

But on the other hand, if a small businessman or woman willfully and recklessly were involved in criminal conduct and in pursuance of that criminal conduct did not file the reports that would disclose that conduct, that small business person should not be let off the hook.

And, no, I will not yield at this moment, but I hope the gentleman will listen to me because I think this bill is flawed, because the bill before us would allow such a small businessperson who willfully, recklessly and intentionally tried to take advantage of this law that said that they did not have to get penalized if they filed such a report.

I do want to yield to the gentleman from Indiana because I find that hard to justify.

Mr. SUNUNU. I am the gentleman from New Hampshire.

Mr. WAXMAN. The gentleman from Indiana is the author of this. I find it hard to justify.

Now, the exception that he wrote into his bill is if there is an imminent and substantial threat to harm or safety; but that does not answer the problem because the agency would have to prove this eminent and substantial threat.

It seems to me to make more sense, if we are trying to remove the threat on a small businessperson who acted in good faith and they are going to be fined, that we do not let the others off the hook who are acting recklessly and willfully.

Could the gentleman explain why he would allow that to happen?

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

Mr. WAXMAN. I yield to the gentleman from Indiana.

Mr. MCINTOSH. Mr. Chairman, I will be happy to explain once again that our bill does exactly what the gentleman wants do, which is target the efforts on those who are willfully violating the law.

In addition, I would ask the gentleman, is it not true that the agencies still have civil prosecutions in court? Is it not true that the agencies still have criminal prosecution available to them? Is it not true that the agencies still have injunctive relief to make sure that where there are willful bad actors, they will be dealt with with the full force of the United States Government?

□ 1245

Mr. WAXMAN. That is a very good question. But the problem is that the agency might not know about someone's 401(k) fraud unless they see what disclosures were in the paperwork. They have to find out about something for which they are not being informed.

The reason that certain forms are required to be filed is to give the agency the information to know whether that small business is complying with the law. If they do not file the form, they may not know that a small pharmaceutical company found out that there was a side effect that could do harm, or that a seller of property knew about a lead threat or did not disclose it, or that the employer knew that their employees may be harmed by some hazardous substance and did not disclose it to them or to the agency involved. The agency just would not know. That is the first reason.

The second answer to your question is, not only would the agency not know, but let us say the agency did know. To require the agency to come in and then have to get injunctive relief and criminal actions and all of that just seems to me to put the agency in a position where they are going after the small business with a sledgehammer. The reason for these reports is not to just collect money. The reason is to know whether there is a problem.

The Kucinich-Tierney amendment spells out very clearly that if there is a technical or inadvertent reason why that report was not filed, if it was in good faith, there were efforts to comply or rectify the violations and there was no previous lack of compliance history, that they would not be fined.

But, on the other hand, if there was a willful or criminal involvement that in fact there was a threat to harm and safety to consumers, investors and others, and that there was not this good-faith effort on their behalf, and in fact they had a very murky record in terms of complying, in fact they had not complied in the past with other requirements or they got an economic benefit for the violation, those factors would be taken into consideration, and they ought to be taken into consideration.

Unless this amendment is adopted, it could not even be looked at.

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

Mr. Chairman, let me begin by repeating a point that was made here in response to the remarks that were made that did not receive any response, and that was simply that, under this underlying legislation, there is no restriction whatsoever on an agency's ability to pursue civil penalties. There is no restriction whatsoever on their ability to pursue criminal prosecution. There is no restriction whatsoever on an agency's ability to seek injunctive relief. The provisions are retained to pursue bad actors to the fullest extent of the law.

The only attempt to provide relief here is for those small businesses that are first-time paperwork violators. Even so, there are exemptions in the legislation that provide to make sure that if there is a threat to public safety, if we are dealing with fraudulent issues related to the IRS or tax matters, or if we are reducing an ability to pursue criminal activity, there is full exemption from those restrictions.

The goal here is to ensure that agencies can go after the bad actors, can go after those that are negligent, can go after those that pursue criminal activity. But for the small business that has a first-time paperwork violation, there is some relief.

Also, the legislation ensures that those small businesses are at least made aware of what the small business regulations are, the paperwork regulations are, through the Internet. I think that that is an important step in the right direction. I think it provides the kind of relief that small businesses certainly deserve.

A comment was made about the amendment, the Kucinich amendment, which I certainly oppose that somehow this amendment gives agencies the flexibility they need. The fact is this amendment gives agencies the flexibility they already have, because it essentially restates the Small Business Regulatory Enforcement Fairness Act that is already on the books.

The amendment, the Kucinich amendment, is nothing more than a status quo amendment. It reflects no change. SBREFA, Small Business Regulatory Enforcement Fairness Act, may be a good business regulation, but it does not bring us forward; it does not provide for additional relief.

The fact is, if you support the status quo, that may be fine, but there are small businesses out there in New Hampshire, all across the country that are concerned about the burden of paperwork, that are concerned about the cost of regulation; and this provides them with some relief for that small business that is a first-time paperwork violator.

Mr. Chairman, I yield to the gentleman from Indiana (Mr. MCINTOSH).

Mr. MCINTOSH. Mr. Chairman, first, let me express appreciation for the gentleman from New Hampshire, vice chairman of the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs. He has done a wonderful job on our committee in helping to craft this legislation and also overseeing the functions of the subcommittee.

I am amazed by the complex argument of my colleague, the gentleman from California (Mr. WAXMAN). But it

seems to come down to, on the one hand, they are afraid that the agencies will not do enough because they do not have the civil fines. On the other hand, they are afraid they might do too much because they have civil penalties in the courts and criminal penalties and injunction.

I will, once again, share with my colleagues the analogy that I think fits the description here. The agencies are like traffic cops. They would rather give out tickets for speeding violations than apprehend who has broken into your house and is stealing your TV, because it is a lot easier to give out traffic tickets than to go after the real bad guys.

What this bill says is that we are going to give you a pass if you make an innocent mistake the first time; but if you are a bad actor, we are going to come after you with all the full force of the Federal Government.

In closing, I am sad to say, but a vote for the Kucinich-Tierney amendment is a vote against our Nation's small businesses because it would not move the dime forward on this key issue.

Mr. SUNUNU. Mr. Chairman, I thank the gentleman from Indiana very much for his remarks. In closing, I want to reemphasize the point that seems to have been missed by those who were opposed to this legislation and supportive of this gutting amendment; and that is that this legislation does nothing to limit the agency's ability to seek criminal penalties, to seek civil penalties and civil prosecution, to put an injunction in place and to pursue the bad actors or anyone that ought to be convicted of willful or negligent activity. We can prosecute them to the fullest extent of the law.

This is some relief for small businesses, relief only for first-time paperwork violations and provides full exemption when there is an imminent threat to public safety. The drinking water issues that were raised, lead poisoning, I think few would doubt that these are issues of public safety, a threat to public health; and that would certainly, in appropriate circumstances, be dealt with with the exemption of this legislation.

Mr. Chairman, I would urge my colleagues to oppose the Kucinich amendment and support paperwork relief for small businesses.

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

Mr. Chairman, let me just start by saying again most of the way along the path here, this has been an effort to cooperate with the gentleman from Indiana (Mr. MCINTOSH), chairman of the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs, with the gentleman from Ohio (Mr. KUCINICH), myself, and others on the committee to do something good for small businesses.

It was unfortunate to hear the gentleman from Indiana wrap up with some statement about this vote on the amendment being a vote against small business. That is clearly not so. I cannot believe that the gentleman from Indiana, after the long, cooperative effort that he has had with the gentleman from Ohio (Mr. KUCINICH), in particular, and myself and others on the committee really believes that is the case.

What we have is a vote about what each respective side believes is the appropriate way to both help small business and to also make sure that we put in place the requirements that would protect the public safety and the public health and the environment that we are all required to do. We can have an honest disagreement about how that might proceed, but we ought not to take this to the rhetorical level that somebody is for or against anything completely.

People on this side of the aisle, Mr. Chairman, are firmly for small business. We clearly understand that our amendment, the Tierney-Kucinich amendment, states that this will tighten up SBREFA, this will make small business violations, for the first-time instances, be addressed by an agency mandatorily with a waiver in those occasions where that is appropriate. That brings SBREFA further along with regard to that particular than it is today.

There is no place for bombasting in this debate, and there is no place for labels going on. This is simply, how do we best protect the public interest and protect small businesses as they go about their venture?

There are parts in this bill that are very good. Should we give notices to small businesses, provide a list so we know about the requirements that have to be met? Absolutely. We can all agree upon that. Might we have one point of contact so a small business goes to an agency to deal with one individual to get their issues resolved? Absolutely. Should we have a task force for streamlining the amount of paperwork that small business has done? That would really result in paperwork reduction. That is an excellent part of the bill that we support.

Mr. Chairman, I would yield for a couple of seconds to the gentleman from Indiana (Mr. MCINTOSH) to ask him to point out any part of H.R. 3310 that actually in itself reduces paperwork. There is nothing in that bill that does anything to reduce paperwork.

The closest thing that is arrived at is this provision to have a task force to streamline. We are firmly behind that. We would urge the committee to do just that, to get that report and then to take that stack that is on the table next to the gentleman from Indiana (Mr. MCINTOSH) and reduce it significantly.

All through my business career and the people that I represented, we complained about that amount of paperwork being there, thought that we might be able to reduce it, while at the same time, protecting the public interest. That is what the Kucinich-Tierney amendment portends to do. It portends to make sure that nobody is given an incentive not to comply.

Although we may disagree, Mr. Chairman, with the wording that is in that bill, I can tell you clearly that a practical reading of it would be an incentive to those businesses that are inclined to not comply to do just that.

For all the businesses that go out there day-to-day that are concerned about what they do and its effect on the environment, are concerned for the safety of their employees, are concerned for law enforcement, are concerned that everybody, including themselves, have their pensions protected. They simply want to be relieved from as much paperwork as they can be, and they want the ability for an agency to come in and apply a policy that would allow a waiver in a first-time violation where it is appropriate.

They are not looking for ways to have their competitors who might be unscrupulous avoid the obligation at a disadvantage to the law-abiding business person.

To say that the proper remedy here is injunctive relief, to say, well, you can still prosecute them criminally, to say that you can have more inspections, as a business person, let me tell the gentleman from Indiana, no, thank you. If it comes down to having an agency exercise its discretion and treat me fairly and, at most, give me a civil penalty. I am for that.

If you think the $750 fine that you keep repeatedly bringing up, and those on your side, is a big number, wait until you see what the cost for injunctive relief is when you have to go out and hire a lawyer to protect yourself against that. Wait until you see what the cost is for criminal prosecution. Wait until you see what those inspections, how onerous those can be when they are not there.

Let us do the appropriate thing and make sure that in a first-time violation, the agency has the discretion it should have.

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

Mr. TIERNEY. I yield just very briefly to the gentleman from Indiana.

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

Mr. Chairman, in that example, Mr. Gary ROBERTS is fined $750. He actually brought the hazardous communication program right to the work site.

Mr. TIERNEY. Reclaiming my time, I will address that.

Mr. MCINTOSH. There would be no need for an injunction, no need for a court case.

Mr. TIERNEY. Reclaiming my time, that example is a situation, and OSHA came in and testified before the committee and told you that has been addressed, that OSHA has a zero tolerance now for those situations. They do not fine people for failing to have something posted in a first-time violation and had put in fact a policy; we had agency after agency come in before

us and tell us that they are moving in that direction.

The fact of the matter is, we are waiting on the reports on the SBREFA to see what the policies are and what the effect is. The majority on the committee got anxious and went forward with this bill before they even found out what the information was. That is not appropriate here. Your own party has raised some very important issues here.

Mr. Chairman, I would ask my colleagues to support the amendment. It does, in fact, help small businesses. We can all be on the same page here, and we ought it be

The CHAIRMAN pro tempore (Mr. DICKEY). The question is on the amendment offered by the gentleman from Ohio (Mr. KUCINICH).

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

Mr. KUCINICH. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to House Resolution 396, further proceedings on the amendment offered by the gentleman from Ohio will be postponed.

The point of no quorum is considered withdrawn.

□ 1300

AMENDMENT OFFERED BY MR. MCINTOSH.

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

The Clerk read as follows:

Amendment offered by Mr. MCINTOSH:

Page 6, strike line 25 and insert the following:

imposed by the agency.

''(4) Notwithstanding any other provision of law, no State may impose a civil penalty on a small-business concern, in the case of a first-time violation by the small-business concern of a requirement regarding collection of information under Federal law, in a manner inconsistent with the provisions of this subsection.''.

Mr. MCINTOSH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. DICKEY). Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. MCINTOSH. Mr. Chairman, this amendment came out of testimony that we did hear from OSHA and many of the States; where they do have enforcement of their regulations, the States actually are the entities that enforce it, and they said even if our bill passed, they would not be able to control what those State enforcement agencies did in terms of civil penalties for first-time violations.

So what this amendment does, it is a very narrow amendment that says, where there is a Federal law that is being enforced by State agencies, those agencies also will have to comply with the sections of this bill that allow small businesses to have an exemption for a first-time violation that does not pose imminent threat to health and safety, does not impede criminal investigation, does not involve an Internal Revenue Code provision.

So it is an amendment we probably should have put into the full committee draft when we had a substitute. We did not. But in reflecting upon the testimony given to us by the agency on a problem where their hands are tied in certain cases, where they do not really get to control enforcement activities, this would mean that all of the enforcement, whether it is done at the State or the Federal level, are on an equal basis so that one does not have small businesses in some States being harassed and some small businesses in other States being protected by the statute.

Mr. TIERNEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just would note the irony in this particular amendment coming from my colleagues on the other side of the aisle. For a group that repeatedly talks about States' rights and the Federal Government telling States what they can and cannot do, this would seem to me to be the ultimate example of that.

For those States that like to have some ability to exempt themselves from Federal programs or Federal requirements and impose their own set of priorities, for instance, if a State chooses to focus on reporting requirements instead of on-site inspections, it may well want to assess civil fines when there are intentional violations of those requirements. This, of course, would prohibit the State from having that kind of flexibility; it is ironic, and just a bit amusing on this side of the aisle to see how everyone who supports States' rights or would want to support them and vote for this amendment.

We regularly hear about how flexible approaches make more sense and how States know what is best for their constituents. However, a vote for this particular amendment would appear to be a vote against that flexibility and a vote against States' rights; and I, for one, would be very curious to see what support it has and does not have from those who have always professed the opposite.

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

Mr. TIERNEY. I yield to the gentleman from Ohio.

Mr. KUCINICH. Mr. Chairman, I want to express my concern about this amendment. I have read the amendment and I understand the concern which is behind it, but I would offer this cautionary note, that States feel very strongly about their prerogatives with respect to oversight and enforcement. States' attorneys general, the attorneys at various district levels, county health officials, are all very much involved in enforcement processes, and as a matter of fact, I think one can argue that in some cases, they are the closest to it.

So to amend this law by taking the State out of it, by saying no State may impose a civil penalty on a small business concern, and then it goes on in a manner inconsistent with the provisions of this subsection, it takes the power away from the States. I think that we should be very cautious about doing that without having full hearings on this to hear testimony from State officials as to how this could impact their ability to enforce the law.

Mr. Chairman, I think there are instances where Congress needs to respect the rights of the States, and certainly this amendment calls into question whether we are really doing that; and for that reason, I have to reluctantly oppose the amendment by the gentleman from Indiana (Mr. MCINTOSH), my good friend.

The CHAIRMAN pro tempore. Does any Member seek recognition?

If not, the question is on the amendment offered by the gentleman from Indiana (Mr. MCINTOSH).

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

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

The CHAIRMAN pro tempore. Pursuant to House Resolution 396, further proceedings on the amendment offered by the gentleman from Indiana (Mr. MCINTOSH) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to House Resolution 396, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 1 offered by the gentleman from Ohio (Mr. KUCINICH), and an amendment offered by the gentleman from Indiana (Mr. MCINTOSH).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 1 OFFERED BY MR. KUCINICH

The CHAIRMAN pro tempore. The pending business is the request for a recorded vote on the amendment offered by the gentleman from Ohio (Mr. KUCINICH) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Pursuant to House Resolution 396, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the additional amendment on which the Chair has postponed further proceedings after this 15-minute vote.

The vote was taken by electronic device, and there were—ayes 183, noes 221, not voting 26, as follows:

[Roll No. 72]

AYES—183

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Brown (CA)
Brown (OH)
Capps
Carson
Clay
Clayton
Clement
Clyburn
Condit
Costello
Coyne
Cramer
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gilchrest
Gordon
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Hoyer
Jackson (IL)
John
Johnson (WI)
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Lazio
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Miller (CA)
Minge
Mink
Moakley
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Pomeroy
Poshard
Price (NC)
Rahall
Redmond
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Velazquez
Vento
Visclosky
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—221

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cooksey
Cox
Crane
Cubin
Cunningham
Danner
Davis (VA)
Deal
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—26

Becerra
Brown (FL)
Cannon
Cardin
Conyers
Cook
Crapo
DeLay
Ford
Gillmor
Gonzalez
Harman
Houghton
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
McDermott
Millender-McDonald
Olver
Paxon
Payne
Rangel
Reyes
Riggs
Royce
Waters

□ 1325

Mr. KIM and Mr. HORN changed their vote from ''aye'' to ''no.''

Mr. LIPINSKI and Mr. DIAZ-BALART changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. COOK. Mr. Chairman, on rollcall No. 72, Kucinich amendment to H.R. 3310, had I been present, I would have voted "No."

I was giving a speech to the National Equipment Manufacturers at the Carleton Hotel at 16th & K; my beeper simply did not function, possibly because of being inside a center room on the ground floor. I am a bit miffed because it broke my 100% voting record!

AMENDMENT OFFERED BY MR. MCINTOSH

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Indiana (Mr. MCINTOSH) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This is a five-minute vote.

The vote was taken by electronic device, and there were—ayes 224, noes 179, not voting 27, as follows:

[Roll No. 73]

AYES—224

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehner
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Cooksey
Cox
Cramer
Crane
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Fossella
Fowler
Fox
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Ryun
Salmon
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—179

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Bentsen
Berman
Berry
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Brown (CA)
Brown (OH)
Capps
Carson
Clay
Clayton
Clyburn
Condit
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo

Etheridge
Evans
Farr
Fattah
Fazio
Filner
Forbes
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Hoyer
Jackson (IL)
Johnson (CT)
Johnson (WI)
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Miller (CA)
Mink
Moakley
Moran (VA)
Morella
Nadler
Neal
Oberstar
Obey
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Pomeroy
Poshard
Price (NC)
Rahall
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sandlin
Sawyer
Saxton
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith (NJ)
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velazquez
Vento
Visclosky
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—27

Becerra
Bonilla
Brown (FL)
Cannon
Cardin
Conyers
Cook
Crapo
Ford
Frelinghuysen
Gillmor
Gonzalez
Harman
Houghton
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
McDermott
Millender-McDonald
Olver
Paxon
Payne
Rangel
Riggs
Royce
Sanders
Waters

□ 1337

Mr. SHAYS changed his vote from ''aye'' to ''no.''

Mr. DIAZ-BALART changed his vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. COOK. Mr. Chairman, on rollcall No. 73, McIntosh Amendment to H.R. 3310, had I been present, I would have voted yes. I was giving a speech to National Equipment Manufacturers at the Carleton Hotel at 16th & K. My beeper simply did not function, possibly because of being inside a center room on the ground floor. I'm a bit miffed because it broke my 100% voting record!

The CHAIRMAN pro tempore (Mr. DICKEY). Are there any other amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

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

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. DICKEY, Chairman pro tempore 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. 3310) to amend chapter 35 of title 44, United States Code, for the purpose of facilitating compliance by small businesses with certain Federal paperwork requirements, and to establish a task force to examine the feasibility of streamlining paperwork requirements applicable to small businesses, pursuant to House Resolution 396, 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 the 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 committee amendment in the nature of a substitute.

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

The SPEAKER pro tempore. The question is on the 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.

RECORDED VOTE

Mr. MCINTOSH. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 267, noes 140, not voting 23, as follows:

[Roll No. 74]

AYES—267

Aderholt
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehner
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kelly
Kim
Kind (WI)
King (NY)
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Luther
Maloney (CT)
Manzullo
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Roukema
Ryun
Salmon
Sanchez
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—140

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Bentsen
Berman
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (OH)
Carson
Clay
Clyburn
Costello
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Dixon
Doggett
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Frank (MA)
Furse
Gejdenson
Gephardt
Gutierrez
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Hoyer
Jackson (IL)
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kleczka
Kucinich
LaFalce
Lampson
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Miller (CA)
Mink
Moakley
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Poshard
Rahall
Reyes
Rivers
Rodriguez
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith (NJ)
Snyder
Stark
Stokes
Strickland
Stupak
Thompson
Tierney
Torres

Towns	Watt (NC)	Woolsey
Velazquez	Waxman	Wynn
Vento	Wexler	Yates
Visclosky	Wise	

NOT VOTING—23

Archer	Gillmor	McDermott
Becerra	Gonzalez	Millender-McDonald
Bonilla	Harman	Payne
Brown (FL)	Houghton	Rangel
Cannon	Jackson-Lee (TX)	Royce
Cardin	Jefferson	Waters
Conyers	Johnson, E. B.	
Crapo	Kasich	
Ford		

□ 1359

The Clerk announced the following pairs:

On this vote:

Mr. Royce for, with Mr. McDermott against.

Mr. Bonilla for, with Mr. Rangel against.

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: ''A bill to amend chapter 35 of title 44, United States Code, for the purpose of facilitating compliance by small businesses with certain Federal paperwork requirements, to establish a task force to examine the feasibility of streamlining paperwork requirements applicable to small businesses, and for other purposes.''

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MCINTOSH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3310, the bill just passed.

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

There was no objection.

CONFERENCE REPORT ON H.R. 1757, FOREIGN AFFAIRS REFORM AND RESTRUCTURING ACT OF 1998

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 385 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 385

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 1757) to consolidate international affairs agencies, to authorize appropriations for the Department of State and related agencies for fiscal years 1998 and 1999, and to ensure that the enlargement of the North Atlantic Treaty Organization (NATO) proceeds in a manner consistent with United States interests, to strengthen relations between the United States and Russia, to preserve the prerogatives of the Congress with respect to certain arms control agreements, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from New York (Mr. SOLOMON) is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. HALL), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 385 waives all points of order against the conference report that accompanies this bill, the Foreign Affairs Reform and Restructuring Act of 1998, and against its consideration. The rule also provides that the conference report be considered as read. This of course is the traditional type of rule for considering conference reports and will allow expedited consideration of this legislation.

Mr. Speaker, on the conference report itself, I am pleased to say that I will be able to support a State Department authorization bill for the first time in many, many years. I am not in the habit of voting for foreign aid of any kind, and I am not in the habit of voting for the State Department authorization bill. But I think all Members ought to listen up, particularly those of conservative persuasion who may have some concern about this bill.

First of all, one reason I support it is because of the excellent work by the gentleman from New York (Mr. GILMAN), the gentleman from New Jersey (Mr. SMITH) and the rest of the conferees who have managed to retain some very excellent provisions relating to NATO expansion overseas, abortion issues and the United Nations. I am most pleased with the retention of the provision of the European Security Act, which supports something near and dear to my heart, and that is the expansion of NATO, which will guarantee peace in that part of the world for many years to come.

Twice in this century, American soldiers have gone to war on behalf of Europeans, and we fought a very, very costly financial war with the Cold War. The European Security Act designates Estonia, Latvia, Lithuania and Romania as eligible countries for transition assistance under the NATO Participation Act of 1994. It further expresses a sense of Congress that those four countries should be invited to become full NATO members at the earliest possible time.

Mr. Speaker, as we see democracy breaking out all over Eastern Europe, in countries that were enslaved by communism for decades, it is morally and strategically imperative that we do not shut these people out of the Western system, that we not draw a line in the sand as we did back in Yalta, which created this terrible situation of enslaving tens of millions of people behind this philosophy of deadly atheistic communism. Especially as they struggle valiantly to establish democracy and reform their economies, these great friends of America need security and stability.

That in itself is reason enough to come over here and vote yes on this bill. NATO of course is the key to security and stability in that part of the world. For 49 years, it has kept peace and helped nourish democracy and prosperity in Europe. Some say, let us shut it down, or let us keep the status quo. Mr. Speaker, some over in the other body wish to establish some sort of pause after Poland and the Czech Republic and Hungary get in. What an irresponsible and myopic policy that would be. We must not let that happen. That in itself is sending signals that we are willing to once again draw that line in the sand, and we cannot let that happen. In addition to betraying the people of that region, after decades of Communist slavery, leaving a gray area in Central Europe will only tempt demagogues and potential aggressors in that region and make it more, yes, more likely that United States soldiers will have to fight in Europe once again.

To those who say why should U.S. soldiers die for Danzig or Bucharest or Riga, I say they are right, they should not, and if they do not want it to happen, support NATO expansion that appears in this bill, because that is exactly what this bill does.

This conference report also retains the very strong restrictions supported by the gentleman from New Jersey (Mr. SMITH) on funding of overseas abortions and advocacy of abortions. There is not a more principled Member of this body than the gentleman from New Jersey. I commend him for standing up for what is right for the children of this Nation.

Finally, I am pleased that this conference report places strict conditions on the payment of our supposed arrears to the U.N. Members ought to listen up, because I am the author of the Kassebaum-Solomon amendment that has withheld dues from the United Nations until they cleaned up their house and they put their house in fiscal order. Yet I am the one standing up here today saying we ought to support this bill. It is because of what is written into this bill.

I have a great deal of trouble with paying these so-called arrears to the U.N., given its history of waste and abuse and, frankly, its lack of gratitude for all the expenses and danger on our troops that we incur in support of U.N. resolutions.

I also have trouble handing out any more money over to an organization whose Secretary General Kofi Annan has just cut an appeasement deal with Saddam Hussein, said that Saddam Hussein is a man he can work with and called U.S. weapons inspectors cowboys. That is what this head of the U.N. said? He ought to be horse whipped for saying it. I resent that, Mr. Speaker.

The gentleman from New York (Mr. GILMAN) and the conferees have done excellent work in placing strings on the money, strings that will help reduce bureaucracy, help reduce waste and abuse at that U.N. I am particularly pleased that they have retained