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No. 37

House of Representatives

The House met at 9:30 a.m. and was called to order by the Speaker pro tempore [Mr. DICKEY].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 28, 1995.

I hereby designate the Honorable JAY DICK-
EY to act as Speaker pro tempore on this
day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from New York [Mr. SOLOMON] for 5 minutes.

ANNOUNCEMENT OF INTRODUCTION OF FLAG AMENDMENT

Mr. SOLOMON. Mr. Speaker, today marks the beginning of a grassroots movement to end the despicable acts of desecration to our national symbol, the American flag. On the west steps of the Capitol, a bipartisan group of Congressmen from the House and Senate will indicate their support for an amendment to the Constitution prohibiting such destruction of our flag. This announcement comes in conjunction with the Citizens Flag Alliance, a coalition of 89 civic and veterans organizations who

have been pursuing this legislation for over 2 years.

In that regard, Mr. Speaker, allow me to emphasize that the introduction of this resolution is not in response to changes that have occurred within Washington. However, it is in response to a massive surge from outside the beltway among concerned Americans who wanted to effect this change for some time. As evidence of the effect of this movement, 46 State legislatures have passed memorializing resolutions calling on Congress to pass this amendment protecting the flag.

Mr. Speaker, we have a duty to respond to this overwhelming public outcry to protect our flag. To that end, today I will join with over 150 of my colleagues in the House and nearly 30 Senators, in introducing legislation which does just that. At this time, I would like to invite those colleagues interested in backing this historic and long overdue resolution to join these cosponsors and thousands of veterans and other supporters at 10:30 this morning on the west terrace of the Capitol.

Mr. Speaker, today marks the beginning of the grassroots movement which will ultimately put an end to the destruction of Old Glory.

In those 89 organizations that I have mentioned, they cover, of course, every major veterans organization in this Nation. It includes others from the private sector such as the Benevolent and Protective Order of Elks, the Grand Lodge of Fraternal Order of Police, the Grand Lodge of Masons, the Knights of Columbus, union organizations such as the Laborers' International Union of North America, the National Alliance of Families, and the National Grange.

Mr. Speaker, I could go on and on listing all 89, but time will not allow that.

Again, I would just call attention to the membership that we are having this rally on the Capitol steps, the west terrace, at 10:30 this morning. I invite

you all to come and join this historic effort.

Mr. Speaker, I submit for the RECORD the complete list of the Citizens Flag Alliance, Inc. member organizations.

CITIZENS FLAG ALLIANCE, INC. MEMBER ORGANIZATIONS

AMVETS (American Veterans of WWII, Korea and Vietnam); African-American Women's Clergy Association; Air Force Association; Air Force Sergeants Association; Alliance of Women Veterans; American GI Forum of the US, Founding Chapter; The American Legion; American Legion Auxiliary; American Merchant Marine Veterans; American War Mothers; Ancient Order of Hibernians; Association of the U.S. Army; Baltic Women's Council; Benevolent & Protective Order of Elks; Congressional Medal of Honor Society of the USA.

Croatian American Association; Croatian Catholic Union; Czech Catholic Union; Czechoslovak Christian Democracy in the U.S.A.; Enlisted Association National Guard of the U.S.; Fleet Reserve Association; Forty and Eight; Fox Associates, Inc.; Gold Star Wives of America, Inc.; Grand Lodge, Fraternal Order of Police; Grand Lodge of Masons of Oklahoma; Hungarian Association; Hungarian Reformed Federation of America; Italian Sons and Daughters of America; Knights of Columbus; Korean American Association of Greater Washington; Laborers' International Union of N.A.; MBNA America.

Marine Corps League; Marine Corps Reserve Officers Association; Military Order of the Purple Heart of the USA; Moose International; National Alliance of Families; National Association for Uniformed Services; National Center for Public Policy Research; National Cosmetology Association; National Federation of Hungarian-Americans; National Federation of State High School Associations; National Flag Foundation; National Grange; National Guard Association of the U.S.; National League of Families of Am. Prisoners and Missing in SE Asia; National Officers Association (NOA); National Organization of World War Nurses; National Service Star Legion; National Vietnam Veterans Coalition; and Native Daughters of the Golden West.

Native Sons of the Golden West; Navy League of the U.S.; Navy Seabee Veterans of America; Navy Seabee Veterans of America

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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Auxiliary; Non-Commissioned Officers Association; PAC Pennsylvania Eastern Division; Polish American Congress; Polish Army Veterans Association (S.W.A.P.); Polish Falcons of America; Polish Falcons of America—District II; Polish Home Army; Polish National Alliance; Polish National Union; Polish Roman Catholic Union of North America; Polish Scouting Organization; Polish Western Association; Polish Women's Alliance; RR Donnelley & Sons, Company; Scottish Rite of Freemasonry—Northern Masonic Jurisdiction; Scottish Rite of Freemasonry—Southern Jurisdiction; and Sons of The American Legion.

The Orchard Lakes Schools; The Retired Enlisted Association (TREA); The Travelers Protective Association; The Uniformed Services Association (TUSA); U.S. Marine Corps Combat Correspondents Association; U.S. Pan Asian American Chamber of Commerce; Ukrainian Gold Cross; Women's Army Corps Veterans Association; Women's Overseas Service League; and Woodmen of the World.

THE FEDERAL EMPLOYEE HEALTH BENEFITS ACCESS ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I had been wondering when to introduce the bill that I introduced last year. When I got a letter today explaining the AMA's position on health care and preexisting conditions I decided this was the day.

You see, the AMA has a dictionary where they are talking about menopause as a preexisting condition. But when they were asked why they were defining that, they said they were only saying what the insurance companies were saying, and the insurance companies are saying that is why they consider menopause a preexisting condition and are denying payment.

If this continues, pretty soon women are going to be a preexisting condition, and no woman is going to get health care. But we know that this is going on with men, with women, with children, with families, and we have a true, true health care crisis.

This letter is what inspired me today to reintroduce my Federal employee health benefits bill that I introduced last year. It is very simple. It only says every American should be entitled to the same choices that we as Members of Congress have, the President has, and over 9 million Federal employees, retirees and their families have.

That means once a year you get a catalog of a hole series of choices. You are in a very large group. There are no preexisting conditions. Whether it is menopause or anything else, you can be in that pool, and it has been tremendously cost effective. I think that this is one thing we could certainly do that would make life a lot better for small employers, for self-employed people, and for many Americans.

One of the things we learned from the health care debate was that most Americans are really very poor con-

sumers of health care. And why not? They have no choice anyway. Their only choice is what their employer can get, if he can get anything, or what they can get, if they can get anything. They do not have the catalog and the options we all have once a year under open season.

Now, this does not cost the Federal Government anything. All you do is get the catalog, figure out what you want, and then you have to pay the premium or you and your employer share the premium, or whatever works out, whatever your negotiated position is. But it gets you a wide range of choices. It gets you much better prices. It gets a much better cost relationship, and I think it is time we do it.

It is in the spirit of this Congress, which has been putting itself under the laws it makes for other people, and it is time we now open the door to many of the benefits that we have, that we now know because of the last 2 years' historic health care debate that other people do not have. This would be a terrific stress reliever for an awful lot of American families who are either locked into their job because they cannot get health care, or lost their job and cannot get health care, or many, many other things.

So I really hope that this body takes this bill very seriously, and that we pass it out of here, and we at least give people choices. That makes all the sense in the world.

Mr. Speaker, I would ask to put this letter from the American Medical Association in the RECORD on preexisting conditions and menopause.

Mr. Speaker, today I am introducing the Federal Employee Health Benefits Access Act. The purpose of this bill is simple: to give the general public access to the same health care benefits as Members of Congress.

We recently passed legislation requiring Congress to comply with the same laws that we pass for the rest of the country. Well, it is about time we gave everyone the same health care we get.

The Federal Employee Health Benefits Program provides health care to nearly 9 million Federal employees, retirees, and their families. It is a proven plan and model for the rest of the country. Enrollees are offered coverage at group rates, are not barred from coverage on the basis of a preexisting health condition, and are free to enroll in a plan of their choice during an annual open season.

My bill requires health carriers under the Federal Employee Health Benefits [FEHB] Program to offer to the general public the same benefits that Federal employees and members of Congress receive. This means that small businesses and individuals will have access to the same deductibles, maximums, coverage, treatment, and quality care that every Member in this Chamber gets. Under the bill, health care plans available to the general public would be community rated and would not result in an increase cost or less of benefits to Federal employees.

FEHB access allows Americans to choose the plan that is right for them. It does not require a standard package of benefits. Rather, it maintains one of the most important features

of the current FEHB Program—the ability to pick a plan that fits the needs of each individual or family.

The Federal Employee Health Access Act also contains some important cost savings provisions.

First, it requires that insurance carriers use standardized claims forms. This will reduce administration waste as well as save time and money.

Second, it requires insurance carriers to provide enrollees with information about advanced directives or "living wills." The use of living wills gives patients an opportunity to make critical decisions about their treatment. It can also save millions of unnecessary medical bills.

And finally, my bill establishes a demonstration project that allows enrollees the option to choose arbitration in order to settle malpractice disputes. Individuals who choose this option would either pay reduced premiums, copayments, or deductibles. Many health insurance plans already require participants to use alternative dispute resolution for malpractice claims. But, unlike my plan, they are not voluntary and they do not pass any of the savings on to enrollees.

The Federal Employee Health Benefits Access Act is a common sense proposal that makes health care available and affordable to every American. If it works for Members of Congress, why can't it work for the rest of the country?

I urge my colleagues to cosponsor the Federal Employee Health Benefits Access Act.

AMERICAN MEDICAL ASSOCIATION,

Chicago, IL, February 13, 1995.

Dr. CAROL C. NADELSON, M.D.,

Editor in Chief, American Psychiatric Press, Inc., Washington, DC.

DEAR DOCTOR NADELSON: Thank you for your recent letter demonstrating the misuse of an American Medical Association [AMA] statement on menopause. I appreciate having the benefit of this information.

The statement quoted by the insurance company is not AMA policy, but rather is a definition taken from one of the AMA's many consumer books. The purpose of the AMA's consumer books is to educate the public about common medical conditions, not to serve as rationale for classification of conditions by the insurance industry. While the cited definition is supported by the medical literature, the AMA regrets that its statement is being used by the insurance industry to deny payment for treatments. In addition, I wish to assure you that the AMA supports equal rights for men and women and does not advocate any position that would lead to the discrimination of women in terms of their health care.

Again, thank you for sharing your concerns with me. I hope this information is helpful.

Sincerely,

JAMES S. TODD, M.D.

SUPPORT RISK ASSESSMENT AND COST-BENEFIT ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Georgia [Mr. NORWOOD] is recognized during morning business for 5 minutes.

Mr. NORWOOD. Mr. Speaker, I rise today in support of H.R. 1022, the Risk Assessment and Cost-Benefit Act. This

legislation is necessary because of the immense cost piled onto the American economy by Federal bureaucrats. This bill establishes requirements for regulators to use risk assessment and cost-benefit analysis in creating the rules we live under. It requires development of peer review for regulations. It subjects decisions of agencies to judicial review. It requires the President to set regulatory priorities. It is a necessary step that we must take to free the American economy from burdensome regulations, but we have the opportunity to do better * * * to give small business the power to fight the bureaucrats on their own.

Mr. Speaker, this legislation will do the most for the small businesses that can afford new regulations the least. H.R. 1022 would help small business by allowing these companies to direct their scarce resources toward achieving the maximum environmental cleanup for the least cost. Small businesses are often more severely impacted by costly regulation than large businesses because the cost to comply with these regulations represents a larger percentage of the small business's operating expenses and profits. If a Federal agency is required to perform a risk analysis on regulations that impacts small business, small business is likely to be better able to afford to comply with the resulting rule. H.R. 1022 will result in fewer small business being financially bankrupted because of excessively expensive regulations.

The wood preserving industry, which is very important to my district, is made up mainly of small businesses. This industry could have been devastated in 1991 when the Environmental Protection Agency issued a hazardous waste listings regulation, under the Resource Conservation and Recovery Act. The tools of risk assessment and cost-benefit analysis were not applied in this act. The budget for the 1992 fiscal year stated that this RCRA regulation would have cost the wood preserving industry \$5.7 trillion per premature death averted. This huge monetary amount would prevent one cancer case every 2.9 million years. That's one death every 2.9 million years. The regulation's costs, as noted in the 1992 budget, were so outrageous that the wood preserving industry was able to gain congressional support for a request that EPA work with the industry to craft a more cost-effective regulation. The negotiations resulted in a cost-effective regulation that was protective of human health and the environment. The wood preserving industry, with its' heavy small business component, was able to stay alive and facilities were able to comply with the regulation.

Mr. Speaker, we cannot expect every industry to be able to rally support to save themselves from such bureaucratic nightmares. Mr. Speaker we should not expect every industry to be able to rally support to save themselves from such bureaucratic night-

mares. We must give them the power to take on Federal regulators head on. We can do that if we approve the Barton amendment later today. The Barton amendment would give the average citizen the right to challenge Federal regulations themselves. It would force bureaucrats to review existing rules for their cost-benefit. Mr. Speaker, industries should not have to come to us to save them from overzealous bureaucrats. By passing the Barton amendment, we give individual American citizens the power to fight for themselves.

The main principle of our regulatory reform system must be common sense. The Risk Assessment and Cost-Benefit Act will force Federal bureaucrats to focus their regulatory efforts on what will benefit Americans the most. It will prevent Federal bureaucrats from forcing industries to spend millions, even billions of dollars without proving the responsibility of that action. It will force Federal bureaucrats to give cost-effective solutions the same consideration and the same weight as the extravagant ideal solutions they pursue today. This we must do. But, Mr. Speaker, I also hope my colleagues will realize that this is but a first step. We must also give our citizens the power to fight the bureaucrats themselves. I urge my colleagues to vote "yes" on the Barton Amendment and empower individual Americans.

CONTRACT WITH AMERICA TOUGH ON CHILDREN AND ELDERLY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from California [Mr. MILLER] is recognized during morning business for 5 minutes.

Mr. MILLER of California. Mr. Speaker, there was great celebration by the Republicans on the 50th day of their Contract With America of the first 100 days that they had programmed to rewrite the Federal Government and its rules and regulations. Yet on the 51st and 52d day we found out what this contract was really about. It was a contract on the elderly and the children of this Nation, between the actions taken in the Committee on Education and Labor and the actions taken in the Committee on Appropriations.

We saw in the Committee on Appropriations in the rescissions bill to cut money out of existing programs, 63 percent of all the cuts affect low-income Americans, children, and seniors. These same people are only responsible for 12 percent of the discretionary spending within the budget. That means three times the amount is being cut from these programs for elderly housing, to help elderly people pay their heating bills, and nutrition for our children, and the most vulnerable, and that is pregnant women at risk of giving birth to a low-birth-weight child and a newborn child born at low birth weight that needs nutritional help at

the first moments of life. That is what the Contract With America has become, a Contract on America's children.

In this morning's Washington Post, Louis Sullivan, the Secretary of HHS under President Bush, writes an article about the importance of the Women, Infants, and Children Program. This is a program that has now been in existence 20 years. It may be the most successful program in the world in combatting low-birth-weight babies, premature births, and the results that flow from those two events.

This has been our insurance policy to protect the taxpayers against the hundreds of thousands of dollars that a premature birth of a low-birth-weight baby will cost those taxpayers in the first few days and weeks of life. This has been a program that has reduced the incidence of low-birth-weight births by some 33 percent among the participants in that program. This is a program that does that for about \$1.50 a day, and this is a program that the Gingrich Republicans and the Committee on Education and Labor lockstep voted to cut the money from last week.

So as we move into the second 50 days of the contract, we see a much meaner, a much more callous approach to the children of this Nation. What is at stake here? What is at stake here is the ability of thousands of women who have been medically certified to be at nutritional risk and at risk of giving birth to a low-birth-weight baby of having a successful pregnancy. What these cuts mean, and the cuts in the Committee on Appropriations last week, is that this year 100,000 pregnant women and newborn infants will not be allowed to participate in this program that has had dramatic success in helping the brain development of these children, in helping carry these fetuses to term, and having healthy pregnancies.

That is what the Republicans' contract wants to do. That is what Speaker GINGRICH instructed the Committee on Education and Labor to do. Many of those Republicans privately were saying they hate to do this, this should not be done, they know it is wrong, but this is what the contract calls for. They have a greater allegiance to the contract, a public relations stunt drawn up by a pollster, than they do to America's children and to the pregnant women of this country that run the risk of having a pregnancy go wrong and to have to suffer all that that means.

What we are trying to assure with the Women, Infants, and Children Program is that these pregnant women will have the same joy I had at the birth of my two sons, the same joy that I had at the birth of my granddaughter; a healthy pregnancy and the kind of care that a woman needs before she delivers that birth, so that she can experience that joy, so that family can have that, and not have to experience the sadness of having a low-birth-

weight baby and the critical care that must be delivered in the intensive care and the neonatal intensive care units of our hospitals around this country.

Yet we see that those are the ones that the Gingrich Republicans have focused in on like a laser. They went immediately to those programs to cut that out. Out of the child nutrition programs and the WIC programs, we see over \$7 billion over the next 5 years being taken out of those programs. This year we see \$25 million directly taken out of the Women, Infants, and Children Program. Surely—surely the voters of America, the Republicans of America, do not believe that the first efforts in trying to balance the budget should be on the backs of these poor children, of these women at risk in their pregnancies, and of these newborn infants that are struggling, struggling to hold on to life, because we were not able to give them the attention during the pregnancy that we should have.

□ 0950

Surely that is not what this is all about. Nor should it be allowed to stand. People should call their Members of Congress and tell them that they want this 20-year program of success maintained. We are talking about \$1.50 a day during the term of that pregnancy. That should not be on the chopping block out of humanity and out of caring for these children and for these pregnant women.

“THE PROJECT”

The SPEAKER pro tempore (Mr. DICKEY). Under the Speaker's announced policy of January 4, 1995, the gentleman from Kentucky [Mr. WHITFIELD] is recognized during morning business for 5 minutes.

Mr. WHITFIELD. Mr. Speaker, I rise today with great concern about an article which appeared in Sunday's Washington Post. Since I read articles in most newspapers with great skepticism, I hope that facts set out in this article are not true.

According to the article in the Washington Post, a prominent Democratic Congressman at a recent Washington dinner party enthusiastically discussed what he referred to as “The Project”—a coordinated, calculated effort designed to politically destroy Speaker NEWT GINGRICH.

A week later, another Member of the Democratic Party, in a keynote address to a party convention in Boca Raton, disclosed that the House Democratic leadership had embarked on a day-by-day plan to investigate the House Speaker, harass the Speaker, and drive him from office.

According to the article, members of the Democratic leadership in the House meet on a weekly basis for this purpose. Mr. GEPHARDT is represented at the meetings and the White House is also kept informed.

The Democratic National Committee also publishes a weekly “Newt Gram” trashing the Speaker.

Two senior liberal Democratic Members of Congress—not a part of “The Project”; that is, Newt bashing—said “Our party attacks GINGRICH because we don't have anything else to say.”

If it is true, what a tragedy—the National Democratic Party and its leaders deliberately working on “The Project” to destroy another political leader.

Our great Nation faces many serious issues crying out for a solution. It is almost incomprehensible that a handful of Democratic leaders would be consumed with such a destructive compulsion for revenge.

It is not surprising that in so many issues we have debated on this floor during the last month that a handful of Democrats have used similar tactics to polarize America. Pitting the poor versus the middle class—and the middle class versus wealthy members of our society—in effect using scare tactics.

We are all Americans and we must develop solutions that will benefit our entire society not just one part of our society. The American people not only deserve but demand that Members of Congress devote their time and energy trying to solve very serious national issues instead of trying to destroy another political leader because they do not agree with his political philosophy.

The election box is the proper place to decide philosophical differences, not some sinister plan referred to as “The Project.”

EFFECTS OF THE CONTRACT WITH AMERICA ON WOMEN AND CHILDREN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Texas [Mr. GENE GREEN] is recognized during morning business for 5 minutes.

(Mr. GENE GREEN of Texas asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. GENE GREEN of Texas. Mr. Speaker, I appreciate the gentleman's comments, but let us talk issues instead of speak personality.

When the Republicans talked about the contract for America, they did not tell anyone it would be women and children first. The first round of cuts were in the school breakfast and lunch programs. The second round of cuts include funding for safe and drug-free schools and the summer jobs program.

The Speaker may not believe liberals and even call some of us liars. This report that I will insert in the RECORD from the Houston Post talked about the “foes are lying about children.” He says they are lying this last weekend.

Well, I am a Member from Texas. I am not lying about what my Texas State agency and my school district told me about the school lunch and breakfast program.

We would sustain a cut of almost 4 percent for our lunch and breakfast programs. I would hope we could tone down the rhetoric and talk about issues. I share the concern of my colleague who just spoke.

Again, we could see a definite cut of 4 percent in our Texas program and a half-million dollars in the Houston independent school district, the largest school district in the State of Texas.

The school breakfast and lunch programs, as estimated by the Texas Education Agency, will lose for the children of Texas \$261 million in 1996. On the Committee on Economic and Educational Opportunities, we tried to strike the nutrition programs from the Republican reform bill, but we were outvoted on a party line vote by the Republican majority. I will go to that in a few minutes. Let us look at what this new amended contract for America talks about, not only cutting children nutrition programs and the WIC Program. Let us see now; we are having \$11 million for two new executive airplanes for the Army that they did not request, \$20 million more for a new runway for a base that is on the base closure commission list, a million dollars for a bike trail in North Miami Beach.

One thing that is apparent in this new amended Contract With America, there is no clause that our children will have a hot nutritious meal or a clause that our children will have a safe and drug-free school or that our children may have a summer youth job program.

Let me continue with the children's nutrition. A TV consumer reporter in Houston just last night said that it took the Republican majority 40 years to gain control of the House but only took them 40 days to cut food to children. The school-based nutrition grant program overall funding would be \$104 million less in fiscal year 1996; \$101.3 billion would be transferred out of the block grant in 1996 for nonfood programs, which would compromise the health of children.

The school-based nutrition block grant would eliminate the standards that guarantee America's children access to healthy meals.

There was an amendment adopted in the committee last week that said for the first year the States can all come up with 50 nutritional grant programs, but at the end of that year there would be some national standards. Well, we already have some national standards that apply whether you are in Texas or New York or California. We are building in additional costs into this program by having 50 States to develop their nutrition plans and then have to comply with some national standards.

The new school-based nutrition block grant would not respond to recessions or recoveries. If this bill had been enacted in 1989, it would have resulted in the 70-percent reduction in funding for school meals in 1994 alone. Between 1990 and 1994, the number of free lunches served to low-income children

increased by 23 percent. During that period, the number of free meals served in child care centers increased by 45 percent. The block grants would not respond to the change in the school population, which is expected to increase by 4 to 6 percent. In the State of Texas alone we would lose 4 percent of our funding. Every September and all during the year we have new children who show up at our doors and qualify for these programs. We are not only cutting 4 percent, but if those new children show up, they would not have it.

Yesterday morning, before I left Houston, I went to a nutrition program in the Heights part of my district at the Field Elementary School. That is a school that has 90 percent of their children have free or reduced lunch. What 4 percent would we cut from those 90 percent of those children and next year when we have at least 20 more kids who show up or are qualified, are we going to tell that principal or that teacher or that food service worker, who does a hard job there, that they cannot serve those children?

There are reforms we can do in the program, but not cutting off the meals that those children have. I saw that meal. They had cereal. They had the option of orange juice and milk. A number of kids actually drank both the orange juice and the milk. They had some little sausages.

I noticed this last Friday the Committee on Agriculture cut the effort for the Food Stamp Program.

I am glad they are concerned about that, but I know we have some concern about the food stamp abuses. But I know I saw those children eating that food. I would hope that the Republican majority would see the err of their ways on school nutrition and also change that, Mr. Speaker.

Mr. Speaker, I include for the RECORD the article to which I referred.

[From the Houston Post, Feb. 26, 1995]

SCHOOL LUNCH DEBATE SERVES UP HOT RHETORIC BUT FEW COLD FACTS—HOW KIDS WOULD FARE UNDER CHANGE UNCLEAR

(by Wendy Koch)

WASHINGTON.—Uncle Sam would no longer guarantee poor kids a free school lunch if a Republican measure now gaining momentum in Congress becomes law.

Instead, states would be free to decide who gets what.

Democratic critics say kids would suffer because funding would fall, and states won't have enough money in case a recession strikes. Republicans argue kids would benefit because the system would be more efficient.

But no one really knows—yet.

The GOP bill, which scraps the 49-year-old school lunch program, passed a House committee last week but needs the approval of the full House—considered likely—and the Senate—expected to be more difficult.

Even if it passes, its impact will depend on how each governor handles the new responsibility of feeding kids.

Still, there's no shortage of red-hot rhetoric.

Democrats have accused Republicans of trying to starve kids. "There are an awful lot of poor kids, and some not-so-poor kids, who will go home hungry," says Wisconsin

Rep. Dave Obey, senior Democrat on the House Appropriations Committee.

"Absurd," responds Michigan's GOP Gov. John Engler, a leading proponent of giving states greater flexibility to administer programs. He says it's "offensive" to say Republicans would harm kids.

The school lunch program serves 24 million children every day. Lunch is free for those whose parents earn less than 130 percent of the poverty line and is heavily discounted for those whose parents earn less than 185 percent. It sets a small subsidy, 20 cents a lunch, for all other kids.

The school breakfast program serves about 5 million children daily and operates similarly.

Every child who meets the eligibility criteria is guaranteed a free meal if his or her school participates in the program. If a recession hits, federal funding increases to meet greater demand.

The meals must meet federal dietary standards, nationally recommended for all Americans.

The Republican measure, part of the effort to reform welfare, would end the federal guarantee that poor kids get meals. With that goes the nutritional guidelines.

It would instead lump school meal programs together and give states a set payment, or block grant, to administer as they choose. It also would allow states to set their own dietary standards.

The measure would allow legal immigrants—but not illegal ones—to get subsidized meals.

Proponents argue that by cutting the middleman—federal bureaucrats—less money would be wasted on paperwork and more would be spent on meals for poor kids.

They say their block grants would increase funding by 4.5 percent annually—more than the rate of inflation.

Yet Democrats say the increase is less than they would receive under the current system, which adjusts for the rising number of eligible school-age kids. And thus, they call it a cut.

"Every state will get less funding," says Walt Haake, a spokesman for the U.S. Agriculture Department. Overall, USDA estimates funding will be \$309 million less next year and \$2 billion less over five years.

He criticizes the GOP bill for allowing states to use up to 20 percent of their school lunch money for other programs.

Critics also say governors of poorer states—even if they wanted to help kids—would have a tough time meeting the greater demand in a recession because their funding would not automatically adjust.

"That is the unknown, and the scary part," says Tami Cline, director of nutrition for the American School Food Service Association, which represents the administrators of school meals.

Yet Republicans bristle at the notion that governors, who face re-election, won't be responsive.

"Why would state and local officials do that?" asks Kelly Presta, majority spokesman for the House Economic and Educational Opportunities Committee, which passed the bill.

[From the Houston Post, Feb. 26, 1995]

GINGRICH: FOES LYING ABOUT KIDS

ROSWELL, GA.—House Speaker Newt Gingrich lashed out at political opponents Saturday, saying anyone who claims Republicans want to hurt children is lying.

"They're going to argue meanness. They're going to argue Republicans are for the rich. And they're going to argue Republicans want to hurt children," he told a gymnasium full of loyal constituents here during a 2½-hour town hall meeting.

"It will be a deliberate, malicious lie. And they will repeat it, and repeat it and repeat it."

The Georgia Republican was addressing recent criticism from Democrats who charge that GOP proposals to end federal nutrition programs for children as well as Medicaid benefits for the poor would victimize the weakest members of society.

"Any liberal who tells you that we are cutting spending and hurting children is lying—L-Y-I-N-G," said the House speaker.

H.R. 1022, RISK ASSESSMENT/COST-BENEFIT ANALYSIS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Ohio [Mr. GILLMOR] is recognized during morning business for 5 minutes.

Mr. GILLMOR. Mr. Speaker, I strongly support H.R. 1022, the risk assessment cost-benefit analysis bill. This legislation very simply puts common sense into the way the Government regulates.

All of us have heard the horror stories from businesses and municipalities about the Federal regulations and the way that they have strangled their budgets only to have miniscule benefits result.

Earlier today I hope my colleagues had the opportunity to review a dear colleague I circulated to all of them concerning the city of Columbus, OH. In it I noted that Federal regulations currently require the municipal water systems keep atrazine levels in drinking water below 3 parts per billion. A human being would have to drink 3,000 gallons of water a day with three parts per billion atrazine to equal the dose found to be cancerous in rats.

The U.S. Environmental Protection Agency, under its constitutionally mandated authority, sets this level by using the most exposed individual risk assessment model, which assumes a person is to be exposed to atrazine every day for 70 percent years. To show how absurd this regulation is, to consume enough water to come even close to causing any health risk, an individual would have to drink 38 bathtubs full of water every day. City officials in Columbus found that compliance with this regulation would require a new \$80 million water purification plant. For the same amount of money 3,700 teachers could have been hired at the average State teacher's salary.

To further show how wasteful this three parts per billion Federal requirement is, consider the following: The U.S. EPA developed a health advisory for atrazine which states that a child could drink water containing 100 parts per billion for 10 days or 50 parts per billion for 7 years with no adverse effects.

Mr. Speaker, it is for reasons like this that I am supporting H.R. 1022. I believe it is reasonable to ask our Federal regulating bodies to prepare a cost-benefit analysis of proposed regulations. I support the idea of providing alternatives without making expense

the sole determinant of the best strategy.

I believe that the peer review activities for more costly regulations are a good way to ensure the efficacy and the efficiency of our Federal rulemaking process. H.R. 1022 contains all of these provisions and makes the Federal Government a legitimate problem solver, not a problem maker.

Some of my colleagues who have opposed this legislation say it will create a new bureaucratic mess and will benefit lawyers more than individuals. I must say that I find their arguments to be basically an attempt to cover up the regulatory mess they instituted.

Risk assessment and cost-benefit analysis using the best available data and input will bring out the best governing decisions.

Mr. Speaker, this regulation protects the environment and public health because it means resources will be used to combat real environmental and public health risks and not be wasted on frivolous regulations and requirements.

MORE ON CUTS AFFECTING WOMEN AND CHILDREN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Illinois [Mr. DURBIN] is recognized during morning business for 5 minutes.

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

Mr. DURBIN. Mr. Speaker, this morning I would like to share a few stories with you that I think are appropriate when you look at the debate which we are facing here in Washington, not only this week but for the next several weeks.

They are about some children. They are kids that I remember but I do not know their names. Let me tell you why.

The first child I remember was in St. John's Hospital in Springfield, IL in my district. I was invited to come to the unit there where premature infants are being cared for and of course you put on a gown and a mask and walk in with the nurse and the doctor. And they pointed to a tiny little isolette with a little baby in there, no larger than the size of my hand, a baby that had its eyes taped shut and had more tubes and monitors in its small body than were imaginable.

The story of course was that that baby was born too soon and as a result would be in this intensive care unit for at least a month and maybe longer with the hopes that when she did come out at the end, she would then be able to grow like a normal baby and lead a normal life.

The heroic efforts that were being undertaken for that infant are repeated every day across America. Unfortunately, repeated too many times.

Several years ago we took a look at the incidence of low-birth-weight babies in our country and found some

shocking results. It turns out that the infant death rate in America was higher several years ago than in most industrialized countries in the world. Think about it. Our country, with the best medical resources, was still having children born of low birth weight with problems that really haunted them, many of them for the rest of their lives. When I talked to the head of the medical school, Dr. Richard Moy in Springfield, IL at the SIU Medical School, he said, "Congressman, the saddest part of it, this is entirely preventable; this is entirely preventable. If we can bring mothers in early in their regular pregnancy, give them prenatal care, we have the medical knowledge to deliver a healthy baby in virtually every case."

So the Federal Government, which is often the butt boy and the target of so many criticisms, decided to really invest money to reduce the number of low birth weight babies. The program we chose is one that has been around for awhile. It is called the WIC Program, the Women, Infants and Children's Supplemental Feeding Program. And we decided to take some of our precious Federal tax dollars and put it into our most precious asset, these children who will be tomorrow's leaders, our kids.

And you know what, it is working. It is working because now 40 percent of the infants in America are being brought into the WIC Program, kids especially vulnerable from low income families. I am proud to tell you that we are seeing the infant death rate in this country go down. Surely we still have low-birth-weight kids but not as many as we would without the WIC Program.

The reason I tell you this story and tell you the story about this little infant is that we are now debating whether or not to cut the money for that WIC Program. That is right, whether or not we are going to cut the money for the program that is trying to keep fewer low-birth-weight babies being born in America. In the name of a balanced budget, in the name of cutting spending, in the name of reducing the Federal role, we are going to cut this program.

My friends, the Republicans on the other side say it is the way to save money. Do you really save money with a low-birth-weight baby? Do you know how much it cost at St. John's Hospital several years ago for that low-birth-weight baby? At least \$1,000 a day. So a pregnancy, which ordinarily would cost \$1,500 to \$2,000 under normal circumstances ended up with a baby that costs us, as taxpayers, \$30,000 a month with the hopes that that little girl would come out of that experience and lead a normal life and not need more care afterward.

What a false economy. Yet the Republicans argue that reducing the money for WIC is what America really needs and really wants for its future.

Let me shift to another child, a child I saw in my own hometown again, at a

school breakfast program. A happy child, a kid who was having fun, who got to school early so that she could get that little lunch or little breakfast, rather, and have her day ahead of her. She was happy and bouncing around and having a good time of it. I talked to a teacher about the school breakfast program and school lunch program. I said, what do they mean to you? And she said they mean everything. Did you ever consider the chore that faces a teacher trying to teach a child who is hungry? That child is listless, stares at its hands, stares at the floor, cannot concentrate. I do not have a chance, she said, in terms of teaching that child.

So we invest each year in the basics of providing nutrition for school lunch programs and school breakfasts so that kids can go through that learning experience and come out happy, healthy, and learning. The Republicans have told us we need to cut that program, too. I hope we keep those images in mind as we get into this budget debate. We certainly cannot have a strong America without strong children. It is a false economy for us to cut programs for children, and I hope that the Gingrich Republicans will think twice before they make these cuts.

□ 1010

THE 2-PERCENT SOLUTION

The SPEAKER pro tempore (Mr. DICKEY). Under the Speaker's announced policy of January 4, 1995, the gentleman from Colorado [Mr. ALLARD] is recognized during morning business for 5 minutes.

Mr. ALLARD. Mr. Speaker, the House of Representatives passed the balanced budget amendment last month. Today, the Senate will decide the fate of this critical reform. Whether the vote is yes or no, Congress will still need a statutory mechanism to ensure that spending is put on a glide-path to balance by the year 2002. I propose the 2-percent solution.

Shortly, I will introduce legislation to establish caps that will limit overall spending growth to 2 percent a year. If this level is exceeded in any year, an across-the-board sequester will kick in and force the necessary cuts, excluding Social Security and certain other contractual obligations.

With 2 percent growth the Federal Government can balance the budget of 2002 and still spend \$1 trillion more over the next 7 years than it would under a 7 year freeze. Two percent growth will allow us to enact the tax cuts of the Contract With America and achieve the first balanced budget in 33 years.

Two weeks ago, I attended a Budget Committee field hearing outside of the beltway to hear the views of our constituents. Over 1,000 people showed up and the message was clear—cut spending. Just do it, balance the budget.

That is what the Republican majority plans to do.

During the debate on the balanced budget amendment, the rhetoric was thick with charges that the Congress does not need a constitutional amendment to balance the budget, all we need to do is offer a balanced budget. Well, the need for the balanced budget amendment is shown clearly by the President's just released budget.

The President's budget is a lost opportunity to do what he called for in his State of the Union speech, a balanced budget without the need for a constitutional amendment. In the President's budget, there is no entitlement reform, no welfare reform, and spending in most major departments goes up. Department of the Interior spending is up; HUD and the Labor Department get an increase in spending; the EPA gets an increase in spending; the Energy Department gets a spending increase even through the administration once talked about abolishing the Department; and even the National Endowment for the Arts and the National Endowment for the Humanities get increases.

The bottom line is not a balanced budget, it is \$200 billion deficits as far as the eye can see.

This is not what the average American is looking for. America wants a balanced budget. Unfortunately, the President has left the heavy lifting to the Republican Congress. Our goal is not \$200 billion deficits, but a balanced budget with zero deficits. We must lead and meet the challenge and produce a budget that makes the tough cuts.

During the balanced budget debate, some questioned whether we can ever balance the budget. Opponents like to point to the fact that over \$1.2 trillion in spending must be reduced. This huge number is used to show how painful it would be to actually enforce a balanced budget amendment by 2002.

This argument could only occur inside the beltway. Though Republicans abolished baseline budgeting on opening day, much more must be done before the terms of the debate are changed.

Baseline budgeting is the process of assuming automatic spending increases every year. If Congress appropriates anything less than the baseline spending growth, there has been a cut. I suspect most Americans believe a cut is when you spend less than you did the year before, not less than you thought you would spend.

The current debate about a balanced budget amendment demonstrates why this issue of baseline budgeting is so important. Every nickel of the \$1.2 trillion that must be cut is projected baseline growth.

As the chart next to me shows, the CBO projects that spending growth will average 5.3 percent a year through 2002. Under this scenario Federal spending will grow from \$1.5 trillion this year to \$2.2 trillion in 2002, and the deficit in

2002 will be well in excess of \$300 billion.

Of course, this assumes Congress does nothing to alter current spending patterns. If Congress instead manages to hold overall spending growth to 2 percent per year, the payoff for this discipline will be the first balanced budget in 33 years. And as I noted earlier, \$1 trillion more will still be spent over those 7 years than if spending had been frozen.

So let me answer the doubters, there is no doubt about it, we can balance the budget by 2002. It can be done in a reasoned and responsible manner—by holding overall spending growth to 2 percent a year.

It is not my intention to suggest that this will be easy. It will be difficult, particularly for those programs that are growing rapidly. But this is Congress' job, it is what the America people want.

Over the last three decades Congress has dropped the ball on the budget. This is why we need the balanced budget amendment and the 2-percent solution. With them we can build a secure future for our grandchildren.

A SCORCHED EARTH POLICY IN THE REPUBLICAN'S WAR ON CHILDREN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Massachusetts [Mr. OLVER] is recognized during morning business for 3 minutes.

Mr. OLVER. Mr. Speaker, legend has it that Republicans know more about making profitable investments than Democrats, but with the Contract on America, that legend becomes a vicious myth.

The Republicans want to slash funding for children's foster care, and children's adoption assistance, and child abuse prevention, and children's care while parents have to work, and preschool children's Head Start, and Drug Free Schools for Children, and children's health care, and children's school lunches, and prenatal nutrition, which has saved billions of dollars by reducing the number of low birthweight babies born in this country, as the gentleman from Illinois [Mr. DURBIN] spoke so eloquently about just a few minutes ago.

These extremists are not even happy with hungry children. They want to cut every penny of home energy assistance, so thousands of children are going to go to bed cold as well as hungry.

Mr. Speaker, Americans should understand exactly what is going on with this extremist agenda. This is not about thoughtful, even-handed deficit reduction. It goes much further than the elimination of bureaucracy or waste. This is a scorched earth policy in the Republican war on children.

The radical right extremist agenda is to wash their hands of any responsibility for the welfare of the American family, shift that responsibility to the States, and at the same time, cut billions of dollars needed by the States to

adequately protect children; protect their health, their safety, their schooling, and their stomachs.

It is even a myth that these cuts reduce the deficit. Our radical right is willing to hurt children so they can buy fantasy projects like the star wars antiballistic missile system, and so they can shovel out massive tax breaks to the very wealthiest few Americans.

Children cannot vote, so they are being trashed, and it is shameful. The health, the schooling, and the safety of children should be the first priority for every Member of Congress whose job it is to build a better nation. It is shameful to throw the responsibility to the States and then cut the dollars the States need to meet it.

When they cannot meet it, we will all find out that turning our backs on children is a terrible way to invest in America's future.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the House will stand in recess until 12 noon.

Accordingly (at 10 o'clock and 17 minutes a.m.) the House stood in recess until 12 noon.

□ 1100

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. ZELIFF].

PRAYER

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

For all the opportunities, O God, that lie before us and every person, we offer our thanks; for all the possibilities for knowledge and understanding, we are grateful; for friends and family and colleagues who support us and help show the way, we express our gratitude. May we be so fervent in our tasks, gracious God, that we will be worthy of the calling we have been given to be of service to other people in doing the deeds of justice and by providing leadership in the cause of peace and reconciliation for every person. Bless us this day and every day, we pray. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Ohio [Mr. HOBSON] come forward and lead the House in the Pledge of Allegiance.

Mr. HOBSON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will take 20 1-minutes on each side.

THE CONTRACT: BACK TO THE DRAWING BOARD

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

Mr. GEPHARDT. Mr. Speaker, for 2 months now, this Congress has been held hostage by the extremist trickle-down manifesto known as the Contract With America. Democrats have been saying all along that the American people do not need this contract. What they need are good jobs at good wages, more police to fight the scourge of violent crime, and access to affordable health care.

Republican pollsters who wrote the contract thought they knew better, but a New York Times poll published today makes it perfectly clear. If the Republicans really want to follow the will of the people, it is time to go back to the drawing board. First of all, more than half of all Americans have not even heard of the contract. So much for the Republican mandate. And on issue after issue, we find a wholesale rejection of the contract's extremist planks.

Americans overwhelmingly want the Federal commitment to 100,000 cops on the beat that the Republicans voted down. Americans overwhelmingly oppose a balanced budget amendment that puts Social Security on the chopping block as the contract does. Americans overwhelmingly oppose welfare reform that is tough on children but weak on work.

I suppose that is the problem with the Republican politics-of-opinion polls. When you live by the poll, you also die by the poll.

Based on today's poll results, I would offer these final words on the Contract With America: May it rest in peace, and now let us get down to the real business of the American people.

REPUBLICAN CONTRACT WITH AMERICA

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

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

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

We kept our promise.

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

This is our Contract With America.

Mr. Speaker, this is our contract, we are doing it and living up to it, and I believe it is alive and well.

POLL DOUSES CONTRACT AND GINGRICH REVOLUTION

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

Mr. BONIOR. Mr. Speaker, every morning Republicans come to this floor and read NEWT GINGRICH's Contract With America.

But this morning's New York Times throws a bucket of ice water on both the contract and the Gingrich revolution.

In a poll released this morning, the American people say that the contract is:

Too extreme, too mean spirited, and out of touch with the priorities of the American people.

When asked what our priorities should be the American people say: jobs, health care, and crime.

Yet, after 55 days of Republican rule, and after casting over 150 votes, we have not passed a single amendment that deals with jobs or health care.

And nearly 6 of 10 Americans say the Republican idea to pull 100,000 police off the streets is a bad idea.

Mr. Speaker, this poll confirms what we have always known: The Contract With America will not make a dime's worth of difference in the lives of middle-class families.

Republicans can talk about the contract all they want.

But the longer we go, the more it becomes clear: Americans do not like what they are hearing.

COMMON SENSE NEEDED IN REGULATORY PROCESS

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

Mr. BALLENGER. Mr. Speaker, did you hear the one about the guy who was fined by OSHA for not having a

comprehensive hazardous communication plan for his employees—all two of them.

How about the \$100,000 spent on a study of quiet areas in restaurants.

Or the OSHA fine levied against a small business because they had a can of Pledge in a work trailer with no material safety data sheet on hand.

And, one of my favorites, the construction company that was fined because workers were not using disposable cups.

These are all great stories—and they would be very entertaining if they did not symbolize such a job crunching, budget busting, competition killing, business breaking, economic catastrophe in America.

It is time to restore common sense and civility to the regulatory process. The cost of doing nothing is too high for individuals and businesses in America. Let us act now.

IN SUPPORT OF CHILDREN'S NUTRITION PROGRAMS

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

Ms. BROWN of Florida. Mr. Speaker, yesterday I had an opportunity to speak to 95 3-year-olds and today I speak in their behalf, for the school lunch program that has worked well since 1946. It is not broken. America's children are our most important resource for the future.

Mr. Speaker, studies show that if a child is hungry, taxpayer dollars are wasted because hungry kids cannot learn. According to the Children's Defense Fund, millions of children will go hungry by cutting school lunches, food stamps, child care, Head Start meals, and WIC programs. Republican double-talk that "cuts to school lunches" are not "cuts," but block grants to States, and deceives the American people. As a 10-year veteran of the Florida legislature, I can tell you that sending Federal dollars to the States as block grants does not ensure that these funds will go to child nutrition programs.

Republicans seem to think they can fool some of the people, some of the time. But you cannot fool all of the people all of the time. The American people cannot be fooled. The Contract on America is a contract on children, the elderly and the hardest working Americans.

The school lunch program works, it feeds hungry children. As the saying goes, "If it's not broke, don't fix it."

FEDERAL REGULATIONS SHOULD USE COMMON SENSE

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

Mr. NORWOOD. Mr. Speaker, allow me to read a few OSHA rules written

about chain saws for the logging industry. The chain saw shall be fueled at least 20 feet from any open flame; the chain-saw operator shall be certain of footing before starting to cut; prior to felling any tree, the chain-saw operator shall clear away brush or other potential obstacles which might interfere with cutting the tree; the chain saw shall be carried in a manner that will prevent operator contact with the cutting chain. Mr. Speaker, Federal regulators should use common sense, not regulate common sense. If American taxpayer's hard-earned money is going to pay for someone to write rules like these, then I know where the budget chain saw should be put to use next.

MALICE: SAYING NO TO A DECENT LUNCH FOR CHILDREN

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

Mr. GUTIERREZ. Mr. Speaker, my colleagues talk about a "second Reagan Revolution."

Well, they are right—when it comes to providing decent food and nutrition to the children of America.

In the mid-1980's, millions of children suffered because the Federal Government cut funding for the school lunch program.

Now, today, to pay for more defense spending and tax giveaways to the rich contributors to the Republican Party, we are going to let kids go hungry again.

Maybe what we need is a revolution that reaches back a little farther in Republican Party history.

In 1865, facing an enemy far more dangerous than our Nation's school children, our greatest President—a Republican President—stated that we would heal our Nation's wounds "with malice toward none, with charity for all."

I say to my colleagues in the majority—saying no to a decent lunch for our Nation's children is malice, pure and simple.

With malice toward none, with charity for all.

How empty and distant those words seem to the party of Abraham Lincoln today.

THE TOP 10 LIST

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

Mr. HAYWORTH. Mr. Speaker, from the home office in Scottsdale, AZ, the top 10 excuses liberal Democrats have for not voting for the balanced budget amendment.

No. 10, we might really have to slow spending.

No. 9, the dog ate my homework.

No. 8, fiscal responsibility phobia.

No. 7, the devil made me do it.

No. 6, if so many of the American people want it, it cannot be any good.

No. 5, contract-envy.

No. 4, it wasn't me, it was a space alien with a remarkable resemblance to me.

No. 3, I did what?

No. 2, let's feed big government bureaucrats instead of little school children.

And the No. 1 excuse liberal Democrats have for not voting for the balanced budget amendment, they want early retirement in the next election.

CONGRESS SHOULD PUT AMERICAN INTERESTS FIRST

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

Mr. TRAFICANT. Mr. Speaker, while one House committee voted to forgive a \$50 million loan for Jordan, another House committee voted to kill hundreds of thousands of American youth jobs in our communities, kill the home-ownership counseling program that saves the family home and saves taxpayers \$35,000 on every foreclosure. They also voted to kill all veterans' outpatient clinics that treats millions of American veterans.

Now think about it. Fifty-three billion dollars for Mexico but pink slips for American youth. Twelve billion dollars for Russia, but, ladies and gentlemen, mortgage foreclosure for American families. Fifty million dollars for Jordan, but cuts in health care for American veterans.

Think about it. No wonder America's bankrupt. Congress is either brain-dead or they're starting to drink some of that Boris vodka.

I say, ladies and gentlemen, take care of our own people before you take care of everybody all around the world. Beam me up on these cuts.

SUPPORT THE BALANCED BUDGET AMENDMENT

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

Mr. LATOURETTE. Mr. Speaker, it is no coincidence that the work and far-reaching goals of the 104th Congress are being compared to that of the Congress of 1933. Not since that time has Congress accomplished so much in so little time, when Franklin Delano Roosevelt presided over our Nation and steered the Congress to pass a bold new agenda called the New Deal, much of it during the first 100 days of his administration.

As we compare what happened then to what is taking place on the floor of this great House now, I am reminded of the prophetic words of FDR when he said, "It is common sense to take a method and try it. If it fails, admit it frankly and try another, but above all, try something."

"Above all, try something." Those four simple words cut right to the heart of the objectives of this Congress, the Contract With America, and in particular the balanced budget amendment. Only what we are proposing is to try something that works, something done by almost every State in the Union not to mention households and business.

For far too long, the U.S. Congress has been trying a method of balancing the budget which, quite simply, is a resounding failure.

Today the other body has an opportunity to do something magnificent for the future of this country, to do as FDR said, admit frankly that what we have tried in the past has failed and to try something new.

□ 1115

REPUBLICAN CONTRACT FAILS TO ADDRESS NATION'S CORE CHALLENGE

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

Mr. KLINK. Mr. Speaker, it is time we talk about this so-called Contract on America. Income has not increased as a result of this contract. Not one single job has been created because of this contract. No family in America is more secure as a result of the progress made on the Republican contract. The quality of life has not been improved for hardworking middle-class Americans because of this contract.

The bottom line is the contract has no meaningful impact on the lives of average Americans. The Republican contract fails to address our Nation's core challenge and that is raising our standard of living as a people.

In western Pennsylvania, cities like Beaver Falls, Aliquippa, and New Castle have up to 25 percent of their households living in poverty. Yet the contract will whack people on Social Security, whack Medicare, whack school lunches. This truly is a Contract on America, Mr. Speaker.

CONSTITUTIONAL AMENDMENT TO BAN AMERICAN FLAG DESECRATION

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

Mr. QUINN. Mr. Speaker, it is with great pleasure that I rise today to join many of our colleague here in the House in support of a constitutional amendment to ban the desecration of the American flag.

Mr. Speaker, I just left an announcement on the left side of the Capitol with a group of Members, House Members, Senate Members, Republicans and Democrats, and hundreds of thousands of veterans from all over the country who are in support of this amendment.

The amendment states that "The Congress and the States shall have the power to prohibit the physical desecration of the Flag of the United States." Almost every State, 46 of the States in this country have asked us to do just that.

Let us give the States and the American people what they want and what our flag deserves.

Our Stars and Stripes stands for the principle of democracy. It represents all the hard fought battles for freedom and preservation of the American way of life. I call on my colleagues to join Representative JERRY SOLOMON, Representative SONNY MONTGOMERY, myself, and others to cosponsor this legislation in the coming weeks.

A SAD DAY FOR VETERANS

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

Mr. VOLKMER. Mr. Speaker, today is the 56th day of the imperial speakership.

Mr. Speaker, 9 months ago a majority of my colleagues recognized the debt owed our veterans, and the need to ensure they receive proper and adequate medical care. Today I must rise to inform my colleagues that the contract we have with our Nation's veterans has been labeled expendable by the Republican majority, and I am here to issue a warning to the Nation's veterans that our contract pledged to our veterans is up for renegotiation under the Republican contract on America. Last week an appropriations subcommittee slashed \$206 million from the Veterans Administration and eliminated funding for six veterans care facilities as a way to help pay for the tax cuts promised to the rich in their contract on America. Mr. Speaker, it is a sad day in America when we place the desires of wealthy special interests over the needs of men and women who risked their lives to defend America.

AMERICA NEEDS THE BALANCED BUDGET AMENDMENT

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

Mr. KINGSTON. Mr. Speaker, today as we face final congressional action on passing the balanced budget amendment, it is a moment of national truth. Will we squirm and wiggle and sidestep our responsibility, will we cop out with politically palatable excuses or will we take the action because if we vote no today how much easier will it be to continue to vote for deficit spending?

Since 1969 we have not had a balanced budget. And every Democrat and Republican who has voted for this deficit spending has had a good excuse to do so. But it is time to stop this.

We need a balanced budget amendment. We can think of, and taxpayers

above all can think of 4½ trillion reasons to vote for a balanced budget amendment.

Ladies and gentlemen of America, watch today carefully. It is a critical day in the history of our Nation.

BALANCE THE BUDGET WITHOUT JEOPARDIZING CHILDREN

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

Mr. HINCHEY. Mr. Speaker, the majority party of the House of Representatives has declared war on our Nation's children.

The leadership has taken their campaign against working Americans to one of its lowest points yet attacking the most vulnerable in our society—millions of American children who rely on school lunches for a well balanced meal every day.

The most profound effect will be upon the ability of our children to learn. Undernutrition effects a child's behavior and performance.

In support of a 1969 expansion of school nutrition programs, President Nixon once said: "A child ill fed is dulled in curiosity, lower in stamina, distracted from learning." What has happened to the Republican Party?

In my home State of New York, more than 1,700,000 children currently participating in the school lunch program will be affected by a cut in funding.

We can do better than to try to balance the budget by jeopardizing the health and nutrition of 13 million American children who depend on the School Nutrition Program each day for a balanced meal.

THE BATTLE LINES ARE DRAWN

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

Mr. TIAHRT. Mr. Speaker, the American people are clearly seeing where the battle lines are drawn. The Democrats will defend the Great Society of Lyndon Johnson and the \$4.5 trillion we have already been spending on a failed system.

Republicans are working to transform the welfare state into a work-for-benefits system.

Democrats will fight to keep the money flowing for the beltway bureaucrats here in Washington.

The Republicans will keep the money flowing back to the States like Kansas to help the American people.

The liberal Democrats have accused the Republicans of being mean-spirited because Republicans want to change the system that promotes destruction to the family, hurts children and that seriously undermines the future of our Nation.

The Republicans will work to change a system that has failed the American people completely.

The battle lines have been drawn. May the best ideas win.

SUPPORT FOR THE RISK ASSESSMENT AND COST-BENEFIT ACT

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

Mr. STENHOLM. Mr. Speaker, as a long-time supporter of small business, I rise in support of H.R. 1022, the Risk Assessment and Cost-Benefit Act. It's simple: Risk analysis is good for small business.

Small business has had to contend with a literal blizzard of Government regulation in virtually every aspect of their operations. It is not just one or two big or major impacts from regulations, it is also death by a thousand cuts. It is the cumulative burden of paperwork, planning, and other compliance requirements that are often overlooked in the process of creating Federal regulations that are especially burdensome to smaller businesses. Mechanisms like those contained in H.R. 1022 will help to ensure that Government considers the total impact of the cumulative regulatory burden.

The small businesses impacted by many new regulations, especially in the environmental and worker safety area, do not have the resources to challenge or assess the increasingly scientific methods or exposure assumptions used by Federal agencies to justify new regulations.

Discussion and provision of regulatory options and risk scenarios early in the regulation development process will help small business by focusing resources and providing at least some assistance in an analysis process they cannot hope to shoulder on their own behalf.

In short, small business needs H.R. 1022 so that Federal agencies will be compelled to develop cost-effective regulations that will allow small businesses to both comply and remain economically viable.

THE REPUBLICAN CONTRACT WITH AMERICA IS ALIVE AND WELL

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

Mr. DREIER. Mr. Speaker, wishful thinking is all there is to the statements that were made by the minority leader and the minority whip, wishful thinking based on the New York Times poll that came out this morning which had people raising some understandable concerns about the Contract With America. The reason for that is that it has not been understood appropriately.

Is there really a desire on the part of Republican Members of this House to ensure that young children are not able to gain lunches at school? Absolutely not. We believe that it can be done better.

The arrogance which is regularly shown by Members of the minority party in this House that only those of us here in Washington, DC, are in a position to make that decision is I believe reprehensible. The people who elected us also elected Governors, State legislators, city council members and school board members, and we believe that by eliminating this massive bureaucracy here which oversees the School Lunch Program we can better address those needs.

The Contract With America is alive and well and has the support of the American people; 80 percent of them support our balanced budget amendment which we hope will pass in the other body later today.

STAND UP FOR THE FREEDOM THE FLAG STANDS FOR

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

Mr. SKAGGS. Mr. Speaker, today several Members announced the introduction of an amendment to the Bill of Rights. While its purpose, to protect and encourage respect for the flag, is something we can all endorse, it means, a Government mandate, would do tragic violence to one of our most cherished freedoms: the first amendment guarantee of free speech.

The flag of our country stands for values and ideals that are enormously important and it is a symbol that we all cherish.

One of the things the flag stands for is a people and a government strong enough to tolerate diversity and to make room even for unpopular views. That is what the Bill of Rights and the first amendment is all about.

Respect for the flag does and will always flow from our patriotism, our love of country, but it is time again for us to stand up for what the flag stands for, the freedoms that we cherish in this land.

REPUBLICANS TRUST LOCAL LEADERS TO MAKE DECISIONS

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

Mr. LINDER. Mr. Speaker, Georgia's Governor Zell Miller favors the Republican school lunch plan. Nineteen of the Nation's governors want the money and the flexibility to feed the children of their State.

It does not take a straight A student to conclude that if we do not feed the Federal bureaucrats we can feed many more children.

Republican trust local leaders to make better spending decisions than the Federal Government. The creativity of the Governors, State legislatures and parents will be critical to our block grant programs. They will decide where their money is spent. Imagine that. Individuals and localities, not the

Federal Government, will decide how to spend their own money. That is what the November revolution was all about. This is the kind of change that we promised and it truly frightens the pencil-pushers in Washington. Money is power, and the Republicans aim to return that money and power to the States and the people.

Governor Miller—a Democrat—said it best, "Give us the money. We can use it more effectively and efficiently than any Federal bureaucrat."

EXPLAINING THE SCHOOL LUNCH PROGRAM TO CHILDREN

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

Ms. SLAUGHTER. Mr. Speaker, in light of recent committee action I cannot help but be struck by the irony that next week is National School Breakfast Week. I cannot help wonder what I am saying today to students at Barnard School in Greece, NY, when I go to their breakfast and say what I heard this morning was the Republican contract said that if you give school lunches and school breakfasts it helps to break up American families.

What am I going to say to a group of homeless students tomorrow, students who would not be in school today if the Congress had not provided for their education? Do I explain to them that Congress no longer believes that they are worthy of our support?

Should I say to the school children in the city of Rochester, NY, where over 35,000 students are eligible for free or reduced-priced lunches that they need a more effective lobby? Should I say to the homeless students that perhaps if they were to tie their needs to that of the agricultural industry, they could expect their program to be preserved?

Mr. Speaker, we all love to talk about how our children are our future, but with the recent actions of this body, our children must be wondering how they are supposed to be prepared for it.

SCARE TACTICS

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

Mr. CUNNINGHAM. Mr. Speaker, I am tired of the scare tactics the Democrats are using. I legislated and helped write the school nutrition block grants. We had Governors that came before us and the welfare system has failed. I took and separated the school breakfast and school lunch program out of the welfare grants with our contract. I also separated Women, Infants and Children and increased them by 4½ percent, increased them a billion and one-half dollars, yet the Democrats are saying we cut the program. What we did is limit the growth to 4½ percent from 5.2 percent. We did not cut, we in-

creased it a billion and one-half dollars.

What we did cut on this side of the aisle is big Government bureaucracy rules and regulations and made it cheaper to support those programs, and what they do not want to happen is to lose their little fiefdoms. That is what they are upset about. We support the children's nutrition program, and separated and increased the program. Even 80 percent of the money that goes to WIC is more than under the old plan.

□ 1130

MANY AMERICANS DUBIOUS ABOUT THE CONTRACT

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

Ms. JACKSON-LEE. Mr. Speaker, many Americans are dubious about this contract on America, but I tell you one thing, they are not doubtful about their children. They know what they want for their children, education and an opportunity to learn and, yes, they want school breakfasts and school lunches.

Mr. Speaker, I rise to share the great concern of many of my constituents who have made it clear to me they want me to fight to protect America's children from the unprincipled and draconian budget cuts proposed by the Republican majority.

Texas will lose at least \$1 billion through these cuts. While planning tax cuts and their sacred other cuts which will cause deficits to soar, my colleagues from the other side of the aisle have decided to declare war on America's children.

Mr. Speaker, included with various assaults on child nutrition contained in title V of H.R. 4 is a proposal to eliminate competitive bidding on infant formula purchases under existing programs. According to the Department of Agriculture, competitive bidding saved the States \$1 billion.

Let me say, Mr. Speaker, that we must concern ourselves with all of America's children. Feed the children. Let us not feed our egos.

HONORING OUR CONTRACT WITH AMERICA

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

Mr. HOKE. Mr. Speaker, day after day after day they come to the well of the House, the four horsemen of the liberal apocalypse: demagogery, distortion, obstruction, and hypocrisy.

The doomsday prophets of the lost battalion of the left, with chilling contempt and complete disregard for the will and wisdom of the American people, they ignore the call for change that sounded across this Nation last November. The question becomes: How

long will they remain dead to the urgent pleas for a new direction and blind to the overwhelming evidence against the failed liberal agenda of the welfare state? How long will they pay headlong allegiance to a philosophy of unlimited government and limited personal freedom, more spending, higher deficits, and more bureaucratic regulation of our lives, our economy, our future? How long will they go on trivializing and reducing the national debate to its lowest common denominator? How long will they persist with the politics of fear and with scare tactics calculated to incite class warfare and divide Americans one against another?

It is time to end the futile mission of the lost battalion of the left and honor our Contract With America.

FEDERAL FOOD ASSISTANCE

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

Mrs. CLAYTON. Mr. Speaker, for more than 50 years this Nation has had a commitment to its children. In less than 50 days some have moved to abandon that commitment, and by doing so, to abandon our children.

This Nation is strong not because of its military might or its technology. This Nation is strong because of its compassion. We care about those among us who are weak; the young, the old, the poor, the frail, and the disabled.

If our citizens are weak, we are weak as a nation.

Last year we spent just \$26 per American taxpayer for AFDC programs. Child nutrition programs represented just one-half of 1 percent of the total Federal budget outlay of 1994. The average food stamp benefit is served for 75 cents per meal, just 75 cents.

Children are not driving up our deficit. Senior citizens are not the cause of our economic woes. Programs for the poor do not represent pork.

Indeed, confronting hunger in America is a serious matter, not a partisan matter. It is a moral matter. It is irresponsible to put children's and our senior citizens' health at risk.

THE FOLKS AT HOME DO A BETTER JOB THAN THE FEDERAL GOVERNMENT

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

Mrs. CUBIN. Mr. Speaker, I want everyone to understand, and I want them to understand clearly, spending for the school meal programs will actually increase next year by at least 4 percent.

In addition, cutting an entire layer of Washington bureaucracy and limiting administrative costs of these programs by 2 percent will give more money to be spent on food programs.

Listen to this, the Republican proposal spends more money on the school

lunch program and the school breakfast programs.

Now, let us talk about who really cares here. There are 535 people in this organization in Washington here who make decisions for the whole country. There are three people who really care about the people in Wyoming, and the number of delegates that you have in your States that really care or know you. There are thousands of people in the State of Wyoming who care about feeding children, who care about our future, who care about our seniors, and those folks at home are responsive, and they will do a better job feeding our children than the Federal Government will.

CONTRACT OUT OF STEP WITH THE AMERICAN PEOPLE

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

Ms. DELAURO. Mr. Speaker, no matter how many of my colleagues on the other side of the aisle want to get up and tell us that what they did last week is untrue, they are, in fact, cutting the child nutrition programs. They are cutting the breakfast program. They are cutting the school lunch programs. Do not let them get away with it.

Mr. Speaker, as the American people learn more about the uncaring and extreme agenda of the Gingrich revolution, they are realizing that the Contract With America is not worth the laminated paper it is written on.

This New York Times poll released today confirms what Democrats have been saying—that we need to focus on crime, jobs, and health care. Those are the core challenges of our time.

But, instead of fighting crime by taking guns off our streets, the Gingrich revolution promises to overturn the assault weapons ban.

Instead of focusing on job creation, the Gingrich revolution promises to cut programs like the Summer Youth Program that creates public-private partnerships that put kids to work during the summer.

Instead of focusing on health care reform, the Gingrich revolution has produced legislation that will despoil the Medicare Program, hurt seniors, and shut down hospitals.

Contrary to what they want to say, Gingrich Republicans may walk in lockstep toward their 100 days, they are clearly out of step with the American people.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The PRESIDING OFFICER (Mr. ZELIFF). The Chair would like to remind our colleagues not to interrupt or interfere with other Members' speeches.

REPUBLICAN MAJORITY OUT OF THE MAINSTREAM

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

Mrs. LOWEY. Mr. Speaker, today's New York Times poll demonstrates that the new right-wing Republican majority is thoroughly out of the mainstream and completely out of touch.

On issue after issue the American people overwhelmingly reject the extremist proposals being offered by the right-wings Republicans.

Just look at the Republican agenda: They refused to protect Social Security from the budget ax, they gutted legislation to put 100,000 new police on the beat, they promise to cut student loans, and they slashed school lunches for hungry children.

To middle-class parents struggling to send their children to college the Republicans say: Tough luck. They tell 7-year-old children who cannot afford a school lunch: Go hungry. To seniors worried about Social Security the Republicans say: Take our word for it—the check's in the mail.

Mr. Speaker, Democrats know that the American people want sensible change—not a radical right-wing revolution. It is time for the Republican reign of terror to end.

THE BRADY ANNIVERSARY

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

Mr. SCHUMER. Mr. Speaker, I rise proudly today to celebrate the Brady law.

Unlike so much of the ideological silliness that is being rammed through this House to meet the new majority's train schedule, the Brady law was carefully weighed in the legislative balance. The Brady law works.

The Brady law is saving lives.

Because of the Brady law, men, women, and children all over America are living today. These are living, breathing Americans who—without question—would have been murdered by handguns if the Brady law did not exist.

Before the Brady law, convicted felons could walk into gun stores all over America, slap down their money, and walk out with a handgun. Those guns killed thousands of innocent people.

The Brady law stopped that madness. In 1 year alone it stopped at least 15,000 illegal gun sales, and probably as many as 40,000.

I am proud I sponsored this common-sense life-saver. And I warn the NRA and its allies who want to repeal Brady and put guns back into the hands of convicted felons.

Get ready for the fight of your life.

Because the American people demanded the Brady law. The American

people want the Brady law to keep saving lives.

The American people will fight to keep it.

SAVE THE SCHOOL LUNCH PROGRAM

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

Mr. GENE GREEN of Texas. Mr. Speaker, obviously I am not going to talk about the Brady bill, being from Texas.

But let me talk about school lunch programs and the importance of making sure that we save that program.

In the Houston Independent School District next year we would lose a half-million dollars for the school lunch and breakfast program. In the State of Texas, we would lose \$261 million in a 4-percent cut. The first round of cuts included the school breakfast and lunch programs. The second round of cuts last week from the Committee on Appropriations included funding for safe and drug-free schools.

I think this is a war on schools and a war on education and a war on children, and I would hope that we would then look at this Contract With America and see whether providing increased funding, including \$11 million for two new airplanes the Army did not request, \$20 million for a new runway for a base that is on the Base Closure Commission, \$1 million for a bike trail in North Miami Beach, I think we see the priorities have changed.

We are taking money away from breakfast and lunch programs and providing it in this new Contract on America.

PROVIDING VFW MEMBERSHIP ELIGIBILITY TO VETERANS WHO SERVED IN SOUTH KOREA

Mr. HYDE. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 257) to amend the charter of the Veterans of Foreign Wars to make eligible for membership those veterans that have served within the territorial limits of South Korea, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

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

Mr. MONTGOMERY. Mr. Speaker, reserving the right to object, and I shall not object at a later time, I yield to the gentleman from Illinois [Mr. HYDE], the chairman of the Committee on the Judiciary, for an explanation of the bill.

Mr. HYDE. Mr. Speaker, this is genuinely noncontroversial legislation. S. 257 would amend the Federal charter of incorporation granted by Congress to the Veterans of Foreign Wars in 1936.

Specifically, this legislation would amend the eligibility requirements for membership in the VFW, so as to include those servicemen and service-women who served "honorably on the Korean peninsula or in its territorial waters for not less than 30 consecutive days, or a total of 60 days, after June 30, 1949." This would recognize the heroic service and sacrifice of the American troops who have served in Korea, including those stationed in the demilitarized zone between North and South Korea.

This measure has already passed the other body on February 10, 1995. The principal sponsors of the counterpart House bill (H.R. 623) are the gentleman from Arizona [Mr. STUMP], the distinguished chairman of the Veterans' Affairs Committee; the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Rules Committee; and the gentleman from Mississippi [Mr. MONTGOMERY], the distinguished former chairman of the Veterans' Affairs Committee. All of these colleagues have been instrumental in moving this legislation forward.

Mr. MONTGOMERY. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Arizona [Mr. STUMP], the distinguished chairman of the Committee on Veterans' Affairs.

Mr. STUMP. Mr. Speaker, I rise in strong support of S. 257, a bill to amend the congressional charter of the Veterans of Foreign Wars. Recently, I introduced identical legislation in the House, H.R. 623, along with my good friends, SONNY MONTGOMERY and JERRY SOLOMON.

This legislation would allow virtually all veterans who have served in Korea to be eligible for VFW membership. We are all familiar with the extremely dangerous nature of duty along the DMZ and the constant threat of war in Korea. Clearly, those veterans of Korean service after June 30, 1949, who served honorably for not less than 30 days or a total of 60 days, should be able to belong to the VFW.

But under the VFW's current charter, only veterans who received an expeditionary badge are eligible to belong to the VFW. Many veterans who served honorably in Korea cannot belong to the VFW because they did not receive the required expeditionary badge due to restrictive DOD eligibility criteria. The VFW's initiative to include these veterans of Korean service among its membership is most commendable.

Mr. Speaker, today I mostly want to take time to thank the distinguished chairman of the Judiciary Committee, HENRY HYDE, and his staff for their expeditious consideration of this bill.

The Judiciary Committee has been working extremely long hours for several weeks. I sincerely appreciate their taking the additional time to consider this matter of great importance to the VFW.

Mr. MONTGOMERY. Mr. Speaker, further reserving the right to object, I

rise in support of this measure and commend the gentleman from Illinois [Mr. HYDE] and the gentleman from Michigan [Mr. CONYERS] for expediting the vote on this measure.

As they are well aware, I joined the gentleman from Arizona [Mr. STUMP] and the gentleman from New York [Mr. SOLOMON] in sponsoring this bill which is now before us.

Mr. Speaker, the Veterans of Foreign Wars is one of the most highly regarded of the many veterans' service organizations that exist today. The VFW is a volunteer organization, and this bill would simply make more veterans who served overseas in Korea eligible to join the organization.

Mr. Speaker, with that brief statement, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act of May 28, 1936 (36 U.S.C. 115), is amended to read as follows:

"SEC. 5. A person may not be a member of the corporation created by this Act unless that person—

"(1) served honorably as a member of the Armed Forces of the United States in a foreign war, insurrection, or expedition, which service has been recognized as campaign-medal service and is governed by the authorization of the award of a campaign badge by the Government of the United States; or

"(2) while a member of the Armed Forces of the United States, served honorably on the Korean peninsula or in its territorial waters for not less than 30 consecutive days, or a total of 60 days, after June 30, 1949."

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RISK ASSESSMENT AND COST-BENEFIT ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 96 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1022.

□ 1145

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1022) to provide regulatory reform and to focus national economic resources on the greatest risks to human health, safety, and the environment through scientifically objective and unbiased risk assessments and through the consideration of costs and benefits in major rules, and for other purposes, with Mr. HASTINGS of Washington in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, February 27, 1995, the amendment offered by the gentleman from Idaho [Mr. CRAPO] had been disposed of and the bill was open for amendment at any point.

Six hours and fifty-six minutes remain for consideration of amendments under the 5-minute rule.

Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. TRAFICANT

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

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: At the end of section 106 (page 18, line 25), add after the period the following:

For the purposes of this section, the term "non-United States-based entity" means—

- (1) any foreign government and its agencies;
- (2) the United Nations or any of its subsidiary organizations;
- (3) any other international governmental body or international standards-making organization; or
- (4) any other organization or private entity without a place of business located in the United States or its territories.

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

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

There was no objection.

Mr. TRAFICANT. Mr. Chairman, this is a compromise version of my amendment that fits in with the intent of the committee. I agree with the Chair that we must identify what in fact a non-United States-based entity is. I believe that that definition should be in the bill itself as we did with the gentleman from Idaho, Mr. CRAPO's, piece of legislation.

So, with that, what I am saying is a non-United States-based entity is any foreign nation or government and its agencies, United Nations or any of its subsidiary organizations, other international governmental bodies or standards-making organizations or any other organization or private entity without a place of business located in the United States or its territories.

That, basically, I think, captures the intent of the committee and defines the parameters that are safe enough for our country and for the world to understand.

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

Mr. TRAFICANT. I yield to the distinguished gentleman from Pennsylvania [Mr. WALKER], chairman of the committee.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, the gentleman has in fact provided, I think, a very useful clarifying amendment. The amendment does track language that was in the report in a manner similar to what the

gentleman from Idaho [Mr. CRAPO] presented last evening on emergencies.

I think the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] is very helpful. I congratulate the gentleman for his vigor in pursuing this issue, he pursued it in committee. I think he has come up with language which is very helpful, and we are prepared to accept the gentleman's amendment.

Mr. TRAFICANT. I thank the gentleman from Pennsylvania and his staff for the assistance we have received on their side of the aisle.

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

Mr. TRAFICANT. I yield to the distinguished gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. I thank the gentleman for yielding to me.

Mr. Chairman, on behalf of the Committee on Commerce, the amendment is accepted. I too want to commend the gentleman from Ohio for his wisdom and diligence, really. It takes some diligence sometimes because there is no question that we were not able to afford as much time to this legislation as we ordinarily would like. Without the gentleman's amendment, who knows what the future might bode in terms of the definition of what was meant by the intent of the legislators.

So I commend the gentleman and thank him for his contribution.

Mr. TRAFICANT. I thank the gentleman, and also the fact his discussions on the World Health Organization and some of those other bodies makes an awful lot of sense.

Mr. Chairman, I urge support of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. OXLEY

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

The Clerk read as follows:

Amendment offered by Mr. OXLEY: Page 37, after line 2, insert:

(b) STATE, LOCAL, AND TRIBAL PRIORITIES.— In identifying national priorities, the President shall consider priorities developed and submitted by State, local, and tribal governments.

Page 37, line 12, after "report" insert "and priorities developed and submitted by State, local, and tribal governments."

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

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

There was no objection.

Mr. OXLEY. Mr. Chairman, this would merely add to the priority-setting provision in title VI of the bill to require the President to consider public health priorities developed by State and local governments.

The National Governors' Association recommended this amendment to me after it reviewed the bill.

It gets the priority-setting process closer to where the priorities really are, at the State and local levels.

This is noncontroversial amendment that I think improves the bill and is supported by the State governments.

In support of my amendment, I would point out some language that exists currently in the bill in section 17, where we talk about guidelines in consultation with State and local governments, in section 109, study participants may include people from State and local governments, and then in section 202, no final rule shall be promulgated unless the incremental risk reduction would be likely to jeopardize the incremental costs incurred by State and local governments.

I think, Mr. Chairman, you can see from the tenor of the language already in the bill that the amendment fits very well into the goals of the legislation where we take into consideration State and local governments.

As I indicated, the National Governors' Association asked me to offer the amendment on their behalf, which I have done.

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

Mr. OXLEY. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman has offered a very worthwhile amendment, it is a good addition to the priority section and will ensure Federal officials are not operating in a vacuum.

Mr. Chairman, I am prepared to accept the amendment.

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

Mr. OXLEY. I yield to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. I thank the gentleman for yielding to me.

Mr. Chairman, we have viewed this amendment on our side, and we see that it makes some valuable contributions to the legislation, and we are happy to accept it. We note the good contributions from my friend, the gentleman from Ohio [Mr. OXLEY], with the President considering the priorities developed at the State and local levels.

Mr. Chairman, we accept the amendment.

Mr. OXLEY. I thank the gentleman.

Mr. CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. OXLEY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROEMER

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

The Clerk read as follows:

Amendment offered by Mr. ROEMER: Strike section 401 (page 34, lines 2 through 19) and insert the following:

SEC. 401. JUDICIAL REVIEW.

Nothing in this Act creates any right to judicial or administrative review, nor creates

any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person. If an agency action is subject to judicial or administrative review under any other provision of law, the adequacy of any certification or other document prepared pursuant to this Act, and any alleged failure to comply with this Act, may not be used as grounds for affecting or invalidating such agency action, but statements and information prepared pursuant to this title which are otherwise part of the record may be considered as part of the record for the judicial or administrative review conducted under such other provision of law.

Strike section 202(b)(2) (page 29, line 24 through page 30, line 6) relating to substantial evidence and strike "(1) IN GENERAL.—" in section 202(b) (page 29, line 18).

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

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

There was no objection.

Mr. ROEMER. Mr. Chairman, I offer this amendment on behalf of myself and the gentleman from New York [Mr. BOEHLERT] as a bipartisan amendment to provide commonsense legal reform.

I rise as someone who has been a strong supporter of risk assessment, somebody who believes that, with diminishing resources at the Federal level, that we need to apply those diminished resources, monetary resources, in the most commonsense way possible to promote new public policies, especially as they relate to the environment and to other rulemaking procedures through our Federal agencies.

We are at a time, Mr. Chairman, where we do not have the ability nor the resources to go about throwing money at all kinds of problems, whether it be attaining clean air or clean water, and where we have attained 95 percent clean air or clean water and then mandating that we go ahead and clean up the remaining 2, 3, 4 percent and finding that that did not have a substantial risk to the population and that the money involved in cleaning that air or water would have been a substantial waste of taxpayers' money.

That simply is what we are trying to do in passing risk assessment cost-benefit analysis. It provides some common sense to rulemaking and to public policy-making at the Federal level.

Mr. Chairman, I strongly support this amendment.

Mr. Chairman, I strongly supported this legislation as a member of the majority last year when we had to fight the rules put forward by our own party that were considering elevating the EPA, and many of us made the argument if you are going to elevate EPA and give them more authority and more money, let us make sure they apply risk assessment and cost-benefit analysis procedures. We fought against rules proposed by our side.

So I am a very strong supporter of this legislation. However, the judicial review section of this bill opens up the legal process to all new forms of litigation. Just as we were arguing, Mr. Chairman, that because you can regulate does not mean it makes common sense to regulate, we apply the same standard with the Roemer-Boehlert amendment to legal reform, that because you can sue does not mean you should go forward and sue.

This bill opens up judicial review to a host of new rulemaking processes, not just at the end of the rulemaking, where we would like to keep it and maintain it, but it allows you several bites out of the apple now, not just one bite of litigation at the end but several bites during the rulemaking process.

This will hurt businesses, it will hurt environmental groups, it will cost more money, and it runs counter to the very kinds of things we are trying to do in this bill by using common sense.

If we are going to use common sense in rulemaking and limit regulations, let us use common sense in legal reform.

Now, if you love the Superfund bill and you think that makes consultants and the lobbyists rich, you are going to love this part of judicial review. This could be called the Full Employment Bill for Lawyers and Lobbyists, if this provision on judicial review is maintained.

Let me explain in two areas why I think this should be changed and would be changed by the Roemer-Boehlert bipartisan amendment.

First of all, the new standard established under this bill is substantial evidence of compliance. Now, I am not a lawyer, but merely reading those words in the bill, "substantial evidence," on pages 29 and 30, shows you have a new threshold and criterion to establish. Right now, we have the threshold of it simply being not arbitrary and capricious. That is what the court would rule on, not arbitrary and capricious.

Now, when you set this new standard of substantial evidence of compliance and open this up throughout the rulemaking process, we have the courts then taking over in science, in rulemaking, in regulation, delaying this process all throughout the course of litigation.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. ROEMER] has expired.

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

Mr. ROEMER. This drives up costs, diverts scarce resources that we are trying to maintain with the sensible cost-benefit analysis, and it builds in hosts of delays that could in fact hurt businesses.

Let me give you my second example. Not only is there a new higher standard that will allow all kinds of litigation, but let us say you are a business and you are applying through the Food and Drug Administration for a new phar-

maceutical patent, and you are 2 years ahead of your competitor. Instead of waiting for the Food and Drug Administration to promulgate at the end their final rule, which would now be under the current law under judicial review, under this bill's judicial review, a competitor of that business, a competitor could delay the Food and Drug Administration from considering that business's application, delay this process, and hurt what was a natural advantage established by the private sector in developing that patent; it would delay them unfairly, catch up with them through the delay of 2 years and really use judicial review in a sense that we do not want to see it utilized.

So, Mr. Chairman, let me conclude by saying this is a bipartisan amendment. This received Republican votes in committee. The issue is common sense to the real reform process, not just as I have supported in the past, common sense on effectiveness and risk assessment; and finally, it uses the standard of not arbitrary and capricious, which is a much better standard than substantial evidence of compliance which this bill would establish.

Do not create a new cottage industry of lawyers in this town. Please support the bipartisan amendment offered by myself and the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, today's debate on judicial review is really a debate about Congress abrogating its responsibilities to the courts and, in so doing creating what can only be characterized, as my coauthor of this amendment has described, a full employment opportunity for lawyers.

As we did with such litigation nightmares like Superfund, we are creating potential for litigation that will choke our Nation's courtrooms and cost the American taxpayers and the Federal Government millions of dollars.

□ 1200

The Congressional Budget Office has estimated that the implementation of this legislation will cost in the neighborhood of \$250 million. By keeping the current judicial review language that is found in H.R. 1022 in place, our society will likely spend far more than this on unnecessary litigation. To date billions of dollars have been spent on Superfund litigation, more than has actually been spent on cleaning up Superfund sites. We do not want to duplicate that.

If we do not adopt the Roemer-Boehlert amendment, we will end up spending more of the taxpayers' dollars and industry's resources on litigation than we are spending on doing risk assessments—once again, shades of Superfund. And, incidentally, who is going to pick up the tab? It is going to be the consumer who will pay the ultimate price.

Under current law the Administrative Procedures Act provides the regulated community with a clear and often-used tool for seeking relief from poorly crafted regulations.

If an agency has overstepped its bounds in writing regulations, this Congress through oversight committees and the control of every nickel that an agency receives has at its fingertips the ability to ensure that agencies promulgate reasonable regulations. But through H.R. 1022 we are saying that we cannot control, or will not make the effort to control, Federal agencies that are disregarding congressional intent. We are failing to do our job, so we are going to pass the burden of being vigilant on to the courts and the American people. I do not think that is the appropriate way to proceed.

Such an approach will clog Federal courtrooms, costing taxpayers millions of dollars and delaying actions on other activities that are of real importance to the safety of the American people. H.R. 1022 would create over 50 new specific procedures that will be reviewable by the courts.

This legislation was introduced to reduce burdens and relieve gridlock. We certainly want to reduce burdens and relieve gridlock, but the judicial review provisions here fly in the face of these very worthy goals.

The Roemer-Boehlert amendment, while maintaining current judicial review procedures for final agency actions, holds that risk assessments guidelines under this act are not reviewable. Without this clarification, H.R. 1022 can be manipulated by those with a vested interest in a particular regulatory proposal to impede the regulatory process.

Regulations, many of which are critical to the health and safety of every American, could be delayed for years in a quagmire of endless litigation. Judges should be engaged in making legal decisions and scientists should be making decisions on issues of science. A vote for the Roemer-Boehlert amendment preserves those roles and ensures that our courtrooms do not become a forum for regulatory delay.

The American people want timely, well-reasoned, cost-effective decisions on how regulations should be used. Dumping the burden of sorting out what regulations should go forward on the courts achieves none of these goals.

The need to prevent H.R. 1022 from generating mountains of frivolous litigation is an issue important to Members on both sides of the aisle, as evidenced by a "Dear Colleague" on this issue sent out by the gentleman from Louisiana [Mr. HAYES], myself, and 18 other distinguished Members of this body. This was a true bipartisan effort.

Mr. Chairman, a vote for the Roemer-Boehlert amendment is a vote to prevent the costly, unnecessary proliferation of litigation that the American people have expressed their unhappiness with.

Mr. Chairman, let me close by adding something here that I think is very important. We are always looking for legitimate case studies, examples that we can point to and say, "This is how it works." Let me share this with my colleagues.

Had H.R. 9 been in effect 25 years ago, it would have barred one of the most effective environmental health initiatives ever undertaken anywhere—the removal of lead from gasoline.

The CHAIRMAN. The time of the gentleman from New York [Mr. BOEHLERT] has expired.

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

Mr. BOEHLERT. Mr. Chairman, the phaseout of lead is widely accepted to have had tremendous benefits for our society, with children's average blood levels falling about 75 percent since the phaseout began in the mid-1970's. But substantial evidence of the relationship between lead and gasoline in our children's blood became available as a result of phaseout rules. It did not exist when the regulations were being developed. If the regulations had not been imposed, lead levels would not have fallen, creating a vicious circle of continued exposure and regulatory paralysis. In addition, the manufacturers of leaded gasoline additives could have delayed the regulation almost indefinitely by arguing that reducing lead exposure from other sources would have been more flexible.

Mr. Chairman, I am a strong supporter of risk assessment and the knowledge that it is an idea whose time has come. When we talk about billions of dollars being spent across this country for regulation, for the implementation of regulations, that is right, we do spend billions of dollars to implement regulations to guarantee the safety of our food supply, to make sure that the air we breathe is reasonably clear, and to make sure the water we drink is reasonably pure. We have had too many horror stories out there across America where things go wrong, and we do not want things to go wrong when we are dealing with the public's health and safety.

So I think we have a reasonable amendment here on the subject of judicial review and I urge my colleagues to give it the very serious consideration that it deserves.

Mr. Chairman, I might point out that in a bipartisan way, Republicans and Democrats alike have analyzed this, and there is a growing body of us on both sides of the aisle who think this amendment should go forward and that it would be a constructive addition to the bill.

Ms. HARMAN. Mr. Chairman, I move to strike the last word, and I rise in support of the Roemer-Boehlert amendment.

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

Ms. HARMAN. Mr. Chairman, I am proud to cosponsor this amendment and would identify precisely with the comments of my colleague from New York, Mr. BOEHLERT. It feels very good to have a Member from the other side reach for some of us here who have been supporting much of the program of the contract but who feel that some of it needs some correction. In the area of judicial review I feel very strongly a correction is needed to this bill, and I would say that many of us who support risk assessment would be extremely comforted if this correction were made. It would make it much easier for us to support the legislation on final passage.

Mr. Chairman, I have been a lawyer for over 26 years, most of that time in private practice, and I know that H.R. 1022's judicial review provisions will quickly turn regulatory reform, which we all support, into a lawyer's paradise by providing for interim judicial review. And that is what we are talking about here, interim judicial review of risk assessment and cost-effective analyses. H.R. 1022 will allow any individual to cause regulatory gridlock. This is any individual, as I say.

While one of the bill's goals is to improve the science underlying risk assessment, it is ironic that ultimately judges, not scientists, as the last speaker has pointed out, will become the final arbiters of cutting-edge risk-assessment science.

Some Members argue that H.R. 1022's judicial review provisions are necessary to guarantee enforcement of the bill. Mr. Chairman, nothing could be further from the truth. We in Congress, a Republican-controlled Congress, continue to have oversight of Federal regulatory agencies. This Member is not ready to abdicate that responsibility.

While the Roemer-Boehlert amendment would prohibit interim judicial challenges, it does nothing to alter the Administrative Procedures Act, which provides for judicial review of final agency actions.

Let me point out that legal review will still be possible at the right time in the process, even with the passage of the Roemer-Boehlert amendment. Under such review, risk assessment and cost-benefit analyses will continue to be part of the record and will, therefore, be subject to court scrutiny.

Mr. Chairman, without the Roemer-Boehlert amendment, H.R. 1022 will soon become, as the gentleman from Indiana [Mr. ROEMER] has said, the "Full Employment for Lawyers and Lobbyists Act," and ultimately the taxpayers will be left footing the legal bills.

Mr. Chairman, let us adopt this bipartisan, good-spirited, and very sensible course correction to a risk analysis bill that many of us would like to support.

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

Mr. Chairman, let me first say that I have great respect for the two gentlemen offering the amendment, but I have to say that, based on the debate we had last night, this is more of the same. This bill, not the amendment but the bill, is about accountability. It is about making the regulators accountable to somebody.

The reason we are here today is because the regulators over these last 40 years have been essentially unanswerable to anybody when these regulations come pouring out of the Federal Register. So the bill is about trying to get some accountability in the process, and I fear, and I know, that this amendment basically strips away that accountability and allows those regulators to run roughshod over businesses and industry in this country that are trying to create jobs and trying to create products.

My friend, the gentleman from Indiana, I think, is in error and totally misrepresents or misreads the bill or the provisions in the bill when he says that we are going to provide more than one bite of the apple.

Let me refer the gentleman to the language in title IV under Judicial Review, the section he seeks to amend. I quote as follows from line 7:

"The court with jurisdiction to review final agency action under the statute granting the agency authority to act shall have jurisdiction to review. * * *" Then it goes on in line 13 again to talk about final agency action, and that indeed is the target here that we are trying to emphasize.

This is really a business-as-usual amendment for the bureaucrats, and I am sure that most of the Members have probably gotten some entreaties from the bureaucrats asking them to support this amendment.

By the way, Mr. Chairman, this amendment was offered by the gentleman from Illinois [Mr. RUSH] in our committee. It was defeated on a bipartisan vote.

I think this amendment, if it were to be adopted, would essentially gut this bill. It would make it unenforceable and would provide no particular accountability. There is no hammer for some kind of regulation unless we have judicial review. Judicial review is really at the heart of what we are talking about.

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

Mr. OXLEY. I am pleased to yield to my friend, the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, the gentleman, I think, misrepresents both the intent and the effect of this amendment. Certainly if the Roemer-Boehler amendment was adopted, judicial review would be alive and well. It just is not pervasive through the process.

What we are saying is that we still have OMB's ability for oversight, we have congressional oversight, and we have the Administrative Procedures Act. All this is still intact. We just do not want to see the expansion of new

thresholds put in, and the ability to litigate throughout the rulemaking process.

Mr. OXLEY. Mr. Chairman, if I could take back my time, I guess essentially the gentleman says that he is satisfied with the status quo and what is going on in terms of what is happening out in the regulatory world. This bill is designed to limit and to get some common sense back in this regulatory process. If the gentleman would concede to me that he is willing to allow the existing regime to take place in all those statutes he has mentioned, I would say, fine, let us have an argument about that.

□ 1215

But do not try to essentially gut this particular bill and say we are going to rely on the existing statutes, when in fact those existing statutes, particularly the regulations that have emanated from them, have been a tragedy, have gone far beyond even the necessity for what the bill called for, the original bill called for, and in my estimation your amendment really does damage the bill.

Mr. ROEMER. If the gentleman will further yield, just as it would be a tragedy, as the gentleman from Ohio knows, to continue to let regulations tie up this country in terms of its scarce resources and its public policy debate, it is an equal travesty not to use common sense to reform the legal aspect here and to allow litigation to proliferate and explode.

That is what the bill will allow to happen. We are trying to prevent that. Let us use common sense both in limiting bureaucracy and regulation, and in applying common sense to legal reform.

Mr. OXLEY. Reclaiming my time, Mr. Chairman, I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding. The gentleman from Indiana has referred to common sense. Common sense tells you that using OMB for the last 20 years or so has been disastrous.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. OXLEY] has expired.

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

Mr. OXLEY. Mr. Chairman, I yield to the gentleman from Pennsylvania.

Mr. WALKER. Common sense will tell you using OMB for the last 20 years or so has not worked. Congressional oversight over the last 40 years has not worked. If we want to provide common-sense standards, look at what is happening. Common sense tells you the standards that the gentleman wants us to rely upon have not worked. We have ended up with a regulatory nightmare, and the gentleman wants to preserve that nightmare.

His admonition here just a moment ago is that those are what would be available to us if, in fact, his amendment passes. The fact is, even some of

the standards under present law would not be available to us under the gentleman's amendment.

Mr. OXLEY. Mr. Chairman, reclaiming my time, the gentleman from Pennsylvania is absolutely right. This is a status quo amendment. If you are happy with the existing status quo as far as regulations are concerned, then you want to support this amendment. But let me read the language of the Roemer amendment: "Nothing in this act creates any right to judicial or administrative review, nor creates any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person."

Then it goes on to say, "If any agency action is subject to judicial or administrative review under any other provision of law, the adequacy of any certification or other document prepared pursuant to this Act, and any alleged failure to comply with this Act, may not be used as grounds for affecting or invalidating such agency action * * *."

It essentially means bureaucrats, keep on turning out those regulations, and we do not have any way if this amendment passes to have any accountability whatsoever. I think that is a travesty. We basically have rejected this argument last night in the Brown amendment, and I think that this is essentially part of the Brown substitute. It should be rejected just like the Brown substitute was last night, and I yield back the balance of my time.

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

Mr. Chairman, there is really a deep problem with the legislation and the provision that we are considering at this point in time, and that is a question of judicial review. Historically, in this country the courts have vacillated between micromanaging administrative agencies in rare circumstances, and adopting an essentially hands-off approach. The standards for judicial review of rulemaking has essentially been one that grants very substantial deferences to the agency process. This is review of rulemaking as opposed to adjudicatory procedures within the agency.

The legislation that we are considering extends the requirements for rulemaking to include peer review, to include risk analysis, cost-benefit analysis. These are very far-reaching extensions. And the question that is before the body is if we have such far-reaching extensions, what is the role of judicial review in this context? Because essentially what we have now are three different documents that the court could review. First, it would have the rule itself and whatever agency explanation there is for the rule. Second, there would be the risk assessment. Third, there would be the peer review.

Now, assuming that all of these steps, all of these documents are necessary as a part of the process, the question is should we take this to its logical extreme and have the courts then comparing the rule with the risk analysis and with the peer review process, and the courts ultimately deciding how should that peer review process and the risk analysis be interpreted by the agency in the preparation of the final rule.

I submit that at this point we are taking historic action to begin with by extending the risk analysis and the peer review process to all agency rule-making. To take this to the further point of having full and complete judicial review of how that risk assessment and peer review was conducted and how it was considered by the agency, would in my opinion result in the courts' micromanaging the administrative process.

Now, you may say this is desirable, because we feel the agencies have defaulted. I submit that that fails to recognize at least two critical considerations. First of all, most of the agency rulemaking that is so controversial in this country did not come full-blown from the heads of the agencies themselves. Instead, these rules can be traced back to acts of Congress which in amazing detail told the agencies what they were supposed to do. And if we only would look at what we did in Congress, we would better understand why the American public is so frustrated with what our administrative agencies have done.

Second, we fail to recognize that this tool of judicial review can be used and abused by every interest group in our society that is unhappy with the rule, both to challenge the rule on the merits and to delay its implementation. Litigation quite often is an exercise in delay. Litigation is quite often used by the loser, who decides that that group or he or she cannot win in the political process, so now they will resort to the courts.

Sometimes these group are environmental, consumer, conservation and similar groups. Other times they are business groups. And if we provide full opportunity for any group that feels aggrieved by a rule to relitigate the rulemaking process in court, we are going to find that we have hamstrung effective decisionmaking in the executive branch of government.

Now, this may, indeed, be the goal of some Members of this body, but I know that in my visits with the business and financial community in my district, that they find that a very significant part of the rulemaking process is important for the well-being of their industry, and they want Government that works and works effectively and is fair, but they do not want Government that is ineffective and incompetent.

So I urge that this amendment be adopted, that we take a go-slow approach, and not take this to the opposite extreme where the pendulum will

simply be returning in the other direction and we will be revisiting this only a regular basis.

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

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

Mr. GILCHREST. Mr. Chairman, I rise in support of the amendment. The rigid discussion here is about who has the responsibility of overzealous regulators and who has defaulted on that responsibility, has it been the regulators or has it been Congress? Who has not taken the accountable, responsible position to follow the law through the regulatory process to see how it has impacted on business, on industry, on the private sector, on environmental regulations, on all of these things? Who has reneged on their responsibility?

I would tell you in this room today that it is the Congress that has reneged on the responsibility to follow through, to see where the regulations have gone too far.

Who should the regulators be responsible to then? Should they be responsible to the courts, or should they be responsible to us, Members of Congress? And I would tell you emphatically that the regulators who we appoint, who we give responsibility to, who we determine what their latitude is, ultimately the responsibility of the regulators is not the courts, it is the Congress.

Mr. Chairman, if there is an irony here in this bill, it is that at the same time that the House committees are considering legislation to deal with the real problem of excessive litigation in our society, we are about to pass a bill which is going to throw final decisions of resolving these problems in the courts. The defendant will be the Government, and the legal bills will be paid by the taxpayer.

I am not opposed to efforts to put cost-benefit analysis into the regulatory process. I am not opposed to that, and I may very well support this bill with some of the modifications, including this. But allowing parties to challenge final regulations on the benefit of cost-benefit is certainly not a step toward more efficient government.

Opponents of this amendment will argue that judicial review is the only way to force the agencies to implement risk assessment. I disagree. We, the Congress, through the oversight responsibilities of these regulatory agencies, are eminently capable of making the agencies do exactly what we want them to do, and it is our ultimate responsibility, we, Members of Congress, and not the courts.

I know the supporters of the bill included the amendment out of fear, and this is real fear and this is historical fear, this is the real thing, that the agencies would simply ignore the requirements of the bill, and I am sure that judicial review language is well-intentioned.

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

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

Mr. WALKER. I just wanted to go back. I do not want the gentleman to get too far away from the point he made earlier. Are final agency rules available for judicial review now? Under existing law, when final rules are made, are they eligible for judicial review at the present time?

Mr. GILCHREST. The answer is yes, but it has not been done sufficiently enough so the idea that we should have judicial review in this context for cost-benefit analysis is appropriate.

Mr. WALKER. If the gentleman will yield further, I am confused. The gentleman says we are going to add a whole new wave of litigation. The fact is the exact standard in the bill, that final agency regulations and rules are in fact subject to judicial review is in fact the law right now. If we do not do it in this bill, that backtracks from where the law is right now. The gentleman appears to be looking to back-track.

Mr. GILCHREST. Mr. Chairman, reclaiming my time, the judicial review section of this bill is in my judgment a much more onerous requirement that has not been in the law in the past.

Mr. WALKER. If the gentleman would yield further, could the gentleman tell me where this is more onerous than the present law is?

Mr. GILCHREST. Let me give an example of the practical effect of this provision as it now exists and has not existed in the past. This provision will provide parties who are opposed to regulatory actions with the means to delay or stop them, regardless of whether the agency complied with the bill. Anyone opposed to a regulation need merely challenge the propriety of the cost-benefit analysis to tie the regulation up in court, and every analysis would be subject to challenge.

There are 60 different ways that this challenge can be litigated. Just let me read some of the proposed challenges. Does risk assessment appropriately address the reasonable range of scientific uncertainties? If no single best estimate to risk is given, does risk assessment include an appropriate discussion of multiple estimates? If a risk assessment includes multiple estimates of risks, are the assumptions, inferences, and models associated with such multiple estimates equally plausible? There are 60 of these things.

Mr. Chairman, I would request the Members support the Roemer-Boehlert substitute.

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

Mr. Chairman, I rise in opposition to the amendment. The other side has made an awful lot of arguments in support of the amendment, trying to defeat the judicial review provisions of the bill. One of the arguments that was

made was that it takes two bites from the apple.

I would like to read maybe pertinent sentences, if you will, of section 401, Judicial Review. "Compliance or non-compliance by a Federal agency with the requirements of this Act shall be reviewable pursuant to the statute granting the agency authority to act or, as applicable, that statute and the Administrative Procedure Act. The court with jurisdiction to review final agency action," underlined, "final agency action under the statute granting the agency authority to act shall have jurisdiction to review, as the same time, the agency's compliance with the requirements of this Act. When a significant risk assessment document or risk characterization document subject to title I is part of the administrative record in a final agency action," and then it goes on.

□ 1230

The point of the matter is that if we had underlined final agency action, maybe the point would have gotten across. There is not any attempt under this legislation to have more than one bite at the apple. It is the final agency action that is reviewable and only that.

I would go further here. It was said by my very close friend, my colleague, we came into the Congress together, we are very close friends, disagree on this issue, the gentleman from New York [Mr. BOEHLERT], he is my close friend, but anyhow basically he referred to the environmental revolution, I suppose, that has taken place over the last 20 years and how many of those good things would not have taken place were this type of language in effect at that point in time.

He used the illustration of the lead gasoline ban. In truth, a recent article published by the Harvard Center for Risk Analysis shows that risk assessment and cost-benefit analysis, the same procedures, the same procedures required in our bill were central to the EPA's lead gasoline ban.

I quote,

EPA chose not to use the traditional methods of regulatory toxicology and instead employed modern methods of risk assessment in phasing out lead in gasoline.

The point I think is that this is considered to be such a terrible, radical way to go. In all of our hearings, in all of our markups, throughout all of our days of markups, the other side who opposed this legislation basically got up and said, well, we agree with risk analysis, with risk assessment, with cost-benefit analysis. The gentleman from Maryland just made the same comment. Well, if there is an agreement, then what is wrong with this bill?

I would suggest to Members that it is very possible that if we had this legislation in effect at that point in time, that quite a few, if not all of the environmental radical revolutions that took place over the years probably would have taken place in any case.

A point that I guess was not made as yet is that the gentleman's amendment would remove the substantial evidence test. Under the Administrative Procedures Act, final agency action as we know is only overturned when it is arbitrary and capricious. Of course, that is, I think most everyone would agree, very deferential to the agency because of the very high burden for people to bear to prove that an agency is acting in an arbitrary and capricious manner.

Of course. The legislation applies a substantial evidence test, which means that an agency must present substantial evidence that it complied with the act. I see nothing wrong with that. The bill substitutes a substantial evidence test for the arbitrary and capricious test so that the agencies must really demonstrate to a court that they are complying with the act's cost-benefit requirements.

Mr. Chairman, for all of those reasons I oppose the amendment.

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

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

Mr. ROEMER. Mr. Chairman, just reading through the report, it certainly appears from the report language that such things as risk assessment guidelines, are they subject to judicial review under this new language?

Mr. BILIRAKIS. In terms of the final agency action, yes.

Mr. ROEMER. So that is new, that does expand the scope.

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

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Indiana [Mr. ROEMER] cosponsored by the gentleman from New York [Mr. BOEHLERT] and also cosponsored by myself and several other of us who serve on the Science Committee.

This amendment is necessary to ensure that the regulatory process does not become an eternal playground for lawyers. In asking agencies to use the tool of risk assessment, we are trying to ensure that regulation is based on sound science. As currently written, passage of this bill will allow any party to litigate agency actions before they have even been completed. Judicial review can be used to interfere in the scientific process and delay timely consideration of new medicines and other products.

Currently, the courts can review a final agency action on the basis of whether the action was arbitrary and capricious. In this law, we are requiring agencies to use over 50 new specific procedures in carrying out risk assessment and cost-benefit analysis. If an agency's action does not meet these new criteria, that error will be considered by the courts as part of their review of a final agency action.

I believe that our Nation needs to use risk assessment and cost-benefit analysis, but they are relatively new processes which will undoubtedly be refined with the passage of time. The inclusion

in the bill of a National Peer Review Board and Office of Management and Budget review of risk assessment and cost-benefit analysis will provide adequate guidance and oversight to ensure that these tools are being properly utilized. The idea that lawyers and judges are somehow equipped to assess the quality of scientific procedures is almost humorous.

Without this amendment, we will permit any party to engage in dilatory tactics by going to court to force an agency to provide substantial evidence that it is complying with each criteria outlined in this bill. If we demand that an agency justify its action before it has completed that action, nothing will ever get accomplished. In order to move our economy forward with new medicines, chemicals, pesticides, and other products, we will have to assign an attorney to every Federal bureaucrat because everything we try to do to improve our economic well-being and our overall quality of life will be litigated to death before the process gets off the ground.

Under this amendment, judicial review will still exist, but it will occur at the end of the process. And as a gentleman from the Republican side pointed out during our consideration of this amendment in the Science Committee, this is the same arrangement that was agreed on for the unfunded mandates legislation. So if you supported the judicial review provisions of the unfunded mandates bill, you should be able to support this amendment.

I am not a scientist or a lawyer, but I can assure you that litigation is not an essential component of the scientific process. Let us keep the lawyers out of the laboratories and judges from gauging the quality of science. Let the professionals make scientific and technical determinations. Once their action is complete, there will still be plenty of opportunity for the lawyers to work their magic. Vote for this amendment and stop the insanity.

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

Mr. Chairman, I believe that the judicial review provision of this bill is one of the key features in protecting the regulated community, average Americans, from the threat of over regulations and regulations that do not meet the test of good science and cost-benefit analysis.

The question has been raised about whether we will create a plethora of legal actions and increase the problem in the United States of too many lawsuits. The key difference here is that what this provision does is allow citizens to challenge the Government when they have not followed their own law and their own requirements. It is very different from a situation where we are creating lawsuits between citizens in the private sector.

Historically, if we look at two acts that had very broad general application, the NEPA Act and the Regulatory Flexibility Act, NEPA contained a judicial review provision which allowed members of the private sector to require agencies to do an environmental impact statement. Now, only when that was established as a matter of law did that law become effective. Government agencies had to determine what their actions would do to affect the environment. It has become a very successful act in terms of requiring Government to be responsive to environmental concerns.

The Regulatory Flexibility Act, however, did not contain a judicial review provision and for years now agencies have had routine boilerplate that says, yes, we have complied with the regulatory flexibility provisions that require us to give small business special consideration in reducing regulatory burdens.

The clear examples that these two show is that without judicial enforcement, without allowing citizens to be able to keep a check on their government agencies, provisions that they have to live by will be ignored at least in their intent, if not in fact.

So for that reason, I strongly support the judicial review provisions in this bill and would urge all of my colleagues to vote against the amendment.

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

Mr. Chairman, I rise in opposition to the amendment offered by my good friend, the gentleman from Indiana [Mr. ROEMER], and urge its defeat. The amendment and the bill have one thing in common. The amendment and the bill refer to the judicial review that is already available in the statutes that create the regulatory authority that is affected by this bill.

Currently the law permits judicial review of agency actions across a broad span of regulatory authority. That judicial review occurs at the final option of the agency. Nothing has changed in this bill in that regard.

There is still a judicial review provided by the current law for agency actions at the end when the agency makes a final determination.

The only difference between this amendment and the bill is where this amendment says that in that agency action judicial review no question can be raised regarding the adequacy of certification or other documents prepared pursuant to this act. And here is the most important and relevant part, and any alleged failure to comply with this act may not be used as grounds for affecting or invalidating the rule.

What this amendment says, in effect, is that you can have judicial review of the agency's action but the agency's failure to follow this law is not grounds in that judicial review for affecting or invalidating the rulemaking by the agency. In short, this amendment says

it is OK for the agency to violate the law, not to follow risk assessment and cost-benefit analysis, to ignore the will of this Congress, the will of the people of this country expressed in its representative body, to ignore it completely and do what they have been doing for years and that is never do a proper risk assessment, cost-benefit analysis.

What purpose is there in passing such an amendment, if it is not to defeat the very purposes of the bill? If an agency never has to answer in court for its failure to follow the law in this country, what on earth are we here doing passing laws requiring agencies to follow the law? If we, in the same law we pass, say it is OK not to follow the law, what are we doing here? The bottom line is, if you believe in this law, if you believe that agencies ought to do relevant and important risk analysis, risk characterizations, and they do what all of us hope this Nation will begin to do, consider cost in the equation and look for the least-cost alternatives by which we regulate our society and in all these important areas, if you really believe in that principle, how can you possibly vote for an amendment that says in the judicial review of whether or not the statute has been followed, it does not matter whether the agency followed the statute, it will have no effect upon the judicial interpretation of the rulemaking by the agency?

If on the other hand you believe in this bill, you must defeat this amendment, because this amendment literally defeats the bill.

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

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

Mr. ROEMER. Mr. Chairman, I would just say to the gentleman from Louisiana, who I know is a strong supporter of this legislation, what the Roemer-Boehlert amendment concentrates on is the final action, the substance of what that agency finally promulgates as a rule, not all the little piddly procedures that go into making that rule that this bill opens up as possible action on judicial review. We are focused on the final action and the substance, not the procedure and the processes.

Mr. TAUZIN. Reclaiming my time, the gentleman's amendment does not just say do not look at the procedure. The gentleman's amendment says that the alleged failure to comply with this act, the alleged failure to conduct risk assessment, the alleged failure to do a cost-benefit analysis has nothing to do with the court's ability to say that this rulemaking is invalid.

□ 1245

Mr. Chairman, the gentleman's amendment says it does not matter whether you did not even follow any procedure, whether you ignore this law completely, the rulemaking is still going to be valid because the judicial department cannot review the agency's failure to follow this act. That is what the gentleman's amendment does.

If it did only what the gentleman said, I might understand this amendment. It goes well beyond that. It says clearly "any alleged failure to comply with this act." What does a common, normal reading of that mean? It means if you did not follow the act, if you did not do risk assessment cost analysis at all, by any procedure, the alleged failure to follow this act does not make any difference. Therefore, the agency can ignore this law and go on its way, and no judicial review will ever happen.

Mr. Chairman, if we want that effect in this bill, just vote against the bill, do not ask us to pass this amendment.

Mr. BILBRAY. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I oppose this amendment. We have an amendment that is trying to say that we will not enforce the regulations, or not allow the citizens to enforce the process to be able to identify what is true risk, what is true benefit. I think one of the concerns I have is that if we applied this amendment to every environmental regulation and every environmental law in this country, I think both sides of the aisle would agree that it would gut the public health protection aspects of the laws of this Nation. I think that that is the intent of this amendment, is to gut this bill, not to protect it, not to enhance it.

Mr. Chairman, all I have to say is that those who stood in this House and spoke about the concerns about the lawyer full employment act, I sure hope to see them standing in line to support us as we get into tort reform. I think that is a problem. I agree with my colleagues that that is a major problem, one we must address, but this is not the source of the problem. That is going to be another day, another battle, another agenda.

The source of the problem here is that we need that dose of reality in our environmental and public health strategy to make sure we protect the public health. What this amendment will do is say that the public would not have the right to be able to draw on the facts of the process to come to conclusions; that the judicial system would not be able to consider the fact that flawed data causes flawed results.

Mr. Chairman, garbage in, garbage out. If the science that goes into making the conclusion is not sound, then the result is not going to be sound, and we have to look at the process as we get into it. I think the result is absolutely essential. I agree with my colleague that the result is what really matters.

However, to judge the result we have to look at the evidence as it was being developed. If we ignore good science in the development of a strategy, we are ignoring the public's health and we are ignoring good public strategy. Therefore, Mr. Chairman, I ask strongly that

this amendment either be defeated or we have the guts to stand up and say "This is what we want to do across the board, we want to do this with all our environmental regulations, we want to eliminate judicial review and deny the public the ability to look at how bureaucrats come to these conclusions," but do not do it just with this bill. Have the guts to do it with all the bills that have been passed for the last 40 years through this House, because without that then we are picking up this alone.

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

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

Mr. ROEMER. I just want to say, Mr. Chairman, the gentleman is impugning that many of us are saying we want to gut this bill. Much before this gentleman entered this body, Members on this side were working to pass this legislation last year. We do not intend to gut this bill. We have been working hard in a bipartisan way to pass risk assessment.

Second, Mr. Chairman, the gentleman's comments are very interesting in that they admit that the gentleman wants evidence from the rulemaking process entered into judicial review. That is what we are saying should not happen. We are saying, look at the substance in the final rule, not all the evidence that goes in through the past 3 or 4 years in the rulemaking.

Last, I would just say to the gentleman that we are not eliminating judicial review. We still have OMB oversight, we have peer review, substantial peer review and sunshine. We have congressional oversight. We still have the Administrative Procedures Act.

All that will make sure that that process works. We are not eliminating judicial review.

Mr. BILBRAY. Reclaiming my time, Mr. Chairman, on the items that are being used to make the determination, the gentleman is. The trouble is when we eliminate that judicial review of the merits of the components to come to the conclusion, we are then denying all the facts to be on the table when these things are being considered.

I would just like to say to my colleague, I am not impugning his intention. I am pointing out the fault of his strategy when it comes down to this, that the fact is that we do have a judicial system that is part of the environmental strategies of this country. It has always been, right from the beginning.

Without that review you will then be saying that one group of environmental strategy will have judicial muscle throughout the entire process and one part from now on will not be allowed to flex that muscle, will not have access to that.

Mr. ROEMER. Mr. Chairman, will the gentleman further yield?

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

Mr. ROEMER. Mr. Chairman, is the gentleman then saying, in terms of evidence, did a certain agency read a scientific review article; were the laboratories in sufficient cleanliness or shape for this rule to be promulgated?

Are we really trying to open up this kind of minutiae for judicial review of the evidence put together in the final rulemaking? We are going to see an explosion of litigation.

The CHAIRMAN. The time of the gentleman from California [Mr. BILBRAY] has expired.

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

Mr. BILBRAY. Mr. Chairman, what we are saying is if and when those details are considered, they should be considered to see if that is minutiae that would have determined or could determine fact from fantasy.

If the gentleman is scared of judicial review looking at that fact or fantasy, then please understand that every other environmental law that we have on the books goes through the same process in the courts one way or the other. The trouble is it does not look at the cost-effectiveness, it just looks at how the process was followed going towards the execution of the law.

What has happened now is we are trying to add this reasonable clause in, that it is a mandate that Government not only try to do something, it tries to do it intelligently. That is all we are asking.

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

Mr. Chairman, I rise to support the Boehlert-Roemer amendment, and to assert in the strongest possible terms that this is not an attempt to gut the bill. It is not the intent to gut the bill.

Mr. Chairman, I think this issue is really very simple: Do we want more lawyers and more litigation at every state of the creation of Federal regulations, or do we want better science involved in our risk assessment program.

I am one of that half a handful of physical scientists among this membership, and I can tell the Members that scientists are really not meant to be exhibit A in a court battle as to what the precise level is at which a given chemical may cause cancer, chemical or any substance may cause cancer. Science is not capable of telling what that level is.

One of the purposes of this bill, I think, is to point out that there are uncertainties over what the exact risks of a given substance or activity may be. In fact, Dr. Graham, from the Harvard Center for Risk Analysis, while he was testifying in favor of this bill, nevertheless said, and I quote, "We are not able to validate or know for sure whether or not the prediction of the model in fact proved to be correct."

Even after the fact, we cannot know the right answer for a given cost-benefit analysis.

Mr. Chairman, with the bill without the amendment offered by the gen-

tleman from Indiana [Mr. ROEMER] and the gentleman from New York [Mr. BOEHLERT] what we would have, on court battles on cost-benefit analysis and risk assessments, and we would have thousands of those court battles, both sides are going to be able to find legitimate scientists, perhaps armies of them, who are willing to contest the validity of a single cost-benefit analysis.

By encouraging the judicial review of every one of these cost-benefit analyses, this bill makes the court the final arbiter of disagreements within the scientific community, while the Roemer-Boehlert amendment brings a measure of sanity by saying, Yes, the courts will review the entire, the final, the whole record, but should not get into the minutiae of the scientific debates involved in the risk assessment and the cost-benefit analysis.

Mr. Chairman, I do not believe that this amendment weakens the bill. In fact, I would assert it does not weaken the bill. Lawsuits under the bill can just as well increase regulation as to decrease it, and certainly colleagues from California would know that it was not the EPA that decided to impose the Clean Air Act, the Federal implementation plan in that State.

EPA was forced to do so as a result of a review in Federal court by environmental organizations, and there are going to be a great many public interest groups willing to sue individuals, public interest groups willing to sue the Federal Government, to require implementation of even stronger regulations.

What we are going to end up with, Mr. Chairman, is a great deal of expenditure of time and money and energy, and to what purpose? Who will be better off for spending all of that money on the individual points in the final regulation, in the final rule that is being made? Certainly not Americans who want to see reasonable cleanups without endless wrangling.

Mr. Chairman, I do not think industry will benefit, since they will lack any ability to rely on agency decisions and plans for the impact of regulations that are subject to incessant court challenges and court reviews.

I submit, Mr. Chairman, that the only beneficiaries are really going to be the lawyers, the lawyers on both sides of these issues, who are surely going to be the beneficiaries if we do not adopt the Boehlert-Roemer amendment.

Mr. Chairman, let us limit the fun that the lawyers have in this process and support the Roemer-Boehlert amendment.

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

Mr. Chairman, I rise in support of the Roemer-Boehlert amendment. H.R. 1022 contains new, expansive language on court review which was actually not in the Committee on Science markup.

This language would direct the courts to examine the scientific basis of the risk assessment. They would have to follow section 104 and 105, which would hold the rules unlawful if they did not do that.

Mr. Chairman, the courts, I believe, lack the expertise. They are not scientific experts. They lack the expertise; they lack the time; they lack the interest, also, to do this for hundreds of regulations which would come before them.

Mr. Chairman, in the Committee on Science markup, the gentleman from Pennsylvania [Mr. WALKER] promoted the sort of one-bite-at-the-apple concept, and saying that the Administrative Procedures Act would apply. The Roemer-Boehlert amendment I think would make this the case explicitly, that only final action is reviewable.

Therefore, Mr. Chairman, I rise in support of the amendment.

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

Mrs. MORELLA. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, there is no difference in the bill than what we did in the committee. We have expanded the language to some extent, simply to spell out what we were doing in terms of the Administrative Procedures Act, but we are doing exactly what the Administrative Procedures Act now requires agencies to do under the bill, so I would say to the gentleman that I worked very hard to protect the Committee on Science's position with regard to judicial review.

I think we have done that. I think the Committee on Commerce and the Committee on Science are very much in agreement on this.

Mr. Chairman, I simply would not want it on the record that what we have done here is in any way different from what the Committee on Science decided to do. That is not the case.

Mrs. MORELLA. Mr. Chairman, the gentleman did a great job in committee. My understanding is, however, that what we are saying is that the Administrative Procedures Act would apply, would be lawful, unless there are arbitrary and capricious, unlawful statements that occur.

Right now in the bill the agency would have to prove with substantial evidence that the activity was environmentally risky.

Mr. WALKER. If the gentleman will continue to yield, substantial evidence is in the Administrative Procedures Act.

Mrs. MORELLA. Yes, arbitrary and capricious.

Mr. WALKER. If the gentleman will continue to yield, if I understand the gentleman, Mr. Chairman, what she is objecting to is if the agency takes arbitrary and capricious action, she does not believe that that should be subject to somebody's review?

Mrs. MORELLA. Mr. Chairman, that should be subject to review.

Mr. WALKER. Mr. Chairman, if the gentleman will yield further, the Roemer amendment prevents that. It says specifically—and I will read, “* * * any alleged failure to comply with this Act, may not be used as a grounds for affecting or invalidating such agency action”—it does not matter how egregious it is.

The Roemer amendment wipes it out. The Roemer amendment says you cannot do it.

□ 1300

Mr. BOEHLERT. Will the gentleman yield?

Mrs. MORELLA. I believe it relies on the APA. I yield to the gentleman from New York, one of the sponsors.

Mr. BOEHLERT. We have got the Administrative Procedures Act. We know that. That is the vehicle to challenge any final rulemaking, and we have got the arbitrary and capricious standard. What this would do is subject the whole risk assessment process to judicial review, which means we would be tied up—talk about the full employment act for lawyers, we would be tied up in courts forevermore at a cost of millions and millions and millions of dollars for everybody involved. That is why we so strongly object to it. I thank the gentleman for yielding.

Mrs. MORELLA. Already over \$100 million is going to be exhaustively peer-reviewed. So we certainly, I think, need the Roemer-Boehlert amendment.

Mr. WALKER. Mr. Chairman, will the gentleman yield again?

Mrs. MORELLA. I yield to the gentleman from Pennsylvania.

Mr. WALKER. One of the problems is, what we have just heard from everybody is they do not want the Administrative Procedures Act to apply to this act. They want the Administrative Procedures Act to be out there applying to other things, but they do not want the Administrative Procedures Act to apply to this act.

Mrs. MORELLA. The final action.

Mr. WALKER. The standard we have set is a standard which is exactly similar to the Administrative Procedures Act.

Mr. BOEHLERT. Mr. Chairman, if the gentleman will yield further, what we want is we want the Administrative Procedures Act to apply to the final rule. We want to have a system where a final rule which is wacko, which does not make any sense, does not pass the commonsense test, we want to have a way to challenge that.

But we do not want to have a way—all through this risk assessment process, if an agency comes up with a rule that makes sense, that addresses public health and public concerns, we do not want to be able to throw out that rule because somewhere along the process somebody did not fill out a form on page 12, line 3, section 2.

The CHAIRMAN. The time of the gentleman from Maryland [Mrs. MORELLA] has expired.

(At the request of Mr. WALKER and by unanimous consent, Mrs. MORELLA was allowed to proceed for 2 additional minutes.)

Mrs. MORELLA. I continue to yield to the gentleman from Pennsylvania.

Mr. WALKER. The fact is that the language in the bill says substantially comply so that we can deal with the problem, but the gentleman seems to be ignoring the language of his own amendment.

I simply would point out that the language within the Roemer amendment says any alleged failure to comply with this act may not be used as grounds for affecting or invalidating the agency action.

You cannot even get to where the gentleman says he wants to be under the amendment that you have before us.

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

Mrs. MORELLA. I yield to the gentleman from Indiana.

Mr. ROEMER. It has been said over and over and over again, there is nothing in the Roemer-Boehlert amendment that would erode the Administrative Procedures Act. If that is passed and put into effect and we try to mitigate the litigation that is going to simply explode as a result of this new expansion under judicial review, there is no risk to this doing any kind of threat to the Administrative Procedures Act, and you still have the ability of OMB, peer review panels, and a host of other sunshine to be shone upon the regulations in the final action.

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

Mr. Chairman, I think it is important that we clear up some of the argument that is being made here today, and perhaps we ought to start by reading the amendment, itself. I understand the reading of the amendment was suspended earlier.

But if we want to find out whether this amendment eliminates judicial review entirely, whether this amendment basically guts the bill, let's read the amendment.

It says, “Nothing in this act creates any right to judicial or administrative review, nor creates any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.”

It goes on to say, “If an agency action is subject to judicial or administrative review under any other provision of law, the adequacy of any certification or other document prepared pursuant to this Act and any alleged failure to comply with this Act may not be used as grounds for affecting or invalidating such agency action.”

I do not know how you can more clearly state that you are saying we are passing this bill but it cannot be

enforced, it creates no rights for judicial review, and if there does happen to be judicial review under some other law, nothing in this act shall give anybody any rights for any protection under the very provisions which we are putting into effect.

The fact is that this statute is critical. It is a process that America has needed badly to require our administrative agencies to review the effectiveness of their conduct. They must assess the risk which they are addressing, assess the cost of meeting that risk in their regulation, and determine whether the cost is justified by the benefit that is intended to be gained.

If we cannot put that into law and then require that the agencies meet that test when they are promulgating regulation, then we are truly fooling the American people when we tell them that we are trying to somehow bring the agencies under control in the rule-making process.

If that is not enough, the amendment goes on to say that it strikes the substantial evidence standard in the judicial review that this act contains.

Let's clarify what we are talking about here. If we do not have the substantial evidence standard in this legislation, that means that when there is judicial review, and, by the way, I will back up a minute.

It has been argued that we do not want to open up the opportunity for the courts to look at the entire administrative record and see what has gone on.

Ladies and gentlemen, that is exactly what happens right now, under the administrative review that is given to each rule as it is reviewed under the previous statutes that authorized those rules.

What we are saying is that in final agency action, not at each stage but in final agency action, when the rule is already being reviewed, when the entire administrative record is already being reviewed, it must also be reviewed for purposes of cost-benefit analysis.

We are going further to say that the standard of review shall be substantial evidence. The court must look to see whether the agency acting had substantial evidence to document its claim that there was or was not a cost-benefit to the rule which it is enforcing.

What this amendment seeks to do is to make it so the agency can get by with whatever it wants if it can simply meet an arbitrary and capricious standard.

That means that all the court has to do is to say that there was a little slim piece of evidence in this record that justified what the agency wanted to do and so it was not arbitrary or it was not capricious, but it does not have to look further to see whether the weight of the evidence was on one side or the other.

There is already going to be the administrative review of these agency

rules under the Administrative Procedures Act which governs the statute which generate the rules themselves. What this statute does is say that when that review takes place, then there must be administrative review also of the cost-benefit analysis and that cost-benefit analysis must be justified by substantial evidence in the record that is already under review.

That is eminently reasonable, and all you have to do is read the words in this amendment to see that it is clearly a killing amendment. It is saying, "We've got a right here, we are creating a great statute that allows us to have cost-benefit analysis, but we don't want any agency to have to be forced to follow it, we don't want any person in America to have any right created under this statute to have the agency follow this legislation, and we want to be darned sure that it is not enforceable if anybody goes to court."

Last, there has been the argument made here that this is going to generate mounds and mounds of additional litigation across the country. Again, this legislation authorizes judicial review only when there is final agency action under a rulemaking which is already under way under a previous statute.

That means that there is already going to be agency review under each review required by this statute. It is not going to increase litigation.

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

Mr. Chairman, this is the ultimate old order amendment. This is an attempt to step back to the idea that big government has solutions to all of our problems and if we would only listen to big government, big government will always tell us the right things to do.

This is an amendment by people who do not want to see middle-class Americans use the law against the Government but are perfectly happy to see the Government use the law against middle-class Americans. That is exactly the effect of adopting the Roemer amendment.

You adopt the Roemer amendment, you say the lawyers of the Government can go out and pound the middle-class Americans all they want, but middle-class Americans are not allowed to in any way use the law to protect themselves against Government. I think that is the reverse of what we should be doing.

First of all, let me tell you, anyone who tells you that they are for risk assessment and they are for cost-benefit analysis and then supports this amendment is trying to make a fool of you. There is no way that you can say that you are for risk assessment and you are for doing all these things but, "Oh, by the way, let's not make it enforceable."

Because the ultimate effect of this amendment is to say, "Let's not have any enforcement of it."

To suggest that judicial review is being able to take it to OMB or being able to take it to the Congress, that is not judicial review. It does not even fit the title. All that says is that you can take it back into the political establishment in hopes that the politicians will always be too nervous to do anything that is real.

What we have done here is we have tracked the Administrative Procedures Act, we know what the effect of this would be, and we do not believe that there is any way here of exploding litigation. That is not what we are seeking to do at all. But we do believe that there needs to be some kind of assurance that when agencies are doing the procedures necessary for risk assessment and cost-benefit analysis, they in fact do what they are supposed to do under the law.

This idea that minor flaws in the process will bring about major litigation is just absolutely clearly wrong. The proponents of this amendment have not bothered to read what is under the judicial review section on page 34 of the bill, because what it says is that the documents, if they do not substantially comply, then the fact is that there is no judicial review. We have a substantial compliance test under the bill.

This idea that we are going to explode a whole bunch of litigation on minor points, it is completely dealt with. No minor discrepancies are in fact going to be the cause for litigation.

I would also go back to pointing out that the legislative language that the gentleman from Indiana and the gentleman from New York bring us here, maybe it does not do what they intended it to do, but the fact is that it is misdrafted and it is a bad amendment.

Because if in fact they are clear in what they are saying here on the floor, their amendment is specifically opposite of that. Their amendment is meant, by words, to wipe out any chance whatsoever to have even the most egregious procedural flaw nonreviewable.

The agency can do anything they want. They can disobey the law, they can completely set the law aside, they can go ahead and do anything they want, and under the language of your amendment, what you say is that that cannot be used as a grounds for affecting or invalidating such agency action.

I cannot believe that you are standing up saying you are for risk assessment and then offering an amendment that says that you can do all these things in an agency and so on, you can violate the law in any way you want, and nobody can ask you about it. Nobody can review it. Nobody can change it.

"Go ahead, bureaucrats. Do your thing. Whatever it is you bureaucrats want to do, it's OK with us. It's fine. We love it. Just continue to regulate like you've been regulating. Continue

to pound America the way you've been pounding America. Continue to wipe out the small businessmen the way you've been wiping out the small businessmen because they shouldn't have any rights under this act at all."

If that is what you want to do, your language certainly accomplishes it.

I would suggest, also, that the gentleman from New York told us that if H.R. 9 had been in effect, we would not be able to do the things that we have done in the past such as the Clean Air Act. That is specifically refuted by John D. Graham who is director of the Center for Risk Analysis at Harvard School of Public Health. He makes a statement in this morning's newspaper indicating that both the air bag standard for automobiles and the phaseout of lead in gasoline, each of which transpired during Republican administrations, involved substantial uncertainty yet both were approved after cost-benefit analysis.

The fact is that the standards under this bill would have been used in those instances and it would have resulted in regulation.

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

Mr. WALKER. I yield to the gentleman from New York.

Mr. BOEHLERT. I would point out that with lead particularly—

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(At the request of Mr. BOEHLERT and by unanimous consent, Mr. WALKER was allowed to proceed for 3 additional minutes.)

Mr. WALKER. I continue to yield to the gentleman from New York.

Mr. BOEHLERT. I would suggest that the substantial evidence test would not have been passed and that is why we would have had the problem today with lead in gasoline, for example.

The substantial evidence did not come until after we had the test to prove the point.

Mr. WALKER. Substantial compliance is in the legislation we have before us.

Mr. BOEHLERT. The substantial evidence test is, yes, but the substantial evidence test was not applicable 25 years ago and had this legislation that you are proposing right now been applicable 25 years ago, we would not have had that standard.

Mr. WALKER. We have substantial compliance in the bill that is before you. That is exactly my point.

Under the bill that is before us, we have substantial compliance in here which is exactly what the gentleman is suggesting.

Mr. BOEHLERT. But what I point out to the gentleman is this. That we are after the final rule. If the final rule does not pass the commonsense test, there is a way to do with it under the Administrative Procedures Act.

□ 1315

What the gentleman is suggesting is all during the risk assessment process

the lawyers would just line up one behind the other and challenge everything that happens during the risk assessment process.

Mr. WALKER. The gentleman is specifically wrong. If he goes and checks he will find out that ours applies to the final agency action. That is where our judicial review takes place, is with final agency action as well. It does not allow judicial review at each phase along the way; it simply says there is review possible on the final agency action.

Read the amendment; read what is the judicial review in the bill.

Mr. BOEHLERT. That is where we are, and the gentleman makes my point, and he makes it in a very glib way, I might add. The fact of the matter is the gentleman wants to challenge the risk assessment process every step of the way. We are saying we will challenge the final rule if it does not make sense, it is not cost-effective, and if it does not protect women, infants and children, we will check that.

Mr. WALKER. The gentleman is specifically wrong. The gentleman is absolutely and specifically wrong. There are no challenges all the way along the way. Under our amendment it is involved with the final agency rule. The final agency rule is what we try to do.

The gentleman whips out even the ability to even review the final agency rule. The gentleman from Indiana is shaking his head. Read your amendment, read your amendment. It says in the legislation, failure to comply with this Act "may not be used as grounds for affecting or invalidating such agency action." That is the final rules the gentleman is talking about. You cannot invalidate it even if the agency has absolutely disobeyed the rule. The gentleman is knocking out the ability to do this thing, so you have totally obliterated the ability for judicial review.

Do not tell us that you have not done it; it is specific to your language.

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

Mr. WALKER. I am happy to yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, we are talking about the final rule on the risk assessment, not the regulation, which is what we want to challenge, the final regulation if it does not pass the common-sense test.

Mr. WALKER. But the gentleman should read his own amendment.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has again expired.

(At the request of Mr. BOEHLERT and by unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, let me read to the gentleman his own bill. His own amendment says, "If an agency action is subject to judicial or administrative review under any other provision of law, the adequacy of any certification or other document prepared pursuant to this Act, and any alleged fail-

ure to comply with this Act, may not be used as grounds for affecting or invalidating such agency action." That is exactly the opposite of what the gentleman just told us.

Mr. BOEHLERT. Mr. Chairman, there again we both agree we are reading the same thing, but if the gentleman says what I am saying is wrong often enough, that does not mean he is right. The fact of the matter is we want final review of the regulation, not the risk assessment.

Mr. WALKER. I am saying to the gentleman from New York I am simply reading back his own words to him that he would commit to law.

Mr. BOEHLERT. I agree 100 percent, the words are exactly as the gentleman read them, but his interpretation is wrong.

Mr. WALKER. My interpretation is not wrong because I will tell the gentleman the bottom line is what this would do. The bottom line is what this would do is it would assure that we would have even weaker laws than we do right now. The fact is because of what the gentleman is going to do here he would wipe out the ability that people now have to take action. And so, he is invalidating law. What he is saying is with regard to this particular compliance law, we simply will not allow the public in, that the agencies can have all of the lawyers that they want on their side but the public cannot have any lawyers on their side; the people cannot bring actions against the Government, but the Government can continue to bring action against the people. That is what the amendment is all about.

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

Mr. WALKER. I yield to the gentleman from Idaho.

Mr. CRAPO. Mr. Chairman, I think it is important to point out, as the chairman has pointed out, that the regulatory action we were talking about in this bill occurs only when the final rule has been promulgated and the rule is already under review. I read from the judicial review portion of this statute. It says, "The court with jurisdiction to review the final agency action under the statute granting the agency authority to act." That is the authority to issue the rule, "shall have jurisdiction to review, at the same time, the agency's compliance with the requirements of this Act."

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has again expired.

Mr. CRAPO. Mr. Chairman, I ask unanimous consent the gentleman from Pennsylvania be allowed to proceed for 2 additional minutes.

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

Mr. BROWN of California. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard by the gentleman from California.

Mr. BROWN of California. I have been sorely tempted by the inaccuracies that have been forthcoming. But I withdraw my objection for the time being.

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

There was no objection.

The CHAIRMAN. The gentleman from Pennsylvania is recognized for 2 additional minutes.

Mr. CRAPO. Mr. Chairman, if the gentleman will continue to yield, the legislation we are debating goes further to say that "When a significant risk assessment document or characterization document subject to title I is part of the administrative record in a final agency action, in addition to any other matters that the court may consider in deciding whether the agency's action was lawful, the court shall consider the agency action unlawful if such significant risk assessment document or significant risk characterization document does not substantially comply with the requirements of this section."

The point is when agencies promulgate a rule it does so under statutory authority. When it has finalized its statutory authority and has promulgated a rule, then and only then does this allow the requirements of this statute to be brought in under administrative review. It does not allow a piece-by-piece administrative review and does not increase litigations by one case over what is already the situation in current law.

Mr. WALKER. The gentleman is absolutely correct.

Mr. BOEHLERT. Mr. Chairman, will the gentleman from Pennsylvania yield?

Mr. WALKER. I am happy to yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, let me stress, I want to add this for about the 16th time, the rule is reviewable, but the risk assessment process is not. That is what we want to have accomplished as a result of what we are doing today.

Mr. WALKER. But the gentleman is not tracking his own language in that. We want in fact the rule and that is what we want to do. But the agency cannot, the agency is not allowed under our procedure to totally violate all of the procedures. Under what the gentleman is suggesting they are allowed to violate all of their procedures and, oh, by the way, then you can have a review.

That is not possible. That makes no sense, and I would suggest to the gentleman that that is exactly where his amendment takes us.

So, I would simply point out that under the Administrative Procedures Act this is something which would be backtracked on.

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

Mr. Chairman, I am reminded of an old legal adage which goes something like this: If the facts are on your side, you pound on the facts; if the law is on your side, you pound on the law; if neither are on your side, you pound on the table. And I sense an awful lot of pounding on the table going on here.

I agree with the gentleman from New York [Mr. BOEHLERT] that the gentleman from Pennsylvania [Mr. WALKER] is extremely glib in his exposition and he is also extremely emphatic and does a lot of pounding on the table.

I would like to call all of my colleagues' attention to an article in the Post this morning which describes in great detail some of the aspects of this legislation, and the point that it particularly makes is that a great deal of the risk assessment, risk characterization, cost-benefit analysis is very tenuous in its scientific basis. It is difficult and in some cases impossible to characterize risk, to assess risk or to make cost-benefit analyses that come anywhere close to the mark. You can be a thousand percent off, and one reason that you do not want all of these processes, assessment characterization and cost-benefit analysis subjected to judicial review is exactly that. You can tie up the process for ages on something that there is no answer to. And it would be extremely undesirable to have that happen.

It is the intention of this amendment to preclude that kind of an effect from happening. It is perfectly okay to review the adequacy of these various processes at the time of the final rule, but I call to Members' attention the fact that the agency itself has the right to waive many of these things when it finds that there is no way of achieving it.

For the court to be able to review the adequacy of something that could be and may have already been waived because there is no way to achieve it is just a ridiculous waste of time.

I do not want to belabor this. I think there has been adequate attention to it. But I am disturbed at the frequent repetition of nonfacts as horror stories.

I had hand delivered to me on the floor a few minutes ago a letter from the Administrator of the EPA which states her concern over some of the misstatements made yesterday. I am not going to read it. I will include the letter and the examples in the RECORD.

In addition to that, I have another half a dozen which I have personally investigated, and I attempted yesterday to respond to some of the more obvious ones on the floor, but was unable to cover them. I have another half dozen, and I will place those in the RECORD after the Administrator's letter outlining the ones that she was concerned about.

I urge upon all of my colleagues not to pound on the table quite so much, and to be a little bit more assured of

the facts as we proceed with what has otherwise been what I consider to be a very helpful debate.

The material referred to follows:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,

Washington, DC, February 28, 1995.

Hon. JOHN D. DINGELL,
Hon. GEORGE E. BROWN JR.,
House of Representatives,
Washington, DC.

DEAR CONGRESSMEN DINGELL AND BROWN: I am concerned that during the course of the Floor debate on H.R. 1022, The Risk Assessment and Cost-Benefit Act of 1995, there have been mischaracterizations of policies and actions taken by the Environmental Protection Agency. I am writing in an effort to ensure that the debate before Congress is based on full facts. I will address several of the issues that have been used in this debate.

First, I would like to point out that I have already changed the way EPA does business. EPA has instituted major reforms in its rule-making processes and programs. Since coming to EPA, I have worked diligently to instill common sense into the Agency's efforts to protect public health and the environment, by moving beyond one-size-fits-all regulatory approaches. This commitment has been translated to concrete action by our Common Sense Initiative. It addresses comprehensively a new, more cost effective framework for six leading industrial sectors. A further demonstration of this change is our Brownfields effort to turn contaminated urban areas into productive redevelopment sites. The very practical approach that we've taken in resolving implementation issues in the Clean Air Act also demonstrates the new EPA. These administrative solutions we have developed in partnerships with State and local governments for implementing the Clean Air Act show our success.

I am committed to flexibility and consensus—driven by firm public health protection goals, but flexible means for achieving them. EPA has made major improvements to its science program through directing its research program toward risk reduction and new policies to assure peer review of science used in decision making. And the Clinton Administration has made it clear we would support risk assessment legislation that is fair, effective and affordable.

Unfortunately the proponents of H.R. 1022 have not only failed to recognize these improvements, but in floor debate have put forth as the rationale for H.R. 1022 a series of examples that purport to represent EPA's decision making processes as severely flawed. In fact, these tales are fraught with misinformation and sometime involve decisions made over a decade ago—many are flatly wrong. Among the numerous misstatements these proponents have made are:

It was stated that EPA set a drinking water standard at 2-3 parts per billion (ppb) of arsenic in drinking water, while shrimp has a level of 30 ppb.

This is not the standard that EPA set. EPA set a standard for arsenic in drinking water of 50 ppb. And the arsenic in shrimp is not scientifically comparable to that in drinking water. The arsenic in drinking water is toxic—the type in shrimp is not.

A "Dear Colleague" letter stated that someone would need to drink 38 bathtubs of water to experience a risk from atrazine in drinking water.

This is inaccurate. Even at the standard set by the EPA, drinking just two liters of water per day results in a one in 100,000 cancer risk, which is equivalent to a projected 2600 additional cancers. Not only are people exposed to atrazine through drinking water,

but through ingestion of pesticide residues as well, thereby potentially increasing the risks of exposure. In addition, two other pesticides found on food and in drinking water may cause risks to farmworkers and consumers via the same mechanism, and their risks should be considered collectively.

It was said on the floor that EPA requires the City of Anchorage, because its wastewater is already so clean, to add fish wastes so that its sewerage can achieve sufficient reductions to meet Clean Water Act requirements.

This is incorrect. EPA has never required Anchorage to do this. Anchorage already has a lower reduction requirement because it has been granted a waiver from the stricter reduction limits. Anchorage now successfully meets this standard with existing equipment and would be required to add extra capacity only if it faces an increase in population, as would any city. Anchorage chose to accept fish waste at the request of fish processors because it is a more cost effective way to manage these wastes.

It was alleged that EPA regulates "white out" correction fluid and caused extensive record-keeping problems for a small business in California as a result.

This is wrong. EPA has never regulated "white out". The State of California did require warning labels on products that contain certain chemicals through a Proposition.

Despite these inaccuracies, I am hopeful that the House debate on risk can focus on our common goals. We are working to be strong proponents of quality science and prioritizing government resources toward the most significant public health and environmental problems. Our concern is that this legislation, in its current form, will undermine these laudatory goals by elevating simplistic slogans to unworkable public policy—a policy that will instead freeze science, lead to tremendous regulatory gridlock, impulsively sweep away carefully thought through health and environmental frameworks, and empower the courts to resolve fundamental public policy issues.

I appreciate your efforts to focus discussions on H.R. 1022 on the significant issues this proposal presents.

Sincerely,

CAROL M. BROWNER,
Administrator.

RESPONSE TO CONGRESSMAN WALKER ON
ASBESTOS

Congressman Walker alleged that children have a 1 in 2 and one half million lifetime cancer risk from asbestos. He further alleged that EPA required removal of asbestos from schools and that it would have made more common sense to allow management in place.

The Congressman is misinformed: EPA did take a risk based approach to the problem of asbestos in schools.

Lets look at the history of this rule. EPA's approach to asbestos in schools has evolved with the science:

As early as 1982 EPA, required removal of friable asbestos, or asbestos that is crumbling and therefore releasing fibers that could be breathed into children's lung where they could cause cancer. The Agency offered other approaches like encapsulation for intact asbestos.

In 1985 EPA provided updated guidance (the "purple book") which placed more emphasis on "management in place," but also recommended removal.

From 1987-1990 EPA conducted new studies based on a new method (electron microscopy) for monitoring asbestos before, during, and after removal.

As the science improved, EPA's approach evolved:

In 1990, based on EPA's studies, EPA released new guidance ("purple book") which recommended management in place whenever possible and removal only to prevent exposure in building renovation and remodeling (the NESHAP regulation).

In 1992 EPA completed a study of the asbestos-in-schools bill (AHERA). The vast majority of asbestos actions (85%) involved management in place, not removal.

RESPONSE TO ALLEGATION FROM CONGRESSMAN BILIRAKIS ON MSWLF BENEFITS

I would like to respond to Congressman Bilirakis's allegation that the recent revised criteria for Municipal Solid Waste Landfills cost \$19.1 trillion per life saved. This is an unsound manipulation of EPA's analysis, presents an exaggerated and one sided view of the benefits of the regulation, and is a good example of precisely why the use of net benefits in this way is misleading.

First, the cost per cancer case avoided was inflated by using economic maneuvering to minimize lives saved in the future by discounting. If you refer to EPA's analysis, you'll see that for one set of landfills (which would provide disposal to our nation for 30 years), EPA estimated that 2 cancer cases would be avoided at a present value cost of \$5.7 trillion.

Second, and more importantly, Bilirakis's estimate completely disregards other benefits associated with the rule. EPA identified a very important other benefit from the Municipal Landfill regulation: that of avoided permanent contamination of one of our nation's precious natural resources, i.e., groundwater. Even with EPA's conservative cost estimates, which did not include remediation of contaminated groundwater, but simply importing water from another source, EPA estimated that without the regulation, US taxpayers would spend a present value of \$270 million to import water to replace groundwater which had been contaminated by one set of landfills.

RESPONSE TO CONGRESSMAN LONGLEY ON
MAINE INSPECTION/MAINTENANCE PROGRAM

Rep. Longley asserted that EPA imposed a requirement for motor vehicle inspection and maintenance (I/M) program for Maine without conducting the required scientific studies and in violation of the law.

EPA in fact violated no laws relating to the imposition of the I/M program in Maine. Maine is a part of the Northeast Ozone Transport Region established by Sec. 184 of the Clean Air Act. Congress determined in Sec. 184 that ozone in the U.S. northeast is a regional, not a local, problem, and that certain measures should be adopted throughout that region regardless of the particular local air quality conditions.

In particular, the Congress mandated that each metropolitan area with a population greater than 100,000 adopt and implement an enhanced I/M program. As with all other areas in the region, EPA required Maine to adopt enhanced I/M for its larger metropolitan areas.

RESPONSE TO CONGRESSMAN SOLOMON'S ALLEGATION THAT EPA WILL SHUT DOWN THE PULP AND PAPER INDUSTRY

In debate on the House floor Congressman Solomon alleged that EPA's rule to reduce dioxin emissions from the Pulp and Paper Industry will shut down the industry because of the high cost of complying with the rule.

This is untrue:

EPA proposed this rule in 1992. After reviewing the extensive public comments, the

EPA is now extensively revising its original approach. The rule now regulates no one because it has not yet been finalized. How can any one say its shutting anyone down? In addition, EPA is listening to the industry and working to resolve these problems before the final rule comes out. I think that's a healthy sign of the way rules should be developed: As the President said last week: Consultation—not confrontation, as the increased judicial review in this bill will cause.

Just as the comment period envisions, the Agency has since, for well over a year, pursued an extensive and exhaustive process of consultation with all affected stakeholders, including industry and environmentalists to respond to substantial evidence presented to it of the need to change the proposed rule.

The pulp and paper industry, including the industry's trade association and individual paper companies, have been active and much-listened-to participants in these revisions.

The proposed pulp and paper Cluster Rule is being specifically revised in response and in recognition of the many concerns, comments and factual data brought to the Agency by numerous participants in this consultation process.

This process of proposal, public comment and revision in response to important data brought to regulatory agencies by the outside participants is exactly the way the regulatory process is supposed to work. To cite a proposal that is likely to be dramatically different from the final product of this process, as if that proposal was actually being imposed on that regulated community as the final product, is a grossly misleading characterization.

RESPONSE TO CONGRESSMAN BILIRAKIS' ALLEGATION CONCERNING ALAR AND APPLES

In debate on the House floor, Congressman Bilirakis stated that Alar was never shown to be carcinogenic in either mice or rats, and that only UDMH, a breakdown product had ever been shown to cause cancer. Furthermore, he stated that one would have to drink 19,000 quarts of apple juice daily to be at risk.

This is mistaken:

UDMH, a potent carcinogen, is formed from Alar both in the fruit (apples), and when Alar is ingested by people. It is formed in the body, and is carried by the blood stream throughout the body, where it can wreak its toxic effects.

It is only sensible that such highly toxic breakdown products should be considered when assessing whether or not a chemical can cause cancer in humans. Doing this is well established scientifically, and is recognized as valid by toxicologists, as well as by scientists from many other disciplines.

In the case of Alar and UDMH, it is not necessary to ingest 19,000 quarts of apple juice to increase the risk of cancer, a much smaller amount was calculated to be risky. This is particularly important, because it is young children who often drink large quantities of apple juice, and whose young, growing bodies, may be particularly sensitive.

Clearly, we do not want ourselves or our children to be exposed to doses of a chemical that have been shown to be overtly toxic and capable of causing cancer. As a result, we use scientifically accepted principles to extrapolate to levels at which risk assessments indicate that the risk is less.

Finally, it should be pointed out that the economic impact of the Alar crisis was caused not by an EPA regulation or decision, but rather, by a public interest group publishing its concerns about these exposures.

RESPONSE TO ALLEGATION FROM CONGRESSMAN BILIRAKIS ON BENEFITS OF WOOD PRESERVING

I would like to respond to Congressman Bilirakis's allegation that the wood preserving hazardous waste listing resulted in a cost of \$7 trillion per life saved. The 7 trillion dollar per statistical life associated with the wood preserving listing is a perfect example of the distortion and misinformation that cost benefit analysis can impose on the regulatory development process. EPA's estimates of the cost effectiveness were nowhere near this amount—remember there are many ways to calculate cost/benefit ratios and there is no clear consensus on the proper method.

What is of greatest concern is that the 7 trillion number ignore noncancer health benefits which could include avoidance of liver disease or birth defects. The 7 trillion also ignore adverse water quality impacts on ecosystems such as wetlands, rivers, and lakes that the agency determined would be severely impacted if wood preserving wastes continued to be uncontrolled.

What is also of interest is that the Agency in developing this rule was particularly concerned about small business impacts; worked with the SBA; did extensive analysis of the industry; and between proposal and final worked closely with the wood preserving industry and others to carefully tailor the regulation to achieve a sound environmental outcome with minimal economic impact. In fact, most telling of EPA's work in this regard was this rule stands as one of the few rules promulgated under RCRA that the agency was not sued on! Cost benefit outcomes are clearly no measure of and in fact often misstate regulatory quality, environmental outcome, or economic impact.

RESPONSE TO REP. SALMON'S COMMENTS ON ARIZONA'S AUTOMOBILE INSPECTION/MAINTENANCE PROGRAM

Claim 1: States have no discretion in implementation of the "I/M 240" auto inspection/maintenance program.

Response: This is not true. States have a great deal of flexibility and discretion in the design of auto inspection/maintenance programs.

Arizona was not required to adopt the high-end I/M 240 program but chose to do so.

Arizona chose I/M 240 because the State found the program extremely cost-effective and preferable to putting tighter controls on factories, and other stationary sources.

I/M 240 controls pollution at \$500/ton, where controls on other sources cost \$2000-10,000/ton.

Claim 2: People had to wait in line 4-5 times as long.

Response: This problem has gone away. Waiting lines were a problem only during the first week of the program in December. There are no long lines now.

Claim 3: Program increased costs 4 times.

Response: The old Arizona program cost consumers \$6 per year. The new program costs \$24 every 2 years, or \$12 per year.

Bottom line: The new program is more effective, more convenient, less frequent, only \$6 more per year, and clearly preferable to putting more expensive controls on other sources.

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

Mr. BROWN of California. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, I would like to say we are all arguing back and forth as legislators and attorneys about our interpretation of this amendment. The gentleman from Pennsylvania

[Mr. WALKER] just cited John Graham, the director of the Center for Risk Analysis at Harvard School of Public Health, and I think he is a good referee. He just cited him saying good things about this legislation. Here is what Dr. Graham said in the Post this morning: "I'm not too crazy about this idea of opening up all regulations to judicial challenge."

Now, that is somebody that the gentleman from Pennsylvania [Mr. WALKER] cited. That is precisely what we are trying to do with this amendment, is not open up all of these things to judicial review, have one bite of the apple at the end of the process, just as the Administrative Procedures Act does right now. And I think the distinguished ranking member for yielding.

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

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

Mr. ROHRABACHER. I yield to my colleague from Pennsylvania.

Mr. WALKER. Mr. Chairman, I think that it is interesting to note that if we read Dr. Graham's statement, he says he is not too crazy about the idea of opening up all regulations to judicial challenge. The fact is we are not opening all of it up to judicial challenge. I think what he is probably referring to is all of the past regulations and so on. We are not doing that, this bill does not do that at all.

Second, it seems somewhat interesting to me that we now have the argument that if we have no knowledge about things we ought to go ahead and regulate, but because we have no knowledge we ought not be able to do risk analysis and do the cost-benefit analysis; that the lack of knowledge should increase our ability to regulate, but should not increase our ability to review.

That strikes me as exactly the opposite of what the public has been saying now for some time. They would like us to regulate on the basis of knowledge. And to have the argument on the floor that the lack of knowledge means that the regulations should go forward is to me the inverse of what we ought to be endorsing in the U.S. Congress.

Mr. ROHRABACHER. Mr. Chairman, we should not lose sight of what this is all about. What has happened is that the American people over the last 10 years, and over the last 20 years, have seen that enormous power has been granted to unelected officials in Washington, DC. What we have seen is that Washington, DC, has absorbed and centralized enormous powers and it is not in the hands of elected officials, but instead in the hands of the bureaucracy, in the hands of people who never put themselves before the electorate.

This is an attempt to try to readdress or to redress that issue, to bring some balance back to Washington, DC, to the democratic process, to respect the rights of our people who feel that they are being basically ordered around,

that they are being driven out of business, that they are being damaged by the mandates of people who have never been elected.

If a citizen believes that he or she is being hurt or suffering damage because an unelected official, someone in an agency has not followed the new rule that we are setting down which says they should be basing their decisions on good science, there should be peer review of the decisions, we should make sure that there is a risk assessment and that there is a cost-benefit analysis. If an agency is not following those rules, and one of our citizens feels that the decision that they have made is hurting them, we are just saying they should have redress.

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This is the way citizens have protected their rights throughout our country's history. If the Government is not following the law, whether it is the bureaucracy or elected officials, our citizens have felt they could go to the courts to seek a solution to their problems to prevent themselves from being hurt and being damaged by an agency that is not following the rules as set down by the Congress. This makes all the sense in the world.

Gutting this from the Republican proposal is a way to basically restore the power to the bureaucracy to do whatever they damn well want to do because they have got the best motives and the best intentions. Well, best of intentions do not cut it. The American people know what the best intentions of the bureaucracy are all about. The best of intentions of the bureaucracy are to say we have got to rip the asbestos out of the walls of our schools to protect our children, and find out that tens of billions of dollars have been wasted that should have gone to the education of our children instead of having gone and been spent by public officials with the best of intentions, directing our people to do exactly the opposite thing they should be doing.

We expect a procedure to be followed. We expect there to be cost-benefit, risk-benefit analysis. We expect there to be peer review. That is what is in the legislation, and we expect that if the unelected official, the bureaucracy, is not following the law as we are setting it down, the citizens of this country will have a right to appeal that through the judicial process. That is what this debate is all about.

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

Mr. ROHRABACHER. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I want to say to the gentleman you have stated, I think very well, some of the same objectives that I share. Certainly I want peer review.

The CHAIRMAN. The time of the gentleman from California [Mr. ROHRABACHER] has expired.

(At the request of Mr. BOEHLERT and by unanimous consent, Mr. ROHRABACHER was allowed to proceed for 2 additional minutes.)

Mr. BOEHLERT. Mr. Chairman, if the gentleman will yield further, I want peer review. I am not sure I would want O.J. sitting on his own jury, for example, so we have some questions about that. There are a number of questions we have, but in the final analysis, we want what you want.

But I am concerned. I am thinking of offering an amendment requiring a cost-benefit analysis on the entire bill, because I do not think anyone has the first clue on how much this is going to cost in terms of litigation.

I am wondering if there is anyone, the gentleman or anyone advocating passage of this legislation as is, if anyone has an idea how much is this going to cost American industry, American families, in terms of dollars and cents.

Mr. ROHRABACHER. Reclaiming my time to answer, we know how many hundreds of billions of dollars are being wasted right now. We do know in California, because of unreasonable regulation by unelected officials, hundreds of homes were burned down because, why, they were not permitted to clear the brush away from their homes because it might hurt the habitat of a few little birdies, and those birdies, by the way, flew away, and their homes were burned as well. We think that that type of regulation, we need a cost-benefit analysis of that regulation, and if, indeed, that cost-benefit analysis is not given by the agency, that the homeowner who might lose his home has a right to appeal this to the courts, and the fact is, by the way, in terms of O.J., we do expect every citizen in this country to be judged by his peers, and that includes maybe having people who are O.J. Simpsons or whoever it is, peers, to be able to be part of the decisionmaking process. That is what democracy is. That is what our Government has been all about.

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

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

Mr. WALKER. Mr. Chairman, the specter of the cost of this is often raised by people who simply do not want to do it. The fact is there is just as good a chance that we will, in fact, end up saving money, because we will have higher-quality legislation based upon good science and based upon a cost-benefit analysis before we do it. So you get higher quality regulation, and it costs you a little bit less, it costs you less money.

The CHAIRMAN. The time of the gentleman from California [Mr. ROHRABACHER] has again expired.

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

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

Mr. ROHRABACHER. I yield to my friend, the gentleman from Maryland.

Mr. GILCHREST. This is an extraordinary period of time where all of us are almost to the point of agreeing that regulations have been too onerous in the past.

But the gentleman made a comment about people in California that were not able to get the brush away from their homes because of a rat that was placed under the Endangered species Act, and I have heard that argument before on the floor. It simply is not true. The Fish and Wildlife and the State game people worked with the people in the area that happened to be the most flammatory, most fire-prone area on the face of the Earth. They allowed them to clear the brush up to a point even sometimes 1,000 feet away from the house. The point is during that fire, a year or so ago, flaming cinders were flying at 80 miles an hour more that a mile away, so the argument you had to protect the endangered species in lieu of their houses burning down simply is not true.

Mr. ROHRABACHER. Well, if I could just answer that by saying in the particular case you are talking about, that may or may not have been the case. You may be accurate in that sense.

We have had lots of brushfires in California, and we are very aware of the nonsense that comes down from regulators in the name of protecting endangered species, maybe not in that particular case, but I will tell you there are numerous cases in the Laguna Beach fire, and I am not sure if that is the one you are referring to or not, the people who have had their homes burned down believed that a nonsensical rulemaking process by unelected officials caused them to lose their homes. We think there should be a judicial application of that.

Mr. GILCHREST. That is the area where they could clear the brush. That is what I was referring to.

Mr. ROHRABACHER. In fact, in Laguna Beach, we feel, the way I read it, is they could not.

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

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

Mr. BILBRAY. There has been a major problem in trying to clear and grub around residential areas. Now, the incidence of wind, homes were lost. That may be debatable. But the fact is there has been obstructionism to the protection of homes through the firebreaks, and the coastal sage shrub, because it has been identified as an endangered species habitat, is a major problem.

Mr. ROHRABACHER. If people are going to lose their homes, they should be able to go to court to challenge those people making those decisions. That is what this debate is about.

The CHAIRMAN. The time of the gentleman from California [Mr. ROHRABACHER] has again expired.

(At the request of Mr. BOEHLERT and by unanimous consent, Mr.

ROHRABACHER was allowed to proceed for 2 additional minutes.)

Mr. BOEHLERT. If the gentleman will yield further, I have great regard for the gentleman. We serve on the committee together. We oftentimes agree. But it concerns me when we have stories, apocryphal stories, that are told. You know, I think President Reagan, and I love him dearly, is still searching the country for that welfare queen who was driving around in a Cadillac living high on the hog.

Mr. ROHRABACHER. She was actually living in the bureaucracy.

Mr. BOEHLERT. The story told is simply not so.

The General Accounting Office concluded,

The loss of homes during the California fire was not related, not related to the prohibition of disking in areas inhabited by the Stephens kangaroo rat.

I can go on at great length, and it is more than we would care to hear about on that story.

Mr. ROHRABACHER. The gentleman is talking about one fire at one time. We in California know there are lots of fires, and many of them have been attributed because people cannot clear the brush.

Mr. BOEHLERT. I understand. It is very clever to sort of give a story. Everybody thinks we are just heartless if you are for the Roemer-Boehlert amendment, that you are against women, infants, and children and everything under the Sun. It simply is not so. We are for the American people. What we are trying to prevent is endless litigation.

We want the ability to challenge rules that do not pass the common-sense test. But we do not want to challenge the process. Some bureaucrat screws up on a bad day and go in and challenge the whole rule simply because something happens during the risk-assessment process, that we do not find acceptable, and that is what we are saying.

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

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

Mr. WALKER. There is nothing in the legislation as it is that says if some bureaucrat has a bad day that it is going to foul up the whole process, because again, if you read, unless there is substantial compliance and so on, that the requirements of section 104-105, it just does not apply.

Mr. ROHRABACHER. The bureaucracy, basically there is a feeling out in America, that the bureaucracy people whom they do not elect are making decisions that in the end may impact on whether they will be able to feed their families, whether they can live in their home safely or not, and if we determine today, and that is what we are talking about, today, that they should be able to appeal to a court if those unelected officials are not doing their job as is laid out by elected officials.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. ROEMER].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 231, not voting 11, as follows:

[Roll No. 177]

AYES—192

Abercrombie	Gordon	Olver
Ackerman	Green	Orton
Baldacci	Gutierrez	Owens
Barcia	Hall (OH)	Pallone
Barrett (WI)	Hall (TX)	Pastor
Becerra	Harman	Payne (NJ)
Beilenson	Hastings (FL)	Payne (VA)
Bentsen	Hayes	Pelosi
Bereuter	Hefner	Peterson (FL)
Berman	Hilliard	Peterson (MN)
Bishop	Hinchee	Pomeroy
Blute	Holden	Porter
Boehlert	Hoyer	Poshard
Bonior	Jackson-Lee	Rahall
Borski	Jefferson	Ramstad
Boucher	Johnson (CT)	Rangel
Brown (CA)	Johnson (SD)	Reed
Brown (FL)	Johnson, E. B.	Reynolds
Brown (OH)	Johnston	Richardson
Bryant (TX)	Kanjorski	Rivers
Cardin	Kaptur	Roemer
Castle	Kennedy (MA)	Rose
Clay	Kennedy (RI)	Roukema
Clayton	Kennelly	Roybal-Allard
Clement	Kildee	Sabo
Clyburn	Kleczka	Sanders
Coleman	Klink	Sawyer
Collins (IL)	Klug	Saxton
Collins (MI)	LaFalce	Schroeder
Conyers	Lantos	Schumer
Costello	Leach	Scott
Coyne	Levin	Serrano
Danner	Lewis (GA)	Shays
Davis	Lincoln	Skaggs
de la Garza	Lofgren	Slaughter
DeFazio	Lowey	Spratt
DeLauro	Luther	Stark
Dellums	Maloney	Stokes
Deutsch	Manton	Studds
Dicks	Markey	Stupak
Dingell	Martinez	Tanner
Dixon	Mascara	Taylor (MS)
Doggett	Matsui	Thompson
Doyle	McCarthy	Thornton
Durbin	McDermott	Thurman
Engel	McHale	Torkildsen
Eshoo	McKinney	Torres
Evans	McNulty	Torricelli
Farr	Meehan	Towns
Fattah	Meek	Trafficant
Fazio	Menendez	Tucker
Fields (LA)	Mfume	Vento
Filner	Mineta	Visclosky
Flake	Minge	Volkmer
Foglietta	Mink	Waters
Ford	Moakley	Watt (NC)
Frank (MA)	Mollohan	Waxman
Frost	Moran	Weldon (PA)
Furse	Morella	Williams
Gejdenson	Murtha	Wise
Gephardt	Nadler	Woolsey
Gibbons	Neal	Wyden
Gilchrest	Oberstar	Wynn
Gilman	Obey	Yates

NOES—231

Allard	Bass	Bunn
Andrews	Bateman	Bunning
Archer	Bevill	Burr
Armey	Bilbray	Burton
Bachus	Bilirakis	Buyer
Baesler	Bliley	Callahan
Baker (CA)	Boehner	Calvert
Baker (LA)	Bonilla	Camp
Ballenger	Bono	Canady
Barr	Brewster	Chabot
Barrett (NE)	Browder	Chambliss
Bartlett	Brownback	Chapman
Barton	Bryant (TN)	Christensen

Chrysler	Hilleary	Pickett
Clinger	Hobson	Pombo
Coble	Hoekstra	Portman
Coburn	Hoke	Pryce
Collins (GA)	Horn	Quillen
Combest	Hostettler	Quinn
Condit	Houghton	Radanovich
Cooley	Hutchinson	Regula
Cox	Hyde	Riggs
Cramer	Inglis	Roberts
Crane	Istook	Rogers
Crapo	Jacobs	Rohrabacher
Creameans	Johnson, Sam	Ros-Lehtinen
Cubin	Jones	Roth
Cunningham	Kasich	Royce
Deal	Kelly	Salmom
DeLay	Kim	Sanford
Diaz-Balart	King	Scarborough
Dickey	Kingston	Schaefer
Dooley	Knollenberg	Schiff
Doolittle	Kolbe	Seastrand
Dornan	LaHood	Sensenbrenner
Dreier	Largent	Shadegg
Dunn	Latham	Shaw
Edwards	LaTourette	Shuster
Ehlers	Laughlin	Sisisky
Ehrlich	Lazio	Skeen
Emerson	Lewis (CA)	Skelton
English	Lewis (KY)	Smith (MI)
Ensign	Lightfoot	Smith (NJ)
Everett	Linder	Smith (TX)
Ewing	Livingston	Solomon
Fawell	LoBiondo	Souder
Fields (TX)	Longley	Spence
Flanagan	Lucas	Stearns
Foley	Manzullo	Stenholm
Forbes	Martini	Stockman
Fowler	McCollum	Stump
Fox	McCrery	Talent
Franks (CT)	McDade	Tate
Franks (NJ)	McHugh	Tauzin
Frelinghuysen	McInnis	Taylor (NC)
Frisa	McIntosh	Tejeda
Funderburk	McKeon	Thomas
Galleghy	Metcalfe	Thornberry
Ganske	Meyers	Tiahrt
Gekas	Mica	Upton
Geren	Miller (FL)	Vucanovich
Gillmor	Molinari	Waldholtz
Goodlatte	Montgomery	Walker
Goodling	Moorhead	Walsh
Goss	Myers	Wamp
Greenwood	Myrick	Watts (OK)
Gunderson	Nethercutt	Weldon (FL)
Gutknecht	Neumann	Weller
Hamilton	Ney	White
Hancock	Norwood	Whitfield
Hansen	Nussle	Wicker
Hastert	Ortiz	Wilson
Hastings (WA)	Oxley	Wolf
Hayworth	Packard	Young (AK)
Hefley	Parker	Young (FL)
Heineman	Paxon	Zeliff
Herger	Petri	Zimmer

NOT VOTING—11

Chenoweth	Hunter	Smith (WA)
Duncan	Lipinski	Velazquez
Gonzalez	Miller (CA)	Ward
Graham	Rush	

□ 1357

The Clerk announced the following pairs:

On this vote:

Mr. Rush for, with Mrs. Chenoweth against.

Mr. Ward for, Mrs. Smith of Washington against.

Mr. LEWIS of California changed his vote from "aye" to "no."

Mr. SKAGGS changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. SMITH OF MICHIGAN

Mr. SMITH of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Michigan: Page 5, after line 18, insert the following new section:

SEC. 5. AVAILABILITY OF INFORMATION AMONG FEDERAL AGENCIES

Covered Federal agencies shall make existing databases and information developed under this Act available to other Federal agencies, subject to applicable confidentiality requirements, for the purpose of meeting the requirements of this Act. Within 15 months after the date of enactment of this Act, the President shall issue guidelines for Federal agencies to comply with this section.

□ 1400

Mr. SMITH of Michigan. Mr. Chairman, the amendment before this body is simply an amendment calling on the different agencies that might be working on associated risk assessment to share that information and for the President to develop the guidelines on the basis for which they share that information.

I would just like to mention that, as a former Michigan OSHA commissioner, 1 of 9 commissioners, I was tremendously frustrated as a member of that commission on having the direction to sit around a table and develop all of the things we could think of to make the workplace safer.

Let me just say that risk assessment has been supported by both sides of this aisle, Democrats and Republicans, for several years. I am delighted it is coming to a culmination. I am offering an amendment to bring the best available information for risk assessments and cost-benefit analysis to the decisionmakers.

A quick look though at the Federal Government directory reveals that there are dozens of Federal offices whose purpose is to collect statistics, and data, and information, and the Members here may think that Federal agencies already share information, but I have found that this is not the case. Recently negotiations between the U.S. Department of Agriculture and the EPA were fruitless, and the individual Administrators were unwilling to share that information, and it ended up having to go to the Secretaries to demand the kind of relationship where one agency would share basic database information with another agency, and in that particular case it was on pesticides, and we ended up showing the information that USDA had ended up showing EPA that the risks were much lower than they assumed. It seems to me this gets to the heart of H.R. 1022's objective of common sense regulation.

Mr. Chairman, I hope this body will support this amendment.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I want to commend the gentleman for his excellent amendment. I can assure him from long experience there is a breakdown in data sharing quite frequently amongst the agencies.

This should help correct it, and on our side we would be glad to see it.

Mr. SMITH of Michigan. Mr. Chairman, I thank the gentleman from California.

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

Mr. SMITH of Michigan. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, the gentleman from Michigan [Mr. SMITH] has identified what is a very relevant problem, has corrected it, I think, with the wording of his amendment, and we are pleased to accept the amendment as well.

Mr. SMITH of Michigan. Mr. Chairman, I thank the gentleman.

I have quite a bit of experience in the need for regulatory reform.

As a former Michigan OSHA commissioner, I cannot begin to explain the frustration I had being a member of the OSHA who were continually asked to think of additional safety measures.

The group was asked to develop recommendations not based on safety needs—but on a continuous volume of safety regulations.

I fully support H.R. 1022's efforts to bring realistic risk and economic information into regulatory decisions.

In addition, I am offering an amendment to bring the best available information for risk assessments and cost-benefit analyses to the decisionmakers. A quick look at the Federal Government Directory reveals that there are dozens of Federal offices whose purpose is to collect statistics, data, and information.

You may think that Federal agencies already share information but I have found that this is not the case.

Recently negotiations were needed just to get USDA and EPA to share agricultural data. This data was needed to refine risk assessments—to show that pesticide use was actually much lower than EPA had assumed. How can we expect better regulation if agencies refuse to share taxpayer funded research?

This gets to the heart of H.R. 1022's objective of commonsense regulation.

This amendment takes into account that some information is confidential for business and security reasons. But if we are to be assured good regulation, we must have the Federal agencies share crucial information.

H.R. 1022 requires agencies to consider all of the pertinent information for commonsense regulation—my amendment makes sure they get that information.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. SMITH].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. MARKEY: Page 31, strike line 23 and all that follows down through line 5 on page 32 (all of section 301(a)(3)) and insert:

(3) shall exclude peer reviewers who are associated with entities that may have a financial or other interest in the outcome unless such interest is disclosed to the agency and the agency has determined that such interest will not reasonably be expected to create

a bias in favor of obtaining an outcome that is consistent with such interest.

Mr. MARKEY. Mr. Chairman, this is a quite simple amendment, and it goes towards the objective of curing what is a very glaring error which has been built in.

Mr. Chairman, the problem with this legislation is that it, unbelievably, allows for the corporate insiders, the lobbyists, the scientists, of companies that are, in fact, with financial interest in the regulation which is being considered, to be able to sit on the peer review group which is going to be evaluating that risk, that regulation which will be put on the books.

Here is the language from H.R. 1022 that we are considering out here on the floor today. Here is what it says. It says that peer review panels, quote, shall not exclude peer reviewers merely because they represent entities that may have a potential interest in the outcome, provided that interest is fully disclosed to the agency.

Well, what that means, my colleagues, is that the Gucci-clad lobbyists that are surrounding this building right now wondering how the legislation is going to turn out will have the capacity to actually serve on the peer review panels. So, after they get done sitting in our committees, listening to and lobbying on the legislation itself, they are then able to put themselves on the peer review panel and ultimately insert their views into the record, and, if they are unsuccessful, to then turn over to their own corporate lawyers their dissents that can be used as the basis for an appeal in the courts if they are unhappy with the regulations.

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

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

Mr. DOGGETT. Mr. Chairman, I ask the gentleman, "Do you think that's why they call this the job creation and wage enhancement act? Is this a full employment act for lobbyists to serve on peer review committees in those rare times when we're not meeting?"

Mr. MARKEY. There is absolutely no question that right now law firms all across this country are looking at new real estate space to hire the new junior attorneys who are going to have to come on board in order to begin the process of appealing each and every part of this process and for their service on the peer review panels for every regulation which is going to be put on the books.

Now let us take this example. Let us look at the example of a nuclear power plant that is very concerned that a new regulation might go on the books which will ensure that all cracked or rotting pipes in nuclear power plants are, in fact, replaced so that the pipes do not break, and the water is lost, and the nuclear core is exposed without proper water.

Now under this regulation the nuclear industry will be able to put their

own doctor, Dr. Pangloss in fact; Dr. Pangloss will be placed on the panel, and Dr. Pangloss of course always wears his rose-colored glasses when he is looking at regulatory changes that could impact on the nuclear industry. Well, Dr. Pangloss would, in the words of Voltaire, say, "Well, all is for the best in that this is the best of all possible worlds. There is nothing wrong with our industry, and therefore no new regulations need to be placed upon the nuclear industry."

Now, Mr. Chairman, all of his fellow Dr. Panglosses on the panel, all the other nuclear scientists on the panel, will agree, of course, with Dr. Pangloss.

Now should the regulators proceed with the adoption of the regulation notwithstanding the objection of Dr. Pangloss and all of the other nuclear scientists who have been present on this panel, notwithstanding their obvious conflict of interest? The nuclear industry lawyers who are hired can then sue the agency using the Panglossian dissent as exhibit A in their lawsuits saying that the regulation should be invalidated.

Now this conflict of interest is so obvious and at such odds with the whole history of peer review panels in the history of our country that it should be removed.

The entire process here has other problems as well. It excludes automatically an industry lobbyist if, in fact, there is only one company that is being reviewed for a regulatory change. That would be such an obvious conflict of interest. However, the lobbyists and the scientists for its competitors can serve on the peer review panel, so if the regulation is put in place, and it may hurt the competitors or it may help the competitors if this one company is now restrained, they serve on the—

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MARKEY] has expired.

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

Mr. MARKEY. Now although a single company with a hundred percent cannot put a hundred percent interest in that particular regulation, cannot have its lobbyist serve on the panel, what if there are two companies and one company happens to be 90 percent of the entire industry, and one other company 10 percent? In that instance, the industry lobbyists and scientists for that company with 90 percent control can put their own lobbyist on the peer review group as this scientific evaluation is going on. Absolutely unnecessary and in fact something which is going to compromise the integrity of any evaluation that is going to be made.

Now let us think about, as we move down the line as well, why we should not do it. Quite simply because on the books right now there is a law. There is a law. It is 18 U.S.C. 208 which includes penalty of 2 years, or imprisonment, or

a \$10,000 fine if, in fact, peer reviewers who participate personally and substantially in Government decisions have a conflict of interest unless that conflict is explicitly waived by the agency.

That is the law today. It has served our country very well. We do not want these peer review panels to be packed with the very people who have a financial conflict of interest.

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

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

Mr. DOGGETT. I ask, Do you mean to tell me that you can get 2 years of hard time right now for doing what this piece of legislation now authorizes and approves as a conflict of interest, a conflict of interest that, I gather from your remarks, is mandated by this statute?

Mr. MARKEY. Right now under the law any person who has this kind of a conflict is absolutely prohibited, and if they try to get around it without getting an exemption, then they do face the penalty of 2 years in jail or a \$10,000 fine, and I think that changing that kind of a law that has protected our country quite well from conflict of interest is something that we should very seriously deliberate on before the vote this afternoon.

□ 1415

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

Mr. Chairman, I rise in opposition of the amendment. We had a long debate about this provision and this amendment in the committee. It was defeated handily on a bipartisan vote. This is nothing else but a smokescreen, a red herring. Essentially it says, if the Markey amendment were to be adopted, then if you know anything at all about the subject matter at hand, then you cannot be on the peer review panel. You are essentially eliminated because you know something. It kinds of reminds me, Mr. Chairman, of the First Lady's Health Care Task Force, where to be qualified you did not know anything about health care or be a participant in any of the health care delivery systems.

I would suggest to my friend from Massachusetts that the language of the bill is very clear on peer review. Let me read it to my friend. Peer review panels "shall be broadly representative and balanced and to the extent relevant and appropriate, may include representatives of State, local, and tribal governments, small businesses, other representatives of industry, universities, agriculture, labor, consumers, conservation organizations, or other public interest groups and organizations."

That is a pretty broad category that is included.

Now, we had testimony from a Professor Lave from Carnegie Mellon who has served on numerous peer review panels. I asked the professor directly

during the testimony exactly what happens to those folks who would be perceived as using that information to their own benefit or their company's benefit, and Professor Lave said "We simply beat the H out of them."

The point is that we, that the people who testified, virtually every individual who testified told our committee that the peer review process under this bill makes common sense, it allows people who know what they are talking about to participate in this, and that in fact this is the most appropriate way to get the broadest possible input into the peer review process.

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

Mr. OXLEY. I yield to the gentleman from Wisconsin.

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

Mr. Chairman, this is a terrible amendment. You can consider it a good amendment only if you want to keep the thinking we have kept for the last 40 years. That is precisely the cycle that we want to break.

No, God forbid that we have somebody on the review boards that knows what they are doing. Our good friend from Massachusetts mentioned the power plants. Well, who do we want sitting on the review board? Do we want somebody sitting on the review board that knows nothing about the power plants, or do we want somebody there that knows what they are doing and what they are talking about? Certainly the people in Congress do not know enough or they would not have been passing these laws for the last 40 years.

I just walked over to the dictionary and what is a peer? It is a person who is equal to another in ability, qualifications, age, background and social status. That is what Webster's has to say about it. And that is what this language is saying.

But the reason I want to take this time, and I am delighted you yield me this time, is because I am really concerned about what these regulations are doing to the people you and I are representing. OSHA has come out with a rule, I could not believe this at our last town hall meeting on Saturday, has come out now with a rule, if you are building a little three bedroom ranch, like you have in your place in Ohio, or Wisconsin or Massachusetts, in order to put on shingles or put on roof boards, you have to encase this house now with a net. That costs thousands of dollars and additional time.

When you put on shingles, you have to have mountain climbing equipment. I mean, you talk about common sense? And who has to pay for it? The poor guy that is working in the mills that has to pay the mortgage, he has to pay additional thousands of dollars so the regulators in Washington can live high off the hog. No. The time for this legislation is long past.

Listen to in this. In the last 2 years, the current administration has put out 125,000 pages of additional regulation.

That is staggering. Who is paying for that? The people you are representing.

Now, the prestigious industrial counsel said more than 1,000 businesses and their tens of thousands of hard-working employees, have estimated that our Nation's regulations bill now amounts to \$600 billion a year. Let me repeat that. The regulations that the people in this Congress, the majority, have put on the people of this country, is \$600 billion each year. That comes out to \$2,000 for every man, woman, and child in America.

If you want to give the people a tax break, or give the people a break, give them a break with these regulations. Take a look at what OSHA is doing to your people, the people that you are representing. Take a look at what these regulations are doing to our economy.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. OXLEY] has expired.

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

Mr. OXLEY. Mr. Chairman, let me simply point out there is no difference between serving on a peer review panel and having expert witnesses in court. We have expert witnesses in court day after day in this country. Many of them are paid for their services, but they provide expert testimony. They are not going to foul the process by the fact they become expert witnesses.

We have to understand in the peer review process, Mr. Chairman, that is what experts are for, to give their best information. Nothing is withheld from the public. They understand that they have to reveal their employment and whatever particular ax they may have to grind.

But that I think is a cynical attempt on the part of the sponsors of the amendment to basically say anybody who has any interest in the issue is somehow going to take advantage of that and take advantage of the system. That is just an entirely unrealistic viewpoint of what this peer review process is all about.

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

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

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

Mr. DINGELL. Mr. Chairman, I cannot believe that my Republican colleagues do not understand the language of the bill, and I cannot believe that they do not understand the language of the amendment. The language of the amendment corrects an obvious error in the bill. The bill provides that peer reviewers may not be excluded simply because they represent entities that have a potential interest in the outcome. That is really what is at question here. Is peer review going to be

conducted by people who have an interest in the outcome?

Then it goes on to say, "provided the interest is fully disclosed and, in the case of a regulatory decision affecting a single entity, no peer reviewer representing such entity may be included in the panel."

What is the practical result of this language on the question of whether or not PCB's should be regulated in a special way, or whether clean air emissions, or water pollutants, or a particular kind of contaminant should be permitted in the food or drugs that are sold in this country, or whether a question involving safety in the workplace should be dealt with because of the presence of a particular pollutant or a particularly hazardous practice? In those instances, if it affected the entire industry, the entire panel, the entire panel of peer reviewers could be composed of people who had a financial interest, if only they had disclosed what that particular interest was.

Now, I ask my colleagues, do you want to have peer review conducted by people who have an interest in the outcome? I think not. The amendment offered by the gentleman from Massachusetts [Mr. MARKEY] says that peer reviewers shall be excluded if they are associated with entities that have a financial or other interest in the outcome, unless such interest is disclosed to the agency and the agency has made a determination that such interests will not reasonably be expected to create a bias in favor of obtaining an outcome that is consistent with the special interest that is held by that peer reviewer.

That is something which permits us to obtain the necessary expertise of people who know something on the subject, if they have an interest. But it also provides a very careful screen through which rascals may not proceed, and in which we can have a reasonable assurance that the protections which are here for the people in peer review of important scientific and technical questions will be done in such a way as to assure that the result will not be tainted with the determination or an inclination on the part of the reviewer to secure on behalf of himself and the special interests which he serves a result favorable to that particular interest.

Without this amendment, the entirety of the panel may be composed of people who have a financial interest in the matter. I will repeat that, because I saw somebody nodding a no. Without this amendment, the entire panel may be composed of people who have a particular interest in the result.

I think for this Congress to pass legislation which would sanctify such a consequence is a great shame. Shame on us, shame on the country. And the consequences of peer reviews which is tainted in this evil way will not only jeopardize the faith of the people in this body, but will justifiably jeopardize the faith of the American people in

the peer review system we are authorizing under this legislation which we consider today.

I urge my colleagues to consider not only the consequences of this legislation as it is written here, but the consequences of a tainted peer review conducted under the provisions of the bill without the protection of the amendment offered by the gentleman from Massachusetts [Mr. MARKEY].

I would urge my colleagues to think about what can happen to the American people. And while they are thinking on that particular matter, I would urge them to reflect on what this means to them in the future when some opponent gets up at election time and says, "Why was it that you supported a proposal in the Congress which permitted special interest peer reviews to override the Food and Drug Administration or the Environmental Protection Agency or OSHA or any other agency charged with protection of the public interest? And why was it, why was it, that you permitted a peer review panel to be set up which could be composed entirely of special interest representatives?" Think on it, my colleagues, and vote wisely.

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

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

Mr. BARTON of Texas. Mr. Chairman, I am on the two committees that have reported this legislation to the floor, and I think we need to make a few basic points. No. 1, I do not even think the gentleman from Massachusetts [Mr. MARKEY], the author of this amendment, is opposing the peer review, because he lets the first two subparagraphs stand. He is substituting subparagraph (3), and I want to read the paragraph that he is substituting for. It says, in the bill, "shall not exclude peer reviewers with substantial and relevant expertise merely because they represent entities that may have a potential interest in the outcome, provided that the interest is fully disclosed to the agency and in the case of a regulatory decision affecting a single entity, no peer reviewer representing such entity may be included on the panel."

Well, we are trying to do, I think, in the bill what the gentleman from Massachusetts [Mr. MARKEY] is attempting to do, but we do say that they are not automatically excluded given, No. 1, that they fully disclose what their interest is, and, No. 2, if it is a decision that only affects their interest, affects their entity, then they are not going to be on the panel at all.

Now, the gentleman from Massachusetts says we shall exclude. We say shall not automatically. The gentleman from Massachusetts [Mr. MARKEY] says they shall be excluded unless they disclose their interest, and the agency reasonably determines they are

not going to create a bias in favor of obtaining an outcome.

Well, we both want to disclose. We just change the burden of proof to say they are not automatically going to be excluded unless the decision directly affects the entity they represent, in which case they would be excluded.

Well, as I read the amendment of the gentleman from Massachusetts [Mr. MARKEY], that exclusion does not stand. If I read it correctly, they could actually even impact a decision that directly affects them if the agency says it is OK.

In some ways what we have in the bill is stronger, except for the fact that we say the burden of proof is not in the beginning automatically to exclude them. In your burden of proof, they are automatically excluded.

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

Mr. BARTON of Texas. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, is the gentleman referring to the language at the end of the subsection (3) that deals with single entities that are excluded from having peer reviewers represent them?

Mr. BARTON of Texas. Yes. No peer reviewer representing such entity may be included on the panel if the decision affects that single entity that they represent.

□ 1430

Mr. MARKEY. Do not forget, in that language itself, we do not exclude the competitors to the entity, which could have, which could have a financial interest in the outcome as well. So although we have excluded the company that might have the most direct financial interest, we have not excluded their competitors from stacking the panel with their own scientists. They should not be allowed to participate either, if there is bias.

The point of this provision is that there is an obvious bias if you are the only company affected. The truth is, it is additional bias amongst other companies if their competitor would not have this—

Mr. BARTON of Texas. Mr. Chairman, my comment was directly on the specific entity, the specific entity. And under the language in the bill, if that entity, if they represented a specific entity, they are automatically excluded. Under the gentleman's language, they are not.

Mr. MARKEY. Mr. Chairman, if the gentleman will continue to yield, I would be more than willing to accept the gentleman's language to exclude any single entity. I would be more than willing to accept that language.

Mr. BARTON of Texas. I am rising in opposition to the gentleman's amendment. I support the provision that is in the bill. I am just trying to point out that we have got, I believe, that the bill as stands has the protections that the gentleman is trying to attempt, because we require full disclosure.

Mr. MARKEY. Again, the point here is that there is a palpable conflict of interest when you are the only company that is going to be directly affected by the regulation. But the truth is, there is built-in bias for companies when there are three or four or five that are going to be affected by the regulation.

Here we basically say that they cannot, "shall not" be excluded.

Mr. BARTON of Texas. Automatically.

Mr. MARKEY. You are building in a mandate that they not be excluded merely because their lobbyist happens to be someone that has an interest in the outcome. We are saying that that is not a high enough standard that can be established in order to protect the public health and safety.

Mr. BARTON of Texas. Reclaiming my time, Mr. Chairman, I thank the gentleman for his comments. The point is, we do not feel they should automatically be excluded.

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

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

Mr. BARTON of Texas. Mr. Chairman, we do not automatically exclude people because they happen to represent an interest that has an interest in the pending rule or regulation and the peer review. We understand that there are many of these rules and regulations that are so technically complex that we have to have experts. As long as we fully disclose and guarantee that if the regulation specifically affects a single entity they are not going on the panel, for example, given the fact that in subparagraphs 1 and 2 we are providing for a broad range of peer review, that it is not just this one individual, that we think the bill as is should stand. We get the outcome the gentleman from Massachusetts is attempting to obtain, but we do not put the burden of proof on the peer reviewer.

Mr. DOGGETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Markey amendment.

This reduces the danger of conflict of interest that is inherent in this bill. The concept of peer review, of having a jury of one's peers, in this case scientific peers, to review the work and ensure we have good science is a very good concept. But what we have here is not true peer review but, as the gentleman from Massachusetts has pointed out, phony peer review. Because we are going to ensure that lobbyists, when they finish their work in this great Capital, can go out and sign up for the peer review committee.

I know the gentleman from Massachusetts had some further words on that subject.

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

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

Mr. MARKEY. Mr. Chairman, for those who are listening right now, think about it in these terms: for every regulation that is placed upon the books or has been placed upon the books by any of these agencies, there are 25 experts in America on the subject who could potentially qualify for the peer review group. Twenty of them have no conflict of interest; five of them have a conflict of interest.

The history of this country has been that the agency selects amongst the 20 that have no conflict of interest so that the public can be sure that the health and safety regulation has in fact been analyzed by people who are not going to financially benefit.

Under the amendment which I have proffered, if in fact the company that has a conflict of interest has a Nobel laureate with a de minimis stake in the company, then they could make an exception saying there is no bias for that Nobel laureate. But throughout the history of our country, every time there is a regulation put on the books, they always select from the 20 with no conflict of interest. We have a lot of experts in America on a lot of subjects.

The misimpression being left by the authors of the legislation is that in fact there will be no experts that will be allowed to participate. Just the opposite is the case. We will have just as many experts as we have ever had, but we will ensure that, as we have in the past, they will not have a financial conflict of interest. In that way the public can be sure of the outcome.

I think that the misrepresentation that goes on with regard to the amendment and these horrific examples of regulations that have been placed upon the books, assume that they would not be placed upon the books if, in fact, the lobbyist for the company that was going to be affected by the regulation could serve on the peer review group. In fact, as we know, if that had been the case throughout the history of our country, we would have had no regulations to protect the health and safety of this country because the drug companies and the chemical companies and the nuclear industry and every other industry would have packed every one of these peer review groups.

Let us not, for God's sake, leave any misimpression for anyone who is listening that there are not plenty of independent experts available to serve on every single panel that would ever be constructed by every single agency. Let us not for a second again think that if in fact the Markey amendment is accepted that the first thing that they would decide is that a single company would, and the only company that could be affected by a particular regulation, of course, would be in a clear conflict of interest and bias, if their scientists and their lobbyists sat on the panel. So to a certain extent the gentleman's amendment, while clarifying, is redundant in terms of what is already offered as a real protection inside of the Markey amendment.

This is a conflict of interest, clear and simple, loaded with potential for lawsuits from here to eternity, if, in fact, the Markey amendment is not adopted.

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

Mr. DOGGETT. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, I thank the gentleman for yielding. Here is the question.

This conflict of interest, when the regulator is paid for partially by fines that he levies, is that not a conflict of interest?

Mr. DOGGETT. I thought the best example on conflict of interest was the last one the gentleman had with the silly regulation about covering the net over the house, because there are a lot of Members here on both sides of aisles that are concerned about eliminating silly regulations.

But under the bill as you propose it, OSHA has to have somebody from the net manufacturer on the peer review committee to decide whether it is reasonable to put a net over the house. That is what the gentleman from Massachusetts [Mr. MARKEY] is trying to prevent.

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

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

Mr. MARKEY. The example which the gentleman uses is absolutely ridiculous. When a regulator fines a company for polluting, the money does not go back to the regulator. The money goes back to the Federal Treasury. When a lobbyist is on a peer review panel, proposing that a regulation pass, he gets rich if that regulation is blocked.

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

(At the request of Mr. BARTON of Texas and by unanimous consent, Mr. DOGGETT was allowed to proceed for 2 additional minutes.)

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

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

Mr. BARTON of Texas. In the gentleman's earlier comment, he said that the bill is going to create phony review panels or at least has the potential to create phony review panels. I would ask if the gentleman has read subparagraph 1 where it says, panels consisting of experts shall be broadly representative and balanced, and then it goes on to say, represent State, local, tribal governments, small business, other representatives of industry.

Do you not believe that that paragraph which remains intact under the Markey amendment is going to ensure that there is a true review panel?

Mr. DOGGETT. Certainly that paragraph, which was read by the distinguished chair of the committee last night in suggesting that I had misrepresented what this legislation does,

which I certainly had not, is the kind of general claim for a lack of bias in these panels. But we cannot just read that one section. We have to move down to the next section, and that is where we tell each one of these agencies that they cannot keep a lobbyist off of these peer review committees. They have to put them on. It is not a may or a maybe. It is a shall not. It is a commandment to every one of these regulatory agencies that they cannot keep off these panels lobbyists.

As the distinguished former chair of the Committee on Commerce indicated, while there may have to be balance, there is nothing in this legislation that prevents an agency from having every single member on the panel being someone who has a financial interest. They may have somebody who is a consumer, but they may still have a financial interest in this.

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

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

Mr. MARKEY. They do have a balance requirement in the law. It has to be a balanced panel. But the balance, for example, for a nuclear regulation could be they have a nuclear manufacturer. They have a nuclear chemist. They have a nuclear waste disposal company. They have a nuclear, nuclear, nuclear. They all have conflicts of interest, but it is balanced in its conflicts although they all are against the public health and safety.

Mr. BARTON of Texas. Mr. Chairman, if the gentleman will continue to yield, they also have State government, local government, small business.

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

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

Mr. DOGGETT. Mr. Chairman, this is like saying we are going to have a jury of our peers for the O.J. trial, and we will have a fair cross section of peers for that, but we are also going to let the lawyers for one side or the other serve on the jury panel. What we want is good science, not good advocacy.

I could not disagree more with the gentleman earlier who said, well, we have got all these paid experts in court going back and forth. It will not be any different than that.

That is the problem. In too many of these cases, you get whatever degree of expertise you pay for. We are not interested in paid science. We are not interested in advocacy. We are interested in balance and in keeping those who have an axe to grind off of these peer review committees. That is what the amendment of the gentleman from Massachusetts is designed to accomplish and why I rise in support of his amendment.

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

words, and I rise in opposition to the amendment.

Mr. Chairman, I think we ought to be clear about what we are doing here. Some Members just have not bothered to read the language in the bill. It requires an independent and external peer review. "Independent" means that there does have to be some degree of work to make certain that the people are independent. Then it also says that they shall provide, it does not make it voluntary, "they shall provide for the creation of peer review panels consisting of experts," not Gucci shoe lobbyists, but experts and shall be broadly representative and balanced. So much of what we have heard here today just does not bear to the language that we begin with when we set forth the section.

Why did we go down and put a section in that says we shall not exclude peer reviewers with substantial and relevant expertise? In large part because the testimony before our committee anyhow was somewhat different from the way the gentleman from Massachusetts portrays it.

The fact is we are creating a system now where we are likely to be looking at things that involve a good deal of technical expertise, that involve a good deal of technical knowledge. We may, in fact, be writing regulation that at some point, for instance, affects an ecosystem such as the Chesapeake Bay. We might want to have the premier experts on the Chesapeake Bay as part of a peer review panel. That premier expert might be someone who works for the University of Maryland that might have a direct interest in the outcome of something with regard to the Chesapeake Bay but under the gentleman's amendment would be excluded from the panel.

And so the fact is that what we are doing is assuring, under the gentleman's amendment, that the dumber you are about the issue, the more likely you are to be able to participate in the peer review.

I am not certain that that is what we want to set up. I think what we want to set up is exactly what we do in the bill to assure that those people who have some knowledge about the issue are, in fact, involved in the peer review.

The gentleman from Texas suggests that this is somewhat analogous to a jury. It is not a jury. These are people who are reviewing technical data. They do not determine the outcome. They simply review the technical data to find out whether or not it was honestly arrived at.

It seems to me that that is where we want to have some people who are very knowledgeable about the subjects. And yet what there is an attempt to do here is to take knowledgeable people out of the process.

I understand why the gentleman from Michigan [Mr. DINGELL] and the gentleman from Massachusetts [Mr. MARKEY] and the gentleman from

Texas [Mr. DOGGETT] and so on come up with this kinds of language. They are opposed to this bill. They do not like it. They do not want this bill. They are going to vote against it. They will do everything possible to destroy it.

□ 1445

One of the things they are attempting to do here is destroy it by assuring that it becomes unworkable, and it becomes unworkable when in fact what you have is the dumbness test for peer review, rather than the smartness test.

Mr. DOGGETT. Will the gentleman yield, Mr. Chairman?

Mr. WALKER. The gentleman interrupts me in the middle of my speech, but I am happy to yield to the gentleman from Texas.

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

Mr. Chairman, will the gentleman do us the courtesy by just taking away that argument completely by excluding lobbyists from these peer review panels?

Mr. WALKER. I would say to the gentleman that I am perfectly willing to exclude lobbyists, but we did exclude them when we said we had to have experts as a part of it.

This idea of lobbyists is in fact a term being thrown around by gentlemen who want to play to public sentiments, and so on.

Mr. DOGGETT. Mr. Chairman, I agree, we have a little expertise among the lobbyists, but some of them are scientists, and some do come here on bills like this and offer their testimony.

Mr. WALKER. Some of the ones who are true scientific experts might actually be someone we would want to have review.

Mr. DOGGETT. So the gentleman wants them on these peer review panels?

Mr. WALKER. As far as I am concerned, we can exclude lobbyists. I want to have experts.

Neither the amendment of the gentleman from Massachusetts [Mr. MARKEY] nor what is in the bill is anything but permissive. Both permit people to participate.

It is just that with the gentleman from Massachusetts, what they want is an insider game to be played where only the agency gets to choose, the agency gets the choice here, and what they are going to do is pick the people who like the agency bias.

The gentleman from Massachusetts [Mr. MARKEY] wants to make certain if this law goes into effect what we get is exactly the same kind of regulations we have always gotten, those kinds of regulations that the agency wanted in the first place, where they set out to do something good and end up doing something harmful because they did not get broadly relevant expertise in the review.

We want to change that. We want to go to a new order solution that changes things in a way that makes some degree of sense. Most of all in this, Mr.

Chairman, what we are trying to do is to make certain that where we get down to those narrow activities that involve some real technical expertise, that we can in fact bring people onto panels who are truly knowledgeable about those subjects.

I would be happy to narrow the focus of the language in the bill in a way that gets to that subject matter.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

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

Mr. WALKER. Mr. Chairman, If in fact what we need to do is just make certain that there is language to assure that the only time this applies is if there are no other experts available, I am perfectly willing to modify the language in the bill to do that.

However, with the gentleman's amendment, what we do is we exclude people who might have relevant expertise to bring to a highly technical subject, and do it in a way that I do not think makes any sense.

Mr. Chairman, I would hope this amendment would be rejected. Dumbness should not be the standard for peer review, it ought to be a smartness test.

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

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

There was no objection.

Mr. MARKEY. Mr. Chairman, I do not want to prolong the debate, except to, here at its conclusion, make a simple point, once again. We do not want any of these agencies to exclude experts. We do not want anyone who can contribute to an evaluation of any of these scientific questions to not be able to serve on any of these peer review panels.

The issue is bias. If in fact the scientist, the lawyer, the lobbyist who is being offered as an expert has a bias on that issue, we are arguing that they should not serve on that peer review panel unless the agency determines that there is a significant contribution that can be made, and the bias is incidental.

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

Mr. MARKEY. I am glad to yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Chairman, I am glad to hear the gentleman make the statement. I wish we could have had his support in the last Congress, when EPA was doing its risk assessment on secondary smoke and there was a gentleman on our risk review panel that I pointed out from California who was a leading antismoking crusader, but I did not hear anything from the gentleman.

I thank him for yielding to me.

Mr. MARKEY. Mr. Chairman, if I may reclaim my time, I think it is noteworthy that in our language we

make it clear that it is not just financial, but other interests in the outcome, which would qualify as bias. We would want the agencies to look at other interests as well that may not be financial.

That is why I deliberately included those words after the full committee markup when that subject was raised, because I agree with the gentleman, where there is bias, regardless of whether there is a financial interest, there should be an ability to remove those people from the panel.

However, that is the whole point. It does not really make any difference whether you are going to get rich because the regulation is coming out your way, or your whole career is obviously so tainted by a pattern of behavior that that person should be excluded as well.

Mr. Chairman, I understand that there are some people who want industry lobbyists to serve on the panel, who want a biased position to be represented as part of these hearings. That is what the bill allows.

The amendment bans that. It puts up a wall, and if Members want, I will add in the extra language which I have which keeps out bias other than financial, so that the gentleman can legitimately object when in fact there are those who have other interests.

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

Mr. MARKEY. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, before we talked about OSHA, and this is important because it is something relevant that is happening in our society today. When OSHA pays its staff, when OSHA pays its bills, does that not come out of the fines they impose? The answer is yes. OSHA is hiring new people. OSHA is out there levying fines.

Mr. MARKEY. Mr. Chairman, if I may reclaim my time, let us not confuse whether or not other people are hired at agencies with the issue of whether or not the person gets personally enriched by a decision which is made. No Federal employee can profit, by law, from any decision which they make. There is absolutely a total prohibition against that.

I do not think it is proper to equate that situation with a Federal regulator with the lobbyists' interests which a chemical, a tobacco, a drug, or a toy manufacturing concern would have with the promulgation of a regulation and personal enrichment of the individual.

Mr. ROTH. If the gentleman will continue to yield, Mr. Chairman, I think the gentleman is being a little too disingenuous. I think it is relevant. If OSHA hires additional people, they have to levy additional fines.

Just the last couple of weeks ago when OSHA put out their latest regulation, they promulgated the rule on day 1 at 7 o'clock in the morning, and at 8 o'clock they were imposing fines.

There was no publication that this is a new rule.

I say that there is a conflict of interest in these industries, in these agencies.

Mr. MARKEY. Mr. Chairman, if I may reclaim my time one final moment, the point is if there is a lobbyist, if there is a scientist, we will not even call them lobbyists, we will just say employees of the company, if they have stock options in the company that personally enrich them if a regulation does not go on the books, let us not kid ourselves, there is a tremendous bias with regard to how the individual will view that regulation going forward.

If a Federal regulator passes a regulation, he does not personally or she does not personally find any monetary remuneration because of the passage of that regulation or defeat of that regulation. One might say they have a professional stake, no question about it, but they do not have a financial concern, and that is really the whole heart of this debate.

I urge anyone listening, if they do not believe people should have a financial stake, please vote for the Markey amendment. It still allows for every other expert in every field to serve on the peer review panels.

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

Mr. MARKEY. I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I think I heard the gentleman say a little while ago that he is sensitive about the concern.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MARKEY] has expired.

(At the request of Mr. WALKER and by unanimous consent, Mr. MARKEY was allowed to proceed for 2 additional minutes.)

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

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

Mr. WALKER. Mr. Chairman, the gentleman has indicated that he is sensitive to the concern that there might be areas where you have a particular expert that serves and there could be some modest conflict of interest or something, and that is what he tried to correct in his amendment.

I think maybe he is even, from what he said, sensitive to the fact of what we heard in the committee, that there are in fact people who might have expertise in very, very narrow technical areas that would have to be included in these peer reviews if the peer review is going to be done in a good sense.

Mr. Chairman, let me ask the gentleman, as I said, I am willing to narrow the scope of the amendment. What if we put language up front in the amendment that said "Unless there are available peer reviewers with the equivalent or superior expertise and experience and no potential interest in the outcome, they shall not exclude peer reviewers."

In other words, the only way that the provisions in the bill would apply is if there were absolutely no other kinds of peer reviewers with the kind of expertise that is needed in order to make these judgments; then we would have language that would say where there would be no potential interest in the outcome.

Let me ask the gentleman, is that something that the gentleman would be willing to accept to solve the committee's problem, as well as his?

Mr. MARKEY. Mr. Chairman, if I may reclaim my time, the amendment which I have offered already provides that flexibility to the Federal agency. It allows for the agency to make a determination that the interest would not be reasonably expected to create a bias, and therefore, to allow that expert to testify.

Mr. WALKER. The problem with the gentleman's amendment, Mr. Chairman, if he will continue to yield, is that it presupposes that these people are bad people and should not be brought in.

What we are suggesting is that maybe there is a need for some language that would suggest that if there are other kinds of peer reviewers available that have no interest, the agency ought to look to those people, but if there was nobody else, the agency should have the discretion.

I wonder if the gentleman would go along with that.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MARKEY] has expired.

(At the request of Mr. WALKER and by unanimous consent, Mr. MARKEY was allowed to proceed for 1 additional minute.)

Mr. MARKEY. Mr. Chairman, again, I think the gentleman is heading in the right direction, but it is not enough, and it is already covered by the language which I have in my amendment. We make it a ban, but a ban which can be waived by the agency if they need the experts.

By the way, that is how every Federal agency today now operates. We are not changing anything, we are not adding anything new here. There are peer review groups today, there have been for 50 years, and they have always used experts. They will continue to use experts.

The only change we are debating here today is whether or not people with financial conflicts of interest should be able to serve on the panel. That is the only thing in the debate.

Historically, they have always had the latitude of waiving, if they want to, under the U.S.C. 208 that allows for the Federal agency to let those people in if they needed them, so the law is already there to do it. I do not know why we are changing it at all.

Again, to avoid the conflict of interest, and again, if I may in conclusion just say to the gentleman from Pennsylvania [Mr. WALKER], it is not with the intention of killing this legislation

that we are offering the amendments. It is just the opposite, it is to improve it before it does become the law of the land.

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

Mr. Chairman, I rise in opposition to the amendment. I understand the concern of my friend, the gentleman from Massachusetts [Mr. MARKEY], that there may be a major problem here.

However, let me just sort of quote a representative of the Environmental Defense Fund, who stated at testimony before the Committee on Commerce, "I think in principle there are probably very few exclusions that I would make, as long as members of peer review panels are experts in their area and there is an appropriate balance."

I wish to say to my friend, the gentleman from Massachusetts, that I have seen different peer review processes work. It is essential to get everybody who has expertise to be included in the process, and not to exclude them.

I think what the gentleman fears with regard to conflicts, the conflicts come from many directions. I would not feel it would be appropriate that just because somebody happens to be employed by the Lung Association and actively involved in that process, that they should somehow be treated as if they are tainted and unacceptable to the review process.

In fact, Mr. Chairman, as long as we understand that there is an agenda, and where they come from, it is a major contribution, because in reality we want those who may come from different spectrums to be at the table to build the consensus.

There may be those that are scared of what may be termed the extremes finding consensus. I think we should not only not fear it, we should embrace the fact that consensus is what we want to find on these issues, and that is where we can.

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

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

Mr. MARKEY. Mr. Chairman, again, we are not excluding the companies that are affected. They can still participate legally by commenting upon the regulation, by meeting with the regulators, by participating in any number of ways.

What we are talking about here is, as the gentleman from Texas calls it, the jury over here on the peer review panel. Except for that one part of the process, they are allowed to fully participate in making their case and in ensuring that all the evidence and information is before the agency.

Mr. BILBRAY. Mr. Chairman, reclaiming my time, the fact is, as the gentleman said, except for participating in that process, they can participate in the rest of the process. The gentleman and I know this is the core of

being able to be proactive rather than reactive.

I do not care if you are a representative of the industry or a representative of an environmental group, to be involved in the initial process is absolutely essential for not only your agenda, be it one way or the other, but for the process itself and the finished product.

□ 1500

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. MARKEY].

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

RECORDED VOTE

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

A recorded vote was ordered.

The CHAIRMAN. This will be a 17-minute vote.

The vote was taken by electronic device, and there were—ayes 177, noes 247, not voting 10, as follows:

[Roll No. 178]

AYES—177

Abercrombie	Furse	Nadler
Ackerman	Gejdenson	Neal
Andrews	Gephardt	Ney
Baesler	Gibbons	Oberstar
Baldacci	Gordon	Obey
Barcia	Green	Olver
Barrett (WI)	Hall (OH)	Owens
Becerra	Hall (TX)	Pallone
Beilenson	Hamilton	Pastor
Bentsen	Hastings (FL)	Payne (NJ)
Berman	Hefner	Pelosi
Bevill	Hilliard	Pomeroy
Bishop	Hinchee	Poshard
Boehlert	Holden	Rahall
Bonior	Hoyer	Rangel
Borski	Jackson-Lee	Reed
Boucher	Jacobs	Reynolds
Brown (CA)	Jefferson	Richardson
Brown (FL)	Johnson (SD)	Rivers
Brown (OH)	Johnson, E. B.	Roemer
Bryant (TX)	Johnston	Rose
Cardin	Kanjorski	Roybal-Allard
Chapman	Kaptur	Sabo
Clay	Kennedy (MA)	Sanders
Clayton	Kennedy (RI)	Sawyer
Clyburn	Kennelly	Schroeder
Coleman	Kildee	Schumer
Collins (IL)	Kleczka	Scott
Collins (MI)	Klink	Serrano
Conyers	LaFalce	Shays
Costello	LaTourrette	Skaggs
Coyne	Levin	Slaughter
Danner	Lewis (GA)	Stark
de la Garza	Lincoln	Stokes
DeFazio	Lofgren	Studds
DeLauro	Lowey	Stupak
Dellums	Luther	Tanner
Deutsch	Maloney	Taylor (MS)
Dicks	Manton	Tejeda
Dingell	Markey	Thompson
Dixon	Martinez	Thornton
Doggett	Mascara	Torres
Doyle	Matsui	Torricelli
Durbin	McCarthy	Towns
Edwards	McDermott	Trafficant
Engel	McHale	Tucker
Eshoo	McKinney	Velazquez
Evans	McNulty	Vento
Farr	Meehan	Vislowsky
Fattah	Menendez	Volkmer
Fazio	Mfume	Waters
Fields (LA)	Mineta	Watt (NC)
Filner	Minge	Waxman
Flake	Mink	Williams
Foglietta	Moakley	Wise
Ford	Mollohan	Woolsey
Frank (MA)	Montgomery	Wyden
Franks (NJ)	Morella	Wynn
Frost	Murtha	Yates

NOES—247

Allard	Funderburk	Ortiz
Archer	Gallegly	Orton
Army	Ganske	Oxley
Bachus	Gekas	Packard
Baker (CA)	Geren	Parker
Baker (LA)	Gilchrest	Paxon
Ballenger	Gillmor	Payne (VA)
Barr	Gilman	Peterson (FL)
Barrett (NE)	Goodlatte	Peterson (MN)
Bartlett	Goodling	Petri
Barton	Goss	Pickett
Bass	Graham	Pombo
Bateman	Greenwood	Porter
Bereuter	Gunderson	Portman
Bilbray	Gutknecht	Pryce
Bilirakis	Hancock	Quillen
Bliley	Hansen	Quinn
Blute	Harman	Radanovich
Boehner	Hastert	Ramstad
Bonilla	Hastings (WA)	Regula
Bono	Hayes	Riggs
Brewster	Hayworth	Roberts
Browder	Hefley	Rogers
Brownback	Heineman	Rohrabacher
Bryant (TN)	Hergert	Ros-Lehtinen
Bunn	Hilleary	Roth
Bunning	Hobson	Roukema
Burr	Hoekstra	Royce
Burton	Hoke	Salmon
Buyer	Horn	Sanford
Callahan	Hostettler	Saxton
Calvert	Houghton	Scarborough
Camp	Hutchinson	Schaefer
Canady	Hyde	Schiff
Castle	Inglis	Seastrand
Chabot	Istook	Sensenbrenner
Chambliss	Johnson (CT)	Shadegg
Chenoweth	Johnson, Sam	Shaw
Christensen	Jones	Shuster
Chrysler	Kasich	Sisisky
Clement	Kelly	Skeen
Clinger	Kim	Skelton
Coble	King	Smith (MI)
Coburn	Kingston	Smith (NJ)
Collins (GA)	Klug	Smith (TX)
Combust	Knollenberg	Smith (WA)
Condit	Kolbe	Solomon
Cooley	LaHood	Souder
Cox	Largent	Spence
Cramer	Latham	Spratt
Crane	Laughlin	Stearns
Crapo	Lazio	Stenholm
Cremeans	Leach	Stockman
Cubin	Lewis (CA)	Stump
Cunningham	Lewis (KY)	Talent
Davis	Lightfoot	Tate
Deal	Linder	Tauzin
DeLay	Livingston	Taylor (NC)
Diaz-Balart	LoBiondo	Thomas
Dickey	Longley	Thornberry
Dooley	Lucas	Thurman
Doolittle	Manzullo	Tiahrt
Dornan	Martini	Torkildsen
Dreier	McCollum	Upton
Duncan	McCrery	Waldholtz
Dunn	McDade	Walker
Ehlers	McHugh	Walsh
Ehrlich	McInnis	Wamp
Emerson	McIntosh	Watts (OK)
English	McKeon	Weldon (FL)
Ensign	Metcalf	Weldon (PA)
Everett	Meyers	Weller
Ewing	Mica	White
Fawell	Miller (FL)	Whitfield
Fields (TX)	Molinari	Wicker
Flanagan	Moorhead	Wilson
Foley	Moran	Wolf
Forbes	Myers	Young (AK)
Fowler	Myrick	Young (FL)
Fox	Nethercutt	Zeliff
Franks (CT)	Neumann	Zimmer
Frelinghuysen	Norwood	
Frisa	Nussle	

NOT VOTING—10

Gonzalez	Lipinski	Vucanovich
Gutierrez	Meek	Ward
Hunter	Miller (CA)	
Lantos	Rush	

□ 1517

The Clerk announced the following pairs:

On this vote:

Mr. Rush for, with Mrs. Vucanovich against.

Mr. BAESLER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. BARCIA. Mr. Chairman, on roll No. 178, the Markey amendment to H.R. 1022, I intended to vote "no", and inadvertently voted "yes". I would like the RECORD to reflect this, and as such I submit the following February 24 correspondence to my colleagues for the RECORD to illustrate my support.

SUPPORT PEER REVIEW IN RISK ASSESSMENT

We strongly support requiring Federal regulations to be based on sound scientific principles, and urge our colleagues to support the peer review provisions of title III in H.R. 1022. This provision would establish a systematic program for sound scientific review of risk assessments used by agencies when promulgating regulations addressing human health, safety, or the environment. We believe that peer review is a critical component of sound science, and is necessary for accurate risk assessment analyses involving complex issues.

We spend an exorbitant amount complying with regulations. These costs totaled a whopping \$581 billion in 1993, and ultimately increased the price for every good and service purchased by the American people. These regulatory costs are nothing more than a hidden tax on American consumers and business.

Some critics of the risk assessment provisions in H.R. 1022 believe those organizations or sectors impacted by a regulations should not be allowed to serve on their review panels. This notion, however, subverts the very intention of sound science—to base decisions on all relevant and available information without color or prejudice.

Peer review panels should include scientists from affected sectors as well as consumer interests and any outside interest. Doing so will allow risk-based analyses to maintain balance and flexibility, thereby ensuring agencies use sound science in their decisionmaking.

Some critics have suggested that including interested parties in the peer review process compromises the integrity of human health, safety, or environment regulations. However, the precedent for peer review already exists. Congress has consistently supported legislation requiring the use of comprehensive peer review panels for environmental and safety issues.

For example, the Science Advisory Board [SAB], created under the 1969 National Environmental Policy Act, was established to conduct peer reviews for EPA regulations. To be a member of the SAB you must have the proper education, training, and experience; there are no restrictions on affiliation. Further, the National Advisory Committee on Occupational Safety and Health as mandated under the Occupational Safety and Health Act is to be composed of "representatives of management, labor, occupational safety and occupational health professionals and the public." The Energy Policy Act, which Congress passed in 1992, requires a peer review panel on electrical and magnetic fields. This peer review panel must contain representatives from the electric utility industry, labor, government, and researchers.

Peer review is a commonsense approach that must include all interested parties, and as such we urge you to support the peer review provisions in title III of H.R. 1022.

AMENDMENT OFFERED BY MR. BARTON OF TEXAS

Mr. BARTON of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARTON of Texas: Page 36, after line 2, insert the following new title, redesignate title VI as title VII, and redesignate section 601 on page 36, line 4, as section 701:

TITLE VI—PETITION PROCESS

SEC. 601. PETITION PROCESS.

(2) PURPOSE.—The purpose of this section is to provide an accelerated process for the review of Federal programs designated to protect human health, safety, or the environment and to revise rules and program elements where possible to achieve substantially equivalent protection of human health, safety or the environment at a substantially lower cost of compliance or in a more flexible manner.

(b) ACCELERATED PROCESS FOR CERTAIN PETITIONS.—Within 1 year after the date of enactment of this Act, the head of each Federal agency administering any program designed to protect human health, safety, or the environment shall establish accelerated procedures for accepting and considering petitions for the review of any rule or program element promulgated prior to the effective date of this Act which is part of such program, if the annual costs of compliance with such rule or program element are at least \$25,000,000.

(c) WHO MAY SUBMIT PETITIONS.—Any person who demonstrates that he or she is affected by a rule or program element referred to in subsection (b) may submit a petition under this section.

(d) CONTENTS OF PETITIONS.—Each petition submitted under this section shall include adequate supporting documentation, including, where appropriate, the following:

(1) New studies or other relevant information that provide the basis for a proposed revision of a risk assessment or risk characterization used as a basis of a rule or program element.

(2) Information documenting the costs of compliance with any rule or program element which is the subject of the petition and information demonstrating that a revision could achieve protection of human health, safety or the environment substantially equivalent to that achieved by the rule or program element concerned but at a substantially lower cost of compliance or in a manner which provides more flexibility to States, local, or tribal governments, or regulated entities. Such documentation may include information concerning investments and other actions taken by persons subject to the rule or program element in good faith to comply.

(e) DEADLINES FOR AGENCY RESPONSE.—Each agency head receiving petitions under this section shall assemble and review all such petitions received during the 6-month period commencing upon the promulgation of procedures under subsection (b) and during 15 successive 6-month periods thereafter. Not later than 180 days after the expiration of each such review period, the agency head shall complete the review of such petitions, make a determination under subsection (f) to accept or to reject each such petition, and establish a schedule and priorities for taking final action under subsection (g) with respect to each accepted petition. For petitions accepted for consideration under this section, the schedule shall provide for final action under subsection (g) within 18 months after

the expiration of each such 180-day period and may provide for consolidation of reasonably related petitions. The schedule and priorities shall be based on the potential to more efficiently focus national economic resources within Federal regulatory programs designed to protect human health, safety, or the environment on the most important priorities and on such other factors as such Federal agency considers appropriate.

(f) CRITERIA FOR ACCEPTANCE OF PETITIONS.

(1) IN GENERAL.—An agency head shall accept a petition for consideration under this section if the petition meets the applicable requirements of subsections (b), (c), and (d) and if there is a reasonable likelihood that the revision requested in the petition would achieve protection of human health, safety or the environment substantially equivalent to that achieved by the rule or program element concerned but a substantially lower cost of compliance or in a manner which provides more flexibility to States, local, or tribal governments, or regulated entities.

(2) FINAL AGENCY ACTION.—If the agency head rejects the petition, the agency head shall publish the reasons for doing so in the Federal Register. Any petition rejected for consideration under this section may be considered by the agency under any other applicable procedures, but a rejection of a petition under this section shall be considered final agency action.

(3) CONSIDERATION.—In determining whether to accept or reject a petition with respect to any rule or program element, the agency shall take into account any information provided by the petitioner concerning costs incurred in complying with the rule or program element prior to the date of the petition and the costs that could be incurred by changing the rule or program element as proposed in the petition.

(g) FINAL AGENCY ACTION.—In accordance with the schedule established under subsection (e), and after notice and opportunity for comment, the agency head shall take final action regarding petitions accepted under subsection (f) by either revising a rule or program element or determining not to make any such revision. When reviewing any final agency action under this subsection, the court shall hold unlawful and set aside the agency action if found to be unsupported by substantial evidence.

(h) OTHER PROCEDURES REMAIN AVAILABLE.—Nothing in this section shall be construed to preclude the review or revision of any risk characterization document, risk assessment document, rule or program element at any time under any other procedures.

SEC. 602. REVIEWS OF HEALTH EFFECTS VALUES.

Within 5 years after the enactment of this Act, the Administrator of the Environmental Protection Agency shall review each health or environmental effects value placed, before the effective date of title I, on the Integrated Risk Information System (IRIS) Database maintained by the Agency and revise such value to comply with the provisions of title I.

SEC. 603. DEFINITIONS.

As used in this title:

(1) The term "Federal agency" has the same meaning as when used in section 110.

(2) The terms "rule" and "program element" shall include reasonably related provisions of the Code of Federal Regulations and any guidance, including protocols of general applicability establishing policy regarding risk assessment or risk characterization, but shall not include any permit or license or any regulation or other action by an agency to authorize or approve any individual substance or product.

Mr. BARTON of Texas (during the reading). Mr. Chairman, I ask unani-

mous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. BROWN of California. Mr. Chairman, I reserve a point of order against the amendment.

Mr. BARTON of Texas. Mr. Chairman, I am very happy to offer this amendment on behalf of myself, the gentleman from Louisiana [Mr. TAUZIN], and the gentleman from Idaho [Mr. CRAPO].

The basic point of this amendment goes to the thrust of the bill. Under the bill that is before us today we are putting in place a mechanism by which we can do a valid scientific risk assessment. We are putting in place a process by which new laws and rules and regulations that flow from them, there has to be a scientific risk assessment done.

The bill before us today, however, does nothing to require a review of existing rules and regulations. The economy today is laboring under a burden of somewhere between 400 and 600 billion dollars' worth of the existing regulations and costs the average American family about \$6,000 per year.

If Members think that some of the existing rules and regulations should be reviewed, if Members believe that some of the existing rules and regulations should be subject to review, then they should vote for this amendment. If Members think that every existing rule and regulation that is on the books today is sacrosanct and should not be reviewed, vote against the Barton-Tauzin-Crapo amendment, because what the amendment does is set up a very structured process by which any affected party out in the country can petition the relevant agency for a particular rule or regulation to be reviewed.

It has to be a major rule as defined under the bill, in other words, has a cost impact of \$25 million or more on an annual basis.

We allow a 6-month window by which parties petition the affected agency. We then allow the 6-month window for the agency to consolidate the petitions and decide which if any of the petitions have merit. Then we allow an 18-month period for the rules and regulations that do have merit that need to be reviewed, and as each of these windows opens and shuts, the first 6 months' window to petition, when it closes then you have a second 6-month window open up. Altogether there are 8 years' worth of windows for the petition, there are 8 years' worth of windows for agencies to review the petition and then there are 9½ years of windows for the agencies to actually make a decision on a petition process.

We have done everything we can in drafting the amendment to make sure that there are no frivolous petitions offered. We require that when the petitioner comes forward that they supply

document that there is an alternative that will have the same amount of impact on either a most cost-effective basis to society or give more flexibility to State and local governments.

We do not try to supersede any of the other procedures in place that may allow for rules and regulations to be reviewed under some other natural process.

Our amendment has tremendous support. The Alliance for Reasonable Regulation supports it. There are over 1,500 organizations in that alliance. The Chemical Manufacturers Alliance supports our amendment, the National Federation of Independent Businesses support our amendment. Altogether there are over 3,000 groups around the country that are strongly supporting this amendment.

Again, the bottom line is if Members think the existing rules and regulations that are on the books today need to be reviewed then the petition process, if adopted, is the only thing that guarantees such a review may occur.

If Members think everything that has been passed in the past 100 years is OK, then Members would vote against it.

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

Mr. BARTON of Texas. I yield to the gentleman from Virginia, the distinguished chairman of the committee.

Mr. BLILEY. Mr. Chairman, I support the gentleman's amendment. I think it is reasonable. I think there ought to be some way for citizens to appeal what they consider to be unreasonable rules. There then ought to be a mechanism to consider this appeal. I think the gentleman has answered both questions in a very nice way, and I urge support of the amendment.

Mr. BARTON of Texas. I thank the distinguished gentleman for his support.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. BARTON of Texas. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I want to see how this works. An aggrieved party petitions for a rule to be reopened; then who makes the decision in that first instance?

Mr. BARTON of Texas. There is a 6-month period for all petitions to be received by that particular agency. The agency will consolidate those petitions if they are similar in nature, and then the agency makes a decision as to whether to accept the petition.

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

(At the request of Mr. WAXMAN and by unanimous consent, Mr. BARTON of Texas was allowed to proceed for 2 additional minutes.)

Mr. BARTON of Texas. If in the petition the petitioner has shown that there is adequate documentation to show that there is reasonable cause that the petition should be reviewed, then the agency has to review it.

Mr. WAXMAN. The agency must review at that point?

Mr. BARTON of Texas. But based on the petitioner presenting evidence. You cannot just say I think it all ought to be looked at; there are very substantial evidentiary requirements that are required for the petition.

Mr. WAXMAN. And if the agency still disagrees, what happens then?

Mr. BARTON of Texas. You have 6 months in which to present your petition and then the agency has 6 months to look at the petition. The agency then makes a determination. If it is a negative determination that says no, we do not want to review it, the agency has to publish reasons why it reached the negative determination and show that it had substantial evidence to prove that it should not review the regulation.

Mr. WAXMAN. Is that challengeable in court?

Mr. BARTON of Texas. It is challengeable under the existing laws. We do not put in a new burden of proof in terms of judicial review.

Mr. WAXMAN. Under the Administrative Procedures Act.

Mr. BARTON of Texas. That is correct. If the agency says yes, we are going to review it, then there is an 18-month period during which the agency has to review it. It is not an open-ended review. We create an 18-month period, once they have made the decision they shall review it. Then there is 18 months in which they have to review it, so they cannot let it go on indefinitely.

Mr. WAXMAN. The gentleman indicated they would have to come up with the same result in some other way. How is that spelled out in the gentleman's amendment?

□ 1530

Mr. BARTON of Texas. In the "purpose" it says,

The purpose of this section is to provide an accelerated process for the review of Federal programs designated to protect human health, safety, or the environment and to revise rules and program elements where possible to achieve substantially equivalent protection of human health, safety, or the environment at a substantially lower cost of compliance or in a more flexible manner.

The CHAIRMAN. Does the gentleman from California [Mr. BROWN] insist on his point of order?

Mr. BROWN of California. Mr. Chairman, the gentleman withdraws his point of order.

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

Mr. Chairman, if the gentleman from Texas [Mr. BARTON] would engage in a colloquy and answer a couple of questions, in the committee report from the Committee on Energy and Commerce, I say to my friend from Texas, the language in the section 3401, in paragraph 2, "any person may petition" was the language that the Committee on Energy and Commerce adopted. The Committee on Science,

Space, and Technology adopted no language whatsoever on looking back like that. The language you have adopted is any person who demonstrates that he or she is affected by a rule may submit a petition.

What is the difference?

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, the difference is the language that we adopted in the Committee on Energy and Commerce, the gentleman from Massachusetts [Mr. MARKEY] wanted to substitute any person, which would literally be anybody breathing in this country. In consultation with people both for the amendment and opposed to the amendment after the markup in the Committee on Energy and Commerce, we decided to seek a middle ground between any person and a person who has a direct financial interest, so the standard we chose was an affected person. Now, an affected person is still a very broad definition. It is somebody affected in a cost way by the rule or regulation or living in an area that is affected by the consequences of the regulation.

So an affected person is not quite as broad as any person, but it is still a very broad definition.

Mr. BROWN of Ohio. Reclaiming my time and posing another question, the CBO scored or estimated \$250 million for the cost of this bill, moving, raising the threshold from \$25 to \$100 million. It would cost the Government \$250 million.

Have you calculated, or has CBO calculated, the difference in cost, the additional cost in bureaucracy and litigation and hiring more employees and all of that to do a lookback at all of these cases over the next 8 years, a lookback at all of these regulations that could be brought up?

Mr. BARTON of Texas. If the gentleman will yield further, first of all, we do require that anybody that petitions be able to show that there is going to be substantially lower cost of compliance and more flexible cost of compliance. So on a net basis we think it is going to save money on a net basis.

No. 2, we do not require that any additional employees be retained to do this review. We happen to believe that there are enough Federal employees in the affected agencies that can do the review.

So I am not going to prevaricate and say that I have done an extensive cost analysis of our amendment. But we do not believe that it is going to bear an additional cost to society. In fact, we think it will save money.

Mr. BROWN of Ohio. Reclaiming my time, I think that is the reason this amendment in the end makes no sense. It is a question of, again, as much as the rest of the bill does, it is more lawyers, more litigation, more employees working for these agencies because

they are going to be swamped with petitions.

Business after business after business is going to file against regulations that have been handed down; consumer groups, citizen groups, environmental groups, other people are going to open up these rules, again, rules that have already been agreed to, rules that businesses are living under, rules that the public benefits from in many cases, clean air, clean water, pure food, safe consumer products, all of that, and we are opening this up again. It is more bureaucracy, more layers of government, more costs.

At the same time it is more judicial review, and it is again another reason that this bill in the whole is a problem, and this amendment particularly takes the bill that is already loaded down with too much bureaucracy and litigation and loads it down even further, and it loads it down for the next 8 years, for the next 16 6-month periods, if you will, and ends up putting us behind the eight ball more.

For us not to calculate the cost and just say, yes, Government is going to be able to do that, is simply misleading the public and misleading the other Members of this House.

Mr. BARTON of Texas. If the gentleman will yield further, I make a couple of points on his point. No. 1, if the bill passes, there are not going to be as many new rules and regulations promulgated. I think that is a given. So there are going to be people that have time to do that.

No. 2, in the petition, the system that we set up, we require that as part of the petition the information be shown that which shows that the rule or program element concerned can be administered at a substantially lower cost of compliance or in a manner which provides more flexibility to the States. So we are attempting, you know, nothing is certain in this life except death and taxes, But we are attempting.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. BROWN] has expired.

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

Mr. BARTON of Texas. If the gentleman will yield further, we put language in the amendment where we are attempting to mandate there be a lower compliance cost.

Mr. BROWN of Ohio. I am not a lawyer, but you can drive a truck through that kind of language, and anybody that feels harmed or hurt in any way by a regulation, whether it is a business that is trying to run around a regulation and wants to dispose of waste in Lake Erie or an environmental group that thinks they have been wronged by a regulation, they always can find a way to fit their complaint into that language and open this back up. There will be plenty of rules and regulations suggested or handed down by agencies that will go through all of

this 23-step process. It will cost all of us as taxpayers more money, and it is simply not being honest with the public to say that it is not really going to cost more money, because in the end it is going to cost government a whole lot more money. It is going to mean more judicial review, more expense, more litigation, more government, more bureaucracy. It simply does not make sense.

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

Mr. Chairman, I speak on behalf of the amendment.

Mr. Chairman, I think we are once again faced with a critical decision in the debate as it is setting up here; it is showing the basic difference in philosophy in how we are going to approach the critical concerns in this country about Federal regulation.

This process will change the bill in a very fundamental and important way. The bill, as it now stands, stops the Federal regulators from continuing the abusive growth of Federal regulations in unjustified ways for the future.

This process, the petition process, allows a look back at some of the existing regulations. It has already been said in debate on this floor that the existing regulatory burden we face in this country is the issue that is bringing us to this debate itself. If all we do is protect ourselves against future abuses, we fail to look back at the very reason that brings us to the floor for this debate, and that is the existing Federal regulatory bureaucracy that is crushing our economy and invading the lives of Americans in almost every aspect of their lives.

It has been discussed today that we have, and I have seen studies that show the burden on the American economy from the Federal regulatory system is anywhere from \$400 billion to over \$1 trillion, and that is every bit as real as a tax, as the taxes collected from the taxpayer every April.

We have got to recognize that we must allow us to look back and correct the abuses in the regulatory system.

The arguments being made against it are the same as well. First, it is thrown up this is going to allow for more lawyers to get into the act and for us to have more litigation. It seems that every time we want to correct the abuse in the Federal regulatory system, the counterargument is, well, that we take lawyers.

The fact is we have got to decide as a Congress whether we want to move forward and create the mechanism for people to fight back against the regulatory abuse and the explosion of regulations in this country, or whether we want to say because we are afraid that it might take some legal review that we are going to take no action. I do not think that is a justification.

The argument has been made that it is going to open up rules that businesses and people across this country are already adjusted to living under, and we ought to leave it alone.

Frankly, as I have said, that is the very reason we are here. Yes, people in this country are living under those rules and regulations, but, no, they are not happy; no, it is not right for this Congress to just wink its eye at what has happened in the past and say we are going to go on in the future and let what now stands be unchecked and unreviewed.

And then it is said, well, this legislation lets any person bring a proposal before the agencies for review. Well, frankly, I think that any person ought to have, who is affected by these regulations, the ability to bring it forward and have it reviewed.

But we have provided in the bill for protections. Every 6 months the agency is entitled to collect the various petitions, organize them, and assemble them and review them under a specific regulation to which they apply. We have a funneling system put in place that will keep the agencies from being inundated by repeated petitions. They collect them all in a 6-month period and act on them one at a time.

Mr. Speaker, this legislation is critical. You could say it is the core of the issue we are facing here today. We have got the vehicle there. Let us allow us now to look back.

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

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

Mr. DINGELL. Mr. Chairman, there is an old saying, "Be careful of what you ask for, because you might get it." And I would urge my colleagues to keep that saying in mind, because if you ask for this, you very well just might get it.

What is this amendment going to require of the Government? And what rights is it going to permit? Is this going to permit somebody to petition who is aggrieved in business, who feels he has been wronged with regard to a regulation which is imposing unnecessary costs on him? Yes, it is. But it is also going to permit Ralph Nader, the Sierra Club, the Natural Resources Defense Council, and ordinary individuals to do the same, because the language of the amendment says, "Any person," any person without limitation as to who. And they can submit this petition each 6 months for 8 years, 15 times, and if they do not get what they want the first time, they can resubmit it, and in resubmitting it, they can again ask for the same relief.

And when the agency has decided whether they are or are not entitled to the relief they have sought with regard to having the matter reopened, it is a final action. Now, for the benefit of my colleagues who do not understand these things, "a final action" is a word of art in the Federal law which says that that final action then is reviewable in court.

So let us look. Any chemical company is subject to having a reopening on any of their additives or any of

their agricultural pesticides every 6 months for 8 years. They can be in court constantly and can be harassed under the provisions of this particular amendment.

The auto industry, on fuel efficiency or auto safety or clean air, can be in court constantly, and the subject of whether or not they are entitled to have a particular regulation that is in place remain in place or be subject to having it reopened by some outsider is settled by this amendment. What it says is anybody who wants to can go in and force this process and can then, on the conclusion of the action of the regulatory body in approving or disapproving, have the matter opened to litigation by any person who has an interest.

Now, let us look at an electrical utility. Let's suppose an electrical utility has gotten a particular ruling from the EPA with regard to emissions of sulfur. That particular judgment is open to review every 6 months for 8 years, and again it is subject not only to regulatory action of the agency but to judicial review. Imagine the harassment that can take place of the American electrical utility industry or any other industry in this situation.

Let us go to others. A food additive, or fluoridation of water in a community, comes open at every turn, because that regulation is subject to this particular provision. The individuals affected can demand that this be done every 6 months for 8 years, and every American water company, every American municipality that delivers water is going to be subject to being sued under this and to have the whole matter carried through not only the entire administrative process but then subject to judicial review as often as a complainant may want. Every 6 months it can be done.

I do not think this body wants anything of this character to be put in place. There are regulations in place which make sense, and there are regulations in place which do not, but if you are going to address the ones that do not make sense, I would beg you to understand that this is not just limited to one particular regulation, or one particular kind of regulation which might be hostile to industry, or which might cost too much, nor is this legislation going to be used only by responsible citizens or American businessmen concerned about competitiveness, but malefactors and irresponsible parties as well.

It is going to open the door of the regulatory process to every crackpot, nut, special interest group that you might care to name, and they are going to run all the way from the environmental extremists to the right wing reactionaries, and all the way from crackpot left-wing advocates to reactionaries who think that industry is being excessively hurt by sensible regulations.

□ 1545

The result of the adoption of this amendment, very frankly, is not only going to be to bring the administrative process in this Government to a halt by compelling tremendous re litigation, reexamination of every existing rule but it is going to go further. It is going to harass and drive American industry to its knees.

Mr. STUPAK. Mr. Chairman, I move to strike the requisite number of words, and I rise to engage in a colloquy with the gentleman from Virginia [Mr. BLILEY].

Mr. Chairman, I would like to ask my colleague a series of questions that relate to the impact of this bill on the Great Lakes States, because my district has more shoreline than any other district except Alaska.

As you know, the Army Corps of Engineers operates and maintains approximately 12,000 miles of commercial navigation channels; it maintains 297 deep draft harbors and 549 shallow draft harbors. Under the River and Harbors Act of 1899, the Corps of Engineers issues permits to private contractors for most harbor dredging. In addition, the Corps of Engineers issues general and regional permits for dredging—for instance, in New York and New Jersey.

Under title I, dealing with risk assessment, on page 8, beginning on line 5 and ending on line 9, it says that this title applies to "any proposed or final permit condition placing a restriction on facility siting or operation under Federal laws administered by the Environmental Protection Agency or the Department of the Interior."

Later in the same title, on page 25, on lines 12 and 13, the U.S. Army Corps of Engineers is listed as a "covered Federal agency"; I assume for purposes of the rest of the title.

My question to the gentleman is: Does this bill apply to individual, regional, or general permitting actions by the Corps of Engineers for dredging?

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

Mr. STUPAK. I yield to the gentleman from Virginia [BLILEY].

Mr. BLILEY. I thank the gentleman for yielding.

Mr. Chairman, individual, regional, or general permitting actions by the Corps of Engineers for dredging under the Rivers and Harbors Act are not included as significant risk assessment or characterization documents for purposes of title I. The corps could, by rulemaking, add such actions to the scope of title I but the act does not mandate this outcome. Title II applies to major rulemaking and such major rulemakings may subsequently affect the permit program.

Mr. STUPAK. In addition to dredging activities, the Corps of Engineers has 376 projects under construction. Does this bill apply to construction projects under the jurisdiction of the Army Corps of Engineers?

The corps also owns or operates 273 navigation lock chambers, including

one in my district—the Poe Lock System at Sault Ste. Marie, MI. Does this bill apply to the lock systems under the jurisdiction of the Army Corps of Engineers?

Mr. BLILEY. The bill does not apply to construction projects or operations of lock systems per se. The bill only addresses regulatory programs to protect health, safety, or the environment.

Mr. STUPAK. As I said, I am concerned about the impact of H.R. 1022 on the Great Lakes. As you may know, the Great Lakes shoreline covers more than 11,000 miles—a distance equal to almost 45 percent of the Earth's circumference.

About 25 million people get their drinking water from the Great Lakes and the St. Lawrence River, and each day, 655 billion gallons of Great Lakes water are used for various purposes. Ninety-four percent of this water produces 20 billion kilowatt-hours of electricity by passing through hydroelectric plants.

Which brings me to my next question. In 1986, a Russian-flagged ship introduced into the Great Lakes a nonindigenous species—the zebra mussel. Zebra mussels attach themselves to hard surfaces like pipes, making them very difficult to remove. They quickly gang up on a desired target, clogging water intake and distribution systems.

These animals have cost municipal and industrial water facilities millions of dollars in cleanup and control costs. They've disrupted Great Lakes recreation, causing thousands of dollars in damage to boats, docks, buoys, and beaches. Over the next decade, scientists estimate that the cost of the zebra mussel invasion for Great Lakes water users could go as high as \$5 billion.

And they're spreading beyond the Great Lakes. The flood of 1993 has helped the mussel spread as far south as Louisiana; it pushed the zebra mussel over levees, up rivers and drainage ditches and into sewage treatment plants and other riverside facilities.

Section 1201(f) of the Nonindigenous Aquatic Nuisance Prevention and Control Act authorizes the National Oceanic and Atmospheric Administration to conduct research to find a solution to the problem of nonindigenous species like the zebra mussel, sea lamprey, and European ruffe.

My question to the gentleman is: Does this bill apply to research projects conducted by NOAA?

Mr. BLILEY. Research projects, themselves, do not fall into the mandatory definition of significant risk assessment or characterization documents. If such a document were used as a basis for a major rulemaking or report to Congress, then title I would apply for the rulemaking or report to Congress. NOAA, however, can add risk assessment or characterization documents to coverage through a new rulemaking.

If title I requirements applied, they would require disclosure, best estimates, and comparisons. These requirements are broadly viewed as important benchmarks which should be followed for all risk assessments and characterization.

Mr. STUPAK. Mr. Chairman, I thank the gentleman from Virginia for engaging me in a colloquy and creating this legislative history.

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

Mr. Chairman, of all the things that I have had a chance to vote on, I am more excited in voting on this amendment than just about anything we have done here, because to me the November 8 election said something pretty strong, that we feel distant from our government. The gentleman from Michigan talked about groups that were extreme in nature being able to talk to their government. I think one of the reasons we had such an extreme change in the way the country is being run is because people felt very alienated from this country, they felt alien from regulatory bodies that could pass on huge costs of doing business in private and public life, and nobody could ask commonsense questions.

Of all the things that I voted on in this Congress, I am very proud to support the opportunity for average citizens, not crackpots, not nuts, to be able to come and talk to their government in a meaningful fashion, something that has been lost in this country.

There are triggers in this bill. It has to have a \$25 million effect in the aggregate before you can petition your government. Twenty-five million dollars is still a lot of money in South Carolina, and still a lot of burden to bear in this country. And when \$25 million gets to be nothing, then we really do have a problem here.

The exciting thing to me, Mr. Chairman, about this amendment is it allows average, everyday citizens, people trying to make a living, trying to pay the bills, to come to their government and ask them to give answers to commonsense questions, making the government accountable, having to explain why they regulate the way they do, having to explain the benefit and, yes, the cost. That is something that is missing in government in 1995, and, yes, this amendment will bring government back to the people more than anything I can think of.

I would ask every Member of this body who believes that the U.S. Government has gotten distant from its people to vote for this amendment which allows you to petition your government to answer your questions. What a novel concept in democracy.

I move very urgently that we pass it.

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

I want to point out that a good part of the debate, at least yesterday, was on the point this bill was going to be prospective. We are not going to open up all the laws on the books now to protect the public health and environment.

This particular amendment specifically goes backward and says we are going to look at and review Federal programs designed to protect human health, safety or the environment, to revise rules and program elements, where possible, to achieve certain results.

Now I want to give a real-life example of what is likely to happen under the circumstances under this proposal so that we can understand that this is a likely result that I think the proponents of this amendment would not want to see happen.

Under the Clean Air Act, in order to achieve the pollution reductions of VOC's, which cause ozone, there is a requirement that there be a strategy to reduce pollution on those that cause the pollution.

The pollution caused by big polluters, like automobiles or smokestacks or factories, the reduction is anywhere from \$2,000 to \$10,000 per ton, according to the testimony from the head of the Environmental Protection Agency.

But if you ask that the reductions not be from the major polluters but from individuals by requiring them to spend money to be sure that their older vehicles achieve the reduction requirements or achieve what their cars are supposed to achieve by way of emission reductions, the Environmental Protection Agency has told us that would be nearly \$500 a ton. Now, that could mean that the auto industry, or a factory or a big polluter can come into EPA and complain about the regulations that have been imposed on them by their own States and say that, "We don't think it is reasonable because you can achieve an equivalent reduction but going after individual drivers and owners of vehicles." And they will be right because it is more cost effective to achieve the same pollution reduction.

But what we have to ask ourselves is, is that the result we would want to see? If individuals are going to have to bear the costs to repair their cars, the older the car the more polluting it will be and therefore the more it may cost to repair it. That means, often, low-income people will have to spend that money. But it is a more cost-effective way to achieve the result.

I would like to ask the gentleman from Texas [Mr. BARTON], who is the proponent of this amendment, would he want to see a regulation that imposes controls on a major polluter be relieved of that responsibility by having the burden placed on individuals to bear the costs because it would be a less costly way to achieve the same results?

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

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

Mr. BARTON of Texas. I thank the gentleman for yielding.

Mr. Chairman, I point out that we do not change the law, we do not change the Clean Air Act. The Clean Air Act specifics that if a certain percent of environmental increase in air quality is going to come from stationary sources, we do not change that, but we could under this amendment—

Mr. WAXMAN. Reclaiming my time, the gentleman is wrong on that point, because the Clean Air Act says you achieve the reduction and achieve it any way that the State thinks is appropriate. They develop an implementation plan. They can develop a mix of strategies; they do not have to go after stationary sources for a certain amount or vehicles for a certain amount. They factor in all the sources of pollution.

The point I am making is they may well have decided to tell a factory to spend a couple of thousand dollars per ton in order to achieve the reductions from a major source. But that major source can now come in and say, "Wait a second, you can get the same result from an individual car owner at a less expensive rate, and we demand that you do that."

As I read that the gentleman's amendment, the EPA would have to go along with that petition.

Mr. BARTON of Texas. If the petitioner, in the gentleman's case, the mobile source industry, shows substantial evidence they can achieve the same result with greater flexibility and lower costs, EPA does have to agree to review it. Then it has to make a final decision, and it has to prove that final decision with substantial evidence. Then the current law kicks in on the review.

Mr. WAXMAN. My point is that, using the criteria the gentleman set out in his amendment, they are going to establish that case that they do not have to have the burden placed on them as a major polluter because they can achieve the same result by requiring individual consumers who own vehicles, through an inspection and maintenance program, to achieve those same reductions, but at a cheaper rate.

Therefore, as I read the gentleman's amendment, they would be mandated to grant that petition.

Mr. BARTON of Texas. But the bottom line is we want cleaner air at lower cost or more flexibility. And I think we both agree on that.

Mr. WAXMAN. But I do not think that is the bottom line because I do not think the major polluters ought to get out from under by shifting the burden on individual citizens, since ordinary people that are going to have to pay the cost out of their pockets, many of whom would not be able to repair their cars sufficiently to achieve the standard, and that is why I object to this amendment.

□ 1600

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

Mr. Chairman, members of the committee, on a visit to the British parliament recently I learned something rather interesting about a phrase we use in America, a phrase called "in the bag," and when we say something is in the bag, we normally mean it is completed, it is a done deal.

Mr. Chairman, the phrase comes from something that refers to this amendment and is appropriate to the discussion of why this amendment is vitally important and why it should be passed.

In the history of the British parliament and the fight for democracy with the monarchs in Great Britain the concept of petitioning the government for redress was a very important concept, one that was won at great cost and great loss of life in that struggle between monarchy and tyranny and the rights under a democracy. The British Parliament has come to respect that right to petition as such a strong right that it now includes in its construction a bag, literally a bag, that is placed at the door of the Parliament, and, when a petition arrives from the people of Great Britain and is accepted by the Parliament, that petition goes in that bag. Hence the expression "It's in the bag."

The expression means it is a done deal, the Parliament can no longer ignore the wishes, the petition, of the people of the country. The government must respond to the people in their request for some action, some redress of wrongs, some correction of some grievance, and so it is with the Barton-Crapo-Tauzin amendment.

Mr. Chairman, this amendment literally does the same thing for the people of America. It says that when the people of this country who are affected by rules and regulations of this Government honestly believe and can substantiate with documentation to that effect, that our Government has passed a rule or regulation which unduly burdens their life which could be amended to provide the same equivalent protection to safety, health, and the environment as the old regulation does, which could be revised so that they could live with it with less cost, fewer job losses, fewer plant closures, fewer property damages, fewer impacts upon small businesses; if there is a way to have the same protection, and yet do it with less of an impact of regulation in our lives, this amendment says the people shall have the right to petition the Government and that petition is in the bag. Government cannot ignore it, but it must act upon it in a given and expressed time period where the Government must review it.

Now it does not say that the Government must take the action that I petitioned them to take. It simply says, "If I support my petition with enough documentation to justify a request that

substantial protection, the same equivalent protection provided under the old rule, can be made available with a more flexible rule, one that will cost our citizens less, one that will employ, in fact fewer lost jobs in our society, one that will shut down fewer plants, one that will let us continue to be a productive society and yet have the same safety, health and environmental protection as the old rule, that the Government cannot ignore that petition. It is in the bag, and the Government must consider it.

Now let me read to my colleagues the most important section in our amendment. It says that the purpose is to revise rules and program elements where possible to achieve substantially equivalent protection of human health, safety or the environment at a substantially lower cost of compliancy or a much more flexible manner.

Mr. Chairman, those are the goals of this thing, and that is the only basis upon which petitions can be filed and accepted by the Government agency. I ask,

Who among you would not want our Government to review its rules to find out if we can have the same protection and still have people employed in this country? Who among you would not want our government to review its rules to make sure that small businesses did not have to shut down, that mills don't have to close, that our country can go on working and producing food and fiber for our families and have the same equivalent protection?"

Mr. Chairman, that is what this amendment does. It says when the people of our country affected by the rules this Government makes petitions this Government to look over its rules and to see whether or not there is not a better way to do it, that the Government ought to hear it and the Government ought not deny those petitions. It ought to accept them, take them into the bag, if my colleagues will, and give us a chance to get a better rule.

That is all it says, that is all it does, and anyone who opposes this amendment, says that they are just happy as a lark with any old rule that puts people out of work, and costs us too much in small businesses, and creates to much of a problem in our society, and we are not going to do anything about it. If risk assessment cost analysis has value for the future, it also has value for citizens who want to petition this Government about wrongs and to redress those wrongs with a petition process that looks back at an old rule that could be made better. This is all this does.

Mr. Chairman, I want to call to my colleagues' attention one last section of the amendment that is probably equally important. It says that nothing in this section shall be construed to preclude the review of revision of any risk assessment or risk characterization document, rule or program element at any time under any other procedures. It says in effect that while we create the accelerated review process where Government has to take account

of the petitions filed by people in this country, that we still reserve the right of our people to petition this Government and to seek changes under any other procedures, any other rights guaranteed under our Constitution, protected.

In fact, Mr. Chairman, under that Constitution is a right bought and paid for with many, many lives in the history of the struggle for democracy against tyranny. The right to petition Government is what we are debating today on this amendment.

I say to my colleagues, "Those of you who believe in that right, who believe that Government ought not ignore the wishes of the people of this country when they petition Government, ought to vote for this amendment."

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

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

Mr. STEARNS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would say to my colleagues we could almost call the Barton amendment the hallelujah amendment because for many of us who have been in the private sector and have worked all our lives trying to live with all the regulations, the fact that we can now finally petition the Federal Government, hallelujah! So I compliment my colleague for what he is doing here.

We have heard examples from the gentleman from California [Mr. WAXMAN], these hypothetical examples, but let me give my colleagues a clear example that has occurred which could have been petitioned, it could have been redressed, and it could have been stopped:

In the early 1980's, Mr. Chairman, Government scientists argued that asbestos exposure could cause thousands of deaths. Congress responded by passing a sweeping law which led cities and States to spend between \$15 and \$20 billion to remove asbestos from public buildings. However 3 years ago EPA officials acknowledged further research. Ripping out the asbestos had been a mistake. In fact they pointed out that this mistake had really raised the exposure of the public to the dangerous asbestos fibers which became airborne during removal.

To the EPA it was a mistake. To the American taxpayers it was a \$20 billion mistake. Wasted. I ask, "Wouldn't it have been nice, colleagues, to have had a second chance at that rule, to have the opportunity to petition the EPA to change its needless rule to save the American taxpayers \$20 billion?" Again and again examples like that are going to occur.

To those colleagues that are watching on television, we need to pass this amendment, hallelujah amendment.

I want to conclude. Last term I was involved as a ranking member of a committee called Commerce, Consumer

Protection and Trade. We had discussion on redesigning a 5-gallon bucket that is used for painting and hauling water. The Consumer Product Safety Commission analyzed it because a few children got caught in it, and their heads got caught in it because of negligence by the parents. They issued—the Consumer Product Safety Commission issued—a 101-page report. In the report the staff notes that one of their suggestions to the industry was making the bucket so that they deliberately leak. It is being objected to by the bucket makers. Naturally the bucket maker is a little concerned about designing a bucket that deliberately leaks. According to the report, quote, industry representatives claim that they do not envision any use for a bucket that leaks.

My colleagues, now is the time to pass the hallelujah amendment. I compliment my colleague, the gentleman from Texas, for what he is doing.

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

Mr. Chairman, I rise to support the amendment.

Mr. Chairman, I also would like to congratulate the gentleman who produced this amendment in a bipartisan fashion. I think that this probably is the most exciting thing that I have witnessed in my 54 days in Congress.

There are two parts of this amendment that I believe are very important.

What have we been doing for 2 days? For 2 days we have debated the changes needed with the rules and regulations that have been oppressive to the American people.

Why did we ever write H.R. 1022? Because the American people have finally said that they have had enough of a bureaucracy that tells them what to do from morning until night.

What is my standing in this bill, in this debate? Well, I have only been a Congressman for 54 days. I have not had the last 10-15 years writing legislation in terms of our air quality. But I have lived in the economy of this country, and I have lived under the impressive oppressive rules and regulations that this great large bureaucracy in Washington, DC, feels that they know best how I should live.

Part of the problem is I guess I am a rebel. I am much like those rebels who opposed the king, who did not want to be told what to do from the minute they get up to the minute they go to bed, and I do not want to be told what to do from the Federal Government, 435 elected officials and millions of bureaucrats.

This bill is not, my colleagues, necessarily just about General Motors and Dow Chemical. I agree with my friend from South Carolina when he says that this is a bill for the people, and it excites me every time I read this part of the bill, and if I may, Mr. Chairman, I will.

Any person who demonstrates that he or she is affected by a rule or program element referred to in subsection B may submit a petition.

That is what is important here. People at home do not believe they have any control over their lives. They believe we want to control their lives right up here. This will give them great good feelings to know that they, as an individual, can petition their government to change what we are doing.

I heard earlier this afternoon the question asked what does it require of the Government, what does this amendment require of the Government. I ask, "Who amongst you is standing up and saying, 'What does this rule require of the small business man?'" I am ready to hear a little bit more of that in this body than just what does it require of the Government.

I ask each of my colleagues to consider strongly passing and voting for this amendment, and I congratulate the gentleman from Texas [Mr. BARTON] and the gentleman from Louisiana [Mr. TAUZIN] and the gentleman from Idaho [Mr. CRAPO]. I think this is exciting legislation.

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

Mr. Chairman, I rise in strong support of the Barton-Tauzin-Crapo amendment. Too often we hear about how Washington works in a vacuum. Too often, when the American public thinks of Washington, they think of government bureaucrats sitting behind a desk doing their own thing. Too often they see a government which thinks it has all the answers. Too often they also see a government that is afraid to admit when it is wrong.

Well, Mr. Chairman, maybe we do not have all the answers. Maybe we did make some mistakes in the past. Maybe someone else knows something we do not. And maybe, just maybe, it is time we started listening and then acting.

This amendment establishes a process for agencies to update old regulations using the most current scientific data. The public would be able to submit scientific data to Federal agencies and have those agencies check the findings of old rules against new information.

Right now, when a private party asks a Federal agency, particularly EPA, to review new data and possibly modify the current understanding of a particular substance or activity, there is no guarantee that the study will even be looked at. And often it isn't.

This amendment simply requires agencies to consider and respond to new information in an open and timely manner. It keeps the scientific underpinnings of regulations evergreen.

This amendment is really about continuous improvement. It is about making government respond to scientific changes and advancements. Mr. Chairman, it's about common sense—regula-

tions should be based on the best available information. I strongly urge my colleagues to support the Barton-Tauzin-Crapo amendment.

□ 1615

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

Mr. Chairman, I rise in opposition to the amendment. We have heard a lot of compelling arguments as to why we ought to do this particular amendment, and many of them make a great deal of sense. The fact is that many people are disturbed about regulations that are already on the books.

I personally am concerned about making the regular legislation before us work, because I feel very strongly that putting a process into place that brings good science and common sense and smart actions into the process is in fact the right thing to do. But I also know that if you take the step too far, that makes this into a litigious bill that in fact destroys our ability to do all of that kind of work, and we will in fact destroy that which we are attempting to do out here.

Now, I want Members to think for a moment about that whole cart of regulations that was rolled in on the floor when we were debating another bill the other day, stacks and stacks of books and paper, of Federal Registers of all the regulations that were done in just 1 year, and virtually every one of those regulations has somebody out there that does not like them.

Now, you think of all those pages and pages and pages of regulation, and then you think of all the people that have some complaint about each of those regulations, and you think about the numbers of petitions that could potentially be filed and the amount of litigation that is going to come from all of those filings, and all of a sudden you are going to have these agencies at a point where they will not be able to do some of the things we want them to do; namely, to put into effect a process for good science and common sense.

I would like to see this process work. I do not want to pass a bill that is simply an employment policy for lawyers. That is what I am afraid this amendment does. I am afraid that our attempts thus far to limit the amount of litigation that would be necessary under the bill are in fact undermined by what we do with this amendment, and I do not want to turn this bill into a lawyers' employment act.

The amendment by opposing reachback does something different from what we have done in the bill thus far. We have made a prospective bill. We have said that from now on in we are going to require regulations to come under the kinds of reviews that we have. The reviews that are in the bill are in fact designed for that kind of prospective status. You undermine our ability to do that when you pass this particular amendment.

The fact is that we can get to a lot of the regulations and the laws that are

presently on the books over the next several years as this process rolls forward. Put the bill into effect that sets up a good process, and what you will have then is a series of bills coming up for reauthorization. At every one of those reauthorizations the bill then becomes covered under what we have brought to the floor today. That seems to me to be the right kind of process.

I know that the big guys, the National Association of Manufacturers, the chemical manufacturers, the petroleum people and so on, they all want this amendment. They have all worked very, very hard. But I have got to tell you, I think that it stands the possibility of being the exact kind of lawyers' employment bill that will destroy exactly the things that we are trying to accomplish here.

I would hope the Members would reject this. I think it is being done with good intent. I realize there is a body of regulation out there we would all like to get to, but let us get a process that works. Let us make this thing work as a way of demonstrating then that we can handle the whole body of regulation. There are literally tens of thousands of pages of regulation.

I have got to tell you one other thing that bothers me. I agree with some of the Members who have stood up and talked about the fact that any person can bring an action under this bill, and that sounds like a great American tradition. Trouble is, "any person" also includes foreigners, my friend, any person who wants to bring some damage to this whole process. But remember we are in a global environment, and by doing that, it also means any foreign interest can make a determination they are going to come in and disrupt regulations that may in fact in some cases protect our businesses.

It seems to me that is not something we want to do just haphazardly on the floor. I have got a concern that we are doing something here that we may not understand the full implications of. I would like to think that we could do this bill the right way, and it seems to me doing it the right way is to reject the amendment.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

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

Mr. BROWN of California. Mr. Chairman, I appreciate the gentleman yielding. His eloquence in opposition to this has moved me to rise in order to compliment him for his good judgment.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(At the request of Mr. BROWN of California and by unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

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

Mr. BROWN of California. It was my feeling initially that this bill might

not be germane to the legislation because as the gentleman correctly points out, this is an effort, through the improvement of risk assessment, characterization and cost-benefit analysis, to improve prospectively the regulatory process. This goes way beyond that to retrospectively in effect seek to review every kind of regulation that is on the books.

But I was persuaded by the ambiguity of the Parliamentarian that this might be germane.

Mr. WALKER. Parliamentarians are often ambiguous.

Mr. BROWN of California. It is true that the impact of this amendment overwhelms the impact of the rest of the bill, and it is more appropriately considered in connection with other efforts at regulatory reform.

It was also my feeling, since you and I are primarily concerned with the non-regulatory aspects, that others should carry the burden of opposing this. But I think that it is appropriate that we suggest that this would in effect hamstring the entire, not improve, hamstringing the entire regulatory process.

Now, some have said that most Members would not like that. I think there are Members here who do want to hamstring the Federal Government in every way that they can. While I can understand that, I cannot support it. My only reason for possibly supporting this would be that I guarantee you it would cause the bill to be vetoed if it ever were to get through.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

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

Mr. BARTON of Texas. I thank the gentleman and certainly respect his opposition. I would like to see if the gentleman could tell me where there is additional litigation required by the petition process, because we do not preclude any potential litigation.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(At the request of Mr. BARTON of Texas and by unanimous consent, Mr. WALKER was allowed to proceed for 3 additional minutes.)

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

Mr. BARTON of Texas. Mr. Chairman, we do not add anything in the petition process that requires litigation or precludes litigation that could exist under current law.

Mr. WALKER. Mr. Chairman, reclaiming my time, first of all to bring the process in the first place, you are going to require it to come in in a form that can in fact be done by the agencies, and the agencies, in collecting all of this material and so on, are going to have to put it in a form that legally reflects the regulations. So right away you set up that process.

Ultimately, I assume, it is my understanding that under the bill you subject it to the same judicial review that is already in the bill. You do not in-

clude judicial review in your petition, but in relating to the rest of the bill, you bring it to the stage of judicial review. So all of that regulation, all of that cart of regulations brought on to the floor the other day, if all of that was challenged, it would also be subjected at some point to judicial review.

So while it is not stated in your amendment, the effect of your amendment is to dramatically increase the amount of regulation that would come under judicial review.

Mr. BARTON of Texas. Mr. Chairman, if the gentleman would yield further, I would respectfully disagree with that, because we set up a process that is fairly circumscribed as to what has to be in the petition, the time frame the petitions can be reviewed, and we do have a date certain in which if the agency determines to take a petition, that they have to consider it and make a ruling. So none of that is litigious.

Mr. WALKER. Mr. Chairman, reclaiming my time, but under that ruling, under the provisions of the bill, this is a final action subject to judicial review at that point.

Mr. BARTON of Texas. Mr. Chairman, if the gentleman will continue to yield, the bottom line, and I respect the gentleman for letting me ask some questions, we simply have to have a way to at least review existing rules and regulations that allows America to come in and request this. We disagree on that.

Mr. WALKER. No. But I understand that. But we have some idea of what we are dealing with in terms of regulations. For instance, we know that in a period of time in the early nineties, about 2000 EPA regulations were written. We know how many of those fall over the \$100 million mark. We have some idea how many fall over the \$25 million mark. We have some idea how much we are going to be dealing with over the next few years as these agencies write the regulations.

What we do not know under the gentleman's process, since any person can come in and complain about anything ever done in the regulatory sense of the Federal Government, we have no idea how that may explode.

Mr. BARTON of Texas. We have the same requirements. It has to be the \$25 million threshold. We do not change that. We require quite a bit of documentation in the petition process. We also require they show it would be cost effective.

Mr. WALKER. All of that documentation process is going to involve attorneys and all kinds of people in order to do the appropriate documentation. That to me is litigation. The idea that any citizen is going to be able to pop out of the woodwork and bring it in, the gentleman describes it correctly, that is not really going to happen. You are going to have monied interests that are going to be involved here.

Mr. EHLERS. Mr. Chairman, I rise to oppose the amendment and support the

comments made by the committee chairman, who spoke just a few moments ago, although I come at it from a somewhat different angle, speaking from my scientific background.

Mr. Chairman, I simply want to repeat a warning I gave during our discussion of this bill in the Committee on Science. Risk assessment is in fact an idea whose time has come. It is a good idea. But at the same time, let us not assume that this is a panacea, that it is going to resolve regulatory difficulties, and that everyone is going to agree with the results and say hallelujah, this is wonderful, and now we can do this and save money and still protect the environment.

It is difficult to do. There are many factors involved which are not fully understood, as we can see just from the debate here over the past day. It is not going to be a panacea, it is going to be difficult to implement. The number of people who truly understand risk assessment and how it proceeds is limited in this Nation, and we have a considerable amount of expertise to build up.

In other words, I support the bill. I am anxious to see it go into effect. I hope it works as well as I think it will. But I believe that we have to evaluate how well it works and get a better handle on it before we try to broaden it too much. For that reason, I oppose this amendment, even though I do commend the gentleman from Texas [Mr. BARTON] because the amendment is indeed better than the original version that was contained in the Committee on Commerce version of the bill.

I believe that as written, and given the nature of the backlog of cases out there that people are concerned about, this amendment would result in overwhelming the process and perhaps in fact very likely making the entire risk assessment process unworkable. I think it is very important to put this bill in place, prove that it does work when properly applied, and develop the experience and expertise that we need to really make risk assessment work and work well.

We will have ample opportunity in the future to broaden the process, to adopt the petition process, and to go back and review other regulations. But I truly worry that we will overwhelm the system, we will overwhelm the process, we will overwhelm the people who are available to do risk assessment, unless we proceed carefully and first of all establish the process according to the bill, demonstrate that it works, and then it is going to become, if we succeed, as I hope we do, so self-evident that this process should be used in all cases, that in fact we should go ahead and apply it to other cases.

□ 1630

In other words, I oppose the amendment because I believe it is going to be deleterious to the bill and deleterious to the goals of the sponsor of the amendment.

I urge the defeat of the amendment and the passage of the bill.

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

Mr. Chairman, H.R. 1022 is a good bill. It will dramatically change the way regulations are promulgated in this country and bring some common sense into the process. However, there is one serious flaw—it does nothing to improve regulations that were promulgated under standards lacking in cost-effectiveness or based on poor science. The Barton-Tauzin-Crapo amendment addresses this problem.

The current cost of regulation on the economy is conservatively estimated to be \$500 billion annually. This translates into \$10,000 for a family of four. To put it another way, 10 cents out of every dollar goes to pay for the cost of regulation. The current lack of risk assessment and cost/benefit analysis means resources are being used inefficiently and only adding to this burden.

We need to address the issue not only of unreasonable prospective regulations, but also of those that are currently weighing down the economy. Under this amendment, any party affected by a major regulation or risk assessment covered in H.R. 1022 can ask the Federal agency to review its rule to take into account new information on risk and/or cost.

The review is only available in cases where the petitioner demonstrates that existing regulations are not cost-effective methods of addressing the targeted risks. The point of this amendment is to give citizens the opportunity to find better ways to achieve the same protections currently provided.

Some concerns have been raised about the potential for increased lawsuits as a result of this process. Several points should be made in response:

In the first place, remember that a petition process already exists under the Administrative Procedures Act, complete with judicial review. The Barton amendment simply expedites the process for the agencies covered by this bill.

Further, no new rights to go to court are created by this amendment. Citizens retain their right to judicial review under the petition process currently in the APA.

To prevent frivolous petitions, the amendment sets up many hurdles. The burden is placed on the petitioner to provide the scientific and economic evidence to support the rule revision. The result is that few petitions are likely to be offered.

Additionally, because petitions can be filed only to decrease costs imposed by regulations or to make them more flexible, antibusiness interests are not likely to file petitions. Nor can antibusiness interests use this amendment to increase the costs or make regulations more inflexible.

The bottom line is this: H.R. 1022 establishes improved risk assessment and cost/benefit standards for new regula-

tions; why should we leave untouched the scores of current regulations that fall short of these standards? Instead, we should allow citizens to petition agencies with their ideas for revising existing regulations to achieve the same amount of protection at a lower cost of compliance, in a more flexible manner, and using sounder science.

There are many who have had years of experience complying with these regulations and seeing firsthand the inefficiencies of how they work—or do not work. Where they can identify a way to do things better for less cost, we should welcome the opportunity to take advantage of their experience to make the process more efficient and more effective.

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

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

Mr. WALKER. Mr. Chairman, the gentleman referred throughout his remarks to American citizens. The gentleman would grant that the language in the bill would give the same rights to foreign citizens as Americans citizens, would it not?

Mr. DELAY. Mr. Chairman, yes, I would assume so.

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

Mr. DELAY. I find no problem with that. If foreign citizens are creating jobs in this country and are being regulated by this country, they ought to have the right to petition, if they have a better idea on how to save costs and implement these regulations in a more efficient way.

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

(On request of Mr. COLEMAN, and by unanimous consent, Mr. DELAY was allowed to proceed for 1 additional minute.)

Mr. DELAY. Mr. Chairman, I yield to the gentleman from Texas [Mr. COLEMAN].

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

Mr. COLEMAN. Mr. Chairman, I thank the gentleman from Texas for yielding to me.

Being in opposition to H.R. 1022, in many ways I viewed this as really a character of many of the valuable aspects of risk assessment.

Instead of imposing a \$100 million threshold before setting into play the complex cost-benefit analysis proposed by the bill, this bill sets a \$25 million threshold; is that correct?

Mr. DELAY. Mr. Chairman, that is correct. We set a \$25 million threshold because we said if you set a \$100 million threshold, you eliminate 95 percent of the regulations that we are trying to bring good, efficient cost-benefit analysis to.

Mr. COLEMAN. Mr. Chairman, if the gentleman will continue to yield, I notice the Wall Street Journal pointed out that the bill "is harder on Federal

regulators than even industry thinks wise."

I just thought I would point that out. Another little problem which I consider a missed opportunity.

Mr. DELAY. Mr. Chairman, that is one of the fallacies of the arrogance of the elite into thinking that it is more important for the bureaucrats to have an easier time to impose regulations rather than American citizens.

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

I rise today in opposition to H.R. 1022, the Risk Assessment and Cost-Benefit Analysis Act. I do so with some reluctance, because I made a concerted effort to find reasons to vote in favor of this legislation. I am a firm believer in the benefits of cost-benefit analysis. Indeed, when I worked in the Texas State Legislature, we operated under the principles of cost-benefit analysis, and the results were quite positive.

Under such a system, we were required to determine whether the costs imposed by our legislation would be more than offset by the benefits to public health, safety, and economic well-being. I strongly support such a system. I know that it eliminates wasteful and unnecessary regulation, and that it lends greater legitimacy and force to those regulations that provide important safeguards for human health and the environment. I know the Congress needs to pass a similar bill. But once again, I find myself confronted with a bill that I simply cannot support.

The current administration has already made substantial gains in streamlining and improving the Federal regulatory process. Under an Executive order issued in September of 1993, every regulation with an economic cost of over \$100 million is subject to an agency cost-benefit analysis. This is an important first step, and there is a great deal that we can do to further this efforts. We need to give greater consideration to the views of those affected by regulations, including those who must perform regulatory tasks. We need to move away from litigation as the solution to the regulatory nightmare, and instead solve the problems at their source: the regulatory agencies. We need to show flexibility in our evaluation of existing regulations. The administration supports such initiatives. We have the opportunity to draft legislation that will complement this endeavor. H.R. 1022 represents a missed opportunity.

The bill before us today is, in many ways, a caricature of many of the valuable aspects of risk assessment. Instead of imposing a \$100 million dollar threshold before setting into play the complex cost-benefit analysis proposed in this bill, H.R. 1022 sets a \$25 million threshold. The Wall Street Journal noted on February 9 that in this respect, the bill "is harder on Federal regulators than even industry thinks wise." The \$25 million threshold is simply too low. It will impose a costly and time-consuming examination process on regulations with economic effects so minor that they do not warrant this level of scrutiny. That translates into the squandering of taxpayer dollars.

Additionally, rather than eliminate the legalistic nightmares often associated with regulations, this bill will compound them. By allowing judicial review for regulations deemed

noncompliant with the terms of H.R. 1022, we are inviting years of litigation on numerous regulations. This will not be good for business; it will not be good for the environment; it will not be good for human health. No one will really benefit from the glut of court cases that will occur as the result of this bill. And we have rejected an amendment that would prevent this litigation explosion.

Furthermore, under the guise of giving increased consideration to the views of affected groups and front-line regulators, this bill allows for review panels with inexcusable biases. Those industries with large financial interest in regulatory issues at stake would, under the terms of the bill, participate on a Federal peer review panel. Major polluters will now play a legitimate role in illustrating why their financial interests are more important than clean air or water. Peer review should not be skewed so far in favor of powerful industrialists. Yet that is the situation created by H.R. 1022.

Finally, I have stated that we should look with critical eyes upon past regulations, and see what can be fixed. But H.R. 1022 fails to take a rational course of action with respect to this aspect of regulatory reform. Instead, it threatens all of the progress that we have made over the past few decades through regulation. The bill ensures that in cases where the new law conflicts with old regulations, the old regulations are systematically superseded. This puts important legislation such as the Clean Air Act and the Safe Drinking Water Act at risk.

In the name of numerical scientific analysis, we are threatening to gut regulations which, through the years, have had extremely positive effects on the lives of the people of this country. In short, Dr. Gibbon, Director of the Office of Science and Technology Policy testified the bill "would place the safety of all Americans in the hands of recipe-following number-crunchers whose idea of public health is the bottom line on a ledger sheet—the very antithesis of what we should be doing."

I am not ready to give up on regulatory reform. I believe there is still time for an effective and prudent bill to be passed by this body. We still have the opportunity to work with the Senate in crafting a piece of legislation that will stop the relentless regulatory regime. We can still create a law that will allow us to work with the Clinton administration in their efforts to change the regulatory system.

I would like to have the future opportunity to vote in favor of a more carefully framed risk assessment and cost-benefit analysis act. But I am disappointed that the rush to meet the 100-day deadline of the Republican contract has resulted in such shortsighted legislation, which I believe will put many Americans at risk. Therefore, I am voting against H.R. 1022.

Mr. LARGENT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of this amendment.

Mr. Chairman, there has been a lot of question, a lot of debate, a lot of rhetoric about whether this amendment would in fact increase the amount of litigation in this country. There is no question about that. It certainly would increase the amount of litigation. There is good reason for that.

Who would question in this body that there have been a number, a large number of laws, regulations and rules that

have been enacted in this country that are both egregious and punitive, that have had the law of unintended consequences take place.

And if I have the picture correct on the arguments as to why this bill should be defeated, it is this, that Mr. Constituent, Mrs. Constituent, the reason I had to vote against the Barton amendment was that we have passed so many laws and so many rules and so many regulations that are egregious and punitive and that are wrong and that have had unintended consequences that we now are afraid that there is going to be so many legal actions taken that we have to vote against the Barton amendment because we have overwhelmed you with this type of rules and regulations and so now we are afraid of the brunt of your anger and the brunt of your legal actions against the Government for the rules that we have passed that we cannot allow you the opportunity to redress those situations.

I want to speak and give one particular example from my district. As I campaigned before the election in November, I had the opportunity to talk to a gentleman in my district who is the CEO of a large oil and gas company that owns and operates an oil refinery in Louisiana. And he said in their budget over the next 5 years they have budgeted \$1.5 billion to meet EPA standards as they impact their oil refinery in Louisiana.

And his comment was this, we have no problem with the goal that the EPA establishes for us for clean air and clean water for those citizens that live in and near the community that our refinery operates in, but the problem we have is this, we have no problem with the goal. But the problem is the rules that establish how we reach the goal are so rigid that in fact if we could use our own ingenuity, our own enterprise and left to our own device, that we could meet or exceed the goals established by the EPA and cut the cost \$1.5 billion, we could cut the cost in half, save \$750 million.

You want to know what the cost of this regulation is, the cost of this amendment? It is that we will improve the efficiency and the effectiveness of the business community, thereby increasing the number of jobs. We talk a lot about improving the living conditions and the wages of the common man. That is what this amendment is all about, is by relieving the regulatory burden that we have already placed upon the backs of our business community and the industries in this country today, we want to give them an opportunity to relieve themselves of the burden, the law of unintended consequences, thereby creating more jobs, improving the standard of living. That is what the Barton amendment is all about, and that is why I rise in support of the Barton amendment today.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

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

Mr. BARTON of Texas. There has been some talk that somehow it is just the big business interests that support this amendment. The American Petroleum Institute does support it. The Chemical Manufacturers Association does support it. But the National Federation of Independent Businesses, which is a small business organization, supports it. And if you look at the list, the Alliance for Reasonable Regulation and you look through all the companies that support the bill, they also specifically support the Barton-Tauzin-Crapo amendment. There is some companies in here, while I am not personally cognizant of them, I do not think Barney Machinery Co. is a big business. I do not think the American Lawn Mower Co. is a big business. So it is small business, the people that exist, and as the gentleman pointed out, have to live day to day under these regulations that are supporting this very important amendment.

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

Mr. Chairman, with all due respect to my chairman of the Committee on Science, I rise in support of the Barton amendment, because I think that it is important to stop the Government regulation and the strangulation that is happening to the American jobs. This Barton amendment is going to allow the average American citizen to rise against regulations. It sets up a process that allows them to have a voice in this, because I think many of these regulations were developed, they implemented using some type of a risk assessment approach that would be somewhere between a 5-year weather forecast and voodoo.

Unfortunately, it has not stopped the long arm of big Government from getting into my home State of Kansas. There is a heavy equipment dealership in Kansas City, KS. Dean runs it, and he has fallen subject to the net of CERCLA, which is the Comprehensive Environmental Response Compensation Liability Act. His name showed up on a 1972 ledger. This came up last December so it had been brewing for some time, 22 years, but he had \$127 worth of waste that was put into the now closed Doepke-Holliday landfill in Kansas City, KS.

The company had shipped some paper cardboard boxes, some similar debris. It was not hazardous waste. Yet the law places a burden on Dean to prove it. Because Dean and 17 other companies are minimal contributors to this landfill, the EPA has given them the option of paying \$10,000 to \$20,000 each to settle potential cleanup problems. If they do not pay this amount of money, then they will run the risk of paying that portion of the bill later on which could be as high as \$10 million.

So this current regulation is putting them under a problem. They would like

to fight against this problem, this regulation. But under current law they have not.

We talked about the increased amount of litigation that would go on here. I think there are safeguards in place. I have another man in my district that would really like to get at some current regulations. He recently sent me a Privacy Information Act that was given to him by the ATF when he applied for a gun license. He is not going to be able to fight this even under the Barton amendment because he will not be able to prove the \$25 million threshold as a safeguard that is in place. But under this form it says that the information that he will provide to this Federal U.S. Government bureaucracy says that they may disclose this information to a foreign government. And he is upset by that and would like to fight it. But because of the safeguards that are in place, there will be no court action on this one issue.

So I think that there are safeguards in place. I think it allows the average American citizen to fight against the loss of his job by grouping together inside the guidelines, and I would stand here in support of this amendment.

□ 1645

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BARTON].

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

RECORDED VOTE

Mr. DINGELL. Mr. CHAIRMAN, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This is a 17-minute vote.

The vote was taken by electronic device, and there were—ayes 206, noes 220, not voting 8, as follows:

[Roll No. 179]

AYES—206

Allard	Chambliss	Everett
Archer	Chapman	Ewing
Army	Chenoweth	Fields (TX)
Bachus	Christensen	Flanagan
Baesler	Chrysler	Forbes
Baker (CA)	Clement	Franks (CT)
Baker (LA)	Coble	Franks (NJ)
Ballenger	Coburn	Frisa
Barcia	Collins (GA)	Funderburk
Barr	Combest	Galleghy
Barrett (NE)	Condit	Geren
Barton	Cooley	Gillmor
Bass	Costello	Goodlatte
Bevill	Cox	Goodling
Bilbray	Cramer	Gordon
Bilirakis	Crane	Graham
Bishop	Crapo	Gutknecht
Bliley	Cremeans	Hall (TX)
Boehner	Cubin	Hancock
Bonilla	Cunningham	Hansen
Bono	Deal	Hastert
Brewster	DeLay	Hastings (WA)
Browder	Dickey	Hayes
Brownback	Dicks	Hayworth
Bryant (TN)	Dooley	Hefley
Bunn	Doolittle	Hefner
Burr	Dornan	Heineman
Burton	Dreier	Herger
Buyer	Duncan	Hilleary
Callahan	Dunn	Hobson
Calvert	Edwards	Hoekstra
Camp	Ehrlich	Hoke
Canady	Emerson	Horn
Chabot	Ensign	Hostettler

Houghton	Montgomery
Hutchinson	Myers
Hyde	Myrick
Inglis	Neumann
Istook	Ney
Johnson, Sam	Norwood
Jones	Nussle
Kasich	Ortiz
Kim	Orton
King	Oxley
Klecicka	Packard
LaHood	Parker
Largent	Paxon
Latham	Peterson (FL)
LaTourette	Pombo
Laughlin	Poshard
Lewis (CA)	Pryce
Lewis (KY)	Quillen
Lightfoot	Quinn
Linder	Radanovich
Livingston	Riggs
LoBiondo	Rogers
Longley	Rohrabacher
Lucas	Rose
McCollum	Roth
McCrery	Royce
McDade	Salmon
McHugh	Sanford
McInnis	Scarborough
McIntosh	Schaefer
McKeon	Seastrand
Meehan	Shadegg
Metcalf	Shuster
Mica	Sisisky
Mollohan	Skeen

NOES—220

Abercrombie	Fox
Ackerman	Frank (MA)
Andrews	Frelinghuysen
Baldacci	Frost
Barrett (WI)	Furse
Bartlett	Ganske
Bateman	Gejdenson
Becerra	Gekas
Beilenson	Gephardt
Bentsen	Gibbons
Bereuter	Gilchrest
Berman	Gilman
Blute	Goss
Boehlert	Green
Bonior	Greenwood
Borski	Gunderson
Boucher	Hall (OH)
Brown (CA)	Hamilton
Brown (FL)	Harman
Brown (OH)	Hastings (FL)
Bryant (TX)	Hilliard
Bunning	Hinchey
Cardin	Holden
Castle	Hoyer
Clay	Jackson-Lee
Clayton	Jacobs
Clinger	Jefferson
Clyburn	Johnson (CT)
Coleman	Johnson (SD)
Collins (IL)	Johnson, E. B.
Collins (MI)	Johnston
Conyers	Kanjorski
Coyne	Kaptur
Danner	Kelly
Davis	Kennedy (MA)
de la Garza	Kennedy (RI)
DeFazio	Kennelly
Kildee	Kildeer
Kingston	Kingston
Klink	Klug
Knollenberg	Knollenberg
Kolbe	Kolbe
LaFalce	LaFalce
Lantos	Lantos
Lazio	Lazio
Leach	Leach
Levin	Levin
Lewis (GA)	Lewis (GA)
Lincoln	Lincoln
Lofgren	Lofgren
Lowey	Lowey
Luther	Luther
Maloney	Maloney
Manton	Manton
Manzullo	Manzullo
Markey	Markey
Martinez	Martinez
Martini	Martini
Mascara	Mascara
Matsui	Matsui
McCarthy	McCarthy

Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Upton
Vucanovich
Waldholtz
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Young (AK)
Young (FL)
Zeliff

Smith (MI)
Spratt
Stark
Stokes
Studds
Stupak
Taylor (MS)
Thompson
Thornton
Torkildsen
Torres
Torricelli

Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Walker
Walsh
Wamp
Waters
Watt (NC)

Waxman
Weldon (PA)
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—8

Gonzalez	Lipinski	Rush
Gutierrez	Miller (CA)	Ward
Hunter	Pickett	

□ 1703

Messrs. DEUTSCH, OWENS, MARTINEZ, MANZULLO, TOWNS, NETHERCUTT, MOAKLEY, JOHNSON of South Dakota, and DOYLE changed their vote from "aye" to "no."

Messrs. HYDE, ROTH, BURTON of Indiana, and KASICH, and Ms. PRYCE changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HAYES

Mr. HAYES. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. HAYES: On page 8, at the end of line 3, add the following:

"Nothing in this Section (iii) shall apply to the requirements of Section 404 of the Clean Water Act."

Mr. HAYES. Mr. Chairman, this is an amendment that simply furthers the purposes of this act, the purposes which I wholeheartedly support in regulatory reform.

It merely says that under the permit section that there are some permits like section 404 of the Clean Water Act that ought to be clearly distinguished from some of the language of the bill in its application.

I have spoken to the majority, and I would certainly yield to the distinguished chairman for any comments he may have.

Mr. BLILEY. Mr. Chairman, we in the Committee on Commerce see what the gentleman from Louisiana is attempting to do. We in the majority have examined the gentleman's amendment and agree that there was no intention to include wetlands permits under the Clean Water Act. Section 404 is also sometimes coordinated with the Corps of Engineers. An exclusion would be consistent with the colloquy I had earlier today with the gentleman from Michigan [Mr. STUPAK].

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

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

Mr. WALKER. This is the gentleman's amendment on page 8, is that correct?

Mr. HAYES. That is correct, yes, sir.

Mr. WALKER. We have no objection to the amendment.

Mr. HAYES. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. HAYES].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BOEHLERT

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

The Clerk read as follows:

Amendment offered by Mr. BOEHLERT: Page 29, strike line 18 and all that follows through line 6 on page 30, and insert in lieu thereof the following:

(1) **RULE OF CONSTRUCTION.**—Nothing in this Act shall be construed to modify any statutory standard or requirement or to alter any statutory or judicial deadline. No failure or inability of an agency to make the certifications required under this section shall be construed to bar an agency from acting, or to authorize an agency to fail to act, under other statutory authorities.

(2) **FAILURE TO CERTIFY.**—In the event that the agency head cannot make any certification required under this section, the agency head shall report to Congress that such certification cannot be made and shall include a statement of the reasons therefore in such report and publish such statement together with the final rule.

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

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

There was no objection.

Mr. BOEHLERT. Mr. Chairman, I would like to point out at the outset, this amendment has bipartisan support and is strongly endorsed by every environmental and consumer advocate group that is identified with this legislation. That is critically important.

H.R. 1022 makes regulations that are being issued pursuant to existing laws subject to risk and cost-benefit analysis. I agree with the authors of H.R. 1022 that these analyses should be done. By conducting the analysis outlined in H.R. 1022, agencies will be assessing regulations in a manner which should lead to more reasonable regulations, and that is something we all want, more reasonable regulations.

However, H.R. 1022 carries the use of risk and cost-benefit analysis one step too far. Under this bill, critically important health and safety regulations could be stopped if one of the many elaborate analyses required under this measure could not be certified.

This means that existing statutes debated and approved by Congress could be, in effect, gutted because some administrative bureaucrat could not certify, for example, that the regulations was the most flexible regulation option. Existing law would be superseded by the supermandate language of H.R. 1022.

Let me read this language. It appears on page 29 of the bill, lines 18 through 23.

Notwithstanding any other provision of Federal law, the decision criteria of subsection (a) shall supplement and, to the extent there is a conflict, supersede the decision criteria for rulemaking otherwise applicable under the statute pursuant to which the rule is promulgated.

What my amendment would do, Mr. Chairman, is ensure that risk assessments and cost-benefit analyses are

done. However, when there is a conflict between a regulation arising from legislation debated and approved by this Congress and an assessment done by some bureaucrat, the head of the relevant agency will report the conflict to Congress.

Congress, the people's elected body, will then examine the conflict and, where appropriate, amend the statute giving rise to the regulation. The U.S. Congress, not some nameless, faceless bureaucrat, will decide our Nation's health, environment and safety policies.

I would like to now read the amendment that the gentleman from Louisiana [Mr. HAYES] and I are offering.

Section 1, Rule of Construction. Nothing in this Act shall be construed to modify any statutory standard or requirement or to alter any statutory or judicial deadline. No failure or inability of an agency to make the certifications required under this section shall be construed to bar an agency from acting, or to authorize an agency to fail to act, under other statutory authorities.

Section 2. Failure to Certify. In the event that the agency head cannot make any certification required under this section, the agency head shall report to Congress that such certification cannot be made and shall include a statement of the reasons therefor in such report and publish such statement together with the final rule.

Mr. Chairman, this amendment has broad bipartisan support, and for good reason. It provides for risk assessment to be used in a manner that improves our laws, not gut them on an ad hoc basis. We support taking a hard look and revising where warranted existing health, safety and environmental standards. But the way to accomplish this is through a statute-by-statute examination, not through a shotgun approach that will likely do more damage than good to the American people.

I urge my colleagues to join the bipartisan coalition led by the gentleman from Louisiana [Mr. HAYES] and myself is assuring that risk assessments are used effectively. I urge support of the Boehlert-Hayes amendment. We have a very, very important responsibility in this House. Let me stress, every single environmental agency that has examined this proposed legislation and this amendment is supportive of this effort as is every consumer advocate group.

Ms. ESHOO. Mr. Chairman, I rise in strong support of the Boehlert amendment which ensures that the risk assessment bill does not override existing laws.

The Boehlert language is necessary to safeguard critical safety and health regulations and the people which these regulations are designed to protect.

Mr. Chairman, despite the good intentions of this bill, the Boehlert amendment is needed because this legislation is poorly drafted, hastily reviewed, and now before us without a clear understanding of its consequences.

Let me give my colleagues one ominous example of what we are faced with here:

During the Commerce Committee markup of the bill, I offered an amendment which highlighted the unintended dangers posed to women's health by this bill, specifically breast cancer.

What I did was subject one bill—the Mammography Quality Standards Act—to the requirements of the risk assessment bill. Not only did this example show how dangerous this bill is to women's health and mammography standards, it demonstrated how little the framers understand it and the effects it will have on current laws and regulations.

The Mammography Quality Standards Act helps ensure sound mammography services by regulating facilities which provide mammograms.

Under the bill considered by the Commerce Committee, the FDA, which implements the mammography act would have needed to perform a series of complex, costly, and time-consuming risk assessments and cost-benefit analyses before those regulations could take effect.

As a result, this important law could have gone unenforced or been subject to lengthy court procedures.

Mr. Chairman, breast cancer is already the second leading cause of death in American women and 50,000 women die each year from this disease.

We all know that without a known cure, the key to battling this devastating killer is early detection. Mammograms can detect breast cancer up to 2 years before a woman or her doctor can feel a lump and if the disease is found at these early stages, it is 90-100 percent curable.

Prior to passage of the Mammography Quality Standards Act, there were no national, comprehensive quality standards for mammograms that applied to all facilities.

Quality needs to be assured at these facilities—studies show that faulty diagnoses or early tumors due to poor image quality or incorrect interpretations result in delayed treatment, more costly medical procedures, and higher mortality rates.

Mr. Chairman, when I offered my amendment at the Commerce Committee I asked if the mammography bill would be affected by the risk assessment bill. With the assistance of the majority counsel, the majority response was "yes" the risk assessment bill would affect provisions of the Mammography Quality Standards Act.

Despite this acknowledgement by the majority, my amendment to exempt critical women's health protections from this drawn out process was defeated along party lines. In fact, one of my Republican colleagues said he could not support the amendment because it would prevent us from setting appropriate priorities—in other words, there might be higher priorities than providing women with good-quality mammograms; there might be higher risks than the deadly disease of breast cancer.

After the committee reported out the bill, I received a memo from the chairman of the Health and Environment Subcommittee informing me that after taking another look at the bill, the Mammography Quality Standards Act would not be subject to the requirements of the risk assessment bill because it is administered by the Department of Health and Human Services which is not subject to the requirements of the bill. The chairman said in the memo that the point would be clarified in the committee's report.

This point was never clarified in the committee's report.

And upon checking myself, I learned that although HHS has statutory authority over the bill, the FDA, which is subject to the bill, implements the Mammography Quality Standards Act and therefore has administrative authority over the bill.

□ 1715

The large bells went off. The reason why I take this time to explain all of this, which is a long story but a very important one, is that if we take the laws of the land today, and have to subject them to the language, and I only use this one example, the Mammography Standards Act, it does not pass muster.

So I pay tribute to my colleague from New York and to the bipartisanship of this effort with this amendment. I think it is needed. I hope I have given a very good example of why it is needed.

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

Mr. Chairman, I oppose this amendment and I do so for much the same reason that I opposed the previous amendment. In the case of the previous amendment there was an attempt to reach back, and in my view that does not make good sense in terms of this legislation. But this legislation is designed to do regulations prospectively, and that is what the author of this amendment now comes to us and tells us we should not be able to do. He says that under the laws that presently exist, even amendments written in the future ought not be covered by the provisions of the bill that we are passing.

I just think that makes no sense. It seems to me that if in fact we are going to require good science on legislation that we pass now, we ought to require good science on things that were passed before. If we are going to require cost-benefits on legislation we pass now, we ought to require cost-benefit analysis on things that were passed before.

This is not anything talking about regulations already in place. This is talking about regulations that the agencies are going to write in the months and years ahead. And it seems to me that the provisions of this bill should apply to those kinds of things.

All we are requiring is risk assessments and cost-benefit analysis that are objective and unbiased. We are saying that the incremental risk reduction

benefits of a major rule will be likely to justify and be reasonably related to the incremental cost of the rule and that regulation is either more cost-effective or provides more flexibility to State and local government or regulated entities or other options.

That is all this bill is about, and all we are saying is regulations which are pursuant to the laws that are presently in place ought to meet that kind of criteria.

In short, this legislation would supplement and if inconsistent with prior law would supersede the requirements of prior law when that prior law prohibits regulators from considering the criteria just described.

Regulators should be forced to justify their laws. Why? We have already seen the kinds of things that too often happen and could be stopped if we had good patterns. For instance, under the Safe Drinking Water Act, Columbus, OH, must monitor a pesticide that is only used to grow pineapples. I do not know how many pineapples are grown in Columbus. That is probably some overkill that is in the laws. Maybe some of that overkill could be utilized in better ways.

The Superfund Program has cleaned up fewer than 20 percent of the hazardous wastes sites at a cost of \$25 million per site. Much of this money has been used to clean up sites that pose no health risks. According to EPA's own data, only 10 percent of the Superfund sites pose actual health risks. The other 90 percent pose hypothetical risks dependent upon future behavior.

Now once again, I think we ought to have some criteria that judges that, and if what we are doing is spending our money to clean up hypothetical problems rather than real problems, maybe we ought to get real, maybe we ought to start cleaning up real problems and have some process by which we evaluate that.

There is the now famous incident where EPA required a hazardous waste dump site to be cleaned up to a point where a child with a teaspoon eating the dirt could eat a teaspoonful of dirt for 70 years under the provisions of the agreement.

Well, I do not know, I mean kids in my area I know do from time to time go out and eat some dirt. Most of them, though, sometime before they reach age 70 stop that behavior. And it seems to me that once again we have a regulation that was written in a way that makes no sense. We ought to require regulators to have a higher standard.

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

Mr. WALKER. I am happy to yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Chairman, I thank the gentleman for yielding. He points out a very interesting issue that we are going to be dealing with, wrestling with in our committee as far as Superfund is concerned, and the gentleman is absolutely right. The cleanup standards are beyond belief. They have

driven the cost of the Superfund Program skyward when we are not really getting the cleanup where needed. It is based on poor science, it is based on politics, it is based on scare tactics instead of real science. And this bill is to address those kinds of inconsistent, very expensive kinds of propositions in the regulations.

So, if the amendment were to be adopted, it would destroy the ability to really solve the problem of these new regulations that are coming about.

We want to do them by each program and we will be doing those within the Superfund Program, but obviously if you believe in the regulatory madness that is going on right now, you would support this amendment.

I suggest quite the contrary, so I appreciate the gentleman pointing out the Superfund Program. It is an excellent example of these regulations run amok.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

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

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

Mr. WALKER. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I thank my chairman for bringing this up, but I want to point out that if the agency cannot certify all of the things that are required in H.R. 1022, then the agency has to come back to the Congress and the Congress, the people's representative body, would make the determination.

Mr. WALKER. But all we are saying in terms of prospective regulations is why do we have to have the extra step of coming back to the Congress for every regulation that is issued? Under present law they have to comply with these regulations. There is no need to come back to the Congress. All we want to say is for any new regulations written under old law there should be no need to come back to the Congress. All of this is going to come back to the Congress anyway because we are going to go back to reauthorization approaches. The gentleman wants to add an extra step with regard to old law and I think that makes the risk assessment more inflexible and does not make any sense in terms of where we are headed.

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

Mr. WALKER. I am happy to yield to the gentleman from New York.

Mr. BOEHLERT. I would point out if the rule the gentleman is advocating were applicable 25 years ago, we would not have had the progress we have had with lead in gasoline.

Mr. WALKER. I just absolutely disagree with that. The head of the Harvard School of Public Health, the risk analysis portion, says absolutely the opposite. Lead-based gasoline would

have been approved under science-based application.

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

Mr. Chairman, I rise in opposition to this amendment. If I were trying to draft an amendment that very clearly defeated this bill, I could not have done a better job than the author of this amendment.

This bill provides for two requirements in the law basically. It says that when a new rule is going to be promulgated by an agency it needs to do two things. It needs to do a risk assessment and it needs to do a cost analysis.

Now if I were drafting an amendment designed to kill this bill I would see to it that I gave the agency a chance to avoid both of those requirements, and guess what? This amendment does exactly that.

If the agency currently is writing rules under a statutory requirement that costs cannot be considered in the implementation of those rules, and many of our regulatory laws have such a provision, the endangered species is a good example. It says that once a species is listed you have to cover it, regardless of costs, regardless of how many people are put out of jobs, regardless of how many businesses have to shut down, regardless of how much private property has to be put out of commerce. It says you protect that species regardless of the cost of it.

So, if you were operating under a statutory requirement that says do this and you do not have to worry about costs, under this amendment you would be protected in that statutory requirement. You would never have to do a cost analysis.

Let us assume that you want to avoid doing a risk assessment as well. Under this amendment the author has included words to say that nothing in this act shall be construed to modify or to alter any statutory or judicial deadline. Here is the way you avoid risk assessment under this deal. You simply say we are under a statutory deadline. We do not have time to do a risk assessment, cost-benefit analysis. We have to meet this deadline, therefore, we have promulgated this rule without the benefit of risk assessment, cost-analysis.

How do you avoid it under a judicial deadline? Let me tell my colleagues how cleverly some of these agencies work. Friends of the Earth sued our Interior Department recently and sued the Department on a claim that the Interior Department was not listing species fast enough. There were 4,000 candidates for listing before the Interior Department, by the way, nominated by a single biologist in most cases, and they were not moving fast enough to list these species. So Friends of the Earth filed a suit, and guess what our Interior Department did? It did not contest the suit, it did not go to court and argue that we really have to do a scientific study before we list a species.

It instead went into closed doors, behind chambers and agreed to a consent judgment that said okay, we give up; we are going to list 200 new species within the next 18 months, regardless of whether we do any scientific review of whether those species ought to be listed as threatened or endangered. We automatically list 250 new species and under this amendment you have to meet this new judicial deadline of 18 months so we cannot do a risk assessment, cost-benefit analysis of that rule listing 250 new species which may not be threatened, may not be endangered, but the Interior Department has consented to judicial judgment agreeing to do so.

□ 1730

If I wanted to defeat this bill, if I wanted to make sure you never did risk assessment, if I wanted to make sure all the statutes that say you cannot take cost into account are not changed by this bill, I would adopt this amendment. This amendment says you do not have to take cost into account. If the statute says that currently, this amendment says you do not have to do risk assessment if you do not have time. This amendment says you do not have to worry about risk assessment, cost-benefit analysis if you are operating under a consent judgment that you agreed to, so list 250 new species even though they may not be threatened or endangered.

This amendment ought to be defeated.

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

Mr. TAUZIN. I yield to the gentleman from New York.

Mr. BOEHLERT. Let me stress to my colleague from Louisiana that I am fully supportive of risk assessment and cost-benefit analysis. Let us make that very clear at the outset. But if the agency involved could not make the certification required under H.R. 1022, that agency would have to report to Congress, and the People's House would make the ultimate determination, not some bureaucrat in the bowels of some building downtown. The People's House, the Congress.

Mr. TAUZIN. The problem, if I can respond, is this House has already spoken in many of these regulatory statutes, and in many cases unfortunately those statutes were written in another day and time. Those statutes say you cannot take cost into account. This bill would change that. It would say from now on you take cost into account. You provide the same level of protection. You simply try to do it with the least-cost option. You do it with more flexibility.

If this amendment is adopted, you go back to the old law. This bill to create risk-assessment, cost-benefit-analysis requirements is defeated by this amendment. This amendment ought to be defeated.

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

Mr. Chairman, I would like to point out that the substitution the gentleman from New York is attempting to offer, if he offers it successfully, in my opinion, it really guts the intent of this bill, because the whole reason that we are doing risk assessment is to say that we ought to put in process a basis, a system, that uses scientifically valid risk-assessment principles in a forward way in terms of new laws and new rules and in terms of existing law.

If there is something underway already, they have to use these principles that we put in the legislation, and the amendment offered by the gentleman from New York [Mr. BOEHLERT] very, very plainly states that nothing in the act shall be construed to modify any statutory standard or requirement in existing law.

He also eliminates the substantial-evidence test that has been put into the legislation that says when we do risk assessment in the future, promulgate a new rule or regulation, you have to show there is substantial evidence proving it should be done.

So there are a number of reasons that I think this is an unwise substitution. I oppose it. I would hope my colleagues would oppose it.

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

Mr. BARTON of Texas. I yield to the gentleman from New York.

Mr. BOEHLERT. Let me stress what is said in my amendment under that section entitled "Failure to Certify," it says in the event that the agency head cannot make any certification required under this section, the agency head shall report to Congress that such certification cannot be made and shall include a statement of the reasons therefor in such report and publish such statement together with the final rule.

Then Congress would work its will. We are the people elected by the citizens of America. We have the public trust in hand.

Mr. BARTON of Texas. Reclaiming my time, what we have said in this act of Congress that is before us, H.R. 1022, we are saying in earlier sections that we want scientifically valid risk assessment to be used in the future, and we say in this section notwithstanding any other provision of Federal law, we want it to be used from now on if there is a conflict.

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

Mr. BARTON of Texas. Mr. Chairman, I am happy to yield to the gentleman from Pennsylvania [Mr. WALKER], who just defeated me on my amendment.

Mr. WALKER. Mr. Chairman, well, the gentleman and I are together on this one.

Mr. BARTON of Texas. Hallelujah.

Mr. WALKER. But the question is here what happens in terms of regulations, and the gentleman from New

York keeps reading this statement about coming to Congress. All they are doing is reporting to Congress. The final rule goes ahead despite the fact it is in violation of the cost-benefit analysis, so the gentleman has come up with a way of reporting to the Congress that we, the agency are going to disobey the law and the heck with you. That is exactly the kind of arrogance that we are hoping to stop with the bill that we are writing.

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

Mr. BARTON of Texas. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I think it is even worse than that. If you read the language, it says no failure or inability of an agency to make the certification is required under this section. The language of the line just above it says you are not required to do it. You are not required to do a cost-benefit analysis if it is going to alter any statutory requirement, for example, you have to consider cost. You are not required to do it if you are under an agency deadline. You are not required to do it if you are under a judicial deadline. If you are not required to do it, you do not have to issue any certifications either. It is a very clever set of language. If you read it together, it makes pretty good sense. If you can make sense out of it, it kills the bill, it ought not pass.

Mr. BARTON of Texas. That is why I am opposed to it. The gentleman from Pennsylvania [Mr. WALKER] is opposed to it.

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

Mr. BARTON of Texas. I yield to the gentleman from New York.

Mr. BOEHLERT. Let me tell you the case about Milwaukee, the cryptosporidium when 104 people died, 400,000 people were made ill because they drank the water from a public water system in one of our Nation's premier cities.

I would suggest if we are able to determine the likely cause of that problem to protect other cities and other millions in the future, and there was a proposed rulemaking and somewhere along the line some bureaucrat screwed up, you would say then stop everything, we cannot go forward.

Mr. BARTON of Texas. Reclaiming my time, on section 3, line 5, page 4, it says the situation that the head of an affected Federal agency determines to be an emergency, the act does not apply.

Mr. WALKER. If the gentleman will yield further, the gentleman is absolutely correct. He cites exactly the right chapter, and the fact is that that is an emergency situation that was raised by the gentleman from New York that certainly would covered under the provisions of the bill, and the agency head would be permitted to go forward without doing anything that is required under our bill.

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

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

Mr. BOEHLERT. Mr. Chairman, if the gentleman will yield further, I would point out that the dire emergency is behind us, not prospective, and what we are trying to do is prevent something like Milwaukee occurring again. We cannot foresee a dire emergency in the future.

But if we analyze what happened in Milwaukee and we are trying to protect future millions in other cities and we come up with a proposed rulemaking that somewhere along the way something went awry during the development of that rule and someone made a mistake, we would stop everything in its tracks and say, sorry, millions of Americans, we cannot protect your water supply, we cannot protect you because somebody made a mistake and we cannot do it.

Mr. BARTON of Texas. Reclaiming my time, what we are saying is we can protect you but we want to use sound science to promulgate rules in the future and rules in the present that are based on existing law.

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

Mr. Chairman, we are being called upon today to legislate on the basis of anecdote and to pass a bill of rather doubtful benefit to the society on the basis of anecdote.

My good friend, the chairman of Committee on Science, got up and talked about a pineapple pesticide which was used. This is required to be tested by the EPA. Why? Because it has been widely used in some 40 States in crops until 1979. It is highly persistent. It is a carcinogen, and it has been found in the drinking water of 19 States, one of which would be Hawaii.

I think we ought to look at what it is we are doing. If we are talking about cost-benefit analysis, let us have some cost-benefit analysis. Let us try and understand what this bill is really about.

The bill is really about cost. I have been as critical of the EPA and other agencies for the inadequacy and the impropriety of their science. I am the only fellow around here who held hearings to denounce the misbehavior of EPA in terms of bad science, but let us talk about what we are concerned with here.

This is a draconian bill. They have talked about science and peer review, but mostly, again, what has been discussed here has been cost.

The question is that are we going to supersede all health, safety, and environment and other regulations if they cost too much?

Well, let us look, and let us look at what really counts, and that is the benefits: Public health, public safety, safe

and a wholesome environment. How can we tell that the benefit and the costs can be properly equated? What is the cost-benefit analysis that is going to determine the price of a healthy child? What is going to determine what is a safe workplace, and what is this worth to the American society?

We have talked about infestation of microorganisms in water in a major U.S. city. What is the price of a clear glass of water? What is the price and the cost of the benefit of 400,000 people who do not get sick or 100 people who do not die? What is the price of a safe airplane ride to the American citizen? What is the price of a safe workplace? What is the price of a clean Lake Erie in which you can fish and swim? That lake was about to be a dead lake. What is the price of seeing an eagle flying overhead, and how are we to fix the cost-benefit ratio for removal of DDT from the society and that eagle flying above us which was about to be wiped out because of that?

We are talking about the overturn of standards that have been regarded by the American people for years, indeed, for scores of years, and as the basis of their safety, as the basis of a healthy environment.

People rely on these standards every time they get a drink of water, every time they take an airplane ride, every time they get in a car, every time they walk out of their house to breathe. Go to California now and look at the situation in Los Angeles. The air is safe, the air is clean. Why? because we passed legislation which did it.

Was it as good as it should have been? No. I was roundly castigated for years because I sat on that legislation until we could work out a situation where it was going to make good sense.

This House passed that legislation. That legislation says you will not consider costs in determining the safety of standards and regulations.

This legislation is going to put that at risk and raise questions about it. The bill is purported to be about assessment of risk, but what this bill, again, is really about is just simply pulling the plug.

I know my colleagues who support this legislation would say they do not support the idea we pull the plug on life, but today, without this amendment that is exactly what we are going to be doing. We are going to be pulling the plug on health standards. We are going to be pulling the plug on standards which protect the environment and which enable us to live with safety and with comfort with the environment of which we are a part.

Now, I think it is better for our citizens to have the current law. If we have to address the problem of legislation to deal with the problem of inadequacy of cost assessment, and I think we have to do it, then let us do it by addressing the problem under amendment of each of the specific statutes that are involved here. Why? Because

here we are seeking to add one enormously complex set of regulatory practices on top of another set of regulatory practices which we complain.

As I have pointed out to my colleagues in earlier comments, what we are doing is not just stopping legislation and regulations which are going to protect the health and safety and the welfare of the American people, but also which are going to adversely impact upon regulations and changes in regulations which will be of benefit to business.

I urge my colleagues to adopt the amendment and to reject the bill.

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

Mr. Chairman, I rise in support of this amendment, which would strike the supermandate provision contained in H.R. 1022. I have reviewed H.R. 1022, and I have grave reservations about the bill in its current form. There is no question that we do need to reevaluate our environmental, health, and safety laws in order to reduce regulatory burdens and costs and to improve the protection of our citizenry. This reevaluation should be undertaken carefully and deliberately, on a statute by statute basis, with a full airing of views by all interested groups.

This is not however, the approach that is taken in H.R. 1022. H.R. 1022 would explicitly supersede every environmental and safety law on the books. This bill would prevent any new regulation from being issued unless the agency could muster substantial evidence that the benefits of any strategy chosen will be likely to justify, and be reasonably related to, the incremental costs.

We all believe that agencies should execute the mandates of this body in the most cost-effective manner possible. However, the cost-benefit test embodied in H.R. 1022 would make it extremely difficult for an agency to take any rulemaking action whatever—whether good, or bad, or indifferent. Unless the agency was prepared to show in court that the benefits from a rule justified its costs, the agency would be unable to move forward. Agencies would be compelled to place a dollar value on the survival of an endangered species, the purity of a river, the breathability of our air. If the balance sheet did not come out even, or if a judge disagreed with the agency evaluations, then the regulation would be held unlawful under the bill before us.

Make no mistake: H.R. is retroactive in its effect, whether or not it contains a reach-back petition process for reopening existing rules. H.R. 1022 is retroactive because for key statutes like the Clean Air Act, most of the regulations mandated by Congress have not yet been issued by the agencies. According to the Congressional Research Service, EPA has yet to promulgate 75 percent of the air toxics rules required by the act. These 75 percent of the clean air standards would fall within

the purview of H.R. 1022 and most likely would never be issued at all if this bill passes in its current form.

The Clean Air Act is but one of many laws that would be superseded by H.R. 1022. Laws governing hunting and fisheries management, the Atomic Energy Act, the Safe Drinking Water Act, the Poison Prevention Packaging Act—these are just a few of the laws whose fate is in the balance today. Who among us can say with any degree of confidence what would be the effect of this risk/cost/benefit bill on these important statutes?

Environmentalists, consumer organizations, and labor unions are not the only groups to oppose H.R. 1022. Industry too has some significant misgivings about this legislation. Several major manufacturers have told us, over the past several days, that H.R. 1022 goes too far. Industry does not want a rollback of environmental regulation; industry does not want to risk another popular backlash against its activities. In the recent Newsweek article on this bill, an official of Occidental Petroleum is quoted as saying, "This reminds me of 1981, when industry shot itself in the foot." Industry has invested billions of dollars in emissions control equipment already: To rescind the rules that made that equipment necessary is to squander industry's prior investment.

Mr. Chairman, in enacting the past 25 years environmental legislation, Congress has reflected the widespread public belief that protection of public health and the global environment are objectives of paramount importance to society. In my opinion, the public at large continues to hold these views. I therefore urge adoption of this amendment.

□ 1745

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

I will confess I am not an expert on regulatory proceedings, but based upon what I have heard here this evening and on our earlier expressions that this method of revising badly needed risk assessment and cost-benefit analysis should really be applied on a department-by-department basis in order to achieve the maximum effect.

I think that this amendment moves us in that direction.

What the basic point that it seems to me needs to be made is that in H.R. 1022 we have a valuable new process that is set into place which would help us make better regulatory decisions, but it requires that there be a certification process according to the criteria which result from this which override existing law.

Now, it is my view that it is not desirable to override the existing law, for the reasons set forth far more eloquently than I can by the gentleman from Michigan [Mr. DINGELL] and others, that what we really need is to reconsider existing law and see if the

original basis for that law's criteria—that is, whether or not it should not require cost-benefit analysis or risk assessment—still are valid. We can then proceed, ourselves, to make the judgment that is necessary to either correct the law or to bring it into accordance with the decision criteria resulting from the operation of H.R. 1022.

This is a more moderate approach. I agree with that. It certainly is not satisfactory to those who want a revolution today. But I can feel much more comfortable with this kind of a process because I have been a party to putting into effect most of these regulatory laws over the last 30 years.

On the air pollution legislation, for example, I should not have to repeat this, but 30 years ago this was the key to getting elected to Congress in California, to promise to cure air pollution, and I made that promise, and I failed to do so. But I have supported every effort to do so that has been made in Congress.

And I think most of what we have done has been reasonable and valuable, and in southern California I can certify today we are far better off than we were 30 years ago or 20 years ago or 10 years ago.

Now, we seek to pass this all-encompassing legislation which contains many valuable additions which I fully support, but we put into this a provision that says if the process results in decision criteria which are different from existing law, it overrides the existing law. And I think that is unwise.

I think we need to reconsider the existing law, and the amendment provides for that, through the reporting process to Congress. But I think we should be very reluctant to override much of the health and safety and other legislation that we have passed.

The gentlewoman from California spoke eloquently of the impact upon mammography standards, for example. I think we should be very careful to be put into the position of having the women of this country say the Congress neglected or showed no concern for the importance of proceeding with the laws that we put into place already, and proposing to override them through the effect of this risk assessment and cost-benefit analysis legislation.

So I am very strongly supportive of the legislation offered by the gentleman from New York [Mr. BOEHLERT]. I join the gentleman from Michigan [Mr. DINGELL] in fearing for the consequences of the legislation before us unless it is amended in such a fashion, and I hope that you can all support the amendment of the gentleman from New York.

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

Mr. Chairman, let us first of all make something very clear; that is, the supermandate language in this bill is

the guts of the legislation. If you are against the supermandate, you are against the bill; then vote for the Boehlert amendment. But if you want to have a reasonable risk assessment and cost-benefit analysis bill, then vote against the Boehlert amendment and vote for the bill.

That is basically as simple as it can be. The gentleman from Louisiana [Mr. TAUZIN] made it very clear, and he is right, that if you are against the bill, you want to vote for this amendment. So I think most Members recognize it is important we look forward in dealing with these kinds of legislation and give the opportunity for the Congress to set these kinds of standards. That is exactly what we get elected to do.

I want to point out for the edification of the Members that we tried to carefully deal with the question that came up in our committee about mammography screening.

The gentlewoman from California who has spoken earlier raised that issue. We worked very hard to make certain that that was taken care of. I want to stress that in the language in the legislation, on page 5, line 14, section 4:

Program designed to protect human health. The term "program designed to protect human health" does not include regulatory programs concerning health insurance, health provider services, or health care diagnostic services.

Now, the last time I looked, mammography screening would be covered under health care diagnostic services. So I put that issue to rest.

We listened to the gentlewoman from California and others in our committee. That issue is not an issue in this amendment, nor is it an issue in this bill because we took care of it, as a result.

Now, we spend some \$430 billion to \$700 billion on regulations. Does it not make sense, since we have already defeated an amendment that would look back that would keep us from looking back, to now take a look at an opportunity to take the new regulations that are coming out and apply reasonable cost-benefit analysis and risk assessment to those regulations?

That really is the issue. The question is do you want to do that, or do you not? Do you want to stick with the status quo of these old regulations that are in many ways totally not based on science, or do we want to simply give regulators an opportunity to use good science? That is really what this is all about.

Now, if we are going to believe our friend from New York, we are going to say we are just going to walk in place, we are going to, essentially, freeze the decisionmaking process and go back to what cost billions of dollars. I do not think that makes a whole lot of sense, and that is why the Boehlert amendment should be defeated, because it goes against the heart of what we are trying to do here, the very heart of this supermandate language.

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

Mr. OXLEY. I yield to the gentleman from New York.

Mr. BOEHLERT. I thank the gentleman for yielding to me.

Mr. Chairman, I stress that I too favor cost-benefit analysis and risk assessment. What this amendment points out is that there are going to be disagreements in the future sometime and where there is a failure on the part of the agency to be able to certify all the certifications required in the bill, then that agency has to report back to the Congress, the people's House, and we debate it and we make the necessary changes.

Mr. OXLEY. Mr. Chairman, I have perhaps less confidence that that particular procedure will work. If they report back, they report back.

The gentleman from Michigan [Mr. DINGELL] said he has had a lot of hearings about some of the abuses in the regulatory process. It is true we have had a lot of hearings, but until today we have not done very much about it. Today we have a chance to strike a blow for reasonable regulations. That is why this bill is so important, and that is why, in my humble estimation, the amendment of the gentleman from New York cripples our ability to do that.

Mr. BOEHLERT. If the gentleman would yield further, I want to increase the comfort zone a little bit by telling the gentleman that we are part of the new majority now, so things will be different now and in the future, in the Congress, in the way Congress responds to agencies.

Mr. OXLEY. I am concerned that we get an overburdened effort. That is what the job is, it is for those regulators to make those regulations based on good science. That is what we want them to do. We do not want them to dump their problems into the Congress' lap. We are going to be authorizing Superfund, I say to my friend from California, we are going to be reauthorizing other programs, and that is clearly one of our goals.

But it seems to me that in the overall scheme of things, we are dealing with regulations, this bill now, this bill now is a chance to get some common sense into that procedure, and then when we start to reauthorize these kinds of regulations and the regime that is used in the regulations, the regulators will be very used to them and they are going to be able to come up with a good response.

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

Mr. HAYES. Mr. Chairman, I move to strike the requisite number of words, and I rise reluctantly, but not reluctant in support of the gentleman's amendment.

Mr. Chairman, I say reluctantly rise because there is no one in the course of the last several years who has seen more of the consequences injurious to

people by having regulators make rules not reflective of laws made by their elected officials and to make those rules without any correlation to actual risk and without any consultation of actual cost.

So I rise reluctantly because I am in strong support of a legislative initiative, in support of the chairmen of both committees to which it was referred. But here is the problem I have and why I welcome the amendment offered by the gentleman from New York [Mr. BOEHLERT]: This is breaking ground on important new legislation. In doing, section 202 of the bill establishes a prohibition for the issuance of a rule that has not been certified to comply with the section's decision criteria. That is fine. But the decision criteria listed and described are described in terms that are not duplicated in any other Federal law.

The point I am making is they are standards with which I happen to agree. It is an initiative on which I happen to be supportive. But it is new, and therefore it will be at variance with existing application of standards.

The bottom line, I am saying, is there will always be a conflict between H.R. 1022 and other laws. And an administrative proceeding is going to leave a judge without previous decisions to look to for interpretation of this new language.

Now, that being the case, we would wonder why we do not have a fallback and a recognition there should be a safety valve. And the answer is, once again, in the committee, a fallback was placed. There is language under one title of the bill dealing with risk assessment, saying, "Hold it, here is a safety net. When there is a conflict we have got some exceptions, and we are going to make sure this escape clause works."

But for some reason that language is not incorporated in both titles of the bill. It is omitted in the one dealing with cost analysis.

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I am simply saying, "If you recognize the one, you ought to recognize the other, and we ought to have the sanity added so that, when we have this legislation go forward, and I believe this legislation should and will go forward, then we have not done untold harm to untold beings."

Mr. Chairman, there was a terrible news report earlier, a few days ago, about a hospital, I believe was in Florida, where an incredible and horrendous event occurred in which the wrong foot was amputated.

Let me tell my colleagues, "If we don't have some legislative language to be certain that the goal of this assessment, the goal of cost assessment, has a means by which we can actually enter into administrative law and review, and do so in the same process, we are going to cut off the wrong foot in the name of risk assessment." I, for

one, do not want to be part of that process.

I do want to be part of a signing ceremony at the White House where the President hands a pen and says, "Here is a bill for the kind of risk assessment that you and others have been fighting for for 8 years." I want to be there for that event. I do not want to be going home to explain why I supported unintended consequences that were never envisioned by the best of intentions.

Mr. Chairman, I rise in reluctant—but strong—support of this amendment to keep from overriding, at this time, in a one-size-fits-all fashion, the statutory standards of virtually every Federal law protecting health, safety and the environment.

I do so reluctantly because, as my colleagues know, I have long been a proponent of real risk assessment and cost benefit reforms. I am an original cosponsor, along with BUD SHUSTER and 14 other Transportation Committee members on a bipartisan basis, of legislation amending the Clean Water Act to add strong, new risk assessment and benefit-cost requirements.

I stood shoulder-to-shoulder last Congress with most of my colleagues on the other side of the aisle and with many Democrats in working to have real risk assessment language added to the EPA Cabinet bill. As the Science Committee's Investigation and Oversight Committee Chairman, I held the first hearing of the 103d Congress stating the need for more and better risk assessment in our public policy decisionmaking process.

There should be no doubt in the minds of H.R. 1022's managers, or others, that I support their efforts to build risk assessment and cost-benefit analysis into our laws to prevent wasteful, counterproductive regulations.

In spite of this, or, more accurately, because I feel so strongly on this subject, I support this amendment based on the fear that the supermandate being proposed in H.R. 1022 is likely to be worse than the regulatory waste that we are attempting to address.

I believe—and I don't say this lightly—that we are on the verge of committing the legislative equivalent of the terrible incident that occurred a few days ago in a Florida hospital. In this incident, which was widely reported by the media, a patient went into surgery to have an injured leg amputated. The doctors, though well-intentioned, removed the wrong leg by accident. My point is that it is the result and not the intentions that matter, and I firmly believe that the results of H.R. 1022's supermandate language may prove to be disastrous.

The supermandate approach being taken in H.R. 1022 is flawed substantively, procedurally and tactically. Perhaps most alarming, however, is that no one on this floor—or anywhere else, I submit—can provide us with any meaningful explanation of how the bill's supermandate language is going to affect the individual statutes that underpin our system of health, safety and environmental protections.

From a substantive perspective, section 202 of the bill prohibits the issuance of any rule that has not been certified to comply with that section's decision criteria. These criteria are listed and described in terms not duplicated in any other Federal law pertaining to health, safety or the environment. Subsection (b) of section 202 provides, however, that H.R. 1022's decision criteria supersede current law

whenever there is a conflict between the two. Because every Federal health, safety and environmental statute contains standards and criteria that are at odds with today's bill, there will always be a conflict between H.R. 1022 and the other laws. All that remains to be determined is which conflicts can be described and which interest groups will benefit from these pre-ordained conflicts. The pursuit and debate of these conflicts will grind our legitimate regulatory processes, and our already-clogged courts to a complete halt as contestants—industry or public interest group; competitors within an industry; or private property owners and environmental organizations—take their controversies to the courts based on their own conflict-based arguments stating why H.R. 1022 should prohibit the rule in question from being promulgated.

For a group of well-intentioned legislators, whom I am certain want to cure the ills our constituents suffer because of overregulation, this bill's approach is insane. It's worse than cutting off the wrong leg. It's like cutting off both legs to make sure you get the problem, wherever it is.

My second reason for supporting this amendment is procedural. There is absolutely no good reason for us to be taking, at this time, the extraordinary and extreme step represented by the supermandate language. If we were in the last two weeks of the 104th Congress, then at least there would be an argument that there was not time to make changes properly. But we haven't even finished the second month of this Congress, and there will be plenty of opportunity in the next 18 months to address overregulation problems in a more reasonable, tailored and understood fashion.

We will be reauthorizing the Clean Water Act, the Safe Drinking Water Act, Superfund, and the Endangered Species Act this Congress. As each of these bills move through committee and the floor, we should include the kind of risk assessment and cost-benefit provisions that make sense in light of particular structure, standards and experience of each statute. Where overregulation problems are being experienced with statutes not expected to be reauthorized this Congress, appropriations bills will be available as legislative vehicles to carry necessary corrections. And if, for some reason, there is a more pressing need, Speaker GINGRICH has announced that we will soon be having "Correction Days" each month to do away with the most destructive and least useful Federal regulatory requirements.

My third reason for supporting the amendment is tactical. The rushed, shotgun approach of H.R. 1022's supermandate language is producing a public relations backlash, reflected in numerous media stories like Time magazine's, "Environmental Chain Saw Massacre," last week, that may do serious damage to our shared objective of incorporating risk assessment and cost benefit principles into the body of our Nation's laws. Taking the overbroad supermandate approach of H.R. 1022 may result in "throwing the—risk assessment/cost-benefit—baby out with the bath water." That would be a tragedy.

Finally, Mr. Chairman, it is no comfort at all to me to hear from some of the supermandate language, "Don't worry Jimmy, the Senate will fix it." We here in the House of Representatives are not staff for the real legislators in the Senate. Under the Constitution, we have an equal responsibility—indeed a duty—to de-

velop laws in the best interest of our great Nation. It is a complete abdication of our constitutional obligation, as well as of the duty we own our constituents to pass legislation in the House that we know is defective.

H.R. 1022's supermandate provision is seriously defective. It must be amended. Please join us in our efforts to do just that.

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

Mr. Chairman, I am going to be very simple and very brief. I say to my colleagues:

You've heard a lot of discussion, you've heard a lot of legal language, you've heard a lot of lawyers talk on this piece of legislation, but very simple what this bill does, and what this amendment does, and what the, quote unquote, supermandate does, is allow, when we have to authorize or reauthorize pieces of legislation, that the regulation that comes out of that is based on the new law, that we actually can do cost based regulation. So all the discussion here, when you boil it down, is saying, whether you take an old law, whether it's the Clean Water Act or the Clean Air Act, and when you apply new law to that or reauthorize it, is that the regulations that come out of that hence forward are the same type of regulations under the same type of regulation writing that comes out of any new law that we'd write. So, if you want consistency, and if you want fairness, and if you want the ability for this country not be overwhelmed by old legislation and old regulation, you simply say that we do not pass this amendment that guts, quote unquote, supermandate, but what it does is allow us to go forward when we write, when we reauthorize, old bills or old pieces of legislation, and we write new regulation out of it that is very simple, very concise and very consistent.

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

Mr. HASTERT. I yield to the gentleman from New York.

Mr. BOEHLERT. I would like to point out to the chief deputy whip that this year Congress is going to consider the reauthorization of the Clean Water Act, the Safe Drinking Water Act, the Superfund legislation, the Endangered Species Act. That is the time for this Congress to make the changes during that reauthorizing process.

Mr. HASTERT. Absolutely, and, reclaiming my time, if the gentleman understands when we do those that, if we change that bill, or we write it, the regulations henceforth will be under the language of this bill, and that only seems sensible to do.

Mr. BOEHLERT. Mr. Chairman, if I may ask the gentleman to yield one more time, well, I think then we have got some area of common ground, some agreement. We want the Congress, the elected Representatives of the people, to be making the decisions, the important decisions, not some nameless, faceless bureaucrat.

Mr. HASTERT. If the gentleman from New York will listen for a second, Mr. Chairman, I would say, "You know, we don't write the regulation. We write the law. We write the policy. And regulation that follows is done by the bureaucrats, you know, down the street. And what we're saying is when we write the regulation, that the regulations they write are based on the law that we're trying to establish here, and it's only fair that we do this, or we set this policy, and when you reauthorize and new legislation that comes forward from reauthorization is written on the same type of language and basis."

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

Mr. Chairman, I rise in favor of the amendment. This supermandate in this legislation is about the most far-reaching proposal, has sweeping impact on existing environmental laws.

Now those laws are up occasionally for renewal, and, when we revisit those laws, we ought to deal with problems in those laws, but under this legislation they are going to supersede all those laws as if they did not exist.

The gentleman from Louisiana [Mr. HAYES] said that all the precedents, all the court decisions interpreting the statutes involved, would be thrown out. They would have to look at it in the light of this one bill.

This is what they call one-size-fits-all. Forget whether the Clean Air Act operates in a health based standard, or the Toxic Substances Act is a risk assessment bill, or some other legislation were designed to have a technology standard. Whatever those laws might have said on those points, we are going to ignore, and we are going to let this bill supersede those laws.

Mr. Chairman, what is really at stake is a rollback of protections for people. The reason those laws were designed the way they were is based on the historical experiences.

For example, in the Clean Air Act we had a law saying that, if there are toxic air pollutants, they ought to do a risk analysis before they set a standard, and so, when we had toxic pollutants that cause cancer, or birth defects, or neurological problems, in 1970 to 1990 the law was to do a risk based standard, and EPA could not figure out how to do that. So, after 20 years only seven standards were set for pollutants.

Finally in 1990 we said in the Clean Air Act, "This doesn't make any sense. Let's require the use of the technologies that will reduce these pollutants that cause such enormous harm," and that made a lot of sense, and, after the law was adopted in 1990, we have seen an enormous amount of progress in protecting people from tons and tons of these toxic air pollutants.

In the urban areas of our cities we have a health based standard, and we say, "Let's achieve the health based standard set of strategies to do it," and we have a law that has been working,

it has been successful, but with the supermandate under this legislation we would not have a health based standard anymore. It would have to go to a cost-benefit analysis.

The point that I want to make is really what is at stake are all these existing laws. If someone does not like the Clean Air Act, or the Toxic Substances Act, or the Endangered Species Act, when those bills come up for renewal let us fight the fight out. Let us debate those issues, not adopt something that has such sweeping consequences.

Now we have to ask why are we facing something with such sweeping consequences. It is one of two, and maybe a combination of the two, motives. One is to, I think, not having thought through what the implications are going to be, or the second is, if they thought through very carefully what the implications will be, and those that have thought it through would like to weaken all of those environmental laws. I think this legislation before us is seriously flawed in that it goes back to existing laws, weakens them.

I say to my colleagues, "If you want to say for the future we ought to do cost-benefit analysis, risk assessment, as a tool, that's fine, but not to take that analysis and tie up things for years."

In the toxic substances law, not under the clean air law, but the toxic substances law, they spent a decade trying to set one standard, and they finally set one standard, and it was challenged in court and then thrown out because not the standard was flawed, because they challenged the analysis.

Economists can come up with different points of view when they look at an analysis. Everyone knows economists disagree with each other. But we are going to allow courts and judicial review to throw out laws and regulations to enforce those laws based on whether the analysis met some court's viewpoint.

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

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

Mr. HASTERT. Mr. Chairman, I thank the gentleman from southern California, my good friend, and let us talk about the Clean Air Act for just a second.

When we wrote the Clean Air Act in 1990, there was a provision in there for employer trip reduction. It was based off technologies that were going on in southern California, in my State, in Texas and other—Pennsylvania and other States around the country. It has not worked, but yet that technology is in the law, and what we are saying, if we reauthorize that, that ought to be looked at as a cost-benefit analysis. If it does not—

Mr. WAXMAN. If I can reclaim my time, Mr. Chairman, just to tell the gentleman, I don't disagree with you, if you want to look at that issue on a cost-benefit analysis. But why take the

whole Clean Air Act, which by the way was adopted by a vote of 401 people in the House voted aye, 25 voted no? There was an initiative by President Bush and signed by him. Why take that whole law and toss it out because you have a supermandate in this risk bill?

Mr. Chairman, I do not want to see this bill override, and destroy, the progress this Nation is finally making, after decades of inaction, to protect the American people from cancer-causing air pollution. This savings amendment would allow that progress to continue.

From 1970 to 1990, the Nation conducted a full-scale experiment in the use of risk assessment to regulate toxic chemicals. During those years, the Clean Air Act directed EPA to use risk assessment to control air pollutants that can cause cancer, birth defects, neurotoxicity, and respiratory disease. More than 2.5 billion pounds of toxic chemicals were released into America's air every year, according to industry's own right-to-know records from the late 1980's.

By 1990 everyone—industry, environmentalists, the States, and EPA—was united in agreement that this experiment had failed. Over a 20-year period EPA was paralyzed in endless debates over risk assessments and cost-benefit analyses for cancer risks. In all this time, EPA managed to set standards for only seven toxic air pollutants.

In 1990, Congress replaced the failed risk-based approach with a technology-based system that even many industries agree is proving to be practical, effective, and affordable. In the 4 years since 1990, EPA has achieved many times what was accomplished in the prior 20 years.

Since 1990, EPA has taken steps that will eliminate more than 1 billion pounds of toxic emissions annually from nearly a dozen types of industrial emitters, including chemical plants and steel industry coke ovens.

H.R. 1022 would erase this breakthrough in a single stroke: It would re-institute the paralysis that reigned from 1970 to 1990.

The 1990 Clean Air Act amendments establish a practical, affordable technology-based approach to controlling air toxics sources. The law lists 189 toxic air pollutants, establishes a clear footing for technology-based standards, and sets a detailed schedule for action.

This approach is bringing clear results. Since 1990, EPA has set standards for nearly a dozen major industries, reducing toxic emissions by more than 1 billion pounds per year.

EPA has also proposed standards for municipal waste incinerators and medical waste incinerators that will reduce emissions of dioxin—one of the most toxic chemicals known—by more than 99 percent. The standards will also cut thousands of tons of mercury, lead, cadmium, and other highly toxic pollutants.

The reason so much progress has been made so fast is that the act establishes a simple, workable criterion for standards: all major facilities of a given type must upgrade their pollution controls at least to the quality that has been achieved by the better-controlled facilities already in operation.

Risk assessment still plays a role. It is used to add or remove chemicals or sources from the lists that require regulatory control. It will also be used, at the turn of the century, to see if high risks remain after the technology-based

first step. If so, the act calls for further progress through risk-based control measures.

H.R. 1022 would return us to 20 years of risk-based paralysis. The bill's risk assessment and cost-benefit decisionmaking criteria would supersede the 1990 Clean Air Act's technology-based approach. These requirements are even more onerous than those that failed before 1990.

Under these criteria, lives of the most exposed and most vulnerable Americans may not be worth saving. EPA would protect the most exposed or most vulnerable Americans only if the extra lives saved—compared to the next weaker standard—justify the extra cost to industry.

What's worse, Americans' right to protection from cancer-causing air pollution could depend on what region they lived in or what company they lived next to.

These daunting requirements would effectively hogtie the future efforts to continue reducing toxic air pollutants. The data simply are not available to perform risk assessments for 189 different toxic emission sources emitted in innumerable combinations from hundreds of different kinds of facilities.

In short, unless we pass this savings clause, both the industries that release toxic air pollutants and the Americans who still breathe them would be condemned again to the 1970–1990 situation of paralysis by analysis.

The CHAIRMAN. The time of the gentleman from California [Mr. WAXMAN] has expired.

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

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

Mr. OLVER. Mr. Chairman, I rise in support of the Hayes-Boehlert amendment. In fact, I offered a similar amendment in the Committee on Science a week or so ago. This, I think, is a fairly straightforward issue.

I agree with the purpose of the amendment which is namely that, when the results of a cost-benefit analysis under this new law, H.R. 1022, appear to conflict with an existing statutory requirement, the existing law should not be overwritten except by a specific new act of Congress. Without this amendment, Mr. Chairman, H.R. 1022 has the potential to reach back to eviscerate every law on the books designed to protect peoples' health and/or environment.

Congress already has a process, as has been pointed out, for fixing laws which are not working as we wanted them to do, and that is the reauthorization process. Hopefully we will reauthorize the Clean Water Act, the Superfund law and a number of others this year, and many of them have been criticized for requiring extensive and expensive remedies not consistent with cost-benefit criteria. But the right time to deal with that is during the reauthorization process.

Mr. Chairman, this becomes fish-or-cut-bait time. Did Congress mean it when Congress decided by huge votes to reduce sewage pollution in our rivers, or are we going to reopen and re-

verse those gains? Did Congress mean it when Congress decided to reduce industrial air pollution, or are we going to reopen that issue at this time and reverse those gains?

Mr. Chairman, ultimately this Congress in those cases has the responsibility to determine the necessary levels of protection for public health and environmental protection, and in the reauthorization process that is the time to make that decision, not reaching back through the provisions of H.R. 1022 to do that aside from the reauthorization process.

In a few weeks, we have the so-called Personal Responsibility Act on the floor of this House. I challenge every member of this House to show some personal responsibility. Reject this blind, blanket overhaul of our laws and do the hard work of making changes statute-by-statute.

Support the Hayes-Boehlert amendment.

Mr. DELAY. Mr. Chairman, this amendment would create two different classes of regulations for the purposes of risk assessment and cost/benefit analysis—the first would be the post-H.R. 1022 class, and the second would be the pre-H.R. 1022 class.

The post-H.R. 1022 class of regulations would be subject to modern risk assessment and cost/benefit analysis procedures based on sound science, while the pre-H.R. 1022 class of regulations would be promulgated under outdated, inefficient, and inflexible procedures with sometimes no attention paid to their cost on the economy.

Does this make sense?

The American people have asked us to establish a reasonable regulatory system based on scientifically sound risk assessment with attention paid to the costs versus the benefits incurred. That is what this bill accomplishes.

Some are claiming that the bill will roll back all of our health, safety, and environmental protection regulations. Those who would make this claim have unfortunately resorted to scare tactics.

As the chairman of the Commerce Committee, Mr. BLILEY, has written, "Nothing in the bill itself changes a single existing health, safety, or environmental regulation currently on the books. This bill only applies to new regulations and situations where the agency revises an old regulation through a public notice and comment process."

H.R. 1022 is not a supermandate—instead, it establishes consistent, clear standards under which all new regulations will be promulgated. The Boehlert amendment would gut this bill and I urge a "no" vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. BOEHLERT].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 181, noes 238, not voting 15, as follows:

[Roll No 180]

AYES—181

Abercrombie	Gordon	Oberstar
Ackerman	Goss	Obey
Andrews	Hall (OH)	Olver
Baldacci	Hamilton	Owens
Barrett (WI)	Harman	Pallone
Becerra	Hastings (FL)	Pastor
Beilenson	Hayes	Payne (NJ)
Bentsen	Hefner	Payne (VA)
Berman	Hilliard	Pelosi
Bishop	Hinchev	Porter
Blute	Holden	Poshard
Boehlert	Hoyer	Rahall
Bonior	Jackson-Lee	Ramstad
Borski	Jacobs	Reed
Boucher	Jefferson	Reynolds
Brown (CA)	Johnson (CT)	Richardson
Brown (FL)	Johnson (SD)	Rivers
Brown (OH)	Johnson, E. B.	Roemer
Bryant (TX)	Johnston	Rose
Cardin	Kanjorski	Roukema
Castle	Kaptur	Roybal-Allard
Clay	Kelly	Sabo
Clayton	Kennedy (MA)	Sanders
Clement	Kennedy (RI)	Sanford
Clyburn	Kennelly	Sawyer
Coleman	Kildee	Schroeder
Collins (IL)	Klecicka	Schumer
Collins (MI)	Klink	Scott
Conyers	Klug	Serrano
Costello	LaFalce	Shays
Coyne	Lantos	Skaggs
DeFazio	Lazio	Slaughter
DeLauro	Levin	Spratt
Dellums	Lewis (GA)	Stark
Deutsch	Lincoln	Stokes
Dicks	Lofgren	Studds
Dingell	Lowe	Stupak
Dixon	Luther	Tanner
Doggett	Maloney	Taylor (MS)
Doyle	Manton	Thompson
Durbin	Markey	Thornton
Engel	Martinez	Thurman
Eshoo	Mascara	Torkildsen
Evans	Matsui	Torricelli
Farr	McCarthy	Towns
Fattah	McDermott	Tucker
Fazio	McHale	Velazquez
Fields (LA)	McKinney	Vento
Filner	McNulty	Visclosky
Flake	Meehan	Volkmer
Foglietta	Meek	Waters
Ford	Meyers	Watt (NC)
Fox	Mfume	Waxman
Frank (MA)	Mineta	Wise
Frost	Minge	Woolsey
Furse	Moakley	Wyden
Gejdenson	Moran	Wynn
Gephardt	Morella	Yates
Gibbons	Murtha	Zimmer
Gilchrest	Nadler	
Gilman	Neal	

NOES—238

Allard	Canady	Edwards
Archer	Chabot	Ehlers
Armey	Chambliss	Ehrlich
Bachus	Chapman	Emerson
Baker (CA)	Chenoweth	English
Baker (LA)	Christensen	Ensign
Ballenger	Chrysler	Everett
Barcia	Clinger	Ewing
Barr	Coble	Fawell
Barrett (NE)	Coburn	Fields (TX)
Bartlett	Collins (GA)	Flanagan
Barton	Combest	Foley
Bass	Condit	Forbes
Bateman	Cooley	Fowler
Bereuter	Cramer	Franks (CT)
Bevill	Crane	Franks (NJ)
Bilbray	Crapo	Frelinghuysen
Bilirakis	Cremeans	Frisa
Bliley	Cubin	Funderburk
Boehner	Cunningham	Gallegly
Bonilla	Danner	Ganske
Bono	Davis	Gekas
Browder	de la Garza	Geren
Brownback	Deal	Gillmor
Bryant (TN)	DeLay	Goodlatte
Bunn	Diaz-Balart	Goodling
Bunning	Dickey	Graham
Burr	Dooley	Green
Burton	Doollittle	Greenwood
Buyer	Dornan	Gunderson
Callahan	Dreier	Gutknecht
Calvert	Duncan	Hall (TX)
Camp	Dunn	Hancock

Hansen	McKeon	Sensenbrenner
Hastert	Menendez	Shadegg
Hastings (WA)	Metcalf	Shaw
Hayworth	Mica	Shuster
Hefley	Miller (FL)	Sisisky
Heineman	Molinari	Skeen
Herger	Mollohan	Skelton
Hilleary	Montgomery	Smith (MI)
Hobson	Moorhead	Smith (NJ)
Hoekstra	Myers	Smith (TX)
Hoke	Myrick	Smith (WA)
Horn	Nethercutt	Solomon
Hostettler	Neumann	Souder
Houghton	Ney	Spence
Hutchinson	Norwood	Stearns
Hyde	Nussle	Stenholm
Inglis	Ortiz	Stockman
Istook	Orton	Stump
Johnson, Sam	Oxley	Talent
Jones	Packard	Tate
Kasich	Parker	Tauzin
Kim	Paxon	Taylor (NC)
King	Peterson (FL)	Tejeda
Kingston	Peterson (MN)	Thomas
Knollenberg	Petri	Thornberry
Kolbe	Pickett	Tiahrt
LaHood	Pombo	Trafficant
Largent	Pomeroy	Upton
Latham	Portman	Vucanovich
LaTourette	Pryce	Waldholtz
Laughlin	Quillen	Walker
Leach	Quinn	Walsh
Lewis (CA)	Radanovich	Wamp
Lewis (KY)	Regula	Watts (OK)
Lightfoot	Riggs	Weldon (FL)
Linder	Roberts	Weldon (PA)
LoBiondo	Rogers	Weller
Longley	Rohrabacher	White
Lucas	Ros-Lehtinen	Whitfield
Manzullo	Roth	Wicker
Martini	Royce	Wilson
McCollum	Salmon	Wolf
McCrery	Saxton	Young (AK)
McDade	Scarborough	Young (FL)
McHugh	Schaefer	Zeliff
McInnis	Schiff	
McIntosh	Seastrand	

NOT VOTING—15

Baesler	Hunter	Rangel
Brewster	Lipinski	Rush
Cox	Livingston	Torres
Gonzalez	Miller (CA)	Ward
Gutierrez	Mink	Williams

□ 1830

The Clerk announced the following pairs:

On the vote:

Mr. Rush for, with Mr. Cox against.

Mr. Ward for, with Mr. Livingston against.

Messrs. MCINNIS, SKELTON, and ROHRABACHER changed their vote from "aye" to "no."

Mr. KENNEDY of Massachusetts changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. WALKER

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

The Clerk read as follows:

Amendment offered by Mr. WALKER: Page 30, after line 23, insert:

SEC. 204. ENVIRONMENTAL CLEAN-UP

For purposes of this title, any determination by a Federal agency to approve or reject any proposed or final environmental clean-up plan for a facility the costs of which are likely to exceed \$5,000,000 shall be treated as major rule subject to the provisions of this title (other than the provisions of section 201(a)(5)). As used in this section, the term "environmental clean-up" means a corrective action under the Solid Waste Disposal Act, a remedial action under the Comprehensive Environmental Response, Compensa-

tion, and Liability Act of 1980, and any other environmental restoration and waste management carried out by or on behalf of a Federal agency with respect to any substance other than municipal waste.

Page 4, after line 18, insert the following new section and redesignate section 4 as section 5:

SEC. 4. UNFUNDED MANDATES

Nothing in this Act itself shall, without Federal funding and further Federal agency action, create any new obligation or burden on any State or local government or otherwise impose any financial burden on any State or local government in the absence of Federal funding, except with respect to routine information requests.

Page 16, beginning on line 8, after "uncertainties" add:

"Sensitive subpopulations or highly exposed subpopulations include, where relevant and appropriate, children, the elderly, pregnant women and disabled persons."

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

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

There was no objection.

The CHAIRMAN. Under the rule, there are 8 minutes remaining for debate. The gentleman from Pennsylvania [Mr. WALKER] will be recognized for 4 minutes, and a Member on the other side will be recognized for 4 minutes.

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

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

I will try to go quickly so we might be able to get to another amendment, if this could be taken on a voice vote.

This amendment is offered by myself, the gentleman from Ohio [Mr. OXLEY], the gentleman from Pennsylvania, [Mr. SHUSTER], the gentleman from Louisiana [Mr. TAUZIN], and the gentleman from Pennsylvania [Mr. CLINGER]. What it says is that we are going to include environmental cleanup under 1022. We want to be sure the cleanup dollars are used wisely; subjecting major cleanups to this legislation will go a long way in doing that. Also, there is some concern about any kind of unfunded mandates. The mandates are some of the most costly of mandates when we deal with the environment. Accordingly the Conference of Mayors, of the top 10 most burdensome unfunded mandates on State and local governments, 7 are environmental mandates. H.R. 1022 speaks to ease the burden of regulation. We certainly do not want to add to it. CBO was not able to cost out what, if any, costs may be passed onto the States. With this amendment that I am offering on behalf of the gentleman from Pennsylvania [Mr. CLINGER] and myself, we offer protection against unfunded mandates.

There is also some concern about definitions of the bill that refer to sensitive subpopulations. That is included in this language as well to make certain that sensitive subpopulations would include children, elderly, pregnant women, and disabled persons. It

clarifies what is in the committee report.

Mr. Chairman, I yield to the gentleman from Ohio [Mr. OXLEY].

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

I also am in support of this legislation. I also support the amendment en bloc and want to thank my colleague, the gentlewoman from Arkansas [Mrs. LINCOLN] for her good work on this and also the gentleman from New York [Mr. TOWNS], a member of our committee.

These amendments make a good deal of sense. They track the specifics of this bill very well.

I also want to thank the gentleman from Pennsylvania [Mr. SHUSTER] for his work on this.

Mr. WALKER. Mr. Chairman, I yield to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I simply want to say I support this amendment. It ought to be passed.

Mr. WALKER. Mr. Chairman, I yield to the gentleman from California [Mr. CONDIT].

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

Mr. CONDIT. Mr. Chairman, I rise in support of the amendment and the bill.

Mr. WALKER. Mr. Chairman, I yield to the gentlewoman from Arkansas [Mrs. LINCOLN].

(Mrs. LINCOLN asked and was given permission to revise and extend her remarks.)

Mrs. LINCOLN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, this is an amendment that has been worked out with Mr. OXLEY and Mr. CLINGER. Last month many of us supported H.R. 5, a bill that would ease the amount of unfunded mandates on the States. This amendment is aimed to ensure that provisions in this bill achieve the goal set forth under the unfunded mandates bill by not adversely affecting States. It has the full support from the National Conference of State Legislatures and the State of Arkansas.

As you well know, States often act as agents of the Federal Government in enforcing Federal statutes. For example, under the Clean Water Act, the Clean Air Act, the Safe Drinking Water Act, and the Resource Conservation and Recovery Act, to name a few, the States are delegated the authority to carry out the requirements of the statutes and enforce their provisions. Because H.R. 1022 as written explicitly requires risk assessments for documents prepared by or on behalf of a covered Federal agency in the implementation of a regulatory program designed to protect human health, safety, or the environment, States might be required to conduct risk assessments when carrying out the provisions of Federal statutes. Such documents include the issuance of permits under the Clean Water Act and the Clean Air Act.

Over 40 States have delegated authority over the Clean Water Act's section 402 permitting program. Under this bill, States acting on behalf of the Federal Government might be forced to conduct risk assessments for each

permit they issue. States neither have the financial nor the personnel resources to take on such a burden.

The ultimate financial impacts of this bill on the States are unknown. Even in the committee report, CBO was unable to calculate the potential costs. CBO stated that the effect of this bill on State and local governments was "unclear." "CBO has no basis for predicting the direction, magnitude, or timing of such impacts."

Because of the ambiguity associated with the potential costs and burdens placed on the States under the mandates of this bill, we have agreed to this amendment to protect States against unfunded mandates. This amendment requires further Federal action along with Federal funding in order for States to comply with the requirements under this act.

I encourage my colleagues to support this commonsense amendment.

Ms. MCCARTHY. Mr. Chairman, this amendment will alleviate concerns that have been raised in both the Science and Commerce Committees by myself and the Congresswoman from Arkansas regarding the placement of risk assessment and cost-benefit analysis requirements on State and local governments.

This amendment hopes to clarify that enactment of this bill will not place unfunded mandates on State and local government jurisdictions. This savings clause is needed because as currently written, the bill is unclear on the question of whether State and localities will have to engage in costly risk assessments and cost-benefit analyses. It should be remembered that States often act as agents for the Federal Government in administering laws such as the Clean Air Act and the Safe Drinking Water Act.

In fact, the Commerce Committee report states on page 50 that if we enact H.R. 1022, the "affect on budgets of State and local governments is unclear." This bipartisan amendment, supported by the National Conference on State Legislatures, would make clear that the bill will not impose an unfunded mandate on States and local governments. Therefore, I urge my colleagues, who overwhelmingly supported the passage of the unfunded mandate bill last month, to support this amendment.

Mr. TOWNS. Mr. Chairman, I would like to thank my dear colleague from Pennsylvania, Mr. WALKER, for including the amendment dealing with subpopulations offered by myself and the gentlelady from California [Ms. LOFGREN]. Also, I would like to thank the gentleman from Ohio [Mr. OXLEY] for his support in getting this amendment in.

This amendment seeks to cure one of the many problems that arise when we try to put good and responsive science into law. Risk assessment may help improve regulatory decisions, but good risk assessment doesn't guarantee good regulatory decisions. Risk assessment should supplement the regulatory goal of safeguarding public health, but should not stand alone in the analysis.

This bill requires that a number of numerical estimates be made; yet it expresses those estimates in a crude way that fails to take account of the special needs of vulnerable subpopulations such as children, the elderly, and disabled individuals.

It is the concern for these vulnerable subpopulations that encouraged me to sponsor this amendment.

As we have learned in recent years, averages and best estimates often tell us almost nothing about the way in which a risk will have an impact on real people. On average a drug or device, a chemical or compound may be safe and effective, however, it may have terrible unsafe or ineffective consequences for special subpopulations such as the elderly, children, pregnant women, disabled people, or individuals with certain chronic illnesses.

Those who are vulnerable in our society need to be concerned about health care expenditures, salary loss for a lengthy illness, and years of work lost to premature death. And this is all because they have no option to choose the level of risk to which they are exposed to a health hazard. I believe that science cannot always explain complex or unusual relationships between the exposure to hazards and the potential health effects to all people.

This amendment simply says that when numerical risks are provided, estimates shall also be provided for these subpopulations where such estimates are relevant.

I urge adoption of this amendment.

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

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR. WALKER

Mr. BROWN of California. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of California to the amendment offered by Mr. WALKER: At the end of the amendment, insert the following:

Page 4, strike lines 5 through 9 (all of paragraph (1) of section 3) and insert the following and redesignate paragraphs (2) through (4) as paragraphs (3) through (5), respectively:

(1) A situation that the head of the agency considers an emergency.

(2) A situation that the head of the agency considers to be reasonably expected to cause death or serious injury or illness to humans, or substantial endangerment to private property or the environment unless prompt action is taken to avoid death or to avoid or mitigate serious injury or illness to humans, or substantial endangerment to private property or the environment.

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

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

There was no objection.

Mr. BROWN of California. Mr. Chairman, this is a very simple amendment.

Mr. Chairman, I yield to the gentleman from Ohio [Mr. BROWN] to explain.

Mr. BROWN of Ohio. Mr. Chairman, I rise in support of this amendment which the gentleman from California [Mr. BROWN], the gentlewoman from Texas [Ms. JACKSON-LEE], and I are offering. This amendment allows a critical element to the protection of our public health and safety to continue.

This amendment ensures that agencies be provided the flexibility to act rapidly in the event of a serious threat to public health or public safety.

Our history is replete with examples where the prompt action by a Federal agency prevented death or prevented serious injury.

In Lorain County, OH, in northeast Ohio in the 13th district, the Centers for Disease Control and the Environmental Protection Agency are currently working with the Ohio Department of Public Health to avoid calamity from the use of a deadly pesticide in a residential area in Elyria. Within days these agencies were working together to mitigate the contamination, to relocate families, and to clean up the problem.

Without this amendment, agencies will spend more time in risk analysis and litigation than responding to these urgent situations.

In addition, while lawyers will have full employment, many of our constituents could become seriously ill or die waiting for Federal action.

The CHAIRMAN. The Chair will allocate 30 seconds to the proponents. If there is a Member on the other side that wants to have permission to speak, the gentleman from Pennsylvania [Mr. WALKER] may close.

Mr. BROWN of Ohio. Mr. Chairman, I ask for support of the Brown amendment.

Mr. BROWN of California. Mr. Chairman, I yield to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Chairman, let me say that the American people should not have to wait for agencies to study risks for months before acting to abate serious and in some cases life-threatening conditions.

Last year, for example, the FDA received a report from Canada of two cases of salmonella poisoning in infants using a particular infant formula manufactured in the United States.

We have to be able to save our infants and be responsive in having this provision to provide for our American citizens.

Mr. Chairman, the Brown-Jackson-Lee amendment to H.R. 1022 would allow agencies to take rapid response actions to address significant threats from toxic chemicals or discharged oil, without the need to wait for lengthy risk assessments to be completed. The amendment would expand section 3(l) to exempt from risk assessment requirements from not only classic emergencies, but also those situations where prompt action is needed to avoid death, illness, or serious injury to the environment.

The American people shouldn't have to wait for agencies to study risks for months before acting to abate serious, and in some cases, life-threatening conditions.

For example, the amendment would allow, without the delay of additional studies: repacking corroding drums before they leak; quickly relocating those people living in dangerously contaminated areas that require cleanup—moving them out of harm's way; stopping the

spread of contaminants from leaking underground storage tanks before drinking water is affected; acting promptly to save wildlife and beaches harmed by oil spills; and quickly supplying alternate drinking water where community water has been contaminated with toxic chemicals.

Often these are not classic emergency situations, but they are always situations where fast action is critical to preventing greater harm to surrounding communities and the environment. Would we not want agencies to be free to respond quickly to such serious situations?

Taking timely action before the contamination spreads would also serve to avoid more costly cleanups in the future, saving money for both taxpayers as well as industry.

This amendment makes good economic sense, and it makes good sense. I ask for your support.

Mr. MANTON. Mr. Chairman, I want to thank my colleague, Mr. BROWN, for offering this amendment designed to ensure that Federal agencies maintain the ability to respond quickly to serious risks to the public's health and safety.

In particular, I am concerned about how H.R. 1022's copious risk assessment requirements would impact the safety of our Nation's water supply.

The central importance of a safe drinking water supply was reinforced for me last November when cryptosporidium, the parasite which caused more than 100 deaths in Milwaukee in 1993, was detected in New York City's water supply.

There are few if any among us who are willing to accept a risk of significant exposure to serious disease through our water supply. I am pleased that my city of New York aggressively monitors for cryptosporidium through a watershed protection strategy. As of today, the New York City water supply is in avoidance, meaning that our water meets EPA standards for avoidance of cryptosporidium parasite.

There are no Federal regulations which cover this deadly parasite. However, New York City has tested for this pathogen since 1992 as part of a cooperative effort with EPA.

Unfortunately, there is a dearth of data about how to avoid illness from cryptosporidium, which has only been a reportable disease since March 1994.

The bill before us today would require a rigid approach to addressing unusual and new health problems, like cryptosporidium. H.R. 1022 would require agencies like EPA to complete more than 20 risk assessments before working with localities to address new-found hazards.

H.R. 1022 would effectively tie the hands of cities like New York which currently are working jointly with EPA to address urgent situations like this public health issue. Furthermore, H.R. 1022 would lead to unnecessary and potentially life-threatening delays in regulatory action to protect the people of New York.

I want to congratulate my colleague for offering this amendment designed to allow EPA, the Centers for Disease Control, and other agencies the flexibility they need to work with localities to respond quickly to serious threats to health or safety.

I urge my colleagues to join me in supporting this critical amendment.

The CHAIRMAN. The time of the gentleman from California [Mr. BROWN] has expired.

PARLIAMENTARY INQUIRIES

Mr. BROWN of Ohio. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROWN of Ohio. Mr. Chairman, on what basis does the Chair rule that in this 10-hour rule that the Committee on Rules has generously given us and under the 5-minute rule for our time, that the time of the gentleman from California [Mr. BROWN] is taken away and part of it is given to someone else when he did not yield? Under what parliamentary rule is that, Mr. Chairman?

The CHAIRMAN. The Chair has discretion and the right to reallocate time when there is a limitation on time.

Mr. BROWN of Ohio. Mr. Chairman, under what rule is that? Would the Chair cite the rule?

The CHAIRMAN. Rule XXIII.

Mr. BROWN of Ohio. Mr. Chairman, a further parliamentary inquiry. It looks to me that it is past 6:40. I call for a vote, Mr. Chairman.

The CHAIRMAN. The Chairman recognizes the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, the amendment to the amendment ought to be opposed.

Mr. BROWN of Ohio. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROWN of Ohio. Mr. Chairman, we were told by the Parliamentarian that 6:40 is the final time.

The CHAIRMAN. That is correct.

Mr. BROWN of Ohio. Under what rule may we exceed 6:40?

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. BROWN] to the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

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

RECORDED VOTE

Mr. BROWN of Ohio. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair announces that there will be a 5-minute vote on the Walker amendment, if a recorded vote is ordered.

The vote was taken by electronic device and there were—ayes 157, noes 263, not voting 14, as follows:

[Roll No. 181]

AYES—157

Abercrombie	Boucher	Collins (MI)
Ackerman	Brown (CA)	Conyers
Andrews	Brown (FL)	Coyne
Barcia	Brown (OH)	de la Garza
Barrett (WI)	Bryant (TX)	DeFazio
Becerra	Cardin	DeLauro
Beilenson	Clay	Dellums
Bentsen	Clayton	Deutsch
Berman	Clement	Dicks
Bishop	Clyburn	Dingell
Bonior	Coleman	Dixon
Borski	Collins (IL)	Doggett

Doyle	Klink	Rahall
Durbin	LaFalce	Rangel
Engel	Lantos	Reed
Eshoo	Levin	Reynolds
Evans	Lewis (GA)	Richardson
Farr	Lincoln	Rivers
Fattah	Lofgren	Rose
Fazio	Lowey	Roybal-Allard
Fields (LA)	Luther	Sabo
Filner	Maloney	Sanders
Flake	Manton	Sawyer
Foglietta	Markey	Schroeder
Ford	Mascara	Schumer
Frank (MA)	Matsui	Scott
Frost	McCarthy	Serrano
Furse	McDermott	Skaggs
Gejdenson	McHale	Slaughter
Gephardt	McKinney	Spratt
Gibbons	McNulty	Stark
Gordon	Meehan	Stokes
Green	Meek	Studds
Hall (OH)	Menendez	Stupak
Harman	Mfume	Tanner
Hastings (FL)	Mineta	Thompson
Hefner	Minge	Thornton
Hilliard	Moakley	Torricelli
Hinchey	Moran	Trafficant
Holden	Murtha	Tucker
Hoyer	Nadler	Velazquez
Jackson-Lee	Neal	Vento
Jefferson	Oberstar	Volkmer
Johnson (SD)	Obey	Waters
Johnson, E. B.	Olver	Watt (NC)
Johnston	Owens	Waxman
Kanjorski	Pallone	Wise
Kaptur	Pastor	Woolsey
Kennedy (MA)	Payne (NJ)	Wyden
Kennedy (RI)	Payne (VA)	Wynn
Kennelly	Pelosi	Yates
Kildee	Peterson (FL)	
Klecicka	Pomeroy	

NOES—263

Allard	Cubin	Hefley
Archer	Cunningham	Heineman
Armey	Danner	Herger
Bachus	Davis	Hilleary
Baker (CA)	Deal	Hobson
Baker (LA)	DeLay	Hoekstra
Baldacci	Diaz-Balart	Hoke
Ballenger	Dickey	Horn
Barr	Dooley	Hostettler
Barrett (NE)	Doolittle	Houghton
Bartlett	Dornan	Hutchinson
Barton	Dreier	Hyde
Bass	Duncan	Inglis
Bateman	Dunn	Istook
Bereuter	Edwards	Jacobs
Bevill	Ehlers	Johnson (CT)
Bilbray	Ehrlich	Johnson, Sam
Bilirakis	Emerson	Jones
Bliley	English	Kasich
Blute	Ensign	Kelly
Boehlert	Everett	Kim
Boehner	Ewing	King
Bonilla	Fawell	Kingston
Bono	Fields (TX)	Klug
Browder	Flanagan	Knollenberg
Brownback	Foley	Kolbe
Bryant (TN)	Forbes	LaHood
Bunn	Fowler	Largent
Bunning	Fox	Latham
Burr	Franks (CT)	LaTourette
Burton	Franks (NJ)	Laughlin
Buyer	Frelinghuysen	Lazio
Callahan	Frisa	Leach
Calvert	Funderburk	Lewis (CA)
Camp	Gallegly	Lewis (KY)
Canady	Ganske	Lightfoot
Castle	Gekas	Linder
Chabot	Geren	Livingston
Chambliss	Gilchrest	LoBiondo
Chapman	Gillmor	Longley
Chenoweth	Gilman	Lucas
Christensen	Goodlatte	Manzullo
Chrysler	Goodling	Martini
Clinger	Goss	McCollum
Coble	Graham	McCrery
Coburn	Greenwood	McDade
Collins (GA)	Gunderson	McHugh
Combest	Gutknecht	McInnis
Condit	Hall (TX)	McIntosh
Cooley	Hamilton	McKeon
Costello	Hancock	Metcalf
Cox	Hansen	Meyers
Cramer	Hastert	Mica
Crane	Hastings (WA)	Miller (FL)
Crapo	Hayes	Molinaro
Cremeans	Hayworth	Mollohan

Montgomery	Rogers	Talent
Moorhead	Rohrabacher	Tate
Morella	Ros-Lehtinen	Tauzin
Myers	Roth	Taylor (MS)
Myrick	Roukema	Taylor (NC)
Nethercutt	Royce	Tejeda
Neumann	Salmon	Thomas
Ney	Sanford	Thornberry
Norwood	Saxton	Thurman
Nussle	Scarborough	Tiahrt
Ortiz	Schaefer	Torkildsen
Orton	Schiff	Towns
Oxley	Seastrand	Upton
Packard	Sensenbrenner	Visclosky
Parker	Shadegg	Vucanovich
Paxon	Shaw	Waldholtz
Peterson (MN)	Shays	Walker
Petri	Shuster	Walsh
Pickett	Sisisky	Wamp
Pombo	Skeen	Watts (OK)
Porter	Skelton	Weldon (FL)
Portman	Smith (MI)	Weldon (PA)
Poshad	Smith (NJ)	Weller
Pryce	Smith (TX)	White
Quillen	Smith (WA)	Whitfield
Quinn	Solomon	Wicker
Radanovich	Souder	Wolf
Ramstad	Spence	Young (AK)
Regula	Stearns	Young (FL)
Riggs	Stenholm	Zeliff
Roberts	Stockman	Zimmer
Roemer	Stump	

NOT VOTING—14

Baesler	Lipinski	Torres
Brewster	Martinez	Ward
Gonzalez	Miller (CA)	Williams
Gutierrez	Mink	Wilson
Hunter	Rush	

□ 1858

Mr. TAYLOR of Mississippi changed his vote from "aye" to "no."

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was agreed to.

Mr. YOUNG of Alaska. Mr. Chairman, H.R. 1022, the Risk Assessment and Cost-Benefit Act of 1995, is long overdue. I agree with the bill's authors that it is essential that a cost-benefit analysis be performed on the thousands of Federal regulations that are prepared each year. Without this measure, the Federal Government would simply continue to create, without any accountability, a growing mountain of new Federal requirements. In far too many cases, these regulations provide little, if any, benefit to our economy, our environment, or our Nation as a whole.

While H.R. 1022 is not a perfect product and it will be refined throughout the legislative process, there are several very sound provisions which I would like to highlight.

First, the term "major rule" has been defined to cover any regulation that is likely to result in an annual cost of \$25 million or more. It is, therefore, highly unlikely that this bill would require a full blown cost-benefit analysis for annual and routine housekeeping regulations like those that simply open or close various fisheries or stipulate the dates, hunting times, and bag limits for migratory bird species. Concerns about the effects on these types of activities by the regulatory moratorium bill passed last week required us to exempt them from the moratorium. The concern is not present here.

Second, although this legislation does require cost-benefit analyses for major rules, it does not mandate an outcome nor does it pre-

vent the implementation of any regulations once a department or agency has certified the impact of a proposed rule. The fundamental goal of this legislation is to allow the American people and their elected representatives to know the true cost of a proposed Federal regulatory action. With this information, which is often currently lacking, policymakers can make rational decisions that prioritize and balance the diverse needs of this Nation.

Finally, this legislation contains a phase-in provision before the requirement of a cost-benefit and risk-assessment analysis kicks in. By postponing the effective date, Federal agencies will have at least 18 months to gear up to perform these important analyses in a scientific and unbiased manner.

I compliment the sponsors of this measure for providing this transition period. I am confident that because of this language, there will not be any unnecessary or unanticipated burdens placed on the executive branch of our Government.

The requirement of cost-benefit and risk-assessment analyses is neither a new nor a radical idea. The Army Corps of Engineers has, for instance, been performing these studies for many years. I believe it is time for the rest of the Federal Government to get with the program.

Mr. JOHNSON of South Dakota. Mr. Chairman, H.R. 1022, the Risk Assessment and Cost-Benefit Act is flawed legislation and needs to be much improved by the Senate and by the conference committee before I could vote for it on final passage. Nonetheless, I support the general thrust of requiring risk assessment and cost-benefit tests for Federal regulations and I will vote for this bill today as a means of allowing the debate to continue. The current version of this legislation would lead to costly increases in Federal bureaucracy, an enormous increase in litigation and possibly a risk for health and safety concerns. I am disappointed that the House leadership seems to be more concerned over making political statements with this bill than in crafting legal language which would actually serve the public interest. I do, however, believe that this issue should be moved on to the Senate and conference committees for, hopefully, more deliberate and responsible consideration. I will not vote for this legislation at that time unless it has been significantly improved.

Mr. CONDIT. Mr. Chairman, as many of you are already aware I am a strong proponent of risk assessment and cost-benefit analysis.

I have formed this opinion because I recognize that we do not have infinite resources and we cannot address every risk to health, the environment or society.

How then should we determine which risks to address?

The way things are being done today has to change. Risks are regulated in a complete absence of scientific fact. Tonight's news magazine show becomes tomorrow's regulation. Never mind that there might be 20 problems that are more pressing—they haven't been on TV yet.

In 1987 EPA experts conducted a review of what they felt were the greatest risks. When they collected all of the opinions, they produced a report titled "Unfinished Business." This report concluded that what experts felt were the greatest risks had funding priority and the smallest risk had the highest funding priority.

Another problem is the approach to regulations in one agency might not resemble that of another. For example, a resources for the future expert was attempting to determine the amount of lives that would be saved by an EPA regulation. Using the EPA method he determined that 6,400 deaths would be prevented. However, when the same researcher used the same data with the FDA method, he came up with a figure of 1,400.

To put this in perspective, it is absolutely necessary to assess the risk, determine how much it is going to cost to address it and how great the benefit is if we do it. And this must be done consistently throughout the Federal Government.

This is not some far-out concept, this is simply common sense.

I have been very active in this area and worked hard to convince people in the administration that we need a policy on this. During the 103d Congress I successfully added an amendment to the Agriculture reorganization bill which creates an Office of Risk Assessment.

I think the time to act is now. H.R. 1022 presents the 104th Congress with a real opportunity to begin assessing risks in a coherent and consistent manner. People need to understand the purpose and price of regulations—and they need to be done in an understandable manner. As it is done today, regulations are complex and written in an inconsistent manner.

Supreme Court Justice Stephen Breyer is a great supporter of risk assessment. In his book on the topic "Breaking the Vicious Circle" he made the following observation:

When we treat tiny, moderate and large too much alike, we begin to resemble the boy who cried wolf. Who now reads the warnings on aspirin bottles, or the pharmaceutical drug warnings that run on for several pages? Will a public that hears these warnings too often and too loudly begin too often to ignore them?

This is exactly what I am talking about. We need to restore some credibility to our regulatory process. H.R. 1022 helps this process along. As it stands today, when you say the words Federal regulation, people cringe. It should not be that way.

Mr. PORTMAN. Mr. Chairman, one of the goals of the Contract With America is to generate economic growth and encourage job creation. Relieving the regulatory burden on individuals and businesses is essential to achieving this objective. Today, the House of Representatives took a step in this direction by requiring Federal bureaucrats to assess the cost of their actions.

Washington bureaucrats are costing us \$430 billion a year with regulations that often do more harm than good. They are coming up with \$50 solutions for \$5 problems. It's time for common sense in Washington.

Last year 69,000 pages of Federal rules and regulations were published. The process of regulating has become an industry in lawyers, lobbyists, and special interests.

These rules and regulations—9 feet of regulations, if laid end-to-end—impact every aspect of Americans' lives. The rules are often contradictory, and frequently conflict with State, county and local rules.

Specifically, H.R. 1022 would ensure that risk assessments are objective, unbiased, and subject to peer review. The cost these rules

will eventually have on Americans must be taken into account, alternatives to complicated rules that might be more cost-effective must be considered, and a sound reason for the regulation in the first place must be demonstrated.

This legislation would simply require that the Federal bureaucracy assess the costs of their actions on the rest of us. We are living in an era of declining revenues, and we must make choices and set priorities. And our Government—bureaucrats as well as elected officials—must be accountable.

The problem is that we now tend to direct our resources to relatively low-risk concerns while other, more serious concerns receive little attention. Since there's no standardized method of risk-assessment to be used throughout the Government, policymakers are unable to prioritize regulatory strategies in a common-sense manner. This bill allows us to concentrate scarce dollars where they will do the most good, and analyze alternatives to achieve the goal of public safety at the lowest possible cost.

Mr. BENTSEN. Mr. Chairman, I rise today in opposition to House Resolution 1022, the Risk Assessment and Cost-Benefit Act. I am extremely disappointed with the lack of full consideration of this important piece of legislation.

I support regulatory reform. In particular, I support cost-benefit analysis and risk assessment as tools to develop rational regulations. I have spoken with small business owners, oil and chemical companies, and other constituents who have relayed to me their stories of frustration over the regulatory process. I've also talked to constituents who are concerned about health, safety, and the environment their kids will grow up in. Our job is to find the appropriate, delicate balance between the interests of commerce, industry, and the environment. This legislation is too quick of a fix to solve such a complex problem.

Reforming Federal regulations will help our economy to grow. The time-consuming process of filling out environmental impact statements or hundreds of pages of small business loan forms are good examples of why reform is necessary. But this bill doesn't guarantee regulations that are sensible. On the contrary, conducting across-the-board risk-assessments will lengthen the review process, transform simple rules into complex monstrosities, and cost taxpayers millions.

Given time for thorough consideration, I believe that this body might have crafted a sensible compromise. Unfortunately, this is not that bill. Mr. Chairman, I must add that I cannot support a process which limits debate to only 10 hours and restricts the number of amendments allowed for consideration. This is not full and fair disclosure. The American people expect and deserve a full airing of these important issues in the Congress, and not this reckless, hasty display.

Once again, the job of fair and bipartisan legislating is left to the other body. That is a terrible shame, because regulatory reform is deserving of much more thorough consideration.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. KNOLLENBERG) having assumed the chair, Mr. HASTINGS of Washington, Chairman of the Committee of the

Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1022) to provide regulatory reform and to focus national economic resources on the greatest risks to human health, safety, and the environment through scientifically objective and unbiased risk assessments and through the consideration of costs and benefits in major rules, and for other purposes, pursuant to House Resolution 96, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. DOGGETT

Mr. DOGGETT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. DOGGETT. I am, most definitely, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DOGGETT moves to recommit the bill H.R. 1022 to the Committee on Science with instructions to report the same back to the House forthwith with the following amendments:

Amend the heading of section 301 (page 31, line 2) to read as follows:

SEC. 301. PEER REVIEW PROGRAM AND PROHIBITION OF CONFLICTS OF INTEREST.

Strike paragraph (3) of section 301(a) (page 31, line 23 through page 32, line 5) and insert the following:

(3) shall exclude peer reviewers who have a potential financial interest in the outcome:

Mr. DOGGETT. Mr. Speaker, this is a short amendment, 13 words, and it is a short presentation on it after a lengthy debate in which one Member after another has attempted to clean up this bill.

Mr. Speaker, throughout the course of this lengthy debate, one Member after another has sought to clean up this bill and has been thwarted at every turn. There is one recurring theme throughout the debate, and, that is, whether we are going to turn the public's business over to special interests and their lobbyists.

All this very simple motion to recommit does is to send the bill back to recommit it to the committee to put in a conflict of interest provision instead of committing it and our Government to special interests.

That is what the American people want. They are tired of special interests coming to this House and getting special treatment while the hard-

working families across this Nation get only the leftovers.

Mr. Speaker, this is supposed to be a bill about science, about risk assessment. But it has not really worked out that way. Because what this bill has ended up being is a matter of placing the risk on ordinary Americans as far as their health and safety and placing the benefits in the hands of a few. One of the things we can do about it is to try to sever the ties that bind the special interests to this bill and give us not good science but good special treatment for the few. That is what this conflict of interest amendment is about.

The House needs to know that a vote against this motion to recommit is a vote to mandate that registered lobbyists will rule, perhaps with a veto power, in these peer review committees.

I thought that perhaps the gentleman from Pennsylvania was going to do something about this. He talked about the possibility of doing something about it during the course of the amendment offered by the gentleman from Massachusetts this afternoon, but we have had plenty of time. We had some time in committee, and nothing has been done about it.

This bill as written for the first time will mandate that an agency of this Federal Government charged with protecting public health and safety cannot, shall not, indeed, exclude a lobbyist for a special interest group from serving on a peer review committee, exercising a potential veto power over regulations to protect the public health and safety.

I do not believe there has been a day recently that I have not received a letter from some lobbyist promoting this bill. They can salivate over the prospects under this bill. Every one of these letters has begun by telling me about the desire for good science, but when all was said and done, all they really wanted was delay and reduction of regulations.

That is why I am sure, Mr. Speaker, that the distinguished Republican Senator from Rhode Island, Senator CHAFEE, has described this bill in its current form as a prescription for gridlock and indeed it is.

What we can do at least is clean it up through this motion to recommit so that there is not this kind of blatant conflict of interest. That is all this one-sentence amendment and a new title on conflict of interest will do.

With this recommittal and the amendment, we will see that the peer review process is not converted from being an objective scientific process into only the best science that money can buy, and we will not let the special interests capture the whole regulatory process.

Think about what that means and take the practical example of tobacco. Two or three decades after we first heard about the dangers of tobacco and

cancer, we still cannot find a single tobacco company study that shows there is any link. They have had some of the best scientists that money can buy but when they are asked whether there is any link between tobacco and cancer, you can see them, they are just scratching their heads again, saying, "Well, there might be, but not until my retirement vests."

That is the kind of scientists that this bill mandates have to be on peer review panels across this country, and it is wrong.

We began with a desire for good science, good science over good politics, good science over silly regulations, some of which have come out under Democratic administrations and some of which have come out in 12 of the last 14 years under Republican administrations. What we have gotten is not good science but good protection for special interests. We can do something about that. We can rewrite this bill to attack special interests, to attack silly regulations, all in the same process. If you believe that we ought not to turn over our Government to special interests, vote in favor of this motion to recommit and do something about it with a strong conflict of interest provision.

Mr. WALKER. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, this is an amendment similar to an amendment that was turned down by a vote of 247 to 177 earlier.

What this does is make certain that the peer review process would fail because it assures that only those who know nothing about the subject would serve on the peer review panels. It is one of those dumb and dumber amendments that probably should not come before the House.

I yield to the majority whip, the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I think the chairman has pretty well summed it up very quickly. Let me just say that in all of this cry for special interests being part of the peer review process, what the author of the motion to recommit wants to happen is his special interests get to serve on the peer review panels rather than our special interests. They want to load the system so that they can continue to control and manipulate the American economy and the American business men and women. That is what is going on here.

For years they get a study and they make sure that the conclusion is written before the study is even done on these regulations. That is what they want to continue. They want to load the system with their special interests, with their environmental extremist groups, or with the labor unions, or the other special interests, the Ralph Nader groups, the Public Citizens, they want to load them up.

What we want is a peer review process that brings everybody into the process and gets all points of view, particularly those people that have to deal

with these oppressive regulations. They should have a say in this process and that is what we want.

Vote "no" on the motion to recommit.

Mr. Chairman, a New York Times article from a couple of years ago summed up perfectly the prevailing criticism of Congress' and EPA's choice of priorities:

In the last 15 years, environmental policy has too often evolved largely in reaction to popular panics, not in response to sound scientific analysis of which environmental hazards present the greatest risks. As a result . . . billions of dollars are wasted each year in battling problems that are no longer considered especially dangerous, leaving little money for others that cause far more harm.

No one who supports this bill wants to harm children or hurt our environment—the fact of the matter is, every time you get out of bed and start a new day you are faced with risks, and every day you make decisions about whether to accept those risks based on an analysis of the costs versus the benefits associated with them.

Likewise, the Federal Government must set priorities on how to spend its limited resources. There is no way the Government could ever protect everyone from every risk there is, and I don't believe Americans expect that. Risk assessment and cost/benefit analysis will both help us focus on those areas that are the greatest threat to the public, and provide the data needed to make those tough budgetary choices.

When granting a tolerance for a new pesticide or an air pollutant, EPA's standard is protection against a lifetime risk of one in a million for cancer. For a little perspective, the chance of death by lightning is 35 times as great; by accidental falls, 4,000 times as great; and in a motor vehicle, 16,000 times as great.

Just to demonstrate the need for reform, I'd like to present a few examples of how our system has gone haywire:

First, under the Clean Water Act, if flooding creates pools of water on someone's property as the result of a clogged-up drainage system, the owner may not clear the clog to drain the new wetland without Government permission.

Second, EPA regulations require that municipal water treatment plants remove 30 percent of organic material before discharging treated water into the ocean. Because water in Anchorage, AK is already very clean, the town has had to recruit local fish processors to purposely dump 5,000 pounds of fish guts into its sewage system each day so that it would have something to clean up and meet EPA's requirement.

Third, the Cleveland Plain Dealer, a newspaper company, wanted to build a new production plant near Lake Erie, a plant which would bring 400 new jobs to the otherwise abandoned inner-city industrial area. But because of cleanup costs of \$200,000 for residual chemicals, the newspaper chose to build the plant in cleaner suburbs.

Another socially conscious Cleveland developer also wanted to develop a 200-acre industrial park downtown, but discovered he would have to spend \$200 million just to clean up the property before beginning construction. He abandoned the project.

I think everyone would agree that these are not the intended consequences of Federal rules and regulations, and yet these things

continue to happen over and over again. What we want is to bring some common sense and sound science into the process, so that regulations will serve the people, rather than people serve the regulations.

Vote "no" on this motion to recommit.

Mr. WALKER. Mr. Speaker, I yield to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, this amendment really is not about the peer review process. That was dealt with in the Markey amendment. The Markey amendment went down as it should have.

The provision in this bill provides for everybody of every interest, labor and environmental groups and business groups and everyone, to participate in the peer review process, and they have to report any potential conflict of interest. That is what makes this bill so strong.

But really the opponents of this bill who are trying to hide behind the motion to recommit are worried about three strikes and you're out, changing a \$25 million coverage to \$100 million, changing the enforceable law in not allowing judicial review, and providing for prior law to prevent consideration and to change the risk and cost-benefit analysis.

This is an effort to try to stifle the ability to change the way Washington works in its regulatory process. Members should vote against the motion to recommit.

Mr. WALKER. Mr. Speaker, I yield to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, I too want to urge a vote against this motion to recommit.

The bill as presently constructed says that anyone with any interest in the rule has to disclose that interest, whether you have an interest from an environmental standpoint, whether you have an interest from wherever you are coming from, from a labor or management standpoint. It allows all of those with expertise to serve on the panel provided you disclose your interest. That is the way it ought to be.

This motion to recommit will defeat that provision of the bill. We need to defeat this motion to recommit.

Mr. WALKER. The gentleman from Louisiana is absolutely correct. The bill calls for peer review panels that are broadly representative and balanced and include representatives from State and local governments, industries, small businesses, universities, agriculture, labor, consumers, conservation organizations, and public interest groups.

We ought to keep that kind of broad language and reject that which the gentleman from Texas has offered.

□ 1015

The SPEAKER pro tempore (Mr. KNOLLENBERG). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

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

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

RECORDED VOTE

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

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage.

The vote was taken by electronic device, and there were—ayes 174, noes 250, not voting 10, as follows:

[Roll No 182]

AYES—174

Abercrombie	Gejdenson	Neal
Ackerman	Gephardt	Oberstar
Andrews	Gibbons	Obey
Baldacci	Gordon	Olver
Barrett (WI)	Green	Ortiz
Becerra	Hall (OH)	Owens
Beilenson	Hamilton	Pallone
Bentsen	Hastings (FL)	Pastor
Berman	Hefner	Payne (NJ)
Bevill	Hilliard	Pelosi
Bishop	Hinchev	Pomeroy
Boehlert	Poshard	Pomroy
Bonior	Hoyer	Rahall
Borski	Jackson-Lee	Rangel
Boucher	Jacobs	Reed
Brown (CA)	Jefferson	Reynolds
Brown (FL)	Johnson (SD)	Richardson
Brown (OH)	Johnson, E.B.	Rivers
Bryant (TX)	Johnston	Roemer
Cardin	Kanjorski	Rose
Chapman	Kaptur	Royal-Allard
Clay	Kennedy (MA)	Sabo
Clayton	Kennedy (RI)	Sanders
Clement	Kennelly	Sawyer
Clyburn	Kildee	Schroeder
Coleman	Kleczka	Schumer
Collins (IL)	Klink	Scott
Collins (MI)	LaFalce	Serrano
Conyers	Lantos	Shays
Costello	Levin	Skaggs
Coyne	Lewis (GA)	Slaughter
Danner	Lincoln	Stark
de la Garza	Lofgren	Stokes
DeFazio	Lowey	Studds
DeLauro	Luther	Stupak
Dellums	Maloney	Tanner
Deutsch	Manton	Taylor (MS)
Dicks	Markey	Tejeda
Dingell	Mascara	Thompson
Dixon	Matsui	Thornton
Doggett	McCarthy	Torres
Doyle	McDermott	Torricelli
Durbin	McHale	Towns
Edwards	McKinney	Trafficant
Engel	McNulty	Tucker
Eshoo	Meehan	Velazquez
Evans	Meek	Vento
Farr	Menendez	Visclosky
Fattah	Mfume	Volkmer
Fazio	Miller (CA)	Waters
Fields (LA)	Mineta	Watt (NC)
Filner	Minge	Waxman
Flake	Mink	Williams
Foglietta	Moakley	Wise
Ford	Montgomery	Woolsey
Frank (MA)	Morella	Wyden
Frost	Murtha	Wynn
Furse	Nadler	Yates

NOES—250

Allard	Bartlett	Bono
Archer	Barton	Brewster
Armey	Bass	Brownback
Bachus	Bateman	Bryant (TN)
Baessler	Bereuter	Bunn
Baker (CA)	Bilbray	Bunning
Baker (LA)	Bilirakis	Burr
Ballenger	Billey	Burton
Barcia	Blute	Buyer
Barr	Boehner	Callahan
Barrett (NE)	Bonilla	Calvert

Camp	Hayworth	Pombo
Canady	Hefley	Porter
Castle	Heineman	Portman
Chabot	Herger	Pryce
Chambliss	Hilleary	Quillen
Chenoweth	Hobson	Quinn
Christensen	Hoekstra	Radanovich
Chrysler	Hoke	Ramstad
Clinger	Horn	Regula
Coble	Hostettler	Riggs
Coburn	Houghton	Roberts
Collins (GA)	Hutchinson	Rogers
Combest	Hyde	Rohrabacher
Condit	Inglis	Ros-Lehtinen
Cooley	Istook	Roth
Cox	Johnson (CT)	Roukema
Cramer	Johnson, Sam	Royce
Crane	Jones	Salmon
Crapo	Kasich	Sanford
Cremeans	Kelly	Saxton
Cubin	Kim	Scarborough
Cunningham	King	Schaefer
Davis	Kingston	Schiff
Deal	Klug	Seastrand
DeLay	Knollenberg	Sensenbrenner
Diaz-Balart	Kolbe	Shadegg
Dickey	LaHood	Shaw
Dooley	Largent	Shuster
Doolittle	Latham	Sisisky
Dornan	Laughlin	Skeen
Dreier	Lazio	Skelton
Duncan	Leach	Smith (MI)
Dunn	Lewis (CA)	Smith (NJ)
Ehlers	Lewis (KY)	Smith (TX)
Ehrlich	Lightfoot	Smith (WA)
Emerson	Linder	Solomon
English	Livingston	Souder
Ensign	LoBiondo	Spence
Everett	Longley	Spratt
Ewing	Lucas	Stearns
Fawell	Manzullo	Stenholm
Fields (TX)	Martini	Stockman
Flanagan	McCollum	Stump
Foley	McCreary	Talent
Forbes	McDade	Tate
Fowler	McHugh	Tauzin
Fox	McInnis	Taylor (NC)
Franks (CT)	McIntosh	Thomas
Franks (NJ)	McKeon	Thornberry
Frelinghuysen	Meyers	Thurman
Frisa	Mica	Tiahrt
Funderburk	Miller (FL)	Torkildsen
Galleghy	Molinar	Upton
Ganske	Mollohan	Vucanovich
Gekas	Moorhead	Waldholtz
Geren	Moran	Walker
Gilchrest	Myers	Walsh
Gillmor	Myrick	Wamp
Gilman	Nethercutt	Watts (OK)
Goodlatte	Neumann	Weldon (FL)
Gooding	Ney	Weldon (PA)
Goss	Norwood	Weller
Graham	Nussle	White
Greenwood	Orton	Whitfield
Gunderson	Oxley	Wicker
Gutknecht	Packard	Wilson
Hall (TX)	Parker	Wolf
Hancock	Paxon	Young (AK)
Hansen	Payne (VA)	Young (FL)
Harman	Peterson (FL)	Zeliff
Hastert	Peterson (MN)	Zimmer
Hastings (WA)	Petri	
Hayes	Pickett	

NOT VOTING—10

Browder	LaTourette	Rush
Gonzalez	Lipinski	Ward
Gutierrez	Martinez	
Hunter	Metcalfe	

□ 1931

The Clerk announced the following pair:

On this vote:

Mr. Rush for, with Mr. Metcalf against.

Mr. PARKER changed his vote from "aye" to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. KNOLLENBERG). 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. BROWN of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 286, noes 141, not voting 7, as follows:

[Roll No 183]

AYES—286

Allard	Ensign	Livingston
Archer	Everett	LoBiondo
Armey	Ewing	Longley
Bachus	Fawell	Lucas
Baessler	Fields (TX)	Manzullo
Baker (CA)	Flanagan	Martini
Baker (LA)	Foley	McCollum
Ballenger	Forbes	McCreary
Barcia	Fowler	McDade
Barr	Fox	McHugh
Barrett (NE)	Franks (CT)	McInnis
Bartlett	Franks (NJ)	McIntosh
Barton	Frelinghuysen	McKeon
Bass	Frisa	McNulty
Bateman	Frost	Metcalf
Bereuter	Funderburk	Meyers
Bevill	Galleghy	Mica
Bilbray	Ganske	Miller (FL)
Bilirakis	Gekas	Minge
Bishop	Geren	Molinar
Bliley	Gilchrest	Mollohan
Blute	Gillmor	Montgomery
Boehner	Gilman	Moorehead
Bonilla	Goodlatte	Moran
Bono	Gooding	Morella
Brewster	Gordon	Myers
Browder	Goss	Myrick
Brownback	Graham	Nethercutt
Bryant (TN)	Green	Neumann
Bunn	Greenwood	Ney
Bunning	Gunderson	Norwood
Burr	Gutknecht	Nussle
Burton	Hall (TX)	Ortiz
Buyer	Hamilton	Orton
Callahan	Hancock	Oxley
Calvert	Hansen	Packard
Camp	Hastert	Parker
Canady	Hastings (WA)	Paxon
Castle	Hayes	Payne (VA)
Chabot	Hayworth	Peterson (FL)
Chambliss	Hefley	Peterson (MN)
Chapman	Hefner	Petri
Chenoweth	Heineman	Pickett
Christensen	Herger	Pombo
Chrysler	Hilleary	Pomroy
Clement	Hobson	Porter
Clinger	Hoekstra	Portman
Coble	Hoke	Poshard
Coburn	Holden	Pryce
Collins (GA)	Horn	Quillen
Combest	Hostettler	Quinn
Condit	Houghton	Radanovich
Cooley	Hutchinson	Ramstad
Costello	Hyde	Regula
Cox	Inglis	Reynolds
Cramer	Istook	Riggs
Crane	Johnson (CT)	Roberts
Crapo	Johnson (SD)	Roemer
Cremeans	Johnson, Sam	Rogers
Cubin	Jones	Rohrabacher
Cunningham	Kasich	Ros-Lehtinen
Danner	Kelly	Rose
Davis	Kim	Roth
de la Garza	King	Roukema
Deal	Kingston	Royce
DeLay	Klug	Salmon
Diaz-Balart	Knollenberg	Sanford
Dickey	Kolbe	Saxton
Dooley	LaHood	Scarborough
Doolittle	Largent	Schaefer
Dornan	Latham	Schiff
Doyle	LaTourette	Seastrand
Dreier	Laughlin	Sensenbrenner
Duncan	Lazio	Shadegg
Dunn	Leach	Shaw
Edwards	Lewis (CA)	Shuster
Ehlers	Lewis (KY)	Sisisky
Ehrlich	Lightfoot	Skeen
Emerson	Lincoln	Skelton
English	Linder	Smith (MI)

Smith (NJ)	Taylor (NC)	Wamp
Smith (TX)	Tejeda	Watts (OK)
Smith (WA)	Thomas	Weldon (FL)
Solomon	Thornberry	Weldon (PA)
Souder	Thornton	Weller
Spence	Thurman	White
Stearns	Tiahrt	Whitfield
Stenholm	Torkildsen	Wicker
Stockman	Towns	Wilson
Stump	Trafcant	Wolf
Stupak	Upton	Young (AK)
Talent	Volkmer	Young (FL)
Tanner	Vucanovich	Zeliff
Tate	Waldholtz	Zimmer
Tauzin	Walker	
Taylor (MS)	Walsh	

NOES—141

Abercrombie	Furse	Murtha
Ackerman	Gejdenson	Nadler
Andrews	Gephardt	Neal
Baldacci	Gibbons	Oberstar
Barrett (WI)	Hall (OH)	Obey
Becerra	Harman	Olver
Beilenson	Hastings (FL)	Owens
Bentsen	Hilliard	Pallone
Berman	Hinchey	Pastor
Boehler	Hoyer	Payne (NJ)
Bonior	Jackson-Lee	Pelosi
Borski	Jacobs	Rahall
Boucher	Jefferson	Rangel
Brown (CA)	Johnson, E. B.	Reed
Brown (FL)	Johnston	Richardson
Brown (OH)	Kanjorski	Rivers
Bryant (TX)	Kaptur	Roybal-Allard
Cardin	Kennedy (MA)	Sabo
Clay	Kennedy (RI)	Sanders
Clayton	Kennelly	Sawyer
Clyburn	Kildee	Schroeder
Coleman	Klecicka	Schumer
Collins (IL)	Klink	Scott
Collins (MI)	LaFalce	Serrano
Conyers	Lantos	Shays
Coyne	Levin	Skaggs
DeFazio	Lewis (GA)	Slaughter
DeLauro	Lofgren	Spratt
Dellums	Lowe	Stark
Deutsch	Luther	Stokes
Dicks	Maloney	Studds
Dingell	Manton	Thompson
Dixon	Markey	Torres
Doggett	Mascara	Torricelli
Durbin	Matsui	Tucker
Engel	McCarthy	Velazquez
Eshoo	McDermott	Vento
Evans	McHale	Visclosky
Farr	McKinney	Waters
Fattah	Meehan	Watt (NC)
Fazio	Meek	Waxman
Fields (LA)	Menendez	Williams
Filner	Mfume	Wise
Flake	Miller (CA)	Woolsey
Foglietta	Mineta	Wyden
Ford	Mink	Wynn
Frank (MA)	Moakley	Yates

NOT VOTING—7

Gonzalez	Lipinski	Ward
Gutierrez	Martinez	
Hunter	Rush	

□ 1940

Mr. VISCLOSKY changed his 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 ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 925, PRIVATE PROPERTY PROTECTION ACT OF 1995

Mrs. WALDHOLTZ, from the Committee on Rules, submitted a privileged report (Rept. No. 104-61) on the resolution (H. Res. 101) providing for the consideration of the bill (H.R. 925), to compensate owners of private property for the effect of certain regulatory restrictions, which was referred to the

House Calendar and ordered to be printed.

□ 1945

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 70

Mr. TORRES. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 70.

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

There was no objection.

APPOINTMENT OF MS. JUNE ELLENOFF O'NEILL AS DIRECTOR OF THE CONGRESSIONAL BUDGET OFFICE

The SPEAKER pro tempore. Pursuant to the provisions of section 201(a)(2) of the Congressional Budget and Impoundment Control Act of 1974, Public Law 93-344, the Chair announces that the Speaker and the President pro tempore of the Senate on Wednesday, February 22, 1995 did jointly appoint Ms. June Ellenoff O'Neill as director of the Congressional Budget Office, effective March 1, 1995, for the term of office beginning January 3, 1995.

ANNOUNCEMENT BY THE CHAIRMAN OF THE COMMITTEE ON RULES ON AMENDMENTS TO H.R. 956, THE COMMON SENSE LEGAL REFORM BILL

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

Mr. SOLOMON. Mr. Speaker, I wish to announce to House Members that the Rules Committee is planning to meet on Tuesday, March 7, to grant a rule which may restrict amendments for the consideration of H.R. 956, the Common Sense Legal Standards Reform Act of 1995.

Any Member contemplating an amendment to H.R. 956—the product liability bill—should submit 55 copies of the amendment and a brief explanation to the Rules Committee, no later than 3 p.m. on Friday, March 3.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the Rules of the House.

It is the intention of the Rules Committee to make the text of H.R. 1075 in order as a substitute to the reported text of H.R. 956 for amendment purposes. This new text reflects the work of both the Judiciary Committee and the Commerce Committee on this issue. The copies of H.R. 1075 can be obtained from the majority offices of the Commerce Committee or the Judiciary Committee. Legislative Counsel will draft all amendments to this revised text.

PERMISSION FOR CERTAIN COMMITTEES AND SUBCOMMITTEES TO SIT TOMORROW, MARCH 1, 1995, DURING 5-MINUTE RULE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule; The Committee on Banking and Financial Services; The Committee on Economic and Educational Opportunities; The Committee on Government Reform and Oversight; The Committee on House Oversight; The Committee on International Relations; The Committee on Transportation and Infrastructure; and The Committee on Veterans Affairs.

Mr. Speaker, it is my understanding that the minority has been consulted and that there is no objection to these requests.

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

Mr. FRANK of Massachusetts. Mr. Speaker, reserving the right to object, I just want to concur that these are the lists of committees that the minority was consulted on, and we have no objection.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

HOUR OF MEETING ON TOMORROW, MARCH 1, 1995

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. on tomorrow.

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

Mr. FRANK of Massachusetts. Mr. Speaker, reserving the right to object, once again I would acknowledge that this was discussed with the minority.

The minority has no objection.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

NOTICE OF INTENT TO TAKE UP RESOLUTION OF INQUIRY ON MEXICAN PESO CRISIS

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

Mr. ARMEY. Mr. Speaker, let me just take this moment to report to the House, pursuant to the agreement that I made with the minority leader last week, that we would give Members a

day's notice before we take up the resolution of inquiry on the Mexican peso crisis, and we do intend to take that up late tomorrow afternoon or tomorrow evening. I wanted to notify the body of that at this time.

CLARIFICATION OF WAIVER WITH RESPECT TO RESOLUTION OF INQUIRY ON THE MEXICAN PESO CRISIS

(By unanimous consent, Mr. FRANK of Massachusetts was allowed to proceed for 1 minute.)

Mr. FRANK of Massachusetts. Let me address the majority leader. It was my understanding that in order to do that, it would require a waiver of the 3-day layover rule. Is the majority leader asking for that permission?

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

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

Mr. ARMEY. I thank the gentleman for yielding.

GRANTING OF PERMISSION ON REQUEST TO WAIVE THE THREE-DAY LAYOVER RULE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent to waive the 3-day layover rule with the point that the minority has agreed to that.

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

Mr. FRANK of Massachusetts. Mr. Speaker, reserving the right to object, I have never thought that waiving the 3-day rule was a big deal, like my friends on the other side. I am glad to welcome them to the position that occasionally waiving that rule is a perfectly reasonable thing to do. I think the gentleman for doing it explicitly. I does seem a bad idea to me to waive it implicitly.

But since this is also cleared with the minority and since this precedent of waiving a 3-day rule when it is inconvenient is not such a bad one, Mr. Speaker, I withdraw my reservation of objection.

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

Mr. BURTON of Indiana. Mr. Speaker, reserving the right to object, I would like to ask the majority leader a question. This resolution of inquiry does not preclude any other legislative action pertaining to the Mexican bailout program?

Mr. ARMEY. If the gentleman would yield, no, it does not.

Mr. BURTON of Indiana. I thank the gentleman, and I withdraw my reservation of objection.

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

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 926, REGULATORY REFORM AND RELIEF ACT

Mr. MCINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 100 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 100

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 926) to promote regulatory flexibility and enhance public participation in Federal agency rule-making, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed ninety minutes, with sixty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary and thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Small Business. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered by title rather than by section. Each title 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 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

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

Mr. MCINNIS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. HALL], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time is yielded for the purpose of debate only.

(Mr. MCINNIS asked and was given permission to insert extraneous material into the RECORD.)

Mr. MCINNIS. Mr. Speaker, House Resolution 100 is a very simple resolution. It is an open rule providing for 90 minutes of general debate. Sixty min-

utes shall be equally divided between the chairman and the ranking minority member of the Committee on the Judiciary. Additionally, 30 minutes is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Small Business. After general debate, the bill shall be considered for amendment under the 5-minute rule. Finally, this resolution provides one motion to recommit, with or without instructions. This open rule was reported out of the Committee on Rules by voice vote.

This open rule demonstrates that the new majority intends to honor its commitment to have a more fair and open legislative process. The resolution provides the House with an opportunity to review the bill, debate it, and yes, if necessary, to amend the legislation. To date, 83 percent of the rules reported out of the Committee on Rules have been open, or modified open, rules. This is a dramatic contrast between the 44 percent of open, or modified open, rules reported out of the committee during the 103d Congress.

The legislation is designed to improve the Federal regulatory system by: First, strengthening the Regulatory Flexibility Act of 1980, second, amending the Administrative Procedure Act to require the preparation of regulatory impact analyses whenever a major rule is promulgated by a Federal agency, and third, directing the President to prescribe regulations for the executive branch aimed at protecting citizens from abuse and retaliation in their dealing with the regulatory system.

One particular provision of this legislation is very important. By deleting the prohibition against judicial review contained in section 611 of the Regulatory Flexibility Act, we will prevent Federal agencies from merely including boilerplate provisions certifying that a proposed regulation will not have a significant impact upon a substantial number of small entities. Even the National Performance Review, which was chaired by Vice President GORE, made the deletion of the ban against judicial review its primary recommendation with respect to the Small Business Administration. I am pleased to see this provision included in the legislation. I urge my colleagues to support the rule, and the underlying legislation.

Mr. Speaker, I insert into the RECORD the following:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,¹ 103D CONGRESS V. 104TH CONGRESS

[As of Feb. 27, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/modified-open ²	46	44	15	83
Modified closed ³	49	47	3	17
Closed ⁴	9	9	0	0

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,¹ 103D CONGRESS V. 104TH CONGRESS—Continued

[As of Feb. 27, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Totals ...	104	100	18	100

¹ This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

² An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

³ A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

⁴ A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of Feb. 27, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	0	H.R. 5	Unfunded mandate reform	A: 350-71 (1/19/95)
H. Res. 44 (1/24/95)	MC	H. Con Res. 17	Social Security Balanced budget amendment	A: 255-172 (1/25/95)
H. Res. 51 (1/31/95)	0	H.J. Res. 1	Land transfer, Taos Pueblo Indians	A: voice vote (2/1/95)
H. Res. 52 (1/31/95)	0	H.R. 101	Land exchange, Arctic National Park and Preserve	A: voice vote (2/1/95)
H. Res. 53 (1/31/95)	0	H.R. 400	Land conveyance, Butte County, CA	A: voice vote (2/1/95)
H. Res. 55 (2/1/95)	0	H.R. 440	Line item veto	A: voice vote (2/2/95)
H. Res. 60 (2/6/95)	0	H.R. 2	Victim restitution	A: voice vote (2/7/95)
H. Res. 61 (2/6/95)	0	H.R. 665	Exclusionary rule reform	A: voice vote (2/7/95)
H. Res. 63 (2/8/95)	MO	H.R. 666	Violent criminal incarceration	A: voice vote (2/9/95)
H. Res. 69 (2/9/95)	0	H.R. 667	Criminal alien deportation	A: voice vote (2/9/95)
H. Res. 79 (2/10/95)	MO	H.R. 668	Law enforcement block grants	A: voice vote (2/10/95)
H. Res. 83 (2/13/95)	MO	H.R. 728	National security revitalization	PQ: 229-100; A: 227-127 (2/15/95)
H. Res. 88 (2/16/95)	MC	H.R. 7	Health insurance deductibility	PQ: 230-191; A: 229-188 (2/21/95)
H. Res. 91 (2/21/95)	0	H.R. 831	Paperwork Reduction Act	A: v.v. (2/2/95)
H. Res. 92 (2/21/95)	MC	H.R. 830	Defense supplemental	A: 282-144 (2/22/95)
H. Res. 93 (2/22/95)	MO	H.R. 889	Regulatory Transition Act	A: 252-175 (2/23/95)
H. Res. 96 (2/24/95)	MO	H.R. 450	Risk assessment	A: 253-165 (2/27/95)
H. Res. 100 (2/27/95)	0	H.R. 1022	Regulatory Reform and Relief Act	

Codes: 0-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress, as of Feb. 27, 1995.

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

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

(Mr. HALL of Ohio asked and was given permission to revise and extend his remarks.)

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume and I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, I would like to commend my colleague from Colorado, Mr. MCGINNIS, as well as my colleagues on the other side of the aisle for bringing this resolution to the Floor. H. Res. 100 is an open rule which will allow full and fair debate on the Regulatory Reform and Relief Act. As my colleague from Colorado has ably described, this rule provides 90 minutes of general debate, 60 minutes for the Committee on the Judiciary and 30 minutes for the Committee on Small Business.

Under this rule, germane amendments will be allowed under the 5-minute rule, the normal amending process in the House of Representatives. Most importantly, there is no overall time cap required by the rule which will ensure that all Members, on both sides of the aisle, will have the opportunity to offer their amendments. I am pleased that the Rule Committee was able to report this rule without opposition in a voice vote and I plan to support it.

Although I do support the rule, I am concerned about the broad nature of this legislation, and I want to explore its actual impact on the regulatory process before casting my vote on the bill itself. I am well aware of the need

to make the regulatory process more sensitive to the reality of running a small business. I was a small businessman myself and can sympathize with the overwhelmingly difficult task of conforming to government requirements. Certainly reform needs to be taken and the regulatory process simplified.

However, I am troubled by the fact that this bill makes no attempt to identify specific problem areas and correct them. Rather, it utilizes a blanket approach by requiring complicated, costly and time-consuming studies on any major rule with an annual effect on the economy of \$50 million. For the past 20 years, every Administration, Republican and Democratic alike, has defined a major rule with a \$100 million benchmark. Lowering the threshold in this way will only create more work and paper for the bureaucracy at a time in which we are reducing government.

Another problem with this legislation is that it is very costly. EPA alone estimates it will cost taxpayers up to \$1.6 million for each Regulatory Impact Analysis and risk assessment. In addition, regulations could be delayed for up to 2 years. While a delay of this length may not be harmful in some areas, it is not acceptable for rules that pertain to true health and safety—drinking water, airplane safety, disaster assistance, food protection, and many others.

Mr. Speaker, I hope the amending process will enable improvements to be made to this legislation. We need regulatory reform. But we need to slow down and do this in a deliberative way

so that our reform is sensible and responds to real problems, not rhetoric.

Finally, Mr. Speaker, as I indicated before, we have an open rule on this bill which I will support. I urge my colleagues to join me in voting for it.

Mr. MCGINNIS. Mr. Speaker, I yield such time as may consume to my friend, the chairman of the Committee on Rules, the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. I thank the gentleman from Colorado for yielding me this time. The gentleman is a very valuable new member of the Committee on Rules, and we appreciate his being there.

Mr. Speaker, I rise today in support of another completely open rule from the Committee on Rules. I rise further to enthusiastically support this bill. H.R. 926 is the fourth of five bills that make up what was H.R. 9, the Job Creation Wage and Enhancement Act in the Contract With America. This bill improves that bill, which was signed into law by President Jimmy Carter on September 19, 1980.

Later this week the House will take up H.R. 925, the Private Property Protection Act, which is the last of the regulatory reform bills and which is the one that really excites me. I cannot wait to get this bill onto this floor and get it passed after all these years.

Mr. Speaker, I have said this often in the past 2 weeks, but I will say it again: Legislation like the measure before this House today is exactly why I came to Congress 16 years ago. The Federal regulatory process is just as out of control today as it was in 1978 and, as a matter of fact, perhaps it may be even worse.

Mr. Speaker, we in this Congress must change the philosophy of the Federal Government to regulate every facet of our lives. Throughout our deliberations we must be conscious of the small businessman. I will say to my friend, TONY HALL, I was a small businessman too when I came here, so-called little guy, who just happens to create 75 percent of all the new jobs in America every single year, 75 percent of the new jobs.

H.R. 926 will help free the small businessman from these kind of burdensome, job-killing regulations and direct the President to enact a citizens regulatory bill of rights, something he does not appear to want to do.

□ 2000

Mr. Speaker, H.R. 926 amends the Regulatory Flexibility Act which sought to ensure that agencies fit regulations and informational requirements to the scale of the business or organization or governmental jurisdictions subject to regulation.

This is based on the idea that the size of an entity significantly affects the cost of regulatory compliance. In other words, what that means is, regulations have a greater cost on smaller business than they do on larger business.

This bill also will require Federal agencies to produce a regulatory impact analysis for regulations with an economic impact of more than \$50 million, which means that the Federal Government will be more aware of the effect proposed rules will have on business.

For example, the EPA is threatening thousands of jobs in upstate New York in the district which regulates, that sets emission standards for the pulp and paper industry. The EPA regulations were created without a cost-benefit analysis. Now, the costs of the same regulations are now threatening to close paper mills in my hometown of Glens Falls, NY, killing jobs and placing many hard-working people on the unemployment rolls.

Let me tell my colleagues, in upstate northern New York, where it is so cold there are few jobs up there, we cannot afford to lose one more much less thousands.

I would like to finish my statement by pointing out that there appears to be a great deal of consensus on this bill. I understand that both Republican and Democrat amendments were adopted in the committee, that the bill was favorably reported out of committee by a voice vote and that the rule was unanimously voted out of the Committee on Rules. That does not always happen. But when we have an open rule like this, it is a pleasure to bring it to the floor.

With that, I urge strong support of the rule on this much-needed bill.

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

Mr. HALL of Ohio. Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. MCINNIS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. GEKAS], a member of the Committee on the Judiciary who chairs the subcommittee that reported this legislation.

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

The gentleman from Colorado, aided and abetted by the gentleman from Ohio and later by the gentleman from New York have very amply outlined the parameters of the legislation in the debate that is forthcoming as we begin the process again tomorrow.

What I wanted to add to their preview is what has been generally understood, that this is from the very beginning a bipartisan effort, at least to bring the issue to the floor.

In the committee, where hearings, extensive hearings were held, the testimony was such that it actually created the basis for the final language that appears in this legislation.

Members will recall that the original bill, which we changed as bit, had reference to an executive order issued by then-President Reagan. It formed the level of provisions that were found in the bill that was referred to our committee. But we, working together, were able to provide a new bill reflecting the best of the executive orders, adding some zest of our own into the process and listening very carefully to the witnesses on the whole host of issues that found themselves resolved in the final language.

This does not mean that all of the issues were resolved. The gentleman from Rhode Island [Mr. REED] and I have agreed that there is going to be disagreement. We also have agreed that jointly we are going to offer an en bloc amendment that will satisfy some of the other problems which we encountered and which we jointly decided to resolve.

After that, who knows what is going to happen, but in the final analysis, when we have completed this bill, we will have gone a long way in bringing to fruition another part of the Contract With America which just happens to coincide with the will of many of the Members on the Democratic side who never even knew about the Contract With America and who are not, of course, signatories of the Contract With America, but who have the joint feel for the necessity to do something about regulatory reform.

We will begin tomorrow. I will end by thanking now in advance, because I might be angered by the time debate is over tomorrow, but I will now thank the gentleman from Rhode Island for his cooperation and all those who will be participating.

I will save my anger for those who oppose me tomorrow.

Mr. REED. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Rhode Island.

Mr. REED. Mr. Speaker, I, too, want to thank the gentleman for his cooperation today, and I look forward to tomorrow and for a vigorous debate.

Mr. GEKAS. Vigorous and vitriolic, maybe.

Mr. REED. And educational.

Mr. HALL of Ohio. Mr. Speaker, I yield back the balance of my time.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. KNOLLENBERG). Under the Speaker's announced policy on January 4, 1995, and under a previous order of the House, the following Members are recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. WHITFIELD] is recognized for 5 minutes.

[Mr. WHITFIELD addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

[Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

FACTS ON WIC AND THE SCHOOL LUNCH PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. CUNNINGHAM] is recognized for 5 minutes.

Mr. CUNNINGHAM. Mr. Speaker, I have got an article here from the Washington Times, and it says "Democrats Lie About Lunch." And I would like to submit it for the RECORD, and I would like to explain what the article means.

First of all, there has been a lot of politically motivated criticism and partisan purposeful misrepresentation of the facts. And I think it has gotten to the extreme level, Mr. Speaker. What we have done is kill the big Federal bureaucracy versus putting Government control where it does the most good, and that is at the effective, closest level to the people and taking it out of Washington. And a lot of the Clinton liberals do not like that.

Facts: The school-based block grant ensures that increased funding levels for the school breakfast and lunch, that funding level is increased by 4.5 percent. CBO had originally requested or taken a look and said the average

growth is about 5.2 percent. There was a large concern and they wanted to put the nutrition programs in with the welfare block grant.

As the subcommittee chairman, I determined that if we did that, we would hurt those nutrition programs. So I separated the school breakfast and the school lunch program and guaranteed that 80 percent of it would be spent on the most needy children, those children, 185 percent and below poverty level. That protected those.

The States and the Governors also wanted a 20 percent remaining to be flexible, that they could either add, if that particular State needed it, to the school breakfast or school lunch program or other nutritional programs. For example, what may work for Tommy Thompson in Wisconsin may be a little bit different than Governor Wilson of California, but it gives them the flexibility. We increased the spending level by 4.9 percent.

I would like to submit this chart also for the RECORD, Mr. Speaker. It shows incrementally, for example, in 1995, for the school breakfast program, it was \$4.59 billion. In 1996, it is \$4.7. In 1997, it is 4.9. In 1998, it is 5.1. And in 1999, it is 5.4. And in the year 2000, it is 5.6. As you can see, each year we have increased spending for the school breakfast and lunch program. Also for the Women, Infants and Children Program that we have increased funding and, again, if we would have block granted it with the welfare block grants, it would have been in competition and I protected it.

[Chart not reproducible in the RECORD.]

Mr. CUNNINGHAM. I also mandated that 80 percent of the funds in that block grant must go to the WIC Program. And the 80 percent funding is more money than current law gives to the WIC Program. Why? Because the WIC Program in California and most States across the country is very effective and it is the Women, Infants and Children Program.

For example, currently it is 3.5. In 1996, under our block grant, it goes to 3.7, this is from 3.5. That is not a cut, my colleagues. In 1997, it is 3.8; in 1998, it is 4.0; 4.1 in 1999, and in the year 2000, 4.2, nearly 4.3. That is not a cut.

I would like to submit this for the RECORD also, Mr. Speaker.

What the other side would have you believe is that we are actually trying to kill and cut children's nutrition programs. It is not true. The Governors came to us and said there was 366 welfare programs, very noneffective, if you look. And the American people understand that those programs have failed. The monumental paperwork, the Government bureaucracy, the reporting documents. I listened to State Senator Hoffer from the State of Colorado and he said they literally in the State have two full computer system programs and computers dedicated to just the reporting data of the children's nutrition program. We have eliminated that. We

have made it easier for the States to work. And so that we do not build State bureaucracies, we have limited the administration of States to 2 percent. In the case of WIC because it is more demanding, 5 percent. And what we are doing is getting the dollars to the kids.

We are growing kids, not Federal bureaucracies. I think that is important also. I included the language to make sure that the nutrition standards were maintained. But yet, the gentleman from Wisconsin [Mr. GUNDERSON], and the gentlewoman from New Jersey [Mrs. ROUKEMA], and the gentleman from Michigan [Mr. KILDEE], came and said, can we add language to ensure, even stronger language, that we maintain those nutritional levels? Both those amendments were accepted in the committee. They passed with bipartisan support.

But yet they still say we are killing the programs. Let me tell you what we are doing. We limit Federal bureaucracy, paperwork, increase local flexibility. We allow for the expansion of the children's nutrition programs. And that is a fact, Mr. Speaker. It is backed up with facts and figures.

Mr. Speaker, I include for the RECORD the documents to which I referred.

[From the Washington Times, Feb. 28, 1995]
DEMOCRATS "LIE" ABOUT LUNCH

(By Nancy E. Roman)

Democrats continued to spin the GOP's proposed "cuts" to the school-lunch program yesterday as "mean-spirited" and "cruel," herding a troop of preschoolers from Cheverly Early Childhood Center into the Capitol to make the point.

Rep. Steny H. Hoyer, Maryland Democrat, said if the Republican plan succeeds, it will "roll back years of progress."

Vermont Gov. Howard Dean, M.D., said it is "despicable" and accused Republicans of targeting nutrition programs for children because they cannot vote.

In fact, under the Republican proposal, the federal school lunch program will grow by 4.5 percent or \$203 million. In the current budget year, the federal government spends \$4.5 billion. Republicans would spend \$4.7 billion.

The "cuts" that have received so much press attention, refer to a reduction in the 5.2 percent average increase in the school-lunch program, as projected by the Congressional Budget Office. The GOP increase is 4.5 percent.

Rep. John Boehner, Ohio Republican and chairman of the Republican Conference, called talk of cuts in the school-lunch program "the biggest lie in Washington, D.C., this last week."

"What we're doing is guaranteeing that states will get more money," he said.

Republicans propose to spend 4.5 percent more on school lunches in 1996—an average of 4 percent more every year for the next five years. They hope that by eliminating federal paperwork, the states will be able to serve even more free and subsidized lunches.

"If they [the governors] can't take more money and do a better job, they should step down," said Rep. Bill Goodling, Pennsylvania Republican and chairman of the committee that crafted the bill.

The failure to get that message out fore-shadows the trouble Republicans face when they get to real cutting necessary to balance the budget.

"It points out the job we are going to have to do in going over the heads of special-interest groups who want to portray whatever we do as a cut," said Brian Cuthbertson, press secretary for Rep. John Kasich, chairman of the House Budget Committee.

He said he routinely explains to reporters that even after budget cuts, some programs will grow.

"I had to explain that to a local reporter from Columbus, Ohio, on Friday," he said. "I said, 'Would it surprise you to learn that it is not being cut? That we are going to spend more on school lunches?'"

The reporter said "Oh," Mr. Cuthbertson recalled.

"Let's focus on facts," Rep. Steven Gunderson, Wisconsin Republican and welfare-reform point man, said when House Economic and Educational Opportunities Committee was marking up its welfare reform last week. The "toughest accusation" that can be made about the block-grant approach "is that it reduces growth."

Mr. Hoyer said because of an expected increase in children using the school lunch program, a 4 percent increase in overall spending amounts to a cut.

The Democrat barrage continued yesterday with Donna E. Shalala, secretary of health and human services, telling members of the American Public Welfare Association conference: "Cruel is the only way to describe provisions that would abolish nutrition programs for children, deny benefits to children of teen mothers, and reduce assistance to thousands of abused, neglected and abandoned children."

Senate Minority Leader Tom Daschle, South Dakota Democrat, said he, too, is appalled.

"How ironic that in the name of reducing the debt on our children, we take their meals instead," he said.

Ed Gillespie, spokesman for House Majority Leader Dick Arney, said it has been difficult to counter the Democratic assault on the Republican bill as stealing food from the mouths of children.

"I don't know what else you can do when the Democrat Party has a concerted strategy to lie to the American people other than to tell the truth," he said.

□ 2015

The SPEAKER pro tempore (Mr. FOLEY). Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

[Mr. HOYER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

IN MEMORY OF SHAWN LEINEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. MCINNIS] is recognized for 5 minutes.

Mr. MCINNIS. Mr. Speaker, I stand before you to advise the House of news that another police officer has fallen in the line of duty. The officer, Shawn Leinen, was 27 years old and married to Susan Leinen, who is 6 months pregnant with their first child. Shawn was an officer with the Denver Police Department, and on seven separate occasions, he was cited for professionalism as an officer. He loved his duties and understood the risks, but always kept

the risk as secondary, having it overridden by protection of the citizens.

Shawn was brave, not foolish; Shawn was honest, energetic, and even praised by individuals whom he had previously arrested.

His death was senseless and as a former police officer, myself, it is hard not to feel deep bitterness and want for retribution against the 16-year-old kid who is now only a suspect. This death was not just senseless, but cold-blooded murder.

Shawn's widow, Susan, sits alone tonight, but she must know that Shawn's sacrifice, his call to duty, is recognized by the people who he protected. Their child will be born without its father, but will soon understand that dad was a hero. Our tears are in part for Susan's task in passing to that young child a response to the question, "Why?" Maybe our remembrance here in the Halls of Congress will assist in that effort. Maybe our thoughts and sympathies here in the Halls of the Capitol of this Nation will help Susan, as a policeman's widow, find some comfort in her days ahead.

Mr. Speaker, our men and women in blue have again suffered a loss, but in their loss their resolve becomes only more firm.

May God be with Shawn his widow, Susan, both their families and with that small yet-to-be-born child.

DEALING WITH AMERICA'S DRUG PROBLEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. TOWNS] is recognized for 5 minutes.

Mr. TOWNS. Mr. Speaker, I rise to talk about the Contract With America. As we look at the Contract With America, there is one thing that for some reason as I look at it and I examine it is left out. We have left out dealing with the drug problem. The drug problem is something that is not going to go away. We must address it.

As we look at what is happening in many of our urban areas and we look in terms of our prisons, we find that many of the people who are in prison have been involved in drugs. But at the same time for some reason or another, we do not want to spend the kind of money that we need to spend to be able to address the drug problem.

We have people who will come into our district offices seeking help, and we cannot provide help for them because there is no place for them to go because there are no funds available for them to be able to go and get treatment.

I recognize that there is no one solution to the problem and that we need to have several types of treatment programs, but for some reason we have sort of ignored this problem.

I know that some districts have a greater problem than others, but I think the time has come when we need to look at what is happening in the

United States of America and that regardless of where you are in terms of your district, if you have the problem now, I think you need programs to begin to work with it. And for some reason you do not have it, I would like to say to you, "It's coming. It's on its way to you right now."

I would hope that the people who do not have the problem would come and rally with the people who do have the problem to begin to come up with some solutions to the drug addiction problem.

We are spending a lot of money on the back end that if we would address this problem on the front end, we would not have to spend the money on the back end.

It costs a lot of money to keep a person in prison, when we could spend the money to be able to detoxify a person and to be able to assist them in terms of counseling and to hope to put them back on the road to work.

We talk about welfare reform, we talk about health care reform, we talk about all the different types of reform, but at the same time we still do not spend the kind of time talking about dealing with the drug problem.

The Speaker came up with an idea, and I must admit that I like the idea very, very much, that he is going to encourage Members from various districts to go and visit other districts. In other words, he is going to encourage people from the rural areas to go into the urban areas and to visit those areas. I think that is an excellent idea and I think that is one that should take place and should take place right away, because I think that there are some Members in the House that do not realize what is happening in some of the urban areas. That is the reason why that sometimes that when you feel that you need support, that you are not getting support, that they do not understand the problems you are having in those areas.

I am hoping that people in the urban areas will go into the rural areas and take a look at what is happening there and be able to give the assistance that needs to be given in the rural areas.

America is not the same. It is different in terms of its regions. The cost of living, when we talk about wages and we talk about increasing the minimum wage. Some people say, "Well, it's not necessary." But then if you come from a high cost-of-living area, it is very necessary.

I think that we have to sit down, take a look at where we are to begin to address some of these problems. I think that the best way to do it would be able to look at this drug problem and say, "Well, let's face it, there is a region that has a serious problem. We're going to give them the necessary resources to be able to address the problem and to be able to help them to be able to work it through." Because if not, eventually they would have to incarcerate the person and it would cost a whole lot more.

Recognizing that there is a dispute going on about the best possible treatment for addicts, I understand that. But I think that the treatment that the person will respond to is the kind of treatment that we should be able to get them into.

Some people say the methadone maintenance program does not work. There are some people who have responded to the treatment of methadone maintenance, and if they have responded to it, I think we should work it out where we would have funds available to set up programs for people that could benefit from that particular treatment.

Then I think the drug-free program, some people can benefit from that. I think that we should be able to set it up where they can go into that. Then if they need cycloazine or whatever it is to be able to provide the kind of treatment they need, that we should be able to provide that care for them.

I think the worst thing in the world that is happening now, that for an addict to walk into a facility and say, "I would like to be treated," and then after you talk to them, you find out that a waiting list of a year, a year and a half, or 2 years.

My goodness, what will happen to a person who has to wait to get treatment, to get care for 2 years? I think the time has come when we should roll up our sleeves and be able to provide the kind of necessary care for people that have those problems.

TRIBUTE TO AFRICAN-AMERICANS DURING BLACK HISTORY MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. FRANKS] is recognized for 5 minutes.

Mr. FRANKS of Connecticut. Mr. Speaker, the following is my tribute to African-Americans during Black History Month.

At one time teaching a black child how to read was against the law. For blacks to congregate other than for church was against the law. For blacks to vote was against the law. Our forefathers proved their imperfection by claiming that blacks were not to be counted as full human beings.

Just 40 plus years ago, the separate-but-equal schools debate was going on which led to the historic desegregation of our schools. Terms like inferior, discrimination, States rights, racism, segregation, civil rights were part of the lingo of the past, or are they, Mr. Speaker?

States rights. States argued that if they did not want to treat a black child fairly, it was fine. If a State wanted blacks to use separate water fountains, it was fine. If a State wanted blacks to use separate lavatories, it was fine. Thanks to the Federal Government, we have come a long way.

The logic of blacks being inferior was the reason why blacks were not allowed to go to school with white children. Some would say that today being inferior is the reason why blacks should not be admitted into certain schools with whites. For those who hold those beliefs, both ideas would restrict blacks from receiving the highest quality education, and that, Mr. Speaker, would be wrong.

Both then and to a degree now some would like people to believe that blacks are inferior to whites. They would want people to believe that God made lesser people. They would produce one study after another to try to convince the masses that blacks are doomed to their fate because they just do not have the same abilities as whites.

Mr. Speaker, they fail to note that children with college-educated parents do better on standardized tests than children of non-college-educated parents. It is very simple.

They refuse to appreciate that strong family values, education, a willingness to work hard, and the availability of opportunities can help strengthen all of our Nation's people.

As an example, Mr. Speaker, my mother graduated from high school but my father only had a sixth-grade education. He could barely read or write. Yet today, three of my sisters hold doctorate degrees, one of my brothers is a colonel in the Army, and my other brother is a schoolteacher in Ansonia, CT. Mr. Speaker, I am the only one in my family with one college degree.

Let us remember that we help our Nation by strengthening our weakest link, not by crushing it. Being compassionate toward the less fortunate is not a liberal or a conservative concept, because we are all Americans.

I thank the voters of the Fifth Congressional District of Connecticut, a 90-percent white district, for three times electing me, an African-American, to serve in this august body representing them.

Mr. Speaker, in conclusion, I would like to thank all the African-American leaders who have waged a fight for equality and justice over the decades. We must not forget our history, or else we may be subject to repeating it again.

IN SUPPORT OF FORT McCLELLAN, ALABAMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. BROWDER] is recognized for 5 minutes.

Mr. BROWDER. Mr. Speaker, I know something about chemical warfare. I represent Fort McClellan, AL, home of the chemical school that trains our Army, Navy, Air Force, and Marine personnel at the only live agent chemical defense facility in the free world.

I represent Anniston Army Depot, home of a huge stockpile of dangerous deteriorating chemical weapons which pose a threat to more than 100,000 civil-

ians who live or work in the impact zone of those weapons.

I serve on the House Committee on National Security as a specialist on chemical warfare, chemical weapons, and chemical defense.

□ 2030

I chaired a congressional study of the chemical weapons threat and what our country needs to do to counter that threat.

I have worked with the administration at home and abroad to facilitate progress on the Chemical Weapons Convention which would ban chemical weapons and the Bilateral Destruction Agreement which commits the United States and Russia to destroy our huge stockpile of old chemical weapons.

I have worked with the Chemical Weapons Convention Preparatory Commission at The Hague to support implementation of the Chemical Weapons Convention and the Bilateral Destruction Agreement.

I have traveled to Russia several times to monitor their chemical weapons and help military and civilian leaders meet the requirements of the Chemical Weapons Convention and Bilateral Destruction Agreement.

To repeat, I know something about chemical warfare. And Mr. Speaker, I tell you that to demonstrate that while what I am about to say involves my own congressional constituency, my outrage goes beyond parochialism to our national and international security.

I am convinced that Secretary of Defense William Perry's recommendation to the Base Realignment and Closure [BRAC] Commission—specifically the proposal to close Fort McClellan, AL—is a mistake with significant and dangerous ramifications.

With this recommendation, the Pentagon jeopardizes the American soldier's ability to survive chemical warfare, breaks faith with the 100,000 Alabamians at risk from their neighboring stockpile of aging chemical weapons, and seriously undermines the Chemical Weapons Convention and Bilateral Destruction Agreement.

Mr. Speaker, time does not allow me to go into this discussion any further tonight but I will return for other special orders on other nights to point out what is wrong with this recommendation, and why it is significant, and dangerous for our world, and I will return to detail what I intend to do to correct this situation.

The SPEAKER pro tempore (Mr. FOLEY). Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

[Mr. KINGSTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

PROGRESS IN HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOGLETTA] is recognized for 5 minutes.

Mr. FOGLETTA. Mr. Speaker, yesterday I returned from Haiti. When I arrived there on Saturday I was emotionally overcome by what I saw. On my last visits to Haiti, prior to the return by President Aristide, I walked into the airport and there were soldiers with assault rifles, no citizens, no activity whatsoever, and few people standing around the airport, and as I walked into the town itself I had drawn empty stares, stares of fright.

The people of Haiti that I saw when I returned were a totally different situation. I walked into the airport and I saw happy people, smiling people, ladies dressed in native costumes, bands playing, stalls selling trinkets, but most of all, the people of Haiti were no longer afraid.

Upon reflection I realized that the drawn faces carried a look of hopelessness, of impending death, of a life without direction or inspiration on my prior visits. These looks were reminiscent of photographs of men and women who suffered in concentration camps in the Second World War.

For close to 3 years the people of Haiti were imprisoned in an island concentration camp. The names of the criminals who operated the camps were different, but atrocities committed in these places were very similar.

These nightly arrests, systematic executions and random beatings were taking place only 500 miles from our border and as a result of this brutality people were willing to risk their lives by taking to the high seas in leaky boats to escape. Sadly, hundreds of these men, women and children will not live to see the day that they could walk freely on the streets of their native country.

However, thanks to the actions of President Clinton and the American men and women in uniform who have served and who continue to serve in Haiti, people no longer live in fear. Democratic government and the rule of law have returned to Haiti. The army which under the direction of the murderous dictators, Cedras and Francois terrorized and murdered innocent Haitians has been abolished and a civilian-controlled police force is now being trained.

Much remains to be done in Haiti. It will take time and hard work to reverse the decades of violence, desperate poverty and fear which have plagued that country, and, much of the work is being undertaken by the Haitian people.

On my visit to Haiti this weekend, I saw more than just smiles. I saw Haitians cleaning their streets and their neighborhoods. I saw Haitians rebuilding small businesses and street vendors hawking their wares. I saw Haitians fixing and cleaning schools and classrooms.

Since his return, President Aristide has facilitated this change by preaching a message of reconciliation and peace. The Haitian people are responding. They are rebuilding their lives—not resorting to revenge against their former oppressors. Unlike Somalia, our soldiers are greeted with hugs—not rock throwing mobs.

Our mission to Haiti is one of the great military success stories of our time. Our troops have done a miraculous job. As our troops liberated Dachau and Auschwitz some fifty years ago, tho not as horrific the men and women of our armed forces liberated an island concentration camp in the Carribean.

We have done the right thing in Haiti. You can see it in the neighborhoods, in the schools, you can see it in the churches and most of all you can see it on the smiling faces of the people of Haiti, for they are no longer afraid.

The Speaker pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. MFUME] is recognized for 5 minutes.

[Mr. MFUME addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

EFFECTS OF THE RESCISSION BILLS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. NADLER] is recognized for 5 minutes.

Mr. NADLER. Mr. Speaker, I am here today to protest the mean-spirited and draconian rescissions that have been reported out of the Labor, Health and Human Services, and Education and the VA/HUD and Independent Agencies Appropriations Subcommittees.

An excellent statement released yesterday by ACT-UP expresses quite directly the severity of these cuts.

Two House Subcommittees voted to rescind funding for AIDS programs that is already in the pipeline. The VA/HUD Appropriations Subcommittee voted to eliminate all \$188 million allocated for HOPWA, the Housing Opportunities for People with AIDS Program, eliminate all 3,000 Section 8 rental assistance vouchers set-aside for HIV-positive people, and cut \$2.7 billion in general Section 8 vouchers. The Labor/HHS Appropriations Subcommittee cut \$13 million from the Ryan White CARE Act, which pays for medical care and services for people with HIV, and cut \$23 million from the Centers for Disease Control and Prevention's HIV prevention program.

The HUD funding cuts alone mean that New York City will lose \$41.7 million, Upstate New York \$2.2 million and Long Island \$1.2 million. In New York City, 700 units now housing over 1,000 people with AIDS and HIV disease and their family members will be lost.

Mr. Speaker, these severe slashes in housing funding will touch a wide range of American people—families, children, and seniors—but perhaps the most striking examples of heartlessness is putting sick and dying people

out on the streets. It is, Mr. Speaker, nothing but immoral. I am absolutely appalled at the insensitivity to human life that I have seen over the past 50 or so days here in the Congress. We must put an end to this slashing and burning of America's middle and low-income people and families, and of the most needy members of our society.

For more than a decade, the devastation of the AIDS pandemic has affected every American community and has touched most Americans in some way personally. AIDS cuts across gender, ethnic, racial, and socio-economic lines. The rate of increased infection is alarming. Ryan White CARE funding is essential for AIDS service providers to keep pace with the pandemic to continue and provide effective and cost-efficient HIV-related medical and social services.

Mr. Speaker, according to a recent and very disturbing, New York Times article,

AIDS has become the leading cause of death among all Americans aged 25 to 44. . . this number has surpassed unintentional injury, which dropped to second place in this age group.

Since AIDS was first identified in the early 1980's, more than 440,000 cases have been documented and more than 250,000 AIDS-related deaths have resulted in the United States. More than 1 million people in the United States are believed to be HIV-positive, but have not yet contracted AIDS.

The Congressional district I represent in New York City is among the hardest hit by AIDS. With over 65,000 cases of AIDS—the highest number of any city in the country—in fact, more than 40,000 more cases than the next highest city, New York City has been the city most affected. Additionally, New York State, has approximately 20 percent of the Nation's AIDS cases, 81,386 cases. Ryan White funding is absolutely vital to many New Yorkers living with HIV/AIDS.

But the AIDS crisis goes far beyond New York—Americans in communities across the Nation have felt the effects of AIDS in some way.

Mr. Speaker, the impact of the AIDS epidemic is felt by everyone, from all walks of life. As the number of people living with HIV and AIDS continues to rise and access to private health care remains an obstacle to treatment, Ryan White Comprehensive AIDS Resources Act and Housing Opportunities for People with AIDS funds are more critical than ever. Slashing these programs will interrupt early intervention and health care to thousands of Americans living with AIDS and will merely escalate the pain and suffering that millions of people with AIDS experience.

I call on my good colleagues in Congress to unite against these immoral attacks by the big bad wolf. If we are not careful they will come and huff and puff and blow our houses down. We can not allow our Nation's seniors, chil-

dren, families and people with AIDS to be put out in the streets.

Mr. Speaker, I urge my colleagues to take a leadership role and join me in speaking out and working to oppose these Draconian, and mean-spirited cuts.

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes as the designee of the majority leader.

[Mr. BURTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

THE MORAL IMPLICATIONS OF ASSAULT ON AFFIRMATIVE ACTION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, all of the members of the Congressional Black Caucus are very concerned about the latest development with respect to an announcement that affirmative action and the elimination of all aspects of affirmative action has been placed on the agenda of the Republican Party.

That concern is expressed in many different ways. Several of my colleagues were here yesterday, and they talked about the details of affirmative action from a very legalistic perspective. Several of them are lawyers and they understand the legal wranglings related to affirmative action, some are very familiar with the history of affirmative action laws, and they gave an interesting and useful background on affirmative action.

They make their contribution in their way, and I am, on the other hand, concerned about affirmative action from another point of view, the moral implications of the assault on affirmative action that is being projected by the Republican Party, by their leadership.

I am concerned about the fact that when you couple an assault on affirmative action with the nastier parts of the Contract With America, and the Contract With America is just beginning to manifest itself in all of its barbarity, and I use that word deliberately, because the aspects of the Contract With America which are going forward now have to do with taking school lunch programs away, limiting school lunch programs, and denying the entitlement to a free lunch to children in need.

□ 2145

It has to do with rescissions which are taking place to wipe out the summer youth program, one of the most practical, successful and much needed programs that we have, employing teenagers, young people during the

summer. There are all too few jobs already, but in the rescission process the committees have begun to eliminate, first they want to water down this year's program and cut that drastically and then they want to eliminate it completely and on it goes. There are education programs, child nutrition programs, programs that are very vital to poor people and certainly vital to the people in my district that are being cut.

And this is just the beginning. It is the beginning of a process of finding in the budget the money needed to give a tax cut which would go mostly to people who are very well off. It is a revision of a process of finding money in a budget in order to increase the defense budget, and if there is any part of the budget that does not need to be increased, certainly it is the defense budget. I think a recent poll shows that the American people in their great wisdom, the common sense of the American people is astonishing, they have in a poll indicated, a large percentage, I think about 60 percent indicated that things should stay the way they are. I do not want to quote the numbers but the overwhelming percentage of people who responded to the poll felt that things should at least stay the way they are or there should be a cut in defense.

The smallest group of people who responded, the smallest category of people who responded were people who wanted the defense budget increased. So the leadership of the majority party here is out of step with the common sense and the wisdom of the American people. But their being out of step and having the power, of course, they have the votes, does not mean they are going to cease the folly of increasing the defense budget at the expense of much needed programs like school lunch programs and summer youth employment programs.

So, I am very troubled by those cuts, and those cuts are not a game of Republican versus Democrats. The Republicans make one move, Democrats make another. These are cuts which go to the heart of what the Federal Government is all about in terms of providing a safety net for people who are most in need.

We are going to snatch away this safety net, we are going to kick people out into the streets. We are going to do some horrendous things in an attempt to balance the budget and in an attempt to find money for greater defense expenditures and for a tax cut for people who need a tax cut least of all.

Those are terrible prospects. But when you add to that an announcement that we are going to have an assault on affirmative action, we are going to make affirmative action a major issue in the coming 1996 election campaign, it means that the Contract With America authors and the people who signed the contract, the leadership promoting the contract, the people who are pushing these tremendous domestic cuts

and the defense increase, they are not willing to take their package and go to the American people and say well, this is the way we see it, we agree, we disagree with the Democrats, we are in charge now, we are able to push our program through and, therefore, you pass judgment on it. I think it would be fair, although I profoundly disagree with the tremendous budget cuts and I disagree with the thrust and essence of the Contract With America, I still think it is a legitimate opposition program, and the opposition, I call them the elite, oppressive minority. The elite oppressive minority, should take their program to the people and have them pass judgment on it at the ballot box.

But when the elite oppressive minority decides that it wants an insurance marker, it wants to guarantee victory by moving into another arena, by attacking affirmative action, already we have an attack on immigrants, now we are going to add an attack on affirmative action, we are adding something to the brew, we are pouring poison into the situation, and saying that we are going to resort to exacerbating racial tensions and playing on racial fears in order to win the 1996 election. It is race-baiting, it is the oldest trick in the world. It is scapegoating and it is going to be, you know, Willy Horton to the maximum degree.

We are going to have a situation where people do not think about the budget cuts. They will not think about the merits of the Contract With America. It will just be gut reactions to a racist appeal. That is the way I see the announcement that affirmative action is now going to be a major target between now and 1996.

I hope we do not go that way. I hope that the leadership of the majority party here in the Congress will reconsider. I hope that we will go forward and have a contest in 1996 which will be on the merits of the programs offered by the Contract With America, authors and signers versus the Democratic Party, its President, the opposition here in Congress, and that we will have a decent election based on what is best for America and having people make that choice.

I do not think we will have a decent election. I think we will go down the road toward disaster if we wage a full-scale attack on affirmative action and we make the next election a racial referendum.

It is something that is very tempting. The easy road to power or the easy road to a consolidation of power is very tempting. The people who are the cause of the problems in Yugoslavia, the Serbians, the Serbians who put in motion ethnic cleansing, they wanted an easy road to power, the easiest road to power to exacerbate and excite people's racial fears and to pray on racial tensions.

The people in Rwanda, the Hutus, the Hutus sought an easy road to power by exacerbating the differences between

the two tribes and the Tutsis. All that started as a matter of political expediency and they were using it to consolidate power. It got out of hand and it became such a frenzy until it spilled over into the streets and people went out and massacred people. It is estimated that 500,000 people were massacred. The Hutus massacred 500,000 Tutsis. It all started with some egomaniac in power, politicians in power who wanted to consolidate their power and made an appeal to the worst in people in order to do that.

You might say well, your exaggerating, that could never happen here. No, it could not happen here, overnight certainly, and it will not happen here between now and 1996. But whenever the easy route to power is taken, whenever you choose to play on racial fears, there is no way you can guarantee you are going to be able to turn it off when the time comes to turn it off.

The appeal to racial fears at this point in our history I think would be a disaster, and I want to take the time to make my appeal. You know, 100 seems to be a magic number, so if I have to come here to the floor 100 times to make 100 appeals for justice and 100 appeals for us to turn aside from this course of action, then I will do that because I think it is just that important, I think it is just that dangerous that the movement toward racism in our next election will set in motion something that would be disastrous for our country.

At a time of maximum prosperity in the richest nation that has ever existed in the history of the world, as we move into the 21st Century Americans must not yield to destruction of our society through the use of a barbaric political process. If we cannot do it any other way we certainly should not resort to playing on racial fears.

When you combine an assault on affirmative action with a Republican Contract With America, you create a kind of scorched Earth approach to the reordering of our society. Government by an elite minority, for the benefit of the elite minority, becomes the driving philosophy. We would have to call it the way we see it. I do not think it is exaggerating to say that we have a high-technology, a group that has a great knowledge of high-technology, and they will use electronic witchcraft to promote this oppressive elite minority. And now they want to spread, use that power to spread a racist, anti-immigrant brew throughout the minds of America, to poison the minds of the American voters.

The goal of this oppressive minority is to turn democracy on its head by stampeding the majority into voting against its own interests. Assaults on affirmative action, attacks on immigrants, these are actions which are the key elements of a stampeding kind of approach to politics. You do not want people to think, you would want them to feel a gut reaction and act as a result.

I think all poor and disadvantaged people whose needs inconvenience the needs, and the programs which serve poor and disadvantaged people inconvenience this oppressive elite minority, I think they become targets as a rule of wanting to get them out of the way, they become the targets of a rather ruthless set of actions.

The rescissions that have been announced, the bills that are moving through committees that block grant school lunch programs, and block grant child care programs, and block grant child nutrition programs, and WIC Programs—block grants become a kind of a swindle. We know from experience that when the Federal Government moves from entitlements at the Federal level to block grants at the local level it means that you are setting up a situation where the responsibility to provide for all of those in need will be taken away. You do not have to have an entitlement. If you have a block grant, the State will spend as much money as it has and when the money runs out, no matter how great the need is, it will not spend any more, and the people will have to do without, whether it is hungry children or people in need of child care or any other block-granted function.

So the block grant is not just an administrative move, it is not an administrative convenience. The block grant is a swindle that is perpetrated. You start the block grant with an amount of money at one level and you stop. And as the years go by, the block grant is cut. It automatically is cut because no money is added to it to keep up with inflation, and then, of course, sometimes the Committee on Appropriations actively begins a process of cutting. This is the history of block grants, so we have no reason to believe that block grants are not just another way to swindle people out of their entitlements. People who are in great need will be forced to go without as a result of the block grants being instituted.

The most specific and the most intensely pursued target of the oppressive elite minority are not just the poor and the disadvantaged. That in general is the way this is being approached, is that all poor and disadvantaged people become obstacles in the way. Their needs inconvenience this oppressive elite minority that is in charge. But among the poor and the disadvantaged, the minority that becomes the group that becomes the biggest target and the most intensely pursued target becomes the American of African descent. The Americans of African descent, the people who are the descendants of slaves, are in a very special category. It is not that we are the only beneficiaries of affirmative action; affirmative action, of course, benefits a lot of other people other than African-Americans. You know, women are the beneficiaries of affirmative action, Asians, Hispanics, a number of people benefit from affirmative action.

□ 2200

And they will be hurt in the process. But I think the drive and the focus and the intensity of the move is focused on African-Americans, and that is the way we see it, and that is why we are responding with such intensity.

It was the African-American population, the descendants of slaves, who fought the battles during the civil rights era during the fifties and sixties, and we fought for the Civil Rights Act, the Voting Rights Act. We fought for set-asides. We have pressured and pushed and gotten Presidents to issue Executive orders on affirmative action. We have been on the cutting edge, and we are the driving force, so any attempt to wage an assault on affirmative action is an assault on African-Americans, people of African descent. That is the primary thrust of what is happening here.

The Contract on America, which started by focusing on the destruction of all poor and working families, has now added an assault on affirmative action to its blitzkrieg. This new aggression makes it crystal clear the primary objective, the No. 1 target, of the oppressive elite minority are African-Americans, the descendants of slaves.

If you crush the African-Americans, if you crush the core of the resistance to the planned tyranny of the oppressive minority, this is the merciless logic, crush them first, this is the merciless logic of the opposition, and when the blacks are silenced, the other components will fall in line.

Some people will acquiesce after the blacks are silenced. They will acquiesce with a guilty conscience, but they will acquiesce. Many others will find it convenient and comfortable to be bought off or sell out. This is a scenario we see.

In the 1996 election, they will turn the election into a racist election. You stampee people into a situation where you consolidate power not on the basis of the programs that you have come forward with or your ideology or your achievements, but on the basis of deep-seated primitive racial fears.

While others stumble about in confusion, I think African-Americans clearly see what is happening. We see the enemy converging down upon us. Our intense reaction is based on the fact that we understand. We are not going to wait until it unfolds, and, you know, the details are in place. The very fact that at this particular moment you get an attack on affirmative action, a concerted assault, tells us a great deal, and we understand the implications.

The Contract With America is a contract against us to begin with, and then the assault on affirmative action continues that attack. The combination of budget cuts and assaults on affirmative action are definitely designed to bombard the African-American community until it becomes a kind of political Hiroshima, beat it to death. The goals of this oppressive minority, the goal of the oppressive elite

minority which is in charge now, is to paralyze us and incapacitate us. They want to bring African-Americans to the point where they are incapable of ever counterattacking.

We cannot finish the fight that we have begun for full rights, and we cannot pursue the fight that we started for equal justice if we are the subject of this kind of ruthless attack in 1996. The goal of the ruthless elite, this oppressive minority, is to terminate our vanguard role, to destroy our leadership position in the struggle for justice and opportunity, which African-Americans have traditionally occupied.

The situation is that serious, and I would like to plead to the leadership of the Republican Party, the leadership in control of this House, to drop their agenda for the assault on affirmative action. I would like to plead for a different approach to winning the 1996 election in line with the merits of your case and not igniting a racial war that none of us will be able to control.

I would like to also, if you are determined to pursue affirmative action and the assault on affirmative action, I would like to also make an appeal for you to take a close look at why we need affirmative action. Affirmative action is a set of activities and programs which are designed to, in the present again, compensate for past wrongs. Affirmative actions are put forth by nations and groups and not be individuals.

Individuals who are living now may not have been guilty of the wrongs that led to the implementation of affirmative-action policies, just as the average German alive today is not in any way guilty for what Hitler did in World War II. Nevertheless, his nation is responsible, and his nation pays reparations to those people who were victims. The Nation is a continuing entity in the same way America, the United States of America, is a continuing entity, and we are responsible for the wrongs that were done to a group of people, the African-Americans who were brought here against their will and thrown into slavery.

I appeal to all concerned to take a hard look at slavery and not make us force the issue of an examination of slavery and what the implications are. We ought to be concerned about what we did to African-Americans. We ought to be concerned about the descendants of the victims of those crimes. We ought to be concerned about the fact that certain people are the descendants of the beneficiaries of the slave industry.

Slavery was an industry, and it went on for 200 years in America. And, therefore, I think, you know, great masses of people were wittingly and unwittingly beneficiaries of the economy that was generated by slavery. It made America richer faster. It built a lot of the institutions that we have, not just in the South. They hang slavery around the neck of the South and leave it there, but in New York City we had

one of the largest slave ports in the country, I think the third largest place where you had slaves brought in in the early days of America, which was New York City. It was a port where slaves came in in large numbers, and New York City was built by slave labor.

Large numbers of slaves were imported into that area. So it is not just one area of the country. It is the whole country benefited from the slave industry.

I think it is fitting and proper to discuss slavery and the crimes involved in slavery as we look at affirmative action. Affirmative action is designed to correct past wrongs. Past wrongs, the most immediate past wrongs were 100 years after the Emancipation Proclamation and after the 13th amendment when we had a long history of discrimination, oppression, Klu Klux Klan, lynchings and all kind of things happened for a whole 100 years after slavery was ended.

But before that, you had 200 years of slavery.

When you put it all together, there is a need to do something, to atone for those sins and to compensate for those crimes.

Slavery in America lasted for more than 200 years. The slave industry, as I said before, encompassed more than half the world. It was not just America. It permeated the lives of the citizens of all of the nations of Europe, Africa, South America, North America. Slavery was a dominant driving force at the heart of the economy of the Western World for more than 100 years.

At that period of history the slave trade and slave labor was far more valuable than gold, diamonds, oil. Slave labor was a primary means for the accumulation of vast amounts of capital. Slavery was a monstrous, enduring, all-encompassing, overwhelming crime, and it occupies a unique place in human history. In duration, no other crime of that kind against a group has lasted for so long, more than 200 years, that America's slavery lasted.

In volume, the number of people involved and the amount of human misery generated and the amount of murder and other phenomena, torture, not other phenomenon matches this global crime.

Now, as I spoke here last week, I mentioned in the process that merely crossing the Atlantic, large numbers of slaves perished, and I started that as an introduction to my discussion of slavery as a background for justifying affirmative action.

Large numbers of people perished crossing the Atlantic. It was just a figure that I thought was interesting. I mentioned that 200 million people perished in the Atlantic slave crossings, because that is a figure I have heard repeatedly, given by certain historians and lecturers, and this aroused a lot of interest.

So I want to just take a moment before I continue to mention the fact that I had gotten a large amount of in-

quiries and a large amount of comments about the statement about the large number of people who had perished in the crossing, just crossing the Atlantic, a large amount of slaves.

There were people who called who merely wanted to use racial epithets and let off steam, and I want to tell them I do not appreciate that. I prefer for you to keep your dirt at home. We are not interested in your racial epithets.

You know, other people who called seriously wanted to know, you know, how such a large figure was generated. On some well-known TV show, they ridiculed the number and talked about it and generated a lot of interest, and I am glad that we started a dialog about slavery.

□ 2210

I am glad that the process has begun. The figure of 200 million certainly was questioned. I got serious people, some historians and experts who were upset about the fact that that figure was being used. But they also, some of those same experts who called and discussed it, said that they understood where I got the figure from, that there are a set of people, historians and experts on the subject, supposed to be experts, who take the position that the number was that high. In fact I really read it as recently as last June in a New York Times column, if you want to know where the figure came from.

It is not just from the column that I referred to, I had heard it many times from various people whom I heard talking. I did not know there was so much controversy. I did not even think about the fact that the figure seems to be a little large due to the fact that the capacity of the slave ships was limited and all the other things. I just have heard it mentioned so many times I recited it as a fact.

In this New York Times column that appeared on June 19, 1994, just this past summer, there was a statement which explains some of what has been happening. It let me know that among the people who are supposed to know the subject very well, there is a lot of disagreement.

I will read one quote from the article. It says,

Estimates of how many blacks were lost at sea in roughly 400 years of the slave trade in the Americas vary widely. Some place the figure between 100 and 200 million; others say perhaps as many as 14 million. Whichever is true, many historians note that the number of enslaved Africans who died at sea was so great that sharks learned to follow the slave routes because they fed on the bodies thrown overboard.

That is an article in the New York Times, June 19, 1994, page 25, column 1. It is a longer article about the whole matter of slaves who perished at sea.

But among the historians, there is a great deal of controversy. I do not want to get into the middle of that. Some say one of reasons you have such wild estimates, differences are so great, is that some historians and ex-

perts are estimating the number of people who were lost due to slavery over a period of 400 years, not just the 200 years that the North American slave trade existed, but the period of slavery extended over 400 years. They are not looking at just slavery as it affected North America but also the slave ships that went to South America, the Caribbean, and all over. That is how they get some of the divergence in their totals, the differences in their totals.

They also say many experts refused to accept the records that are available and that the citations of some historians who have looked at the record that are available from the British and the French, Portuguese and the Spanish, that these records are a joke, that they are not reliable, that slavery has always been a kind of a bandit underground operation. Even during the period when it was regulated—most of the time it was not regulated—but during the period when nations attempted to regulate slavery, the records were ridiculous because they made rules and nobody checked or tried to enforce them.

The British, for instance, had a rule that any slave ship could only carry slaves in relation to their tonnage. It could only carry a certain number of slaves.

The size of ships determined the number of slaves it would carry. Therefore, the number of slave berths on the ship had to be in accordance with the tonnage of the ship. Immediately, it was noted that most of those same ships, they doubled the number of slaves that they carried regardless of the berths. They crowded, put two people into every berth for one. That kind of practice was a regular practice. They noted that when they recorded their cargoes, they just told the lies and they did not record their cargoes. Sometimes when they arrived in parts, what they recorded as the number of slaves on board had nothing to do with the real number, and some ships off loaded slaves before they got into ports where they kept records. Pirates took ships, in many cases, and did not obey any regulations, and they landed cargoes in various places. On and on it goes.

There were so many holes in the recordkeeping until these people have estimates that are far greater than most conservative estimates say, the records were ridiculous and could not be relied upon. That was the matter of legal slavery, there was illegal slavery.

After the practice was outlawed, there was no attempt to regulate it, it was just outlawed, it went on for many, many years, decades after it was outlawed. There were no regulations, and nobody attempted to abide by regulations. So you have wildly gyrating numbers.

I would say this is a debate that I will leave to the historians and experts on slavery. I did not mean to get off on

that tangent. I think I will stop counting at 10 million or 20 million. You know, when you are dealing with human beings, human suffering, human murder, 10 million, 20 million, that is enough for me. I will not argue about the rest.

My example was that here was such a horrendous crime, starting with the slave trade and the delivery of the cargo from one continent to another, that we ought to take a close look at it as we deliberate about affirmative action.

It was one of the most cruel and inhuman tortures ever inflicted on mankind, this transport from Africa to New World in packed slave ships. It was only the beginning of the kind of torture and pain and suffering that the slaves endured. When they arrived at the markets in America, of course they were sold at auction, they were declared property of the slave owner, and once that happened, the daily lives of the slaves in America was as bad as any torture that the devil in hell could heap upon the backs of the worst sinners.

In their daily routine, slaves were forced to endure hunger, filth, rape, torture, murder. The life of a slave was often treated with less sanctity than the life of a horse. Day after day, week after week, month after month, year after year, more than 200 years in America, the crimes against slaves went on and on. It was a unique kind of human destruction. The object of the slave industry was not to incinerate or destroy the body of the slave, the object of America's slavery was to obliterate the soul of the slave. They wanted to keep the body, make it a more efficient beast of burden, but they wanted to destroy the human soul. Slave owners were seeking to breed, to condition, to train the world's most efficient beast of burden, enhance and build up the slave body but destroy and obliterate the slave's soul. This was the monstrous mission of the slave economy. It was illegal to teach a slave to read. Strict punishment was inflicted upon anyone who tried to teach a slave to read.

No sense of family was permitted to slaves. Slave children were regularly sold away from their mothers. Most slaves were never allowed to know who their fathers were. And on and on it goes.

I am not interested in giving a lecture on slavery. What my concern is is that as we look at affirmative action, the set-asides, all the kinds of things that we have done in the very recent past, in the last three decades, in the last three decades we have taken some steps to begin to deal with the impact, the fallout, the results; some of the results, that is, of what was done during that period.

□ 2220

This is only in the last three decades. So after three decades of taking steps which were positive steps, removing the barriers of segregation, establish-

ing set-aside programs, establishing affirmative action programs, promoting diversity in the marketplace, we have done some wonderful things in the last three decades. But we had two centuries of the institution of slavery. After that 100 years, another century of oppression.

My point is, we as Americans, black and white, should take a closer look at the origin of the wrongs, the nature of the wrongs, the nature of the crime, the nature of the since that affirmative action is seeking to overcome. We should take a closer look and we should perhaps establish a commission to look at slavery and its implications, to look at maybe the need to go beyond affirmative action, do something different from affirmative action, maybe reparations. There is a bill that is introduced every year by my colleague, JOHN CONYERS, which deals with setting up a commission to study reparations, just to study the possibility of reparations for the descendants of slaves because the descendants of slaves are descendants of victims. Maybe we should take a close look at that. Maybe we should do that in some kind of reasonable way and not shout at each other about it. If we have an assault on affirmative action on the one hand and demagogues in the streets trying to arouse people's racial fears, then we will have to answer with other shouts and screams about the victimization and the cruelty, and I do not think it is the best way to approach this. Let us look at it in a reasonable atmosphere. Let us look at it with a commission. Let us take a look at whether affirmative action meets the need.

The President has said he wants to review affirmative action programs. My answer to that is, good, my response to that is, good, Mr. President. Review affirmative action programs, and you may find there is a need to strengthen many of them or you may find that many of them are not adequate to accomplish the purpose we want to accomplish and we want to do something stronger, something beyond the affirmative action.

I hope that we could enter that kind of dialog and could have a look at affirmative action in a positive way instead of the use of affirmative action as a weapon, the use of affirmative action as a short cut to power, the use of affirmative action to poison the atmosphere, the use of the assault on affirmative to whip people into a frenzy and to have American voters stampede on election day against their own interests.

Let me just take one more step that I am sure will not be a pleasant one for most of you. In examining slavery, you are going to find many, many very interesting things. Maybe we ought to have parents teach their kids about slavery and not have them learn about it in the streets because there are horrors that need to certainly be discussed in gentle tones. We are very concerned

at this point, some people have made us very concerned about teenage pregnancy. Teenage pregnancy is always an evil in my opinion. It is a double evil because you destroy the life of a child who is the mother, not prepared for that kind of responsibility, and you certainly destroy the life or run the risk of destroying the life of the child who has to be raised by a child. No one would like to see teenage pregnancies reduced as much as I would or people who have large numbers of pregnant teenagers in their districts. No one would like to see welfare not be used as a tool to perpetuate teenage pregnancies. I think that there have been some abuses in this area. There is a need to take a hard look at it and to approach it in a reasonable manner and try to do the things that are positive to end large numbers of teenage pregnancies.

I think that the wrong way to approach it is to demonize teenage mothers and make them all monsters, teenage mothers suddenly become monsters and some people sort of imply that it is a threat to the moral fabric of America, these teenage pregnancies. I think that there was a time when teenage pregnancies were a threat to the moral fabric of America.

I am just going to close with an example of the kind of way in which teenage pregnancies were once a threat to the moral fabric of America. During slavery, teenage pregnancies were promoted by slave owners. During slavery, it benefited the industry to have teenagers become pregnant as fast as possible. During slavery, every girl who was a slave was expected to become a mother as fast as possible.

The horrors of this need to be considered. We had a threat to the moral fabric of the Nation. We should be thankful that we ended slavery. We should be thankful that there was an Abraham Lincoln. We should be thankful that there was a 13th amendment, the Emancipation Proclamation. We should be thankful that we, in 1995, are out of all of that grotesque, those grotesque practices, because they were horrendous and unbearable and it was a threat to the Nation.

But the people who are in control of the present society and who determine what happens to teenage mothers in many cases need to hear that they are in control. If teenagers had some hope, if teenage males as well as teenage females could look forward to a future where a job was possible, if they could look forward to going to college, those who have what it takes and those who qualify, that they are going to be able to get into college without having to have that determined about whether or not their parents have money, if they are going to be able to enjoy the benefits of the Pell grants which are being threatened, enjoy the benefits of certain other higher education programs that we have right now which are being threatened by the budget cuts, if they

are going to be able to look forward to getting jobs when they come out of college because we have an economy which is doing the things necessary to keep the quality of life at a certain level and, therefore, you need people for that purpose, then we would have a different story in terms of teenage pregnancies, if young people could look forward to a better life.

There is a great concentration of teenage pregnancy among black youth, black teenagers. But I assure you, just like every other social ill in America, if we do not attend to it, if we do not provide some hope for black teenagers, the same kind of problem will drift into the white community and the other ethnic groups. It will result in the same, it will have the same result. No hope, an economy which offers no hope, a world which does not care about allowing people to develop to their fullest capacity, that will produce the same results in any ethnic group eventually.

But the present situation that we control, we are not providing any jobs. We have just taken steps to cut off teenager summer jobs. The Department of Labor has just transferred from the category of jobs for urban youth, they have transferred that money, large amounts, into a category for displaced workers. Displaced workers need it. We ought to have the guts to go at the appropriate amount for displaced workers and not take the money away from teenage youth in the cities to go to displaced workers or anybody else. All of these policies add up to a control of the economy, a control of the society which determines the lives of these teenagers.

In a less direct way, slave owners determined the lives of teenagers. Slave owners had direct control of the life of their slaves. They had direct control of the lives of the teenage girls. And here is how they behaved. And here is something we still, a crime we still have to atone for.

"When a girl became a woman"—I am reading from a book called *Bullwhip Days*, "Bullwhip Days, the Slaves Remember." It is an oral history and *Bullwhip Days* was compiled by the Federal Writers Project. During the depression, the WPA funded writers to do projects so the Federal Writers Project went out and they interviewed slaves. They determined that there were a limited number of slaves who still were alive. People who had been born slaves, lived as slaves. They went out and they interviewed them. They recorded the interviews. And then the results of those interviews, some of those, these are excerpts that were taken from those interviews of actual slaves. So I am going to read in the next few weeks from *Bullwhip Days*.

I am just going to read a small section of it today dealing with teenage pregnancy. "When a girl became a woman," this is the voice of a slave talking, "when a girl became a woman, she was required to go to a man and be-

come a mother. The master would sometimes go and get a large hale, hardy Negro man from some other plantation to go to his Negro woman. He would ask the other master to let this man come over to his place to go to his slave girls. A slave girl was expected to have children as soon as she became a woman. Some of them had children at the age of 12 and 13 years old. Negro men six feet tall went to some of these children."

Slave masters were in control of the lives of the teenagers. Part of the industry was to make the teenagers pregnant.

□ 2230

That was from a slave named Hilliard Yellerday.

From the voice of Hannah Jones, Hannah Jones talks in very crude terms:

Ben Oil had a hundred niggers. He just raised niggers, on his plantation. His brother-in-law, John Cross, raised niggers, too. He had a hundred and twenty-five niggers. He had a nigger farm. His older brother-in-law, old man English, had a hundred niggers. Dey all hes' had nothin' else but niggers.

That was what their business was, raising niggers. Hannah Jones.

Lewis Jones, the voice of Lewis Jones:

My mammy am owned by Massa Fred Tate and so am my pappy and all my brudders and sisters. How many brudders and sisters? Lawd A'mighty! I'll tell you, 'cause you asks, and dis nigger gives de facts as 'tis. Let's see; I can't lect de number. My pappy have twelve chillun by my mammy and twelve by anudder nigger, name' Mary. You keep de cout. Den, dere am Lisa. Him have ten by her. And dere am Mandy. Him have eight by her. And dere am Betty. Him have six by her. Now, let me 'lect some more. I can't bring de names to mind, but dere am two or three others what have jus' one or two chillun by my pappy. Dat am right—close to fifty chillun, 'cause my mammy done told me.

"You've got to understand, the master told my pappy that he is the breeding nigger." He is the breeding nigger. Lewis Jones.

Finally, I close with John Smith, another slave. The voice of John Smith:

My marster owned three plantations and three hundred slaves. He started out wid two 'oman slaves and raised three hundred slaves. One wuz called "Short Peggy," and the udder wuz called "Long Peggy." Long Peggy had twenty-five chilluns. Long Peggy, a black 'oman, wuz boss ob de plantation. Marster freed her after she had twenty-five chilluns. Just think o'dat—raising three hundred slaves wid two 'omans. It sho' is de trufe, do.'

And that was the voice of John Smith.

Every time a teen-aged daughter or granddaughter or great granddaughter of these two women became of age, they had to become pregnant and have children as part of the slave industry.

I think pregnancy, teenage pregnancy under those conditions, was a threat to the moral fiber of America. If it had continued, of course, this Nation would have gone down, down, down,

and not been able to supply the moral leadership for the free world.

We ended that kind of condition, but the results of it en masse, it was not just done in this one plantation. It was all across the South, breeding farms, and nobody ever talks about this.

It is just one aspect of the crime of slavery, one aspect that needs to be brought to light, and you can take a look at it. We may take a look at rape, we may take a look at torture, we may take a look at murder, we may take a look at all the efforts made to deny the slaves the right to learn to read and write even after they were freed. We may take a look at the Ku Klux Klan. I hope we do not have to take a look at all these things in defense of affirmative action, to prove how great the wrong was.

But if affirmative action and programs like affirmative action exist to correct past wrongs, then people need to understand how deep and how broad and how ugly those wrongs were as part of the discussion.

If we are going to have a discussion to eliminate and erase, if we are going to denigrate and castigate people who are the beneficiaries of affirmative action today, then take a look at their ancestors and what they had to go through. They are descendants of the victims, and there are other people who are descendants of the beneficiaries. People benefited. They got rich from slavery. The economy boomed in many places. The descendants of the beneficiaries now want to further punish and persecute the descendants of the victims.

This is an odd way, perhaps you think, to approach the discussion of affirmative action. But I think that it has to be done if we are not to commit a sin, an error, a set of crimes greater than even slavery was.

If we set off racial wars, if we play on racial fears, if we heighten the race fears in the country just to win the next election, we may set in motion something we can never stop.

In one election we had Willie Horton, now we are going to have an assault on affirmative action. If they keep working these appeals to race, where do we go from there?

We have seen what happened in Serbia when people played the race card. We have seen what happened in Rwanda when people, leaders, demagogues played the race card. We have seen what happened in Germany when demagogues played the race card, the religion card, sent one group off after another in a scapegoating process.

That is the direction we are headed in, and some of us are alarmed, so alarmed that we come to you with these very unpleasant discussions. We need to take a look at what wrongs were committed and be chastened by that as we go forward.

Let's stop the people who want to destroy America with race-baiting. Let's stop the assault on affirmative action now.

OUR DEMOCRACY DOES NOT ADDRESS OUR MOST SENSITIVE AND IMPORTANT ISSUES

The SPEAKER pro tempore (Mr. FOLEY). Under a previous order of the House, the gentleman from Vermont [Mr. SANDERS] is recognized for 60 minutes.

Mr. SANDERS. Mr. Speaker, I am delighted to be joined by Representative MAURICE HINCHEY of the 26th District of New York State.

Mr. Speaker, I think that one of the problems in our democracy is that we have a tendency not to address some of the most sensitive and important issues. We seem to get a little bit consumed with O.J. Simpson and soap operas and the baseball games and so forth. Yet the country faces enormous pressures, enormous problems, and we really do not get into them very often in any great depth.

Let me begin the discussion with Representative HINCHEY by raising a question, if I might, and, that is, many people in this country are concerned today about the degree to which in fact this Nation remains a democracy in which ordinary people are able to control their lives and control the future, as opposed to big-money interests which have such a profound impact on the political and economic life of this country.

Representative HINCHEY, do you have some thoughts on that?

Mr. HINCHEY. I think it is obvious that we still have a democracy electorally. Everyone is encouraged, they are allowed and encouraged to participate in the electoral process. But more and more we are seeing a decline of economic democracy, and I think that the concentration of wealth in the hands of fewer and fewer people is becoming more apparent almost yearly. I think that that has been particularly so over the course of the last 20 years. We have witnessed the decline of the middle class. We have witnessed a growing underclass in America, and obviously the concentration of wealth in the hands of fewer and fewer people.

Also, the concentration of the ability to distribute information, the ownership of the instruments of communication in our society has become more and more concentrated, particularly over the course of the last decade.

For example, we have had laws in this country up until fairly recently which said that if you owned a major newspaper in a particular city, you were not then to own a major television station, a radio station.

The idea behind that, of course, was to prevent single individuals or single corporate individuals from controlling the means of communications or the means of distribution of information in a particular media market.

That, unfortunately, was done away with in the decade of the 1980's. So what we are seeing now, and we have seen evidence of it here, I think, in this Congress, the relationship between some mass media moguls and the

Speaker of this House currently, the concentration of the ability to distribute information in the hands of fewer and fewer people, and I think that is a means of eroding democratic principles and the idea of democracy.

Mr. SANDERS. Let me ask you, you have been here now for over 2 years, I have been here for over 4 years. Is it your impression that if you were to turn on the television tonight and watch CBS or NBC that you would get an accurate understanding of, in fact, what is taking place in the U.S. Congress?

Mr. HINCHEY. No, I don't think so. And I think that that is very unfortunate.

The abdication of responsibility by the major networks to provide real information and real news is evident certainly in the period of my adulthood. I can recall a time when news broadcasts back in the 1960's and even in the 1970's were real, material broadcasts.

The networks competed with each other in a way to try to distribute the best quality information through their news vehicles and a variety of important news items in their major newscasts, in the evening, and then late at night.

We have seen recently the transformation of media news into more of a tabloid kind of presentation of information, sort of titillating things, having to do with a variety of things that do not really relate to the most important aspects of what is occurring in our country, politically, culturally, and economically.

□ 2240

Mr. SANDERS. If I may. There are some writers who have pointed out that increasingly the media, the corporate media, is owned by fewer and fewer larger multinational corporations. It is of concern to me, for example, that NBC is owned by the General Electric Corp., a company which is a major manufacturer of military hardware, a company which has a very poor labor relations record, a company which for a period of time under the Reagan administration paid very, very, little in taxes. The Fox network is owned by the huge international media corporation run by Rupert Murdoch who runs and controls media in several countries around the world.

I think there is increasingly a danger not only in the United States but around the world that the people are getting their information from fewer and fewer people who will not tell people I think the truth, but will use their ownership of the media to protect their own private interests.

As the gentleman knows, there has been a lot of discussion about the November 8 election in which the Republican Party took control of both the House and the Senate, but what is not often I think pointed out enough is that in that election 62 percent of the American people did not bother to vote. And that all over this country we

have tens and tens of millions of people, primarily working people and low-income people, who are feeling enormous pain these days; they often do not have health insurance, they are working for low wages, their kids are unable to afford to go to college. For the first time in the history of the modern United States their children will have a lower standard of living than they do, yet with all of these problems, people do not go out and vote, because, I think, to a large degree they have given up on the political system, they do not see politics and government as it is presently constituted as a mechanism for them to improve their lives. Is that something the gentleman observes in his district?

Mr. HINCHEY. I think so. I think it is something you can observe, a phenomena that is occurring across America in various places to one degree or another. More and more people are disaffected from the political process because they believe it is irrelevant to their lives, and there are few things that are happening, frankly, in this Chamber on a routine basis over the course of the last couple of months, there are few things that have happened here that are going to make in any way a material difference in the lives of any people.

The kind of activity that has been going on here is not going to create one job, is not going to raise the standard of living of one person, is not going to make a material difference in the lives of anybody in this country, and that I think is very unfortunate.

I think also the assault that we have seen on the public broadcasting system is also one that is alarming, because in the public broadcasting system we have the last vestiges of an attempt by the communications media to really communicate information that is relevant, that is important, that means something to people, and in a very serious way.

Mr. SANDERS. I found it interesting that in the last month, as you know, the Speaker of the House, who is leading the effort to defund public television and public radio, held a fund raiser for his own private television network, and do you recall how much it cost a plate to attend that fund-raiser?

Mr. HINCHEY. I am not really certain but I remember it was an extraordinary amount.

Mr. SANDERS. Fifty thousand dollars a plate. It must have been a really good dinner for \$50,000, but this is money that came from obviously some of the very wealthiest people in America who wanted to give the Speaker and his friends the opportunity to communicate with America, with their particular point of view. But at the same time, by accepting that money, they are in the process of trying to shut down the public broadcasting system. I suspect that that is not just a coincidence.

Mr. HINCHEY. I do not think it is a coincidence at all. I think there is a very direct relationship to that and I suspect there is a very direct relationship between the book contract we have seen and the controversy around that with regard to the Speaker and his relationship to Mr. Murdoch. And it has been alleged there are some of these people who are interested, if they could manage to achieve it in some way, of taking over the public broadcasting system, because as I indicated and I think as anyone who has thought about it for 30 seconds realizes, the public broadcasting system is unfortunately, unfortunately because there ought to be many more aspects of this in American life, but unfortunately the last system that really attempts to communicate anything that is meaningful about what is happening in the American political process, and that is meaningful in an economic way to the lives of the vast majority of the American citizens.

Mr. SANDERS. When I turn on the television and I sometimes go surfing as they say with the flipper and I am amazed that you can have a cable network, not a network but cable system with 20, 30, 40 channels and how little there is of value on any of those stations. We get a great deal of violence, we get our share of soap operas, we get old movies, we get all kinds of stuff, but it is amazing to me how little of television today is actually reflecting the reality of the lives that tens and millions of working people are living. The truth of the matter is in our country today we just do not talk about the pain that so many people are going through, just trying to get through the day.

I think that one of the reasons that so few low-income people participate in the political process is that literally they almost do not have the energy to do it. If you go out and you work for 40 or 50 hours a week, if you have kids to take care of, if you have a car that you have got to keep running, if you have to worry about the electric bill and the telephone bill, you know, you do not have a lot of free time to participate in the political process.

And I think the more that people are hurting, the more they are obliged to pay attention to their own most basic needs and the needs of their families. Meanwhile, our wealthy friends can go flying around the country to go to meetings, they have large staffs of people.

I find it very interesting and very alarming, when you talk about the role of money in politics, just some of the events that have taken place in the last month or two. We talked for a moment about the fact that Mr. GINGRICH was able to have a fund-raiser for his television network for \$50,000 a plate. Several weeks ago the Republican Party had a fund-raiser, they brought people together and in one night they raised \$11 million for the Republican

Party. Senator PHIL GRAMM who is one of the candidates seeking the Republican nomination for President held a fund-raiser, and on one night he raised over \$3 million.

One does not have to be a genius or a great political scientist to figure out why people are throwing so much money at political candidates. They are not donating that money, they are investing that money. They feel that if they can elect certain people, they will benefit from the decisions that those people make once they are office. And I think we are beginning to see that in terms of the Contract With America that we are debating virtually every day on the floor of the House.

Representative HINCHEY, how do you see the relationship between big money and the Republican Contract With America?

Mr. HINCHEY. Well, I think the contract is first of all a very elitist document. It is elitist in the sense that whatever benefits are going to accrue as a result of the passage of these items that are contained in the contract, should any of them actually become law, will accrue to the richest 1 percent or the richest 5 percent perhaps of the American population.

It is also a very radical document. It is radical in the sense that it is a departure in many ways from the historical context of the American experience going back over the 206 years of our history, and particularly over the course of the last 50 years when there has been a concentration and an effort really by both parties, more or less, to try to achieve a greater sense of economic justice and economic prosperity for the vast majority of Americans. Going back to the Eisenhower administration, and even during the Nixon administration, this country continued to make economic progress, and the middle-class people had jobs and had economic opportunity.

□ 2250

That is not part of this agenda. In fact, over the course of recent history, we have seen a loss in the standard of living, a loss of economic opportunity, a loss of availability of jobs, particularly decent-paying jobs that have associated with them the kinds of benefits that we are accustomed to, medical benefits and pension benefits and things of that nature. We have seen a dramatic decline in those jobs.

Mr. SANDERS. If I may, I think the major point that we should be discussing on the floor of this House every single day and that should be discussed at length on the television and on the radio is why it is that over the last 20 years we have become a significantly poorer country, why the standard of living of working people has declined, why the gap between the rich and the poor has grown wider, why we have lost some 3 million manufacturing jobs as large corporations throw American workers out on the street and head to Mexico or to China, why it is that more

and more people lack health insurance or are underinsured, why it is we have that. I wonder how many Americans know this. We have in the United States today by far the highest rate of childhood poverty in the industrialized world. Over 22 percent of the children in America are living in poverty. Many of our elderly people are living in poverty.

The new jobs that are being created are significantly lower-wage jobs than was the case even 15 years ago, especially for the young men and women who are just graduating college. Why is all of this happening?

Clearly those are the issues that we should be discussing, but unfortunately, we spend very little time doing that.

Mr. HINCHEY. I think obviously you are right. These are the issues that concern me, and these are the issues that we ought to be talking about here in this institution, in this Chamber, in this room. We ought to be talking about the economic conditions that are afflicting the American people more and more.

We have seen a stagnation in the standard of living of the vast majority of the American people, and even a decline in that standard of living substantially over the course of the last 20 years, going back to 1973, and especially since 1979, and I think that that is clearly associated with the decline in manufacturing jobs and other productive jobs, manufacturing, construction, the kinds of jobs that add value to material things and, therefore, create wealth. We have lost most of those jobs, many of those jobs, such that only 26 percent of the American work force today is engaged in those productive kinds of activities such as manufacturing, mining, and construction.

When you contrast that with those statistics for other countries, you find that of the major industrial powers, we now have among the smallest percentage of people working in those kinds of occupations, and that is why we have had the decline in wealth and a decline in the standard of living of the majority of Americans.

People are insecure. They do not know if their job is going to be there tomorrow or next week or next month. They worry deeply about the availability of meaningful employment for their children. They worry substantially about whether or not their children are going to enjoy the same standard of living that they have enjoyed, and they fear, in fact, their children's standard of living is going to be less than theirs. That is a dramatic departure from the experience of this country, particularly over the last 50 years since the Second World War.

Mr. SANDERS. In a few moments, I hope we can get to the issue of trade and our current trade policy, because I think that relates very much to the circumstances you are talking about.

Let us get back to the Contract With America. It seems to me that the essence of what the Contract With America is about are several things: No, 1, our Republicans want to provide very, very substantial tax breaks, primarily for the wealthiest people in this country. People earning over \$100,000 a year would get at least half of the tax breaks, and as I understand it, people earning \$200,000 a year or more would get about one-third of the tax breaks. These are the people whose incomes have soared during the last decade, who, in many instances, are already not paying their fair share of tax, but these are the people who are targeted for the major tax breaks under the Republicans.

The second point that I think we should consider in the Republican Contract With America is that these folks who are talking about the need to move toward a balanced budget, balanced budget in 7 years, first, they are talking about huge tax breaks for the wealthy and, second of all, they are talking about a major increase in military spending, tax breaks for the rich and increase in military spending.

Last week we had a rather vigorous debate here right on the floor of the House when our Republican friends suggested they wanted to bring back the star wars program; again, no one is clear about how much more money they want for it. We were not specific about the dollars. I think the estimate is another \$30 or \$40 billion for star wars alone, let alone for some other military programs.

Mr. HINCHEY. It sounds eerily familiar, tax cuts for the very rich, substantial increases in military spending, balanced budget amendment.

In the words of the great American philosopher, Yogi Berra, "Deja vu all over again." It is 1981 all over again. It is the same prescription that brought us record budget deficits, the same prescription that brought us record debt, the budget deficit, and debt that we are trying to dig our way out of.

The irony is, the inexplicable irony is that the same people in this House who pushed through those budgets in the 1980's that brought us that incredible debt fueled by those budget deficits year after year after year are now going back to try to bring us the same kind of disastrous economic policies now in the last few years of the decade of the 1990's, the same kind of prescription that is going to bring us the same disastrous consequences.

Mr. SANDERS. If the Contract With America is going to provide tremendous tax breaks for the wealthy, and if it is going to provide enormous profits for military contractors and the others who are involved in star wars, and if we are to move toward a balanced budget within 7 years, clearly it does not take a Ph.D. in economics to figure out something has got to give. You cannot move toward a balanced budget, give tax breaks to the rich, expand military

spending without making savage cutbacks in a wide variety of areas.

And in the last week or two, we have finally begun to get some of the specifics as to where those rather savage cuts are going to come.

Do you want to say a word on that?

Mr. HINCHEY. Yes, I would.

But first let me remind ourselves and anybody who might be watching this that during the debate on the balanced budget amendment in this House, we attempted to pass an amendment that would exclude Social Security which would take Social Security off the table, and an attempt to balance the budget so Social Security would not be in jeopardy. That amendment failed here. The majority party in this House defeated that amendment, so we can sense from that where lies one of the sources from which they intend to derive the revenue to balance this budget after the year 2002.

Also, Medicare, the Medicare Program which is a health care program for our elderly citizens, the majority leader in the other House of this institution, when he was a Member of the House of Representatives, voted against Medicare. It is no surprise why he is against national health insurance and why he is for the balanced budget amendment today. They are going to go after Social Security. They are going to go after Medicare.

Already we have seen them going after programs that affect the most vulnerable Americans, children, for example. They are cutting away at the school lunch program. There is going to be less availability of school lunches. They want to put it in a block grant, reduce the amount of money that is available for it, and send it down to the States. We know the consequences of that.

The school lunch program is going to be less effective. Fewer children are going to benefit from it. Their learning is going to decline as a result of that. Their health is going to decline as a result of that, and we are going to have a weaker America.

So those are the programs they are after, the WIC program, the food stamp program. That is where they are going to get the money for their tax cut for their wealthy friends.

Mr. SANDERS. That is right. I think we should be very clear about what is going on.

In this instance, we are not being rhetorical or cute by saying that literally we are talking about food coming out of the mouths of hungry children in order to provide tax breaks for some of the wealthiest people in this country, and I think that is, you know, there has been a whole lot of discussion about family values. I do not think that cutting back on school breakfast programs, school lunch programs, and in my State of Vermont, the WIC Program, which is the women and infants and children program by which low-income pregnant women are provided good nutrition and little kids are pro-

vided good nutrition, to eliminate that program and put it into the block grants is, to me, just incomprehensible.

Furthermore, I think, as you know, and I know this affects your district which also has some cold winter as my district does, as the State of Vermont does, last week one of the subcommittees on Appropriations proposed, voted to, to eliminate the LIHEAP program, which is a program that provides fuel assistance for low income people in our districts where the weather gets 20 below zero. This is a serious matter. It is a question of whether people stay alive or not.

Many of the recipients of that program in the State of Vermont are elderly people. So once more, tax breaks for the rich, increases in military spending, and star wars, and cutbacks for the most vulnerable people in our Nation.

□ 2300

Mr. HINCHEY. You are precisely correct. The HEAP, the Home Energy Assistance Program, is a program that assists primarily elderly people. It helps them heat their homes in the wintertime. When you live at the latitude that we do in New York and Vermont, we know the winters get quite cold.

Elderly people are particularly susceptible to hypothermia. It does not have to stay too cold for too long for the life of an elderly person to become in jeopardy and for them to lose that life. So this HEAP program is literally, for people like that a matter of life and death.

In another sense, though, the hypocrisy of the agenda of the majority party in this House is becoming more and more apparent. Their attack on the WIC program, which the gentleman mentioned, is a clear indication of that.

The WIC Program is one of the most effective and efficient programs that we have, domestic programs that we have in the country. It has been shown statistically that for every dollar spent on the WIC Program we spend as a Nation, the American taxpayer saves \$4. How does that happen? It happens in this way: The WIC Program provides nutrition for pregnant women, lactating mothers, and small infants. If a pregnant woman gets proper nutrition during her pregnancy, she is much less likely to give birth to a low-birthweight baby or a child that encounters other postnatal problems. When a child is born of low birthweight or has some other postnatal problem, all of the resources of the medical institution wherein that child is born are brought to bear to save that child's life. That requires an expenditure of ten's of thousands, if not, in some instances, hundreds of thousands of dollars. How much wiser to spend a few dollars to insure good nutrition for pregnant women in this country.

This attack on WIC, mind you, is coming from people who profess to be

pro-life, who profess themselves, sanctimoniously, as the guardians of the infants and small children. While they say that out of one side of their mouth, they are attacking children, pregnant women, and the most vulnerable, and people least able fend for themselves in this society, children, elderly people, pregnant women. Those are the ones they are going after to get the money for their tax cuts for their wealthy friends.

Mr. SANDERS. I think the gentleman is exactly right. He has characterized the WIC program exactly right. It is not only the right thing to do, it is the cost-effective, sensible thing to do. How much more sensible it is to keep low-income pregnant women healthy so they can give birth to healthy babies rather than have them give birth to low-birthweight babies and spending thousands of dollars to keep those babies alive. The WIC program has been shown time and time again to be a very successful and fully effective program.

I must say that to understand fully what goes on in this Congress, we should examine the decency, the propriety of people who contribute or accept \$50,000-a-plate contributions and then go out and cut back on programs for low-income pregnant women and hungry kids.

We have talked about the impact of the Contract With America on the elderly, on children. But there are other constituencies who are also going to be affected by the Contract With America.

One of the areas the contract is pointing its ugly finger at right now is at the young college students in America. Time and time again we hear on the floor of this House, we hear the leading business people of this country, we hear the President, we hear anybody who knows anything about what is going on in the international global economy, make the sensible and correct point that this country will not survive economically unless we have a well-educated workforce.

The competition in Europe, in Asia, against as is very, very powerful. We need to have a well-educated workforce. Everybody agrees with that.

Second of all, what everybody agrees with is that if young people are not able to get a college education, if they simply go out into the workforce with a high school degree, it is increasingly difficult to make a living.

The new jobs that are being created for high school graduates are paying significantly lower wages than they paid 15 years ago.

So, given that reality that we need a well-educated work force, that the jobs out there for high school graduates are low-paying, what sense in the world does it make to be cutting back drastically on the student grants and loan programs that enable millions of middle-income and working-class and low-income families to be able to afford to send their kids to college?

We are talking about cutbacks in the Pell Grant program, cutbacks in the Stafford Loan Program, cutbacks in the work-study program, all of which will make it extremely hard for young people to go to college because the cost of higher education today is very high.

Imagine how difficult it would be if we did not have the Federal assistance which currently exists. It doesn't make a whole lot of sense to me.

Mr. HINCHEY. It does not make any sense. I cannot help but wonder what has happened to the great Republican Party, a party which had care and concern for the middle-class people of this country, particularly. Even Richard Nixon, when he was President, commented on the school lunch program, and he did so by saying that he knew a child would be able to learn much better if he has good nutrition. That child will be stronger, be able to accept knowledge easier, to learn, he will be able to be a better participant in school. President Nixon knew the value of the school lunch program.

In my State, Nelson Rockefeller was responsible for the establishment of the State University of New York. He took a system of scattered and disparate normal schools and small colleges and brought them together in the most magnificent way and created one of the best State university systems in the Nation and one of the best public systems of higher education anywhere in the world. This was done by a great Republican Governor.

Now we found Republicans in this House, the majority party in this House, attacking public education in the way that the gentleman described, hacking away at Pell grants, hacking away at new student loans, depriving more and more people of the opportunity to get a good education.

Back in my State, the new administration in New York wants to raise the tuition at the State university system by over \$1,000, \$1,300. It is going to price out of the opportunity for higher education many middle-income people, concentrated more and more in the hands of wealthier and wealthier people. That is not what Nelson Rockefeller wanted that State university to be. He wanted it there for all people regardless of their income. And this new Republican Party inexplicably has gone far to the right and is destroying some of the basic elements of this society which were created by good, solid, responsible Republicans in prior times.

Mr. SANDERS. It seems to me to be very sad to be contemplating the likelihood, the reality that if these trends continue, that higher education in America, which at good schools today costs \$25,000, \$28,000 a year, that if the Federal Government is not helping out middle class, the working-class families, higher education will simply be an avenue open only to the very wealthy. That seems to me to be a terrible thing not only for millions of families but a terrible thing for this country as well.

Let me shift for a moment. We have talked about the impact of the Contract With America on those families hoping to send their kids to college. What about veterans? I find it interesting and I just this morning actually met with Secretary of Veterans Affairs Jesse Brown, who I think is doing an excellent job in advocating for the rights of veterans, who is deeply concerned about the rescission, the cutback of money already appropriated, which took place just last week, of some \$200 million for veterans already.

□ 2310

He and I think many of us share the concern that next year under the Republican proposals there will be major cutbacks in veterans programs, including programs and money needed by the VA hospitals. It seems to me that we can disagree about the wisdom of this or that war. But if you are going to ask a young man or woman to go to war, to put his or her life on the line, you are signing, talk about a contract, there is not a deeper contract than you can sign. When the government declares a war and says, go out, you have made a contract in perpetuity, I think, with that individual. They cannot do more than put their life on the line. And it seems to me in absolute disgrace that anyone would contemplate, when the elderly now in our VA hospitals who fought in World War II, who fought in Korea, who need the help, to say to those people, we have a real deficit problem here, guys, we are going to have to cut back on your needs. Thanks for putting your life on the line. But now you are somewhat disposable. That seems to me to be very wrong.

Mr. HINCHEY. I think absolutely so. There is no class of Americans to whom we owe a greater debt of gratitude than those who served in the military, particularly during times of conflict, during times of war, when they put themselves in jeopardy, put their lives on the line, were certainly in danger of that at any moment. We need to live up to our responsibilities to our veterans.

The majority party in this House has just slashed away at veterans benefits. Outreach programs for veterans at veterans hospitals are going to be virtually eliminated if we pass what they have reported out of the committee so far. That is just one example of the way that they are striking away at veterans benefits.

But the irony of it is that while they attack the veterans and the benefits and the responsibilities and obligations that we as a country owe to veterans, they wrap themselves in the flag by talking about a constitutional amendment against burning the flag. There was a great British parliamentarian who once observed that patriotism is the last refuge of a scoundrel. I have a friend who says that patriotism is often the first refuge of a scoundrel.

I think that we may be seeing a little bit of that here in this proposed flag amendment, because I think that they are using this proposed flag amendment to hide their real agenda, which is to slash away at veterans benefits, to deprive veterans of what we owe them really for what they have done for this country, and take that money, again, to use it for tax cuts for the wealthiest Americans. It is a scandalous part, only one of many scandalous parts of this so-called Contract on America.

Mr. SANDERS. You and I are members of the Progressive Caucus. The Progressive Caucus has brought forth a number of alternative ideas to the contract, and maybe it would be useful if we talked about some of the ideas and some of the legislation that we are working on.

Recently, as you know, the president has come out to increase the minimum wage. You and I have supported legislation for several years which would raise the minimum wage to an even higher level. I introduced legislation 4 years ago which would raise the minimum wage to \$5.50 an hour. It seems to me that at a time when the purchasing power of the minimum wage today is 26 percent less than it was in 1970, in other words, our low-wage workers are significantly poorer and worse off than they were 25 years ago, that the time is long overdue, that we should be saying that if you are going to work 40 hours a week in the United States of America, you should not be living in poverty.

Does that not make sense to you?

Mr. HINCHEY. It makes a great deal of sense to me. It makes it even more difficult for me to understand how the majority leader in this House can say that he would like to see the minimum wage done away with completely. If he had anything to say about it, that is what would happen. He also said that he would fight with every fiber of his being an increase in the minimum wage.

Well, look what has happened to the minimum wage. The president has proposed a modest increase from where it is now, at \$4.25 an hour, to \$5.15 an hour over the course of 2 years.

If the minimum wage had kept pace with the cost of living in our country over the course of the last several years, it would at this moment as we stand here today, the last day of February 1995, the minimum wage would be more than \$6 an hour. So even what the president is proposing will not take us to where the minimum wage ought to be at this moment, let alone where it ought to be 2 years from now.

The minimum wage is a basic standard from which we attempt to elevate the standard of living of all Americans by placing a floor under the salary that should be paid for someone's labor. What more can a person give outside of family experience to someone else but their labor? They ought to be compensated for that appropriately. And in

this, the wealthiest nation in the world, with the biggest economy in the world, we ought to be able to pay our workers at a rate that will afford them a decent standard of living.

Mr. SANDERS. I think we should point out that one of the additional reasons why we need to raise the minimum wage is that many, many of the new jobs that are currently being created are, in fact, low-wage jobs. They are often part-time jobs. They are jobs without any health care or any other benefits. And it seems to me that if anyone is going to talk about welfare reform or anything else, we must make sure that in this country that those people who are working for a living have the right to live in dignity, have the right after 40 hours of work to keep their heads above poverty.

I think you and I are going to go forward as vigorously as we can to demand hearings here in the House and in the Senate and pass the minimum wage. The President's bill does not go as far as I would like to see it go, but it is a step forward which would impact not only on those workers making \$4.25, but obviously those workers making \$4.50, \$5 or \$5.20 an hour as well.

Mr. HINCHEY. And workers who are making higher levels than that because it will have a tendency to push up the wages of others as well. Because as we discussed earlier in our colloquy here this evening, we have seen the standard of living of Americans not keep pace with the cost of living or advance ahead of the cost of living but actually decline so that people are living today in a more difficult circumstance. The vast majority of Americans are having a tougher time making ends meet, paying the electric bill, as you said before, paying the rent, paying the mortgage, worrying about how they are going to put their kids through school. It is a more difficult proposition today as a result of the declining standard of living and one of the aspects of that is the failure of the minimum wage to keep pace with the cost of living.

Mr. SANDERS. What particularly outrages me is that there is no country in the world where the gap not only between the rich and the poor but between the chief executive officers of the large corporations and their workers is as wide as it is in the United States. The last figure that I saw was that at a time when the CEO's are seeing tremendous increases in their incomes and workers incomes are declining, the gap is now 150 to one. I do not think, you used the words economic democracy a moment ago, I do not think that is what this country is supposed to be. It is not supposed to be an oligarchy. It is supposed to be a country in which we have a solid middle class where people who are working for a living are able to earn enough money to pay the bills and to raise their kids with a little bit of dignity.

I think we should also point out, because the media does not do this ter-

ribly often, that one of the reasons that European and Scandinavian companies are coming to the United States today is that they find in America today the opportunity, unbelievable as it may sound, to hire cheap labor. For the same reason that American companies go to Mexico and China, some of the European companies are coming to America where you can get skilled, hard-working people who will work for 7 bucks an hour, \$8 an hour, with very limited benefits. And clearly in Europe, workers earn a lot more than that.

I think another point that I want to make, there was an article in, I think it was Newsweek recently, maybe it was Time, where they talked about the stress that the average American family is under. People are working longer and longer hours, having less vacation time. I think that is an issue that we should address as well.

Mr. HINCHEY. Well, I think it is very clear that the working conditions here in the United States have deteriorated. The quality of the jobs is not keeping pace with what it ought to be. The level of benefits are far lower than they are in European countries where in many European countries it is customary for a person working in the first year to get 4 weeks vacation and some countries, Australia, it is even 6 weeks vacation. But here in the United States it is, you are lucky to get 2. And more importantly, more and more American companies are moving toward a situation where they hire part-time employees so that they do not have to provide benefits such as pension systems, things of that nature, health insurance. And that is one of the reasons why we have a larger growing number of people in the United States who are without health insurance. And that is one of the principal driving forces forcing up the cost of health care for all the rest of us.

It is a major part of our economic problems over the course of the next several years. We need to get a handle, get control of our health care costs. And we cannot do it, because one of the reasons we cannot do it is because so many more people are without health insurance. And when they get health care they get it under the most expensive circumstances.

So these are all part of pieces, part of a larger entity that has to do with what we ought to be doing in this House, and that is working to improve the standard of living of the majority of American people, making education more accessible to middle class working people, making good jobs available to middle class working people, jobs that pay a decent salary and provide health insurance and other reasonable benefits, the kinds of things that we have taken for granted in the past and which are being taken away from us insidiously as a result of the failure of this Congress to operate the way that it ought to.

□ 2320

If it was operating in the best interests of the American people, that is what it would be doing. It would be developing programs to create jobs and improve the standard of living, and making sure that when people work, they are compensated appropriately for that work and included in that compensation is basic health insurance and other kinds of fundamental benefits.

Mr. SANDERS. Maybe when we talk about the decline in the standard of living of working people and the shrinking of the middle class, I think it ties, and we might want to end our discussion on this note, it ties into the whole issue of trade which has gotten a lot of attention recently in terms of the passage of NAFTA and GATT.

NAFTA was passed some 14 or 15 months ago. We were told that with the passage of NAFTA, many new jobs would be created here in the United States. It would improve the Mexican economy. Fifteen months have come and gone.

What is your impression about the impact of NAFTA?

Mr. HINCHEY. I think we could spend, I tell the gentleman from Vermont [Mr. SANDERS], more than an hour on that discussion alone here this evening.

But to make it brief, the effects have been frankly what you and I and others who voted against NAFTA predicted they would be. We said at that time that the peso was overvalued, that the Mexican economy was riddled with corruption and that if we were to pass NAFTA, it was really not a trade agreement but an investment agreement, it would siphon off investment capital from the United States down to Mexico and there would be a net loss of jobs from this country, and that is precisely what we have seen.

We have seen a loss of 10,000 jobs, a net loss of 10,000 jobs from the United States to Mexico as a direct result of NAFTA. And we have seen the collapse of the Mexican economy.

Our trade policies since 1979 and perhaps as early as 1973 have been a disaster for this country. We have taken it on the chin. We have been a sap for other countries. We have a built-in trade deficit now which is of historic proportions. That trade deficit means that we are subsidizing good jobs in other countries while we lose those good jobs here in America.

We need to reverse our trade policies and focus on our own domestic economic needs. Trade is important only to the extent that it provides value to the United States, that it helps us improve the standard of living of the American people, that it provides more jobs for Americans.

Our trade policies have taken us precisely 180 degrees in the opposite direction. That has been going on now for nearly 20 years. No wonder we are suffering the economic circumstances we are. That is a major part of our problem.

Mr. SANDERS. I agree. And there is no question that with a \$150 plus billion trade deficit, what that translates into is millions of decent manufacturing jobs that should exist in this country but that do not.

When we talk about the global economy, I think what we have got to deal with is the fact that major corporations would much prefer to go to China where they could pay workers 20 cents an hour in an undemocratic society where workers cannot form free unions, where the environmental conditions or the workers' conditions are very, very bad.

Obviously what has happened is companies have invested tens of billions of dollars in China. They have invested huge amounts of money in Mexico, in Malaysia, in countries where desperate people are forced to work for starvation wages, and at the same time they have thrown American workers out on the street.

We must demand and create a process by which large American corporations reinvest in America and put our people back to work at good wages. Clearly as you indicate, current trade policy is doing exactly the opposite.

Mr. HINCHEY. I want to thank you very much for giving me the opportunity to join you in this discussion this evening and for focusing the discussion exactly where it ought to be focused, on the economic issues, on ways that we can take in this Congress to improve the standard of living of American people.

There is nothing more important for me. I know that is true with you. We have got to make sure as best we can that it becomes equally important for a larger number of people who serve in this Congress.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HUNTER (at the request of Mr. ARMEY), for today and on Wednesday, March 1, 1995, on account of family medical reasons.

Mr. WARD (at the request of Mr. GEPHARDT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. NADLER) to revise and extend their remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes, today.

Mr. HOYER, for 5 minutes, today.

Mr. TOWNS, for 5 minutes, today.

Mr. BROWDER, for 5 minutes, today.

Mr. FOGLIETTA, for 5 minutes, today.

Mr. MFUME, for 5 minutes, today.

Mr. NADLER, for 5 minutes, today.

(The following Members (at the request of Mr. NORWOOD) to revise and ex-

tend their remarks and include extraneous material:)

Mr. CUNNINGHAM, for 5 minutes, today.

Mr. MCINNIS, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes, on March 1.

Mr. FRANKS of Connecticut, for 5 minutes, today.

Mr. SHAYS, for 5 minutes, on March 1.

Mr. KINGSTON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(Mr. BROWN of California and to insert extraneous material in the RECORD in the Committee of the Whole on today, on H.R. 1022.)

(The following Members (at the request of Mr. NADLER) and to include extraneous matter:)

Mr. FRANK of Massachusetts.

Mr. MFUME.

Mr. FROST.

Mr. LAFALCE.

Mr. HASTINGS of Florida.

Mr. FOGLIETTA.

Mr. DIXON.

Mr. HOYER.

(The following Members (at the request of Mr. NORWOOD) and to include extraneous matter:)

Mr. MARTINI.

Mr. GOODLING.

Mrs. MORELLA.

Mr. PORTMAN.

ADJOURNMENT

Mr. HINCHEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 25 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, March 1, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

418. A letter from the Administrator, Panama Canal Commission, transmitting a draft of proposed legislation entitled, "Panama Canal Commission Authorization Act, Fiscal Year 1996", pursuant to 31 U.S.C. 1110; to the Committee on National Security.

419. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving U.S. exports to a variety of overseas entities, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

420. A letter from the Director, Defense Security Assistance Agency, transmitting the price and availability report for the quarter ending December 31, 1994, pursuant to 22 U.S.C. 2768; to the Committee on International Relations.

421. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting

copies of original reports of political contributions by nominees, Ambassadors-designate and members of their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on International Relations.

422. A letter from the Chairman, Board for International Broadcasting, transmitting the Board's annual report on its activities, as well as its review and evaluation of the operation of Radio Free Europe/Radio Liberty for the period October 1, 1993, through September 30, 1994, pursuant to 22 U.S.C. 2873(a)(9); to the Committee on International Relations.

423. A letter from the Auditor, District of Columbia, transmitting a copy of report entitled, "Operational Review of the Escheated Estate Fund—How It Does Not Serve The Poor," pursuant to D.C. Code, section 47-117(d); to the Committee on Government Reform and Oversight.

424. A letter from the Comptroller General of the United States, General Accounting Office, transmitting the list of all reports issued or released in January 1995, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

425. A letter from the Chair, Federal Labor Relations Authority, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 517. A bill to amend title V of Public Law 96-550, designating the Chaco Culture Archaeological Protection Sites, and for other purposes (Rept. 104-56). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 536. A bill to extend indefinitely the authority of the Secretary of the Interior to collect a commercial operation fee in the Delaware Water Gap National Recreation Area, and for other purposes; with amendments (Rept. 104-57). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 606. A bill to amend the Dayton Aviation Heritage Preservation Act of 1992, and for other purposes (Rept. 104-58). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 694. A bill entitled the "Minor Boundary Adjustments and Miscellaneous Park Amendment Act of 1995"; with an amendment (Rept. 104-59). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 562. A bill to modify the boundaries of Walnut Canyon National Monument in the State of Arizona; with an amendment (Rept. 104-60). Referred to the Committee of the Whole House on the State of the Union.

Mrs. WALDHOLTZ: Committee on Rules. House Resolution 101. Resolution providing for the consideration of the bill (H.R. 925) to compensate owners of private property for the effect of certain regulatory restrictions (Rept. 104-61). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HERGER:

H.R. 1070. A bill to designate the reservoir created by Trinity Dam in the Central Valley project, CA, as "Trinity Lake"; to the Committee on Resources.

By Mr. BARRETT of Nebraska:

H.R. 1071. A bill to direct the Secretary of the Army to deposit \$1,400,000 into the judgment fund of the Department of Justice to cover those costs of the project for flood control, Lost Creek, Columbus, NE, which are in excess of the \$4,000,000 limit on projects carried out under section 205 of the Flood Control Act of 1948; to the Committee on Transportation and Infrastructure.

By Mr. FRANKS of Connecticut:

H.R. 1072. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage corporations to provide financing and management support services to small business concerns operating in urban areas designated as enterprise zones; to the Committee on Ways and Means.

By Ms. FURSE (for herself, Mr. GEJDENSON, Mr. NETHERCUTT, and Mr. LIPINSKI):

H.R. 1073. A bill to amend title XVIII of the Social Security Act to provide for coverage of diabetes outpatient self-management training services under part B of the Medicare Program; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. FURSE (for herself, Mr. GEJDENSON, Mr. NETHERCUTT, and Mr. LIPINSKI):

H.R. 1074. A bill to amend title XVIII of the Social Security Act to provide for uniform coverage under part B of the Medicare Program of blood-testing strips for individuals with diabetes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HYDE (for himself and Mr. BILEY):

H.R. 1075. A bill to establish legal standards and procedures for product liability litigation, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOODLING (for himself, Mr. UNDERWOOD, Mr. MCDADE, Mr. GENE GREEN of Texas, Mr. FATTAH, Mr. GRAHAM, Mr. SHUSTER, Mr. PAYNE of Virginia, Mrs. MORELLA, Mr. BARCIA, Mr. FOX, Mr. ROMERO-BARCELO, Mr. BORSKI, and Mr. FALEOMAVAEGA):

H.R. 1076. A bill to amend the Internal Revenue Code of 1986 to allow the installment method to be used to report income from the sale of certain residential real property, and for other purposes; to the Committee on Ways and Means.

By Mr. HANSEN (for himself, Mr. YOUNG of Alaska, Mr. REGULA, Mr. HEFLEY, Mr. TORKILDSEN, Mr. COOLEY, Mrs. SMITH of Washington, and Mr. SHADEGG):

H.R. 1077. A bill to authorize the Bureau of Land Management; to the Committee on Resources.

By Mr. LAFALCE:

H.R. 1078. A bill to amend title XVIII of the Social Security Act to provide for coverage of beta interferons approved by the FDA for self-administration for treatment of multiple sclerosis under the Medicare Program, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MINETA (for himself, Mr. LIVINGSTON, and Mr. SAM JOHNSON):

H.R. 1079. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 150th anniversary of the founding of the Smithsonian Institution; to the Committee on Banking and Financial Services.

By Mr. MINGE (for himself, Mr. VENTO, Mr. OBERSTAR, Mr. PETERSON of Minnesota, Mr. LUTHER, Mr. GUTKNECHT, and Mr. SMITH of New Jersey):

H.R. 1080. A bill to authorize States and political subdivisions of States to control the movement of municipal solid waste generated within their jurisdictions; to the Committee on Commerce.

By Mr. OBERSTAR:

H.R. 1081. A bill to amend the Shipping Act of 1984 to reform certain ocean shipping practices, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. ROBERTS:

H.R. 1082. A bill to amend the Internal Code of 1986 to provide that certain cash rentals of farmland will not cause recapture of the special estate tax valuation; to the Committee on Ways and Means.

By Mr. ROTH:

H.R. 1083. A bill to amend the Internal Code of 1986 to promote travel and tourism; to the Committee on Ways and Means.

By Mrs. SCHROEDER:

H.R. 1084. A bill to amend title 5, United States Code, to make the Federal Employees Health Benefits Program available to the general public, and for other purposes; to the Committee on Government Reform and Oversight, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of New Jersey (for himself, Mr. OXLEY, Mr. PALLONE, Mr. MINGE, Mrs. ROUKEMA, and Mr. SAXTON):

H.R. 1085. A bill to amend the Solid Waste Disposal Act to provide congressional authorization for State and local flow control authority over solid waste, and for other purposes; to the Committee on Commerce.

By Mrs. SMITH of Washington:

H.R. 1086. A bill to direct the Secretary of the Army to complete work for the protection of Point Chehalis as part of the operation and maintenance of the project of navigation, Grays Harbor and Chehalis River, WA; to the Committee on Transportation and Infrastructure.

By Mrs. MORELLA (for herself, Mr. DIXON, Mr. JACOBS, Mr. HASTINGS of Florida, Ms. PELOSI, Mr. STOKES, Mrs. KENNELLY, Mr. LIPINSKI, Mr. GILMAN, Mr. STARK, Mr. FROST, Mrs. MINK of Hawaii, Mr. DELLUMS, Mr. HYDE, Mrs. SCHROEDER, Mr. FALEOMAVAEGA, Mr. TOWNS, Ms. SLAUGHTER, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. VELAZQUEZ, and Mr. RANGEL):

H.J. Res. 70. Joint resolution authorizing the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr. in the District of Columbia or its environs; to the Committee on House Oversight.

MEMORIALS

Under clause 4 of rule XXII.

18. The SPEAKER presented a memorial of the Senate of the Commonwealth of Pennsylvania, relative to the Low-Income Energy Assistance Program [LIHEAP]; jointly, to the Committees on Commerce and Economic and Educational Opportunities.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Ms. LOFGREN introduced a bill (H.R. 1087) for the relief of Nguyen Quy An and Nguyen Ngoc Kim Quy; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 28: Mr. LAHOOD.
 H.R. 40: Mr. ORTON, Mr. NETHERCUTT, Mrs. SEASTRAND, Mr. WALSH, Mr. FIELDS of Texas, Mr. TALENT, Mr. PAXON, Mr. EMERSON, Mr. CHRYSLER, and Mr. HOSTETTLER.
 H.R. 70: Mr. BILBRAY.
 H.R. 200: Mr. ROEMER, Mr. CANADY, and Mr. VISLOSKEY.
 H.R. 246: Mr. BASS, Mr. HOEKSTRA, Mr. GRAHAM, Mr. BARRETT of Nebraska, Mr. HUTCHINSON, Mr. NORWOOD, and Mr. GREENWOOD.
 H.R. 315: Ms. LOFGREN.
 H.R. 325: Mr. BENTSEN, Mrs. WALDHOLTZ, Mrs. SEASTRAND, Mr. COX, Mr. QUINN, Mr. DREIER, Mr. HANCOCK, Mr. KLUG, Mr. PETRI, Mr. STEARNS, Mr. NETHERCUTT, Mr. BACHUS, Mr. ROGERS, Mr. LEWIS of California, and Mr. HAYES.
 H.R. 328: Mr. HAYES.
 H.R. 353: Mr. RICHARDSON, Mr. FALEOMAVAEGA, and Mr. EVANS.
 H.R. 354: Mr. BAKER of Louisiana and Mr. WICKER.
 H.R. 363: Mr. NADLER and Mr. SERRANO.
 H.R. 394: Mr. KIM, Mr. FALEOMAVAEGA, Mr. WELDON of Florida, Mr. CHAPMAN, Mr. HERGER, and Mr. LEWIS of California.
 H.R. 427: Mr. PETE GEREN of Texas, Mr. STENHOLM, Mr. FOLEY, Mr. FIELDS of Texas, and Mr. MCKEON.
 H.R. 502: Mr. RIGGS, Mr. KIM, Mrs. MEYERS of Kansas, Mr. SMITH of Texas, and Mr. JOHNSTON of Florida.
 H.R. 526: Mr. DOOLITTLE, Mr. WELLER, Mr. LAHOOD, and Mr. REGULA.
 H.R. 580: Mr. MCCRERY and Mr. TAYLOR of North Carolina.
 H.R. 645: Mr. FROST and Mr. TUCKER.
 H.R. 662: Mr. BACHUS and Mr. ALLARD.
 H.R. 699: Mr. PETE GEREN of Texas, Mr. BREWSTER, and Mr. RICHARDSON.
 H.R. 710: Mr. ENGEL.
 H.R. 736: Mr. BAKER of Louisiana and Mr. LAHOOD.
 H.R. 739: Mr. WELDON of Florida, Mr. STOCKMAN, Mr. COX, Mr. HERGER, and Mr. SHUSTER.
 H.R. 743: Mr. HUTCHINSON, Mr. DEAL of Georgia, Mr. KLUG, and Mr. MILLER of Florida.
 H.R. 773: Mr. KNOLLENBERG, Ms. RIVERS, Mr. ROYCE, Mr. BEILENSEN, Mr. SCHUMER, Mr. GUNDERSON, Ms. SLAUGHTER, Mr. MARKEY, Mr. SHAYS, Mr. KLUG, and Mr. RICHARDSON.

H.R. 774: Mr. EHLERS, Mr. FIELDS of Texas, and Mr. CALVERT.

H.R. 789: Mr. MCKEON and Mr. LIPINSKI.

H.R. 791: Mr. GOSS and Mr. BARTON of Texas.

H.R. 793: Mr. WICKER.

H.R. 849: Mr. CUNNINGHAM, Mr. WELDON of Pennsylvania, Mr. VENTO, Mr. PALLONE, Mr. FROST, Mr. LANTOS, Mr. JOHNSTON of Florida, Mr. HUTCHINSON, and Mr. KLINK.

H.R. 860: Mr. SENSENBRENNER and Mr. WHITFIELD.

H.R. 862: Mr. SMITH of New Jersey.

H.R. 911: Mr. PASTOR.

H.R. 922: Ms. LOFGREN, Mr. PALLONE, and Mr. BORSKI.

H.R. 930: Mr. FILNER.

H.R. 939: Mr. EMERSON and Mr. STUPAK.

H.R. 940: Mr. DEFAZIO, Mr. BORSKI, and Mr. JOHNSTON of Florida.

H.R. 941: Mr. PAYNE of Virginia, Mr. TORRICELLI, Ms. WATERS, Mr. YATES, Mr. JOHNSTON of Florida, Ms. ESHOO, Mr. WARD, Mr. MORAN, Mr. MILLER of California, Mr. GEJDENSON, and Mr. ACKERMAN.

H.R. 966: Mr. MILLER of California and Mr. MARTINEZ.

H.R. 971: Mr. OBERSTAR and Mr. GEJDENSON.

H.R. 1021: Mr. RICHARDSON.

H.R. 1024: Mr. LAHOOD.

H.R. 1033: Mr. TOWNS and Mr. SMITH of New Jersey.

H. Con. Res. 18: Mr. KLINK, Ms. KAPTUR, Mr. DELLUMS, Mr. EVANS, Mr. NEY, and Ms. MCKINNEY.

H. Con. Res. 21: Mr. DEFAZIO, Mr. PALLONE, Ms. ROYBAL-ALLARD, Mrs. SCHROEDER, and Mr. WOLF.

H. Res. 30: Mr. SHAW, Mr. ACKERMAN, Mr. THORNBERRY, Mr. ALLARD, Mr. FOLEY, Mr. NADLER, Mr. OLVER, Mr. DAVIS, and Mr. MEEHAN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 70: Mr. TORRES.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 925

OFFERED BY: Mr. CANADY of FLORIDA

AMENDMENT NO. 6: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Private Property Protection Act of 1995".

SEC. 2. FEDERAL POLICY AND DIRECTION.

(a) GENERAL POLICY.—It is the policy of the Federal Government that no law or agency action should limit the use of privately owned property so as to diminish its value.

(b) APPLICATION TO FEDERAL AGENCY ACTION.—Each Federal agency, officer, and employee should exercise Federal authority to ensure that agency action will not limit the use of privately owned property so as to diminish its value.

SEC. 3. RIGHT TO COMPENSATION.

(a) IN GENERAL.—The Federal Government shall compensate an owner of property whose use of any portion of that property has been limited by an agency action that diminishes the fair market value of that portion by 10 percent or more. The amount of the compensation shall equal the diminution in value that resulted from the agency action.

(b) DURATION OF LIMITATION ON USE.—Property with respect to which compensation has been paid under this Act shall not thereafter be used contrary to the limitation imposed by the agency action, even if that action is later rescinded or otherwise vitiated. However, if that action is later rescinded or otherwise vitiated, and the owner elects to refund the amount of the compensation, adjusted for inflation, to the Treasury of the United States, the property may be so used.

SEC. 4. EFFECT OF STATE LAW.

No compensation shall be made under this Act if the use limited by Federal agency action is proscribed under the law of the State in which the property is located (other than a proscription required by a Federal law, either directly or as a condition for assistance). If a use is a nuisance as defined by the law of a State or is prohibited under a local zoning ordinance, that use is proscribed for the purposes of this subsection.

SEC. 5. EXCEPTIONS.

(a) PREVENTION OF HAZARD TO HEALTH OR SAFETY OR DAMAGE TO SPECIFIC PROPERTY.—No compensation shall be made under this Act with respect to an agency action the primary purpose of which is to prevent an identifiable—

(1) hazard to public health or safety; or

(2) damage to specific property other than the property whose use is limited.

(b) NAVIGATION SERVITUDE.—No compensation shall be made under this Act with respect to an agency action pursuant to the Federal navigation servitude, as defined by the courts of the United States, except to the extent such servitude is interpreted to apply to wetlands.

SEC. 6. PROCEDURE.

(a) REQUEST OF OWNER.—An owner seeking compensation under this Act shall make a written request for compensation to the agency whose agency action resulted in the limitation. No such request may be made later than 180 days after the owner receives actual notice of that agency action.

(b) NEGOTIATIONS.—The agency may bargain with that owner to establish the amount of the compensation. If the agency and the owner agree to such an amount, the agency shall promptly pay the owner the amount agreed upon.

(c) CHOICE OF REMEDIES.—If, not later than 180 days after the written request is made, the parties do not come to an agreement as to the right to and amount of compensation, the owner may choose to take the matter to binding arbitration or seek compensation in a civil action.

(d) ARBITRATION.—The procedures that govern the arbitration shall, as nearly as practicable, be those established under title 9, United States Code, for arbitration proceedings to which that title applies. An award made in such arbitration costs (including appraisal fees). The agency shall promptly pay any award made to the owner.

(e) CIVIL ACTION.—An owner who does not choose arbitration, or who does not receive prompt payment when required by this section, may obtain appropriate relief in a civil action against the agency. An owner who prevails in a civil action under this section shall be entitled to, and the agency shall be liable for, a reasonable attorney's fee and other litigation costs (including appraisal fees). The court shall award interest on the amount of any compensation from the time of the limitation.

(f) SOURCE OF PAYMENTS.—Any payment made under this section to an owner, and any judgment obtained by an owner in a civil action under this section shall, notwithstanding any other provision of law, be made from the annual appropriation of the agency whose action occasioned the payment or

judgment. If the agency action resulted from a requirement imposed by another agency, then the agency making the payment or satisfying the judgment may seek partial or complete reimbursement from the appropriated funds of the other agency. For this purpose the head of the agency concerned may transfer or reprogram any appropriated funds available to the agency. If insufficient funds exist for the payment or to satisfy the judgment, it shall be the duty of the head of the agency to seek the appropriation of such funds for the next fiscal year.

SEC. 7. LIMITATION.

Notwithstanding any other provision of law, any obligation of the United States to make any payment under this Act shall be subject to the availability of appropriations.

SEC. 8. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to limit any right to compensation that exists under the Constitution or under other laws of the United States.

SEC. 9. DEFINITIONS.

For the purposes of this Act—

- (1) the term "property" means land and includes the right to use or receive water;
- (2) a use of property is limited by an agency action if a particular legal right to use that property no longer exists because of the action;
- (3) the term "agency action" has the meaning given that term in section 551 of title 5, United States Code, but also includes the making of a grant to a public authority conditioned upon an action by the recipient that would constitute a limitation if done directly by the agency;
- (4) the term "agency" has the meaning given that term in section 551 of title 5, United States Code;
- (5) the term "State" includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States; and
- (6) the term "law of the State" includes the law of a political subdivision of a State.

H.R. 925

OFFERED BY: MR. TAUZIN

AMENDMENT NO. 7: In section 3(a) after "agency action" the first place it appears insert ", under a specified regulatory law".

Add at the end of section 3(a) "If the diminution in value of a portion of that property is greater than 50 percent, at the option of the owner, the Federal Government shall buy that portion of the property for its fair market value."

In section 4, strike the first sentence and amend the second sentence to read "If a use is a nuisance as defined by the law of a State or is already prohibited under a local zoning ordinance, no compensation shall be made under this Act with respect to a limitation on that use."

In the heading for section 8, strike "Rule" and insert "Rules".

At the beginning of section 8, strike "Nothing" and insert

(a) EFFECT ON CONSTITUTIONAL RIGHT TO COMPENSATION.—Nothing

At the end of section 8, insert the following:

(b) EFFECT OF PAYMENT.—Payment of compensation under this act (other than when the property is bought by the Federal Government at the option of the owner) shall not confer any rights on the Federal Government other than the limitation on use resulting from the agency action.

In section 9, after paragraph (4) insert the following:

(5) the term "specified regulatory law" means—

(A) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(B) the Endangered Species Act of 1979 (16 U.S.C. 1531 et seq.);

(C) title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.); or

(D) with respect to an owner's right to use or receive water only—

(i) the Act of June 17, 1902, and all Acts amendatory thereof or supplementary there-

to, popularly called the "Reclamation Acts" (43 U.S.C. 371 et seq.);

(ii) the Federal Land Policy Management Act (43 U.S.C. 1701 et seq.); or

(iii) section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604);

Redesignate succeeding paragraphs accordingly.

H.R. 925

OFFERED BY: MR. CONYERS

AMENDMENT NO. 8: Page 3, after line 11, insert the following:

(c) AMERICANS WITH DISABILITIES ACT OF 1990.—No compensation shall be made under this Act with respect to an agency action pursuant to the Americans With Disabilities Act of 1990 (42 U.S.C. 1201 et seq.).

H.R. 926

OFFERED BY: MR. EWING

AMENDMENT NO. 5: Page 2, line 11, strike "180 days" and insert "one year notwithstanding any other provision of law", in line 24, strike "(2)(A)" and all that follows through "(B)" in line 4 on page 3, and beginning in line 7 strike the dash and all that follows through line 13 and insert "one year notwithstanding any other provision of law".

H.R. 926

OFFERED BY: MR. FRANKS OF NEW JERSEY

AMENDMENT NO. 6: Page 13, line 10, before the period insert the following: ", and a statement of whether the rule will require persons to obtain licenses, permits, or other certifications including specification of any associated fees or fines".

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OFFERED BY: MR. HEFLEY

AMENDMENT NO. 7: Page 2, line 15, strike "small entities" and insert "entities", in line 18, strike "small entity" and insert "entity", on page 3, strike lines 15 through 17 and redesignate the succeeding paragraphs accordingly, and in line 24 on page 3, strike "small entities" and insert "entities".