Congress will introduce H.R. 2, Dollars to the Classroom, a bill that is aimed at improving the quality of our public schools.

This bill, we admit, is a threat to those who believe fervently that Washington knows best, no matter how many times it has demonstrated that it does not. This bill will not please those who wish to expand the Federal education bureaucracy. This bill will alarm those professional administrators who hope to increase Federal involvement and intrusion into the decisions made by local school boards, parents and teachers.

Instead, this bill will give local schools the flexibility to spend Federal education dollars as they see fit: higher teacher salaries in some districts, new libraries or classroom construction in others, perhaps a new computer system in another. Those who bear the consequences of the decisions will be the ones making those decisions.

This is an approach which will enrage the liberals, who have done things the old way, the bureaucratic way, so many times in the past. This bill represents common sense. It puts dollars in our classrooms and not more bureaucrats in Washington.

CLOSE THE SCHOOL OF THE AMERICAS ONCE AND FOR ALL

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

Mr. MOAKLEY. Madam Speaker, we have a school in the United States which teaches Latin American students torture techniques and commando skills and costs the citizens of the United States $18 million each and every year. The graduates go on to commit some of the worst murders and some of the most horrible atrocities in Latin America.

When I led the team that investigated the Jesuit murders in El Salvador, I was horrified to learn that our School of the Americas had actually trained the killers. Nineteen out of the 26 killers were graduates of the School of the Americas.

That is not an isolated incident, Madam Speaker. Each time we hear of another brutal massacre in Latin America, the School of the Americas graduates are involved. In nearly every instance they planned the killings, covered up the truth, or even pulled the trigger.

Today, Madam Speaker, I will file legislation to close the School of the Americas once and for all.

IS THE ERA OF BIG GOVERNMENT REALLY OVER?

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

Mr. SCHAFFER. Madam Speaker, the President in his 1996 State of the Union performance said that ''The era of big government is over.'' Now, I suppose it is possible that he meant it, but one would never know it from looking at his record. The President and his liberal allies in Congress are threatening to shut down the government if Congress does not spend more money to create more bureaucracy in Washington, D.C.

Let us take for example the issue of education spending. Now, Republicans want to spend the money but send it to the classroom. Democrats want to grow the Federal bureaucracy and give the bureaucracy a greater role in managing our local schools.

Republicans think the Federal bureaucrats have done enough damage in education. Democrats want to spend money without setting priorities. Republicans want to send more money to the classroom while also keeping within budget agreement caps, which means there must be spending offsets.

If the era of big government is truly over, then it is time for the President's actions to match his words.

SMALL BUSINESS PAPERWORK REDUCTION ACT AMENDMENTS OF 1999

Mr. REYNOLDS. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 42, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 42

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 391) 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. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 303 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. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. During consideration of the bill for amendment, the chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. 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. 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 (Mrs. EMERSON). The gentleman from New York (Mr. REYNOLDS) is recognized for one hour.

Mr. REYNOLDS. Madam Speaker, for the purpose 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 the resolution, all time yielded is for the purpose of debate only.

Madam Speaker, House Resolution 42 is an open rule, providing for the consideration of H.R. 391, the Small Business Paperwork Reduction Act Amendments of 1999. The purpose of this legislation is to reduce the burden of Federal paperwork on small businesses.

The rule waives section 303 of the Congressional Budget Act, prohibiting consideration of legislation providing new budget authority or contract authority for a fiscal year until the budget resolution for that fiscal year has been agreed to, against consideration of the bill.

The rule provides for one hour of general debate, equally divided and controlled by the chairman and the ranking minority member of the Committee on Government Reform and Oversight.

The rule further provides that the bill shall be considered as read.

The Chair is authorized by the rule to grant priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD prior to their consideration.

The rule allows for 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.

Finally, the rule provides for one motion to recommit, with or without instructions.

Madam Speaker, I believe House Resolution 42 is a fair rule. It is an open rule for the consideration of H.R. 391, the Small Business Paperwork Reduction Act Amendments of 1999.

It is my understanding that some Members may wish to offer germane amendments to this bill and, under this open rule, they will have every opportunity to do so.

H.R. 391 is a step in the right direction in relieving our Nation's small businesses from an overwhelming paperwork burden that threatens to bury them.

Time and money required to keep up with government paperwork prevents small businesses from growing and creating new jobs. H.R. 391 gives small

businesses the relief they need from paperwork burdens created by the Federal bureaucracy.

It has been reported that last year it took seven billion man hours to complete government paperwork. Seven billion man hours that could have been spent finding new job markets, expanding business or creating jobs, were instead spent on nothing more than dotting I's and crossing T's in duplicate and triplicate.

Madam Speaker, as a longtime small businessman myself, I know the hurdles that our entrepreneurs face: Strangling red tape, burdensome regulations and mountains of paperwork.

Just a few days ago our Nation marked President Ronald Reagan's 88th birthday, and I am reminded of what President Reagan said in his first inaugural address: that the Federal Government's role is to work with us, not over us; to stand by our side, not ride our back. Government can and must provide opportunity, not smother it; foster productivity, not stifle it.

H.R. 391 recognizes the challenging legacy that President Reagan handed us: to make the Federal Government a catalyst for opportunity rather than an obstacle for growth by fostering communication between Federal agencies and small businesses; helping small businesses come into compliance on civil paperwork mistakes; and making sure all information regarding paperwork requirements is readily available to small businesses.

What the bill does not do is create a threat to public safety and health. H.R. 391 specifically suspends fines only for small businesses on first-time paperwork violations; and only, and I repeat, and only when those violations are not covered by several exemptions, including an exemption for violations that result in actual harm, violate Internal Revenue Service laws, and present an imminent threat to public safety and health.

□ 1030

I would like to commend the gentleman from Indiana (Mr. MCINTOSH) and the chairman, the gentleman from Indiana (Mr. BURTON) for their hard work on H.R. 391. I would urge my colleagues to support this open rule and the underlying bill.

In conclusion, Madam Speaker, House Resolution 42 is a fair, completely open rule, and I urge its adoption.

Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I yield myself such time as I may consume.

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

Ms. SLAUGHTER. Madam Speaker, I thank the gentleman from New York (Mr. REYNOLDS), my next door neighbor, for yielding me the customary 30 minutes.

Madam Speaker, I do not oppose this rule because it allows Members to offer all germane amendments. Like all Members of Congress, I support efforts to reduce unnecessary paperwork requirements on small businesses. I have endorsed both legislative and executive efforts to streamline regulations.

We in Congress have enacted the Paperwork Reduction Act and the Small Business Regulatory Enforcement Fairness Act. Just yesterday, the House passed the Paperwork Elimination Act by a bipartisan vote. The administration, under Vice President Gore, has attacked excessive regulation through its initiative to reinvent government and the implementation of the White House Conference on Small Business recommendations.

In addition, I support many aspects of the underlying bill. H.R. 391 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 and to help small businesses comply with their legal obligations, and it would establish a task force to consider ways to streamline paperwork requirements even further.

However, it is unfortunate that the Committee on Government Reform has again in this Congress included provisions in this bill that could be dangerous to the health and safety of the American people.

H.R. 391 would prohibit the assessment of civil penalties for most first-time violations of information collection or dissemination requirements if those violations are corrected within six months. The civil penalty provisions in this bill effectively remove agency discretion from regulatory enforcement decisions against the first-time violators. Only if actual serious harm has already occurred or the violation presents ''an imminent and substantial danger to the public health and safety'' would the agency have any discretion to impose a penalty. This extreme standard will not adequately protect the American public.

Each of us has the responsibility to abide by protections enacted for the safety of the community. Paperwork requirements, such as drivers' licenses, are our way of minimally ensuring that everyone who undertakes a potentially hazardous activity, such as driving, is informed about the potential dangers and knows how to prevent them. If H.R. 391's ban on penalties were applied to drivers' license, there could be no sanction for driving without a license until your driving had already caused actual serious injury or was so dangerous as to pose an imminent substantial danger to others. Such a provision would be outrageous. To protect society, we need the discretion to step in, in a meaningful way, to protect ourselves before the actual harm occurs.

This bill would hamper legitimate agency efforts to protect the American people. For example, its one-size-fits-all prohibition on penalties could endanger both our traveling public and our emergency service personnel by weakening the enforcement of reporting requirements for the transportation of hazardous materials.

New methods to ensure the safety of our meats, shellfish, and poultry depend upon providers keeping adequate records and accurate records of their efforts to prevent contamination. This paperwork is not a frivolous add-on, but it is central to ensuring a wholesome product. Noncompliant companies should not have the option of saving money by skipping the paperwork at the cost of endangering the public. In life and death situations such as food safety, providers should not be given a free pass on the first violation. Such a policy could cause the needless deaths of hundreds of our constituents and the serious illness of many thousands more.

Similarly, paperwork requirements are designed to help nursing homes monitor the patients' health and assure appropriate care. For example, records of fluid intakes and output are key tools in diagnosing conditions such as dehydration and infection that, left untreated, can be life-threatening. We should not take discretion away from regulators trying to protect our Nation's most vulnerable citizens.

This bill could also make our workplaces less safe. Tracking the information disclosure and training requirements for working with dangerous chemicals and machinery is not useless paperwork. It assures that our workers have the knowledge needed to protect themselves from on-the-job hazards. An industrial disaster should not be required before agencies can effectively enforce these lifesaving requirements.

H.R. 391's ban on regulatory discretion sends businesses a very bad message. It says that Congress does not consider violation of these health and safety requirements a serious matter.

Curiously, H.R. 391 also preempts State and local discretion in the performance enforcement of health safety and environmental standards. Normally the majority believes that localities should have the autonomy to set priorities for local implementation of Federal standards. But in this bill, they paternalistically prohibit local governments from making their own enforcement decisions.

In reality, this nonenforcement mandate provides no relief to honest businesses, those 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 were enacted in its current form, those businesses disinclined to follow the law would have no incentive to obey until they had actually been cited for a violation.

For these reasons, this bill is opposed in its current form by the administration and a wide variety of consumer, labor and health advocacy groups, including the Safe Food Coalition, Public

Citizen, the AFL-CIO, Consumer's Union, the National Citizens Coalition for Nursing Home Reform, the American Public Health Association, the Consumer Federation of America, United Auto Workers, the American Lung Association, OMB Watch, USPIRG, and the National Council of Senior Citizens.

Thankfully, the rule we are debating will allow the House to solve many of the problems with this bill. The gentleman from Ohio (Mr. KUCINICH) 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 to waive or reduce civil penalties for first-time inadvertent violations.

The Kucinich amendment is a common-sense compromise that achieves the goal of not over-penalizing inadvertent, good-faith violations, without risking the health and lives of the public.

Madam Speaker, I support this open rule, and I would urge my colleagues to support the passage of the Kucinich amendment allowed by the rule.

Madam Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Madam Speaker, I yield such time as he may consume to my colleague, the gentleman from California (Mr. DREIER), the outstanding and distinguished chairman of the Committee on Rules.

Mr. DREIER. Madam Speaker, I certainly will not in any way argue with the description the gentleman has provided and I thank him for yielding.

Madam Speaker, I rise in very strong support of this rule. But I am here primarily to extend very hearty compliments to the newest member of the Committee on Rules, the gentleman from New York (Mr. REYNOLDS), who is at this point managing his first rule on the floor, and I know it is the first of what will be many outstanding measures that will be reported out of the committee.

The gentleman from New York (Mr. REYNOLDS) has a stellar background of service as minority leader in the State legislature in New York, and he is bringing that expertise not only to the Committee on Rules but down here on the House floor.

I also want to say that he is joined in this effort, I see, by my predecessor's successor in his congressional seat, the gentleman from New York (Mr. SWEENEY) the former labor commissioner in New York, who has a very interesting background in dealing with paperwork reduction for small businesses and he is going to be describing that. And I suspect we will even hear from the veteran member of the Committee on Rules, the gentleman from Washington (Mr. HASTINGS) who does a great job, too.

As has been said very well by both my friend from New York and my other friend from New York, this is an open rule which allows for the consideration of the Kucinich amendment and any other amendment that is germane, and I strongly supported our attempt to make that in order.

The bill itself is actually what we really describe as a one-two punch, if we take what was considered yesterday. The gentleman from Indiana (Mr. MCINTOSH) has done a superb job on this measure, following up on passage of the Mandates Information Act, which we were in a very strong bipartisan way able to report out of this institution yesterday.

We know that the burden that is imposed on small businesses is extraordinary. In fact, in a memo that came from the subcommittee of the gentleman from Indiana (Mr. MCINTOSH), when we look at what this bill actually provides, it would put on the Internet a comprehensive list of all the Federal paperwork requirements for small businesses organized by industry, and it offers small businesses compliance assistance instead of fines on first-time paperwork violations that do not present a threat to public health and safety.

It would establish a paperwork czar in each agency who is the point of contact for small businesses on paperwork requirements. And it would establish a task force, including representatives from the major regulatory agencies, to study how to streamline reporting requirements for small businesses.

Madam Speaker, I happen to believe that this measure is a very, very important environmental initiative. For a number of reasons. First and foremost, because it makes it very clear that nothing that is proposed here would in any way jeopardize environment or safety standards at all.

What it will do is, it will in fact decrease the amount of paper. Now, I come from California. The timber industry is a very, very important industry in our State. But frankly, there are more than a few people who are concerned about the constant pumping out of paper. This is the Paperwork Reduction Act. So I consider it to be a very strong pro-environmental measure.

So I think that this is a great win, as I said, a one-two punch, going for mandates information to the measure that the gentleman from Indiana (Mr. MCINTOSH) will be handling. I would like to congratulate my colleague again, the gentleman from New York (Mr. REYNOLDS), for the great job that he is doing and will be continuing to do on the Committee on Rules.

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

Mr. KUCINICH. Madam Speaker, I thank the gentlewoman from New York (Ms. Slaughter) for yielding.

Madam Speaker, I rise in support of this open rule. Our Nation's small businesses are the backbone of our economy and deserve relief from the burdens of unnecessary paperwork.

However, H.R. 391, in its current form, could have wide-ranging and serious negative, unintended consequences. That is why the administration opposes it. In fact, four department heads have recommended a veto if the bill is passed in its current form.

Similarly, senior citizens' groups oppose the bill. Environment, labor, public health organizations also oppose it. And several State attorneys general oppose it. This opposition stems from a well-intended but dangerous provision in the bill which would bar agencies from assessing civil penalties for most first-time paperwork violations.

Essentially, this means that businesses would have one get-out-of-jail-free card which they can use even when they have willfully and maliciously violated the law. These provisions could interfere with the war on drugs, endanger our drinking water, jeopardize the care in nursing homes, and threaten our pensions, our environment and our health.

Let me give my colleagues an example of the problem. 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 environmental protection officials knowledge of environmental compliance before any harm occurs.

Now, under H.R. 391, the small businesses who run the drinking water systems would have little incentive to comply with reporting requirements because there would be no threat of a fine. The adequacy of the reports would be seriously jeopardized. The EPA would become even more dependent on inspections and not reports when detecting contamination of our drinking water.

However, as I am sure my colleagues know, the EPA only has enough staff to inspect our 200,000 public water systems once every 40 years. Therefore, contamination of our drinking water may go undetected for extremely long periods of time.

Another example: Reporting on toxic emissions. Under the EPA's toxic release inventory, companies that meet reporting thresholds must report their emissions of toxic pollutants into a community's air or water. The requirement that businesses disclose their toxic emissions has prompted significant voluntary emission reductions.

H.R. 391, however, would effectively waive public reporting requirements until a business is caught for a violation. It would thus cripple an effective, voluntary, nonregulatory method of reducing pollution.

Another example, Madam Speaker: Lead poisoning regulations. The Residential Lead-based Paint Hazard Reduction Act of 1992 requires persons who sell or lease housing to give buyers and renters a pamphlet describing lead-based paint hazards. The entire purpose of the law is to prevent children from becoming lead-poisoned by requiring information about the risks of lead-poisoning be distributed before a family moves into a home.

□ 1045

Under H.R. 391, however, this law becomes unenforceable. Even a real estate broker or landlord who deliberately failed to distribute this pamphlet, even if that happened, the EPA could not take enforcement action until after the health of a child has been injured or eminently endangered.

A third example which will be of concern to all Americans: firefighter safety. I believe that, as currently constituted, H.R. 391 undermines worker protection laws with respect to firefighters and emergency workers. They depend, they depend on having adequate information to respond safely and effectively to chemical or fire emergencies. If a business does not report its hazardous chemical inventories as required under the Emergency Planning and Community Right To Know Act, firefighters' lives will be endangered if they are called to respond to a fire at the facility.

Under H.R. 391, however, the failure to report hazardous chemical inventories is not enforceable until after a dangerous situation has already developed.

I think our colleague and good friend the gentleman from Maryland (Mr. HOYER) said it well when he said that this legislation, this H.R. 391, could endanger the lives of America's fire and emergency service workers. Under the guise of exempting first-time violators from fines for paperwork violations, H.R. 391 would eliminate the enforcement of fines against businesses who fail to post notices about whether manufacturing and storage facilities contain hazardous chemicals. If firefighters are not informed of the presence of these dangerous materials, their lives could be needlessly jeopardized.

The International Association of Fire Chiefs, the International Association of Firefighters, the National Fire Protection Association, the National Volunteer Fire Council, the Congressional Fire Service Institute, and the International Fire Association of Arson Investigators have all raised serious concerns about the impact of this legislation. According to these experts, removing or relaxing penalties for failure to comply with regulations that require disclosure of the presence of hazardous materials will almost certainly result in a lack of compliance and raises serious safety issues for firefighters. No amount, and I repeat no amount of remedial action, can compensate for the death or injury of a firefighter after the fact.

Madam Speaker, H.R. 391 also preempts State law. The Federal Government has delegated enforcement of numerous environmental worker safety and health laws to the States. H.R. 391 would prevent States from assessing civil penalties from most first-time violations under these laws. The Congressional Budget Office estimates the States will lose about two million dollars a year in revenue.

Madam Speaker, I will be offering an amendment that will address these concerns that is supported by the administration and by many interest groups. In summary it requires agencies to establish policies that would provide civil penalty relief for first-time violations without giving a free pass to businesses who intentionally break the law.

Currently there is a veto threat on this bill. If my amendment is adopted, the bill would have strong bipartisan support and would likely become law. We should seize the opportunity to provide real relief to our Nation's small businesses, and I urge my colleagues' support for my amendment when I offer it under this open rule.

Mr. REYNOLDS. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, I would like to point out that a paperwork violation in the area of health and safety would not receive a first-time exemption, and certainly that would apply to firefighter safety as well.

Madam Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. HASTINGS).

Mr. HASTINGS of Washington. Madam Speaker, I thank the gentleman for yielding this time to me, and I thank the gentleman for that brief clarification on this legislation.

Madam Speaker, I rise in support of this open rule and the underlying legislation because this legislation provides some long overdue reforms to address the burden of federally mandated paperwork. As a former small businessman before I got into this life, I know how time consuming these friendly forms can be. Like all working Americans, small business men and women resent these activities that slow down their productivity. Frankly, when a friendly form found its way to my desk when I was in business, I would first look to see if the words ''voluntary'' or ''required'' were printed anywhere, and honestly, if I did not have to fill it out, that form would end up in the circular file.

Madam Speaker, that is why Congress needs to pass the Small Business Paperwork Reduction Act and the President needs to sign it into law. This commonsense legislation simply requires that the Internet and the Federal Register list all required paperwork by industry. I know from experience that all of the incoming forms and surveys can be difficult to keep track of especially when we cannot see the relevance or purpose of taking the time to fill out some of these forms. In addition, in the event that a required form ends up in the circular file, this legislation protects that small business owner from unnecessary fines.

The bottom line is that most of the information that the Federal Government collects through forms and surveys is of questionable value to the business community. We do not need alphabet soup agencies and federal bureaucracies involved in market research. That is the responsibility of the private sector. Useless paperwork in my view is one place to start.

Madam Speaker, I would like to thank the author of this bill, the gentleman from Indiana (Mr. MCINTOSH), and I look forward to working with him on other measures to help small businesses succeed.

Ms. SLAUGHTER. Madam Speaker, I yield as much time as he may consume to the gentleman from Ohio (Mr. KUCINICH) to discuss the health and safety issue.

Mr. KUCINICH. Madam Speaker, there are proponents of the bill who are claiming that the current exceptions to the penalty waiver provisions adequately protect the public, and I think it is very important at this moment, Madam Speaker to focus in on why that is not true.

Unfortunately the exceptions to the penalty waiver provisions do not adequately protect the public. They may contain many of the buzz words which imply that the public health and safety is protected, however in reality the benefits of these exceptions are negligible. For instance, one exception permits the assessment of penalties when the violation has already caused actual serious harm. Paperwork requirements are put in place so agencies can prevent an accident before it occurs.

This exception comes too late. It comes into play after the damage has been done.

Furthermore, Madam Speaker, this is an extremely different standard of proof. It is practically impossible to show that a failure to file paperwork, not some intervening event, was the actual cause of the accident.

Another exception allows fines to be assessed when the violation poses a serious and eminent threat to the public health or safety. Again, this is an extremely difficult standard of proof. It is practically impossible to show that the danger posed by a lack of paperwork poses an eminent danger.

For instance, if an employer fails to provide adequate instruction on how to operate dangerous machinery, it would be impossible to prove that this failure created an eminent threat unless the employee has already been injured. That is why this idea about there are current exceptions to the penalty waiver provisions which adequately protect the public is flat out wrong.

Moreover, the exception which allows fines when the failure to fine would impede criminal detection makes little sense. It is the failure to file information, not the failure to fine, that impedes criminal detection.

Mr. REYNOLDS. Madam Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. MCINTOSH) as the sponsor of the legislation.

Mr. MCINTOSH. Madam Speaker, let me commend the gentleman from New York (Mr. REYNOLDS) for this rule and

bringing it forward, and it is a pleasure to see him taking up his new duties on the Committee on Rules as a freshman, and I look forward to working with him.

I support this open rule and look forward to the debate on the bill. I think it is a very serious issue that we will be addressing today in this Congress. I would like to note for the record that when the bill is brought forward, there is going to be a manager's amendment that I will offer that I think will go a long way towards addressing some of the concerns about public health and safety by making it clear that it is the potential to cause serious harm to the public interest which would not create an exemption so that if there is that potential, if the agency determines in advance that there is a potential that certain forms not being posted for hazardous materials could cause serious harm to the public interest, then the provisions of the bill would not apply.

I think with that in mind, Madam Speaker, the rest of the provision of the bill are critically important. This country labors under an enormous paperwork burden coming out of Washington. The total cost is $229 billion. Now $229 billion may not sound a lot to people in Washington who are used to spending a budget of $1½ to $2 trillion, but when we talk to America's small businesses, the men and women who are running grocery stores, who are running a drug store, who are trying to farm the family farm, the men and women who are operating a doctors office, who work to provide services in our country, $230 billion is a lot of money, and frankly, they cannot afford to hire hundreds of lawyers, to hire hundreds of accountants in order to keep up with the morass of paperwork that comes from Washington.

It is estimated by the Federal Government that it takes 7 billion man-hours to complete paperwork in 1998, 7 billion man-hours. Oftentimes these reports are contradictory, they are confusing, people make mistakes, and it has been our experience as we held several hearings on this issue and field hearings around the country before that that America's small businesses, the men and women who operate them, on the whole are trying to do their best to complete those requirements. They are good law-abiding citizens who are trying to do a job, they are trying to make their business successful, and they are trying to do what is right in filling out all this government paperwork.

But sometimes they just do not get it right, and then the agencies come in and play gotcha. They come in and say:

''Well, you owe us a thousand dollars here because you didn't fill out this log correctly,''.

''Oh, you owe us $750 here because you didn't bring the book with you to the job site.''

Madam Speaker, that is one of the stories that I tell that relate to people that we heard at our hearings. Those type of penalties where it is very clear that the small businessman or small business woman are being harassed are what we want to stop with this bill.

Frankly, we took President Clinton at his word in 1995 when he said, and I will quote:

''We will stop playing gotcha with decent honest business people who want to be good citizens. Compliance, not punishment, should be our objective.''

Madam Speaker, we did take the President at his word and introduce this bill. Since then we found he does not always mean things that he tells the American people. But I think what he was saying there was correct. The government should not be playing gotcha with good law-abiding citizens in this country, and so we provided a 6-month period when the agency points out to the small businessman they need to be doing it differently, where they can correct the mistakes. And as long as there is no harm to the public, as long as there is no danger of allowing criminal activity to go forward, then they will have that 6-month period to correct their mistakes.

I look forward to the debate on this bill, and I look forward to discussing these issues with my colleagues, and I look forward to this House once again in a bipartisan fashion passing a bill that will help America's small businesses.

Again let me say thanks to the gentleman from New York (Mr. REYNOLDS) for bringing forward the rule, thanks to the gentleman from Washington (Mr. HASTINGS) and the gentleman from California (Mr. DREIER) for their eloquent talks earlier today, and I also want to thank the gentleman from Ohio (Mr. KUCINICH) for his work. Although he doesn't support the bill as it is currently written, many of his comments have helped us as we crafted this in order to make sure that we do not create any unintended consequences.

Ms. SLAUGHTER. Madam Speaker, I yield such time as he may consume the gentleman from Ohio (Mr. KUCINICH).

□ 1100

Mr. KUCINICH. Madam Speaker, I want to acknowledge the fact that my good friend the gentleman from Indiana (Mr. MCINTOSH) and I have tried to work together to craft a bill which we could have agreement on. H.R. 391 is not that bill, but it would be nice if it was. I am glad that the gentleman from Indiana (Mr. MCINTOSH) has just indicated in this discussion, where we both favor an open rule, that he will come forward with an amendment to try to make the bill a little bit better.

I would humbly and respectfully suggest to my good friend the gentleman from Indiana (Mr. MCINTOSH), that I have had the chance to look at that amendment, and, while we will be talking about it later, I thought I would mention at this moment, while we have the opportunity, to say that the gentleman is coming along in the right direction, but it is not far enough to protect some of the health and safety and environmental concerns which we are very concerned about.

I would just like the gentleman to think about this, because in the next two hours, maybe this Congress can come to the whole direction and get support for the amendment which I will be offering under the open rule.

As I have understood the amendment which the gentleman from Indiana (Mr. MCINTOSH) will be bringing forward under this open rule, agencies would still be prevented from assessing fines for intentional and malicious violations. As I understand the amendment which will be offered under this open rule, which I support, the amendment of the gentleman from Indiana (Mr. MCINTOSH) would not provide any protections for the environment, and that the amendment, as I read it, would make it still almost impossible to prove that a violation, not an intervening action, would pose a serious harm.

So while I support the open rule, I thought I would comment that while the amendment that the gentleman from Indiana (Mr. MCINTOSH) will be offering is starting to come in the right direction, we still have some major problems here, so we just do not leap over and defeat the purpose of the open rule, which is to give us the opportunity to bring out our amendments and debate our possibilities, because I am sure Madam Speaker and many in the Congress have read the novel Catch-22 by Joseph Heller, and what is being offered to the Congress is a Catch-22, in which you can fine someone if there is a potential to cause harm, but, Madam Speaker, and this is what this is all going to be about in the next few hours, we do not know if there is a potential harm if there is no paperwork being filed.

So I would say to my friend, the gentleman from Indiana (Mr. MCINTOSH), I am sure the next few hours will be interesting as we are able to explore some of these contradictions under this open rule.

Mr. REYNOLDS. Madam Speaker, I yield 5 minutes to the gentleman from New York (Mr. SWEENEY).

Mr. SWEENEY. Madam Speaker, I want to thank my colleague and friend, the gentleman from New York (Mr. REYNOLDS), for yielding me time.

Madam Speaker, I am pleased to rise in strong support of H.R. 391. As a new Member I sought appointment to the Subcommittee on Regulatory Reform and Paperwork Reduction of the Committee on Small Business in order to pursue this very type of relief for our hard working small business people.

I happen to represent a district in upstate New York where the predominant employers are represented by the small business community, so this is an important measure for my constituents. We know that small businesses are the driving force behind our strong economy, yet they are forced to shoulder nearly two-thirds of the regulatory costs. As has already been stated, total

regulatory costs to businesses in 1998 exceeded $700 billion, with paperwork accounting for $229 billion, an astonishing one-third of all costs of regulations.

Madam Speaker, I have real experience in this area. By way of example, I would like to relate to this distinguished body an experience of mine as a former regulator in the State of New York where I served as Labor Commissioner.

As I said, I was a regulator in the state, and, along with the New York State Tax Commissioner, we sat down and compared the forms that the two of us required of the employer community. Laid out in front of the conference room table in my office were 25 forms on which the State Tax Department and the State Labor Department were asking employers to fill out important information.

What we found on those forms is that we had a number of areas of duplication. After laying out those forms on the table and physically highlighting those areas of duplication, we literally found ourselves faced with a sea of yellow. The seemingly simple exercise allowed us to consolidate those 25 forms into just two forms.

I am also proud to say in my tenure as State Labor Commissioner we were able to cut the regulatory burden to the employer community by 50 percent, and yet our worker safety numbers, our safety numbers, were increased because we were able to more smartly apply our resources and dedicate our efforts to ensure safety.

Madam Speaker, think about the time and the productivity saved by this act. Small business owners inherently fear unknown regulations and paperwork, a situation which discourages business start-ups, expansions and job growth.

This bill provides a positive step in changing the punitive manner in which agencies seek regulatory compliance. It provides for a suspension of civil penalties for first-time paperwork violations of small businesses, as long as the violation does not result in harm, impede the detection of criminal activity, or threaten public health or safety. It is called voluntary compliance. It is an effort we used in New York very successfully, and, as I said, and I will repeat, we increased our safety numbers.

Madam Speaker, small business people deserve to work with regulatory agencies in a proactive manner and should not live in fear of the ''gotcha'' approach of achieving regulatory compliance.

This bill also requires the publication of all Federal paperwork requirements on small businesses and establishes, very importantly so, a single agency point of contact for paperwork information, allowing small business to anticipate the otherwise unknown paperwork hurdles they must clear in launching new business ventures and in turn creating new jobs.

I again praise the work of the bill's sponsors. I thank my friend the gentleman from New York (Mr. REYNOLDS) for affording me this time on behalf of the 22 small businesses, and urge passage of this important bill.

Ms. SLAUGHTER. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. REYNOLDS. Madam Speaker, this bill just simply helps small business.

Madam 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. HASTINGS of Washington). Pursuant to House Resolution 42 and rule XVIII, 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. 391.

□ 1107

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. 391) 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, with Mrs. EMERSON 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 Ohio (Mr. KUCINICH) each will control 30 minutes.

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

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

Madam Chairman, today the House takes up a bipartisan bill to ease the burden of government paperwork on America's small businesses, H.R. 391, the Small Business Paperwork Reduction Act Amendments of 1999. This bill would give America's small businesses relief from government paperwork and the agencies ''gotcha'' techniques, to which the President often refers.

Madam Chairman, as you know, the burden of government paperwork is significant. According to the Office of Management and Budget, paperwork counts for one-third of the total regulatory costs in this country, or about $230 billion each year. That is $230 billion that America's small businesses and other businesses pay in order to fill out forms like these that I have brought with me here today. This is the total paperwork that a small businessman or woman would have to fill out in order to operate a new small business in America for one year. Later on in today's record I will testify as to exactly what those forms are. That is the mountain of paperwork that we are trying to reduce.

We are also trying in this bill to give small businesses a break when they go through the paperwork, when they fill it out. As the gentleman who spoke on the rule told of his story in New York, when they have those 26 redundant forms and they miss one of the lines on it, happen to fill it out incorrectly, we are going to give them a break and let them have six months to go back and correct this.

It takes about seven billion employee hours a year to fill out all the Federal paperwork. That is seven billion hours that a small businessman has to pay someone to fill out those forms, or he or she has to do it themselves.

We heard testimony from many small business owners. They cannot afford to hire lawyers or accountants or an employee that will do all of the paperwork, so they stay up late at night, burning that midnight oil, filling out the forms, so they can be law-abiding small businesses in this country.

Now, last year the Congress passed this bill. It passed with a strong bipartisan majority, 267 to 140. Fifty-four of my colleagues on the Democratic side joined virtually every Republican in supporting this bill. Last week the Committee on Government Reform approved the bill by voice vote and sent it to the floor today.

The bill would do four things, and I think it is important that we focus on this because a lot has been said about this bill that, frankly, is not true.

What are the four things that this bill does? First, it would put on the Internet a list of all of these Federal paperwork requirements, one place where the businesses by industry could go and look. If you are a doctor's office, you would see all of the forms that you have to fill out. If you are a sign company, you would see all of the forms that you have to fill out. If you are a machine tool company, you would see all of the forms that you have to fill out. It would be on the Internet, it is widely accessible, so that every small businessman would know exactly what their responsibilities are.

Second, it would offer small businesses compliance assistance instead of fines on a first time paperwork violation, so that, frankly, we would not be playing ''gotcha'' with America's small businesses. Government would be saying we are on your side. We think it is important that you fill out these forms, and we will help you do it. If you make a mistake, we will give you time to correct it.

There are times when that provision does not apply, and this is what is important. It does not apply when doing so would harm or threaten the public interest, and, as I mentioned in the debate on the rule, I would like to offer an amendment after our hour of general debate that tightens that language

and addresses some of the concerns to make it clear that if it has the potential to cause serious harm, that would mean there is no exemption from the fine. It would not apply if it would impede criminal detection or if it would involve one of the Internal Revenue laws.

These exceptions we thought were important, because the agencies made a good case why they needed to be able to go forward with civil penalties.

But I will tell you, it is my firm belief that filling out a form does not stop an environmental spill. Filling out a form does not stop somebody who wants to be crooked. If 99 percent of America's businesses are good, honest, decent people, but there is one rotten egg trying to cheat the government, frankly, we are not going to find out because he does not fill out the form. There is much too much reliance on paperwork to do the hard diligent work it takes to ferret out those bad actors.

What we have preserved in this bill are all of the other remedies, criminal sanctions, if someone commits fraud. Many of the agencies have injunctive relief, where if they find a business is doing something that is illegal, doing something that might harm the public, they can come in and close it down.

FDA has been doing that for years now, where they detect that somebody is producing a product, maybe it is apple juice, maybe some other food product that might be harmful, they do not wait to look at the paperwork. They go in with injunctive relief and shut that business down until the problem is corrected. That remedy is still available after this bill.

So this is an important provision, and one that I think it is important we think about correctly in the debate.

The third thing that the bill does is it would create a paperwork czar in each of the agencies who would contact small businesses on paperwork requirements and help them fill out the forms.

□ 1115

This paperwork czar would be an ombudsman for small businesses within the agency where they could feel they could call up and say, how do I do this? How do I fill out this form? I have gone through half the pile already, but I just do not understand this one. What do I need to do to comply with the law?

The fourth one is that it would establish a multiagency task force to study how we can do even better at streamlining those requirements. I was enormously impressed with our colleague from New York who reported that with some effort as the head of the Labor Department in that State, he was able to reduce all of those 20-some forms down to just 2 or 3. It took hard work I am sure to do that, and that is what we hope this multiagency task force will accomplish for us.

These are 4 important goals, 4 things that this legislation accomplishes that will be good for America's small businesses.

Now, one reason that this bill is needed is that the Federal agencies frankly have not been doing their job under the 1995 Paperwork Reduction Act. In 1995, Congress mandated and the President signed into law a bill that told the agencies they must reduce their paperwork by 25 percent, so that we could take a quarter of this pile of paperwork and throw it out the door, as being redundant, unnecessary, something that was not needed.

Well, the record shows the agencies are not doing their job. In 1996, they were supposed to reduce it by 10 percent. In fact, it was only reduced by 2.6 percent. Then, in 1997, they were supposed to reduce it by another 10 percent, and it actually increased, increased by 2.3 percent. And then in 1998 when they were supposed to finish the job, make that 5 percent reduction, the agencies actually increased their paperwork another 1 percent.

So we have seen a net increase since the Paperwork Reduction Act was enacted in 1995. To me, that screams of the need to make a change to that bill and to create the proper mechanisms to actually reduce unnecessary paperwork.

Now, there is another provision in the law that Congress passed in SBREFA, the Small Business Regulatory Enforcement Fairness Act, that was passed in 1996 that mandated that the agencies on their own adopt a policy that would allow small businesses to be exempt from the civil penalties. Very similar to our provision, but what it did was it gave the agencies the latitude for adopting their own policies. It frankly is very similar to the amendment that my colleague, the gentleman from Ohio (Mr. KUCINICH) will bring later today.

Well, the record is clear, frankly, that the agencies are not obeying SBREFA either. In fact, only 22 of the 77 agencies that assess these civil penalties even submitted a plan, and those that did address the question of relief for small businesses did so in a way that often caused more harm. What they said was, we are still going to impose the fine, but then we will allow you to arbitrate, to come in, hire a lawyer, go through an arbitration process, and maybe we will reduce the fine at the end of the day.

As I tried to emphasize earlier, Madam Chairman, America's small businesses are not large corporations, they do not have hundreds of lawyers on their staff to handle those types of cases. They are trying to each day just get a product out the door, do their services, help the public with what they are providing in the way of their service in their community.

So that policy actually does more harm than good. For that reason, I am not able to support the amendment of the gentleman from Ohio (Mr. KUCINICH), because it really just repeats the same language that SBREFA had that the agencies have indicated they have no intention of following through with.

Now, let me mention a couple of actual examples that our hearings on this bill brought forward. Last spring, our subcommittee held 2 hearings. Several small businesses were represented at those hearings.

One lady, Teresa Gearhart, who owns a small trucking company with her husband in Hope, Indiana, a small town in rural Indiana, told us that her company has enough business to grow and add new employees, that she thinks she could actually add 5 more employees in the coming year. But they have made a conscious decision not to do so. I was puzzled by this, quite frankly, and I said, Teresa, why would you not want to expand? You seem to be successful. You offer a great service to the community. She said, we have looked at the paperwork and if we go over a certain threshold, then the amount of paperwork we have to fill out actually goes up, and it is not worth our time, we cannot hire somebody to fill it out. My husband and I already do all the paperwork as it is, and we cannot take anymore. So they made a conscious decision to not grow their small business, to not offer more opportunities for employment in that community, and to not thrive and perhaps have a chance to compete and become one of America's larger businesses.

A second person who testified was Mr. Gary Roberts. Now, Gary is the owner of a small company that installs pipelines in the town of Sulphur Springs, Indiana. He came and told us about a problem that he had with OSHA. Now, when one mentions OSHA to America's small businessmen, instead of saying yes, they come to help me make sure I have a safe work site, they cringe, because they think OSHA is going to come and find something that they have not filled out right in their paperwork and charge them $750, $2,000, whatever the fine may be.

This happened to Gary Roberts. He was working on a job, his men were on the site, they had complied with all of the safety requirements to excavate and lay the pipeline, but they had left the manual that repeated all of those requirements that they had been trained on and drilled on back at the office. The OSHA inspector came, he did not find anything wrong, it was a perfectly safe work site. One of the workers actually ran back to the main office and brought the manual to show they had one and had been using it, and they were told, you are out of luck. You did not have it here when I arrived; that is a $750 fine.

That type of ''gotcha'' technique is continuing to go on and it is exactly the type of problem that we need to address with this legislation.

We have heard from farmers as well. Mr. Van Dyke, a muck crop farmer in Michigan, was fined this year for not having the proper employment disclosure paperwork. This was his first violation. He had always filled it out, he did not have it for some reason, and he ended up settling for $17,000. This is a

farmer who has workers who help him harvest his crops who had a $17,000 fine this year as a result of a paperwork violation.

Now, this is all the paperwork, as I said, that is required for America's small businesses. We need to do better by them. We need to reduce that. We need to put the agencies on the side of small businesses, and we need to do our job in making sure that the Paperwork Reduction Act is working and helping America's small businesses. Madam Chairman, I look forward to the debate on the amendments.

Madam Chairman, I reserve the balance of my time.

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

I have my remarks prepared, but there is something that I heard the gentleman from Indiana (Mr. MCINTOSH) say relating to the case involving Mr. Roberts, the owner of a small company which installs pipelines in Indiana.

We have been doing some research on this matter, and I would just like to report the results of our research and see if it is out of variance with the information which the gentleman from Indiana has. The inspections which he mentioned took place in 1987 and 1989, during the administrations of Ronald Reagan and George Bush. According to OSHA records, Mr. Roberts' company was not assessed any fine for any of the 3 paperwork violations uncovered during the inspection. Those violations included ''no written hazard communication program,'' ''no hazard warning labels on hazardous chemicals being worked with,'' and ''no material safety data sheets for hazardous chemicals.''

Instead, Mr. Roberts was fined after OSHA inspectors found substantive violations during 3 separate inspections, including violations determined to be serious. The first inspection on December 2, 1987 found 10 violations involving, among other things, flammable and combustible liquids and electrical hazards. On May 10, 1989, OSHA found 7 more violations, including actual safety violations. The third inspection on November 9, 1989 found 4 serious violations. It was only then, after the third inspection, that the company was fined. This included a $400 fine for failing to provide sufficient protection for employees from traffic, a $160 fine for operating equipment without appropriate wheel guards, and a $400 fine because the construction site did not have, this is a construction site, did not have the required hand rails, guardrails, or get this, manhole covers. No penalties were assessed for 12 other violations uncovered during that inspection, including the paperwork violation referred to by the gentleman from Indiana (Mr. MCINTOSH).

So much of this debate involves mythologies that need to be challenged. For instance, what is a small business? Well, the image I have of a small business is a mom and pop delicatessen; that is part of my memory growing up in America, but we know there are not many of those left anymore.

Let us look at what a small business, for purposes of this bill, would be identified as. How about a petroleum refining company of up to 1,500 employees. Or, a fire and casualty insurance company with 1,500 employees. Or, a pharmaceutical company with 750 employees. Or, an explosive manufacturer, an explosive manufacturer with 750 employees. That is a small business. They would be exempt from fines, even if they have willfully and intentionally violated the law with respect to reporting requirements. An explosive manufacturer.

Car dealers with $21 million in annual receipts, gas stations with $6.5 million in annual receipts, dry cleaners, banks with $100 million in assets. A small business.

Now, H.R. 391 waives penalties for most first-time violations by ''small business concerns.'' And the bill states that a small business is what is defined by section 3 of the Small Business Act. Just understand when we are speaking of small businesses what we mean and where the impact is on this bill.

The general rule is that a small business has less than 500 employees, but we have to remember that in this case, in this bill and in a number of cases, small business may be even larger.

Now, we all know that small businesses are the backbone of America. They are where the new jobs are being created. However, many small and family-owned businesses spend a great deal of their time and resources learning about and complying with applicable laws. It is good that we are looking at ways to simplify and streamline the resulting paperwork, but we are not looking for ways I hope to give someone a free pass on a willful violation, a get-out-of-jail-free card on a willful violation.

Madam Chairman, I oppose H.R. 391, and I am definitely not alone. The administration strongly opposes it. Four department heads would recommend a veto. A growing number of State attorneys general and labor, environmental, consumer, senior citizens, health and firefighter groups oppose it. The list of opposing groups is daunting, including names like the National Council of Senior Citizens, the AFL–CIO, and the New York State Attorney General's Office.

H.R. 391 contains a number of noncontroversial provisions that will reduce the paperwork burden on small businesses. That is good. However, the provisions that prevent agencies from assessing civil penalties for most first-time violations would create a number of unintended, but serious, negative consequences. These provisions could endanger seniors' pensions, threaten the quality of nursing home care, interfere with the war on drugs, undermine food safety protections. Think about that in an era where pfiesteria has confronted American consumers.

□ 1130

Think about that, in an era where food contamination has become a greater concern. This legislation would also undercut controls on fraud against consumers and investors, and this legislation would threaten the environment and provide a safe harbor for violators, even when the violation is longstanding, intentional, and committed in bad faith.

Of interest to those who are devotees of the Tenth Amendment, this bill would preempt State law. The National Governors Association wrote, and I quote, ''States are best able to direct State enforcement policy on the issue, and we believe that Federal preemption of State authority is unjustified.''

So I rise not simply as a Member of Congress representing people in the northeast area of the State of Ohio, but I rise on behalf of the State of Ohio in stating that, and of other States who are concerned that a Federal preemption will occur.

Madam Chairman, let me give some examples of the possible pitfalls created by these provisions.

Food safety. In 1996, the FDA implemented the hazardous analysis critical control point, pronounced HACCP, system of seafood inspection. This is a serious inspection program that would prevent the centuries-old what was known as the poke-and-sniff test as the primary method of preventing the sale of seafood contaminated with dangerous pathogens. HACCP, the law, requires seafood companies to identify local food safety hazards, such as toxins, parasites, bacteria, and they have to develop procedures to monitor onsite preventive control measures. Shellfish producers are also required to keep records of the origin of shellfish, in case a recall is necessary. The entire system depends on processing plants to report their own compliance with food safety requirements. It is kind of an honor system.

Under H.R. 391, however, FDA officials will be unable to enforce seafood safety laws because the violations of recordkeeping requirements will be unenforceable. FDA's only alternative, and get this, America, the only alternative that the FDA would have would be to take enforcement action after the consumers have been poisoned.

Opponents of the amendment which I will offer argue that the exception for violations that pose a ''serious and imminent danger to the public health or safety'' adequately protect the public. This is simply not true. And notwithstanding any other amendment that may be offered, if a business fails to report where it received its oysters, there is no imminent danger. The imminence of the danger only becomes apparent after someone has gotten food poisoning and the agency is attempting a recall of the poisoned foods.

Worker safety. In fact, the exception for imminent and substantial danger

offers little protection under any set of facts. For example, if an employer fails to provide a worker with instructions on how to safely operate machinery, this is a paperwork violation. Again, there is no obvious imminent danger until after the worker has been injured.

Madam Chairman, there are so many things wrong with this bill that even an attempt to amend it, to clean it up, is going to be lacking in sufficient import to be able to protect the health, the safety, the environment, of the people of the United States of America.

I believe the gentleman from Indiana may now have the opportunity to respond to the concerns that I expressed about food safety or any other matter that he certainly has information about.

Madam Chairman, I reserve the balance of my time.

Mr. MCINTOSH. Madam Chairman, I yield myself 30 seconds.

Madam Chairman, what I would simply like to point out, and I think the gentleman knows this, and I would ask him to amend his remarks to reflect this, the FDA has ample authority to go in and close down an unsafe food production facility before any injury to the public. They have used it often. Perhaps the gentleman was misinformed, or in the heat of the debate overstated the case, but I think if he goes back and checks he will realize that that is the case. There are serious things that can happen and that we need regulations for, and the agencies have the tools to do that under this legislation.

Madam Chairman, I yield 3 minutes to the gentleman from California (Mr. CALVERT).

Mr. CALVERT. Madam Chairman, I am something unique around here. I actually am a small business person and have run small businesses in the past. I think I have a pretty good understanding of what happens in America.

I am kind of shocked to find out that we are going to have to increase the amount of paperwork that small businesses are obligated to do in order to save America as we know it. I did not know that the minority in the administration are predisposed to the idea that all businessmen are criminals, or that we want to destroy the environment or contaminate America's food supply. I always thought the small businessmen in this country were honest, hard-working men; we try to do the best thing, we get up every morning, we make the payroll, we work hard. We do the things that are necessary to keep this country on track.

Fifty-three percent of the private workforce in this country are represented by the small business people, or are hired by small business people, not just large companies. I would agree with the gentleman that 1,500 employees is a pretty good-sized company, but I did not have that many employees. I had less than 100. I would define that as a small business.

It is tough out there. It is tough to meet all the requirements that are put upon us every single day. So not only am I here to support this gentleman in his legislation, but enthusiastically support it. It amounted to over 7 billion man-hours a year to complete paperwork in 1998, a cost of $229 billion annually to businesses. It accounts for one-third of regulatory costs in America.

What is wrong with trying to have more efficient operations of the United States government? Do we want more government? Do we want more paperwork? Do we want more bureaucracy? I do not think so. This is an opportunity for us to do a small, little bit to cut back on the costs and the burdensome regulations that are placed on businesses every day.

I do not understand why the minority is opposed to this. I guess I do. I guess they want more paperwork and more regulatory costs. But I certainly cannot support that. I am happy to be here to support the gentleman on this good piece of legislation.

Mr. KUCINICH. Madam Chairman, I yield 5 minutes to my good friend, the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Madam Chairman, I had come down here hoping to engage in a high-level debate. I am a little disappointed to see the cynicism and skepticism creep in, and there is some sort of contest here about who is most in love with America's small businesses.

I suspect all of us appreciate and acknowledge the importance of America's small businesses. My colleague who just spoke is not the only Member of Congress who is a small business person, nor is it unique among our colleagues here to have a small business experience in their past before they came to this body. So I would hope we start with the assumption that all of us are here intending to do what is best, not just for small businesses, but for America and for our population, including our consumers, and including all of us who have a concern about the environment and law enforcement, and all of the other agencies that are involved in making our quality of life at a high level, or as high a level as possible.

I rise in opposition to this bill, having been somebody who has a long experience with small business and with their regulatory affairs, having represented numerous small businesses as they dealt with regulations and their application.

But I look at this bill, Madam Chairman, and I see it has some good points and it has some deficiencies. The problem that I see is in the efforts to work with the other side to correct some of these deficiencies, and we are met with sort of a challenge that any correction of the bill in a bipartisan manner will take away the opportunity for somebody to be the champion and somebody not to be the champion. I do not think that is the way we ought to proceed in moving legislation through this body.

There is much in this bill that in fact can be supported. I think that we all agree that businesses should not be burdened or overburdened by overzealous application of the law. The proposal in this bill to publish in the Federal Register an annual list of the requirements that pertain to small business makes sense. We ought to do that.

The establishment of an agency point of contact, a liaison for small businesses to work with, should make compliance easier. That, too, is something everybody should be able to support, as is the proposed task force that would examine how the requirements for information collection can be streamlined.

Everybody here wants to make sure that small business gets a break when it is deserved. We just want to make sure that we do not provide a disincentive for filing reports that protect our health and our safety. I believe we should be able to achieve that goal if we put aside the concept of winners and losers here.

We all agree with my colleague's comments about small business being the backbone of America, creating the majority of new jobs; the fact that small business owners work hard in their communities to help build them, and that we should make sure that everybody in small businesses is encouraged in creating jobs and new jobs. That is something we definitely want to do.

But we know that most small businesses do in fact obey the law. There is no question about that. They are good Americans. We were all good Americans when we were small business people. We salute them, and we are sure Members on both sides of the aisle do.

However, there are problems with this bill, because not all of us are angels, in fact. Some of the small businesses we find in this bill are not in fact small businesses by our normal account of how that word might be defined.

In this bill, I might note, Madam Chairman, there will not be any requirement for the filing of one less piece of paper when this bill passes. Every small business will be filing just as much paper the day after.

As I mentioned, there is nothing actually in this bill that reduces paperwork. If this legislation is enacted, no individual will file one less piece of paper tomorrow or the day after than they would have filed before, but this H.R. 391 would bar agencies from assessing civil fines against those who violate a large variety of laws, even those when the violations were intentional. I do not think that is someplace where small businesses want to go or the American public wants to go.

The administration is strongly opposed to this bill for obvious reasons, as it is currently written. There is a Statement of Administration Policy on the bill which states that if presented

to the President in its current form, the Attorney General, the Secretary of Labor, the Secretary of Transportation, and the Administrator of the Environmental Protection Agency would recommend that the President veto this bill.

All of those people, Madam Chairman, cannot be against small business in America. They do, however, see that this bill needs some remedial action, and they are going to suggest that.

I think when we talk to the amendment the gentleman from Ohio (Mr. KUCINICH) is proposing, it takes that action. It allows and requires, in fact, the agencies to look at the nature and seriousness of a violation, the good faith efforts to comply that might be there, and other relevant factors in determining whether or not there should be a waiver.

I think the American people want to lessen the burden of paperwork everywhere, they want to lessen the burden of regulation, but they want it done in a reasonable way, they want it done with common sense, and in a way that still provides for protection of our health and our safety in all counts.

So I would ask, Madam Chairman, that everyone reconsider their hardened positions and their concept that people are going to be better than others or more a champion of small business, and settle in on what is best, not just for small business, but to help small business keep maintaining the health and safety of the American public; simply allowing agencies to waive when appropriate, but to retain the ability to check all different circumstances when it is appropriate and when it is not.

Mr. MCINTOSH. Madam Chairman, I yield myself 30 seconds.

Madam Chairman, I would mention one of the examples. If we would check and examine the paperwork from a dermatologist in Columbus, Indiana, who does his own lab work, fills out his own forms, he is required to fill out on a form a report that he has been trained on how to change the light bulbs in his microscope.

This is a doctor, highly trained, and a medical technician who could be subject to a civil penalty if he did not fill out a form correctly certifying that he has gone through the training in changing a light bulb. That is the type of paperwork that we need to eliminate, and certainly need to say we are not going to play gotcha and fine you $1,000 if you do not fill it out right.

Madam Chairman, I yield 3 minutes to my colleague, the gentleman from Oregon (Mr. GREG WALDEN), a new Member.

(Mr. WALDEN of Oregon asked and was given permission to revise and extend his remarks.)

□ 1145

Mr. WALDEN of Oregon. Madam Chairman, I want to follow up on the comments of my colleague from Massachusetts that this bill does not reduce one piece of paperwork that has to be filed. Well, I would say this is a good step in the right direction. And if that gentleman would like to work with us, I am sure there is a lot of this sort of unnecessary and burdensome paperwork that maybe we could strike a bipartisan effort to eliminate. That should be our absolute goal.

My wife and I, for nearly 13 years, have owned and operated a small business. We have been on the forefront, right there on the battlefield with our neighbors and friends in a small rural town who are trying to make ends meet and employ people and fill out the forms, and risking the fines and the penalties because we did not do it right.

Now, there are those in big companies who can go down the hall and turn to a legal staff or an implementation staff at some point and they can fill out all the forms for them. But in a small business, in a small town, the owner of that business becomes that legal staff. That owner becomes that personnel department. The owner becomes everything in that business. The owner is trying to make ends meet, he or she is trying to meet a payroll and trying to serve their clients and trying to serve their community.

And then the government comes along with another form or another inspection or another penalty. I am regulated by the Federal Government in the business I am in. I have a one-week window to pay the fees each year to that government. And my colleagues can smile about it. I understand that. But this is serious business, because we have a one-week window to fill out the form and send the fee to the Federal Government. If that form is filled out incorrectly or if that fee arrives late, it is a 25 percent penalty that I may be subject to. I cannot send in that form or fee ahead of time. It has to be done in a 5-day window.

This government of ours, unless an individual is right there on the forefront, they cannot appreciate the number of forms and the number of inspections. And not that they come in, in each case and drop the hammer and issue a fine on first-time offenses, but the threat is always there that they will. And in some cases there may be an overzealous inspector, an overzealous bureaucrat who decides to drop the hammer and do that.

That is what we are trying to say here. Give us a break in small business. Give us a little relief. Give us the benefit of the doubt that what we are doing is trying to follow the rules, trying to follow the government's regulations, and do it honestly and fairly.

I do not believe that most small business people in my town, in my district, are trying to circumvent what the government wants them to do. Indeed, the farmers and ranchers and small businesses are trying to follow the rules. But I tell my colleagues what gets unfair is when a fruit grower has farm housing, and OSHA comes in and fines him $75 because the toilet paper is out in the toilet paper dispenser in the bathroom. There is a roll on the tank behind, but that does not count.

Madam Chairman, we need to pass this measure and pass it today.

Mr. KUCINICH. Madam Chairman, may I ask how much time remains?

The CHAIRMAN. The gentleman from Ohio (Mr. KUCINICH) has 12½ minutes remaining; and the gentleman from Indiana (Mr. MCINTOSH) has 10 minutes remaining.

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

Some comment was made about some smiling on this side of the aisle. I am totally unaware of what the gentleman was referring to, but I will submit if this bill passes as written, there will be a lot of people smiling who are deliberately and willfully and intentionally failing to fill out paperwork which relates to the public safety, the public health and the environment of the country. That is where the smiles might be coming from. But they are sure not coming from this side.

There is a lot of discussion about the reduction of paperwork we have heard here. Paperwork, paperwork, paperwork, blah, blah, blah, blah, blah. I want to make it very clear that the controversial positions that the administration and I are opposing have nothing to do with reducing paperwork.

The administration strongly opposes H.R. 391 in the statement of administration policy, which says, in part, and I quote, the waiver provision, the waiver provision for first time violators. The bad actors, not the people who want to keep the law, not the good Americans out there who are faithfully doing the right thing, who are filling out the forms, who are running those businesses who we salute, but the bad actors would get off.

This waiver position would seriously hamper an agency's ability to ensure safety, protect the environment, detect criminal activity, criminal activity, not talking about the small businesses of America who are good Americans who do not violate the law. This waiver provision would seriously hamper the detection of criminal activity and the government's ability to carry out a number of other statutory responsibilities.

If H.R. 391 were presented to the President in its current form, the Attorney General, Secretary of Labor, Department of Transportation, and the Administrator of the Environmental Protection Agency would recommend that the President veto it.

Madam Chairman, I reserve the balance of my time.

Mr. MCINTOSH. Madam Chairman, I yield myself such time as I may consume to note that my colleague uses the terms ''willfully'', ''intentionally'', ''deliberately'' and ''off the hook''. These are terms that are used in talking about criminals and crooks.

The difference on this bill is fundamental. We do not think America's

small businesses are criminals. On the whole, the vast majority of them are good, decent, honest, hard-working American men and women who deserve to be cut a break when they try to fill out the myriad of paperwork the government asks them to do.

Madam Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. EWING).

Mr. EWING. Madam Chairman, I thank the gentleman for yielding me this time and for allowing me to talk about something that is very close to my heart.

This is my fifth term in the Congress. And from the very beginning, I can tell my colleagues that in Illinois, in the part that I represent, that if there is resentment of government, it comes from how we enforce our rules and regulations. And it comes from people who have good intentions, who are not criminals, who are not trying to poison the environment or poison any citizens. They are there doing their job. But they get some pretty heavy fines for pretty insignificant violations.

This bill does not let anyone off who is doing something criminal. This bill merely says to the regulator, work with these people. It should not be an adversarial relationship between the regulated and the regulator. We need to work together.

I think that is what we have been talking about in this new Congress, is working together, trying to find common ground to do things to make America better. But I am afraid, and I say to my colleagues on the other side, if we played back the tape of today's debate, the vitriolic part is coming from over there. The scare tactics that we are going to do all these terrible things hearken back to the Contract days and the same type of attack on just good common sense legislation.

If we go back to the Contract, most of it was signed by the President, most of it became law, and we are all taking credit for it today. I would just like to see us work together. Work together and let us do some things that are good for Americans.

Mr. KUCINICH. Madam Chairman, I yield 7 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Madam Chairman, I thank the gentleman for yielding me this time. And I want to express to the previous speaker that I very much agree with his sentiments. I understand what he is saying.

We want to help small business people who get tangled up in regulatory bureaucracy and find themselves a victim from those who are overzealous. But let us step back and look at the bill before us, not what we would like the bill to be. Because if the bill did what the gentleman said, I would support it, and I hope we can get the bill to reflect that goal.

The first problem we have is that we are voting on a bill that never had a hearing. It never had a hearing in a subcommittee, there was never a hearing in the full committee, so the groups and individuals that wanted to give input into this legislation, particularly those who would be affected, do not know why they were not heard, and we have not been able to get their reactions on the record in the usual legislative process.

This bill is called the Small Business Paperwork Reduction Act. We all want to reduce paperwork, but it is a misnomer. I think a better name for this bill, in the way it is framed now, is the Lawbreakers Immunity Act. It is not about small businesses, since it applies to gun manufacturers with a thousand employees, oil refineries with 1500 workers, and drinking water utilities with millions in annual revenues.

And it is not just a bill about paperwork. What is at stake here is the public's right to know about toxic emissions, an employee's right to know about workplace dangers, and a senior's right to know about safe conditions in nursing homes.

Make no mistake about it, the scope of this bill is far-reaching, with huge effects that deserve a full hearing and deliberation. Over 57 groups have expressed their opposition to this bill. Few issues have attracted such a diverse range of voices in opposition. Groups ranging from the State attorneys general, the labor organizations, the National Breast Cancer Coalition, consumer organizations, religious groups, fire fighters, environmentalists, handgun control advocates, they all oppose this bill.

Now, why are all these groups concerned? They were not given a chance to come before a hearing and express their concern. This bill gives first-time violators of important health, environment and consumer protection laws a free pass, making enforcement of our laws more difficult, if not impossible. By taking a blanket waiver approach, the bill creates a disincentive to comply with the law.

Now, let me give my colleagues some examples of this, and it is important to realize that there are serious consequences to this bill. The National Council of Senior Citizens wrote: ''We believe that passage of this legislation will present serious problems in regard to the protection of older persons receiving care in nursing homes. Because inspections of nursing homes and their records are often infrequent, passage of H.R. 391 could cause deliberate violations of required procedures.''

Let me elaborate a little on that, because I was the author of the Federal law on nursing home standards. Nursing homes have to submit paperwork to show that they are monitoring drug use by their patients; that they are monitoring the treatment and quality of care given to their patients. If they do not submit the paperwork because they know that in submitting that paperwork they will be found to be poorly treating the patients in that nursing home, and therefore they intentionally do not file that paperwork, knowing that nothing will happen to them for violating law, they will be off scot-free. But the consequences will be a lot of people will be overdrugged in a nursing home and ignored and left to just sit there.

The fire fighters, the International Association of Fire Chiefs joined five other fire service organizations in a letter expressing concern over, and I quote, ''Provisions of this legislation that would permit or facilitate the relaxing of regulations designed to warn fire fighters and other emergency personnel of the presence of hazardous materials. The bill raises serious safety issues for fire fighters.''

Well, we do not want to do that, and we do not have to do that to give small business people some relief from inadvertent errors in their paperwork obligations.

The Sierra Club, the National Resources Defense Council, they wrote on behalf of their membership stating, and I quote, ''Numerous crucial health and environmental programs, including those for tracking hazardous materials, assuring food safety, reporting on hazardous emissions, reporting on drinking water contamination, and giving notice of chemical accidents rely on crucial reporting requirements that would be undercut by this legislation.''

□ 1200

The gentleman from Indiana (Mr. MCINTOSH) a few minutes ago told us an anecdote that none of us had ever heard before, about a dermatologist who had to change his light bulb and was fined as a result of that.

Well, we will have to check out whether that was true or not. And the reason we have to check it out is that that gentleman told us last time we had this bill up that OSHA had a regulation, that is the Occupational Health and Safety Administration, which would require that all baby teeth be disposed of as hazardous waste materials rather than given back to the parents.

Well, we were all in dismay over such a regulation. The problem is there was no such regulation. The New York Times investigated this claim and found that it was completely false.

In 1991, under the Bush administration, OSHA issued regulations to protect health workers from blood-borne pathogens. One rule required dental workers to handle extracted teeth safely because they are contaminated with blood. So contrary to this claim, the regulation allowed a gloved dentist or employee to take the tooth, place it in a container, and give it to the parents.

I want to cite the New York Times, February 28, 1995. Too often on the floor of this House Members state things that they just made up, or maybe they heard it from somebody, but it turns out under further examination to be absolutely false. It may fit in with their theory, but if it is not true, it is not very helpful.

This bill has not had hearings. It has not had the airing that it should in the

legislative process. It is astounding that not one of these groups had an opportunity to express their views to our committee. This is a bad bill. It makes intentional violations of vital laws unenforceable. We should not want that.

The CHAIRMAN pro tempore (Mr. GUTKNECHT). The Chair will advise that the gentleman from Ohio (Mr. KUCINICH) has 3½ minutes remaining and the gentleman from Indiana (Mr. MCINTOSH) has 7½ minutes remaining.

Mr. MCINTOSH. Mr. Chairman, I yield 3 minutes to the honorable gentleman from Texas (Mr. DELAY), our whip, who has been laboring in this vineyard even longer than I have. I appreciate his coming to the floor.

Mr. DELAY. Mr. Chairman, I appreciate all the hard work that the gentleman from Indiana has done in trying to bring some reasonableness to the regulatory policy of this country.

I think it is really interesting that some in this House base all their information and the veracity of that information on the New York Times. I would think that it would be more important to go straight to the agency itself and get the real truths from the agency, as the gentleman from Indiana (Mr. MCINTOSH) does, in supporting the claims that he makes.

But Mr. Chairman, I rise today in very strong support of this very reasonable legislation, in support of what the Clinton administration has claimed all the time in reinventing government, to reach out and create partnerships with the private sector and work with the private sector rather than bring down the regulatory hammer on small business people, and this legislation does that.

But in 1995 we passed a bipartisan Paperwork Reduction Bill that required a decrease in the Federal paperwork of 15 percent over the last three years. Do my colleagues know what the result of that legislation has been? Federal paperwork requirements have increased.

Do we have to reinvent the reinvention of government? What part of ''decrease'' do the bureaucrats and the regulators and their supporters not understand?

Mr. Chairman, the business of America is business; and over the last decade, American businesses have made huge strides to cut waste and improve the efficiency of their operations. But despite all these efforts, America's small businesses still have to spend too much time and too much money filling out unnecessary government paperwork, which prevents them from growing faster and creating new jobs and does not do anything to improve the health, safety, or the environment that the gentleman from California purports.

Remarkably, one-third of all Federal regulatory cost is the result of paperwork requirements. One-third. That amounts to $229 billion of an albatross roped around the neck of the small business person every year. Over seven billion man-hours are being drowned in this sea of red tape.

Mr. Chairman, Federal regulators need to start complying with the law. And this bill will list Federal paperwork requirements for small business on the Internet. It will assist rather than punish small businesses with their efforts at compliance. And it will create a multi-agency task force and an agency-specific paperwork czar to tackle this problem, and it is a problem.

Above all, it is lenient on first-time offenders when there are no health or safety concerns involved, so the Federal Government does not have to strangle this economy's biggest job creator in red tape and regulations and unnecessary paperwork. This bill takes another step toward lending companies a helping hand with this paperwork morass. I urge that my colleagues support it.

Mr. KUCINICH. Mr. Chairman, I continue to reserve the balance of my time.

Mr. MCINTOSH. Mr. Chairman, I yield 2½ minutes to my colleague, the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Mr. Chairman, I thank my colleague for yielding.

As part of my work on the Committee on Education and the Workforce, I chair the Subcommittee on Oversight and Investigations, and in 1998 we went to the GAO and we asked them to take a look at paperwork as it affected America's businesses. They came back with a proposal, and they were going to take a look at companies in the State of California, to take a look at the Federal laws and the overlay of State laws that would affect a business within that company. They would take a look at the compliance requirements flowing from the Federal and State laws. They would take a look at the types of assistance that was available to different firms. And then they would take a look at the impact of workplace and tax laws, the impact that they would have on human resource operations.

What did they find? Well, in the State of California they found that there were 26 key Federal statutes that would impact a small- or medium-sized business. Interestingly enough, they also found that there is no single public agency, State or Federal, that would coordinate or provide a single point of contact for these small businesses, no single place to go to to get an understanding of, as a small business person, what do I have to do and how do I comply with the law?

What did these managers tell the GAO? Here are some of the things they said: Rules and regulations from the Federal Government are ambiguous under the law. They are constantly dealing with shifting sands. It means the regulations or the impact or how they are interpreted evolve over time.

What H.R. 391 does is it starts to deal with these kinds of issues. It would put all of the rules or a comprehensive list of all the Federal paperwork requirements on the Internet, a single place to go to to get the information. It would offer small businesses compliance assistance. They go to a small business and say, we are going to help you comply with the regulations. Establish a paperwork czar. A single point of contact for small business so that there would be a place to go to to get an understanding. And finally the most important might be that we would get a process that would outline streamlined requirements for small business.

Mr. KUCINICH. Mr. Chairman, I continue to reserve the balance of my time.

The CHAIRMAN pro tempore. The gentleman from Ohio (Mr. KUCINICH) has 3½ minutes remaining, and the gentleman from Indiana (Mr. MCINTOSH) has 2 minutes remaining.

Mr. MCINTOSH. Mr. Chairman, I yield 1 minute to our colleague the gentlewoman from Idaho (Mrs. CHENOWETH).

Mrs. CHENOWETH. Mr. Chairman, I thank the gentleman from Indiana for yielding.

I rise in strong support of H.R. 391, because small businesses are the backbone of our economy. Over the last 25 years, two-thirds of the new jobs in our country were created by small businesses, and overall small business employees are more than half of our private workforce, and they desperately need relief from the burdensome requirements of government, of more and more paperwork.

Regulations imposed by government cost a tremendous amount of money for each family, each working family. In fact, they cost a staggering amount. The typical family of four pays approximately $6,875 a year because of excessive government regulations. That would go a long way toward a college education, and it goes instead to regulations.

Families actually spend more on regulations than they do medical expenses, food, transportation, recreation, clothing, and savings. That is startling. Paperwork accounts for one-third of these regulatory costs. The American economy needs this bill and needs the relief it will afford.

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

Mr. Chairman, one of the parts of this debate that I think is perhaps confusing to people is the assertion that paperwork is not important.

We certainly want to relieve American small businesses of any paperwork which is unnecessary. But I think most reasonable Americans would agree that there are certain types of paperwork which can become very necessary.

For example, let us suppose that a jet plane which was a cargo plane had a particular type of cargo which had to be labeled ''cargo only'' and flown from one destination to another to arrive safely, and the cargo they had in some cases were oxygen cannisters; but let us suppose that cargo which happened to be oxygen cannisters was not labeled ''cargo only'' and ended up on a passenger plane. It is paperwork.

Well, actually this happened, that some oxygen cannisters ended up on a passenger plane instead of a cargo plane because they were not labeled ''cargo only.'' Paperwork. There was an explosion and 110 people were killed on a ValuJet, which I think everyone remembers the crash in the Florida Everglades. The FAA pointed out that the company knowingly failed to package, mark, label, identify, or certify a shipment of 125 unexpended oxygen generators and 10 empty generators aboard the ValuJet.

So we cannot say paperwork is not important. I think that we have to keep having incentives to comply. And the only way we have an incentive to comply is to make sure we do not waive the penalties, because otherwise we end up with the condition where lives are jeopardized. That is what so many people are saying, paperwork can save lives, that there is a reason to have paperwork.

That is why the International Association of Fire Chiefs pointed out that removing or relaxing penalties for failure to comply with regulations that require disclosure of the presence of hazardous materials will almost certainly result in lack of compliance and raise serious safety issues for fire fighters. So there is a reason to have paperwork.

More than that, we need to have compliance; and the only way we have compliance is we do not waive the penalties. This legislation is about waiver of penalties for violators.

The AFL–CIO said that H.R. 391 would make the American workplace more dangerous than it currently is and needlessly remove safeguards currently in place to protect American workers.

Many environmental organizations are opposed to this legislation. The Sierra Club and the Natural Resource Defense Council said, ''Numerous crucial health and environmental programs, including those for tracking hazardous materials, assuring food safety, reporting on hazardous emissions, reporting on drinking water contamination, and giving notice of chemical accidents, rely on crucial reporting requirements that would be undercut by this legislation.'' And there are dozens and dozens of groups who have similar concerns.

We are for small business. We support those small businesses who are trying to do the right thing. We want to lessen their burden. But no one in America wants to remove all paperwork, which would create a circumstance where America's health, safety and environment would be jeopardized.

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

Mr. Chairman, in closing the debate on this bill, and then we will move into amendments, let me put into the RECORD all the groups who are supporting the legislation, from the National Federation of Independent Businesses, United States Chamber of Commerce, the National Restaurant Association, the Academy of General Dentistry, and about three dozen other groups who support this bill.

Mr. Chairman, one of the speakers on the other side of the aisle said that they view this bill as the Lawbreakers' Immunity Act, and I think that just about sums up the difference of opinion here. They view small businesses as potential criminals, crooks, people who are looking for ways to get out of their requirements to obey the law.

We view them as decent, honest men and women who are struggling to do a job, provide a service, build a product. And they are confronted every day, every time they hire a new employee, with a mountain of paperwork this high.

□ 1215

We want to give them a break. We want to reduce that paperwork. We want to say to them if they make a mistake or they do not fill out one of the forms right, we will give them a chance to correct it and get their paperwork in order. It is that simple.

So, Mr. Chairman, I would urge my colleagues today to once again show bipartisan support as we did last year in the last Congress for this paperwork reduction bill.

Mr. PACKARD. Madam Chairman, I rise today in support of H.R. 391, the Small Business Paperwork Reduction Act. It is time we cut the red tape of the government and give some long overdue assistance to our nation's small business owners.

The Small Business Paperwork Reduction Act will streamline federal paperwork requirements and waive fines for minor, first-time paperwork violations. Previous legislation has forced small businesses to spend over seven billion hours filling out paperwork. This costs small business owners over $229 billion dollars in expenditures.

Simply stated, H.R. 391 will allow business owners the opportunity to correct minor mistakes without being fined thousands of dollars. It is time we take the fear of federal agencies away from the law-abiding citizens of this nation.

Madam Chairman, this is just common sense. It is time we reduce the burden of frivolous paperwork and the enormous costs associated with it for our nation's small business owners.

Mr. EHRLICH. Madam Chairman, I rise today in support of H.R. 391, the Small Business Paperwork Reduction Act Amendments of 1999, introduced by my colleague, Representative DAVID MCINTOSH.

Small business enterprises are the engine of our national economy. Today, small businesses generate 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, the young and elderly individuals, and current recipients of public assistance.

Yet, the smallest firms bear the heaviest regulatory burden. Firms under 50 employees spend on average 19 cents out of every revenue dollar on regulatory costs. These businesses desperately need relief from the burden of government paperwork.

These entrepreneurs live in constant fear of fines 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 accounts for one third of total regulatory costs, or $225 billion. In 1996, it required 6.7 billion man hours to complete government paperwork.

This legislation will give small businesses the much needed relief from the burden of paperwork. H.R. 391 will place on the Internet a comprehensive list of all federal paperwork requirements for small businesses, organized by industry, as well as establish a point of contact in each agency for small businesses concerned with paperwork requirements. In this way, the auto parts dealer in Essex, MD, and the corner grocer in Dundalk, MD, will have a government-paid advisor—rather than having to pay a high-priced lawyer.

Further 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 to streamline reporting requirements for small businesses.

This legislation is a positive step in addressing the demands for reform from many of my small businessmen and women in the 2nd District of Maryland.

Madam Chairman, please join me in strongly supporting this common-sense paperwork reduction bill for small business.

The CHAIRMAN pro tempore (Mr. GUTKNECHT). All time for general debate has expired.

Pursuant to the rule, the bill is considered read for amendment under the 5-minute rule.

The text of H.R. 391 is as follows:

H.R. 391

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 1999''.

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 1999; 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.

''(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.''.

(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 1999, 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 the bill?

AMENDMENT OFFERED BY MR. MCINTOSH

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

The Clerk read as follows:

Amendment offered by Mr. McINTOSH:

Page 4, beginning on line 8, strike ''caused actual serious harm to the public'' and insert ''the potential to cause serious harm to the public interest''.

Page 5, beginning on line 1, strike ''an imminent and substantial danger'' and insert ''a danger''.

Page 5, line 6, strike ''an imminent and substantial danger'' and insert ''a danger''.

Page 6, line 13, strike ''an imminent and substantial danger'' and insert ''a danger''.

Page 8, after line 24, insert the following:

''(6) At least two representatives of the Department of Health and Human Services, including one representative of the Health Care Financing Administration.

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. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. McINTOSH. Mr. Chairman, let me say very briefly this is an amendment that I think we have broad support for. It is a manager's amendment, frankly to respond to some of the concerns that there may be a potential harm to the public rather than an actual harm that would be addressed by the paperwork. I frankly am confident that the bill will cover that, but working particularly with the gentleman from California (Mr. THOMAS) and his staff on his subcommittee, we have crafted this amendment to make it very clear that where there is a potential to cause serious harm to the public interest or any type of danger to the public interest, that we will allow the agencies to go ahead and impose, in addition to all of their other remedies, a civil fine.

It also provides for two representatives from the Department of Health and Human Services, including one from the HCFA, to serve on the task force that we are creating. I think they will be a very beneficial addition and would welcome this amendment.

Mr. Chairman, I hope that it will receive support by all of my colleagues here, and then I understand the gentleman from Ohio (Mr. KUCINICH) also has an amendment where there will be some differences.

Mr. Chairman, I yield to the gentleman from Virginia (Mr. DAVIS) to address the amendment in the bill.

Mr. DAVIS of Virginia. Mr. Chairman, I thank my colleague for recognizing me on this. Let me just note this ought to take care of a number of concerns that were raised in the preliminary debate on this when we talked about the crashed ValuJet and so on, but language in this amendment when it talks about threats and harms and so on in section 2(b) really makes sure that those kind of paperwork violations are taken care of.

Am I correct in that assumption?

Mr. McINTOSH. Yes, absolutely.

Mr. DAVIS of Virginia. Mr. Chairman, as my colleagues know, I think what we do not want to do is get our small businesses in a ''gotcha'' situation where they fail to file one of the reams of technical filings and paperwork that we so often require in laws and amendments.

And if my friend would bear with me, Steve Lampges is the owner of Maysville Grain and Fertilizer in Maysville, Oklahoma, employs 13 people. As part of his business, Steve sells chemicals used for fertilizer. Three years ago Steve decided to switch from selling chemicals in 2½ gallon containers to a more environmentally friendly system of selling from bulk storage. His reward for switching to bulk storage of chemicals was a new set of environmental rules and regulations which he acknowledged and complied with. In fact, Steve built a container storage building that was praised by Oklahoma State officials as a model for other agri suppliers.

In Steve's second year of providing fertilizer chemicals from bulk storage he failed to submit the pesticide production report required by the Federal EPA and was fined the maximum allowable penalty of $5,500. He submitted the 2-page form to EPA, but they continued to insist on the fine, and even when the government admitted it was in the public's interest to settle this action, the settlement offered by EPA was $3,300.

Steve recently put up his hands, admitted he can no longer fight with an EPA that seems determined to put him out of business, and he paid the settlement. But he cites this multi-year battle with EPA as the straw that has broken his company's back, and is unsure of the business's future.

This is the kind of horror story we hear from companies doing environmentally friendly things, getting caught in reams of paperwork and having a Federal bureaucracy that will not bend and work with them to help them comply where the public is not endangered in any way, shape or form, and they are not harmed at all. But the ''gotcha'' mentality that we sometimes find in Federal regulators is putting small businesses like this around the country out of work, and I think this amendment protects the public, but at the same time I think puts the proper emphasis on allowing our small businesses to grow and prosper as we pass reams of more rules and regulations which we force them to comply with.

Would the gentleman agree with that?

Mr. McINTOSH. Mr. Chairman, absolutely, and I appreciate Mr. Davis' example there. We have heard hundreds of those in the various hearings that we have held on regulatory oversight, including the two on this bill that we held last year.

Mr. DAVIS of Virginia. Mr. Chairman, it just seems to me that the health, the safety, the environment does not need to be jeopardized with this amendment. We can in fact protect that. We can give our regulatory agencies the ultimate judgment. But when we get into these technical violations, when a company is late filing some paperwork or a new form comes in that maybe they did not get it when they inquired, or their country attorney went and inquired and did not know about, that instead of saying, ''We got you, you owe us, we're going to put you out of business and we're going to make you pay,'' that we can work with these small companies, help them nurture and grow, help employ people, help tax bases in these small communities across the country and suburban areas as well.

And it is a question, I think as the gentleman noted, do we trust the businesses to do the right thing, or do we think to come after them as if they are somehow crooks to begin with? The vast majority of small businesses are trying to do the right thing by their employees, by their customers and by the Federal rules and regulations, and I think this is a good sound amendment that gets to the crux of a lot of the opposition of this bill, and I congratulate the gentleman and hope that the House will support it.

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

The amendment offered by the gentleman from Indiana (Mr. McINTOSH) is a step forward, but the bill would still preempt State law. It still does not exempt intentional violations. It still provides no environmental protections. It still has inadequate exceptions for the public health because it requires a high burden of proof, and exemption therefore has a potential to cause serious harm. And there is still a Catch 22: We cannot discover violations that threaten the public safety without the paperwork.

So this bill does, even with the amendment, still jeopardize public health, but I would say the amendment is a step forward, and I accept the amendment.

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

Mr. Chairman, I thank the gentleman from Indiana (Mr. McINTOSH), and I rise today in support of H.R. 391, the Small Business Paperwork Reduction Act Amendments of 1999.

Mr. Chairman, H.R. 391 provides our Nation's small businesses with desperately needed relief from the burden of government paperwork which has continued to grow each year. The number of hours required to complete government paperwork has increased more than 350 percent since 1980. Clearly we should do all we can to help relieve government paperwork demands that this Federal Government places on its citizens, and H.R. 391 helps us in this process.

Specifically, the legislation does the following:

It requires the posting on the Internet of a comprehensive list organized by industry of all Federal paperwork requirements for small businesses, it offers small businesses compliance assistance rather than fines for first time paperwork violations that present no threats to public health and safety, and it establishes a single individual in each agency to be the point of contact for small businesses on questions about paperwork requirements.

Mr. Chairman, these are all common sense provisions that every Member of this House should support.

Let me say also that they are consistent with other actions the House has already taken. Earlier this week the House passed H.R. 439, the Paperwork Elimination Act. This legislation will allow small businesses to take advantage of the information age when responding to government information demands. Both of these bills are designed to help small businesses meet the requirements that the government places on them in an efficient and fair manner.

I also want to address some of the concerns that have been raised by the opponents of this legislation. Some have claimed that H.R. 391 lets small business scofflaws go free, and that it protects drug traffickers, and that it undermines the ability to uncover illegal activity. But when I hear some of these statements, I am reminded of the story of Chicken Little in his warning that the sky is falling in. The fact is that the bill already contains numerous exemptions to ensure that bad actors are not rewarded for negligent or illegal behavior.

In conclusion, Mr. Chairman, let me simply state that I am a former small business owner. I know the frustrations that can be created by having to fill out mountains of paperwork from the Federal Government. This frustration easily turns to outrage when one is

fined for a small paperwork violation that they may not even have been aware of. H.R. 391 will remedy this situation.

This legislation simply ensures that small business owners who are honest law-abiding citizens, and this will cover the vast majority of them, are not penalized for a minor first time paperwork violation.

I urge all Members to take a good look at all amendments that are offered and possibly to reject the Kucinich amendment and support H.R. 391.

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

The CHAIRMAN pro tempore. Without objection, the gentleman from Indiana is recognized for 5 minutes.

There was no objection.

Mr. MCINTOSH. Mr. Chairman, I will not use all that time. I just wanted to thank the gentleman from Ohio (Mr. KUCINICH) for accepting this amendment, and we have no other speakers on this portion of it, but we will address his amendment when it comes up. I wanted to thank him for accepting it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Indiana (Mr. MCINTOSH).

The amendment was agreed to.

AMENDMENT NO. 1 OFFERED BY MR. KUCINICH

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

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. KUCINICH:

Page 4, strike line 1 and all that follows through page 6, line 24, 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 1999, 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 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, this amendment replaces the controversial provisions that would prevent the assessment of civil penalties and preempt State law with language that requires agencies to implement policies for reducing or waiving penalties against first time violators in appropriate circumstances. Again, it replaces the provisions that prevent the assessment of civil penalties and preempt State law with language that requires agencies, we are going to require agencies to implement the policies for reducing or waiving penalties against first time violators in appropriate circumstances. The agencies would be required to implement these policies within six months and report to Congress on those policies six months later. So there is a strong attempt here to make sure that businesses who operate in good faith are rewarded.

This amendment dovetails a provision in the Contract with America. Section 223 of the Small Business and Regulatory Enforcement Act which enjoyed overwhelming bipartisan support in Congress when it was signed into law three years ago, that provision required agencies to implement policies for waiving or reducing penalties under appropriate circumstances. However, SBREFA, as it is called, did not target relief to first-time violators. Some of the SBREFA policies specifically provide relief for first- and second-time violators. However, many agencies did not specifically address the subset of violations. My amendment would require that every agency draft policies providing relief for first-time violations.

This amendment has numerous benefits. It would provide penalty relief to first time violators without giving a ''get-out-of-jail-free'' card to those who intentionally violate the law. It would provide relief without encouraging businesses to ignore their paperwork objections. It would protect the integrity of our system of regulation, which depends on self reporting instead of relying on surprise inspections.

□ 1230

It would protect the integrity of the laws that protect our seniors, workers and the environment. It would protect our drinking water, nursing homes, pensions, and more.

Mr. Chairman, the political reality is that without my amendment, this bill will doubtfully become law. Many environmental, labor, consumer and health groups, as well as several States Attorney General, have voiced their opposition to the bill. Moreover, the administration strongly opposes it and four agency heads have threatened a veto.

A similar bill did not pass the House with a veto-proof margin this year. It will doubtfully become law if my amendment is not adopted. On the other hand, if my amendment is adopted, the bill, likely, will be non-controversial and likely will gain overwhelming support.

We should seize this opportunity to provide real relief to small businesses who are waiting for Congress to provide them with relief. I urge the support of my amendment.

Mr. MCINTOSH. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as I said before, this bill has enjoyed much bipartisan support, and while there has been controversy swirling around the provision to suspend fines for first time paperwork violations so small businesses can have the chance to correct innocent mistakes, that controversy often has, frankly, overstated the cause.

I appreciate the gentleman from Ohio's efforts to point out legitimate concerns, as we did in the amendment today and the one earlier, in drafting a very clear statement that if there is a potential for actual law breaking or potential for harm to the public, that then those fines would go forward.

But, sadly, I cannot support the gentleman's amendment today, because it does not add anything new to the current law to protect small businesses. This amendment replaces the bill's suspension of fines with a provision that the agencies develop policies on the reduction, elimination and delaying of fines for first-time paperwork violations under appropriate circumstances.

This amendment essentially duplicates existing law. As I stated earlier, under Section 223 of the Small Business Regulatory Enforcement Fairness Act, or SBREFA for short, the agencies are already required to have these policies in place. They were supposed to submit them to Congress by March 31 of 1998, nearly a year ago. But nearly a year later, many of these agencies, including six cabinet departments, have not submitted their plans to Congress. In fact, only 22 of the 77 agencies that assess penalties have sent any policy at all.

This amendment simply reverts back to the status quo. It simply says to America's small businesses, we are going to ask the agencies to submit a policy, but not ask them to change their behavior when they play ''gotcha'' with innocent men and women who are attempting to run their small businesses.

It is clearly not working. It does not do anything to help the small businesses, and that is why the NFIB, the Chamber of Commerce and the National Restaurant Association have made opposition to this amendment a key vote today.

Last year we did amend the bill, as I stated earlier, in response to some of those concerns. I think the bill is a good bill today with the new amendment we adopted just a few minutes

ago. It does make sure that the agencies can protect the environment, can protect health and safety and can protect and enforce the laws. But what it also does is says to the agencies, we want to give America's small business a break. When you have innocent small businessmen, not law breakers, but innocent small businessmen who make a mistake, they deserve to have a chance to correct that mistake.

I do believe that is the fundamental difference in this debate. Last year in the debate one of the members of my committee said that they thought this would be an excuse for small business not to file the paperwork required of them, that a small business person should not be let off the hook.

That view, that America's small businesses are looking for excuses not to comply with the law, simply is not what we found. Most of America's small businesses try to follow the law, they try to fill out the forms, they try to do what is required. Every day it seems they get a new requirement or are confronted with a stack like the one we have here before us when they hire a new employee.

They are working hard to follow those requirements. They are not criminals, they are not crooks, they are not people looking for excuses to not obey the law. They are not people trying to pollute. They are people who are trying to help clean up the environment, doctors trying to help with the public health, small businessmen providing a service in their community.

I think that we have to recognize that, and that in this bill, with the provision we have with the six month leniency that allows them to correct any of those mistakes, we are saying to the American small businessman and woman, we know you are trying to do a good job, and we are going to be on your side; we are going to switch the emphasis towards compliance, and not, I repeat, not assess you with penalties and fines.

Last week I received a letter from the Small Business Administration advocacy, Mr. Glover, who is a member of the Clinton Administration and who does support this legislation. One of the things I would like to do is quote from that letter where he says, ''Small businesses generally want to comply with the law, but are inundated with these requirements. In some cases, violations occur not because small businesses are ignoring the law, but simply are unaware that such requirements exist. As always, there are a few out there that will try to take advantage of the law, and I believe section 2(b), which we have in the bill as it currently stands, leaves enough discretion to allow the agencies to punish those bad apples.''

Mr. Glover, I think, also would recognize that those bad apples are few and far between, and that is where we need to direct our enforcement, not harassing the vast majority of America's small businesses who are trying to comply with the law.

For that reason, I would ask my colleagues to vote no on the Kucinich amendment, and allow the bill to go forward with the strong bipartisan support as it was drafted and previously amended.

Mr. LEWIS of Georgia. Mr. Chairman, I move to strike the last word.

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

Mr. LEWIS of Georgia. I yield to the gentleman from Ohio.

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

Mr. Chairman, the National Governors Association wrote a letter to our leader, the gentleman from Missouri (Mr. GEPHARDT), and I would like to quote from it. ''We applaud the goal of reducing paperwork burdens for small businesses and would support the Federal Government taking steps to ensure that information collection and paperwork requirements on small businesses are reasonable. However, we must express concern over the preemption of state authority in section,'' and they spell out the section of the Small Business Paperwork Reduction Act of 1999.

''As governors, we understand the critical role that small businesses play in our economy. We appreciate the importance of ensuring that Federal reporting requirements on small businesses are sensible and that enforcement of those requirements are reasonable. Clearly the Federal Government can direct its own enforcement policy on this matter. Likewise, states are best able to direct state enforcement policy on this issue, and we believe that Federal preemption of state authority is unjustified. We urge you to take our views into consideration as you move this legislation forward.'' It is signed by Governor Thomas Carper and Governor Michael Leavitt.

My amendment addresses these concerns and removes the preemption provision.

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

Mr. Chairman, first of all let me just say that I have great respect for the gentleman from Ohio (Mr. KUCINICH), a member of our committee, a very hard working member, and I appreciate the input the gentleman gives us on a lot of legislation. The gentleman has helped a great deal. However, I disagree with the gentleman's amendment, and I would like to say why.

First of all, small business people across this country are overburdened by Federal regulations and paperwork, unnecessary paperwork, and, because of that, many of them have had their overhead increased to such a degree that they have to start letting people off. They have to lay people off. It has an adverse economic impact on them.

This legislation passed the House I think with 54 Democrat votes, it was a bipartisan bill last session. This bill is extremely important for the small businessman, the backbone of the economy of the United States of America.

Now, there have been some misstatements made by some of the special interest groups that want this bill to die. They have said that workers are going to ''die on the job'' because of this, that the environment is going to be ''devastated,'' senior citizens in nursing homes are going to ''perish.'' Fortunately, none of that is true.

I want my colleagues who are paying attention to this to listen to the safeguards in the bill, and I will not be redundant, because I think the gentleman from Indiana (Mr. MCINTOSH) has done an outstanding job of not only getting this bill to the floor and being the author of it, but also explaining it.

Agencies do not have to suspend fines if the violation causes any actual serious harm. That is in the legislation. They do not have to suspend fines if the violation presents a threat to public health or safety. That would take care of the senior citizens in nursing homes and so forth. They do not have to suspend fines if doing so would impede the detection of criminal activity.

These are very broad exceptions, and the agencies involved, if they detect any violations of the law, they can impose these fines. However, if it is a legitimate mistake that a small businessman has made, he has six months to rectify the situation. If he does not, then the penalties will be imposed.

So I think if an honest mistake is made by a small businessman, he should not be penalized by the agencies of the Federal Government, and, for that reason, I think this legislation is extremely important, and, although I have great respect for the gentleman from Ohio (Mr. KUCINICH), I urge my colleagues to defeat his amendment and pass the McIntosh bill as written.

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

Mr. Chairman, streamlining our Nation's regulatory system and eliminating overhanded regulations in our Nation's small businesses is a good idea. Paperwork reduction is an important part of these reforms, and who could be against reducing paperwork?

But what we are talking about today is far more important than just paperwork reduction. In our eagerness to shred paperwork, it is important that we be careful not to shred basic protections in areas like food safety, nursing home care, the environment and crime control.

These regulations can often mean the difference between life or death. At first glance, this bill sounds like a godsend, but, as the old saying goes, the devil is in the details, and the details here are a one-size-fits-all, blanket waiver for even deliberate violations of Federal law and Federal reporting requirements, that could result in serious and grave consequences to our public safety.

Mr. Chairman, consider the issue of gun sales to criminals. Mr. Chairman, I include for the RECORD a letter from Sarah Brady, the Chairperson of the

Board of Handgun Control, detailing how this bill would weaken the reporting requirements of the Brady law.

HANDGUN CONTROL,
Washington, DC, February 11, 1999.

Hon. HENRY A. WAXMAN,
Ranking Minority Member, House of Representatives, Committee on Government Reform, Washington, DC.

DEAR REPRESENTATIVE WAXMAN: As the House prepares to debate H.R. 391, The Small Business Paperwork Reduction Act Amendments of 1999, I am writing to express our concern over a portion of the bill that may allow federally licensed firearms dealers to forego completion of background checks on gun purchasers using the new national criminal instant background check system.

Title 18, Section 922(t)(5) imposes a civil fine of not more than $5,000 on any federally licensed firearms dealer (FFL) who transfers a firearm to a prohibited purchaser if that FFL knowingly fails to check that individual's eligibility through the national criminal instant check system.

Firearms-related violence is one of our country's greatest concerns. In conjunction with state and local law enforcement agencies, the Bureau of Alcohol, Tobacco and Firearms has developed a comprehensive national firearms trafficking strategy aimed at reducing violent crime by investigating and prosecuting those individuals who are illegally supplying firearms to violent criminals.

Failure to comply with the ''paperwork requirement'' of the Brady Law poses a public safety threat to all Americans. There are over 100,000 federally licensed firearm dealers and most are small businesses. If each received a first time violation waiver, 100,000 dangerous weapons would be on the streets of our country.

We understand that Representative Dennis Kucinich (D-OH) will offer an amendment that will preserve individual agencies' ability to fine deliberate violations of their reporting requirements. I urge all Members to support the Kucinich Amendment.

Sincerely,

SARAH BRADY,
Chair.

Mr. Chairman, the Brady law is a law, I would point out, which has stopped over a quarter of a million handgun sales to felons and fugitives of justice.

Last November, the Bureau of Alcohol, Tobacco and Firearms issued a permanent regulation to implement the Brady Handgun Violence Prevention Act. A key part of these regulations are verification and reporting requirements by gun dealers that are designed to prevent the sale of firearms to a class of restricted individuals that includes convicted felons, fugitives from justice, domestic abusers and others.

Specifically, the Brady act imposes a $5,000 civil fine on gun dealers who fail to perform criminal background checks on prospective buyers. The blanket amnesty provisions of H.R. 391 would remove the incentives for sellers to abide by these reporting requirements.

Under this bill, gun dealers are given a free pass to sell weapons to criminals with impunity. According to Sarah Brady,

Failure to comply with the paperwork requirement of the Brady law posts a public safety threat to all Americans. There are over 100,000 federally licensed firearm dealers, and most are small businesses. If each received a first time violation waiver, 100,000 dangerous weapons could be on the streets of our country.

Now, the proponents of this bill may argue that the bill includes an exception that would prevent this from happening by giving to an agency head the discretion to oppose a fine if he or she determines it involves criminal activity. But, in reality, the threshold established in this exception as a practical matter virtually is impossible to achieve.

It is extremely difficult to prove that not conducting a particular background check definitely impedes or interferes with detecting criminal activity. Remember, in the mind of an unscrupulous gun dealer, he knows he has a free pass to sell guns to criminals, unless he gets caught.

□ 1245

And a scrupulous dealer has every reason to skirt the regulations because it would help maximize his profits.

But do not take my word or Sarah Brady's word for it. The Justice Department has also raised concerns. In a February 2nd letter from Acting Assistant Attorney General Dennis Burke, the Department of Justice stated that two standards set forth in the bill's exception were ''inappropriate.'' According to the Department of Justice, and I quote, ''It may be difficult for an agency to determine that the failure to impose penalties would in a given case interfere with the detection of criminal activity.''

Again, the point of the Brady law reporting requirements is principally to prevent criminals from getting guns.

Mr. Chairman, particularly in the area of protection against firearms, agencies should not be hamstrung or have to wait until serious harm occurs before imposing civil penalties. Every bill has unintended consequences. But in this case, although the consequences may be unintended, they are foreseeable and potentially deadly. All it takes is one dealer to pass up a background check for a life to be lost in a shooting.

I strongly urge my colleagues to oppose House Resolution 391 in its current form and to support the Kucinich amendment, which reduces paperwork and injects some common sense reforms into our regulatory system without jeopardizing public safety.

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

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

Mr. KUCINICH. Mr. Chairman, I pointed out earlier that the bill still preempts State law, and State officials have opposed H.R. 391. The Attorney General of the State of New York has said the most objectionable element of the legislation is the preemption of State enforcement efforts.

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

Mr. Chairman, I just wanted to say something. One of the things that bothers me in this debate is the assumption that small business people have an intention to do something dishonest. That is like saying that school teachers have the intention not to teach; that doctors have the intention to commit malpractice. If we continue in this country with the assumption that small businesses' goal is to do everything opposite of what the Federal Government would want them to do, we will not be long in terms of being an economic power.

To say that a gun dealer will blatantly disregard the Brady law if this bill is passed is absurd. There are significant penalties for doing that which will not be abated by this law.

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

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

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

I appreciate the gentleman's remarks. In fact, it is that fundamental difference in the viewpoint of the good citizens of our country who run our small businesses, whether they are frankly lawbreakers, as they have been called today in the debate, or whether they are good, honest, decent people who are struggling to keep the doors open, struggling to provide a service, struggling to provide a good, and trying to comply with all of the paperwork.

As I mentioned earlier, this is the paperwork that has to be filled out, two huge volumes like this, whenever a small businessman employs a new employee. That is what they have to do. They have to make sure they get it all right. And then there are lots of other paperwork requirements as well.

I mentioned one of the people who testified at our hearing on regulatory problems, Dr. Proetst, who is a dermatologist, who told me he could be fined for failing to report to the government that he has been properly trained on how to change a light bulb in his microscope.

Now, when we have doctors, and the gentleman from Oklahoma (Mr. COBURN) knows this himself, who are having to spend their time filling out the forms rather than treating patients, that is bad enough. But for them to be subject to a several-hundred-dollar or a several-thousand-dollar fine because they have not reported that they know how to change a light bulb, something is drastically wrong.

Mr. COBURN. Mr. Chairman, let me reclaim my time and give a couple of examples.

Under OSHA now, every medical office, every container that might contain anything that would be contaminated, has to be labeled. So even if one has a container behind closed doors under a sink, one still has to have a nice orange label there that totally ruins the decor that somebody might

get there. If a child pulls that label off and I fail to report that, that it was not present until I could get another label there, and if I were to be inspected, or caught, that is subject to a fine under OSHA.

If the laboratory in my office, under its approval and certification procedures, makes an error on a testing, but yet we fail somehow, not to fill out the paperwork but if I as the medical director of that laboratory fail to sign that piece of paper, and when we are inspected, if I missed one of them, missed signing one of them, then I lose my CLEA license for failure to comply with a piece of paper that has nothing to do with the quality of care that we give our patients, has nothing to do with the certification and accreditation of that laboratory, but is simply based on a paperwork error that was never intended. It was just a mistake, a misstep, an oversight. Not because it was intended to violate the law, but because there are so many requirements that have so little benefit that are carried to such great extent by the bureaucracy that the penalty of it becomes, the penalty is not the fine, the penalty is that I do not get to practice medicine, I get to spend my time filling out paperwork for the Federal Government.

So with that, let us consider the examples that are very real that we all encounter if we are in any small business, on how the tremendous paperwork burden is affecting and cutting our productivity, eliminating our ability to enhance the wealth of those around us, offer jobs and opportunity to those that do not have it today.

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

Mr. MCINTOSH. Mr. Chairman, let me just say very emphatically, the bottom line, and I do appreciate the earlier work of the gentleman from Ohio (Mr. KUCINICH) with this as we fine-tuned this bill, but the amendment that he presents today frankly guts this bill and its chief provision of allowing small businesses to a have a chance to really correct the mistakes that are innocent mistakes. It is as basic as that. What it does is revert back to the existing law which is not being complied with by the agencies. So I must ask our colleagues to vote ''no'' on this amendment.

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

Mr. Chairman, I rise in support of the Kucinich amendment. I want to clarify what the disagreements are on this legislation. No one disagrees with the idea, as far as I know, that we ought to reduce the amount of paperwork which burdens small and large businesses. Unnecessary paperwork is inexcusable, and I think a great deal of credit goes to Vice President GORE in his efforts to reinvent government, to try to avoid the requirements that so much paperwork be required from different businesses.

The second thing we do not disagree about is that if a small businessman or woman inadvertently does not do what is required by way of paperwork regulations, we do not want them to be fined or penalized in any way when they do it inadvertently. The Kucinich amendment would make sure that if it is an inadvertent violation, there would be amnesty for the person violating the law.

The difference that we have is that the Kucinich amendment makes clear that if there is a danger to the public safety, if there is danger to the environment or health, and the violation is intentional, that we do not preclude the agency from giving the sanction to fit the offense.

The bill before us assumes that any time a violation occurs, it is innocent, but that is just not true. There are people who do wrong things on purpose, and if we tell them, if they do something wrong on purpose, they do not have to worry about being sanctioned, we are suggesting that they ought to go ahead and violate the requirements of the paperwork regulations. Now, that means that the businessperson who is trying to comply with the regulations is going to be put at a disadvantage with somebody who is not doing what they ought to do to meet the requirements of the law.

Now, this is not some insignificant matter, because there are far-reaching consequences for our Nation's health, environmental, consumer protection laws, that the Kucinich amendment would preserve the integrity of these laws while at the same time providing relief to first-time violators in appropriate circumstances. Not all circumstances, but appropriate ones. And the bill before us would give them a pass for all circumstances.

We have received a number of letters from our colleagues who are experts in certain areas. The gentleman from New York (Mr. TOWNS) is one of Congress's leading fighters against lead poisoning of children, and he described how H.R. 391 would undermine lead hazard disclosure, putting thousands of children at risk. We ought not to give that kind of encouragement for people who violate the law and put children at risk.

Our colleague from the State of Maryland (Mr. HOYER) is one of the co-chairs of the Congressional Fire Fighters Caucus, and he has pointed out that H.R. 391 would endanger the lives of fire fighters because this bill gives a first-time free pass to businesses that fail to report the storage of hazardous chemicals on site. This is different than somebody who does not change a light bulb. No one wants to penalize that person. But not to report hazardous chemicals that are stored on site which could hurt fire fighters is just not reasonable.

The gentleman from Massachusetts (Mr. MARKEY) is one of the leading congressional experts on the Securities and Exchange Commission, and he tells us that the bill undermines the SEC's ability to protect investors from fraud.

The gentleman from New Jersey (Mr. PALLONE) is a champion of the right-to-know laws which require polluters to report the level of their toxic emissions, and he says these laws would be unenforceable under this legislation.

The amendment that the gentleman from Indiana (Mr. MCINTOSH) offers, he claims would solve the problem, but it does not. We still have the goal of many reporting requirements, which is to prevent the public from being placed in danger, undermined. It defeats the purpose of these reporting requirements, to prevent enforcement until after the public is already in danger. That is locking the barn door after the horse has already gone.

We do not have adequate exceptions to protect the public health. Expert after expert has considered this argument and rejected it. Let me say who some of these experts are.

The CHAIRMAN. The time of the gentleman from California (Mr. WAXMAN) has expired.

(By unanimous consent, Mr. WAXMAN was allowed to proceed for 2 additional minutes.)

Mr. WAXMAN. Mr. Chairman, the Department of Justice, the Securities and Exchange Commission, the Environmental Protection Agency, the Attorneys General of California and New York, local district attorneys, State enforcement officials all reject this.

Now, why State enforcement officials? Because this bill is so far-reaching that it gives a free pass to violate local laws or laws that are enforced at the State level. My colleagues do not have to take my word for it, just listen to what the experts are saying.

It is amazing to me that Mr. MCINTOSH did not try to work out with us on the Democratic side a way to resolve this issue, because what we would all like to see is a bill that would say, if there is an inadvertent violation of some paperwork requirement, that person, that business person should not be fined or sanctioned. But if there is an intentional violation, if there is a violation that affects public health and safety, that person should not get a free pass. That person should not be told in advance, ''Go ahead and violate this paperwork requirement, we are going to turn the other way and not even pay attention to it.'' No one should defend that position.

Now, we hear from the other side of the aisle that they have addressed it, but they have not worked with us to make sure that they have addressed it adequately, and therefore, the Department of Justice, the State attorneys general, these people who work in the field, who were not given a chance to come in and even testify are now writing to us and saying, support the Kucinich amendment and have this problem dealt with adequately, so that we have some discretion with the agency to look at the violation and see if it is appropriate to sanction them under the circumstances at hand.

□ 1300

In fact, what we are being told is not to trust the agency to look at the facts of the case and deal with it in a reasonable manner. We are saying, trust all small business people, no matter what. I think that puts in jeopardy the reasons why we have legitimate requirements for paperwork to be filed.

I go back to nursing homes. We do not know if a patient is being abused in a nursing home unless we can look at some of the paperwork that is required of the nursing home when they inspect their own premises. If they do not have to file that paperwork because they know that even if they are by law supposed to and they are going to be left off the hook, it is an incentive for them to lower their standards.

Support the Kucinich amendment.

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

Mr. Chairman, I rise today in support of the Kucinich amendment. I have written a Dear Colleague letter at the request of the fire services of this country, both paid and volunteer. I understand that letter has been quoted from by the gentleman from Ohio (Mr. KUCINICH) and perhaps others. I appreciate the reference of the gentleman from California.

The amendment of the gentleman from Indiana, as I think the gentleman from California has said, has an objective that all of us I think support. The issue is the impact of the legislation if not amended as the gentleman from Ohio (Mr. KUCINICH) proposed. I support the amendment offered by the gentleman from Ohio (Mr. KUCINICH).

As cochair of the Congressional Fire Services Caucus, I want to share with the House what I believe this legislation's impact would be on fire fighters. Despite what this amendment would say, this legislation, absent the Kucinich amendment, might well endanger the lives of the brave men and women in the fire service.

Why? Why? Because I believe this amendment, if it fails to pass, the disclosure of hazardous material will decrease. Disclosure will decrease, and one of these days a fire fighter in the Members' districts or mine will have to respond to a fire or Hazmat incident, and they are not going to know what they are dealing with. That is critically important, that they have a prenotice and knowledge of what the fire may be dealing with, what causes it and what fumes are being presented by the fire, and other matters of critical safety concerns to our fire fighters. They are not going to know what they are dealing with, and someone is going to get hurt or killed.

While some argue that this legislation still allows a regulatory agency to fine the offending small business, that is not the point. I do not think any of us are really interested in fining small businesses. I know I am not. Any fine we can levy after the fact, however, is of little solace to many fire fighters or their surviving families.

Mr. Chairman, I am a strong proponent of small business. It is a critical element in our economy. I, too, want to relieve them from needless and redundant paperwork. In fact, we have done some things to accomplish that objective in years past. I, too, want to relieve them from having to pay onerous fines from accidental or inadvertent paperwork errors.

However, without this Kucinich amendment, I very much fear that the legislation will encourage and result in the failure to notify, consistent with local and national requirements, our local firefighting departments, paid or volunteer, of the hazards they may face in a critical situation where there would be no time to find out or to in fact solve the breach after the fact. So that is why I rise in support of the Kucinich amendment.

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

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

Mr. MCINTOSH. Mr. Chairman, when I saw the gentleman's Dear Colleague, I was concerned about it. It is a question that none of us want to see our brave men and women who are fire fighters put in danger. As I understand it, the concern is that those notices, the Hazmat notices, are needed because without them there could be a potential to cause serious harm to the public; specifically, to the fire fighters who would go in and fight those battles.

Mr. HOYER. That is the concern.

Mr. MCINTOSH. The gentleman from Maryland may not find this sufficient, but we did try to address that in an amendment that was, by voice vote, accepted earlier.

The gentleman from Ohio (Mr. KUCINICH) did not find it enough to satisfy his concerns, but we changed the wording in the bill that said if there is that potential to cause serious harm, we do not have to actually show that harm has been caused, then the agency could decide that the civil penalty would continue to apply in that circumstance.

So as author of the bill and author of that amendment, I would say it is certainly my intention that that type of regulation would continue to be subject to a fine where there is a potential for serious harm to the public, including our fire fighters.

Mr. HOYER. Mr. Chairman, I appreciate two things, I suppose. First of all, I appreciate the fact that the gentleman recognizes that we are raising a legitimate concern, which I think is the import of the gentleman's comments and subsequent actions; and secondly, that he has taken action which he believes will ameliorate the fears that we have, or perhaps not eliminate, but certainly ameliorate.

The problem, I say to my friend, the gentleman from Indiana, is that if we give to businesses, and although we call them small businesses, in this case it is up to 1,500, I believe, employees.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. HOYER) has expired.

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

Mr. HOYER. Mr. Chairman, these can be businesses which do in fact have very significant risk factors attendant to their production or attendant to storage on-site of Hazmat material.

I am still concerned, even in light of the gentleman's amendment, which I think is a step in the right direction, that perhaps we have not gone far enough if they believe that they can nevertheless say that, well, we did not think it was a risk, and therefore we did not meet the letter of the request, either of the local, State, or Federal legislation.

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

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

Mr. MCINTOSH. Mr. Chairman, let me assure the gentleman that in this particular area, we will continue to work to make sure the legislative history is clear that that type of potential serious harm to the public and fire fighters will be taken care of.

Mr. HOYER. I appreciate the gentleman's observation. We will look forward to working with him.

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

Mr. Chairman, I think the intended purpose of the legislation before us is quite laudable. Although I have yet to hear any real cogent arguments against the amendment pending before the House, we are told by the author of the bill that it is going to gut the bill.

I do not think that is sufficient enough for any of us in this Chamber to not support the amendment before us, which I think is a reasonable correction to the bill, because in its current form I do not think the bill is passable. One can only look to last session, where early on in the session the House passed the legislation, it went over to the Senate, and they did not even take the time to take it up and debate it, even though there was a Senate counterpart also introduced in the Senate.

If in fact the authors of the legislation are serious about getting this bill signed into law, I think it is imperative that they work with not only this side of the aisle but the gentleman from Ohio (Mr. KUCINICH) to see if there is some kind of accommodation that can be had to address some serious flaws in the legislation.

We have heard from the gentleman from Maryland (Mr. HOYER) about a problem that is contained, should this bill become law. We have heard from the gentleman from California (Mr. WAXMAN) about nursing home regulations. We have heard about various other problems that could arise, and know full well that there is a reason this government asks business people,

large and small, to submit the various filings.

Let me point out that years back I was a small business person, also. We had between eight and 12 employees in the business. As I look at that stack of paper that is bounced around all the time, I cannot for the life of me figure out what filings the gentleman from Indiana is talking about, because we covered our employees with workmans comp, unemployment comp, we filed the FICA tax, we filed the quarterly Federal income tax, the State, and never did I see all those forms. So unless in the past few years those forms have multiplied like rabbits, I think that stack of paper, at least with this Member, is to be questioned.

Nevertheless, if the gentleman is serious about passing this legislation, let us look seriously at the Kucinich amendment.

The Labor Department requires every employer once a year to file a form 5500. The form itself indicates what the health of the pension plan for the employer is, whether or not there may be actual contributions on behalf of the employee. Under this legislation, an employer would not have to file that, regardless that it is important, in a timely manner.

Nevertheless, the reason for having that filed once a year is to let all the employees know whether or not that employer has submitted those funds into the various pension plans, be they 401(k) or whatever they might be.

We had a situation recently in my district where a company by the name of Louis Allis that subsequently went bankrupt, but prior to that withheld the contributions for the employees for their 401(k) plan, but never submitted them on to the plan managers. The effect of that was that the employees of that particular company have lost out on about $200,000 of contributions the employer should have made.

Again, the reason for the law and for the form to be filed is to let the employees know that those dollars have been deposited in their name in their accounts. So I think all of us have a particular problem that can be cited with the bill as originally introduced.

I think the Kucinich amendment would provide some reasonable relief from those problems ever occurring, yet give the small business people in the country some relief from the paperwork and from forfeitures where basically the error on the employer's part was just an oversight.

Again, I have a story on that side of the equation also, wherein a hotel owner in my district was fined by OSHA because on the closet door he did not post the chemicals that were contained inside, even though the chemicals were basically household chemicals. Under the bill and under the Kucinich amendment, that particular employer, that business owner, would get relief.

So what the bill tries to do in one fell swoop, in one-size-fits-all, which that side always accuses Democrats of attempting to do, but under their one-size-fits-all plan, I think they have some very unintended purposes. Again, if the authors of the legislation really want to see this bill become law, I think we should look at the Kucinich amendment.

I ask the Members on both sides of the aisle to give the amendment support when it comes to a vote.

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

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

Mr. MCINTOSH. Mr. Chairman, the gentleman asked a very good question, what are some of the forms.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. KLECZKA) has expired.

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

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

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

Mr. MCINTOSH. Mr. Chairman, I will just briefly list some of these forms: the insurance information for COBRA; EEO form 1, listing race and gender of all of the employees; the EEOC employee evaluation, to document for them on that; the EEOC——

Mr. KLECZKA. Mr. Chairman, let me reclaim my time and ask the gentleman, are all those filings the initial filing upon hiring the employee, or is that the filings an employer would go through after an employee has been with him or her for a period of years?

Mr. MCINTOSH. These are for a new employee. Some of them are asking the employee when they join the firm to sign, and then it is basically information when they quit, like the COBRA, health insurance coverage that they would be eligible for. But this is for when you hire a new employee. Mr. Chairman, I will submit the full list for the RECORD.

GROUPS KEY VOTING KUCINCH AMENDMENT

National Federation of Independent Business;
National Restaurant Association;
Small Business Survival Committee; and
United States Chamber of Commerce.

GROUPS SUPPORTING SMALL BUSINESS PAPERWORK REDUCTION ACT

Academy of General Dentistry;
Agricultural Retailers Association;
American Electroplaters and Surface Finishers Society;
American Farm Bureau Federation;
American Feed Industry Association;
American Health Care Association;
Associated Builders and Contractors, Inc.
Chemical Producers & Distributors Association;
Food Marketing Institute;
Institute of Scrap Recycling Industries, Inc.;
IPC—Association Connecting Electronic Industries;
Metal Finishing Suppliers Association;
National Association of Convenience Stores;
National Association of Metal Finishers;
National Association of Plumbing-Heating-Cooling Contractors;
National Association for the Self-Employed;
National Automobile Dealers Association;
National Federation of Independent Business;
National Grange;
National Grain Sorghum Producers;
National Grocers Association;
National Paint and Coatings Association;
National Pest Control Association, Inc.;
National Restaurant Association;
National Retail Federation;
National Roofing Contractors Association;
National Small Business United;
National Tooling and Machining Association;
Painting and Decorating Contractors of America;
Printing Industries of America;
Small Business Coalition for Regulatory Relief;
Small Business Legislative Council;
Society of American Florists;
United Egg Association;
United Egg Producers; and the
U.S. Chamber of Commerce.

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, DC, February 9, 1999.

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

DEAR CHAIRMAN MCINTOSH: This is in reply to your request for the Office of Advocacy's comments on H.R. 391, the ''Small Business Paperwork Reduction Act Amendments of 1999.'' While I have not had an opportunity to review the recently issued committee report in detail, I believe this bill will benefit small businesses nationwide. I understand that the current bill is essentially the same as the one on which I testified last year (H.R. 3310).

In my testimony before the subcommittee on March 5, 1998, I stated that paperwork and reporting requirements remain a major problem for small businesses that are confronted with requirements to complete a myriad of reports mandated by government. Enclosed is a copy of that testimony.

The issues I spoke of then have not gone away. Small businesses remain flooded by a sea of paperwork and reporting requirements. While it is true that there are existing statutes and regulations that address paperwork concerns, these measures are not enough.

This bill ensures that a single agency will be responsible for compiling an inventory of all reporting and record-keeping requirements. This compilation will provide significant insights into paperwork burdens overall. The legislative proposal also creates a task force to study the feasibility of streamlining information collection from small business. The inventory will be an invaluable resource for the task force.

The 1995 White House Conference on Small Business specifically included a recommendation that the Federal government publish an inventory of all small business paperwork requirements. H.R. 391 essentially implements this recommendation and would achieve two purposes. First, small businesses would be able to find, in one place, a compilation of paperwork and reporting requirements. Second, policymakers, both inside and outside the Federal government, would have the opportunity to review this inventory, and make informed decisions about eliminating duplicative and unnecessary mandates. The ''gas station'' rule that I cited last year, requiring gas stations to report that they do, in fact, store gasoline, probably would not have remained in effect as long as eleven years with a centralized inventory and a task force to examine the need

and usefulness of the reports. (A final rule virtually eliminating all gas stations from filing reports was published last week by EPA.) The inventory might also help guide decision makers as to the advisability of imposing new mandates.

Compliance with the Paperwork Reduction Act would be significantly enhanced by the availability of such an inventory. I strongly support this provision of the bill.

The White House Conference also recommended that agencies not assess civil penalties for first time, violators, where the violation is cured within a reasonable time. This bill adopts that approach for paperwork violations that do not involve serious health and safety risks, and where compliance is achieved within a reasonable time. I, too, support this approach.

Small businesses generally want to comply with the law, but are inundated with these requirements. In some cases, violations occur not because small businesses are ignoring the law, but simply are unaware that such requirements exist. As always, there are a few out there that will try to take advantage of the law. I believe section 2(b) leaves enough discretion to allow agencies to punish those ''bad apples.''

I am pleased to offer my support for the conceptual underpinnings of the proposed legislation, and I look forward to working with you and the Subcommittee.

Sincerely,

JERE W. GLOVER,
Chief Counsel for Advocacy.

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

Mr. Chairman, I rise simply in support of the Kucinich amendment. For the life of me, having listened to this entire debate on the amendment, I have not heard any real justification from the other side as to why they would not try to correct this bill and improve this bill by agreeing to accept the terms of the Kucinich amendment.

I have listened for some time here. What we are talking about on one side is an alleged reduction of paperwork. I repeat what I said earlier in talking about the bill, that the bill would not reduce one single piece of paperwork. The real crux of this addresses the issue that when someone fails to file a piece of paperwork that speaks to the health and safety, what action would be taken.

We all agree there should be some leeway for people who make innocent misfilings or failings to file. That is why the Kucinich amendment talks about the agency being able to look at the nature or seriousness of the alleged violation, whether or not there were good faith efforts to comply and other relevant factors, and in those instances where it is appropriate, to waive it; but not a carte blanche waiver, which in effect is a disincentive for some bad actors to not file papers.

We are talking about a business community that by and large is full of good actors. We all understand that. But regulations are for the bad actors, and to make sure they do not do that, and there is no reason not to put in the Kucinich amendment language so that the bad actors are not encouraged not to file on issues where safety and health are very important.

We have also heard a lot of discussion about the fact that this might be some sort of a partisan effort. I do not think that is the case at all. I think the evidence for that lies in who are the groups that support the Kucinich amendment, and make a point that they are very interested in health and safety.

We talked about the fire fighters. The International Association of Arson Investigators, the International Association of Fire Chiefs, the International Association of Fire Fighters, the National Fire Protection Association, the National Volunteer Fire Council, all under the category of fire fighters, believe that the Kucinich amendment is necessary.

□ 1315

Senior citizens: The National Citizens Coalition for Nursing Home Reform and the National Council of Senior Citizens believe the Kucinich amendment is necessary.

Under the category of health: The Alliance to End Childhood Lead Poisoning, the American Lung Association, the American Public Health Association, the National Breast Cancer Coalition, the Physicians for Social Responsibility all understand that we could have a situation where waivers are made only in the right and proper conditions.

In the consumer category: Coalition for Consumer Rights, Consumers Union, Consumers Federation of America, the Institute for Agricultural and Trade Policy, Safe Food Coalition.

And public interest groups: The Center for Science in the Public Interest, the Government Accountability Project, the League of Women Voters, the National Partnership for Women and Families, OMB Watch, Public Citizen, U.S. PIRG.

Returning to the state attorneys general: The States of California, New York and Vermont.

Other State and local officials, including the California District Attorneys Association.

And environmental interest groups: The American Oceans Campaign, the Environmental Defense Fund, the Friends of the Earth, the League of Conservation Voters, National Environmental Trust, National Resources Defense Council, the Sierra Club, the Wilderness Society.

Mr. Chairman, I suggest all of these groups cannot be wrong; that there has to be some semblance of reasonableness in their position that the Kucinich amendment makes sense. And again I say, I heard no reason why the opposition does not stand up, take this bill off the floor and work with the gentleman from Ohio (Mr. KUCINICH), work with other Members on this side of the aisle and the other side of the aisle who understand the seriousness of giving carte blanche waivers to bad actors and, instead, giving it a process that allows the proper actors to get the waivers they deserve, under the proper criteria being applied, and still insist that the right paperwork for safety and health reasons be filed, and that those that willingly misfile or do not file receive the action they should receive.

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

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

Mr. FORD. Mr. Chairman, as a member of the committee, I certainly join with Mr. MCINTOSH and others in echoing what the gentleman from Maryland (Mr. HOYER) and others have said, and certainly the gentleman from Ohio (Mr. KUCINICH), in supporting paperwork reduction and making it possible for businesses to operate in a competitive way without onerous regulations. Nonetheless, I cannot help but wonder how so many organizations could be wrong in their assessment of this legislation, which is why I support the Kucinich amendment so forcefully.

I would just quote from two attorney generals, which was really the turning point for me and I hope for some of my colleagues on the other side. The Attorney General of the State of California, in regards to the McIntosh legislation, says, ''In fact, the effect of the legislation would deprive States and local authorities of the ability to regulate matters which present potential harm to the public for violation of local laws, even in situations where the violator may act with the knowledge of and intent to evade local laws and regulations.''

I think that my colleague, the gentleman from California (Mr. WAXMAN), said it best when he talked about putting businesses in an unfair advantage, particularly those who seek to comply with the law, in allowing those who know the law to intentionally evade the law knowing they will not be penalized.

I am hopeful we can find some agreement. On a personal note, this committee has certainly been riddled with a lot of divisions along partisan lines. Hopefully, this is one time we can come together and help bring this House together on this important piece of legislation. I would ask for Members to support the Kucinich amendment and do the right thing.

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

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 210, noes 214, not voting 10, as follows:

[Roll No. 19]

AYES—210

Abercrombie	Andrews	Baldwin
Ackerman	Baird	Barcia
Allen	Baldacci	Barrett (WI)

Becerra
Bentsen
Berkley
Berman
Berry
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson
Chabot
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Crowley
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
Filner
Ford
Frank (MA)
Frost
Gephardt
Gilman
Gonzalez
Gordon
Green (TX)
Gutierrez
Hall (OH)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E.B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Larson
Lazio
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Lucas (KY)
Luther
Maloney (CT)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Phelps
Pickett
Pomeroy
Price (NC)
Quinn
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ros-Lehtinen
Rothman
Roybal-Allard
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Shays
Sherman
Shows
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stabenow
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Weldon (PA)
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NOES—214

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Biggert
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Boyd
Bryant
Burr
Burton
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crane
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
DeMint
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Foley
Forbes
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hill (MT)
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Istook
Jenkins
John
Johnson, Sam
Jones (NC)
Kasich
Kelly
Kingston
Knollenberg
Kuykendall
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas (OK)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Mollohan
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Paul
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Radanovich
Ramstad
Regula
Reynolds
Riley
Rogan
Rogers
Rohrabacher
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Sweeney
Talent
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Upton
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—10

Brady (TX)
Buyer
Gejdenson
Herger
Hyde
Kolbe
Lantos
Lofgren
Maloney (NY)
Rush

□ 1337

Messrs. MCHUGH, HEFLEY, EWING, BARRETT of Nebraska and Mrs. CUBIN changed their vote from ''aye'' to ''no.''

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

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. GUTKNECHT). Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. GUTKNECHT, 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. 391) 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, pursuant to House Resolution 42, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore (Mr. LAHOOD). Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is 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. KUCINICH. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 274, noes 151, not voting 8, as follows:

[Roll No. 20]

AYES—274

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berkley
Berry
Biggert
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Boswell
Boyd
Bryant
Burr
Burton
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Castle
Chabot
Chambliss
Chenoweth
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
Delahunt
DeLay
DeMint
Diaz-Balart
Dickey
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Etheridge
Everett
Ewing
Fletcher
Foley
Forbes
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Jones (OH)
Kaptur
Kasich
Kelly
Kind (WI)
King (NY)
Kingston
Knollenberg
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas (KY)
Lucas (OK)
Luther
Manzullo
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Minge
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Myrick
Napolitano
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Radanovich
Ramstad
Regula
Reynolds
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanchez
Sandlin
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions

Shadegg
Shaw
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stump
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Traficant
Turner
Upton
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Wu
Young (AK)
Young (FL)

NOES—151

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barrett (WI)
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boucher
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capuano
Carson
Clay
Clayton
Clyburn
Conyers
Costello
Coyne
Crowley
Cummings
Davis (IL)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Engel
Eshoo
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gejdenson
Gephardt
Gonzalez
Green (TX)
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Hoeffel
Holt
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kanjorski
Kennedy
Kildee
Kilpatrick
Kleczka
Klink
Kucinich
LaFalce
Lampson
Larson
Lee
Levin
Lewis (GA)
Lipinski
Lowey
Maloney (CT)
Markey
Martinez
Mascara
Matsui
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mink
Moakley
Morella
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Phelps
Quinn
Rahall
Rangel
Reyes
Rodriguez
Ros-Lehtinen
Rothman
Roybal-Allard
Sabo
Sanders
Sawyer
Schakowsky
Scott
Serrano
Shays
Sherman
Slaughter
Smith (NJ)
Snyder
Stark
Strickland
Stupak
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Woolsey
Wynn

NOT VOTING—8

Brady (TX)
Buyer
Hyde
Kolbe
Lantos
Lofgren
Maloney (NY)
Rush

□ 1356

Mr. NEAL of Massachusetts and Mr. STUPAK changed their vote from ''aye'' to ''no.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT CONCERNING EMIGRATION LAWS AND POLICIES OF MONGOLIA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 100–19)

The SPEAKER pro tempore (Mr. LAHOOD) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

On September 4, 1996, I determined and reported to the Congress that Mongolia was not in violation of the freedom of emigration criteria of sections 402(a) and 409(a) of the Trade Act of 1974, as amended. This action allowed for the continuation of normal trade relations status for Mongolia and certain other activities without the requirement of an annual waiver.

As required by law, I am submitting an updated report to the Congress concerning the emigration laws and policies of Mongolia. The report indicates continued Mongolian compliance with U.S. and international standards in the area of emigration.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 11, 1999*.

GENERAL LEAVE

Mr. MCINTOSH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 391, the bill just passed.

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

There was no objection.

PRESIDENTIAL AND EXECUTIVE OFFICE FINANCIAL ACCOUNTABILITY ACT OF 1999

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 44 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 44

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 437) to provide for a Chief Financial Officer in the Executive Office of the President. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. During consideration of the bill for amendment, the chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. 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. 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.

□ 1400

The SPEAKER pro tempore (Mr. GUTKNECHT). The gentleman from Texas (Mr. SESSIONS) is recognized for one hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), 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 44 is an open rule providing for consideration of H.R. 437, the Presidential and Executive Office Financial Accountability Act of 1999, a bill that will build on the success of the CFO, Chief Financial Officers Act of 1990, by providing a CFO in the Executive Office of the President of the United States.

H. Res. 44 is an open rule, providing one hour of general debate, divided equally between the chairman and ranking minority member of the Committee on Government Reform. The rule provides that the bill will be for consideration as read. Members who have preprinted their amendments in the record prior to their consideration will be given priority in recognition to offer their amendments if otherwise consistent with House rules.

The rule allows for 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. Finally, the rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, this legislation builds on the legislation the House passed just this week, the Mandates Information Act, by making the Federal Government more accountable. Additionally, it is one more example of a common theme in this Republican Congress, making the Federal Government accountable to the American people.

As an original cosponsor and advocate of the identical legislation, H.R. 1962, that passed the House 413 to 3 in the 105th Congress, I am pleased that the Presidential and Executive Financial Accountability Act is before us