

the bill (H.R. 5521) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2003, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

The SPEAKER pro tempore (Mr. THORNBERY). All points of order are reserved on the bill.

#### PRIVILEGES OF THE HOUSE—INTEGRITY OF PROCEEDINGS AS PRESCRIBED BY THE CONSTITUTION

Mr. VISCLOSKY. Mr. Speaker, pursuant to rule IX, I rise to a question of the privileges of the House, offer a privileged resolution that I noticed, and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

A resolution, in accordance with House Rule IX, expressing a sense of the House that its integrity has been impugned and Constitutional duty hampered by the inability of the House to bring to the floor the Fiscal Year 2003 Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, due to the severe under funding of Education within the President's Fiscal Year (FY) 2003 Budget.

Whereas under Article I, Section IX, of the Constitution states no money shall be drawn from the Treasury, but in Consequence of Appropriations made by law.

Whereas it is the fiscal duty of the Congress to appropriate annually the funds needed to support the execution of programs and operations of the Federal government.

Whereas to date the House has only considered five Appropriations bills.

Whereas as President, George W. Bush has been persistent in resonating public concern for better schools. He dedicated significant amounts of time and public dialogue during his first year in office to the passage of H.R. 1, the "Leave No Child Behind" Act, not only implying he favored more help to schools from the federal treasury but specifically authorizing large increases in a number of key program areas.

Whereas within weeks of signing H.R. 1, Public Law No: 107-110, the "No Child Left Behind" Act, the President submitted a budget that stopped six years of steady progress in federal support to local schools dead in its tracks.

Whereas instead of the strong and consistent growth in support to local schools that the federal government has provided for more than a decade, the President's FY 2003 Budget holds aid to local schools virtually flat. Furthermore, his Budget Director now insists that if Congress exceeds the budget request by even the smallest amount, the President will veto entire appropriation bills.

Whereas the future of our labor force and our economy is heavily dependent on elevating the education and skills of all future workers.

Whereas about one third of the 53.6 million children now in elementary and secondary schools in America are at serious risk of being left behind. The achievement gap between these students and the rest of the student population remains large and has failed to close.

Whereas of the 53.6 million children currently enrolled in elementary and secondary schools in this country, 9.8 million, or nearly 20 percent, are from households defined by the Commerce Department as being in poverty.

Whereas the House is faced with the choice of supporting schools or supporting the President and his effort to reverse the trend of expanding federal support for local schools.

Whereas the Congress has provided states with an unfunded mandate by approving the "No Child Left Behind" Act without the necessary financial resources to fund it. Now, therefore, be it

Resolved that it is the sense of the House of Representatives that the Congress should provide states with the resources they need to fully implement the "No Child Left Behind" Act as it promised less than a year ago, by completing action on the Fiscal Year 2003 Labor, Health and Human Services, and Education, and Related Agencies Appropriations.

The SPEAKER pro tempore. The Chair will hear briefly from the proponent of the resolution as to whether the resolution constitutes a question of the privileges of the House under rule IX.

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

Mr. VISCLOSKY. Mr. Speaker, I appreciate the recognition to speak on the resolution.

Article 1, section 9 of the Constitution states that "No money shall be drawn from the Treasury, but in consequence of appropriations made by law."

It is the fiscal duty of the Congress to appropriate the money necessary to provide the funds needed to support the execution of programs and operations of the Federal Government. To date, only five of these important measures have been considered.

The failure of this unrealistic budget resolution is especially true in respect to the fiscal year 2003 Labor, Health and Human Services, Education and Related Agencies appropriations bill in its funding for education. This inaction has hampered this body's constitutional duty.

□ 1500

Mr. Speaker, this inaction has hampered this body's constitutional duty and impinged its integrity. President Bush dedicated significant amounts of time and public dialogue during his first months in office to the passage of H.R. 1, the Leave No Child Behind Act. It specifically authorized large increases in a number of key educational programs. However, within weeks of signing the bill, the President submitted a budget that stopped 6 years of steady progress. His budget director now insists that if Congress exceeds the budget request by even the smallest amount, the President will veto the entire appropriations bill.

Mr. Speaker, section 702 of House rule IX, entitled "The General Principles," concluded that certain matters of business arising under the Constitution mandatory in nature for the House have been held to have a privilege

which supersedes the rules establishing the order of business. The powers of raising revenue and appropriating funds is the question of the House's constitutional authority and is therefore privileged in nature, especially given the importance of this funding to the future of our Nation.

The future of our labor force and our economy is heavily dependent on elevating the education and skills of future workers. The achievement gap between students who are at risk and the rest of the student population remains large and has failed to close.

It is not only the prerogative of this Chamber but its constitutional duty for the House to take action on the Labor, Health and Human Services and Labor bill. The Congress has provided States with an unfunded mandate by approving H.R. 1 without the necessary financial resources to fund it. The majority of this body voted for H.R. 1, and we should deserve to be heard.

Mr. Speaker, my question of privilege regards the integrity of our proceedings as a House as prescribed by the Constitution. The U.S. Constitution conveys upon this body the power to originate appropriation measures. It is not only our responsibility, it is our duty and obligation to reinstate this message and this legislation about the importance of education. And I do believe the resolution that I have introduced is privileged in the House.

The SPEAKER pro tempore (Mr. THORNBERY). The Chair is prepared to rule on whether the resolution offered by the gentleman from Indiana (Mr. VISCLOSKY) constitutes a question of privileges of the House under rule IX.

The resolution offered by the gentleman from Indiana (Mr. VISCLOSKY) expresses the sense of the House that the Congress should complete action on a legislative measure. Specifically, the resolution calls upon the Congress to provide the States with additional education resources by completing action on a general appropriation bill.

The Chair has most recently ruled on November 4, 1999, consistent with the principal enunciated by Speaker Gillett in his landmark ruling of May 6, 1921, that a resolution expressing a legislative sentiment ordinarily does not give rise to a question of privileges of the House under rule IX. Specifically, the Chair held on that occasion that legislative sentiment that the President should take specified action to achieve a desired policy end did not present a question affecting the rights of the House collectively, its safety, its dignity or the integrity of its proceedings as required under rule IX.

In the opinion of the Chair, the instant resolution expressing the sentiment that Congress should act on a specified measure also falls short of the standards of rule IX.

The Chair would quote from the landmark Gillett ruling: "No one Member ought to have the right to determine when it should have come in preference to the regular rules of the House."

To permit a question of privileges of the House either urging or requiring congressional action or inaction on education funding would permit any Member to advance virtually any legislative proposal as a question of privileges of the House.

As the Chair ruled on December 22, 1995, the mere invocation of the general legislative power of the purse provided in the Constitution, coupled with a fiscal policy end, does not meet the requirements of rule IX and is really a matter properly initiated through introduction in the hopper under clause 7 of rule XII.

Accordingly, the resolution offered by the gentleman from Indiana (Mr. VISCLOSKY) does not constitute a question of privileges of the House under rule IX and may not be considered at this time.

Mr. VISCLOSKY. Mr. Speaker, I appeal the ruling of the Chair.

The SPEAKER pro tempore. The question is: Shall the decision of the Chair stand as the judgment of the House?

MOTION TO TABLE OFFERED BY MR. JEFF MILLER OF FLORIDA

Mr. JEFF MILLER of Florida. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER pro tempore. The question is on the motion to table.

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

Mr. VISCLOSKY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 210, nays 200, not voting 21, as follows:

[Roll No. 433]  
YEAS—210

Aderholt	Crenshaw	Grucci
Akin	Cubin	Gutknecht
Armey	Culberson	Hansen
Bachus	Cunningham	Hart
Baker	Davis, Jo Ann	Hastings (WA)
Balenger	DeLay	Hayes
Bartlett	DeMint	Hayworth
Barton	Diaz-Balart	Hefley
Bass	Doolittle	Herger
Bereuter	Dreier	Hobson
Biggert	Duncan	Hoekstra
Bilirakis	Dunn	Horn
Blunt	Ehlers	Hostettler
Boehler	Emerson	Houghton
Boehner	English	Hulshof
Bonilla	Everett	Hunter
Bono	Ferguson	Hyde
Boozman	Flake	Isakson
Brady (TX)	Fletcher	Issa
Brown (SC)	Foley	Istook
Bryant	Forbes	Jenkins
Burr	Fossella	Johnson (CT)
Burton	Frelinghuysen	Johnson (IL)
Buyer	Gallegly	Johnson, Sam
Calvert	Gekas	Jones (NC)
Camp	Gibbons	Keller
Cannon	Gilchrest	Kelly
Cantor	Gillmor	Kennedy (MN)
Capito	Gilman	Kerns
Castle	Goode	King (NY)
Chabot	Goodlatte	Kingston
Chambliss	Goss	Kirk
Coble	Graham	Knollenberg
Collins	Granger	Kolbe
Combest	Graves	LaHood
Cox	Green (WI)	Latham
Crane	Greenwood	LaTourette

Leach	Pombo	Smith (NJ)	Waxman	Wexler	Wu
Lewis (CA)	Portman	Smith (TX)	Weiner	Woolsey	Wynn
Lewis (KY)	Pryce (OH)	Souder			
Linder	Putnam	Stearns			
LoBiondo	Quinn	Sullivan			
Lucas (OK)	Radanovich	Sununu	Abercrombie	Ganske	McKinney
Manzullo	Ramstad	Sweeney	Barr	Gutierrez	Pitts
McCrery	Regula	Tancredo	Callahan	Hastings (FL)	Roukema
McHugh	Rehberg	Tauzin	Cooksey	Hilleary	Sanchez
McInnis	Reynolds	Taylor (NC)	Davis, Tom	LaFalce	Stump
McKeon	Riley	Terry	Deal	Lampson	Tanner
Mica	Rogers (KY)	Thomas	Ehrlich	Mascara	Watkins (OK)
Miller, Dan	Rogers (MI)	Thornberry			
Miller, Gary	Rohrabacher	Thune			
Miller, Jeff	Ros-Lehtinen	Tiahrt			
Moran (KS)	Royce	Tiberi			
Morella	Ryan (WI)	Toomey			
Myrick	Ryun (KS)	Upton			
Nethercutt	Saxton	Vitter			
Ney	Schaffer	Walden			
Northup	Schrock	Walsh			
Norwood	Sensenbrenner	Wamp			
Nussle	Sessions	Watts (OK)			
Osborne	Shadegg	Weldon (FL)			
Ose	Shaw	Weldon (PA)			
Otter	Shays	Weller			
Oxley	Sherwood	Whitfield			
Paul	Shimkus	Wicker			
Pence	Shuster	Wilson (NM)			
Peterson (PA)	Simmons	Wilson (SC)			
Petri	Simpson	Wolf			
Pickering	Skeen	Young (AK)			
Platts	Smith (MI)	Young (FL)			

NAYS—200

Ackerman	Gonzalez	Moran (VA)
Allen	Gordon	Murtha
Andrews	Green (TX)	Nadler
Baca	Hall (TX)	Napolitano
Baird	Harman	Neal
Baldacci	Hill	Oberstar
Baldwin	Hilliard	Obey
Barcia	Hinchev	Olver
Barrett	Hinojosa	Ortiz
Becerra	Hoeffel	Owens
Bentsen	Holden	Pallone
Berkley	Holt	Pascarell
Berman	Honda	Pastor
Berry	Hooley	Payne
Bishop	Hoyer	Pelosi
Blagojevich	Inslie	Peterson (MN)
Blumenauer	Israel	Phelps
Bonior	Jackson (IL)	Pomeroy
Borski	Jackson-Lee	Price (NC)
Boswell	(TX)	Rahall
Boucher	Jefferson	Rangel
Boyd	John	Reyes
Brady (PA)	Johnson, E. B.	Rivers
Brown (FL)	Jones (OH)	Rodriguez
Brown (OH)	Kanjorski	Roemer
Capps	Kaptur	Ross
Capuano	Kennedy (RI)	Rothman
Cardin	Kildee	Roybal-Allard
Carson (IN)	Kilpatrick	Rush
Carson (OK)	Kind (WI)	Sabo
Clay	Kleczka	Sanders
Clayton	Kucinich	Sandlin
Clement	Langevin	Sawyer
Clyburn	Lantos	Schakowsky
Condit	Larsen (WA)	Schiff
Conyers	Larson (CT)	Scott
Costello	Lee	Serrano
Coyne	Levin	Sherman
Cramer	Lewis (GA)	Shops
Crowley	Lipinski	Skelton
Cummings	Lofgren	Slaughter
Davis (CA)	Lowe	Smith (WA)
Davis (FL)	Lucas (KY)	Snyder
Davis (IL)	Luther	Solis
DeFazio	Lynch	Spratt
DeGette	Maloney (CT)	Stark
DeLaunt	Maloney (NY)	Stenholm
DeLauro	Markey	Strickland
Deutsch	Matheson	Stupak
Dicks	Matsui	Tauscher
Dingell	McCarthy (MO)	Taylor (MS)
Doggett	McCarthy (NY)	Thompson (CA)
Dooley	McCollum	Thompson (MS)
Doyle	McDermott	Thurman
Edwards	McGovern	Tierney
Engel	McIntyre	Towns
Eshoo	McNulty	Turner
Etheridge	Meehan	Udall (CO)
Evans	Meek (FL)	Udall (NM)
Farr	Meeks (NY)	Velazquez
Fattah	Menendez	Visclosky
Filner	Millender	Waters
Ford	McDonald	Watson (CA)
Frank	Miller, George	Watt (NC)
Frost	Mollohan	
Gephardt	Moore	

NOT VOTING—21

Abercrombie	Ganske	McKinney
Barr	Gutierrez	Pitts
Callahan	Hastings (FL)	Roukema
Cooksey	Hilleary	Sanchez
Davis, Tom	LaFalce	Stump
Deal	Lampson	Tanner
Ehrlich	Mascara	Watkins (OK)

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Mr. EDWARDS and Mr. HINOJOSA changed their vote from “yea” to “nay.”

Mr. HEFLEY and Mr. WELDON of Florida changed their vote from “nay” to “yea.”

So the motion to table was agreed to. The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—INTEGRITY OF PROCEEDINGS AS PRESCRIBED BY THE CONSTITUTION

Mr. BROWN of Ohio. Mr. Speaker, I rise to a question of the privileges of the House, and I offer a privileged resolution, that I noticed yesterday pursuant to rule IX, and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. THORNBERRY). The Clerk will report the resolution.

The Clerk read as follows:

Whereas Article I, Section VIII, of the Constitution states Congress shall have Power to promote the progress of Science and the useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

Whereas such protections on Writings and Discoveries have been promulgated by patent, copyright, and other laws, including Public Law 98-417, affording Authors and Inventors the exclusive Right to their respective Writings and Discoveries for a limited period of time;

Whereas Public Law 98-417 breaches this constitutional requirement by failing to impose such limitation on the protection of certain medical inventions;

Whereas provisions of Public Law 98-417 imbue the Food and Drug Administration with the authority to secure for limited time for Inventors the exclusive Right to their respective Medical Inventions;

Whereas public Laws 98-417 fails to provide the Food and Drug Administration the authority to refrain from securing this exclusive right for inventors if the conditions for such exclusivity are not met;

Whereas due to the failure of Congress to provide the Food and Drug Administration with the proper authority to fulfill obligations under the Act, certain medical inventions have received the exclusive Right to their respective Inventions without limitation;

Whereas the unlimited exercise of exclusivity by prescription drug manufacturers subjects healthcare consumers and third party payers to no-competitive prices and results in significantly higher prescription drug costs for purchasers;

Whereas health care costs increased by 5% in 2001, 3.7 times faster than overall inflation rate;

Whereas prescription drug cost spending is the fastest growing component of health care costs, and rose 17% in 2001;

Whereas health insurance premiums rose by 11% in 2001, driven largely by the increased cost of prescription drugs;

Whereas state Medicaid spending increased by 11% in Fiscal year 2002, driven primarily by increased prescription drug spending and enrollment growth;