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House of Representatives

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. BISHOP of Utah).

DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
May 18, 2004.

I hereby appoint the Honorable ROB BISHOP to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 7, 2003, 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 25 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 10 a.m.

Accordingly (at 9 o'clock and 1 minute a.m.), the House stood in recess until 10 a.m.

□ 1000

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BASS) at 10 a.m.

PRAYER

The Reverend Maury Davis, Pastor, Cornerstone Church, Madison, Tennessee, offered the following prayer:

Dear Heavenly Father, I come to You in the matchless Name of Jesus Christ on behalf of our United States House of Representatives.

The men and the women who serve in this House have been entrusted with a divine and eternal responsibility to make decisions directing the greatest Nation that has ever been developed on the face of the Earth. This Nation, born by men and women of faith, needs Your help in this generation. I pray that You will speak to every heart in this room about Your love for them, as well as Your hopes and desires for greatness in each individual.

I pray in this House that there will be godly wisdom and spiritual insight into the circumstances that seem to be just happenstance. I pray for the people in this room that they will live their lives in such a way that the youth of this Nation can model themselves after them, that the laws they pass will help to perpetuate our national Christian heritage, and that their lives will leave a legacy of good, not of evil.

I pray for their families that, as they serve our country, their children will not be left out or left behind. I pray that You will use this body for Your glory and for the glory of the kingdom of God.

In Jesus' name, 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 Tennessee (Mr. DAVIS) come forward and lead the House in the Pledge of Allegiance.

Mr. DAVIS of Tennessee 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.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 103. Concurrent resolution honoring the contributions of the women, symbolized by ''Rosie the Riveter'', who served on the homefront during World War II, and for other purposes.

WELCOMING THE REVEREND MAURY DAVIS

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

Mr. COOPER. Mr. Speaker, we welcome today Pastor Maury Davis, who delivered our prayer.

Pastor Davis was arrested at age 18 for the crime of first-degree murder. Following his trial and conviction, he served 8½ years in the Texas Department of Corrections. During his incarceration, Maury found his Savior in Jesus Christ and led a revival among his fellow prisoners.

Following his unexpected release from prison, Maury served on the pastoral staff of Calvary Temple in Irving, Texas, under the leadership of Dr. J. Don George where he served as the Youth Pastor. There he met and married his wife, Gail, and in 1986 they became the parents of triplets, Gabrielle, Danielle and Galen. In 1994 their son, Dillon, was added to their family.

After 5 years at Calvary Temple, Maury answered the call to full-time

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evangelism and the young family traveled across the United States preaching in churches, youth camps, Bible schools and speaking to teens in public schools.

In 1991, after preaching one Sunday at the 250-member Cornerstone Church in Madison, Tennessee, Maury was offered the position of Senior Pastor. He accepted that appointment and has led Cornerstone to its current average attendance of 2,200 people every Sunday. He is also serving as an Executive Presbyter of the Tennessee District of the Assemblies of God.

We welcome Pastor Maury Davis to the House of Representatives today.

TAXATION'S EVIL TWIN

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

Mr. DELAY. Mr. Speaker, this week the House will take up the second component of our careers initiative to unshackle the national economy and unleash the potential of the American people on the global market.

Last week, we passed three major bills to help doctors, patients and consumers retake control of the American health care system from government bureaucrats and trial lawyers. This week we are setting our sights on an even bigger target, the invisible monster of the Federal regulatory state.

Today, in America, Federal regulations cost American consumers and companies more than $800 billion a year, about $8,000 for an average American family every year. That is more than that family spends on food. Those $800 billion could be saved, invested, used to train employees or create millions of new jobs.

We in the Republican majority think it is about time that that money was put toward those better uses than being swallowed up by Beltway bureaucrats and outdated rules and regulations. That is why we will take up legislation this week that reforms four aspects of the Occupational Safety and Health Act of 1970, to bring parity and common sense back to the regulatory review and citation process.

We will also take up major legislation specifically targeting the massive amounts of paperwork that consume not only hundreds of thousands of manhours and millions of trees every year, but upwards of $320 billion as well. Because when you think about this kind of job-killing, career-stagnating menace, Mr. Speaker, you realize that regulation is just taxation's evil twin. All you have to do is imagine the Internal Revenue Code dressed in black with an eye-patch and you have got the Federal Register.

For decades, layer upon layer of rules and regulations, many of them duplicative and many more of them self-contradictory, have been foisted upon the American people, their employers and their employees. The time has come for Congress to begin moving toward universal regulatory reform and looking for new ways to reduce and eliminate bureaucratic red tape.

This week, we will begin that process and allow the American people to go back to work for their customers and clients instead of their Federal overseers in Washington, D.C.

PARLIAMENTARY INQUIRY

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

The SPEAKER pro tempore. The gentleman will state it.

Mr. MCDERMOTT. Are we in the 1-minute section of the calendar?

The SPEAKER pro tempore. The Chair is recognizing Members for 1-minute speeches.

Mr. MCDERMOTT. And the Chair is keeping time?

The SPEAKER pro tempore. The Chair accords traditional treatment to the party leaders.

911 EMERGENCY COMMUNICATIONS

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

Ms. ESHOO. Mr. Speaker, every day in America there are over 150,000 911 calls made from a cell phone. This represents more than 25 percent of all 911 calls made in our country. Each one of these calls is singly one of the most important ones that an individual will make. Yet most Americans would be shocked to learn that the majority of our country's Public Safety Answering Points still do not have Enhanced 911, or E–911, technology needed to track the location of the emergency caller on their mobile phone. This is unacceptable. Most, if not all, mobile phone users buy them for the added security of knowing that if they need to make a 911 call, help will be on the way shortly.

I am proud that the House, supported by the E–911 Caucus, passed legislation providing Federal grants to enhance our emergency communications system and make E–911 a reality. Now it is time for the other body to act. With so much weighing on these calls, we have to do everything we can to accelerate the deployment of this lifesaving technology.

ARE YOU BETTER OFF?

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

Ms. PELOSI. Mr. Speaker, I rise today to ask the question that President-to-be Ronald Reagan made famous in the debate in 1980: ''Are you better off today than you were 4 years ago?''

The answer, of course, for most Americans is ''no.'' Under President Bush and the Republican Congress, most Americans have suffered. If you are a taxpayer, you are not better off. We went from a budget that was in balance in 1999, the deficit was zero, and on a path to a $5.6 trillion surplus to one now that is half a trillion dollars in debt this year alone.

If you are a senior, you are not better off because prescription drug costs for seniors have skyrocketed 44 percent in the last 4 years. And what do they get but a hoax of a prescription drug bill.

If you are a student, you are not better off because the Bush administration has underfunded the No Child Left Behind Act by $27 billion since 2001 and wants to cut funding for higher education by $1.3 billion while college tuition has increased by 28 percent.

If you are a worker, you are not better off because 2.2 million jobs have been lost and the unemployment rate is 5.6 percent, one-third higher than the 4.2 percent when President Bush took office. And workers are not better off because wages have failed to keep pace with inflation. Wages rose a mere nickel between March and April.

If you are a consumer, you are not better off because gas prices have increased from $1.26 to a record $2.01 a gallon since President Bush took office.

In the next few days, we will be offering further lists of grievances of the reckless policies of the Bush administration and the Republican Congress. Clearly, we are not better off since President Bush took office.

COMMUNICATION FROM SOLDIER STATIONED IN IRAQ

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

Mr. SHIMKUS. Mr. Speaker, this weekend we celebrate the greatest generation, our World War II veterans. I am here to say that I think we have the next greatest generation, and that is our men and women serving today around the world. This is an e-mail from one of them:

''Thank you, sir, for the note. I appreciate your concern for the troops stationed in Iraq. I am flying Blackhawks based in Balad, Iraq. I am currently working with another West Point graduate, a very capable infantry officer from the class of 2001, in developing an Air QRF team to respond to mortar and rocket attacks on the air base. We have been operational for about 10 days and are still refining our tactics and writing SOPs, but it is going well. I am impressed with the commitment the Army has made to good food, hot showers and decent living conditions.

''I have spent 16 years training, burned countless gallons of jet fuel and have flown over 1,800 hours in preparation for this deployment, and I am proud to serve and give the country something back for all it has invested in me.

''I have a wife and two young boys. I miss them very much. We are blessed

with close family and friends, and it is a comfort to know that they are well cared for in my absence. My mom has always been a special source of comfort in difficult times. I speak with her often and just today received a box of her homemade cookies.

''Thanks for taking the time to offer your support. I believe our task here is a difficult one. I hope we will stay the course.''

To this young man, I say, we will.

ARE YOU BETTER OFF?

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

Ms. SCHAKOWSKY. Yes, it was a famous American who once asked, ''Are you better off today than you were 4 years ago?'' To most Americans, the answer is ''no.'' That is not just me saying it. A Gallup poll found that 62 percent of Americans are dissatisfied with the way things are going here at home.

There is a reason why a majority of Americans believe that our country is headed in the wrong direction under the leadership of President Bush. Median income has dropped 3.3 percent since President Bush was elected.

Two million Americans have lost their jobs since President Bush got his.

Three-and-a-half million people have moved onto the poverty rolls since President Bush moved into the White House.

Four million more people are uninsured since President Bush was sworn in.

Our constituents are being gouged at the gas pump while President Bush fills his campaign coffers with checks from big oil and big gas.

Consumer confidence, which was at 115.7 in January 2001, was at 92.9 last month.

College tuition, up 14 percent in 1 year.

We are not better off.

ARE YOU BETTER OFF?

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

Mr. NUSSLE. It is hard to believe that the Democrats are coming to the floor today and trying to spread fear and make sure that people feel that they are not better off. They ask the question, Are you better off than 4 years ago? They hope you are not. Republicans not only hope you are, but will work to make sure you are.

The Democrats have no plan to balance the budget. All they offer from their nominee is higher taxes and bigger government. The seniors, for the first time since the Medicare plan was put into place in 1965, have choices as a result of a Republican Congress and President Bush.

Students have received two times the increase of education funding since Republicans took office, three times for special education alone.

We have more workers working in this country than at any time in American history.

We had the strongest growth in the last 6 months. In the last 20 years we have not seen this kind of growth.

Interest rates are at the lowest ever.

The other side has stopped an energy plan going on now 6 years, and now they stand at the gas pump and wring their hands and wonder why gas prices are as high as they are.

Democrats hope you are not better off. Republicans will work to make sure you are better off.

□ 1015

THE BUSH ADMINISTRATION'S RECORD

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

Mr. MEEKS of New York. Mr. Speaker, a description of the Bush administration record of the last 3¼ years is something like this:

Not fully funding No Child Left Behind, unintelligent. Not providing a real benefit to seniors for prescription drug purposes, shameful. Not putting forth a real solution to significantly decrease the 44 million uninsured, bad medicine. Weapons of mass destruction, a lie. No-bid contracts for the Vice President's former company Halliburton, scandalous. Revealing the name of a covert CIA operative, traitorous. The Abu Ghraib fiasco, passing the buck. The management of the Iraq War, bumbling. The promise of no nation-building, forgotten. Being a uniter as opposed to a divider, hilarious.

The promise of a less arrogant foreign policy, you have got to be kidding me.

H.R. 3722, THE UNDOCUMENTED ALIEN EMERGENCY MEDICAL ASSISTANCE AMENDMENTS OF 2004

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

Mr. DREIER. Mr. Speaker, Congress has consistently approved the eligibility of undocumented immigrants to receive emergency services, and I firmly believe that providing emergency health care is not inconsistent with curbing illegal immigration, which continues to be a high priority for me and others here.

H.R. 3722, which we discussed yesterday and will be voting on today, would require hospitals to gather information on patients in emergency care situations, including a biometric indicator to be retained in hospital records for a minimum of 5 years. This data would be transmitted to the Department of Homeland Security to initiate the removal proceedings for undocumented immigrants.

Hospitals oppose H.R. 3722 because it will, in fact, compromise public safety. The American Hospital Association states: ''H.R. 3722 could pose a significant public health threat for entire communities because the fear of deportation would inevitably preclude undocumented immigrants from seeking care for communicable diseases until these individuals are extremely ill.''

Mr. Speaker, we need to do everything we can to ensure that we do not pass H.R. 3722.

THE STATE OF THE U.S. ECONOMY

(Ms. EDDIE BERNICE JOHNSON asked and was given permission to address the House for 1 minute.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to speak about the declining state of the economy. When President Bush took office, we had a $236 billion budget surplus and the Nation had created 22 million jobs in the previous 8 years. The country was experiencing the biggest drop in child poverty in a generation and the lowest poverty rate in 20 years.

Today, 8.2 million Americans are looking for work and the unemployment rate is 30 percent higher. 2.2 million private sector jobs and 2.7 million manufacturing jobs have been lost. Household income has decreased by almost $1,500 per family. The number of the uninsured has increased by 3.8 million. College tuition is up 28 percent.

As busy as we are and as important as the effort on foreign policy is, I hope this administration would dedicate some of its time to economic security as well. The American people have suffered much from terrorism. They do not need to suffer any more from President Bush's faltering and failed economic policies.

HONORING SISTER JEANNE O'LAUGHLIN

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

Ms. ROS-LEHTINEN. Mr. Speaker, Sister Jeanne O'Laughlin is a name synonymous with compassion, love, and energy.

As the President of Barry University for the past 23 years in my hometown of Miami, Sister Jeanne has brought hope not only to our South Florida community but also to the international community. Sister Jeanne is known and loved by all of our South Florida residents. She is a dynamic and energetic champion for education and has worked tirelessly to ensure that Barry University far exceeded its goals. She has dedicated her entire life to education and to the improvement of the human condition. Sister Jeanne's concern for others and her willingness to fight for justice makes her an irreplaceable part of our South Florida family.

We have been blessed to have Sister Jeanne in our community. We love her,

we thank her, and we wish her much success and happiness in all of her future endeavors.

ARE WE BETTER OFF NOW?

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

Mr. PALLONE. Mr. Speaker, I often ask the question, Are we better off than we were? And I think that that question needs to be posed today and for the next few months with regard to the Bush administration and the Republican majority here in the Congress.

If we think about 4 years ago, we were in a surplus situation. Now we have a huge deficit. If we think about 4 years ago, we were basically at peace. Now in the midst of a war, a war which I think most people realize was essentially fought for the wrong reasons and which is costing us a tremendous amount of resources as well as costing us lives and wounded soldiers. And if we also think about 4 years ago, the economy was doing very well. Jobs were being created. Four years later under the Bush administration and the Republican majority, we have a situation where something like 2.5 million jobs have been lost and many Americans are having a hard time making ends meet.

So when the Republicans say to us, or anybody says to us, Are we better off than we were 4 years ago under this administration, the answer is clearly, no.

REPORT ILLEGAL ALIENS

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

Mr. SMITH of Texas. Mr. Speaker, last year illegal aliens cost taxpayers more than $1 billion in hospital costs.

I support H.R. 3722, introduced by the gentleman from California (Mr. ROHRABACHER), which requires hospitals to report the immigration status of the individuals they treat. This bill also makes employers responsible for these medical costs if they employ the illegal alien.

Hospitals already collect information from patients. Reporting immigration status as a condition for receiving Federal funds is not overly burdensome.

We cannot afford to ignore the growing costs associated with illegal immigration. In my home State of Texas, health care for illegal immigrants costs taxpayers at least $170 million every year.

If we are serious about reducing illegal immigration, we need to support this legislation.

QUESTIONING THE HOUSE SCHEDULE

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

Mr. EMANUEL. Mr. Speaker, this is, since April 1, the 16th day the House has been in session. And here is a sample of what we have done: we have named 11 post offices, recognized the Garden Club of America, recognized the importance of music education in America, and authorized the use of the Capitol grounds for the Soap Box Derby.

What has happened to our troops in Iraq in that time? We lost 184 Americans, our loved ones, bringing the total to 785. As we name post offices, our constituents are asking questions of the whys and hows of Iraq and want us to get the answers.

This week how are we handling the controversies in Iraq? We are going to name three more post offices; authorize the use of the Capitol grounds, appropriately, for the World War II memorial services; and consider the Paperwork Reduction Act. Then we are going on recess.

This House has surrendered its oversight role, which is constitutionally enacted and guaranteed, by rubber-stamping the policy in Iraq without asking the questions our constituents are asking and not seeking the answers they need.

As President Kennedy once said, ''To govern is to choose.'' We need to make choices here.

WEAPONS OF MASS DESTRUCTION IN IRAQ

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

Mr. PENCE. Mr. Speaker, for months we have heard opponents of the war in Iraq come to the floor of this Congress and ask the question again and again, where are the weapons of mass destruction?

And yesterday the answer came in part, and the silence on the left is deafening. Yesterday the Coalition Provisional Authority announced the discovery of two separate Iraqi munitions wired by terrorists to serve as IEDs in Baghdad which date to the regime of Saddam Hussein and contain weapons of mass destruction, sarin and mustard gas.

Where are the weapons of mass destruction? Mr. Speaker, the answer is becoming more clear by the hour. The weapons of mass destruction are where they have always been, hidden in Baghdad, within the reach of terrorists, a threat to U.S. troops, the region, and the wider world, and more than enough justification for our deeds and the courage of our troops in that region.

THE BUDGET DEFICIT AND THE NEXT ELECTION

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

Mr. MCDERMOTT. Mr. Speaker, my remarks are 1 minute long. During this minute, the economic policies put into place by the President and Republican leaders will force America to spend almost $1 million more than it takes in. That is right. We are free-spending $1 million a minute we do not have.

This President has created the worst budget deficit in history and the worst economic climate since the Depression. The administration keeps rewarding its friends with seven-figure incomes. They are doing it by mortgaging America's future.

There is a payment coming due this November, and America has saved up. It is called an election. Soon a new President and Democratic leadership will restore fiscal sanity to this house of cards. It is not soon enough to send George Bush back to Crawford, Texas.

IN SUPPORT OF MAJOR MEDICAL LIABILITY REFORM

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

Mr. BURGESS. Mr. Speaker, this week is a good week. The American College of Surgeons is in town visiting us in our offices on Capitol Hill, and so it is of some note that we passed again a measure for liability reform last week in this House. We did that a year ago and unfortunately got stalled over somewhere by the rotunda. I hope this year it can indeed go forward because, Mr. Speaker, it is so important for people to realize and for my friends at the American College of Surgeons to realize that right now we have got a President who will sign major medical liability reform. We have a candidate running for that office who has either voted ''no'' or been absent when that vote has been taken in the other body.

We can no longer afford the crippling costs of defensive medicine that are layered upon our existing health care system. Mr. Speaker, it is time for Americans to sit up and take notice of this problem. Our professional people and our patients are indeed in peril.

SENIORS WILL NOT BE SCARED BY PARTISAN RHETORIC

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

Mr. WILSON of South Carolina. Mr. Speaker, after years of rhetoric and empty promises on improving health care, on June 1 seniors will finally be able to save money on their prescription drugs by choosing a drug discount card that best suits them. This is only possible because the Republican Congress and President Bush passed bipartisan legislation that modernizes Medicare and provided a real prescription drug benefit that means immediate savings for seniors across the Nation.

While some Members are engaging in partisan scare tactics in an election year, they cannot stop seniors from

discovering true savings through the discount cards in less than a month. Seniors can choose with confidence because each card program will be monitored by the Department of Health and Human Services and can expect savings from 10 to 25 percent on drug costs.

Seniors who want more information on the drug discount cards can log into www.medicare.gov or call 1–800–MEDICARE.

In conclusion, God bless our troops and we will never forget September 11.

SUPPORT H.R. 3722

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

Mr. ROHRABACHER. Mr. Speaker, today we will vote on H.R. 3722, and we have heard a lot of bogus arguments that are based on just total misrepresentations of this bill. I would hope the people go to the basics of this.

We cannot be the HMO of the world and expect to take care of our own people. And if Congress does not act, if H.R. 3722 is not passed, illegal immigrants will have priority in America's emergency rooms because the Federal Government will be picking up the tab for illegals, but not for U.S. citizens. That is a travesty.

Furthermore, we all know we have limited dollars here to take care of our seniors and our children. Those limited dollars should not be squandered on illegal immigrants.

People have come here illegally and thumbed their noses at our law. Why are we spending billions of dollars to take care of their health care while we cannot provide any medicine to our seniors? This is a travesty.

H.R. 3722 will help correct the situation, at least get us back to going in the right direction rather than allocating more and more resources to the care of illegal immigrants. Vote for H.R. 3722.

□ 1030

PROVIDING FOR CONSIDERATION OF H.R. 2728, OCCUPATIONAL SAFETY AND HEALTH SMALL BUSINESS DAY IN COURT ACT OF 2004, H.R. 2729, OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION EFFICIENCY ACT OF 2004, H.R. 2730, OCCUPATIONAL SAFETY AND HEALTH INDEPENDENT REVIEW OF OSHA CITATIONS ACT OF 2004, H.R. 2731, OCCUPATIONAL SAFETY AND HEALTH SMALL EMPLOYER ACCESS TO JUSTICE ACT OF 2004, AND H.R. 2432, PAPERWORK AND REGULATORY IMPROVEMENTS ACT OF 2004

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 645 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 645

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 2728) to amend the Occupational Safety and Health Act of 1970 to provide for adjudicative flexibility with regard to an employer filing of a notice of contest following the issuance of a citation by the Occupational Safety and Health Administration. The bill shall be considered as read for amendment. The amendment recommended by the Committee on Education and the Workforce now printed in the bill shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce; and (2) one motion to recommit with or without instructions.

SEC. 2. Upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 2729) to amend the Occupational Safety and Health Act of 1970 to provide for greater efficiency at the Occupational Safety and Health Review Commission. The bill shall be considered as read for amendment. The amendment in the nature of a substitute recommended by the Committee on Education and the Workforce now printed in the bill, modified by the amendment printed in part A of the report of the Committee on Rules accompanying this resolution, shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce; and (2) one motion to recommit with or without instructions.

SEC. 3. Upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 2730) to amend the Occupational Safety and Health Act of 1970 to provide for an independent review of citations issued by the Occupational Safety and Health Administration. The bill shall be considered as read for amendment. The amendment recommended by the Committee on Education and the Workforce now printed in the bill, modified by the amendment printed in part B of the report of the Committee on Rules accompanying this resolution, shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce; and (2) one motion to recommit with or without instructions.

SEC. 4. Upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 2731) to amend the Occupational Safety and Health Act of 1970 to provide for the award of attorney's fees and costs to very small employers when they prevail in litigation prompted by the issuance of citations by the Occupational Safety and Health Administration. The bill shall be considered as read for amendment. The amendment in the nature of a substitute recommended by the Committee on Education and the Workforce now printed in the bill, modified by the amendment printed in part C of the report of the Committee on Rules accompanying this resolution, shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce; and (2) one motion to recommit with or without instructions.

SEC. 5. At any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2432) to amend the Paperwork Reduction Act and titles 5 and 31, United States Code, to reform Federal paperwork and regulatory processes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 4(a) of rule XIII are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Government Reform now printed in the bill. The committee amendment in the nature of a substitute shall be consider as read. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in part D of the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. 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.

SEC. 6. (a) In the engrossment of H.R. 2728, the Clerk shall—

(1) await the disposition of all the bills contemplated in sections 2–5;

(2) add the respective texts of all the bills contemplated in sections 2–5, as passed by the House, as new matter at the end of H.R. 2728;

(3) conform the title of H.R. 2728 to reflect the addition to the engrossment of the text of all the bills contemplated in sections 2–5 that have passed the House;

(4) assign appropriate designations to provisions within the engrossment; and

(5) conform provisions for short titles within the engrossment.

(b) Upon the addition to the engrossment of H.R. 2728 of the text of the bills contemplated in sections 2–5 that have passed the House, such bills shall be laid on the table.

(c) If H.R. 2728 is disposed of without reaching the stage on engrossment as contemplated in subsection (a), the bill that

first passes the House as contemplated in section 2–5 shall be treated in the manner specified for H.R. 2728 in subsections (a) and (b), and only the other bills contemplated in sections 2–5 that have passed the House shall be laid on the table.

The SPEAKER pro tempore (Mr. BASS). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to my friend, the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, the resolution before us is a rule for consideration of a package of bills, H.R. 2728, H.R. 2729, H.R. 2730, H.R. 2731 and H.R. 2432, which are all being brought to the floor today by the House Republican leadership, that will help to cut the cost of burdensome regulations for American small businesses and help create new jobs in America.

H. Res. 645 provides for the separate consideration of each of these five measures. Each bill covered under this rule will have its own debate time and the opportunity to be voted on by this body.

Finally, the rule also provides, at the close of consideration of these measures, the Clerk of the House will be directed to combine the text of each of these bills that passes the House under this rule as one engrossed bill and send it to the other body.

Mr. Speaker, we are here today to consider a rule for a number of common-sense bills that will eliminate unnecessary paperwork and bring some much-needed flexibility to the regulatory process for American small business. This legislation will also improve worker safety by making it easier for employers to work voluntarily and proactively with OSHA to ensure safe and secure workplaces.

While this may seem like a complicated rule, its effect is quite simple: It will help to cut down on wasteful costs that many small businesses face as a result of burdensome, one-size-fits-all government regulations.

The bills brought up for consideration under this rule will allow small businesses to focus more of their time and energy on competing in the marketplace, providing their customers with better goods and services and creating new jobs all across America, rather than spending their time filling out forms or arguing with some distant, nameless, faceless bureaucrat.

One of the Republican Party's top priorities is to create an environment that empowers small businesses and their employees to succeed, which has been proved by the House's agenda over the last few weeks. Last week, the House took up and overwhelmingly passed legislation to allow low- and middle-income Americans to keep more of what they earn by permanently extending the 10 percent tax bracket created by President Bush's 2001 tax relief plan.

The House also took up the opportunity to pass legislation that improves upon and strengthens Flexible Spending Accounts, addresses the skyrocketing cost of medical liability insurance and allows small businesses to join together to provide their employees with health insurance through Association Health Plans.

This week, the House will be considering yet another tax relief bill on behalf of working families and will expand and make permanent the child tax credit. And we will also be considering these five bills to make it easier for our Nation's small businesses to create jobs that will help sustain our economy's growth.

H.R. 2728, the Occupational Safety and Health Small Business Day in Court Act, amends the Occupational Safety and Health Act of 1970 to provide flexibility to employers filling out responses to OSHA citations. Currently, the law sets a strict and arbitrary deadline of 15 days for businesses to respond to an OSHA citation, despite the fact that since the 1980s, a Federal rule of procedure has granted employers relief in cases where an employer filed a late notice of contest because of ''mistake, inadvertence, surprise or excusable neglect.'' H.R. 2728 would simply codify this common-sense practice in law and give OSHA some direction in handling cases where a business misses its 15-day window.

H.R. 2729, the Occupational Safety and Health Review Commission Efficiency Act, would create greater efficiency at the Occupational Safety and Health Review Commission by adding two additional members to this board so that it may complete its work in a more timely fashion on behalf of employers and employees all across the United States.

Under current law, the membership of the Commission is set at three appointed members. Two members are required to constitute a quorum, and the Commission can only take action on an affirmative vote of two members, regardless of whether these seats are vacant or filled.

For over two-thirds of its existence, the Commission has been paralyzed by frequent vacancies that have resulted in several critical and well-documented inefficiencies, rendering the entire regulatory scheme devised by Congress for resolving OSHA disputes unworkable.

By creating two new seats on the Commission, Congress can protect against the chance that an extended vacancy on the Commission will prevent this body from resolving disputes in a timely fashion.

H.R. 2730, the Occupational Safety and Health Independent Review of OSHA Citations Act, will provide for the fair and independent review of citations issued by OSHA. Legislative history and practice have made it clear that while OSHA is responsible for rule-making, enforcement and adjudication of issues pertinent to workplace safety, the Occupational Safety and Health Review Commission is intended to provide an independent review of OSHA's functions and act as a check on any prosecutorial excess.

This bill would simply restore responsible checks and balances to the current system by making it clear that the Commission's legal interpretations are given the proper judicial deference.

H.R. 2731, the Occupational Safety and Health Small Employer Access to Justice Act, provides for the payment of attorney's fees and costs to very small employers when they prevail in legislation prompted by the issuance of citations by OSHA.

The reason for this legislation is simple: The government should not be able to intimidate small businesses into blindly following their mandates simply because the business thinks it cannot afford to fight in a case where it might otherwise prevail.

This bill will put American small businesses on a more level playing field with large and powerful government bureaucracies and give them the courage to speak up for themselves when they are right by removing the financial penalties that currently exist for defending themselves.

Finally, H.R. 2432, the Paperwork and Regulatory Improvement Act, reduces Federal regulatory paperwork and red tape by requiring OMB to devote more effort to identifying ways to simplify Federal laws. This bill would also make permanent GAO's authorization to analyze major rules proposed by Federal agencies and require OMB to integrate its regulatory accounting reports with its annual budget report, so that lawmakers can compare the on-budget and off-budget costs associated with each agency requiring paperwork by the public.

□ 1045

Like all the other bills being considered on this rule today, it would help create jobs and allow America's business men and women to spend less of their own time on resources, on complicated regulatory and taxes paperwork that hurts the economy, instead of running their own businesses.

Mr. Speaker, I am proud of this legislation that Congress has passed and will continue to pass to promote the Republican competitiveness agenda. I think it is important that we come to the floor today with a full discussion on legislation that will give Americans more time to spend running their businesses or with their families or however they choose to spend it.

I think it is important to remember that every single time that we pass one-size-fits-all legislation giving a great deal of authority to the Washington-based bureaucracies, our small businesses bear the brunt of this inefficiency.

OMB recently report to Congress that the annual cost of major Federal regulations issued between 1992 and

2002 are estimated to cost between $38 billion and $44 billion. This means that Americans spend about $1.50 in compliance cost for every one dollar in tax cost devoted to regulation. Moreover, it means that every dollar of direct budget expenditure devoted to regulatory activity, the private sector spends $45 dollars in compliance. This overregulation of businesses puts us at a competitive disadvantage with the rest of the world and places an unnecessary limit on our economy.

Finally, Mr. Speaker, the code of Federal regulations extends 19 feet, and from 1991 to 2000 the number of pages in the CFR increased by 28.1 percent. I am glad Congress is looking at ways to pare back this overwhelming bureaucracy, and I urge all of my colleagues to support this rule for these five bills to keep American businesses competitive in the global marketplace and to keep American jobs here at home. I urge all of my colleagues to support this rule and the underlying bill.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume, and I thank the gentleman from Texas (Mr. SESSIONS) for yielding me time.

Mr. Speaker, just as a very brief response to my colleague from Texas, I find it strange that he would use the term that the regulatory measures that are set in place to protect American workers puts us at some competitive disadvantage; and I would just wonder, are we at a competitive disadvantage with countries that have children as young as 9 and 10, 11 years old working? Are we at a competitive disadvantage with countries that have no concern for their workers who die in substantial numbers in plants and mines? That is what separates us from the rest of the world. We are better than that.

Mr. Speaker, I rise today in strong opposition to this closed rule and all five of the underlying pieces of legislation that it encompasses. For those who did not hear me the first time, I said five pieces of legislation under one rule.

This is sort of the blue light special or the supersized rule, Mr. Speaker, five for the price of one. When we look at the number of amendments made in order under this rule, they total five as well and only one is from a Democrat. Republicans have taken their sheer wrong-headedness to a whole new level with this rule. My outrage and the outrage of all in the minority is as much about process as it is about policy. Pure partisan politics never produces sound public policy, and election year politics and messaging have no place in the people's House. Yet that is all the majority seems interested in.

The political score Republicans are seeking to settle with their barrage of anti-working class legislation is not going to be fulfilled by stifling debate and blocking Democrats out of the process. Republicans are calling this the ''OSHA Fairness Package.'' Fair for whom? The only victims I see here are not only the Democratic Party; it is the American worker that it is unfair to.

For the last 3 weeks, Republicans have come to the floor to pass what they call middle-class tax relief. They said they were the party of the middle class and they stand for working-class values. They said they care about the well-being of America's working families. How disingenuous they are, Mr. Speaker.

Four of the five underlying pieces of legislation represent a buffet of rollbacks in our laws governing working conditions. To quote the United Auto Workers on just one of the four bills: ''This legislation would give unprecedented and unwarranted authority to the Occupational Safety and Health Review Council to take away workers workplace health and safety.''

Mr. Speaker, do we have an overwhelming epidemic in this country of unfair workplace lawsuits that I do not know about? The judicial process for violations in workplace health and safety standards has been in place in this country of ours for nearly 30 years. It is fair and most importantly it protects the rights of workers. Yet two of the four underlying bills affecting OSHA standards are coming as a direct result of recent court rulings that Republicans and their corporate friends do not agree with. The other two are aimed at stacking the OSHA commission with anti-worker commissioners and creating a system where only those who can afford legal representation will be permitted to file a complaint with the workplace safety and health board. A direct attack on American juris prudence is one of the measures that would allow that, if OSHA brings a complaint, OSHA must pay if it loses. I think that is also the American taxpayer.

Apparently, Republicans' new policy is when the courts rule against you, legislate against the courts. When one of the senior Democrats of the Committee on Education and the Workforce, my good friend, the gentleman from Michigan (Mr. KILDEE), came before this body, and he has served here for 30 years and is known throughout the country as a champion of working-class Americans, he came to the Committee on Rules yesterday on behalf of the gentleman from California (Mr. GEORGE MILLER), the ranking member, and Republicans denied him the opportunity to offer a substitute to legislate what came out of his committee.

The majority protects their chairman's amendment, but they fail to extend the same courtesy and respect to the ranking member. Had the majority made the Miller substitute in order or the Kildee substitute in order, the House could have done something today that would have actually benefited working-class Americans. We could have had a real debate about the minimum wage, and we could have taken a vote and found out where Members really stand on the issue on whether workers in this country ought to get incrementally over a period of time $7 an hour instead of the current $5.15 cents an hour.

It is kind of hard to make ends meet with gasoline being $2 a gallon and a person is being paid $5.15, while we here in the House have raised our wages six times since people that work at the minimum wage have had an increase. Perhaps the majority is blocking what it knows it cannot defeat; or better yet, perhaps the majority is just protecting its Members from taking a vote that will show their true colors. Shame on them and shame on this body if it allows this assault on American workers to continue.

Some may suggest that it is just class warfare. Mr. Speaker, I simply point out that Democrats do not rule in this town, and we certainly did not start the fight. But if the majority thinks that we are going to sit idly by and allow this barrage of attacks on America's working class, then they have another thought coming to them. We are just not quite ready to give up on our country yet and certainly not ready to give up on our workers and the least among us who are working-class Americans, many of whom, 33 million or 44 million uninsured people in this country, are working Americans and here we are taking measures that are likely to impact all of them.

I urge my colleagues to oppose this closed rule. And this is the 25th of our rules with only one being open, and I ask my colleagues to reject the underlying piece of legislation.

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

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the gentleman talking about the true colors that the Republican Party presents not only today but every single day that we are on this floor of the House of Representatives, because our special interest is our taxpayers and the working men and women of this country who keep it going and will continue to work for the special interests of the Republican Party to ensure that America has not only a sound economy but opportunities to where people can live the American dream.

Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. BOEHNER), the gentleman that leads our party in this effort, the gentleman who is the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I thank my colleagues for the opportunity today to have this debate on how to bring some more equitable regulations over at OSHA. Small employers are the engine of job creation in America and for employers of 100 or less, they create about 70 percent of the new jobs that we see in our

country each and every day. Yet these same employers are the ones that are dealing with the ever-rapidly rising cost of health insurance premiums for their employees, the cost of government regulations. They see competition not only from their neighbors down the street but competition from far beyond our seas. And if we want this engine of economic growth to continue to create jobs in America, we as Members of Congress ought to be looking at laws and regulations that affect their ability to compete both at home and abroad.

I want to congratulate my colleague from Georgia (Mr. NORWOOD), the chairman of the Subcommittee on Workforce Protections. He and the members of his subcommittee did a marvelous job in looking at OSHA.

Now, we have made great strides at OSHA over the last 5 or 6 years in terms of OSHA, a government agency, charged with protecting worker health and safety, working in a more cooperative way with employers all across the country. And what has happened? We have seen workplace injuries and accidents decrease. And this voluntary cooperation that we have under way, we believe can be enhanced by the four underlying bills that we bring to the floor today, whether it is giving the review commission a little more flexibility in looking at some regulations; whether it is expanding the review commission so they can speed up the adjudication of disputes between employers and OSHA; or whether it is to say to OSHA, before you bring a lawsuit against a small employer, you ought to consider the impact on it and what it does to the small employer, because if you bring this suit against a small employer and you lose, you ought to pay the legal costs for the employer.

A lot of small employers do not want to take on the Federal Government, do not want to take on the U.S. Treasury or OSHA even if they think they are right because of the giant expense involved. Most of these businesses do not have the kind of capital that big businesses have; and as a result, they are reluctant to really adjudicate what they think is a legitimate claim. And we believe that if OSHA would have to pay those fees if they lose, it would bring more balance to this relationship between OSHA and the employers and maintain the cooperative spirit that we have seen grow over the last 5 or 6 years.

So the four bills that we have before us I think will enhance worker safety, will enhance competitiveness for small companies. We ought to have a debate today, and I think the rule outlines a very fair process for the consideration of these four bills; and I would urge my colleagues not only to support the rule today but to support the four underlying bills that we are bringing to the floor under it.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield to my friend, I will just respond to the chairman that if this is such a great worker-protection measure, why is it that no group that is a proponent of worker protection favors this measure? I just find that passing strange. I yield to the chairman to answer me if there is any worker group that I do not know about.

Mr. BOEHNER. Mr. Speaker, will the gentleman yield?

Mr. HASTINGS of Florida. I yield to the gentleman from Ohio.

Mr. BOEHNER. Mr. Speaker, I think the gentleman realizes that here in Washington we do two things every day: We do public policy which represents the work we are bringing to the floor today; and, unfortunately, we also do politics.

□ 1100

This being a presidential election year, much less a congressional election year, means there is an awful lot of politics being played by some of the opponents of political opponents that we might have; but I think if my colleagues were to look at the four underlying bills, my colleagues will see today that we will have broad bipartisan support for all four of these bills. Why? Because they are merely money sense.

Mr. HASTINGS of Florida. Mr. Speaker, reclaiming my time, the gentleman did not answer my question. Is there a group of proponents of workers' rights that support these measures? Is the answer yes or no?

Mr. BOEHNER. Mr. Speaker, if the gentleman will continue to yield, the bigger proponent of protecting workers' rights are employers, because American employers understand that the single greatest asset they have are the men and women who work for them each and every day.

Mr. HASTINGS of Florida. Mr. Speaker, I think I know the answer. The answer is ''no,'' and I thank the gentleman.

Mr. Speaker, I yield 7 minutes to the gentleman from New York (Mr. OWENS), who does know something about this measure as the ranking member of the Subcommittee on Workforce Protections, my good friend.

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

Mr. OWENS. Mr. Speaker, I am here to protest, first of all, the package, the packaging process, the rules process. Lumping five bills together, four of them dealing with OSHA matters, there is an effort to trivialize, to minimize and to make invisible this particular, very serious action being taken against working families and organized labor.

Working families need the protection of the government in the workplace. They are vulnerable and they are often victimized. The overwhelming number of business people in America are fair-minded, the small business people as well as corporations, but there is a percentage, which is far too large, that is greedy, selfish and always seeking to get more profits by exploiting workers.

The highest cost of most of these businesses is the labor costs. To drive down the labor costs they will do almost anything. It is not enlightened self-interest, because they are really making profits, but they want more and more.

This package that is being presented on OSHA I call the ''more injuries and more deaths package'' because the end product of chipping away at OSHA provisions is to create a situation where more workers out there are left vulnerable to injuries and to death.

This majority party started its offensive against the working class or working families with a very brutal and obvious attack. The first big action of this majority party when the administration was changed in the White House was to repeal the ergonomics standards that it had taken 10 years to put in place. Ergonomics standards in OSHA dealt with injuries suffered by large numbers of workers in a new environment, a high-tech environment, with different kinds of injuries being generated, but they wiped that out overnight. That was an obvious, brutal, in-your-face attack on working families and organized labor.

Since then, they have sought to chip away, in every way possible, in a long history from 1995, when the change in the majority took place, a steady history of trying to pass bills to cripple OSHA; and they have become less and less strident as time goes on. We have beat back a number of them, but they have come back in other forms, and what we have in this package is the elephant which has been knocked to his knees.

The repeal of the ergonomics standards knocked OSHA to its knees. That elephant is now being fed spoonfuls of poison. These are spoonfuls of poison. They seem common-sensical, they seem trivial, but it is just one way to poison the animal. It will die just the same.

OSHA is made weaker and weaker. The budget has gotten smaller. The number of inspectors, which always was inadequate has been cut. We never intended to cover inspections adequately, but we did do a better job before this present majority took over.

So the cornerstone of the majority Republican Party policy is being enumerated here in terms of workers—we really want them to be more vulnerable; we really want them to have lower costs. We are not going to talk about minimum wage. We are not going to deal with these things which benefit workers. We are going to continue to encourage outsourcing so that more and more jobs are going overseas, and employers can threaten the workers with outsourcing if they act up.

We are going to continue to foster policies which make corporations more and more profitable despite this recession ending, which shows that profits

are going up. Corporations, while there is unemployment, remain the same. Wages are not going up. We are making a clear statement, we want more of the same and we are going to reduce the labor force even further to peasants and serfs who are unable to take care of themselves in the workplace.

The greatest increase in jobs inside this economy, inside America, is going to take place and is taking place in the construction industry; and what they are doing is having large companies subcontract to smaller companies, and the smaller companies become the protectorate of the set of bills that we have here. They have less than 100 employees. They can then proceed to get away with the kinds of violations that we would never allow a larger company because it has different responsibilities.

So this effort, in the name of small businesses, is also an effort which goes after the most vulnerable workers. Construction, the dirtiest work, the most dangerous work, has taken place with immigrant workers and with people who are at the very lowest levels, unable to get any kind of job anywhere else. The number of deaths and injuries that have taken place in the last few years has increased dramatically in this area while the overall number might have gone down a little.

This area is an area where we have had a series of articles appearing in the New York Times which highlight the fact that the OSHA regulations, at present, are minimal. They do not deal with the serious situation that the workplace has in terms of safety and even in terms of death.

We had a hearing just last Wednesday, and I am going to later on read some testimony from those people, but I want to conclude by saying we have a Democratic package for working families in this Nation which includes ending the current tax incentives for shipping jobs overseas, enacting a robust highway bill that would create over 1.8 million good-paying jobs, providing a tax credit for small businesses so small businesses can lower their health care costs, extending Federal unemployment benefits for 2.5 million out-of-work Americans, raising the minimum wage, ensuring that individuals develop the skills that the employers need by increasing job training.

That, in contrast, to a package which is seeking to drive down the working conditions and place the workers in a more vulnerable position so that profits for unscrupulous small businesses can be greatly increased. This package does that. We ought to pay a lot of attention to it and not rush it through this process today.

Mr. SESSIONS. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia Beach, Virginia (Mr. SCHROCK).

Mr. SCHROCK. Mr. Speaker, I rise in support of the rule for H.R. 2432, the Paperwork and Regulatory Improvements Act.

Last June, with bipartisan cooperation, the gentleman from California (Mr. OSE) introduced this good government bill that improved the existing processes governing paperwork and regulations. The bill makes incremental improvements instead of changing the role of Congress in its oversight of agency rules.

The overall burden of Federal paperwork and regulatory requirements is staggering and is a real drain on job growth, productivity and American competitiveness. In fact, Federal paperwork and regulatory burdens have increased in each of the last 8 years.

H.R. 2432 includes legislative changes to ensure reduction in tax paperwork burdens on small business, assist Congress in its review of agency regulatory proposals and improve public and congressional understanding of the true costs and benefits of regulations.

Since 1942, the Office of Management and Budget has had statutory responsibility to review and approve each new, revised or continuing paperwork imposition on the public. Currently, the IRS accounts for over 80 percent of all the federally imposed paperwork burden on the public. H.R. 2432 requires OMB to conduct a systematic review and then submit a report on specific actions the rest can take to reduce tax paperwork on small business.

To assist Congress in its review of agency regulatory reforms, H.R. 2432 permanently establishes a regulatory analysis function in the General Accounting Office. In 2000, Congress authorized a 3-year pilot test for this regulatory analysis function, but it was never funded. This was partly because GAO intended to use contractors instead of in-house expert staff during the test period. H.R. 2432 would require GAO's having in-house expertise comparable to OMB's expertise.

With GAO's help, Congress will be better equipped to review final agency rules under the Congressional Review Act and to submit timely and knowledgeable comments on proposed rules during the public comment period.

Current law requires OMB to submit an annual regulatory accounting statement and associated report on impacts, such as on small business, with the President's fiscal budget. To date, all six of OMB's final regulatory accounting reports have been incomplete, and none have been submitted in final form with the fiscal budget. As a consequence, their utility in the decision-making process has been hindered.

To improve OMB's regulatory accounting reports, this bill requires OMB to seek agency input annually, as it does for its information collection budget and the fiscal budget. The bill also requires OMB to conduct a study of regulatory budgeting to determine if agencies can better manage regulatory burdens on the public.

This bill has been endorsed by many organizations such as the U.S. Chamber of Commerce, the National Association of Manufacturers, National Federation of Independent Business, National Small Business Association and the Small Business Survival Committee.

The Congressional Budget Office provided a preliminary estimate of the budgetary impact of this bill, saying the bill would cost about $10 million a year and would not affect direct spending or revenues. CBO's estimate includes $8 million for GAO and $2 million for OMB.

The current budget for OMB's Office of Information and Regulatory Affairs is $7 million. OIRA has multiple functions besides paperwork and regulatory reviews, such as government-wide statistical policy and information policy.

As a consequence, the gentleman from California (Mr. OSE) and I will be introducing a substitute today authorizing $5 million for GAO's permanent regulatory analysis function. This amount is based on the proportionate share of OIRA's budget for its paperwork and regulatory reviews.

I support the rule with 1 hour of general debate, equally divided, and which makes in order the only two amendments submitted to the Committee on Rules, one from the gentleman from California (Mr. WAXMAN) and the gentleman from Massachusetts (Mr. TIERNEY) and one submitted by the gentleman from California (Mr. OSE). I urge my colleagues to support the rule.

H.R. 2432 should result in needed paperwork and regulatory relief, especially for small businesses, and help Congress fulfill its constitutional role as a coequal branch of government.

Mr. HASTINGS of Florida. Mr. Speaker, at this time I have no further speakers that have come to the floor, and I reserve the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. NORWOOD).

Mr. NORWOOD. Mr. Speaker, I thank my friend from Texas for the time, and frankly, I am quite pleased to have the opportunity today, Mr. Speaker, to address four very important measures that I have had the honor, along with the gentleman from Ohio (Chairman BOEHNER), to sponsor.

Before addressing the mechanics of each of these important bills, and I will as they are considered, I would like to provide a little useful background.

If performance outcomes are what truly counts in government programs, performance outcomes, how well is that government program doing, my colleagues should know that the relevant indicators suggest that OSHA, under President Bush, is performing better than at any time in the agency's history.

Now, if we can spend just a little time looking at the facts, and I hate to confuse anybody with facts, but looking at the facts, we should look at the GAO report.

□ 1115

It is saying very clearly that the voluntary compliance strategies are showing very good results. In fact, they are

saying this may actually be working because the performance outcomes are better than they have ever been in the history of OSHA.

I have a couple of graphs, so you do not have to believe me, and they are put out by the Department of Labor statistics. It is indicating that workplace injuries as of 2002 and workplace fatalities as of 2002 are the lowest; they are the lowest they have ever been in the history of OSHA. Injury and illness rates and a number of workplace fatalities are down and are declining. And I believe, I firmly believe that one of the major reasons for this performance improvement is a new and improved vision for OSHA.

I know people do not like to change laws once they are passed, but they do need to be measured against performance outcomes, and sometimes you need to change laws when you know you are on the wrong track. OSHA has a vision that rejects the blunt confrontation and embraces the idea of cooperation between employers and government, between business and government. Let us come together to work together to make this a safer and a healthier workplace.

The simple truth is we can achieve much better results working together than working against each other, and that seems to be what GAO is saying. It seems to be what the numbers are saying. Or as we say where I come from, you are likely to attract more bees with honey.

Now, this does not mean, in our opinion, that you should let the fox guard the hen house. Far from it. It simply means that we will have a better balance to our regulatory approach at OSHA if it includes two useful components: one, a more effective targeting of enforcement resources to where they are most needed. That is just common sense. And, two, strong encouragement for employers to cooperate toward the performance improvements.

Why would they not? If they feel they can work with this government and try to improve the health and the safety of their workplace, why in the world would they not? Obviously, they are. The GAO studies keep pointing to the fact that that is working. Targeting focuses on a few bad actors in the business community, while cooperation focuses on the vast majority of employers who very much want a healthier and a safer workplace.

I would suggest this: performance improvements at OSHA simply did not come about by accident. In fact, by 1993, OSHA was strongly heading in the other direction of not using the carrot but using the hammer. Almost one of the worst OSHA bills that could ever have become law, in my opinion, occurred in 1994 with the Ford-Kennedy bill. Thank God that did not pass. It would not have improved workplace safety. And the GAO recently reported that one reason might be the exciting results reported by those employers who have already cooperated with OSHA. They are working together. What they are really trying to do is get where they can trust each other, where the employer feels he can call the government and ask for help and not be fearful that he will be tricked and drug into court.

What was most exciting about GAO's findings is that the word is getting out among the business community that safety pays. What relevance does all this have to the bills that we are going to consider today? The answer is a great deal of relevance, because each of these measures is directly tied to the general idea of a working formula to promote cooperation and trust.

I would like to explain that. I would suggest in the course of our debate over the next few hours that we will repeatedly hear several themes. These themes are: justice, flexibility, efficiency, elimination of waste, and a government that plays fairly and within the rules. Each of these words accurately describes one or more of the purposes of the four measures we will consider today.

I will describe the mechanics of these measures and relate how each fits into this larger picture of positive performance results for OSHA as each is considered.

I would like to urge each of our Members to support this rule and allow this very important discussion to begin. Obviously, I urge each of my colleagues to vote for the underlying bills.

I hear over and over again the term ''working families.'' That is used most frequently, I think, by the minority. And what they generally mean by working families is the 8 percent of our population that are in unions. Well, I like the words working families too. And when it comes to having protection from the government, the other 92 percent of the working families deserve that just as well. The baker with three employees, the florist with two, the local filling station guy who has two employees, they deserve protection equally as do the 8 percent that are in the unions.

So I would say to my colleagues that it is as simple as this: if you have no small businesses in your district, then you ought to vote ''no'' on this rule. But if you do have small businesses in your district, you better give this some consideration, because this is fairness for the little guy who happens not to be in a union, who has no way on Earth to stand up to the Labor Department or the finances of the Federal Government.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume. I have great respect and admiration for my friend, the chairman of the Subcommittee on Workforce Protections, and I speak often about working families. I am mindful that many of those working families are members of labor organizations, and I am supportive of them.

The statistic the gentleman quoted was somewhere in the neighborhood of 6 to 8 percent. But that leaves us a whole lot of other people who are working at the minimum wage who are also working families who may be injured, who may be killed in these workplaces. And I rather suspect, as one who has the third largest number of small businesses among the 435 of us in the House of Representatives, that I am certainly interested in those businesses flourishing and continuing to provide for the workers.

I can assure my colleague that one thing we could be doing here that would help everybody would be to incentivize those small businesses with the necessary funds for tax protection that would allow them to be able to provide insurance for their workers, and I cite several of them that I visited recently that say that is particularly important. It is also particularly important to them that the regulatory measures be reduced, and there is some currency in our being able to do that. But at the expense of people who are likely to be injured, and at the expense of people who are likely to be killed on their jobs, I simply do not believe that any business wishes to be in a position of not having the necessary regulation to protect their workers.

We do not do a very good job here in Congress, and I suggest we might want to look at the atmosphere that some of these people work in and the kinds of injuries they receive right here on Capitol Hill; the kind of long hours the people that transcribe our words here on the House floor work; the people that protect us in law enforcement and the helter-skelter schedules they are confronted with. There are a lot of workers that do not have fair protection. And for us to cut back on opportunities to protect them, in my view, is unwarranted, unsound, bad policy, and bad politics.

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

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we began this debate today by talking about doing the things the Republican Party has as an idea and a vision, about making businesses more efficient and effective and working closer on the things that will encourage not only us to be more productive but to employ more people. The gentleman from Florida earlier asked a very simple question: Who would possibly support this bill? Who are they? Well, I provided the gentleman a list of some 38.

Mr. HASTINGS of Florida. Mr. Speaker, will the gentleman yield?

Mr. SESSIONS. I yield to the gentleman from Florida.

Mr. HASTINGS of Florida. I did not say who; I said which of the worker proponent organizations supported the bill. And I thank the gentleman for providing me this list of outstanding organizations that support this measure. But name me the work proponent organizations that support this measure, and I do not think any are on the gentleman's list.

Mr. SESSIONS. Mr. Speaker, I thank the gentleman for his clarification and accept that.

I would like to run through very quickly the organizations that do support this commonsense OSHA reform, and I am just going to run through a few:

The National Center For Assisted Living, National Council on Chain Restaurants, National Federation of Independent Businesses, United States Chamber, National Restaurant Association, National Retail Federation, National Soft Drink Association.

And, Mr. Speaker, I will submit this list at this point for the RECORD.

COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES,

May 18, 2004.

ORGANIZATIONS SUPPORTING COMMON SENSE OSHA REFORMS

DEAR COLLEAGUE: The House today will consider four common sense OSHA reform measures (H.R. 2728, H.R. 2729, H.R. 2730, and H.R. 2731) to ensure OSHA enforcement efforts are fair for small businesses that make good faith efforts to comply with all health and safety laws. These reforms will improve worker safety by making it easier for employers to work voluntarily and proactively with OSHA to ensure safe and secure workplaces. Following are a list of organizations supporting these reforms:

Air Conditioning Contractors of America
American Bakers Association
American Hotel & Lodging Association
American Farm Bureau Federation
American Furniture Manufacturers
Associated Builders & Contractors
Associated General Contractors of America
American Health Care Association
American Trucking Associations
Food Marketing Institute
Independent Electrical Contractors
International Foodservice Distributors Association
IPC—The Association Connecting Electronics Industries
Management Advisers, LLC
Mason Contractors Association
National Association of Home Builders
National Association of Manufacturers
National Beer Wholesalers Association
National Center for Assisted Living
National Council of Aagricultural Employers
National Council of Chain Restaurants
National Electrical Contractors Association
National Federation of Independent Business
National Funeral Directors Association
National Oilseed Processors Association
National Ready Mixed Concrete Association
National Restaurant Association
National Retail Federation
National Roofing Contractors Association
National Small Business Association
National Soft Drink Association
Printing Industries of America Inc.
Retail Industry Leaders Association
Society of American Florists
Society for Human Resource Management
The American Coke and Coal Chemicals Institute
The Brick Industry Association
U.S. Chamber of Commerce

Developing better cooperation between OSHA and employers will improve workplace safety, enhance business competitiveness, and foster more job creation to spur the economy. We encourage you to help improve workplace safety and enhance small business competitiveness by voting YES on these important OSHA reform measures. For more information, please contact the Education & the Workforce Committee at x5–4527.

Sincerely,

JOHN BOEHNER (R–OH),
Chairman, Education & the Workforce Committee.

CHARLIE NORWOOD (R–GA),
Chairman, Workforce Protections Subcommittee.

Mr. Speaker, I would say to my colleagues who are listening to this debate, who want to do the right thing for small businesses, that it is always interesting to me that as we enter debates on the floor of the House of Representatives, and one of the biggest debates we have had has been about manufacturing, yet almost every single time as the Republican Party stands up for those organizations that are engaged in manufacturing, about jobs in this country, we vote for those bills and our colleagues on the other side vote against them. Yet all we hear about is loss of jobs.

I would like to say that today this vote is about small business and the ability for small business to compete effectively, efficiently, and to give them more fair footing. I support this rule and I support this underlying legislation.

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 SPEAKER pro tempore. The question is on the resolution.

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 219, nays 195, not voting 19, as follows:

[Roll No. 180]

YEAS—219

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NAYS—195

Abercrombie
Ackerman
Alexander
Allen
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boyd
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Reyes
Rodriguez

Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Woolsey
Wu
Wynn

NOT VOTING—19

Andrews
Berman
Boucher
Brown, Corrine
DeMint
Deutsch
Dunn
Forbes
Istook
Leach
Lewis (GA)
Lowey
Oberstar
Rangel
Shays
Tauzin
Towns
Wexler
Young (AK)

□ 1154

Mr. CAPUANO, Mrs. TAUSCHER, Mr. ROTHMAN, Mrs. JONES of Ohio, Ms. DEGETTE, and Mr. MORAN of Virginia changed their vote from ''yea'' to ''nay.''

Mr. PETERSON of Pennsylvania changed his vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES ON H.R. 2660, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004

Mr. GEORGE MILLER of California. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore (Mr. BASS). The Clerk will report the motion.

The Clerk read as follows:

Mr. George Miller of California moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2660 be instructed to insist on reporting an amendment to prohibit the Department of Labor from using funds under the Act to implement any portion of a regulation that would make any employee ineligible for overtime pay who would otherwise qualify for overtime pay under regulations under section 13 of the Fair Labor Standards Act in effect September 3, 2003, except that nothing in the amendment shall affect the increased salary requirements provided in such regulations as specified in section 541 of title 29 of the Code of Federal Regulations, as promulgated on April 23, 2004.

MOTION TO TABLE OFFERED BY MR. DELAY

Mr. DELAY. Mr. Speaker, I offer a preferential motion.

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

The Clerk read as follows:

Mr. DELAY moves that the motion to instruct be laid on the table.

PARLIAMENTARY INQUIRY

Mr. GEORGE MILLER of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GEORGE MILLER of California. If a motion to table this motion on overtime pay prevails, will it have the effect of denying the Members any debate on this issue?

The SPEAKER pro tempore. As the Chair indicated in the same circumstances on May 12, 2004, if the motion to table were adopted, the motion of the gentleman from California would not be before the House.

Mr. GEORGE MILLER of California. Further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. GEORGE MILLER of California. Then to be clear, let me understand that this means that we will not have the hour of debate on the Department of Labor's efforts to deny millions of workers currently eligible for overtime from receiving overtime in the future?

The SPEAKER pro tempore. The motion of the gentleman from California will not be before the House.

The question is on the motion offered by the gentleman from Texas (Mr. DELAY).

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

RECORDED VOTE

Mr. GEORGE MILLER of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on tabling the motion to instruct will be followed by a 5-minute vote on suspending the rules and passing H.R. 3722.

The vote was taken by electronic device, and there were—ayes 216, noes 199, not voting 18, as follows:

[Roll No. 181]

AYES—216

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Fossella
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (FL)

NOES—199

Abercrombie
Ackerman
Alexander
Allen
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)

Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Woolsey
Wu
Wynn

NOT VOTING—18

Andrews
Berman
Brown, Corrine
DeMint
Deutsch
Forbes
Franks (AZ)
Istook
Leach
Oberstar
Peterson (PA)
Rangel
Shays
Smith (MI)
Tauzin
Towns
Wexler
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1214

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

UNDOCUMENTED ALIEN EMERGENCY MEDICAL ASSISTANCE AMENDMENTS OF 2004

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3722.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 3722, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 88, nays 331, not voting 14, as follows:

[Roll No. 182]

YEAS—88

Aderholt
Akin
Bachus
Barrett (SC)
Bass
Bereuter
Bishop (UT)
Blackburn
Boozman
Boucher
Bradley (NH)
Burton (IN)
Buyer
Carter
Coble
Collins
Cox
Culberson
Cunningham
Deal (GA)
Doolittle
Duncan
Everett
Feeney
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gingrey
Goode
Goodlatte
Gutknecht
Hall
Hayes
Hayworth
Hefley
Hoekstra
Hostettler
Hulshof
Hunter
Isakson
Jenkins
Johnson, Sam
Jones (NC)
Keller
Kelly
King (IA)
Kingston
Kline
Manzullo
McCotter
McCrery
Mica
Miller (FL)
Miller, Gary
Musgrave
Myrick
Norwood
Otter
Paul
Pence
Pitts
Platts
Radanovich
Ramstad
Rehberg
Rogers (AL)
Rohrabacher
Royce
Schrock
Sensenbrenner
Shimkus
Shuster
Simpson
Smith (TX)
Stearns
Sullivan
Tancredo
Taylor (MS)
Taylor (NC)
Toomey
Vitter
Wamp
Weldon (FL)
Whitfield
Wicker
Wilson (SC)

NAYS—331

Abercrombie
Ackerman
Alexander
Allen
Baca
Baird
Baker
Baldwin
Ballance
Ballenger
Bartlett (MD)
Barton (TX)
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boswell
Boyd
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Cole
Conyers
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
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Dreier
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Edwards
Ehlers
Emanuel
Emerson
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English
Eshoo
Etheridge
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Farr
Fattah
Ferguson
Filner
Flake
Foley
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
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Gilchrest
Gillmor
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Green (TX)
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Holden
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hyde
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
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Lipinski
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Lofgren
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Lucas (KY)
Lucas (OK)
Lynch
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McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
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Ortiz
Osborne
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Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Rahall
Regula
Renzi
Reyes
Reynolds
Rodriguez
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sessions
Shadegg
Shaw
Sherman
Sherwood
Simmons
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—14

Andrews
Brown, Corrine
DeMint
Deutsch
Forbes
Herger
Istook
Leach
Oberstar
Rangel
Shays
Tauzin
Wexler
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS) (during the vote). There are 2 minutes remaining in this vote.

□ 1224

Mrs. JOHNSON of Connecticut, Mr. FOSSELLA, and Mr. BURNS changed their vote from ''yea'' to ''nay.''

Messrs. WHITFIELD, TAYLOR of North Carolina, and TANCREDO changed their vote from ''nay'' to ''yea.''

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANAATION

Ms. CORRINE BROWN of Florida. Mr. Speaker, on rollcall Nos. 180, 181, and 182, I was unavoidably detained and unable to make the vote.

Had I been present, I would have voted: "No" on No. 180, joint rule for consideration of H.R. 2728, 2729, 2730, 2731; "No" on No. 181, tabling Miller motion to instruct conferees on overtime; "No" on No. 182, H.R. 3722, Undocumented Alien Emergency Assistance Amendments of 2004.

OCCUPATIONAL SAFETY AND HEALTH SMALL BUSINESS DAY IN COURT ACT OF 2004

Mr. BOEHNER. Mr. Speaker, pursuant to House Resolution 645, I call up the bill (H.R. 2728) to amend the Occupational Safety and Health Act of 1970 to provide for adjudicative flexibility with regard to an employer filing of a notice of contest following the issuance of a citation by the Occupational Safety and Health Administration, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. TERRY). Pursuant to House Resolution 645, the bill is considered read for amendment.

The text of H.R. 2728 is as follows:

H.R. 2728

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Occupational Safety and Health Small Business Day in Court Act of 2003''.

SEC. 2. CONTESTING CITATIONS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT.

(a) CITATION.—The second sentence of section 10(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 659(a)) is amended by inserting ''(unless such failure results from mistake, inadvertence, surprise, or excusable neglect)'' after ''assessment of penalty''.

(b) FAILURE TO CORRECT.—The second sentence of section 10(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 659(b)) is amended by inserting ''(unless such failure results from mistake, inadvertence, surprise, or excusable neglect)'' after ''assessment of penalty''.

The SPEAKER pro tempore. Pursuant to House Resolution 645, the amendment printed in the bill is adopted.

The text of H.R. 2728, as amended, is as follows:

H.R. 2728

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Occupational Safety and Health Small Business Day in Court Act of *2004*''.

SEC. 2. CONTESTING CITATIONS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT.

(a) CITATION.—The second sentence of section 10(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 659(a)) is amended by inserting ''(unless such failure results from mistake, inadvertence, surprise, or excusable neglect)'' after ''assessment of penalty''.

(b) FAILURE TO CORRECT.—The second sentence of section 10(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 659(b)) is amended by inserting ''(unless such failure results from mistake, inadvertence, surprise, or excusable neglect)'' after ''assessment of penalty''.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BOEHNER) and the gentleman from New York (Mr. OWENS) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2728.

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

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we will debate four important bills that make modest reforms to the Occupational Safety and Health Act. These measures ensure that small business owners who make good-faith efforts to comply with health and safety laws are dealt with fairly and equitably by the Occupational Safety and Health Administration.

Nearly every employer today recognizes that improving workplace safety is good for business and it is good for workers. Employers face relentless competition, both at home and from abroad, and they must compete in the face of high taxes, rising health care insurance costs and burdensome government regulations. These four OSHA reform bills are designed to improve worker safety and enhance the competitiveness of small businesses that are the real engine of job growth in this country today.

The U.S. economy is improving and more and more employers are hiring workers each month. Earlier this month, the Labor Department reported that 1.1 million new jobs had been created over the last 8 months, including 625,000 in the last 2 months alone. Eight consecutive months of positive job growth show that the Republican plan for economic prosperity is working. But we want to make sure onerous government regulations do not hamstring the ability of small businesses to continue to hire new workers and to compete in our economy. That is why these bills are important.

Mr. Speaker, since the Republicans won control of Congress 10 years ago, we have undertaken considerable efforts to make bureaucracy more responsive and more accountable to workers and taxpayers. Let me just give you a few examples.

We stopped unwarranted and invasive OSHA regulations proposed by the Clinton administration that would have held employers liable for the safety of their employees who work from home.

We stopped one of the most overreaching attempts at regulation in our Nation's history by repealing an irresponsible and unworkable ergonomics regulation that would have cost employers billions of dollars and killed millions of jobs.

We have dealt with the problem of costly unfunded mandates by ensuring that Congress does not pass expensive legislation and then pass the buck to State and local governments.

This decade of progress on regulatory reform should give Americans confidence that Congress is making positive steps every year to improve government accountability. Today, we take one more positive step, to improve workplace safety, I think a goal that we all share.

OSHA under the Bush administration has made significant efforts to supplement traditional enforcement programs with cooperative partnerships between the agency and employers across the country. I am pleased to report these voluntary programs have proven successful in reducing workplace injuries and illnesses. In fact, workplace injuries and illnesses have declined significantly during the Bush administration.

If we look at these facts on this chart, I think we will see that over the last 3 years, injuries in the workplace have, in fact, declined significantly to their lowest point in history, to a rate of just 5.3 injuries or illnesses per 100 workers. I think that is significant progress.

Moving on to the next chart, we can see that workplace fatalities have made similar declines, again to the lowest amount in history. In fact, the 6.6 percent reduction in workplace fatalities in 2002 is the single largest annual decline ever.

Why have we made such significant progress? It is because under this administration, OSHA and employers have started to work together more cooperatively and more proactively to solve workplace safety problems before injuries and fatalities occur. A GAO report released on March 30 said voluntary partnerships between OSHA and employers ''have considerably reduced their rates of injury and illness and have fostered better working relationships with OSHA, improved productivity and decreased worker compensation costs.''

Now, we strongly support OSHA targeting bad actors that defy the law and compromise the safety of their workers, but we also need to recognize that most employers are good actors who work hard to address job safety concerns. No employer wants to deal with unnecessary OSHA-related litigation and escalating attorneys' fees that result. Most employers want to comply with the law, and the offer of assistance from OSHA is enough to provide the incentive they need to make the investment. Employers will use these resources because safety pays.

Employers in America know that their number one asset is their employees, and every employer, I know, wants to do everything to protect the health and welfare of their employees.

The reform measures we will consider today are proposals that, while fairly modest in substance, are important to small business owners who struggle every day to comply with complex OSHA laws and provide a safe working environment for their workers while facing increasing competitiveness from the worldwide economy. Employers who make good-faith efforts to comply with OSHA standards deserve to be treated fairly and have their day in court, and these common-sense bills will help ensure that they receive that opportunity.

The first reform bill on tap today, the Occupational Safety and Health Small Business Day in Court, gives the Occupational Safety and Health Review Commission additional flexibility to make exceptions to the arbitrary 15-day deadline for employers to file responses to OSHA citations when a small business misses the deadline either by a mistake or for good reason. This change ensures that appropriate disputes are resolved based on merit, rather than legal technicalities. I think it is a common-sense proposal and deserves every Member's support.

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

Mr. OWENS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. GEORGE MILLER), the ranking member of the Committee on Education and the Workforce, for an opening statement.

□ 1230

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman from New York (Mr. OWENS) for yielding me time and for all of his involvement over many years on the issues affecting OSHA and the workplace safety of American workers.

The Occupational Safety and Health Act has substantially improved the safety of the American workplace to the benefit of the American worker. Far fewer workers are killed or injured today than was the case before the law was enacted. Despite this progress, too many Americans continue to be sick or injured or killed in workplace accidents that could have been or should have been avoided. Fifteen Americans were killed and more than 12,800 were injured each day in 2002. This does not include the 50,000 and 60,000 deaths that occur every year as a result of occupational diseases.

None of the bills before this committee today will do anything to improve the occupational safety or health of Americans. H.R. 2728 unnecessarily and indefinitely delays the abatement of safety and health hazards in compliance with the Occupational Safety and Health Administration citations.

H.R. 2729 unnecessarily expands the size of the Occupational Safety and Health Review Commission, and H.R. 2730 weakens the fundamental responsibilities of the Secretary of Labor. It contorts the law and confuses the enforcement responsibilities of both the Secretary and the review commission.

H.R. 2731 significantly diminishes the protections of Occupational Safety and Health by discouraging OSHA from even enforcing the Occupational Health and Safety Act and punishing tax payers unless the agency, like Perry Mason, can win every case. That is not going to happen. These bills do no good, and some of them do substantial harm. The House should not waste time considering them. If the House truly wants to address the economic needs of the American people, why not spend time on legislation raising the subpoverty minimum wage or extending unemployment benefits to the 90,000 workers a month who are losing that benefit because of the inaction of Congress or stopping the Labor Department from issuing overtime regulations that will cost middle-class workers critical amounts of their income?

Why do we not spend our time on those bills instead of this meaningless and political agenda?

Rather than hurting workers, we should be raising the minimum wage. The minimum wage has not been increased since 1997, and the real value of the minimum wage is approaching all-time historic lows. It is worth noting that the Republican Congress has increased Members' salaries six times since the minimum wage was last increased. It is time for Congress to do for others what we have repeatedly done for ourselves. Instead, we are considering bad bills to undermine worker safety and health. If we cannot do good for workers, we should at least avoid doing them harm.

We should not be encouraging employers to litigate OSHA complaints instead of correcting health and safety hazards; but two of the bills, H.R. 2728 and H.R. 2731 have exactly that effect. Tax payers should not be paying the legal expenses of employers who endanger their workers, but, again, that is what H.R. 2731 requires. It is nonsense to contend that the Occupational Safety and Health Review Commission knows better what the Secretary of Labor intended than the Secretary herself, but that is not exactly the premise that underlies H.R. 2730.

Finally, our Republican colleagues argue that we should expand the size of the commission with no commensurate expansion in its responsibilities. In effect, the taxpayers should go on the hook to put two more lawyers to work for no good reason. This is the effect of H.R. 2729. This is bad legislation. It is unfortunate that we have spent time considering these bills when there is so much we could be doing to help workers and their families in this country. Let us not compound the error by foisting these bills on the other body.

Mr. BOEHNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. NORWOOD), the chairman of the Subcommittee on Workforce Protections of the Committee on Education and the Workforce.

Mr. NORWOOD. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, so we do not get confused, this hour is devoted to H.R. 2728, not all four bills, The Occupational Safety and Health Small Business Day in Court.

My good friend from California (Mr. GEORGE MILLER) speaks as a gentleman who really truly never has been in small business and it is pretty clear to me does not have any small businesses in his district because this is very important; and, in fact, nobody must be unemployed there because that is what this is all about. Small employers ought to be devoting more of their time and attention, in my opinion, to creating the new jobs our Nation needs and much less time on dealing with government lawyers that are intent on manipulating legal technicalities. That is precisely and that is all what H.R. 2728 does. That is what we are trying to accomplish here. Nothing more, nothing less. It is not complex. It is an 11-word bill.

The measure adds only 11 words, Mr. Speaker, to the OSHA act, but those 11 words will add fairness. And I know this body is interested in fairness and in removing potential injustice which has happened before because these 11 words are not in the OSHA act. Here is why.

In almost every other court of this Nation, in almost every other court of this Nation a party that acts in good faith but nonetheless misses a deadline that results in a legal default can ask the court to have the case heard on the legal merits. Why not OSHA? That is a good idea. That is a fair idea because we are after justice here.

The principle of justice is as old as our common law, and it was crafted to add equity and fairness to the justice system. Why is this not a good idea? We are adding equity and fairness to the justice system that almost every other court in the land can use. Yet we cannot use it with OSHA.

Simply stated, everyone should have a right to be heard on the merits of their case before being penalized by their own government. Legal technicalities should not be allowed to get in the way, hear this, as a general rule. Legal technicalities should not be allowed to get in the way as a general rule. Do we say that an employer should respond in 15 days? Sure, that is appropriate. And, actually, employers want to because they do not like this citation hanging over their heads. They want it to move too. But occasionally an honest mistake happens. Can you deal with that in all the other courts in this country? Yes. Can you deal with it when you are dealing with OSHA? No. Why not? Why is this so terrible to put a little fairness and justice into the system?

Right now, regrettably, there is doubt over whether the Occupational Safety and Health Review Commission, or OSHRC, the agency specifically created by Congress to hear each legal dispute between an employer and OSHA, has the statutory authority to grant this type of just relief. And by the way, just for those who do not remember their history, there would be no OSHA act passed by Republicans, signed by a Republican President, had not a review commission been put in the bill. It was a very, very simple reason. Parties who sit in judgment should not be the Labor Department as the plaintiff. It ought to be independent people on the review commission looking at what OSHA says is a violation and what the small businessman says, no, this is not a violation.

This agency was created by Congress and allowed OSHA to pass in 1970 to hear each legal dispute between the employer and OSHA. It has the statutory authority to grant this just type of relief. Well, it is not clear, we do not think, so we were not sure they do. While most every other court in the Nation can do what is right, employers facing OSHA standards can be victimized by legal technicalities that would deprive them of the right to be heard and to hear the merits of their case. That is dead wrong. I do not care whose side of this you are on. All H.R. 2728 does is conclusively give OSHRC the authority to make sure that our laws are fairly administered. Who can be against that? We want fair administration of our laws. What is going on now is not necessarily fair in some cases. And using 11 words, that is all this bill is, we have done this as narrowly, Mr. Speaker, as we possibly could have. We have used legal terminology that is time tested and proven to ensure just results without possible abuse.

This is because we use identical terminology to that used in the Federal Rules of Civil Procedure that is known as rule 60(b), a rule that has a very long

history of use in nearly every other court of the Nation. Why in the world is it wrong to have that rule take effect when you are dealing with cases with OSHA?

I have a feeling about that, but we will not go there. Under this measure, results will only change when the totality of the circumstances concerning a missed deadline, totality of the circumstances concerning a missed deadline indicates that an employer acted in good faith but nevertheless missed a deadline because of a mistake, an inadvertence or an acceptable excuse. This is reasonable. This is to be judged by OSHRC. This is to be judged by independent reviewers. This measure therefore removes a legal trap that has led to unfair results in the past.

Mr. Speaker, H.R. 2728 simply provides a day in court to parties who believe that they are without legal fault. It is nothing more than that. It is not a lot of what we have heard already. It is simply that it provides a day in court to parties who believe they are without legal fault. Nothing more.

I urge my colleagues to vote for passage of this bill. I frankly cannot imagine why every Member of this Congress would not vote for this bill, because every Member of this Congress has a lot of hard-working small business people in their communities that need this very simple, basic protection. About 92 percent of America is made up of the florists with three employees and the butcher with two. They have no way on Earth to take on the Federal Government. Let us just put a little fairness in the OSHA Act with 11 words that do not hurt anybody, but helps the people in your district.

Mr. OWENS. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in opposition to H.R. 2728 and also refer to the other three bills, H.R. 2729, 2730, and 2731.

Mr. Speaker, OSHA came into being to protect the worker and give that protection with the force of the Federal Government because in so many instances the employer was not protecting these workers. These bills individually and collectively will weaken that protection.

I can recall the days before OSHA, the lack of protection, the lack of sometimes even a concern among many employers about the safety of their workers. My father was almost killed in plant because he was being pulled into the machine and was unable to control his own machine. He could not control the power for their own machine. And he had to keep shouting down the line to turn off the power. And that is how things were before OSHA.

In my State about 8 or 9 years ago, a young lady trying to pull herself out of poverty took a job in a small plant. She was working on a press. She put her hands in to remove the product and the press came down. It did not amputate her hands. It obliterated, disintegrated her hands. Failure to abate can lead to such tragedies. And there was certainly failure to abate in that plant. Most of the workers knew that that machine had difficulties; but she was allowed to work on that machine which destroyed, obliterated, disintegrated her hands.

We have so many values in our life but she, in talking to us, held out her arms and was telling the great loss she had suffered. This is what we have to be concerned about.

□ 1245

''Among my losses,'' she said, ''I will never be able to pet my kitten again.'' These are real people. This was a woman who sought a job at very low wages and had her hands destroyed. Let us think of those people. Give them some relief.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

I think all of us in the Chamber and all of my colleagues understand that OSHA has been a good agency and very good law that helps to protect the health and safety of American workers. No employer and, certainly, none of us in the Congress want to see workers placed in a position where their health or safety is questioned.

As I said before, I think employers, by and large, across the country understand that their greatest asset, their greatest value in their business is the value of the good men and women who work for them.

Certainly, what we are doing today in no way denigrates OSHA. As a matter of fact, I would argue that it will enhance OSHA's ability to work with employers in a voluntary way to increase the health and safety of American workers.

The underlying bill that we have before us is real simple. It says that the arbitrary 15-day response time to an OSHA citation can be reviewed by the Review Commission and make a decision about whether the company needed more time, whether there was a mistake made and the deadline was missed. That is all it does. It does not denigrate the law in any way, shape or form. I believe it creates more voluntary cooperation between the employer community with OSHA.

Mr. Speaker, I am pleased to yield as much time as he may consume to the gentleman from North Carolina (Mr. BALLENGER), one of our senior colleagues on the Committee on Education and the Workforce.

Mr. BALLENGER. Mr. Speaker, I would like to thank the gentleman for yielding me the time.

For the edification of the people that are watching, I may be the only Member of this body who has enjoyed the possible penalties of that lovely group called ''OSHA.''

Mr. Speaker, I want to take a moment to refresh everyone's memory. As the former chairman of the Subcommittee on Workforce Protections, I cannot help but remember the testimony that our committee took from small business owners several years ago.

I recall very clearly what we heard, that despite a genuine desire to provide workers with a safe work environment, OSHA seemed more interested in confrontation than problem solving. For years, OSHA acted more like a policeman handing out fines and penalties for every little infraction of the law than an agency that would be willing to help employers improve worker health and safety.

Actually, surprisingly, and I do not want to put my friend from Georgia down, but the pay increases for OSHA worker inspectors were based on the number of fines that they turned in. We used to say that is why, going through south Georgia, you have to watch out. Sorry about that. Anyhow, that is how they got their pay increases.

That is why we worked to refocus OSHA, making it more of a partner with business. The idea was simple, if an employer in good faith wants to bring a workplace into compliance, let us do everything we can within the law to assist.

I am proud to stand here today and say that the simple reforms that we enacted a few years ago helped to bring balance to OSHA. Businesses, especially small businesses, are now able to receive the expert advice they need to comply with OSHA standards, without the fear and adversarial temper often associated with OSHA inspections.

In fact, in a recent GAO study, it seemed to point out that voluntary compliance programs have reduced workplace injuries, improved worker productivity, lowered worker compensation costs, and provided other intangible benefits. When OSHA partners with business and helps them comply, everyone benefits.

The four bills we have before us today are built on our original reforms. Compliance is what is really desired, and it is all that really counts.

These are common-sense bills that would help give small businesses more equitable treatment in dealing with OSHA, while letting employers know that the government is truly interested in helping to achieve a safer and healthier workplace. These bills take small, yet significant, steps in bringing about change to the way OSHA operates.

I want to thank the gentleman from Georgia (Mr. NORWOOD) for his hard work on these four important bills that will benefit both employers and employees alike, and I urge my colleagues to support these bills.

H.R. 2728, it is the Small Business Day in Court that gives relief on time to react to charges. Let me give my colleagues an example. On an inspection in my plant, there were seven changes that OSHA said needed to be made. Six were made in less than 1

week, and the last one took an unknown length of time. We did not know how long it would be, and it was to repair a platform that was 20 feet in the air. It took more than a month, but luckily, OSHA allowed us the extra time, not limited to 15 days. All this was done without penalty, and our partnership with OSHA made my plant a safer place to work.

I would ask all of the people to vote in favor of H.R. 2728.

Mr. OWENS. Mr. Speaker, may I inquire as to the amount of time left?

The SPEAKER pro tempore (Mr. TERRY). The gentleman from New York (Mr. OWENS) has 23 minutes remaining.

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

Mr. Speaker, I rise in strong opposition to this particular bill, H.R. 2728, and the other three bills to be considered in succession, H.R. 2729, H.R. 2730 and H.R. 2731. As I said earlier in the debate on the rule, this package I would label as a ''more injuries and more deaths package.'' This package I would label as ''a spoon feeding of poison'' to OSHA.

If we compare OSHA to a giant elephant, as has just been boasted by a couple of Members, they knock the elephant to its knees immediately by repealing the ergonomic standards, and now they want to slowly kill the elephant with spoonsful of poison.

Deliberately, it is made to appear these are trivial bills, common-sense bills, they have no real value; but why are they on the floor? I think they are significant only if we take this within the context of what the majority party has been trying to do with OSHA since it took control of the House, if we take it in the context of how the protection of owners and businessmen is the obsession of the majority party. We never get any bills from them which seek to protect workers.

There are quite a number, 14, of significant bills that have been offered since the 104th Congress, starting with the gentleman that just spoke before. The gentleman from North Carolina (Mr. BALLENGER) has offered more than anyone else, and each one of those bills seeks to, in some way, weaken OSHA and to favor law-breaking employers.

These bills will do nothing to strengthen the occupational safety and health standards for American workers. Rather, they will do quite the reverse, by undermining, sometimes suddenly and other times blatantly, the overall effectiveness of the Occupational Safety and Health Administration.

I would like to remind my colleagues on the other side of the aisle that Congress passed the Occupational Safety and Health Act in 1970 to assure ''every working man and woman in the United States safe and healthful work conditions.'' I believe that bears repeating.

OSHA's founding and fundamental purpose, as spelled out in the statute, is to ensure that each and every individual working in the United States carries out his or her work in safe and healthy circumstances.

The bill was not written to overburden business. It has never overburdened business. Every attempt has been made to bend over backwards to limit the burden on business and no attempt is made to protect workers.

This is the yardstick by which we must measure the likely outcomes of each of the bills before us today. Let us briefly review such outcomes.

H.R. 2728: By extending the customary 15-day period for an employer to appeal an OSHA citation, this bill would encourage litigation, and litigation is on the side of the employer not the employee. It would delay the correction or the abatement of whatever hazards have occurred in the workplace related to that citation. As such, it can only place workers at greater risk of unsafe and unhealthy working conditions, which runs expressly counter to the purpose of the OSHA Act originally.

H.R. 2729, and I want to talk about all these bills in context first before I deal specifically with each one: By expanding the size of the Occupational Safety and Health Review Commission from three to five members, this bill simply creates a bigger bureaucracy in search of a mission. Moreover, the bill adds legal training as a qualification for appointment to the commission. It makes OSHA less effective, not more effective.

It diminishes the chances that candidates considered for selection will have the requisite expertise in occupational safety and health. They have got to have legal expertise but they do not have to have expertise and experience directly in relation to occupational safety and health. That expertise is critical to further the assurance of safe conditions for America's working men and women.

H.R. 2730: By extending deference to the Occupational Safety and Health Review Commission over the Secretary of Labor, this bill contorts and confuses enforcement responsibilities of both the Secretary and the Review Commission. Such confusion will only hinder efforts to fulfill the statutory guarantee of safe and healthy conditions for all workers in this country.

It seems like a small matter, but it is another spoonful of poison which, in the end, can be very effective in killing the elephant.

H.R. 2731: By requiring OSHA to pay attorney fees for any employer with 100 or fewer workers and a net worth of under $7 million, that prevails, even partially, upon appeal, this bill would have a chilling effect on OSHA enforcement efforts. It would almost freeze those efforts. Given that worker death rates are much higher in such firms in comparison to those with more than 100 workers, this bill would encourage litigation and seriously jeopardize progress towards improving the safety and health conditions of American workers.

Moreover, the bill would freeze safety enforcement efforts in the lion's share of private companies in light of the fact that more than 97 percent of all private employers have fewer than 100 employees on the payroll.

I might add that the practice now is for larger employers who are subject to other kinds of regulations and other OSHA standards often to subcontract to small employers and avoid being regulated in the proper way for health and safety.

These bills run counter to the real interests of working Americans, and I urge my colleagues to oppose it. As the senior Democrat on the Subcommittee on Workforce Protections, I have heard firsthand from workers around the country about very real and pressing safety and health concerns many face on the job on a daily basis. If neglected or unaddressed, these risks can have severe, and even fatal, consequences.

H.R. 2731: Requiring OSHA to pay attorney fees for any employer with 100 or fewer workers is one of those bills that certainly would create a situation where the likelihood is that less regulation would take place and more workers would be at risk.

In a May 12th forum, which we entitled ''A Job to Die For: Inadequate Enforcement of U.S. Safety Standards,'' I heard from witnesses on the front lines of an epidemic with fatal consequences. Worldwide, this epidemic is deadlier than war. From Brazil to Bangladesh, it claims 6,000 lives a day, which means four lives a minute. In this country, it claims 6,000 lives a year, which computes to one life every 90 minutes.

This epidemic takes a devastating toll on American families and communities. I think my colleagues can see from the arithmetic, we lose more workers per day from deaths in the workplace than we are losing in Iraq. I think that later on we are going to talk about how this phenomenon must be brought to the attention of the American people, starting with the Members of this body in both parties.

This is not a trivial discussion today. This is not a discussion to be quickly passed over. It is at the core of an effort to make the workplace safe and to create better conditions for working, and better respect for working families.

Working families are expected to produce the soldiers that go off to fight our wars. Ninety percent of those in Iraq are from working families, but yet we have an attempt to oppress working families with many measures. We will not even consider a minimum wage increase. We are constantly trying to change workplace safety conditions through these various measures for those members of our society who also shoulder the burden when it is time to go off and fight for the country and defend the country.

□ 1300

I am referring to wrongful deaths in the workplace when I talk about the

6,000 lives lost in this country per year. Individual worker deaths are not random, isolated events. Rather, they are often tragic certainties that are almost always preventable. Unlike a disease that is triggered by a mysterious or elusive virus, this outbreak is caused by the willful and reckless safety violations of certain employers. Let me repeat, the willful and reckless safety violations of certain employers.

Much has been said about the fact that most employers care about their employees. And that may be true, but there is a large, large percentage that care only about the profits, and they are constantly squeezing the workers and jeopardizing the safety and health of workers in an attempt to increase their profits. Such business owners pursue profits and their own economic interests at the expense of basic safety practices, and all too often this comes at the actual expense of workers' lives.

We have learned that for Latino workers the risk of workplace fatalities keeps rising. They right now happen to be the most vulnerable. Recent immigrants are forced to take the dirtiest and most dangerous jobs. As highlighted in the recent investigative series by the Associated Press, immigrant workers born in Mexico are now 80 percent more likely to be killed on the job than their U.S.-born peers. This is almost three times greater than the disproportionate risk of workplace fatalities for the rest of the population. Even by conservative estimates, a Mexican worker is killed on the job every day in this country.

The Federal Government is astonishingly ineffectual at combating this epidemic of wrongful deaths, both with respect to immigrant workers born in Mexico and all other workers. The current administration is replacing standard OSHA inspections with voluntary compliance programs that ignore the work sites where deaths are most likely to occur.

And much is being made by the majority party of volunteering and trusting employers. The OSHA was developed by legislation because it was clear that employers could not be trusted to safeguard the health and safety of workers. The current administration is replacing standard OSHA inspections with voluntary compliance that ignores the work sites where deaths are most likely to occur. You can find that the majority of American employers do care about their employees and safety, but that minority is the problem; and they are not being properly scrutinized.

Moreover, OSHA has increased the percentage of its budget dedicated to voluntary efforts by 8 percent. These discussions and negotiations of voluntary efforts have run off with the slight increases that have been made in the OSHA budget while they have reduced the funds devoted to safety enforcement by 6 percent.

At the same time, the U.S. continues to lag behind other Western nations in preventing workplace deaths. A construction worker in the U.S. is four times more likely to be killed on the job than a worker in Belgium. In comparison with their British counterparts, American construction workers are twice as likely to be killed on the work site.

These are critical health and safety issues we should be addressing today as opposed to the four bills that would further undermine OSHA's effectiveness in protecting American workers. We have the most productive workers in the world. We ought to appreciate that and try to protect those workers, not squeeze them more, not make them sweat more, and not endanger their lives more.

I urge my colleagues to vote against H.R. 2728, H.R. 2729, H.R. 2730 and H.R. 2731.

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

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Virginia (Mr. SCHROCK).

Mr. SCHROCK. Mr. Speaker, I rise in support of all the commonsense reforms to the OSHA enforcement process. Mr. Speaker, I serve as chairman of the Subcommittee on Regulatory Reform and Oversight of the House Committee on Small Business. Believe me, I hear regularly from small businesses about the horror stories with OSHA enforcement.

The Department of Labor and OSHA suggest their first mission is to provide compliance assistance and not play ''gotcha'' with businesses they oversee. OSHA needs to educate our businessmen and women about what they should be doing before they show up and slap them with a fine. In a system where our agencies promulgate over 4,000 rules a year, we cannot expect small businesses to know how to comply unless we help them.

In 1996, Congress passed the Small Business Regulatory Enforcement Fairness Act requiring agencies to develop small business policies to reduce or waive civil penalties for first-time violators. We want our regulators to help businesses come into compliance.

I have been reviewing enforcement statistics as a result of some of the hearings I have held. The Department of Labor had 143,000 enforcement actions against businesses last year, 45 percent of them against small businesses. I have also looked at the numbers in OSHA. It had 24,000 enforcement actions, half of which were against small businesses. We need to restore fairness to the OSHA adjudication system.

Unfortunately, the present system stacks the deck against businesses, particularly small ones, so unfairly that many people settle even frivolous OSHA complaints rather than challenge them. OSHA paperwork requires over 100 million hours a year to comply with. That is 100 million hours that our citizens and small business men and women could be spending with their families or helping to grow their businesses. That does not even include the amount of time a small business has to spend if it is fighting what it believes to be an unfair OSHA fine.

Mr. Speaker, it is time for us to restore fairness and balance to this process. It is time for us to give small businesses the tools to fully exercise their rights in this process. It is time for us to get out of the way of the businesses that are creating jobs in this economy, providing health care to their workers, and giving back to their communities. Mr. Speaker, it is time for us to pass this legislation.

I urge my colleagues to support this package of commonsense OSHA reform bills; and I urge my colleagues to support the bill we are now considering, H.R. 2728, which will give the Occupational Safety and Health Review Commission the flexibility to make exceptions to arbitrary deadlines for employers to file responses to OSHA citations when a small business misses the deadline by mistake or, frankly, for a darned good reason.

Mr. OWENS. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, today is a very sad day in the history of the workers of the United States. The Republican Party is bringing out here onto the floor of Congress an all-out assault on the protection of the rights of people who work in the fields of our country, in the factories of our country, in the offices of our country. What they are saying is that they are going to try to tie the hands of OSHA to protect the rights of workers to be living and working in safe and healthy environments.

And how do they do it? Well, the way they do it is they make it possible for there to be a wholesale delay in the implementation of improvements in health and safety protections in the workplace. They make it very difficult for the Secretary of Labor to exercise the authority of that agency to move in and to protect our workers. And they make it almost impossible to even bring a case unless the agency is 100 percent sure it is going to win the case. As a result, the hands of this agency are going to be tied by the Republican legislation out here on the floor.

GOP. It used to stand for Grand Old Party. Now it stands for ''gut OSHA protections'' for ordinary workers in our country. And it is all part of a pattern. The same thing happened with overtime pay. With overtime pay they want to make it very difficult for workers to be able to collect that bonus that helps their families across our country.

GOP. It used to stand for Grand Old Party. Now it stands for ''gut overtime pay, ''or ''gut OSHA protections.''

And on the minimum wage, you know, Harry Truman used to say about the Republican Party, ''Oh, the Republican Party believes in the minimum

wage. The lower the minimum, the better.'' And here we are, year after year trying to improve the lot of working people by giving them that increase that they need in the minimum wage; and, like OSHA, and like overtime pay, it is all part of a deliberate assault upon the working men and women in our country, in their workplace, for their families, that makes it difficult to protect them.

And when it comes to unemployment benefits as well, they also stand in the way of helping those families have the protections when they need it with unemployment benefits.

So it is all part of a pattern. And, today, on the House floor, with four separate bills all aimed at a different part of OSHA, they continue this assault upon the progress that was made to improve the lives of working people in the workplace.

I remember when I was a boy, my father used to walk around without one of his fingers that he lost in an accident in the workplace. And I think of how far we have come in terms of the protections which we give to families, because so many thousands, hundreds of thousands, millions of workers were just constantly subjected to the risk of being injured in ways that would forever alter their lives, and because of OSHA that has changed.

But when the Republicans control the House, the Senate, the Presidency, and the Supreme Court, you can see this lingering resentment of the laws which were put on the books to protect these ordinary people, these laws which they voted against when they were originally proposed. And what we are seeing here today is that continuing assault to turn into a relic an agency which has so dramatically changed the lives of ordinary people.

Oppose each and every one of these Republican assaults upon the working men and women in our country.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Georgia (Mr. NORWOOD), the chairman of the Subcommittee on Workforce Protections.

Mr. NORWOOD. Mr. Speaker, I always welcome one of the members from our Committee on Energy and Commerce to join us. I know on the Committee on Energy and Commerce we have a lot of political dialogue, but we try not to posture on the Committee on Education and the Workforce and just stay on policy. And that certainly was a lot of posturing the gentleman did very well with that, but a lot of it is just simply not true.

Let me remind the body what we are doing this hour. We are dealing with one bill, H.R. 2728, that helps working families in this country. I know it is confusing for some people, but working families also include small business owners and their employees, which make up about 92 percent of the working families.

Now, this little piece of legislation helps those working families, and I have yet to hear a good explanation why that did not include the 92 percent. Everybody wants to talk about the 8 percent that happen to be unionized. What about those that are not?

This is not very difficult legislation. We are giving the rights to 92 percent of the working families in this country that every court, almost every court in the Nation gives. Who said 15 days was right? Who made that up? It is arbitrary. It could have been 8; it could have been 16. All we are saying is occasionally a small business owner needs to have his case relooked at by the review commission and given his right and day in court.

Mr. OWENS. Mr. Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I want to take a moment of personal privilege to thank the gentleman from New York (Mr. OWENS) for the work that he has done in this area, particularly a very important briefing that he held just last week on this very issue, bringing together experts trying to educate people on the value of OSHA.

Now, in this body we are always inclined to give acronyms, and most people would not know what we are talking about. But both the gentleman from New York (Mr. OWENS) and the gentleman from California (Mr. GEORGE MILLER), who has been an enormous leader on issues dealing with working Americans, realize it does not matter about what acronym you are talking about. The bottom line should be are you going to stand with the workers, or are you going to stand with a club beating them to death by taking away established protections!

Now, I come from Houston, which is a city that is very fond of its small businesses, and we are much like a chauvinist, if I can use that terminology, in advocating for small businesses. In fact, just this last week I joined with a number of my colleagues to support the associated health plans that would allow small businesses to get health plans at a lower rate.

But let us clear away the misrepresentations and all of the clouding about how we are standing up for one these bills to help people who are in need.

□ 1315

Mr. Speaker, that is not what we are doing. We are frankly dismantling the very agency, OSHA, which provides the umbrella of protection for workers on the job, whether working in the local laundromat or local cleaner with chemicals or working in the local refinery. That is what OSHA is all about.

Unfortunately, we have done a coup d'etat today by managing to throw all of these bills, four bills, into 1 hour. What do we have here? We have one bill, H.R. 2728, that diminishes the ability for the company to mitigate the problem, to fix the problem. So if you are dying because you are working at this particular job, they can say OSHA, we do not want to comply right now, give us a couple more years, see how many more people will die.

H.R. 2729 expands the OSHA board to put more people on who can vote ''no'' so that the workers do not have a right when they come before the board.

H.R. 2730 weakens the enforcement capabilities of the Secretary of Labor. That sounds very good. We have the Secretary of Labor who is responsible for protecting the rights of working Americans; and what do we do, we dismantle their authority.

H.R. 2731 is one that diminishes the protection of Occupational Safety and Health by discouraging OSHA from even enforcing the Occupational Safety and Health Act and punishing taxpayers under the agency.

Let me give an example why we need to have OSHA as strong as it possibly can be. We have a citation in Houston of a particular company, and I will not say its name, but here is the quote: '' 'The employer knew about the unsafe working conditions, but continued to place people at risk,' said John Lawson, OSHA Houston North area director. 'A similar incident happened 2 years ago when two employees fell to their death from a storage tank.' '' This company's continued failure to protect the workers from falls is simply unacceptable.

This is what the collective body of these bills will do, just open the door, open the door, the random trap, and allow employees to fall through.

Mr. Speaker, if we had come to this floor in a bipartisan manner and addressed this question of dealing with the concerns of small businesses, there would be a great deal of support because we do believe that small businesses are the backbone of America in terms of their job creation; but what we have here is a runaway train allowing workers to fall through the cracks. I do not want to see any more workers fall to their deaths. I ask my colleagues to vote ''no'' on all of these bills because I am standing and we should be standing with the working people of America who are already suffering from this horrible economy.

Mr. Speaker, I rise in opposition to this bill. H.R. 2728, the "Occupational Safety and Health Small Business Day in Court Act of 2004." The underlying bill would amend Sections 10(a) and (b) of the Occupational Safety and Health Act (OSHA) to provide that an employer who has failed to contest a citation and proposed penalty (Section 10(a)) or has failed to contest a notification of failure to correct a violation (Section 10(b)) in a timely manner (within 15 working days of receiving the notice) may still contest the citation (or failure to correct the notice) if the failure to contest in a timely manner was due to a "mistake, inadvertence, surprise, or excusable neglect."

Mr. Speaker, the relief granted in this bill has nothing to do with "small businesses" as its title purports. It addresses a single situation

by overturning a case out of the Second Circuit, Chao v. Russell P. Le Frois Builder, Inc. (Second Circuit, May 10, 2002) to allow the employer to contest an OSHA citation with a ridiculous amount of latitude.

Instead of focusing on helping small businesses, this bill effectively hurts employees. The backbone of the employer is the employee, and this legislation fails to consider that.

The legislation seeks to enable the Occupational Safety and Health Review Commission (OSHRC) to waive a statute of limitations for employers to contest a citation in a manner that parallels the Federal Rules of Civil Procedure—Rule 60(b). Despite the fact that a citation has been properly served by an agency and that the employer cited has failed to timely challenge the citation, this legislation will allow them to escape the commitment to safety and healthy workplaces by allowing relief if the failure to respond was due to ''mistake, inadvertence, surprise, or excusable neglect.''

Employers should be held to a high standard and should not be given this kind of latitude at the expense of the injured or dead employee. The regulations are in place to create a safe work environment. This bill seeks to permit lackadaisical maintenance of such a safe environment. Put simply, this bill is bad policy and does not help the people who really need help.

In Houston, OSHA proposed fines of $258,000 against the Pasadena Tank Corporation for an August 23, 2001 accident that killed a worker at a construction site. The company had 15 days in which to contest or pay the fines. The Houston-based firm received a citation of six willful and serious safety violations for failing to protect workers by providing an inadequate fall protection system. The employee repairing a rooftop of a storage tank fell 56 feet to the ground when the rooftop collapsed. An OSHA employee said of the situation, ''The employer knew about the unsafe working conditions, but continued to place workers at risk . . . A similar incident happened two years ago when two employees fell to their deaths from a storage tank. This company's continued failure to protect its workers from falls is simply unacceptable.'' This failure to act when there is sufficient knowledge to mitigate an unsafe condition is what H.R. 2728 will sanction and permit.

Our innocent employers should not be punished from a piece of legislation that attacks from the ''back door'' by weakening a procedural standard that has been set in place to protect them. We should follow the motto, ''if it isn't broken, don't fix it.''

Mr. Speaker, I oppose this legislation and I strongly urge my colleagues to do the same.

Mr. NORWOOD. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I remind Members that we are on H.R. 2728. It is hard to tell because we are all over the board here. This is simply about small business owners having a fair day in court.

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

Mr. OWENS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I take issue with the last statement. We are on the first quarter of a four-bill marathon. They have been put together by the majority. We choose to discuss them as we see fit.

Mr. Speaker, I yield the balance of my time to the gentleman from New Jersey (Mr. PAYNE) to close out this first quarter of this four-bill marathon.

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

Mr. PAYNE. Mr. Speaker, let me say this is a day when we will be talking about four quarters, and this is the first quarter of a four-quarter tragedy.

H.R. 2728 weakens enforcement of OSHA by allowing employers to drag out the imposition of penalties and the date for taking corrective action, or to buy safety officials. The principal purpose of the Occupational Safety and Health Act is to ensure, so far as possible, every working man and woman in the Nation safe and healthy working conditions and to encourage the prompt abatement of safety and health hazards.

The time frames in the act are intended to reduce the occurrence of occupational injury by ensuring that hazards are redressed in a timely fashion. H.R. 2728 creates an exception to these time frames where an employer fails to contest an OSHA citation or fails to abate a hazard in a timely manner, pursuant to section 10(b) of the Occupational Safety and Health Act.

H.R. 2728 also encourages employers to litigate citations rather than to promptly correct health and safety hazards. Allowing an employer to belatedly challenge a complaint also allows an employer to delay when he or she must correct a health or safety hazard. Under this legislation, the responsibility to correct a health hazard may be indefinitely delayed by virtue of litigation, and I always thought my friends on the other side of the aisle were opposed to litigation, even though the employer has failed to challenge a citation or a failure to abate notice in a timely manner. If that failure is due to mistake, inadvertence, surprise, or excusable neglect, the employer can nevertheless challenge the citation, does not have to abate the hazard during the challenge period, and is not liable for having failed to abate in the interim period.

The majority appears to equate an Occupational Safety and Health Act proceeding with any other typical proceeding. In fact, however, much more is at stake. What is at stake is not merely whether an employer will pay a monetary fine, but whether workers will have a safe and healthy workplace, or to be subject to injury, illness or death. It is very clear that this bill does not assist the employee. Therefore, Mr. Speaker, I urge my colleagues to vote ''no'' on H.R. 2728. It should be rejected.

Mr. BOEHNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, as I said earlier, occupational workplace injuries and illnesses have in fact been coming down in a rather dramatic way over the last few years, and this is because we continue to see more cooperation between employers and with the agency charged with enforcing these laws, OSHA.

Looking at this chart here, over the last 4 years, voluntary programs have reduced injuries. If we look at injury and illnesses over the last 4 years, Members will see that the rates per 100 workers have in fact continued to decline, and we believe that is because of the voluntary nature of these agreements between OSHA and the employer community.

Looking at workplace fatalities on the next chart, Members will see that they continue to come down rather dramatically. Today, we are trying to increase the cooperation between OSHA and employers.

The bill that we have before us, I think we need to understand that almost every other court in the Nation has the authority to excuse understandable procedural mistakes when those mistakes would take away someone's right to be heard in court. While most courts have this authority and use this authority, disputes at OSHA are an exception. There seems to be no flexibility in the OSHA Act. The OSHA Act has a 15-day deadline for filing a legal dispute against OSHA after it issues a citation. This is inflexible; 15 days, no changes.

The bill before us is to provide authority for the agency specifically created by Congress to hear OSHA disputes, the Occupational Safety and Health Review Commission, to make exceptions in appropriate cases.

Now, appropriate cases for excusing a missed deadline are only those under which the totality of the circumstances surrounding the conduct indicates a good-faith effort to comply, but an inadvertent effort to do so. The bill before us accomplishes that using the time-tested legal language with clear, long-standing legal precedent, the same language used in the Federal Rules of Civil Procedure.

So the bill before us would have no negative impact on the current safety and health protections in place. All it does is permit a case to be heard on the merits rather than being decided on a legal technicality. It does not change the outcome in any way, shape or form. The review commission is there to act as the court in these cases. We ought to give them the flexibility that every other court in the land has. We believe that this small change, this 11-word change in the law, would provide more cooperation between OSHA and employers and assist in protecting the health and safety of American workers.

Mr. Speaker, I ask my colleagues to support H.R. 2728.

Ms. WOOLSEY. Mr. Speaker, I rise in opposition of H.R. 2728 because it appears to be another way for this administration to distract from real needs facing our nation's workers. What employees deserve is a safe working environment that protects them from harm and allows their families peace of mind.

Yet, with this legislation, we put the company's bottom line above the safety of American Workers.

With the narrowing definition of ''Willful Violations,'' we will make it easier for employers to avoid responsibility after disregarding a safety standard requirement. This bill would allow companies to receive filing extensions even if they lost track of a citation due to their own negligence.

Why should any worker be forced to suffer in unhealthy conditions or even worse, lose their life, because of inefficiencies within a company's system or blatant lies to avoid penalties?

That's why I support real workplace reform not favors to business like H.R. 2728 provides. I support strengthening worker protections and forcing employers to face real consequences when their poor safety standards cause a wrongful death.

You cannot put a price tag on life, and injury, and we can all agree every workers' life is more precious than a profit. That's why I encourage my colleagues to join me in opposing this H.R. 2728.

Mr. HOLT. Mr. Speaker, I rise in opposition to H.R. 2728. The bill amends the section 10(a) and (b) of the Occupational Safety and Health Act to provide that an employer who has failed to contest a citation and proposed penalty (section 10(a)) or has failed to contest a notification of failure to correct a violation (section 10(b)) in a timely manner (within 15 working days of receiving the notice) may still contest the citation (or failure to correct notice) if the failure to contest in a timely manner was due to a ''mistake, inadvertence, surprise, or excusable neglect.''

The bill's authors have used the title ''Occupational Safety and Health Small Business Day in Court Act.'' Once again, they have provided that you can name a bill anything you want, regardless of what it actually does. That is why it is critical to look at what is in the bill and not just the title—it covers more than just small businesses. In fact, H.R. 2728 applies equally to all employers regardless of size. However, because small businesses often get more sympathy, the bill's authors used the title to mischaracterize the substance of the legislation.

One of the principal purposes of the OSH Act is ''to assure so far as possible every working man and woman in the Nation safe and healthful working conditions'' and to encourage the prompt abatement of safety and health hazards. The timeframes in the OSH Act are intended to ensure that hazards are redressed in a timely manner.

H.R. 2728 creates an exemption to the act's timeframes on the basis of one case. The bill seeks to overturn the 2002 decision of the Second Circuit in Chao v. Russell P. Le Frois Builder, Inc. However, to date no other circuit has ruled similarly and Le Frois Builders is in direct conflict with a Third Circuit decision. Indeed, it is the position of the Occupational Safety and Review Commission that it may grant an excusable neglect waiver in any circuit except the second.

The bill amends subsection 10(a) and (b) to afford an excusable neglect remedy to an employer who fails to contest an OSHA citation in a timely manner or who fails to timely challenge an allegation that he or she has failed to correct a hazard within the abatement period. Not surprisingly, H.R. 2728 does not amend subsection 10(c), which affords workers the right to challenge the abatement period.

Mr. Speaker, I ask my colleagues to oppose a bill that has been given a deceptive title. This legislation will not help small business but instead will hurt employees. What we really should be passing is legislation that will empower small business by increasing funding for education and training programs to help workers gain the job skills that small business is looking for and that will help America remain competitive.

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

The SPEAKER pro tempore (Mr. TERRY). All time for debate has expired.

Pursuant to House Resolution 645, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

Mr. OWENS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question are postponed.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION EFFICIENCY ACT OF 2004

Mr. BOEHNER. Mr. Speaker, pursuant to House Resolution 645, I call up the bill (H.R. 2729) to amend the Occupational Safety and Health Act of 1970 to provide for greater efficiency at the Occupational Safety and Health Review Commission, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 645, the bill is considered read for amendment.

The text of H.R. 2729 is as follows:

H.R. 2729

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Occupational Safety and Health Review Commission Efficiency Act of 2003''.

SEC. 2. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

(a) AMENDMENTS.—Section 12 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 661) is amended as follows:

(1) In subsection (a), by striking the word ''three'' and inserting in lieu thereof, the word ''five;'' and inserting before the word ''training'' the word ''legal''.

(2) In subsection (b) by striking all after the words ''except that'' and inserting in lieu thereof, ''the President may extend the term of a member to allow a continuation in service at the pleasure of the President after the expiration of that member's term until a successor nominated by the President has been confirmed to serve. Any vacancy caused by the death, resignation, or removal of a member before the expiration of a term, for which he or she was appointed shall be filled only for the remainder of such expired term. A member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(3) Subsection (f) is amended to read as follows:

''(f) The Chairman of the Commission is authorized to delegate to any panel of three or more members any or all of the powers of the Commission. For the purpose of carrying out its functions under this chapter, 3 members of the Commission shall constitute a quorum, except that 2 members shall constitute a quorum for any sub-panel designated by the Chairman under this subsection.''.

(b) NEW POSITIONS.—Of the two vacancies for membership on the Commission created by this section, one shall be filled by the President for a term expiring on April 27, 2006, and the other shall be filled by the President for a term expiring on April 27, 2008.

The SPEAKER pro tempore. Pursuant to House Resolution 645, the amendment printed in the bill, modified by the amendment printed in part A of House Report 108–497 is adopted.

The text of H.R. 2729, as amended, as modified, is as follows:

H.R. 2729

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Occupational Safety and Health Review Commission Efficiency Act of 2004''.

SEC. 2. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

(a) AMENDMENTS.—Section 12 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 661) is amended as follows:

(1) In subsection (a), by striking the word ''three'' and inserting in lieu thereof, the word ''five'' and by inserting the word ''legal'' before the word ''training''.

(2) In subsection (b) by striking all after the words ''except that'' and inserting in lieu thereof: ''the President may extend the term of a member for no more than 365 consecutive days to allow a continuation in service at the pleasure of the President after the expiration of that member's term until a successor nominated by the President has been confirmed to serve. Any vacancy caused by the death, resignation, or removal of a member before the expiration of a term, for which he or she was appointed shall be filled only for the remainder of such expired term. A member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.''.

(3) In subsection (f), by striking ''two'' the first place it appears and inserting ''three''.

(b) NEW POSITIONS.—Of the two vacancies for membership on the Commission created by this section, one shall be filled by the President for a term expiring on April 27, 2006, and the other shall be filled by the President for a term expiring on April 27, 2008.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BOEHNER) and the gentleman from New York (Mr. OWENS) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2729.

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

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the second bill we will debate today is another narrowly crafted bill that addresses a specific problem which we find in the OSHA law.

The Occupational Safety and Health Review Commission Efficiency Act, H.R. 2729, increases the membership of the Occupational Safety and Health Review Commission from three to five members to ensure that cases are heard in a timely fashion.

Because a quorum of two out of the current three commissioners is needed for timely decision-making, the commission has in the past been unable to act simply because a quorum was not present. There are a number of reasons for this. The appointment process is sometimes controversial, leading to vacancies, and sometimes commissioners must recuse themselves from consideration of cases, meaning a situation is created where even if there is only one seat open, there is often no working quorum.

For some 20 percent of its history, the commission has been unable to gain a working quorum, and as a result is simply unable to function despite being otherwise fully staffed. Increasing the membership to five commissioners will ensure that cases are reviewed in a more timely fashion, improving the current system of judicial inactivity that only results in government waste.

In short, it will allow the commission to complete the job it was created to do by reducing case backlogs that are as much as 8 years old.

The commission's sister agency, the Federal Mine Safety and Health Review Commission, has five panelists, and we found it has worked well in reviewing cases more efficiently.

□ 1330

Lastly, the bill permits incumbent members whose terms have expired to stay on until a replacement can be confirmed by the Senate. Most vacancies occur during these turnovers.

We want small businesses hiring more workers and contributing to our economy, not facing years of OSHA-related litigation that they cannot resolve simply because the commission has an endless backlog of cases. This bill simply ensures that OSHA cases are resolved in a timely and efficient manner, a goal that I think we all support.

Employers who make good-faith efforts to comply with OSHA standards deserve to be treated fairly and have their day in court. This measure will help ensure that they receive that opportunity.

Nearly every employer today recognizes that improving workplace safety is good for business and it is good for workers. Employers face relentless competition both at home and abroad and they must compete in the face of high taxes, rising health insurance premiums and burdensome government regulations. All of these OSHA reform bills are designed to improve worker safety and enhance the competitiveness of small businesses that are the real engine of job growth in this country.

The U.S. economy is improving. More and more employers are hiring workers every month. Earlier this month, the Labor Department reported that over the last 8 months, 1.1 million net new jobs were created, 625,000 in just the last 2 months. But we want to make sure that government regulations, and especially onerous government regulations, do not stand in the way of small businesses hiring more workers and getting our economy back on its feet.

This bill is narrowly crafted and addresses a specific problem in the OSHA law. I believe it deserves our Members' support and would ask our Members and encourage them to support it today.

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

Mr. OWENS. Mr. Speaker, I yield myself such time as I may consume.

First, I would like to comment on voluntary compliance. It has been mentioned here several times. Voluntary compliance programs are usually directed at large employers, not small. This is not where the deaths are occurring. In construction, half of all deaths occur among small firms in construction, many with fewer than 10 workers. Big corporations have understood for some time now that it is to their advantage to have a workplace that is safe, with maximum benefits and working conditions. And big corporations are seldom guilty of willful violations; it is the small employers. I must say that an attempt has been made here to make it appear that small employers have some special virtues, but small employers can be demons often.

I recall my father working in a mill where the straw boss, they called him, told the workers if they would go to the toilet, which was pretty much in the middle of the floor anyhow, a cubicle that you could see the feet and it was open at the top, if you go to the toilet and he does not smell anything, come on out.

I can recall working at a restaurant when I was in college where the employer, the owner of this small business, felt he had a right to pat any woman on the behind regularly, and they were too afraid to complain because they wanted to keep their jobs.

You might say that those were extreme conditions, that is all over; that happened when you were in college many years ago. But in New York we have sweatshops which are as bad as any sweatshops the city has ever known in the 1930s, the 1920s or any other time. It is just that the people in the sweatshops now happen to be Asians mostly, Asian workers who are being exploited.

There is no great virtue in small businesses automatically. Yes, the majority comply, but there are too many who still do not comply, too many who, as I said before, are interested only in squeezing the maximum profits from the situation; and their biggest cost is the labor cost, labor cost in terms of wages, labor cost in terms of conditions that must be established by law for workers.

We refuse to discuss the minimum wage on this floor. We refuse to discuss it in the context of a bill to increase the minimum wage. But today if we are going to talk about workers and worker safety, I think we ought to point out that it is the workers who are making the least amount of money whose safety is jeopardized most. They are the vulnerable ones in conditions that nobody else wants to work in, immigrant workers who take the lowest pay and working conditions where no one else will work.

This is the second quarter of a four-quarter marathon, as I said before. I have heard it called the More Injuries and More Death Marathon Act. It is a covert approach to what the majority Republicans tried when they first took power in 1995. This is covert. This is guerilla warfare, one might say, undermining OSHA from the back, undermining OSHA with sweet words.

Back on June 14, 1995, we had the first taste of what the majority Republicans really wanted to do about OSHA. The gentleman from North Carolina (Mr. BALLENGER) introduced H.R. 1834, and that was a massive overhaul of OSHA to weaken the law and favor law-breaking employers. If you were to go back and retrieve that bill, you could see that most of it was put there in one bill, and it was a frontal assault. It had the same objectives that today's assault has.

There have been 14 of these significant bills introduced since the 104th Congress, I think half of which have been introduced by the gentleman from North Carolina (Mr. BALLENGER) which are significant in terms of looking at the record of how OSHA has been under attack. Since this House went under the leadership of the Republicans, OSHA has been the target, it has been an obsession, and none of these bills are in favor of increasing any measures to protect workers.

We cannot review and view these bills today in the context of just one bill at a time or even the four bills. The four bills have to be reviewed in the context of the overall policy of the Republican majority toward working families, the overall assault against working families.

We have to have this in context. We have to look at the figure of the 6,000 Americans per year. That figure has been there for some time, averaging about 6,000 per year who die every year on the job.

The little display up front is an example of a centerpiece for a quilt we want to make as a memorial to these workers. We do not want either party to forget what is happening to working

families in this country. In many respects, the failure to increase the minimum wage is one of them, but certainly with respect to health and safety, we must do more to make it known and to put it on the front burner in the minds of Americans as evidence of what is happening in the workplace.

This is not unrelated to other developments like outsourcing, a major development which goes after workers at higher levels, technicians, computer people, scientists, engineers. Their salaries and their working conditions are such that they are found to be offensive and not producing ample profits, so their jobs are going to be taken away completely and contracted out to other nations.

There are a large number of businesses that cannot be contracted out and most of them are small businesses. Construction is one. We can never take construction overseas; that has to happen here. The construction industry, in particular, needs the protection of people who want to weaken OSHA. The construction industry, in particular, is a culprit in employing and exploiting workers at the very bottom.

We must keep this package in context. We must understand that the covert warfare taking place here, what I call the poisoning of OSHA, the slow draining of power from OSHA, is accelerated by these seemingly harmless four bills. The Labor Secretary in this administration is openly hostile to labor and to working families. We have a situation where traditionally the Department of Labor has always been considered the advocate for working families and for workers, but this particular Department of Labor, this Secretary, is just the opposite and this administration has no place for labor to have their grievances aired. So we bring them here today at this time and take advantage of the fact that there is at least time to discuss conditions under which people work.

The policy of denigration, intimidation and oppression of the workforce is a policy which yields high productivity. That high productivity has already been achieved, but they want to go beyond that and get higher levels of exploitation and squeeze more from workers to increase the profits. As I said before, all small business owners are not model Americans. They do not seek to protect and take care of their workers in the best possible way.

We are going to have a monument. This is going to be part of an overall quilt which gives you the number of workers per State, gives you the number each year, since 1993 to the present. Like the Vietnam Wall memorial, it dramatically brings home in an individual way the fact that life is sacred. The lives of workers are as sacred as the lives of anyone else.

I said before, we are losing more workers per day than we are losing on the battlefields of Iraq. I do not want the Iraq battlefield casualties to increase. We would like the casualties in both places to decrease. But the life of a worker who is killed in a situation which has willful violations and the death is totally unnecessary, that life must be given more concern by both parties here in this House.

Workers and their families are under attack. We must come to their defense. One way to defend them is to recognize these four bills for what they are worth. They are the very destructive poisoning of the effectiveness of OSHA.

Mr. Speaker, I submit for printing in the CONGRESSIONAL RECORD the opinions and the statements by four groups: The AFL-CIO, the UAW, the Teamsters and the National COSH Network. These groups oppose this bill. I submit for the RECORD their statements in opposition.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,

Washington, DC, May 14, 2004.

DEAR REPRESENTATIVE: I am writing to express the strong opposition of the AFL–CIO to H.R. 2728, H.R. 2729, H.R. 2730 and H.R. 2731, four bills that would erode worker protections under the Occupational Safety and Health Act. These bills, which are scheduled for a floor vote the week of May 17, 2004, would change established law and procedures to benefit employers and stifle OSHA enforcement. They would do nothing to enhance workers' safety and health protection, while weakening the OSH Act.

H.R. 2731, Occupational Safety and Health Small Employer Access to Justice Act—This bill requires taxpayers to pay the legal costs of small employers (defined as employers with 100 or fewer employees and up to $7 million net worth) who prevail in any administrative or enforcement case brought by OSHA or any challenge to an OSHA standard brought by the small employer against OSHA, regardless of whether the action was substantially justified.

Under the Equal Access to Justice Act, small businesses are already able to recover litigation costs where the government position was not substantially justified. There is no reason to expand these provisions and create new and broader rules for purposes of the OSH Act. The bill will drain resources away from an agency that has perpetually struggled to do its job with the limited resources available to it. If enacted into law, H.R. 2731 would have a chilling effect on both OSHA enforcement and OSHA standard setting, because attorneys' fees would be available to prevailing employers in both types of actions. OSHA would be hesitant to cite small employers for violations of the OSH Act unless there is absolute certainty that the enforcement action will be upheld in its entirety. No rational public policy would be furthered by discouraging OSHA from issuing citations that are substantially justified, but as to which the government ultimately is unable to carry its burden of proof of every issue. Rather, the inevitable result of such a rule, which would penalize the government every time it loses, would be to chill the issuance of meritorious citations in close cases on behalf of employees exposed to unsafe working conditions. Similarly, unless OSHA is certain that a standard will not be challenged (which they are routinely for any number of reasons), it would be very reluctant to development and issue rules any hazard no matter how grave the threat of the hazard to workers. This bill would further weaken OSHA enforcement efforts and standard setting to the detriment of American workers.

Establishments with fewer than 100 employees make up 97.7 percent of all private sector establishments. These businesses have a higher rate of fatal occupational injury than do establishments with 100 or more workers. Hampering OSHA's enforcement ability in these small establishments would be devastating to workers, resulting in even higher rates of worker fatalities, injury and illness.

Also significant is the fact that under H.R. 2731, employers will be able to recover partial attorneys fees if they partially prevail in an OSHA proceeding. So, for example, the notorious Eric Ho, who exposed his employees to asbestos and made them work at night behind locked gates without providing them any sort of respirators or training, would be able to recover attorneys fees under this bill, because the OSHA Review Commission dismissed two of Ho's corporations as defendants and dismissed 10 of 11 willful violations of OSHA's respirator and training standards. Secretary of Labor v. Ho, Nos. 98–1645 & 98–1646 (OSHRC, Sept. 29, 2003).

OSHA needs more, not fewer, resources available to deal with employers like Eric Ho and to enforce the OSH Act's protections. H.R. 2731 should be rejected.

H.R. 2730. Occupational Safety and Health Independent Review of OSHA Citations Act—This bill would work a radical change in the implementation and enforcement of the OSH Act, and would undermine the Secretary of Labor's authority to interpret and enforce the law. The bill would overturn a 1991 Supreme Court decision and say that deference should be given to the OSHA Review Commission, and not the Secretary of Labor, in interpreting OSHA standards. The AFL-CIO vigorously opposes this bill and urges its defeat.

In Martin v. OSHRC (CF & I Steel Corp.), 499 U.S. 144 (1991), the Supreme Court made clear that the Secretary of Labor, and not the Review Commission, should be given deference when interpreting OSHA standards and regulations. In the Court's view, the Secretary of Labor should receive deference because Congress, when enacting the OSH Act, designated the Secretary as the policymaking official, and gave the Secretary the authority and responsibility to implement and enforce the law. Thus, because the Secretary of Labor is the person who adopts standards and brings enforcement actions against employers, she has a much broader and deeper understanding of OSHA's rules as compared to the Review Commission, which sees only a small fraction of OSHA's enforcement cases.

Policymaking, and interpretation of OSHA policies, should stay with the Secretary. The Commission should not be able to undo by fiat the Secretary's reasonable interpretations of her rules. H.R. 2730 should be rejected.

H.R. 2729. Occupational Safety and Health Review Commission Efficiency Act—H.R. 2729 expands the number of members on the OSHA Review Commission from three to five, and mandates that all members have legal training. Another provision, removed during the Committee markup on May 5, 2004, authorized the Chairman of the Commission to delegate to any panel of three or more members any or all powers of the Commission and allowed two members to constitute a quorum on such sub-panels.

The Review Commission has operated with three Commissioners since it was first formed in 1970. There is no need to expand the Commission beyond its current membership, and no need to exclude individuals with relevant training, but not legal training, from eligibility for these positions. Moreover, it is no coincidence that Republican members are pushing to expand the number

of seats on the Commission at a time when a Republican president would fill the seats.

Proponents say the bill is needed to address the problem of the Commission at times lacking a quorum to do business. But with the removal of the provision on subpanels during the Committee markup, it is difficult to see how H.R. 2729 would solve the quorum problem. Three Commissioners would still be required to have a working quorum. There is no reason to think that the Commission will be able to retain three active Commissioners any better than it has been able to retain two.

H.R. 2729 is a solution in search of a problem. It should be defeated.

H.R. 2728, Occupational Safety and Health Small Business Day in Court Act—This bill would excuse employers from the fifteen-day deadline for contesting OSHA citations and ''failure to abate'' notices if they can show ''mistake, inadvertence, surprise, or excusable neglect'' as the reason. The bill's practical effect would be to make numerous excuses into legal reasons for missing the fifteen-day deadline by which employers currently must respond to OSHA citations. This action will only encourage more litigation. The idea of the fifteen-day requirement is to give all parties a reasonable timeframe in which to take action, and to ensure that the case is moved along as quickly as possible so the cited hazards will be corrected in as timely a manner as possible.

It is also important to note that the bill excuses employers from missing their 15-day deadline but does not extent these same provisions to employees or their representatives who challenge the period for abatement in a citation. The one-sided nature of this legislation shows that it is about benefiting employers, not protecting employees.

Proponents of the bill have pointed to one court case as justification for this legislation. In fact, the Commission has a longstanding practice of reviewing any missed deadlines on a case-by-case basis. H.R. 2728 is another solution in search of a problem, and it should be defeated.

As demonstrated above, these bills undermine the intent of the Congress when it enacted the OSHAct more than 30 years ago. Generally speaking, these policies and procedures have been serving workers well for over 30 years. American workers deserve a safe and healthy workplace and the full protection the OSHAct can offer. These bills would surely diminish the protections provided to workers by the OSHAct. For these reasons, the AFL–CIO opposes these four bills, and we strongly urge you to vote against each of them.

Sincerely,

WILLIAM SAMUEL,
Director,
Department of Legislation.

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW,
Washington, DC, May 17, 2004.

DEAR REPRESENTATIVE: This week the House is scheduled to take up four bills to amend the Occupational Safety and Health Act of 1970. The UAW opposes each of these anti-worker bills and urges you to vote against them.

The first three bills relate to the Occupational Safety and Health Review Commission (Commission or OSHRC). In considering these bills, the UAW urges you to bear in mind that OSHRC functions as an intermediate appeal for employers, between decisions of the Occupational Safety and Health Administration (OSHA) and the U.S. Courts of Appeal. During the time a case is on appeal to OSHRC, employers do not have to pay any assessed penalties, nor do they have to abate the violations for which they were cited. Thus, procedural delays at OSHRC serve only to postpone justice and to delay the correction of workplace safety and health violations.

H.R. 2728, despite being mislabeled the ''Occupational Safety and Health Small Business Day in Court Act,'' is not limited to small businesses. Instead, it would effectively eliminate the statutory time period within which all employers—not just small employers—must contest an OSHA citation or assessment before it becomes a final order of the Commission. Under the statute, an employer contests by simply mailing a letter to the OSHA office. Therefore, contestation is not burdensome, and the statutory time period should be retained.

Moreover, the federal courts already provide relief, pursuant to Rule 60(b) of the Federal Rules of Civil Procedure, for employers who can show that their failure to meet filing deadlines was due to mistake, inadvertence, surprise, excusable neglect, fraud, misrepresentation or misconduct by an adverse party, so long as the employer can show the existence of a meritorious defense. There is a body of established case law pursuant to Rule 60(b) that would be subject to wasteful relitigation if H.R. 2728 were enacted.

H.R. 2729, the ''Occupational Safety and Health Review Commission Efficiency Act,'' would expand the number of OSHRC commissioners to five from three and authorize subpanels of three members to exercise all of the powers of the Commission. It would also authorize commissioners to hold their position at the expiration of their six-year term, until a successor has been nominated by the President and confirmed by the Senate. Finally, it would add a new requirement that Commissioners must have legal training.

The UAW submits that the only good to come from adding two commissioners to OSHRC would be the creation of two more jobs to an economy that has lost over two million jobs since January 2004. Otherwise, it is wasteful and unnecessary to expand OSHRC, which has been composed of three members since it was established in 1970.

Indeed, the UAW believes that Congress should give consideration to abolishing all of the OSHRC commissioners' positions, allowing appeals to go directly from the decision of the Commission's Administrative Law Judges to the Courts of Appeals, as is done with Social Security Administration appeals.

We object to the legal training requirement because it would work against persons with workplace health and safety expertise. And we object to the provision allowing commissioners to retain their position after the expiration of their term because it deprives the Senate of its Constitutional advice and consent role.

H.R. 2730, the ''Occupational Safety and Health Independent Review of OSHA Citations Act,'' would overturn a 1991 Supreme Court decision holding that OSHRC's Interpretation of a health or safety standard may not be substituted for the interpretation of the Secretary of Labor. The bill explicitly provides, ''The conclusions of the Commission with respect to all questions of law shall be given deference if reasonable.'' Because it is for all practical purposes only employers who appeal cases to OSHRC, there is never an instance when the Commission would be expanding workers' right by substituting its interpretation for the Secretary's. In other words, H.R. 2730 would give unprecedented and unwarranted authority to the OSHRC to take away workers' workplace health and safety.

The fourth bill, H.R. 2731, the ''Occupational Safety and Health Small Business Day in Court Act,'' would permit small employers to collect attorney fees and court costs when they contest OSHA citations and prevail in litigation with OSHA. This bill would reverse the time-honored rule of American jurisprudence that requires litigants to bear their own costs and fees. There is no need for such legislation because the Equal Access to Justice Act adequately protects parties from administrative overreaching by compensating them in cases where the government is not ''substantially justified'' in bringing a law enforcement action, or under other ''special circumstances.''

For the foregoing reasons, the UAW strongly urges you to oppose H.R. 2728, H.R. 2729, H.R. 2730, and H.R. 2731. Thank you for considering our views on these important issues.

Sincerely,

ALAN REUTHER,
Legislative Director.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, AFL-CIO,
Washington, DC, May 14, 2004.

DEAR REPRESENTATIVE: On behalf of the more than 1.4 million members of the International Brotherhood of Teamsters, I am writing to express our strong opposition to four bills that would amend the Occupational Safety and Health Act: H.R. 2728, H.R. 2729, H.R. 2730, and H.R. 2731. These bills do nothing to enhance safety and health protections for workers. Rather they would change established law and procedures to benefit employers (at the expense of workers), and they would make OSHA enforcement more difficult. Instead of weakening the intent of the OSH Act, Congress should take steps to strengthen safety and health protections for workers, and improve enforcement.

H.R. 2728, the Occupational Safety and Health Small Business Day in Court Act, seeks to excuse employers who miss the current fifteen-day timeframe to contest citations and failure to abate notices. We believe this proposal does noting more than create ''artificial'' legal reasons for failing to respond in a timely fashion. It is an about face from ensuring that an OSHA case is moved along as expeditiously as possible to ensure that workplace hazards are addresses in as timely a manner as possible, thus improving worker safety and health. The current practice of a case-by-case review is the most appropriate way to ensure that hazards are addressed as quickly as possible and to reinforce the importance of workplace safety.

H.R. 2729, the Occupational Safety and Health Review Commission Efficiency Act, would require that the number of commission members be increased from three to five, that all members be attorneys, and that members be able to serve until a successor is confirmed. We see no justification, or need, for these changes—unless one wishes to tilt the ''playing field'' against workers. First, the level of enforcement does not warrant five commissioners. Further, increasing the number of commissioners would enable the Administration to stack the review commission with pro-business appointees. There is no reason to limit the pool of talented people for consideration. Further, the current system helps ensure that all parties work together to select qualified people to serve, and to do so in a timely manner.

H.R. 2730, the Occupational Safety and Health Independent Review of OSHA Citations Act, would, we believe, turn the OSH Act on its ear, by giving deference to the commission. Presently, the Secretary of Labor is given deference as the official responsible for enforcing the OSH Act. The bill would take away the authority held by the Secretary in bringing cases to the Court of

Appeals and the Supreme Court, an important avenue of redress to protect workers from dangerous and unhealthy workplaces.

Finally, we oppose H.R. 2731, the Occupational Safety and Health Small Employer Access to Justice Act, which would require that OSHA (i.e. the taxpayer) pay the legal costs when it loses a case against a small business that prevails in administrative or judicial proceedings, regardless of whether the government's position was substantially justified. We view this as another effort to impede OSHA's and the Department's efforts to enforce the law and provide an avenue for workers to seek redress.

We see no justification for such an arbitrary departure from the current practice of each party paying for its own litigation costs for only one class of public prosecutions. We know of no other agency, charged by statute to enforce the law, which is impeded from fulfilling its responsibility with respect to a meritorious complaint because it cannot guarantee the outcome.

In effect, H.R. 2371 says that unless the agency is absolutely certain that it can prevail—that it is absolutely certain that its enforcement action will not be challenged, will be upheld, or no modification will occur in terms of action—it will be penalized (budgetarily) for fulfilling its statutory obligation to protect the safety and health of all workers (union and non-union) and to provide an avenue for redress.

Furthermore, H.R. 2371 would effectively gut OSHA's statutory authority to promulgate safety and health standards. Unless certain that a standard will not be challenged (and many routinely are for a number of reasons), OSHA would not dare (or be extremely reluctant, at best) to begin a rulemaking on any hazard no matter how serious. We believe that H.R. 2371 is tantamount to a stealth repeal of OSHA's statutory authority to issue workplace safety and health standards.

Each of these bills will undermine, subtly in some instances and egregiously in the case of H.R. 2371, workplace protections and the protection that the OSH Act was designed to provide workers. We urge you to stand up for the safety and health of working men and women, and reject each of these bills.

Sincerely,

MICHAEL E. MATHIS,
Director,
Government Affairs Department.

RESOLUTION IN SUPPORT OF THE NATIONAL CAMPAIGN TO STOP CORPORATE KILLERS

Whereas, approximately 170,000 workers have been killed on the job since 1982; and

Whereas, many of these workers were killed due to reckless disregard for worker safety on the part of the employer; and

Whereas, the Occupational Safety and Health Administration (OSHA) has the authority under the Occupational Safety and Health Act to refer such cases of employer misconduct to the U.S. Department of Justice for criminal prosecution; and

Whereas, only 81 out of 170,000 workplace deaths since 1982 have resulted in convictions, only 16 of which involved jail time; and

Whereas, the Occupational Safety and Health Act defines an employer's reckless disregard for safety resulting in the death of a worker as a misdemeanor, punishable by only a maximum of six months in jail; and

Whereas, legislation has been introduced into the U.S. Congress increasing criminal penalties for reckless disregard for safety resulting in the death of a worker: therefore be it

Resolved, That we, the _____, support the national Campaign to Stop Corporate Killers with the following goals:

1. To pass federal legislation increasing criminal penalties for willful violations of OSHA standards leading to worker death;
2. To urge OSHA to refer such cases for prosecution;
3. To urge increased civil fines for serious violations of OSHA standards; and
4. To urge local District Attorneys to prosecute employers whose actions result in workers' deaths to the fullest extent possible under state and local criminal law.

I also submit for printing in the RECORD as a reminder the 14 bills that have been proposed by the Republican majority since the 104th Congress to the present, 14 bills related to OSHA, which I think will verify the fact that these four bills today are part of a larger effort, a larger assault. Despite the fact that they look small, they are very devastating in terms of the effectiveness of OSHA.

108TH CONGRESS

April 3, 2003—Norwood—H.R. 1583—Makes it more difficult to prove willful OSHA violations, increases Commission from 3 to 5 members, awards attorneys' fees to small employers who prevail in proceedings, creates new factors to consider in penalty assessment (with an eye to reducing penalties)

107TH CONGRESS

June 19, 2001—Petri—H.R. 2235—Authorizes Secretary to create voluntary protection program.

106TH CONGRESS

April 15, 1999—Ballenger—H.R. 1434—Allows employers, notwithstanding NLRA Section 8a2, to meet with employees directly to discuss, review, etc. safety and health issues.

May 27, 1999—Goodling—H.R. 1987—Allows employers to recover attorneys fees and costs if they prevail in proceedings brought by OSHA. Ballenger also reintroduced his string of 105th Congress bills during the 106th (see below).

105TH CONGRESS

November 7, 1997—Ballenger—H.R. 2864—Encourages ''voluntary'' compliance for employers.

November 7, 1997—Ballenger—H.R. 2869—Changes law so that records of audits and inspection done by and for the employer need not be disclosed to OSHA inspectors.

November 7, 1997—Ballenger—H.R. 2871—Requiers Secretary to create advisory panel of experts each time she wants to create a new rule, advisory panel to review all scientific, economic data.

November 7, 1997—Ballenger—H.R. 2873—Requires Secretary to provide individualized assessment of risks to workers and costs to employers for industry to which a rule is to be applied.

November 7, 1997—Ballenger—H.R. 2875—Changes language dealing with ''alternative methods of protection.''

November 7, 1997—Ballenger—H.R. 2877—Forbids Secretary from establishing any performance methods for subordinates based on number of inspections conducted, citations issued, or penalties assessed.

November 7, 1997—Ballenger—H.R. 2879—Hold that employer may not be liable for a violation if workers were not actually exposed to the violation or if the employer did not create the conditions that cause the violation.

November 7, 1997—Ballenger—H.R. 2881—Allows Secretary to waive up to 100 percent of penalty on small businesses which correct their violation within the period of abatement or up to 100 percent of penalty to the extent that employer uses money that would have been paid as penalty for correcting the violation.

September 8, 1997—H. Amdt. 326 to H.R. 2264—Norwood—Seeks to transfer $11.2 million from OSHA to fund the Individuals with Disability Education Act.

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June 14, 1995—Ballenger—H.R. 1834—Massive overhaul of OSHA to weaken the law and favor lawbreaking employers.

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

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in case any Members just came in in the last few minutes or little while or are watching on the monitor, let me remind us what we are doing. This particular hour we are giving consideration to H.R. 2729, the Occupational Safety and Health Review Commission Efficiency Act. That is what we are discussing. That is what is under debate and that is what we are going to vote on.

Mr. Speaker, in the report on H.R. 2729, the Committee on Education and the Workforce observed that once Congress has created a government agency, it must continue to monitor the government agency for its performance on behalf of the taxpayers. Surely nobody can disagree with that. When the performance of that agency is found to be unsatisfactory, Congress must seek to identify the reasons for this failure and then make the needed corrections. It is that simple. That is all this bill is about.

We are trying to make the needed corrections on behalf of the taxpayer. That is what this is about, regardless of what we previously have heard.

Mr. Speaker, we are all tasked with performing this oversight that Congress has mandated since the inception of the OSHA law. That process describes what H.R. 2729 seeks to accomplish in a narrow, surgically targeted measure. In correcting clearly identified problems, this measure will improve the agency's performance, increase efficiency and eliminate unnecessary government waste. Who can disagree with that?

Let me use this visual aid behind me to explain why it will do that. I am sure the blue and pink areas are seen prominently by all. These shaded areas represent the time periods when the agency specifically created by Congress to hear all disputes between OSHA and employers have not been able to meet. The shaded areas are an indication of a time when the review commission at OSHA was nonfunctional. It did not work. They were getting paid, of course, but it did not work.

This is since 1970. Half of the time since 1970 the review agency did nothing. That is not good for anybody, especially the American taxpayer, but more importantly, the worker or the employer.

□ 1345

They found it impossible or at least very difficult to perform the functions that the Congress said to them this is their job, this is what they must do.

This agency, the Occupational Safety and Health Review Commission, or OSHRC, was created by Congress for one single purpose; and, incidentally, had it not been created, there never would have been an OSHA Act. It would never have passed in 1970 had it not been for at the last minute OSHRC being put in.

Their job is hearing disputes between OSHA and the regulated community. They are the court. OSHA is the plaintiff. The small business person is the defendant. They are supposed to be totally independent of the Labor Department. To serve this important purpose, OSHRC, by statute, was given three members, or judges. Two members constituted a working quorum. That is, without an agreement between two judges on all issues of law, no decision can be issued. Without this agreement, OSHRC cannot perform its congressional mandate, and the review commission established by Congress is instead forced to shut down or come to a stalemate where waste and efficiency rule the day. Guess who gets to pay? The same old folks, the taxpayers.

Here is the problem. Stalemate and waste have been the rule over the history of this agency since 1970 rather than the exception. I am telling the Members they have been out of business half the time since 1970. As the visual I pointed to earlier, this one indicates the time of trouble highlighted by the shaded areas seems to overrun this timeline and it seems to signal a problem. And as one witness testified, these legal stalemates produce cases as long as 8 years old that sit on a court docket. That is not what Congress intended and it is not fair to anybody, 8 years of stalemate and waste.

Now we are trying to remedy that. It may be hard for Members to tell we are trying to remedy that with some of the demagoguery, but that is all we are trying to remedy. A simple remedy can be found by looking at OSHRC's sister agency, the Federal Mine Safety and Health Review Commission. There, Congress placed five members on their review panel; and since the mine safety law was passed 7 years after the OSHA Act, most believe this represents a lesson learned. With five commissioners, are they doing better than OSHA is with three? It is not hard. And the answer is, yes, they are.

A second remedial step is necessary to maximize efficiency, however; and H.R. 2729 accomplishes this by enabling the President to use what we call a ''hold-over'' provision to improve effectiveness and efficiency, which is what the taxpayers want, what we all should want. Simply stated, this provision would permit the President to ask incumbent members of OSHRC whose terms have expired to remain seated, listen to this now, remain seated no longer than 365 days, until the Senate can confirm a replacement. That lets this agency keep working.

Lastly, because the case is decided that OSHRC go on appeal directly to a United States court of appeals, we have inserted the word ''legal'' before the word ''training'' and subsection 12(a) of the OSHA Act. This directs the President to select qualified candidates, but it in no way prevents the appointments of individuals who are nonlawyers to serve on OSHRC because there is a threefold criteria for selections. It includes training, that is one of them; it includes education; and it includes experience.

Mr. Speaker, H.R. 2729 represents a very narrow change to the current law. It will have positive and sweeping consequences in terms of improving the performance and the efficiency of OSHRC while eliminating unnecessary government waste. Who can be against that?

I urge the passage of this bill. And I conclude by saying that the demagoguery earlier that says that this bill should be called More Injury and Death Marathon Act is shameful, it is embarrassing, and it is out of line.

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

Mr. OWENS. Mr. Speaker, I ask unanimous consent that the gentleman from New Jersey (Mr. PAYNE), my colleague on the Workforce Protections Subcommittee, be allowed to control the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. PAYNE. Mr. Speaker, I yield myself such time as I may consume.

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

Mr. PAYNE. Mr. Speaker, I rise in opposition to H.R. 2729, the second quarter of the four terrible bills before us, which amends section 12 of the Occupational Safety and Health Act of 1970 to expand the Occupational Safety and Health Review Commission from three members to five members. They tell me that logically they are having a difficult time moving forward with three members; so, therefore, let us make it larger and we can move faster. That is a pretty good analogy. It is kind of the first time that larger is better. I always heard that they said lean and mean, that is where our government should be, cut down, reduce, get people out of our government.

So here we have kind of a, once again, making things convenient. There we go again. So as I look at these bills, H.R. 2728, H.R. 2729, H.R. 2730, H.R. 2731, they all go into the same sort of stealth kind of quiet killing. And I remember we talked now H.R. 1 was the top bill in our committee, Leave No Child Behind, education, our current President was going to be the educational President, he wanted to be known as. However, 4, 5, 6, 7 years ago, the Republican Party was out to eliminate the Department of Education. When Secretary Bennett took his job, he said, My job is to eliminate this Department, we do not need a Department of Education; I hope that I can dismantle it, when education now becomes a number one issue.

So I have problems trying to figure them out because one day it is there and the next day it is over here. This bill is just similar to that. This bill appears to require that commission members have legal training and provides that the President may extend the term of a member until the Senate has confirmed a successor, and that is pretty good because they can simply put up someone they know will not get confirmed and they can keep hold-overs forever. The commission has functioned with three members since its establishment in 1970.

The authors of the Occupational Safety and Health Act did not feel that there was sufficient work to justify five members and experience does not demonstrate otherwise. That is the reason, in their judgment, they decided to have three members to this commission rather than five. The majority states: ''While there are similarities between the mission of the Mine Safety and Health Administration and the Occupational Safety and Health Administration, there is one significant difference: the composition of the adjudicative commission tasked with adjudicating disputes between employers and the agency,'' that it is a difference.

It is true that the Mine Safety and Health Review Commission has five members, while the Occupational Safety and Health Review Commission has only three. However, it is also true that the Mine Safety and Health Review Commission has broader responsibilities, including responsibility for resolving whistleblowing complaints, than does the Occupational Safety and Health Review Commission. There is a difference in what they do and in their jurisdiction.

The majority wants to expand the size of the Occupational Safety and Health Review Commission to make it commensurate with the Mine Safety and Health Review Commission, but is unwilling to give the Occupational Safety and Health Review Commission commensurate duties. In other words, they use that as the model, but do not give it the same power.

Mr. Speaker, I believe also that the addition of the word ''legal'' as a modifier to training is also problematic. As a matter of fact, to me it is nonsensical. The Occupational Safety and Health Act requires that the President consider currently the ''training, education, and experience'' of potential review commission nominees. If enacted, H.R. 2729 would require the President to consider the ''legal'' training, education, and experience of potential nominees. Why is this necessary for its inclusion? It has been functioning well up to now.

The majority states that ''the requirement that training be legal in character will not prevent the selection of any other qualified individual

whose experience and/or education is of a nature to qualify him or her for service,'' that it is not necessary; however, it is put in. And the question is, Why?

In other words, the addition of the word ''legal'' does not restrict the President to only appointing those with legal training. The President may still appoint individuals exclusively on the basis of their experience or education even if they do not have legal training. The effect then of adding the word ''legal'' as a modifier of ''training'' is only to limit the kind of training that the President may consider. This, of course, makes no sense whatsoever.

Current law, which does not preclude the President from considering legal training or even legal education among other types of training or education, seems preferable to H.R. 2729, which arbitrarily links the kind of training the President may consider.

Health and safety experts who may not have legal training, but may nevertheless be very knowledgeable about the Occupational Safety and Health Act, and agency and commission procedures may be unfairly and unwisely excluded from consideration for the position of the commission since people would question that it must be important if the term legal now is put into the bill, and, therefore, they would not put it in and therefore ignore it. I think that it has taken a wrong turn. I do not think it is necessary.

I believe that the commission and workers' health and safety would suffer from such an arbitrary exclusion of nonlawyer talent and expertise.

Another point brought up by the movers of this bill is that this bill, in my opinion, does not improve the efficiency of the commission as the proponents said it does because there is an argument that if there is one vacancy, then there is no decision because there is a tie. My fellow colleagues on the other side have recommended we add two people. Now what happens if one person is still absent? One and one is a tie if we only have two. With five, two and two is a tie if one is vacant. So if one is vacant under three, I am still trying to see what the difference is if there is one vacant under five.

One difference is that taxpayers certainly would have to be paying more money because we would have more people to tend with, we would have more folks, and we are once again making bigger government. We are just expanding, which, once again, confuses me because I have always been told that the other side wanted to reduce the size of government.

So I would just like to certainly urge the defeat of this bill.

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

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

I want to sincerely and honestly thank the gentleman from New Jersey (Mr. PAYNE) for staying on the subject matter. We are indeed dealing with this bill. He and I may not agree, but at least we are having a discussion about the bill, and there may be just a couple of things that I want to make sure we have clear.

□ 1400

The gentleman indicated that should the President make an appointment, that that could be forever. That is simply not true. It is 365 days. The bill clearly states that. If the President makes an appointment, it is for 365 days, not forever.

Secondly, the word ''legal,'' that is an interesting thing. I tended to not want to do that too. I understand that. But the problem is, OSHRC is an adjudicative agency, and appeals from OSHRC go straight to the U.S. Court of Appeals. That strongly indicates, perhaps, some need for legal training, and this training could be a very useful tool for a member of this commission in light of the role that they play before it goes to the Court of Appeals.

Secondly, I am very concerned that the courts have been giving deference to the plaintiff. The plaintiff in this case is OSHA. The court should be the review commission. The courts have been giving deference to the plaintiff, rather than the court, and perhaps this will stop some of this.

In terms of efficiency and going from three members to five and the gentleman's indication that he is really against growing government, Congress has a very difficult time saying, you know, this is not working. We need to do something about this. This agency is not efficient. This agency is not getting done what Congress asked it to do.

I pointed out earlier that this agency has almost been out of work half of the time since 1970. What could possibly be done to make it much more inefficient than that? For some 20 percent of the agency's history, it has not had a statutory working quorum in place, and despite otherwise fully staffed people in the agency, they could not act. That is wasteful and that is inefficient.

Will five do better than three? Let us pray, is all I can tell you. It certainly has worked better for MSHA, and we hope that it will for OSHRC.

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

Mr. PAYNE. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY), the ranking member of the Subcommittee on Education Reform of the Committee on Education and the Workforce.

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

Ms. WOOLSEY. Mr. Speaker, I rise in opposition to H.R. 2729 because our workers deserve to know that their interests will be represented on the Occupational Safety and Health Review Commission and they need to know this will be an unbiased judgment.

But first, let me be clear that these four bills we are talking about now are not a worry to any of us up here when we are looking at the employers who actually take care of their workers, the employers who know that workers have families and they are very concerned when they put their policies for safety and health in place. They are concerned about these families. They are concerned about these workers.

But those are not our worries. Our worry is about the employer that does not do that.

This legislation, I believe, will threaten one of the only hopes a family has for justice when a loved one is harmed at work. By increasing the membership of the commission from three to five, the administration could play politics with the commission with anti-employee-safety employees and requiring quorums for a meeting, which could delay a decision indefinitely, ultimately making good decision-making almost impossible through the inefficiency of gathering a group. If you cannot gather a group of three, how will you gather a group of five?

Since Bush took office, it has been clear that he intends to use OSHA to protect big business rather than worker safety. First, he signed legislation overturning workplace safety rules to prevent ergonomic standards. Then he advocated budget cuts for job safety agencies such as OSHA and NIOSH. He went even further by suspending 23 important job safety regulations.

The list goes on and on, and it is my opinion that this legislation is just another way for the anti-OSHA weakening that the administration is hoping for.

Employees need to know they are considered to be as important as business interests. They deserve to know that they matter as much as the bottom line.

Mr. Speaker, this legislation is not what workers need or what workers want. They want to know that their voice will be represented on the commission; they want to know that their grievances will be taken seriously and handled efficiently, and for that very reason, I urge my colleagues to oppose H.R. 2729.

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I need to remind everybody that this hour is devoted to H.R. 2729, that it is about the Occupational Safety and Health Review Commission Efficiency Act. That is exactly what we are talking about.

I want to remind everyone that a President, a President of either party, is going to appoint somebody to the commission that they agree with. That makes sense, whether it be President Clinton or President Bush. But all of these confirmations have to be confirmed in the Senate, so there is a check and a balance on it no matter which party is in the White House.

The comment earlier about President Bush is more concerned about big business than worker safety , I would simply say this bill is about small business. It has not got anything to do with

big business. It is about helping small business.

To simply say, well, this is not what workers want, is very presumptive. There are 92 percent of the population out there that are working families who own businesses, who work every day, and they do want some relief in the regulatory element, particularly, particularly, when the setup at OSHA is so unfair and the deck is stacked against them.

So I will tell you that a lot of small businesses and a lot of working families do want this legislation.

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

Mr. PAYNE. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. ANDREWS), the ranking member on the Subcommittee on Employer-Employee Relations of the Committee on Education and the Workforce, who does an outstanding job in that capacity.

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

Mr. ANDREWS. Mr. Speaker, I thank my friend from New Jersey for his generous compliment and for yielding me time.

Mr. Speaker, I very much appreciate the motives of my friend from Georgia who brought this legislation to the floor. I know he does everything he does out of goodness of spirit and intention, and my remarks are not meant to be critical of his intention. I do oppose his bill, however, for three important reasons.

The first is the bill is reminiscent, to me, of American history from the 1930s, when President Franklin Roosevelt was unhappy with some of the results he was getting from the U.S. Supreme Court, so he decided to try to change the number of people on the U.S. Supreme Court. The history books called this a ''court-packing'' scheme.

I have to wonder if what this legislation is really about is about changing some of the results on this commission by changing the number of commissioners. I have heard the concerns about quorums. I think that is something that is a problem that could be cited in a number of different Federal agencies.

I would say to my friends on the other side, Mr. Speaker, if you want to change the substance of what the commission is doing, then change the statute. Bring it to this floor and let us have an open and fair debate. But changing the number of commissioners, I think is an inappropriate way to do that.

The second concern that I have about the emphasis, as my friend, the gentleman from New Jersey (Mr. PAYNE) talked about, on people with legal training serving on this commission, I actually think that the President of either party ought to have the broadest discretion to determine what is a suitable background for service on this commission.

I would raise a question as to this point. Since many people who are active in the labor movement do not have a legal background, I only have to wonder if one of the ideas behind this provision is to make it more difficult for a President to appoint a labor leader to this commission, which would be unfortunate.

The third reason I oppose this, frankly, goes to the relatively narrow nature of this bill at a time when there are so many other major problems the country is facing. The country is embroiled in a very serious policy problem. I know a lot of tomorrow is going to be devoted to that debate. I am not sure we are going to have enough time for all of the Members to come to this floor and express their concerns about what is happening in the Middle East to our country right now.

There are 45 million Americans without health insurance. We had a bill on the floor last week that purported to speak to that. There are a lot of other ideas we could be debating on this floor that we are not.

Hundreds of thousands of Americans have seen their unemployment insurance expire in the last few months, and we have yet to see brought to the floor a bill that would give us a chance to debate and vote on the extension of unemployment benefits.

I think when there are such immense questions facing the country, to be taking up the time of the House on the very narrow question of whether there should be five members on this commission or three is an unfortunate allocation of time.

Mr. Speaker, I would urge opposition to the bill.

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first, I would like to say to the gentleman from New Jersey (Mr. ANDREWS) that I have great admiration for him, that I always listen to him very carefully, and when he speaks, it is usually well thought out and there is some wisdom behind it. I appreciate that.

I do not necessarily agree with his remarks, but I am thankful he stayed on the subject, generally speaking, of the bill that is before us. I suppose actually we could sit down and probably have some long nights of discussion as to whether there should be three members, four members, five members. But both of us know that the commission is simply not working.

My suggestion is to vote for this bill and let us give a chance for something else to work, particularly when we know that the commission is working pretty well over at MSHA.

I do not know anything sinister about the appointments by the President. It is pretty simple. Frankly, what we need to do is have this commission operate. You cannot operate if it is going to take 8 years producing its findings, and that happens occasionally simply because there is no one there that can get confirmed in the Senate. We need to give Democrat or Republican Presidents an opportunity to put somebody in.

Mr. ANDREWS. Mr. Speaker, will the gentleman yield?

Mr. NORWOOD. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Speaker, I appreciate the gentleman's kind remarks. I did want to make one follow-up point about the legal requirement to be appointed.

My understanding is that to be a commissioner on the Securities and Exchange Commission, which certainly involves tremendous issues of adjudication, you do not need to have, necessarily, a legal background to do that. I would just ask the gentleman to reconsider that important point, that directing any President to appoint a person only with a legal background here, I think, is a serious mistake that we did not make on the Securities and Exchange Commission.

Mr. NORWOOD. Mr. Speaker, reclaiming my time, as the gentleman knows, the legal training simply is not the only criteria. There are other criteria, such as education and experience, and I do not necessarily think that it has to be a lawyer.

Speaking of the AFL–CIO, they have as many lawyers in this town as anybody in Washington. I am not worried about them not getting somebody on the commission.

We have probably said enough. It is time to vote.

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

Mr. PAYNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would indicate that the gentleman, putting this ''legal'' terminology in here, I hear him passionately argue this bill and bring his points up. If the new appointing authorities would look at him, he would probably not be one who would be considered because he is medical and not legal. I think that he would probably serve well on that commission, but his legislation would probably discriminate against him.

Mr. Speaker, I yield 2½ minutes to the gentleman from Texas (Mr. HINOJOSA)

Mr. HINOJOSA. Mr. Speaker, I rise in opposition to H.R. 2729 and the other OSHA bills under consideration today.

Let us not fool ourselves. Today, we are considering legislation that will weaken the enforcement of our Occupational Safety and Health laws. The bills before us will delay the abatement of unsafe working conditions, weaken the Secretary of Labor's authority to regulate workplace safety and discourage the filing of complaints for unsafe working conditions.

□ 1415

A safe working environment should be the right of every worker. Sadly, in the United States of America, the world's lone superpower, the wealthiest Nation on the planet, it is not. The

workplace is particularly dangerous for the Hispanic workers.

The Associated Press recently reported that Mexican-born workers are more likely to die on the job than any other group, and the disparity is increasing. Mexican migrants take the most dangerous jobs. Many of them are afforded no safety equipment and no training. They are killed in the fields, or they fall from construction sites.

Listen to these staggering statistics. Mexican workers represent one in 24 workers in the United States and are victims of one in 14 workplace deaths.

Training and workplace safety must be a part of our workforce development. Employers must be held accountable for meeting basic occupational health and safety standards. No one should lose a husband, a wife, a mother, a father, a son or a daughter because of a lack of training or safety equipment. Workers are not disposable. Yet when OSHA fails to seek criminal prosecution for 93 percent of the companies that have willfully and flagrantly violated workplace safety laws at the cost of workers' lives, that is the message that is sent.

We have a responsibility to send a different message. Our workers are a firm's most valuable resource, and that should be our bottom line. Unfortunately, today we will not send this message. Today some of the majority in the House will vote to weaken workplace safety without a thought or concern for those whose lives are at risk. I urge my colleagues to oppose H.R. 2729. In fact, it seems to me we should oppose all four OSHA bills.

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

Mr. PAYNE. Mr. Speaker, I yield the balance of my time to the gentleman from New York (Mr. OWENS), the ranking member of the Subcommittee on Workforce Protections, who has done an outstanding job for working people.

Mr. OWENS. Mr. Speaker, I rise to close for the opposition on H.R. 2729.

As I stated at the outset, neither H.R. 2729 nor any other of these four bills before us addresses the important health and safety concerns of American working men and women. In essence, H.R. 2729 gives us the worst of both worlds, a bigger government bureaucracy designed to accomplish less on behalf of the American worker. Moreover, this bill would mandate legal training as a qualification for appointment to the commission. This diminishes what ought to be a primary qualification as a commissioner and that is expertise in the field of occupational safety and health.

Having stated these clear reasons for opposition to this bill, which I urge my colleagues to follow, I would like to turn my attention once more to the urgent concern about the safety of American workers. That concern is over the protection of workers' lives on the job. At present, OSHA does little more than slap the wrists of employers that are egregious safety offenders. As the New York Times noted in its compelling series on worker deaths, OSHA has a 20-year track record of failing to seek criminal prosecution in a staggering 93 percent of cases they investigated where willful and flagrant safety violations by employers killed workers.

And after you institute this proposal for H.R. 2729, it is just one more little reason why they would have less vigor in prosecuting anybody.

Congress has an important role to play in holding both OSHA and unscrupulous employers accountable. One problem is that under the current statute, OSHA can only issue a misdemeanor penalty for an employer who has willfully caused the death of a worker. A misdemeanor has no deterrent value whatsoever. If you harass a wild burro on Federal lands, you face a stiffer penalty than if you kill an American worker. What signal does this send to a small number of unscrupulous employers who actually build up a history of willfully causing worker deaths? Are we saying to these wrongdoers, do not worry about protecting the lives of your workers because Congress cares more about wild burros than about the men and women in your employ? Pestering a wild burro in a national park can send you to prison for an entire year, but killing a worker only lands you there for 6 months.

More importantly, what signal does that send to grieving family members who are left behind? You cannot receive any justice because Congress does not have a fundamental respect for the lives of your loved ones.

Along with Senator JON CORZINE, I have introduced a bill to make killing a worker a felony offense. I tried to get this bill included in one of these four bills because it is germane, in my opinion; but it was ruled out of order. Rather than a radical departure from current law, this bill is just a moderate adjustment that is long overdue. H.R. 4270 and S. 1272 correct a glaring oversight in Federal policy, and I will describe it in more detail later on.

Mr. BOEHNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the bill before us, H.R. 2729, makes two very small changes in the OSHA law. One, it says that the OSHA Occupational Safety and Health Review Commission panel be expanded from three to five members. We have gone through the various reasons why that is important. We believe that having virtually 8 years without a quorum and these cases languishing there for some time are really unfair to the employers and to the agency. And by expanding the commission from three to five members, we believe we will speed up the efficiency of that review commission.

The second issue in the bill outlines the type of background of people who belong on this review commission. These are commonsense bills that we believe will help worker safety, help improve the cooperation between OSHA and the employer community. Again, commonsense bills that deserve our support.

Mr. HOLT. Mr. Speaker, I rise in opposition to H.R. 2729, the Occupational Safety and Health Review Commission Efficiency Act. The bill expands the size of the Occupational Safety and Health Review Commission, which hears disputes between OSHA and employers, from three to five members, and permits the President to extend the term of a commission member until the Senate confirms a successor.

This is a transparent effort to stack the Commission with two new members appointed by the Bush administration. There has been no demonstrated need to increase the Commission from three to five members. The Commission has had three members since it was established in 1970.

Proponents of this bill argue that the Mine Safety and Health Review Commission has five members. The responsibilities of the Occupational Safety and Health Review Commission responsibilities, however, are not as broad as those of the Mine Safety and Health Review Commission. For example, unlike the mine safety panel, the Occupational Safety and Health Act Commission does not have the responsibility to resolve whistle-blower complaints.

Further, since the bill does not change the statutory definition that two members constitute a quorum, expanding the membership to five would mean that a minority of the commission would constitute a quorum—allowing the two members appointed by the Bush administration to make unilateral decisions.

Finally, the bill permits members to continue to serve until a new member is confirmed, which may result in an individual serving for years without being subject to reappointment and confirmation, encourages filibusters, and diminishes the incentive to develop consensus between labor and management and Republicans and Democrats with regard to Commission appointments.

Mr. Speaker, for all these reasons I must ask my colleagues to oppose this bill. I hope that in the future the majority leadership will help America's workers with legislation that will increase the minimum wage and protecting overtime rights and not undermine those protections.

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

The SPEAKER pro tempore (Mr. REHBERG). All time for debate has expired.

Pursuant to House Resolution 645, the previous question is ordered on the bill, as amended.

The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read a third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

Mr. PAYNE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion are postponed.

OCCUPATIONAL SAFETY AND HEALTH INDEPENDENT REVIEW OF OSHA CITATIONS ACT OF 2004

Mr. BOEHNER. Mr. Speaker, pursuant to House Resolution 645, I call up the bill (H.R. 2730) to amend the Occupational Safety and Health Act of 1970 to provide for an independent review of citations issued by the Occupational Safety and Health Administration, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 645, the bill is considered read for amendment.

The text of H.R. 2730 is as follows:

H.R. 2730

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Occupational Safety and Health Independent Review of OSHA Citations Act of 2003''.

SEC. 2. INDEPENDENT REVIEW.

Section 11(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 660) is amended by adding the following at the end thereof: ''The conclusions of the Commission with respect to all questions of law shall be given deference if reasonable.''.

The SPEAKER pro tempore: Pursuant to House Resolution 645, the amendment printed in the bill, modified by the amendment printed in part B of House Report 108–497, is adopted.

The text of H.R. 2730, as amended, as modified, is as follows:

H.R. 2730

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Occupational Safety and Health Independent Review of OSHA Citations Act of 2004''.

SEC. 2. INDEPENDENT REVIEW.

Section 11(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 660) is amended by adding the following at the end thereof: ''The conclusions of the Commission with respect to all questions of law that are subject to agency deference under governing court precedent shall be given deference if reasonable.''.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BOEHNER) and the gentleman from New York (Mr. OWENS) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2730.

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

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the third bill that we will debate today in this series of four is another narrowly craft bill that addresses a specific problem that we found in the OSHA law. The Occupational Safety and Health Independent Review of OSHA Citations Act restores independent review of OSHA citations by clarifying that the Occupational Safety and Health Review Commission is an independent judicial entity given deference by courts that review OSHA issues.

In 1970 when they created OSHA, Congress also created this commission to independently review all OSHA citations. The commission was intended to hold OSHA in check and ensure that it did not abuse its authority. Congress passed the OSHA law only after being assured that judicial review would be conducted by ''an autonomous independent commission which, without regard to the Secretary, can find for or against him on the basis of individual complaint.''

Congress even separated the commission in the Department of Labor. It was truly meant to be independent. The bill before us restores the original system of checks and balances intended by Congress when it enacted the OSHA law and ensures that the commission, in other words, the court, and not OSHA or, in other words, the prosecutor, would be the party who interprets the law and provides an independent review of OSHA citations.

Now, let me put this in simpler terms for everybody. If you are stopped by a police officer and you are issued a citation for speeding, would you want the same officer who gave you the ticket to be your judge and jury and decide whether you are guilty or not? Well, of course you would not. And, unfortunately, for small businesses today the law is ambiguous and vague.

Since 1970 the separation of power between OSHA and the review commission has become increasingly clouded because of legal interpretations mostly argued by OSHA in an effort to expand its own authority. Congress intended there to be a truly independent review of the disputes between OSHA and employers; and when this dispute centers on OSHA's interpretations of its authority, Congress intended the independent review commission, not the prosecuting agency, OSHA, to be the final arbiter.

H.R. 2730 restores this commonsense system of checks and balances. Employers are facing enough competition in the workplace. They are facing high taxes, rising health care costs, burdensome government regulations. All of these bills that we have brought to the floor today are intended to help small businesses that are the engine of economic growth in America be all that they can be and to survive in this very difficult economic climate. I would encourage my colleagues today to support this measure.

It is another commonsense bill that would help increase the amount of worker safety and health safety that we see in the workplace each day.

Mr. Speaker, I include the following letters for the RECORD:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, May 17, 2004.

Hon. JOHN BOEHNER,
Chairman, Committee on Education and the Workforce, House of Representatives, Washington, DC.

DEAR CHAIRMAN BOEHNER: On May 13, 2004, the Committee on the Judiciary received a sequential referral of H.R. 2730, the ''Occupational Safety and Health Independent Review of OSHA Citations Act of 2003'' through May 17, 2004. In recognition of the desire to expedite floor consideration of H.R. 2730, the Committee on the Judiciary hereby waives further consideration of the bill with the following understanding.

I believe the bill as introduced might have been read to change the standard of appeals court review of Occupational Health and Safety Review Commission decisions, a matter that would fall with the Rule X jurisdiction of the Committee on the Judiciary. I understand, however, that the intent of the drafters was simply to make the policy choice that courts should, in exercising normal agency deference under established precedent, defer to the Commission rather than the Occupational Safety and Health Administration itself—not to change the standard of review. I understand that you are willing, during floor consideration of H.R. 2730, to add the following language to the bill: Insert after ''all questions of law'' the following: ''that are subject to agency deference under governing court precedent'' and that you will offer an amendment to do so. With that understanding, I will not seek to extend the sequential referral of the bill for a further period of time.

The Committee on the Judiciary takes this action with the understanding that the Committee's jurisdiction over these provisions is in no way diminished or altered. I would appreciate your including this letter and your response in the Congressional Record during its consideration on the House floor.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
Chairman.

COMMITTEE ON EDUCATION AND THE WORKFORCE, HOUSE OF REPRESENTATIVES,
Washington, DC, May 17, 2004.

Hon. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary, Rayburn HOB, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER: Thank you for your letter regarding our mutual understanding of the intent and purpose of H.R. 2730, the Occupational Safety and Health Independent Review of OSHA Citations Act of 2004 and process for considering this bill. I agree that our intent was simply to make the policy choice that courts should, in exercising normal agency deference under established precedent, defer to the Commission rather than the Occupational Safety and Health Administration itself—not to change the standard of review. Had the language of the reported bill been clear on this point, the Committee on the Judiciary would have had no jurisdictional interest in the bill. I have submitted an amendment to the Committee on Rules that would make the change as outlined in your letter to me, which clarifies the bill and which I have requested be made part of the rule.

With this understanding, I agree that these actions in no way diminish or alter the jurisdictional interest of the Committee on the Judiciary. I will include our exchange of letters in the Congressional Record during the bill's consideration on the House floor.

Sincerely,

JOHN A. BOEHNER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, May 13, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I am writing to request a sequential referral of H.R. 2730, the ''Occupational Safety and Health Independent Review of OSHA Citations Act of 2003.''

H.R. 2730 contains matters that fall within the Committee on the Judiciary's Rule X jurisdiction. The bill amends the judicial review provisions of the Occupational Safety and Health Act. The amendment as currently drafted would require the federal courts of appeals to defer to the decisions of the Occupational Safety and Health Review Commission on all questions of law if those decisions are reasonable. This is an explicit direction to the courts as to how to review cases and would change the standard of review for questions of law that are not subject to normal agency deference under governing court precedents. In short, these provisions fall within the judicial and administrative procedure jurisdiction of the Committee on the Judiciary under rule X(1)(k)(1)&(2) (''The judiciary and judicial proceedings, civil and criminal'', ''Administrative practice and procedure'').

Because of this Committee's strong jurisdictional interest in this legislation, I respectfully request that you sequentially refer this legislation to the Committee on the Judiciary. Thank you for your attention to this matter.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
Chairman.

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

Mr. OWENS. Mr. Speaker, I yield myself such time as I may consume.

I rise in opposition to H.R. 2730. This bill does no more than any of the others before us today to address any critical safety and health needs of American workers.

H.R. 2730 gives the Occupational Safety Review Commission policymaking authority by permitting courts to give deference to the commission with respect to interpretations of OSHA standards. In this way H.R. 2730 weakens the fundamental powers of the Secretary of Labor. Those of us on this side of the aisle maintain that the Secretary of Labor is best able to regulate and enforce safety standards.

We asked the question, and never got any answer, as to whether the current administration supports H.R. 2730 given its stated purpose. Having stated this clear reason for my opposition to the bill, which I urge my colleagues to follow, I would like to turn my attention once more to another urgent safety concern. This pertains to the highly disproportionate death rate of Latino workers in this country.

As I referenced in my opening statement, a recent series of articles by the Associated Press documented the toll this rising death rate is taking in the Latino community. I would like to relate several egregious cases of Latino worker deaths and put a human face on this alarming social problem.

Case number one, Miguel Victor Canales. Miguel Canales was killed 4 years ago while securing shingles to the roof of a new luxury home being built in Arlington, Virginia. Miguel fell off the roof because another employee had failed to install a safety brace. Miguel's stepson was a coworker who witnessed the fatal accident. Miguel's death so traumatized the stepson that he was unable to speak for the following 6 months.

The employer, Octavio Estevez, was an unlicensed subcontractor without workers compensation insurance. Octavio Estevez had routinely failed to pay his employees their rightfully earned wages. After his death, Estevez refused to pay Miguel's prior earned wages to the surviving family members. The employer relies on day laborers and refuses to provide them with any safety equipment or training.

The second case is Joel Bajorques. Joel was a 21-year-old from Guatemala who was killed when he fell off a roofing job in Rockville, Maryland, into a vat of hot tar.

□ 1430

This took place on a commercial project undertaken by a roofing company. Joel died from severe third degree burns over his entire body. As unbelievable as it may seem, Joel's death was ruled to be the result of natural causes.

Joel's surviving parents and siblings in Guatemala had depended upon his wages to help support the entire family. Since Joel's death in 2002, another worker at the same company has been killed in the exact same way.

Case number three: Juan Vasquez, a Guatemalan worker, was killed using a jackhammer during his first day on the job. He was working at a private home in Bethesda, Maryland, when a brick wall collapsed on him. He had not been given even a hard hat. His employer refused to cover any of the funeral expenses or to provide any compensation to his surviving wife and two young sons. As a result, Juan's family had to borrow more than $6,000 to pay for shipping the body home and burial expenses.

Case number four: Urbano Ramirez was a Mexican farm worker killed by heatstroke while harvesting cucumbers in North Carolina. The exact circumstances of his death are as follows. Urbano felt faint and was told by a foreman to go sit under a tree. Neither he nor any of the other workers had been provided with water. When the foreman had the workers change fields that day, Urbano was left behind and forgotten. His body was not found until 10 days later. Failure to provide workers with water violates an OSHA standard. In the end, the grower was only fined $1,800 for this OSHA violation that caused the death of Urbano Ramirez.

Let me also review how OSHA is faring in addressing the skyrocketing rate of Latino worker deaths. To date, OSHA has limited its efforts to creating a Spanish language Web page and distributing Spanish language pamphlets to Mexican consulates. Yet very few vulnerable immigrant workers are likely to be reached in this manner. OSHA's Hispanic Task Force is mainly comprised of regional administration with no prior knowledge of issues confronting Latino workers. In fact, for the past 3 years, the Bush administration's budget has zero-funded the only OSHA program, called Susan Harwood Grants, to provide union and community-based outreach on safety issues to immigrant workers. Members on this side of the aisle successfully opposed these cuts.

Clearly, OSHA needs to step up to the plate on this issue and take serious, concerted steps to address the crisis posed by Latino worker deaths.

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

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

It is probably appropriate to remind everyone that we are on the third of four bills, H.R. 2730. It is about the independence review of OSHA's citations. That really is what we are discussing this hour.

Mr. Speaker, it gives me great pleasure to yield 5 minutes to the gentleman from Indiana (Mr. PENCE), my friend.

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

Mr. PENCE. Mr. Speaker, I rise today with great enthusiasm for the work of my friend and colleague, the gentleman from Georgia (Mr. NORWOOD), in not only the legislation before us this hour, H.R. 2730, but also the companion legislation, which I truly believe will develop, in sum total, better cooperation between OSHA and employers.

I also believe that these reforms and the predictability that they will encourage will improve workplace safety as they enhance business competitiveness and, at the end of the day, more jobs.

In east central Indiana, small business America has one thing on their mind, and that is looking after employees, but doing that in such a way that we can create jobs and opportunities for Hoosiers. This legislation authored by the gentleman from Georgia (Mr. NORWOOD) and passed by the Committee on Education and the Workforce, companion to the other three bills, will be about that.

First, a word on the Occupational Safety and Health Independent Review of OSHA Citations Act; I know it is a long name, but a simple concept. Mr. Speaker, by simply reasserting the proper role of the courts and the proper role of the independent review panel, what we will do today on the floor of the Congress is, we will affirm that the original intent expressed in the act is renewed and encouraged, and this, in and of itself, will result in greater predictability for businesses, small and large.

Beyond that, I come to the floor today with a great passion for this

issue. During the 107th Congress, Mr. Speaker, I served as the chairman of the Committee on Small Business Subcommittee on Regulatory Reform and Oversight; and in hearing after hearing that I chaired I heard of the extraordinary burden that regulatory red tape places on small businesses across America.

A couple of statistics that are informative: For every dollar of direct budget spending devoted to regulatory activity, according to the Office of Management and Budget, the private sector spends $45 in compliance, and these regulatory burdens are, of course, most harmful for small businesses.

According to the Small Business Administration, firms employing fewer than 20 employees had a regulatory burden in the year 2000 of $6,975 per employee which is nearly 60 percent higher than the $4,400 estimated for firms of more than 500 employees. Considering that the U.S. Census Bureau says that small businesses have accounted for 60 to 80 percent of net new jobs in the United States economy over the past decade, this should obviously be a subject of enormous urgency in this Congress, and I commend my colleague for bringing these measures forward to address it.

There has been talk today about an erosion of safety in the workplace. The truth is, though, that under the present administration, according to the U.S. Bureau of Labor Statistics, there has actually been a 1 percent reduction in workplace injuries between 1999 and 2002, and even more happy news, worker fatalities have been reduced by over 500 annually during the present administration.

This administration and this Congress and this majority are committed to workplace safety, to renewing that pact between American business and the American worker and commonsense regulation in Washington, DC, but as H.R. 2730 proposes to do today, along with the companion legislation, we must do that in a way that is consistent with a free market economy, that understands the proper role of the courts and the Congress and of regulatory agencies, as H.R. 2730 confirms.

So this bill is about reaffirming the original intent of Congress, which well we should do. It is about improving worker safety and reducing Federal red tape; but at the end of the day, Mr. Speaker, it is about jobs, and let us make no mistake about that.

As my friend and colleague, the gentleman from Georgia (Mr. NORWOOD), has said on several occasions in the last several days in various venues on Capitol Hill, maybe you are not for this legislation, maybe you do not have small businesses in your district. Well, we do in eastern Indiana, and cutting Federal regulatory red tape is as urgent a business of this Congress as cutting the onerous burden of taxes on small business owners for revitalizing that small-town, small-business economy that makes my district great and makes America great.

I thank the Speaker and I thank the gentleman for yielding the time.

Mr. OWENS. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. PAYNE).

Mr. PAYNE. Mr. Speaker, I certainly rise in opposition to H.R. 2730.

My good friend, the gentleman from Ohio (Mr. BOEHNER), talked about the fact that he would not want a policeman who wrote the ticket to be the jury also, and therefore, it is better to take this out of the hands of the policeman writing the ticket and put it in the hands of the commissioner.

However, I might just tell the gentleman from Ohio (Mr. BOEHNER), I am glad that he does not have much contact, nor do I, with law enforcement, but the only difference is the policeman does not set the speed limit. The policeman does not create the offense. He simply writes the tickets. So, just a small point. I think he had an interesting example, but I do not think it was too legitimate.

But he is a good friend of mine. I will get a chance to talk to him about that analogy of the policeman writing the ticket and being the judge at the same time; therefore, saying it should be in the hands of another commission, not the Secretary.

I rise in opposition to H.R. 2730, a bill that would give the Occupational Safety and Review Commission policymaking authority by allowing courts to give deference to the commission regarding the interpretation of the Occupational Safety and Health Commission standards.

This change would undermine the Department's enforcement function by encouraging challenges to the Secretary's rules and interpretations if it is given to another body. Then it would be open season; every time the Secretary makes a determination, there would be a challenge to it, then put it to the other body which, once again, this commission would be a stalling tactic, simply once again making it more bureaucratic.

It makes government, to me, more cumbersome, not making it lean and mean and effective, as this legislation calls this particular bill, the Efficiency Act. But anyway, this does not make it more efficient in my estimation.

Mr. Speaker, I believe that the Secretary is in a much better position to interpret regulations than the commission. Beyond the obvious fact that the Secretary issued the regulations in the first instance, as noted by the court, it is the Secretary who has broader contact and, consequently, greater expertise with both the regulated community and with the impact of regulations on the community.

Further, viewing the commission's authority as being similar to those of a court fully achieves the purpose of protecting the regulated community from biased interpretation of the Secretary's authority.

Finally, contending that the commission should have both adjudicatory and rule-making authority, as the majority does, creates unnecessary and unwanted confusion by leaving two agencies responsible for determining policy. For all of these reasons, we conclude that the court's view of the act is more reasoned and more sensible than these changes.

I think that we are adding, in my opinion, more confusion by trying to come up with rulings, and so it is not consistent with the OSHA act's legislative history and does not reflect sensible policy. I cannot understand why it is being offered, and for that reason, I respectfully urge my colleagues to vote against this legislation.

Mr. NORWOOD. Mr. Speaker, I yield myself whatever time I may consume.

Mr. Speaker, H.R. 2730 squarely focuses on the needs to reestablish Congress' intent and the needs to have an effective system of checks and balances on agencies like OSHA when they are given so much latitude to interpret the scope of their own authority.

Mr. Speaker, Congress gave OSHA an unprecedented level of authority to enter the workplace in 1970, and it knew that with this unprecedented level of authority ran the possibilities of abuse, and there are more than a few occasions of that over the last 35 years. As with all matters under American law, there is a fine line between implementing needed protections and overintrusiveness by a government agency. That is very important stuff.

With this in mind, Congress devised a system of checks simply to keep OSHA within the boundaries of the playing field established by Congress. Let me provide a good example.

Many of my colleagues will recall the front page of the Washington Post on January 4, 2000. The headline in the upper right-hand corner of the Post read, ''OSHA Covers At-Home Workers.'' I use this example not to rub salt in old wounds left over from the Clinton administration, but simply to say that OSHA has a rather checkered past, shall I say, when it comes to interpreting the limits of its authority under the OSH act.

Left to its own devices, OSHA has a history of crossing the line and going out of bounds. I am not making that up. There are examples after examples. While OSHA may think they break the rules for the right reasons, others see these attempts to expand the agency's reach as an intrusive, unauthorized government act.

Funny, but the legislative history behind the OSH act seems to suggest that Congress envisioned these power grabs.

□ 1445

You have to be rather proud of the Congress in 1970. And let me call my colleagues' attention to the visual I will now point to as proof.

This visual clearly indicates how the systems of checks that Congress placed on OSHA was intended to work. What you see is lifted directly from the CONGRESSIONAL RECORD of November 17,

1970. That was the very day that a compromise was struck that removed the threat of a Presidential veto, and it calmed the resistance that had prevented the passage of the OSH Act for years. As Senator Javitz noted at the time, the future of the OSH Act depended on the establishment of OSHRC. Without this system of checks being put in place, the OSH Act might not have passed in 1970, perhaps not at all.

That compromise, without question, structured an independent judicial review agency which, and I quote, ''without regard to the Secretary of Labor can find for or against him on the basis of individual complaints.'' I submit that what Senator Javitz said on the floor of the Senate November 17, 1970, has a direct and clear application to H.R. 2730. That is, under the OSH Act, Congress intended there to be a truly independent review of the disputes between OSHA and employers, and when this dispute centered on OSHA's interpretation of its authority, that OSHRC and not the prosecuting agency, OSHA, was to be the final arbiter.

The review commission is the court. The Labor Department is the prosecutor and the small business owner, generally, is the defendant. And that is quite simply all H.R. 2730 does. In one sentence, this legislation restores the systems of checks and balances that Congress truly did intend 34 years ago. This measure could not be crafted more narrowly to serve a more direct purpose.

Now, my colleagues may not agree with what Congress said in 1970, but the fact remains they did say it. It is only common sense to have an entity that can review unfettered interpretations; and it happens every day, like OSHA's jurisdiction over individual homes. That is why OSHRC was created and why Congress broke with the administrative tradition in 1970.

I want to refer back to the chairman's analogy, because, I say to the gentleman from New Jersey (Mr. PAYNE), I happen to like it. A police officer writing a citation for a speeding violation does not and should not get the chance to serve as an impartial judge or jury. He simply has a biased opinion on the matter. OSHA should not have that right either.

I urge my colleagues to vote ''yes'' on passage of H.R. 2730 because it restores congressional intent as it reinstitutes a system of checks and balances and just may prevent the kinds of interpretations that have drastically, drastically expanded OSHA's reach into the workplace in the past.

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

Mr. OWENS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I rise in opposition to H.R. 2730 because instead of working to strengthen OSHA, my Republican colleagues have again presented us with another piece of legislation aimed at weakening it.

For the record, Mr. Speaker, before being elected to the House of Representatives, I spent 20 years as a human resources professional, and I was also a small business owner. I can speak with authority when I say that workers do a better job for their employer if they are protected and if their health and safety is of concern to that employer.

When there is an accident resulting in injury and/or death, workers and their families, I can tell you absolutely, want any resolution to be handled fairly and efficiently and with their best interests in mind. They need to trust in the review. They need to trust in the final decision that results. And the Secretary of Labor is, obviously, the best final authority on how OSHA law is interpreted.

This bill, H.R. 2730, works to undermine the Secretary's authority, giving the commission too much latitude in how law is interpreted. The Secretary of Labor needs an unbiased group of peers to turn to for appeals. And if the commission's authority on the interpretation of the law trumps the Secretary of Labor, what legal basis would the Secretary have to appeal a decision with which he or she disagrees?

The commission's role is to fact find and review the case with the Secretary of Labor as the enforcer. If the commission becomes both the fact finder and the enforcer, the employee cannot be assured protection from bias, bias which undermines the entire appeals process. It is unnecessary, and it is not in the best interest of the employer or the employee.

If the administration were truly interested in helping workers, Mr. Speaker, it would not be focusing on these unnecessary changes in the law, but instead it would be granting workers what they really need. They need an increased minimum wage, they need to know they are protected, their health and their safety at their workplace, and they know that increased penalties for employers that ignore safety regulations would help in that direction.

Mr. Speaker, I urge my colleagues to join me in supporting real worker reforms and voting against H.R. 2730.

Mr. OWENS. Mr. Speaker, may I inquire as to the number of minutes remaining for this debate.

The SPEAKER pro tempore (Mr. REHBERG). The gentleman from New York (Mr. OWENS) has 18 minutes remaining, and the gentleman from Ohio (Mr. BOEHNER) has 15½ minutes remaining.

Mr. OWENS. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. HOLT).

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

Mr. HOLT. Mr. Speaker, I thank my friend from New York for yielding me this time; and I rise in opposition to H.R. 2730 and also in opposition to H.R. 2728, in opposition to H.R. 2729, and in opposition to H.R. 2731, which we will be considering shortly.

Mr. Speaker, H.R. 2730 would grant deference to the commission, not OSHA, in interpreting questions of law. Now, this, as in this collection of the other three bills, only serves to weaken the protection of workers. OSHA really is a proud chapter in American history, and we are pleased that a prominent New Jerseyan, Senator Harrison Williams, had a large role in writing this. There are millions of Americans who have their limbs, their eyesight, even their lives because of OSHA; and they do not even know who they are. This protection is critically important, and we need to keep it strong.

This cluster of bills today, in every instance, weakens the protection for workers. One of the pieces of legislation would grant the employer more time to contest, contest the findings. It does not restore the balance, as the gentleman speaking in support of this bill earlier said. No, it tips the balance. It tips the balance against the worker. It puts workers and the enforcers who protect them at a disadvantage. It would allow the employer more time but would not allow any new advantages for the enforcer or the worker.

H.R. 2729 would create a larger, slower, more cumbersome commission, again reducing the protection to workers. And 2731, the Occupational Safety and Health Small Employer Access to Justice Act, would encourage employers to contest and simply delay. So all four of these reduce protections that are critically important.

H.R. 2730 would divide the power to make and enforce standards from the authority to interpret them; and it would result in two different actors, the Secretary and the commission, being responsible for implementing the act's policy objectives. That is inefficient and undesirable, and it may substantially alter the manner in which the OSH Act is enforced by calling into question the authority and the ability of the Secretary to bring OSHA cases before the courts of appeal. If the commission's interpretations are to be given deference, then on what basis may the Secretary appeal a decision with which the Secretary disagrees?

Mr. Speaker, this bill presents more questions than it answers, and it creates conflicts that will only weaken worker protections. I ask my colleagues to oppose this bill and the other three bills in this family. In this globalized economy, and with the threat of outsourcing and cheap labor overseas, it is a mystery to me why the other side would want to risk reducing American workers' rights, wages, and working conditions.

I rise in opposition to H.R. 2730, the Occupational Safety and Health Independent Review of OSHA Citations Act. This bill specifies that the conclusions of the Occupational Safety and Health Review Commission "with respect to all questions of law shall be given deference if reasonable." The bill requires reviewing courts to grant deference to the Commission, not OSHA, in interpreting questions of law, as long as the commission's interpretation is reasonable.

H.R. 2730 fundamentally weakens the powers of the Secretary of Labor. In 1991, the Supreme Court held unanimously in Martin v. OSHRC that the Secretary, not the Commission, should be given deference with regard to interpreting regulations because interpreting the regulation is a necessary adjunct of the Secretary's rulemaking and enforcement powers.

The Secretary of Labor is best able to regulate and enforce safety standards. As the promulgator of any given standard, the Secretary is better positioned to reconstruct the purpose of the standard. As enforcer, the Secretary comes in contact with a much greater number of regulatory problems than the Commission and is more likely to develop expertise in assessing the effect of a particular regulatory interpretation.

Dividing the power to make and enforce standards from the authority to interpret them results in two different actors, the Secretary and the Commission, being responsible for implementing the Act's policy objectives—an inefficient and undesirable result.

The commission is akin to a judicial body, not a regulatory one. Because of the OSH Act's unusual split enforcement structure, the Commission's adjudicatory authority is more aptly compared to that exercised by a court in an agency-review context, than to a unitary agency interpreting the regulations that it had promulgated. Conferring authoritative fact-finding and review powers in the Commission (and ultimately the courts), a body that is wholly independent of the administrative enforcer, ensures employers are protected from prosecutorial bias. H.R. 2730, by granting administrative powers to the Commission, confuses its role.

Finally, H.R. 2730 may substantially alter the manner in which the OSH Act is enforced by calling into question the authority and ability of the Secretary to bring OSHA cases before the courts of appeal. If the Commission's interpretations are to be given deference, then on what basis may the Secretary appeal a decision with which the Secretary disagrees?

Mr. Speaker, this bill present more questions than it answers and creates conflicts that will only weaken worker protections. I ask my colleagues to oppose this bill. In the globalized economy, with the threat of outsourcing and cheap overseas labor, it is a mystery to me why the Republicans want to risk reducing American workers' rights, wages, and working conditions.

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

Mr. OWENS. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. ANDREWS).

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

Mr. ANDREWS. Mr. Speaker, I thank my friend from New York for yielding me this time and for his leadership in pointing out the flaws in these bills that are on the floor today. It is a thankless and sometimes tedious job, but the gentleman from New York (Mr. OWENS) does it exceedingly well, and we thank him for his hard work.

I rise in opposition to this bill, Mr. Speaker, because I believe it does result in a structure that the Administrative Procedures Act has set in place that works. And although OSHA is not a perfect agency, it is a functional agency that has done much to protect many, as my friend, the gentleman from New Jersey (Mr. HOLT), just talked about.

The Administrative Procedures Act sets up a balance where when this Congress creates a law and delegates to an administrator in the executive branch the responsibility of enforcing that law, the courts give that administrator significant deference in studying what the law means and how it should be enforced. That is a principle that should apply, and I believe does apply, to OSHA. This bill would create an exception to that principle that I believe is nothing more than a fifth wheel.

The bill purports to set up two centers of decision-making within the Department of Labor, one is the Secretary of Labor herself, and the other is the commission that oversees OSHA. It falsely and artificially divides responsibility for understanding and interpreting OSHA standards on the one hand and then enforcing them on the other hand. This just does not make any sense to me.

When Congress legislates in an area of policy importance, whether it is transportation or health or the environment, we frequently create an executive branch person to oversee the enforcement of that law. We then vest that executive branch person with the responsibility of learning about that substantive area and writing the rules that govern that substantive area. The Administrative Procedures Act requires that the courts give significant deference to the decisions made by that executive branch officer.

This works with the EPA, it works in the financial services industry, it works with respect to transportation, and I believe it works in the field of worker safety.

□ 1500

This bill upsets that balance by directing the courts to give deference in two areas. One area is the Secretary of Labor when it comes to writing the rules, but the other is to the commission when it comes to interpreting the rules.

Putting aside for a minute the confusion over what writing the rules means versus what interpreting the rules means and how the court would have to sort that out, I believe what we will be passing today, should this bill pass, will be a breeder of litigation that would call every standard and every regulation of OSHA into question, very often for the purpose of prolonging the period of time before the regulation is enforced.

The Administrative Procedures Act is, frankly, a work of legal genius in this country. It properly balances the scales among the Congress, the executive branch, and the courts. By creating a fourth scale to be balanced by saying that there are two administrative agencies within the Department of Labor that must be taken into account, I believe we create a disruption.

This is more than just a theoretical problem. The ultimate result of this bill would be to delay and dilute worker safety standards from being enforced, to delay them because there would be one more litigation hurdle that would have to be jumped over before the law could be enforced, and dilute them because it, frankly, is the nature of things that the longer a process takes, the more compromise there is. Compromise is sometimes a good thing, but when we are compromising an important value like worker safety, it is not a good thing.

I would urge Members to oppose this bill because it defers and dilutes worker safety standards that the workers of this country so strongly need.

I thank the gentleman from New York (Mr. OWENS) for his leadership in fighting against these bills.

Mr. BOEHNER. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. WILSON), a member of the Committee on Education and the Workforce.

Mr. WILSON of South Carolina. Mr. Speaker, it is an honor for me to be here today to speak on behalf of H.R. 2730, the Occupational Safety and Health Independent Review of OSHA Citations Act. I congratulate the gentleman from Ohio (Mr. BOEHNER) who has taken a lead in assisting in regard to education issues and also worker safety. I also thank the gentleman from Georgia (Mr. NORWOOD), who is chairman of the Subcommittee on Workforce Protections.

Indeed, the particular initiatives and reforms that we are considering today are ones that I think would lead greatly to improving worker safety. The way it would yield for greater worker safety is it would encourage voluntary compliance and proactive activity by small businesses with OSHA.

In the congressional district that I represent, I am grateful that we have large employers such as Blue Cross/Blue Shield, such as the Michelin Tire factory company. We have three different plants in the district I represent. But the real basis of our economy, in working with the Chambers of Commerce and the National Federation of Independent Businesses is the small businesses, and that is who would be helped by the reforms we will be voting on today. These are businesses with 100 employees or less.

In the district that I represent, 99 percent of the businesses have 100 employees or less, and 85 percent of the persons who have employment in jobs are working for these small businesses. That is why it would be so helpful to pass these bills which provide for promotion of workplace safety, and in particular, this specific bill restores the original system of checks and balances intended by Congress when it was enacted as the OSHA law, that it ensure that the commission, which in effect is the court, and not OSHA, which is the

prosecutor, would be the party to interpret the law and provide an independent review of OSHA citations.

This could not come at a better time as the economy is improving, as jobs are improving. With the recent tax cuts we have had, with bonus depreciation to encourage companies to buy new equipment, we also need to have these reforms. I urge Members to support the bill.

Mr. OWENS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I mentioned before that I wanted to make an amendment to any one of these four bills because they are all about OSHA, and I thought my amendment was germane. I would like to describe what that amendment would have been.

It is a bill now, H.R. 4270, and it would amend the OSHA Act in three ways. First, it would strengthen sanctions for a worker's death or deaths caused by an employer's willful violations of basic OSHA safety standards. The current sanction is a mere misdemeanor with no more than 6 months in prison and a fine of up to $10,000. Some jurisdictions seek stiffer penalties for failure to return a library book. My bill would change this penalty to a felony with up to, but no more than, 10 years in prison.

Second, my amendment would increase the penalty for illicitly warning of an OSHA inspection, from up to 6 months imprisonment to up to 2 years.

Third, my amendment would increase the penalty for lying to or misleading OSHA, from up to 6 months imprisonment to no more than 1 year imprisonment. In all instances, fines would be decided upon in the same way judges decide other fines, in accordance with title 18 of the criminal code.

This bill, H.R. 4270, and in the Senate it is S. 1272, sponsored by Senator CORZINE; this bill corrects a glaring oversight in Federal law and policy: the inability to pursue a felony conviction of an employer who willfully causes the death of workers. To quote a New York State supreme court justice, a felony sentence would serve as a warning to other employers; employers who, in pursuit of their own economic interests, care to be cavalier about the lives of others.

When sentencing a man responsible for the collapse of an illegally conducted scaffold that killed five immigrant workers in Manhattan, this same supreme court justice remarked, ''The collapse of this scaffold was not a tragic accident; rather, it was a tragic certainty.'' She went on to say that the case had given her an education as to how ''astonishingly ineffectual'' the Federal Government has been in protecting the workers' lives.

This judge, Rena Uviller, emphasized that OSHA penalties for willful safety violations that result in worker deaths merely amount to a $10,000 fine and a misdemeanor sentence of no more than 6 months' imprisonment upon the first conviction. The maximum penalty for a second-time offender is a $20,000 and no more than 1 year imprisonment.

In concluding her sentencing, Judge Uviller sent a message to us on this floor today by observing, ''Why Congress has adopted such a spineless response to industrial malfeasance is best left to the voters to assess.''

Why has Congress adopted such a spineless response to industrial malfeasance, to owners, managers, bosses who willfully violate the regulations and thus cause the death of a worker?

I think this would have been a germane amendment. I am sorry that in the committee it was dismissed. My amendment addresses the needs of workers. Every other one of these four bills focuses on the needs of employers, ways in which you might frustrate the efforts, dilute the efforts of OSHA so that employers and small business owners would benefit greatly while workers suffer more.

I think it is very important that we note that we have failed in a four-bill marathon of more than 4 hours to allow the minority to address any of the interests and concerns of the working families of America. This is a clear indication of exactly where the majority stands with respect to working families.

They have other programs that they offered, one called HOW, H–O–W, Hire Our Workers, which runs counter to the kinds of activities they have conducted over the last 10 years with respect to the dilution of the powers of OSHA and, at the same time, the dilution of the powers of the organization process of unions.

I think it is important to note that the business of today has to be the business of being concerned about workers. It cannot be merely the four bills which seek to make OSHA safer for employers.

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

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just point out, we are talking about H.R. 2730. That is on the review commission and OSHA. That is the subject of this hour's debate and this bill.

I once again remind Members, we are talking about working families, ninety-two percent of the working families who own businesses who have friends work for them. They are the working families that we are talking about.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. ISAKSON).

Mr. ISAKSON. Mr. Speaker, I rise to address, in part, what was just spoken of by the minority in terms of the amendment they would like to have proposed and the reasons they would like to have proposed it, because it illustrates the difference in the two sides today.

It would be wrong for any American worker who listens to this debate to think for a minute that if anything happened to them on the work site that they do not have immediate access to the criminal courts of this country. They do. That is what makes the United States of America great.

It would also be wrong, I think, to assume that this is an employer versus employee argument. It is not. Go out today in Washington, D.C. to any project, building any building. After you see the sign at the front that shows who is building the building and who the contractor is, the next sign posted will be the safety regulations the employer and the employees are committed to.

Go into a facility in America today, go into UPS, go into Coca-Cola, go onto a construction site, and what do you see, you see safety first. OSHA has done what it was supposed to do, and American employers and employees have done what they are supposed to do.

Are there mistakes? From time to time, there are. Is there a route of grievance? There always is.

The gentleman from Georgia (Mr. NORWOOD) is trying to make that an expedited process where you get a hearing fast, you get a result fast, and the purpose of America can continue. And that is for American business to employ employees who work for a company to make products and services and build buildings. But let no one watching this debate think this is about whether or not someone does not have access to our courts if they are aggrieved. They do, and they do instantaneously.

What this debate is about is the great partnership that exists today in America between the worker and the employer, which is what makes this country great.

I appreciate the diligent work of the chairman of the subcommittee and his effort today to work on behalf of working families and what makes America great, the free enterprise system.

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, frequently I watch debates and the point has been made. Everybody has said what they have to say; it is frequently repeated many times, but we never seem to yield back the time and get to the vote. Mr. Speaker, I think it is time to vote.

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

The SPEAKER pro tempore (Mr. GILLMOR). All time for debate has expired.

Pursuant to House Resolution 645, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

Mr. OWEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

□ 1515

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GILLMOR). Pursuant to clause 8 of rule XX, and the Chair's prior announcement, the Chair will now put each question on which further proceedings were postponed earlier today in the following order:

H.R. 2728, by the yeas and nays;

H.R. 2729, by the yeas and nays.

PARLIAMENTARY INQUIRY

Mr. OWENS. Mr. Speaker, point of information.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York.

Mr. OWENS. Mr. Speaker, there is one remaining bill that we have not discussed.

The SPEAKER pro tempore. The House is going to vote on the first three bills and then vote on the motion to suspend the rules on H.R. 3740.

Mr. OWENS. Are you wiping one bill from the calendar?

Point of inquiry. Will somebody explain what happens to the remaining bill?

The SPEAKER pro tempore. At this point the Chair will put the question on those measures on which a vote has previously been postponed.

Mr. NORWOOD. Mr. Speaker, will the gentleman yield?

Mr. OWENS. I yield to the gentleman from Georgia.

Mr. NORWOOD. We are going to have the votes on these three bills, then there are a couple of other votes, and then we go back to the final bill and its debate, and we will vote it.

Mr. OWENS. I thank the gentleman.

The SPEAKER pro tempore. The Chair will put the questions in the following order:

H.R. 2728, by the yeas and nays;

H.R. 2729, by the yeas and nays;

H.R. 2730, by the yeas and nays; and the motion to suspend the rules on H.R. 3740.

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

OCCUPATIONAL SAFETY AND HEALTH SMALL BUSINESS DAY IN COURT ACT OF 2004

The SPEAKER pro tempore. The pending business is the question of the passage of the bill, H.R. 2728, on which further proceedings were postponed earlier today.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 251, nays 177, not voting 5, as follows:

[Roll No. 183]

YEAS—251

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spratt
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—177

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardoza
Carson (IN)
Carson (OK)
Chandler
Clay
Clyburn
Conyers
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Green (TX)
Grijalva
Gutierrez
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Slaughter
Smith (WA)
Snyder
Solis
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOT VOTING—5

DeMint
Deutsch
Gephardt
Leach
Tauzin

□ 1542

Mr. VAN HOLLEN and Ms. SLAUGHTER changed their vote from ''yea'' to ''nay.''

Messrs. BOEHNER, WYNN, and LoBIONDO changed their vote from ''nay'' to ''yea.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION EFFICIENCY ACT OF 2004

The SPEAKER pro tempore (Mr. GILLMOR). The pending business is the question of the passage of the bill, H.R. 2729, on which further proceedings were postponed earlier today.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 228, nays 199, not voting 6, as follows:

[Roll No. 184]

YEAS—228

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)

Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—199

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—6

Burton (IN)
DeMint
Deutsch
Leach
Pitts
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GILLMOR) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1550

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

OCCUPATIONAL SAFETY AND HEALTH INDEPENDENT REVIEW OF OSHA CITATIONS ACT OF 2004

The SPEAKER pro tempore. The pending business is the vote on the passage of the bill, H.R. 2730, on which further proceedings were postponed earlier today.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 224, nays 204, not voting 5, as follows:

[Roll No. 185]

YEAS—224

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Schrock
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—204

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boehlert
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.

Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHugh
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sherman
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Sweeney
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—5

DeMint
Deutsch
Hayes
Leach
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1558

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

OSCAR SCOTT WOODY POST OFFICE BUILDING

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3740.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MURPHY) that the House suspend the rules and pass the bill, H.R. 3740, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 422, nays 0, not voting 11, as follows:

[Roll No. 186]

YEAS—422

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (PA)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—11

DeMint
Deutsch
Evans
Hensarling
Kennedy (RI)
Leach
Lucas (OK)
Murphy
Peterson (MN)
Pitts
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GILLMOR) (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1607

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

OCCUPATIONAL SAFETY AND HEALTH SMALL EMPLOYER ACCESS TO JUSTICE ACT OF 2004

Mr. BOEHNER. Mr. Speaker, pursuant to House Resolution 645, I call up the bill (H.R. 2731) to amend the Occupational Safety and Health Act of 1970 to provide for the award of attorney's fees and costs to very small employers when they prevail in litigation prompted by the issuance of citations by the Occupational Safety and Health Administration, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. QUINN). Pursuant to House Resolution 645, the bill is considered read for amendment.

The text of H.R. 2731 is as follows:

H.R. 2731

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Occupational Safety and Health Small Employer Access to Justice Act of 2003''.

SEC. 2. AWARD OF ATTORNEY'S FEES AND COSTS.

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 and following) is amended by redesignating section 32 through 34 as 33 through 35 and inserting the following new section after section 31:

"SEC. 32. AWARD OF ATTORNEYS' FEES AND COSTS.

''(a) ADMINISTRATIVE PROCEEDINGS.—An employer who—

''(1) is the prevailing party in any adversary adjudication instituted under this Act, and

''(2) had not more than 100 employees and a net worth of not more than $1,500,000 at the time of the adversary adjudication was initiated,

shall be awarded fees and other expenses as a prevailing party under section 504 of title 5, United States Code, in accordance with the provisions of that section, but without regard to whether the position of the Secretary was substantially justified or special circumstances make an award unjust. For purposes of this section the term 'adversary adjudication' has the meaning given that term in section 504(b)(1)(C) of title 5, United States Code.

''(b) PROCEEDINGS.—An employer who—

''(1) is the prevailing party in any proceeding for judicial review of any action instituted under this Act, and

''(2) had not more than 100 employees and a net worth of not more than $1,500,000 at the time the action addressed under subsection (1) was filed,

shall be awarded fees and other expenses as a prevailing party under section 2412(d) of title 28, United States Code, in accordance with the provisions of that section, but without regard to whether the position of the United States was substantially justified or special circumstances make an award unjust. Any appeal of a determination of fees pursuant to subsection (a) of this subsection shall be determined without regard to whether the position of the United States was substantially justified or special circumstances make an award unjust.

''(c) APPLICABILITY.—

''(1) COMMISSION PROCEEDINGS.—Subsection (a) of this section applies to proceedings commenced on or after the date of enactment of this Act.

''(2) COURT PROCEEDINGS.—Subsection (b) of this section applies to proceedings for judicial review commenced on or after the date of enactment of this Act.''.

The SPEAKER pro tempore. The amendment printed in the bill, modified by the amendment printed in part C of House Report 108–497, is adopted.

The text of H.R. 2731, as amended, as modified, is as follows:

H.R. 2731

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the ''Occupational Safety and Health Small Employer Access to Justice Act of 2004''.

SEC. 2. AWARD OF ATTORNEY'S FEES AND COSTS.

The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 and following) is amended by redesignating sections 32 through 34 as sections 33 through 35 and inserting the following new section after section 31:

"SEC. 32 AWARD OF ATTORNEYS' FEES AND COSTS.

''(a) ADMINISTRATIVE PROCEEDINGS.—An employer who—

''(1) is the prevailing party in any adversary adjudication instituted under this Act, and

''(2) had not more than 100 employees and a net worth of not more than $7,000,000 at the time of the adversary adjudication was initiated,

shall be awarded fees and other expenses as a prevailing party under section 504 of title 5, United States Code, in accordance with the provisions of that section, but without regard to whether the position of the Secretary was substantially justified or special circumstances make an award unjust. For purposes of this section the term 'adversary adjudication' has the meaning given that term in section 504(b)(1)(C) of title 5, United States Code.

''(b) PROCEEDINGS.—An employer who—

''(1) is the prevailing party in any proceeding for judicial review of any action instituted under this Act, and

''(2) had not more than 100 employees and a net worth of not more than $7,000,000 at the time the action addressed under subsection (1) was filed,

shall be awarded fees and other expenses as a prevailing party under section 2412(d) of title 28, United States Code, in accordance with the provisions of that section, but without regard to whether the position of the United States was substantially justified or special circumstances make an award unjust. Any appeal of a determination of fees pursuant to subsection (a) of this subsection shall be determined without regard to whether the position of the United States was substantially justified or special circumstances make an award unjust.

''(c) APPLICABILITY.—

''(1) COMMISSION PROCEEDINGS.—Subsection (a) of this section applies to proceedings commenced on or after the date of enactment of this section.

''(2) COURT PROCEEDINGS.—Subsection (b) of this section applies to proceedings for judicial review commenced on or after the date of enactment of this section.''.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BOEHNER) and the gentleman from New York (Mr. OWENS) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2731.

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

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker the fourth bill we will debate today in this series of votes is another narrowly crafted bill that addresses a specific problem that we found in the OSHA law. In short, we strongly believe that small businesses that face meritless OSHA enforcement actions should not be prevented from defending themselves simply because they cannot afford it.

The Occupational Safety And Health Small Employer Access to Justice Act levels the playing field for small businesses and encourages OSHA to better assess the merits of the case before it brings unnecessary enforcement actions to court against small businesses.

Under current law, the Equal Access to Justice Act allows small business owners to recover attorney's fees if the owner successfully challenges a citation. However, if OSHA can establish that its enforcement action was ''substantially justified'' or the result of ''special circumstances,'' small businesses can be refused attorney fees even if OSHA loses the case in court.

Historically, the law's ''substantially justified'' and ''special circumstances'' standards have made it easy for OSHA to prevent recovery under this broad standard, so attempts by small business owners to recover costs often merely exacerbate the financial harm caused by OSHA's dubious enforcement actions. In fact, let us look at some of the records here.

In 2002, OSHA cited 83,760 violations based on its approximately 40,000 workplace inspections. Yet, how many applications were filed for attorney's fees against OSHA in 2002? That number is eight. How many were granted? One. Moreover, for the last 25 years, only 1 year has seen more than 10 applications filed for attorney's fees against OSHA. When you compare that number to the approximately 80,000 violations cited every year, you begin to wonder.

We have heard testimony in our committee on this issue, and what we have found is that the law's ''substantially justified'' and ''special circumstances'' standards have made it easy for OSHA to deny small businesses the ability to recovery attorney's fees.

What these numbers tell us is that small businesses can already see the writing on the wall. They know OSHA has the upper hand; and if the prospect of recovering attorney's fees is as bleak as it appears, then why fight the citations at all?

Small employers should not be forced to knuckle under OSHA's citations and settle up front when they believe they are innocent. This measure simply forces OSHA to carefully evaluate the merits of its case against small employers before they bring its case. If OSHA's case is weak and they bring the case anyway, then the agency is going to have to pay the attorney's fees if in fact they lose the case.

Employers face relentless competition every day in the face of high taxes, rising health care costs, and burdensome government regulations. The last thing they need is a meritless OSHA-related litigation that could take years to resolve. As we have said earlier today, over the last 8 months our economy has created 1.1 million net new jobs; 625,000 net new jobs in just the last two months.

We might want to make sure onerous government regulations do not hamstring small businesses' ability to continue to hire new workers and compete in our economy. Frivolous litigation kills jobs, and this measure will help ensure OSHA carefully considers the merits of the case before they bring enforcement action.

The measure before us is a narrowly crafted commonsense bill that addresses a specific problem in OSHA, and it deserves the support of all of our colleagues.

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

Mr. OWENS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to H.R. 2731. This bill is the most

alarming of the four before us today. By mandating that OSHA pay the attorney fees of any employer with a total net value of under $7 million and no more than 100 workers if they prevail upon appeal, H.R. 2731 would drastically undermine the enforcement of OSHA's mission.

As I stressed in my opening statement, more than 90 percent of all private firms in the U.S. would qualify for attorney fees upon successfully prevailing in an appeal. What could be more universal than that? H.R. 2731 would have an incredibly chilling effect on implementation of the act.

What would this bill mean for American workers? It would mean that unscrupulous employers could risk workers lives with impunity. Focusing on the issue of worker protection, again, I would like to relate some very personal testimony delivered at a forum I held on May 12 on worker deaths, and some of the photos of the people who testified are in front of us.

Patrick J. Walters, whose photo is on the top row, was 22 years old, a plumber's apprentice who was literally buried alive in a trench collapse in June 2002. Patrick had been sent down into a 10-foot deep, rain soaked trench without any training or safety equipment. Moeves Plumbing, a Cincinnati-based employer, had been repeatedly cited already by OSHA over the years for failure to follow basic safety standards for trench work. Although cited and fined for trench safety lapses in 1983, 1984, 1985, Moeves Plumbing took no remedial steps.

Clint Daley, another Moeves employee had been buried in 1989 in circumstances identical to Patrick's. In Daley's case, OSHA agreed to a settlement based on a promise by Moeves to take required safety action, an example of that voluntary compliance business. Two weeks before his death, an OSHA inspector found Patrick and another Moeves employee working in an unstable, unsafe trench that was 15 feet steep. Again, OSHA warnings went unheeded by Moeves and this caused certain, but tragic, results.

After Patrick's death, an attorney for Moeves Plumbing negotiated down the citation from a willful violation to an unclassified. OSHA also reduced the fine down to $30,000 to be paid over 4 years.

At the May 12 forum, Patrick's mother, Michelle Marts, wondered aloud, ''What is it going to take to stop Moeves Plumbing from sending another boy like our son to his death? Patrick did not have to die this way. This absolutely could and should have been prevented. We do not want this to happen to any other family.''

□ 1615

Joey Israel was a 22-year-old laborer who fell eight stories to his death from Philadelphia's Victory Building on December 31, 2003. Employed by HydroProof Systems, he had been promoted from entry-level employee to laborer only 2 weeks prior to his death. All that is known for certain is that before careening to his death, Joey had been told to pull up a 23½ pound electrical cord hanging from the window. After repeated phone calls to OSHA to ascertain the status report on Joey's case, OSHA responded by stating that HydroProof had not violated any safety rules.

Joey's twin sister, Jaime, insisted upon a personal meeting with the OSHA investigator. She was told that not one of the eight men who were on the job the day her brother was killed had been questioned by OSHA nor had the employer been questioned about the incident. When Jaime questioned how her brother could have been sent alone some 25 feet up in the air on this job, without any prior training or interview, she was told, ''That's the beauty of America.''

Jaime responded at the May 12 forum with the following quote: ''What an awful thing to be told to a mother who just lost her son and a sister who just lost her brother. I believe this is the downfall of America, where, daily, employers risk the lives of untrained men and women who are doing what they have to do to support their families, to make a quick buck and, in a sense, kill for profit. My brother lost his life for a lousy $60 a day, is that what the lives of our loved ones are worth to their employers?''

Scott Shaw was a 38-year-old husband and father of two young sons who was killed on September 7, 2002. Scott died when he fell into the Schuylkill River, moving from the Hopper Barge to the Work Barge. OSHA investigated and found that Scott's company had committed six serious violations. One of these violations focused on the fact that one barge was 8 feet higher than the other. Also, workers had to climb on rubber tires while jumping from barge to barge. However, OSHA combined these violations into one citation with six items. OSHA's total fine for these violations was only $4,950.

His wife, Holly, testified that ''Scott didn't have a life jacket on. He wasn't required by his company to wear one. There were no life preservers on the barge. Scott's death was needless. The company Scott was working for neglected to follow safety regulations.

''As a teacher and as a parent, I know that it is important that a child understand there are consequences to their actions, and they must accept responsibility for what they have done. Adults must face their responsibility, and must be held accountable for their actions. Please don't let another family suffer as we have. The more that companies are actually punished, the more they realize they must practice workplace safety, and must protect their workers.''

I urge my colleagues on both sides of the aisle to understand the seriousness of these discussions today.

This is the final quarter of the marathon four bills today. I hope that the fact that they have been packaged together has not caused anybody not to listen. I hope that they understand that we are talking about life-and-death matters.

I urge my colleagues to oppose the needless deaths of Americans by opposing H.R. 2731.

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

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

I will remind us that we are on H.R. 2731, the employer access to justice. That is what we are going to be debating and voting on for the next hour.

Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from Michigan (Mr. SMITH), my friend.

Mr. SMITH of Michigan. Mr. Speaker, I thank the gentleman very much for the recognition.

I think it is important to recognize, first, that safe working conditions are primarily the result of efforts by employers and employees working together. Safety consciousness probably is the best key to worker safety.

When we add OSHA, and I was one of Michigan's OSHA commissioners for 4½ years, I can guarantee my colleagues that OSHA regulations are some of the most onerous, the most complex legal mandates on business and very difficult to understand. So, in many cases, low wage inspector can go out and, trying to read and enforce the regulation, will cite an employer. If you are a large business, if you are GM or Ford or Chrysler, you have the legal staff to review and understand that kind of allegation and maybe come to terms even before it goes to court.

H.R. 2731 levels the playing field for small businesses and encourages OSHA to have greater fairness, and to provide better access to examine the merits of the case. This legislation simply says that OSHA and, therefore, States that adopt OSHA, such as MIOSHA in Michigan, can arbitrally make the determination that if a case was ''substantially justified'' or the ''result of special circumstances'', then you do not have to reimburse that small company for attorneys' fees.

The fairness that was tried to be reached in the first place from OSHA was saying if it is a frivolous lawsuit, in effect, then OSHA has a responsibility to reimburse the legal attorneys' fees for that business. This is especially important to small business.

I would encourage my colleagues to support 2731. Small business is the key to our economic success in this country, and this simply levels the playing field to make it fair in a challenge by OSHA to that small business and the ability of that small business to react.

Mr. OWENS. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I think it is clear that the effect of this bill, if it were to become law, would be to stall enforcement of workplace safety measures. It is a back-handed attempt

to weaken OSHA's enforcement and standards-setting efforts. It would require the American taxpayer to pick up the entire tab if a company successfully challenged even one of the citations that OSHA gave, regardless of whether OSHA's actions were substantially justified.

It is important to note that current law already allows companies to receive payment if the government's position had no substantial justification. Think of it this way: If you had 50 citations and one of the 50 was found wanting, the costs would be shifted over to OSHA, and so we would be punishing the government every time it loses even a small part of an overall enforcement effort. This will deter the agency from enforcing the law.

What is next? Are we going to pay a criminal defendant's legal costs every time there is an acquittal? I know of no other agency that is punished for failing to guarantee the outcome of its good-faith attempts to enforce the law.

OSHA's mission is to protect the safety and health of American workers. We should not tie its hands and drain its resources as H.R. 2731 does.

I recall several years ago there was a ballot measure in California to severely impair the ability of California OSHA to enforce California OSHA regulations. After a very short while, do my colleagues know who the biggest opponent was of that measure to hurt Cal/OSHA? It was the Chamber of Commerce in California because they figured out we will pay more in insurance costs than we will save on compliance costs. It is a mistake for workers and it is a mistake for business to impair OSHA enforcement of safety acts.

I urge colleagues to think carefully about this ill-advised scheme and vote ''no'' on H.R. 2731.

Mr. NORWOOD. Mr. Speaker, I yield to myself whatever time I may consume.

Mr. Speaker, H.R. 2731 is, once again, a narrow measure with a clearly targeted and very specific goal to ensure very small employers the ability to defend themselves against OSHA's superior litigation position when the small employer believes they are right.

When dealing with OSHA, we now know many small employers are forced to just simply fold their tent, give up because they simply cannot afford the price of justice. As we all know, OSHA has a vastly superior ability to play the litigation game. OSHA has a team of highly skilled, well-seasoned lawyers at its disposal to pressure a small employer and a fully stocked staff to support their efforts.

Maybe even more importantly, they do not have to give any consideration to what the cost of this legal activity may be because they know that the taxpayers of America will pick up all of their costs. That is not even a consideration when they determine to take a small business employer to court, and that is the only determination for a small businessman to defend himself.

A small employer, in contrast, has to open up his own personal checkbook, go out and hire legal help, help that most of the time, the kind of employers we are talking about, they simply cannot afford.

What is more, OSHA litigation is complex, as demonstrated by the thousands of pages of standards, rules and regulations that OSHA has on the books. That means small employers are wise to hire an attorney who specializes in this area of law, adding to the cost that most folks and small business simply cannot afford. They just say, I will pay the fine, I plead guilty, I cannot defend myself.

In sum, it all comes down to the most cost-effective alternative. Can a small employer afford to fight or is it a cheaper business decision to simply knuckle under and pay the fine, despite believing that OSHA is as wrong as they possibly could be?

Obviously, Mr. Speaker, we know that the EAJA just does not work when it comes to the OSHA law. For instance, we know that since the enactment of EAJA, in only 1 year have more than 10 applications for attorneys' fees been filed in an OSHA context. In 2003, OSHA collected over $782 million in penalties, but in 12 of the last 19 years, OSHA's total EAJA awards have been less than $10,000.

I think, fairly clearly that demonstrates that it does not work. This does not add up in light of the many complaints Members of Congress hear from our small business constituents every year; and basically it is, I have to plead guilty, I am not guilty, but I cannot afford to go to court; and the cost of going to court is going to be so much more than the fine, I just give in.

In some 180 other statutes, Congress has supplemented the coverage offered by EAJA with other fee-shifting statutory arrangements for attorneys' fees. So we are not suggesting some radical departure from what has been the norm in Congress. What we are offering instead, Mr. Speaker, is a small opportunity to level the playing field for small employers who need all the help they can get, 100 employees or less with a net worth of $7 million or less.

Mr. Speaker, I said this was a narrow measure, and that is exactly what it is. In fact, it reduces the coverage of what is considered a small business under EAJA. Under H.R. 2731, eligibility for coverage is one-fifth the size of EAJA. This measure could only cover employers with 100 or fewer employees and those with a net worth not exceeding $7 million. No other employees are even eligible for recovery. So this is truly a measure for small employers who are the most vulnerable to OSHA's litigation squeeze.

Mr. Speaker, no one wants OSHA to use taxpayer money to pay attorneys' fees instead of enforcing the law. That is not our goal. That is not the purpose of this measure, and that is not what would result from its passage.

The purpose of H.R. 2731 is simply to force OSHA to think twice before pursuing expensive and time-consuming litigation where they do not have to pay anything, but the taxpayers do, in cases of dubious merit, when it is against very small employers who simply cannot afford to defend themselves.

Under H.R. 2731, if OSHA does bring these actions and loses, it does pay attorneys' fees. There is no increased cost. It comes out of OSHA, and it should come out of OSHA. They should think twice before they take cases to court knowing that all they have to do is say, we are going to court and the small business employer has to give in; that is all.

And as I have said before, if OSHA brings only cases with merit against small employers, this bill is not going to cost them one red cent. All they need to do is better evaluate the merits of their actions and stop using litigation as a way to force employers to say, I give in.

□ 1630

I do not believe you, I think I am right, I give in. I just do not have the money to fight you in court.

I urge my colleagues to vote for passage of H.R. 2731.

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

Mr. OWENS. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, first of all I wish to thank the gentleman from New York (Mr. OWENS) for what he has been doing on worker safety issues all these years. If we would just listen to every word he says, we would all learn every day from his wisdom. And I thank him also for the hearings that he held last week. Anybody that sat in those hearings and listened to those families who had lost a family member to a work-site tragedy, it would have strengthened their resolve absolutely that our goal is to strengthen OSHA.

Mr. Speaker, I rise today in opposition to H.R. 2731 because workers deserve to know that their interests will be represented and represented fairly by OSHA. As I said earlier today on another bill, we are not the least bit worried about employers who manage in good faith. We are worried about the ones that ignore near misses and important safety standards, employers who know they have a major problem after the experience of an employee's death or severe injury, but ignore the problem and carry on business as usual until another fatality or another severe injury occurs. Those are the employers we are concerned about.

When workers and their families suffer due to poor safety at the workplace, they feel angry and they feel betrayed. They are not protected and they know it. They do not need to feel betrayed further by their government when they are seeking justice for their original betrayal. This bill threatens the lives of thousands of workers because it forces OSHA to consider costs of attorney's fees before deciding whether or

not to take action. Putting this unique burden on OSHA may take away the only recourse many, many employees have to stand up for their safety or for their families in demanding redress.

Since President Bush took office, it has been clear that he intends to use OSHA to protect business interests rather than workers' health and safety. First, he signed legislation overturning workplace safety rules to prevent ergonomic standards; then he advocated budget cuts for job safety agencies, such as OSHA and NIOSH. He went further by suspending 23 important job safety regulations, and the list goes on and on. This legislation is one more way to weaken OSHA, and it will make it that much easier for business to avoid OSHA regulations.

If my colleagues really wanted to help workers, they would raise the minimum wage, and they would do it now; they would extend unemployment benefits; they would also increase penalties for employers that ignore safety regulations; and ensure that workers and their families have the support they need and deserve to address faulty employer practices.

Mr. Speaker, this administration has lost sight of what workers really need, a safe working environment, a fair wage, and meaningful reforms in the workplace. I urge my colleagues to join me in opposing H.R. 2731, which is an unnecessary attack on worker protections.

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume to point out that probably every Member in here should read the GAO report put out in March 2004. Frankly, President Bush has done an excellent job in workplace health and safety. The numbers have been coming down. As the GAO says, and others, they are at historically low levels. I would say that is probably going in the right direction.

And I say it is going in the right direction because we finally understand the way you get a healthier and safer workplace is having cooperation between the employer and the employee and the OSHA. But when OSHA uses the litigation tactic to force a small employer to admit to something they do not believe they are guilty of, that does not promote cooperation.

This is simply about justice and fairness to small business owners. They are workers too, and they do want to see this legislation passed. In fact, they involve most of the workers in America today and the people that work for them. So I would like for us not to sit here and say that workers do not want to see this legislation passed. That is simply not true. The majority of workers, the 92 percent that are not in the unions today, yes, they do want to see this passed. It is unfair to say they do not. They are working families as much as anybody that is organized.

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

Mr. OWENS. Mr. Speaker, may I inquire as to how much time is left.

The SPEAKER pro tempore (Mr. QUINN). The gentleman from New York (Mr. OWENS) has 19 minutes remaining, and the gentleman from Georgia (Mr. NORWOOD) has 17 minutes remaining.

Mr. OWENS. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. PAYNE).

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

Mr. PAYNE. Mr. Speaker, I rise in opposition to H.R. 2731 because I believe that H.R. 2731 is a blatant attempt to chill OSHA's exercise in statutory responsibility to enforce the Occupational Safety and Health Act by penalizing the agency for every instance in which it attempts to do the right thing, but perhaps is unsuccessful. I think that this would certainly dampen people's interest in seeking justice.

Let me just say that as I look at this fourth quarter of these bills that have come here today, this is just another example of weakening OSHA from the inside. My colleagues would probably just like to eliminate it from the outside, but this is the stealth approach.

I think one thing that the other side does well is to give very good names to these bills. For example, this H.R. 2731, Occupational Safety and Health Small Employer Access to Justice of 2004. Now, who could be opposed to the access of justice? However, what does the bill do? It creates a hindrance for people pursuing justice.

Let us just take a look at the other three. H.R. 2728, Occupational Safety and Health Small Business Day in Court Act of 2004. Nothing is better than your day in court. It is the American way. But what does it do? It delays and weakens enforcement. It does not do the right thing.

Then H.R. 2729, once again, sounds great, Occupational Safety and Health Review Commission Efficiency Act of 2004. And what does 2729 do? It makes it more difficult. It enlarges the commission. It creates legal preference. It makes it a little more complicated.

And let us take a look at H.R. 2730, Occupational Safety and Health Independent Review of OSHA Citations Act of 2004. Sounds good. What does it do? It creates conflict with the Secretary. It creates another board that has the right to interpret the Secretary's rulings. We might as well eliminate the Secretary. I'll bet my colleagues would, if they could, because they really want to eliminate OSHA.

And this is not new because this is the way these bills go. Remember the Workers Paycheck Protection Act? Everyone loves to have their paycheck protected, but what did it do? It made it more difficult for people who wanted to pay union dues.

Let us look at the TEAM Act. That is the way we move ahead. Companies that have employees that work in teams together, we move forward, we are more productive, we are going to make the best product. But what does the bill do? It has the employer select the negotiating team for benefits.

Take a look at the Family Time Flexibility Act. Fantastic. Everyone likes flexibility and likes to be with their family. What does it really do? It replaces overtime with comp time when the employer wants to give it to the employee.

The Truth in Employment Act. We all love truth in employment. What does it do? An employer can fire or refuse to hire people if they think they have union sympathies.

The Fairness for Small Business and Employees Act. Since 85 percent of our businesses are small businesses, we certainly want fairness for small businesses and employees. But what does the act do? It requires the NLRB and OSHA to pay fines. It is sort of the forerunner of H.R. 2731 that we are here for today.

The Sales Incentive Compensation Act. That is why people work hard, because they want to be compensated. They work hard, they are doing it the American way, but what does it do? It takes overtime pay away from inside workers.

Rewarding Performance in Compensation. We all want to be rewarded for our performance. Once again, a beautiful title. What does it do? It merely reduces overtime because it excludes bonuses in the calculation and makes it more difficult.

So as we listen to these great apple pie-named bills, it seems like the nicer they sound, the worse they are. Please do not do a Greatness to Donald Payne bill, because I would hate to hear what it would really do at the end of the day.

So I would just like to say, I urge my colleagues to reject this H.R. 2731, because once again, in my opinion, it is going in the wrong direction.

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

I think it is time again to remind the body we are discussing H.R. 2731, the Small Employer Access to Justice Act. What that means is that working families, the majority of the working families in my colleagues' districts that happen to be in small businesses deserve access to justice.

It is clear to everyone that OSHA's attorneys know well when they have a weak case. Nobody has to tell them. They know it. And they know under current law they might as well pursue the case and push the employer into settlement, even if they know they may lose the case in court. So what they are basically saying to that working family who owns a small business is, you either pay this fine and say you are guilty, or we are going to make sure you pay a lot more in defense fees, regardless of who wins in court.

Mr. Speaker, only in these cases and only when an employer is very small does H.R. 2731 suggest that OSHA use some degree of discretion before instituting litigation.

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

Mr. OWENS. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY of New York. Mr. Speaker, I rise in strong opposition to H.R. 2731.

Mr. Speaker, no one should be fooled by what my colleagues on the other side of the aisle have named this bill. This is not a bill about safety and health or access to justice. This bill is about turning Federal law on its head and restricting an employee's due process and access to justice.

This misguided bill would require OSHA to pay attorney's fees and costs in any case in which it did not prevail, regardless of why the agency did not prevail, and even if OSHA is justified in bringing the action.

Normally, fees and costs are awarded to the prevailing party defending against a frivolous claim. This bill awards fees to employers, even if the claims of their failure to protect their employees has merit. I think this, personally, is disgraceful.

Placing the burden on OSHA to pay attorney's fees for any case they lose would be a great incentive for OSHA to stop bringing claims all together. We see now the reason the other side brought this bill up. Do you see, Mr. Speaker? This means OSHA will be paralyzed to do its job.

American workers will be the ones to suffer, through injuries on the job or even through death. In the year 2000, the last year we had these statistics, 4.7 million injuries happened in this country. We had over 5,500 deaths. And these are added to that.

This bill places a higher priority on the compensation of employees than protecting American workers. In Federal law, we normally award fees and costs to those defending against frivolous lawsuits.

□ 1645

The reason is we want to discourage cases without merit from having a day in court. This bill aims to discourage cases with merit from having their day in court. This is an assault on not just the American worker but the American system of due process and justice as well.

Those on the other side want to eliminate OSHA's enforcement powers by making them pay fees and costs. What is next, Mr. Speaker? Will the other side create a private right of action and ask injured employees to pay fees and costs in valid claims themselves?

Mr. Speaker, will it be, Congratulations, you were right, here is your award for your injury, but you have to pay the employer who injured you for the costs of showing up? I worry about even saying this, out of concern the other side will take me up on it.

This is a bad bill. It ties OSHA's hands and American's workers lose their due process and day in court. This is not limited to small businesses. H.R. 2731, despite its stated intent to apply to small businesses, achieves broad coverage in employer requirements. The Bureau of Statistics data for the first quarter of 1998 showed that there were over 6.5 million private sector establishments with 99 or fewer employees, employing 55 million workers, 54 percent of the private sector workforce. So even though we are saying we are doing this for small businesses, it is over 54 percent of our workforce.

Mr. Speaker, we can do better. We must do better. We have to make sure that our workers of this country are protected. We care about our small businesses. Everyone cares about small businesses, but going the way we are going now on tying OSHA's hands to prosecute those that are, in my opinion, having unsafe workplaces is not right. We should defeat this bill. I ask for a ''no'' vote on H.R. 2731.

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my opinion is it is shameful that there would be anyone in here who would not want to support working families who happen to be small business owners, which are the majority of people in our districts, so they can have equal access to justice when the big arm of the Federal Government slams down on them.

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

Mr. OWENS. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. ANDREWS).

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

Mr. ANDREWS. Mr. Speaker, I say to the gentleman from Georgia (Mr. NORWOOD) who said that any Member here who does not support the working families who run small businesses should be ashamed of themselves, the gentleman is right. We all should support such individuals, and that is what the law does now.

The law says if someone owns a business and OSHA brings a specious or frivolous claim, that they can recover their attorney's fees now. That is the law. What this bill does is go far beyond the law, and it says to OSHA, if you are not sure you are going to win the case, you better not bring it. If you are not certain you are going to win the case, you are going to have to pay the attorney's fees of the person you are suing.

So if I were the person running OSHA, Mr. Speaker, and my personnel came to me and said there is a claim we want to file against a company that digs trenches that are sometimes unsafe and there was a collapse of a trench last year and a guy died, I would ask them, Are you sure you are going to win the case? And if they are competent and honest attorneys, their answer would be we are not sure because it may be the defense that the trench was constructed properly, or it may be a defense that the worker acted in a fashion that contributed to the accident, or there may be some other defense.

The law today says if OSHA brings a frivolous and unsubstantiated claim and loses, then OSHA must pay the counsel fees of the company that they sue.

Now the majority has said that law is insufficient to get the job done because very few claims have been paid out. I wonder if the reason very few claims have been paid out is because the huge majority of claims that OSHA has brought have been justified, have been heard by a court and have been determined not to be substantially unjustified.

I would respectfully suggest to the majority that if the majority wishes to make the standard easier for a business that is sued to get over, they should look at amending that statute or perhaps look at the definition of ''substantially unjustified.'' What this says is if OSHA sues and loses, it pays. So the only cases that OSHA is going to bring are the ones that they are certain they are going to win. This is effectively and functionally a repeal of the OSHA statute because if the agency brings a claim that it is not sure that it is going to win and if it loses that claim, it has to pay fees that will eventually dwarf and overwhelm its budget, and it will not pursue the claims at all.

The twisted logic of this bill is if OSHA makes a misjudgment and files a case that it loses on a close call, it loses not only the case, but it loses its ability to go after dozens or hundreds of other cases because the resources that it would have devoted to investigating and prosecuting those cases would be otherwise spent.

If OSHA brings a frivolous or unjustified case against a small business, it should pay the counsel fees of the small business. That is the law today. This bill goes far beyond that and says to OSHA you can only bring the cases you are sure you are going to win. That will radically cut back on the ability of this agency to protect the American worker. I fear that is what the bill is intended to do, and that is why we ought to oppose it.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from New Jersey (Mr. ANDREWS) talks about how employers can recover the cost of their legal fees if in fact they win. But the fact is, and the gentleman knows and we well know, in the last 23 years, 23 years, exactly 37 employers had their attorney's fees returned to them.

I will tell Members why that is the case, and that is because under the Equal Justice Act and the law around OSHA, unless OSHA was completely out of bounds, employers tend to lose. So here is what happens: employers do not even try.

To give another example of why employers are not seeking legal fees from OSHA, it goes to the fact that if I am a small employer, which I was, am I going to put my capital, my assets, on the line, even if I think I am right, to take on the Federal Treasury and the

Federal Government? I am probably just going to suck it up, go to court, pay the fine, and go on because I am not going to put my company at risk. I am not going to put all of my employees at risk, which is exactly what most small employers in America face today. That is why over the last 23 years only 37 employers ever got any attorney's fees from OSHA.

Members can put themselves in the position of that small employer looking up at the Federal Government and the Federal Treasury and mountains of lawyers. I would not take that risk. I do not blame them for not taking the risk.

All we say in this bill is if OSHA brings litigation against a small employer of 100 employees or less with a capital of less than $7 million, and OSHA loses, the small employer ought to have his attorney's fees covered.

I do not believe that this will reduce the enforcement of OSHA in any way, shape or form; but I do believe it will cause OSHA to consider the strength of that agency, the power of the Federal Government, consider all of that before they come down on some poor small employer who is trying to do his best to protect the health and safety of his employees.

But I do not think it is fair under the current system and the current structure that we have to look up, and to take 2002, for example, one employer, one employer in all of America got his attorney's fees returned to him. One. There were 80,000 citations issued by OSHA, one employer got some attorney's fees returned to him. It is not fair.

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

Mr. OWENS. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. KUCINICH), the distinguish candidate for President.

Mr. KUCINICH. Mr. Speaker, I rise today in strong opposition to H.R. 2731, the misnamed and ill-considered Occupational Safety and Health Small Business Access to Justice Act. In 2002, 5,524 workers were killed on the job because of dramatic injuries. In 2002, almost 60,000 workers died from occupational diseases. And in 2002, over 5 million workers were injured or fell ill on the job.

For some perspective, approximately 56,000 Americans died between 1958 and 1975 in the Vietnam War. The American workplace leads to the same number of deaths in a single year. With this in the background, it is mystifying to me that today we are considering a bill to significantly weaken OSHA and to make the workplace less safe, as H.R. 2731 would do by requiring OSHA to pay attorney's fees in any case in which it does not prevail.

The effect of this bill would be to discourage OSHA from bringing enforcement actions against dangerous workplaces. OSHA would have to calculate the odds of winning against the cost to its budget if it loses. That would render the Federal cop on the workplace safety beat timid.

Let us be clear, no one would suggest the government should pay the attorney's fees of criminal defendants merely because they have been acquitted. So just as the concept underlying this bill would make our streets more dangerous if applied to the criminal code, something no one in this House would support, it would make our workplaces more dangerous if applied to the OSHA law.

I ask my colleagues, should the level of protection the law provides Americans vanish the moment the workers walk from the street to the shop room floor? That is the concept promoted by this bill. And make no mistake, although current law may not consider deaths resulting from willful disregard of basic safety procedures a criminal matter, such shameful instances are absolutely criminal.

I think it is clear this bill is designed to weaken enforcement of workplace safety laws, to further distance exploited workers from the justice they and their families deserve under the law, and it will severely handicap OSHA by discouraging it to cite employers unless the agency is utterly certain it will win.

Given the importance of OSHA's core mission of protecting workers and workers' lives, and that workers have no private right of action under OSHA, a fact that again mirrors the criminal code that rejects the rationale underlying this bad bill, there is every reason to be more, not less, cautious with fundamentally altering the nature of OSHA enforcement. But H.R. 2731 does not make a cautious change. It will severely endanger the safety of American workers; and as such, it should be defeated.

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

As usual, when the gentleman from New Jersey (Mr. ANDREWS) takes the floor, he gives Members pause to think a moment. I have wondered if he is asking the right question, however. When this bill becomes law, it seems to me the question that OSHA should ask is not will we win the case, but are we right. Do we actually have a case where a citizen violated the law, and do we actually have substantial proof to take into court whether that citizen violated the law?

□ 1700

I would hope that when this bill becomes law that OSHA will take cases that they deem meritorious, cases in which they think and believe strongly that they are right. What we are after is having them think carefully about cases that do not have a lot of merit but it is just a good way to win.

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

Mr. OWENS. Mr. Speaker, I yield myself such time as I may consume.

I want to thank the members of the minority on the committee for their work on this bill. I want to thank the majority for giving us an opportunity to talk about the very real problems that are faced by workers in the workplace.

Mr. Speaker, I submit for the RECORD an item titled Summary of the AFL–CIO Death on the Job Report, and the second item for the record, Profile of Workplace Safety and Health in the United States.

SUMMARY OF THE AFL–CIO DEATH ON THE JOB REPORT

The report is a national and state-by-state profile of worker safety and health in the United States. A combination of too few OSHA inspectors and low penalties makes the threat of an OSHA inspection hollow for too many employers. Millions of workers are still left with no OSHA coverage.

Here are some of the ''highlights'' of the report:

15 workers were fatally injured and more than 12,800 workers were injured or made ill each day during 2002. These statistics do not include deaths from occupational diseases, which claim the lives of an estimated 50,000 to 60,000 workers each year.

A 62 percent increase in the number of trench fatalities, from 33 in 2002 to 53 in 2003.

Fatal injuries among Hispanic or Latino workers decreased about 6 percent, although the 840 fatalities recorded for Hispanic workers is the second-highest annual total for the population. States that saw an increase in the number of Hispanic worker fatalities in 2002 include Alabama, Arkansas, Florida, Idaho, Indiana, Maine, Maryland, Nebraska, New Jersey, North Carolina, Pennsylvania, Tennessee, Virginia, Washington and Wyoming.

The number of fatal work injuries among foreign-born Hispanic workers increased to 577 in 2002 from 527 in 2001.

Musculoskeletal Disorders continue to account for more than one-third of all injuries and illnesses involving days away from work and remain the biggest category of injury and illness. The occupations that reported the highest number of MSDs involving days away from work in 2002 were nursing aides and orderlies (44,421); truck drivers (36,814); and laborers, nonconstruction (24,862).

As documented in a December 2003 New York Times series, prosecutions of recklessly negligent employers are extremely rare. Of the 170,000 workplace deaths since 1982, only 16 convictions involving jail time have resulted—although 1,242 cases involving work deaths were determined by OSHA to involve ''willful'' violations by employers (violations in which the employer knew that workers' lives were at risk).

Penalties for significant violations of the law remain low. In fiscal year 2003, serious violations of the OSH Act carried an average penalty of only $871 ($856 for federal OSHA, $885 for state OSHA plans).

2,240 federal and state OSHA inspectors responsible for enforcing the law at 8.1 million workplaces. At its current staffing and inspection levels, it would take federal OSHA 106 years to inspect each workplace under its jurisdiction just once.

Between FY 1999 and FY 2003 the number of employees who work in workplaces inspected by federal OSHA inspections decreased by nearly 12%. The average number of hours spent per inspection also decreased between FY 1999 and FY 2003, from 22 to 18.8 hours per safety inspection and from 40 to 34.7 hours per health inspection. The number of citations for willful violations decreased from 607 in FY 1999 to 391 in FY 2003. The average penalty per violation and per willful violation increased in FY 2003 from the FY 2002

level, while the average penalty per serious violation decreased to its lowest level since 1999.

After three and a half years under the Bush administration, rulemaking at OSHA and MSHA has virtually ground to a halt. In December 2003, the administration published its latest semiannual regulatory agenda, which sets forth its regulatory priorities and plans for the coming year. Having already withdrawn 22 pending OSHA regulatory actions from its regulatory agenda, in its May 2003 regulatory agenda the Bush administration withdrew the glycol ethers standard and the tuberculosis standard, leaving few major initiatives on the regulatory schedule.

OSHA still has taken no action on the Employer Payment for Personal Protective Equipment standard, which has been through the rulemaking process and is ready for final action.

The only major regulations still on the regulatory agenda are for silica, beryllium and hearing conservation for construction workers. But there is no commitment for OSHA to propose these rules. This will be the only administration in history not to issue a major safety and health regulation during its four years in office.

17 MSHA standards to improve safety and health for miners have been withdrawn, including the Air Quality, Chemical Substances and Respiratory standard.

Adjusting for inflation, the FY 2005 proposed OSHA budget represents a $6.5 million cut over FY 2004 appropriations.

The FY 2005 OSHA budget proposes increasing programs for voluntary compliance with employer assistance while cutting training and outreach programs for workers and freezing standard-setting and enforcement programs. At OSHA, the president proposes to cut worker safety training programs by 65 percent and to shift these funds to employer assistance programs.

Since we have had a running commentary here about staying on the point, I would like to comment directly on H.R. 2731 by quoting from the Brotherhood of Teamsters objections:

''Finally, we oppose H.R. 2731, the Occupational Safety and Health Small Employer Access to Justice Act, which would require that OSHA, the taxpayer, pay the legal costs when it loses a case against a small business that prevails in administrative or judicial proceedings, regardless of whether the government's position was substantially justified. We view this as another effort to impede OSHA's and the Department's efforts to enforce the law and provide an avenue for workers to seek redress.

''We see no justification for such an arbitrary departure from the current practice of each party paying for its own litigation costs for only one class of public prosecutions. We know of no other agency, charged by statute to enforce the law, which is impeded from fulfilling its responsibility with respect to a meritorious complaint because it cannot guarantee the outcome.''

If OSHA is forced to guarantee the outcome, it ties OSHA's hands and will rob workers of protections by discouraging OSHA from executing its required responsibilities. Like all of the other items in this marathon package, which I call the More Injuries and More Death Marathon, it stacks the deck against the workers and in favor of the employers.

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

Mr. NORWOOD. Mr. Speaker, I yield myself such time as I may consume.

I think it is probably important at this time to remind the Members that this debate and this bill is very narrowly tailored. It is H.R. 2731, the Occupational Safety and Health Small Employer Access to Justice Act.

It is just this simple: If you have working families in your district that are running small businesses, we are trying to give them an equal playing field, a level playing field with the Federal Government. If you have a district where there is no small business, then you do not have to worry about this. It will not matter how you vote. But I ask all of my colleagues to level the playing field so little people have a little chance against the Federal Government and OSHA when they come down with all their battery of lawyers.

Mr. BLUMENAUER. Mr. Speaker, unfortunately, this Congress has repeatedly undermined protections for the American workforce, shifting emphasis from employees to employers. The four bills brought to the House floor today are the most recent examples that hinder the efficacy of the Occupational Safety and Health Administration (OSHA), taking away protections from the workers that need them most, and shielding businesses from government oversight.

Taken together these bills:

Allow businesses to indefinitely delay the reparation of health and safety violations.

Needlessly expand the Occupational Safety and Health Review Commission, allowing the administration to stack it with partisans who may work to undermine basic worker protections.

Strip OSHA of the power to issue authoritative interpretation of regulations, enabling more companies to violate safety and health hazards without facing repercussions.

Require OSHA to pay attorney fees and costs even in cases in which the federal government was found to be ''substantially justified'' in pursuing the action. This will create a deterrent for complaints against employers.

Rather than ''reform,'' these four pieces of legislation weaken OSHA and undermine Congress's original intent when OSHA was enacted in 1970. These bills were introduced under the guise of creating economic competitiveness. Undermining the health and safety standards does not make Americans more competitive. Americans pride themselves in having the greatest workforce in the world. How can we enhance working conditions of workers abroad in trade agreements and other international pacts when we erode basic health and safety protections for our own workforce? Americans deserve a safe and healthy workplace. Limiting OSHA, the agency created to ensure workers receive these basic rights, will do nothing to advance the cause.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to this bill, H.R. 2731, the ''Occupational Safety and Health Review Commission Efficiency Act of 2004.''

First, I would like to point out a misconception that has been propagated by our friends on the other side of the aisle. Mistakenly, the Occupational Health and Safety Review Commission under the Act (OSHRC under OSHA) has been likened to the ''plaintiff'' in a safety and health citation proceeding.

The reason why our friends on the other side of the aisle have brought this package of four bad proposals to the floor is because they hold true this misconception—that OSHA, in adjudicating the citations that it issues for violations by employers, is a plaintiff. The technical definition of a ''plaintiff,'' for procedural purposes, is the party that initiates a lawsuit, and a ''complainant'' refers to one who makes the complaint in a legal action or proceeding. However, because OSHA is the agency responsible for enforcing regulations that relate to occupational health and safety, for making our workplaces safe, and for making businesses—regardless of the size or net worth—accountable for the conditions in which they place their workers, OSHA is a conduit and the worker is the real Plaintiff, Mr. Speaker. The worker is the party that has relied upon her employer to comply with the law to their detriment and loss. The worker is the party that has lost wages, life, or a limb. The worker is the party without which the employer ceases to do business. Finally, the worker is the party for whom the OSHA regulations were drafted, passed, and promulgated. Therefore, it is our duty as legislators to do everything in our power to protect them without creating a substantial or unreasonable hardship for the employers.

Again, I oppose H.R. 2731, the ''Occupational Safety and Health Small Business Day in Court Act of 2004.'' This bill would amend the Occupational Safety and Health Act of 1970 to provide for the award of attorney's fees and costs to employers who prevail in adversary adjudication arising from a citation issued under OSHA. Under the guise of protecting businesses that have 10 or fewer employees and up to $7 million in net worth—i.e., smaller businesses, this legislation irrationally slaps OSHA on the hand every time it loses in court. Let us not forget, OSHA is a regulatory and an enforcement agency; it is in the business of adjudicating citations of health and safety violations.

By imposing such a burden on the agency responsible for keeping our worker safe, we will discourage it from bringing the smaller cases to court and from bringing the cases about which it feels comfortable but not certain to court for fear of having to pay the employer who prevails. One of the baneful effects of this legislation will be to chill the issuance of meritorious health and safety citations in close cases no matter how grave the injury or loss was to the employee, substantially weakening OSHA's enforcement functions.

Finally, because businesses with no more than 100 employees comprise 97.7 percent of all private sector businesses, a great deal of these entities have a higher rate of fatal occupational injury than do those that have 100 or more workers. Passage of H.R. 2731 will make numerous workers around the nation vulnerable to unsafe or potentially unsafe health and safety conditions.

The U.S. Chemical Safety and Hazard Investigation Board (CSB), that makes recommendations to OSHA and EPA, cited several tragic accidents that were caused by uncontrolled reactive hazards because it is one of the largest petrochemical industry center. Since 1980, there have been more than 28 serious reactive chemical accidents in Texas. For example, on July 5, 1990, 17 workers

were killed when a 900,000-gallon chemical waste tank exploded at a plant east of Houston. Furthermore, three of the five costliest reactive accidents occurred in Texas or Louisiana with combined property damages in excess of $210 million.

Dangerous conditions exist that threaten the lives of people who simply want to make a living. The policy that is proposed in H.R. 2731 ignores the need to hold employers to a commitment to achieve and maintain a safe and healthy workplace.

Mr. Speaker, again, I oppose this bill and urge my colleagues to support our workers.

Mr. BACA. Mr. Speaker, I rise in opposition of all four of the OSHA bills under consideration today. Republicans are trying to say that our country's laws are the cause for the offshoring of American jobs. This is not only untrue, but it's shameless to accuse the few protections that exist for our nation's workers as the cause for their jobs being shipped overseas.

While the Republican Chairman of the Ways and Means Committee is busy writing an FSC/ETI tax cut bill that will give tax breaks to companies that move to China or India, his Republican colleagues try to confuse people on the reasons why jobs are leaving main street and being sent to mainland China. The face is that we are losing jobs because of the failed policies of this administration. The compassionate conservatism of this administration has cost us 3 million jobs. Please end the compassion!

President Bush's top economic advisor has even proudly said that sending American jobs overseas is a good thing. Well, I for one will not let them confuse the issue. We cannot let Republicans say that the way to ease the competitive disadvantage to third world countries like China or Brazil is to adopt their labor standards. That type of thinking would take boys and girls out of the classroom and into the coal mine.

These four anti-worker safety bills would substantially weaken worker health and safety laws and hurt our workers. H.R. 2728 weakens enforcement of workplace health and safety regulations by dragging out the date for imposing penalties. It also drags out the date by which corrective action must be taken to mitigate the health or safety hazard.

H.R. 2729 weakens worker protections by expanding the membership of the commission and flooding it with partisan appointees that agree with the President's anti-worker agenda. This commission has had three members since it was established in 1970. There is no reason to expand it or to allow a minority of the commission to make decisions. Both these changes make no sense whatsoever.

H.R. 2730 would undermine the OSHA enforcement functions by encouraging challenges to Labor Department rules and interpretations.

H.R. 2731 would put the health and safety of thousands of workers at risk by encouraging lawbreakers to fight any worker safety violations in court. OSHA settles or wins the vast majority of its enforcement cases; there is no reason to assume employers need to be protected from an overzealous agency. The bill is one-sided. If OSHA wins, the employer does not have to pay OSHA's expenses. The real loser under this legislation is the taxpayer and American workers.

As you can see, all four bills are anti-worker laws. The only way they can justify them is to trump up charges that it is these worker protection laws that are costing us jobs. This is false and worse yet, it is a lie.

Mr. Speaker, I urge my colleagues to oppose all four of the anti-OSHA bills.

Mr. HOLT. Mr. Speaker, I rise in opposition to H.R. 2731, Occupational Safety and Health Small Employer Access to Justice Act. This bill changes current law to permit the awarding of attorney's fees and expenses to a small employer who prevails in an administrative or judicial proceeding against the Occupational Safety and Health Administration (OSHA), regardless of whether the position of OSHA was "substantially justified."

This bill treats OSHA differently than all other federal agencies. The bill holds OSHA to higher standard with regard to the payment of the opposing party's attorney's fees than any other agency.

Like most Federal agencies, OSHA is subject to the Equal Access to Justice Act (EAJA). Under EAJA, if the government's position is not "substantially justified," the government must pay the prevailing party's fees and costs. According to information provided to then-Chairman Goodling in 1999, from FY 1981 through FY 1998, there were 68 applications for fees under EAJA by employers involving OSHA complaints. 41 of those applications were denied and 27 were granted.

In FY 1999, there were 12 applications filed, of which 2 had been denied, 3 had been granted, and 7 were still pending at the time the information was provided. There is no evidence that OSHA has engaged in reckless prosecutions or that it should be singled out for a higher standard than all other Federal agencies.

The likely consequences of this change is that OSHA would be less likely to issue complaints against those employers, more safety and health violations will go uncorrected, and, consequentially, more workers may be injured or killed.

This bill places employers' convenience over the safety and health of workers. There is no private right of action under the OSH Act—if OSHA fails to enforce the law, workers have no other recourse. In effect, H.R. 2731 places a higher priority on compensating employers for legal fees than on protecting the safety and health of workers.

Mr. Speaker, today we should be talking about how to protect our workers not endanger them. 15 workers were fatally injured and more than 12,800 workers were injured or made ill each day during 2002. These statistics do not include deaths from occupational diseases, which claim the lives of an estimated 50,000 to 60,000 workers each year. This bill will cause the number of worker deaths to go up, not down.

We should be discussing giving OSHA the proper funding to do its job. Between FY 1999 and FY 2003, the number of employees who work in workplaces inspected by federal OSHA inspections decreased by nearly 12%. The average number of hours spent per inspection also decreased between FY 1999 and FY 2003, from 22 to 18.8 hours per safety inspection and from 40 to 34.7 hours per health inspection. Adjusting for inflation, the FY 2005 proposed OSHA budget represents a $6.5 million cut over FY 2004 appropriations.

The FY 2005 OSHA budget proposed increasing programs for voluntary compliance and employer assistance while cutting training and outreach programs for workers and freezing standard-setting and enforcement programs. At OSHA, the president proposes to cut worker safety training programs by 65 percent and to shift these funds to employer assistance programs. These are the problems we should be addressing today, rather than debating H.R. 2731. I ask my colleagues to oppose this bill.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I would like to express my support for the legislation introduced today by my colleague from Georgia.

I think that all 4 of Mr. NORWOOD's bills on the floor today will improve workplace safety, level the playing field for small businesses, and ensure that employees and employers are treated fairly.

H.R. 2731 encourages OSHA to really look at the merits of a case before it brings unnecessary enforcement actions to court against small businesses.

Current law does allow small business owners to recover attorney's fees if they successfully challenge a citation

But in the real world of OSHA, this simply does not work for small businesses. In the last 23 years, small business employers have been able to recover costs from OSHA only 37 times!

Last year alone, only one employer was awarded attorney's fees, despite more than 80,000 citations issued by OSHA.

H.R. 2731 limits its scope to small businesses with 100 employees or less and less than $7 million in net worth, thereby assuring targeted and meaningful relief to those businesses that are least able to cope with these hefty and ongoing litigation costs. This reform is necessary for the vitality of America's small businesses and the job security of America's workers.

Again, I applaud my colleague from Georgia for introducing this much needed legislation and I look forward to seeing it pass today.

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

The SPEAKER pro tempore (Mr. QUINN). All time for debate has expired.

Pursuant to House Resolution 645, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

Mr. NORWOOD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question are postponed.

GENERAL LEAVE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2432 and to include extraneous material thereon.

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

There was no objection.

PAPERWORK AND REGULATORY IMPROVEMENTS ACT OF 2004

The SPEAKER pro tempore. Pursuant to House Resolution 645 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2432.

□ 1705

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2432) to amend the Paperwork Reduction Act and titles 5 and 31, United States Code, to reform Federal paperwork and regulatory processes, with Mr. ADERHOLT in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Ohio (Mr. BROWN) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

Mr. TOM DAVIS of Virginia. Mr. Chairman, I yield myself such time as I may consume.

There can be little question that sometime in the last decade, the United States entered a new and very different phase of its economic history. In this new phase of global competitiveness, this Nation is being challenged to step up once again and set new standards for innovation and efficiency. At the outset, it should be said that this country welcomes this challenge and we are confident that we have the tools necessary to succeed in this new economy that was largely created at our insistence.

The Paperwork and Regulatory Improvements Act of 2004 is designed to give Congress the tools it needs to respond to the challenge of a global open economy. This bill was originally sponsored by the gentleman from California (Mr. OSE) and is the result of 4 years of ongoing and consistent oversight by his Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs under the leadership of the gentleman from California. Oftentimes this work has been done with little fanfare, but his consistent hard work has borne great fruit. So before I say anything about the bill, I want to commend the gentleman from California for his commitment and dedication to great legislative oversight.

There is no doubt that the Nation's regulatory regime can achieve a great deal of good in the areas of environmental protection and worker health and safety. Beyond that, government has a legitimate need to know a great deal about the corporate and, to a degree, even the personal financial activity of the Nation. Consequently, there will always be paperwork and regulatory demands.

However, when we look at the vast system of paperwork and regulatory demands that exist today, we see that this system is biased in favor of the good we hope to achieve and against the cost of achieving that good to society. Every rule or reporting requirement has a cost, but Congress is severely hampered in its efforts to understand these costs.

We in the Congress have grown comfortable throwing around huge statistics listing millions of hours to describe the paperwork burden government places on the Nation. But we seem to forget that these hours are spent one by one. It is as if we cannot see the forest for the regulatory trees. We may be numb to the burden we have created, but individuals and businesses are not.

When an American businesswoman spends several hours filling out a tax form, that is time she is not spending on her family or her clients. When a business has to hire an environmental specialist to complete an overly complicated, required report, that revenue is not spent in research and development or expansion of the business and hiring more people. These millions of hours are not just hours taken out of the business day; they are hours taken out of people's lives, and the loss of these hours should be taken seriously.

In the decades before the open global economy, Congress could lay these new burdens, one over the other, on the American worker with little concern about what the overall effect would be. But those days are gone. As the world has gradually opened its markets, this country has asked our workers to compete head to head on a global basis with highly skilled and motivated workers from all around the world.

This is a good thing. This competition will require our corporate community to be as efficient and as competitive as ever. But global competition requires our government to be more efficient as well. If we are going to ask the workers of this Nation to compete globally, then we must free them to be as competitive as possible.

Congress has an obligation to do the hard work to understand the costs of regulation as realistically as possible. This bill will give us some of the tools we need to make better decisions on the paperwork and regulatory burdens we place on our workers and businesses.

The bill requires the Office of Management and Budget, OMB, to submit a report to Congress identifying specific actions that the Internal Revenue Service can take to reduce the tax paperwork burden on small businesses. It assists Congress in its review of agency rules by establishing a permanent analytical function in the General Accounting Office to review proposed and final rules for consistency with congressional intent and to ensure the accuracy and completeness of agency accompanying analyses.

Lastly, the bill requires a study to determine the feasibility of regulatory budgeting as a better way to manage regulatory burdens on the public.

The gentleman from California, the subcommittee chairman, has put in many years working on this important issue.

Mr. Chairman, I yield the balance of my time to the gentleman from California (Mr. OSE) and ask unanimous consent that he be permitted to manage that time.

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

There was no objection.

Mr. BROWN of Ohio. Mr. Chairman, I yield my time to the gentleman from Massachusetts (Mr. TIERNEY) and ask unanimous consent that he be permitted to control the time.

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

There was no objection.

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

I rise to address H.R. 2432, the Paperwork and Regulatory Improvements Act of 2004. We are talking about this bill today because House Republicans are concerned that they are being criticized for the millions of jobs that have been lost under this administration.

House Republicans have decided that instead of taking action to create jobs, they would make a plan to talk about taking action to create jobs. Each week they have a different theme. This week they are talking about cutting red tape. The bill we are considering, however, does nothing to cut red tape.

As we will hear later from the gentleman from California (Mr. WAXMAN), this bill does nothing to reduce the hours that Americans spend filling out paperwork. In fact, the hours Americans must spend filling out paperwork has increased dramatically under the Bush administration.

This bill will also do nothing to improve the regulations issued by the Bush administration. In fact, some provisions of the bill will actually make the regulatory process worse.

I have a letter that I would like to enter into the RECORD to appear after my statement, Mr. Chairman, from the League of Conservation Voters opposing this bill. This letter states, ''At best, this bill would result in a waste of money at a time when Federal resources are shrinking; at worst, it would contribute to a loss of vital protections for millions of Americans.''

The League of Conservation Voters also expresses in their letter support for an amendment the gentleman from California (Mr. WAXMAN) and I are offering that would establish an independent commission of distinguished experts to investigate the politicization of science in the regulatory process. The League of Conservation Voters thinks this is such an

important issue that Members may find their votes in the League of Conservation Voters scorecard.

Leading scientists, including 20 Nobel Laureates, have said the political and ideological distortion of science is a major block to effective government action on a wide range of health and environmental issues. This administration is injecting itself into the regulatory process to manipulate science and to manipulate agency regulations to suit industry.

Over and over we hear about agency proposals that are rewritten by the Office of Management and Budget to fit the needs of industry without regard to the expertise of agency scientists and other experts. The administration's proposal on mercury pollution is one recent example. The gentleman from Maine (Mr. ALLEN) will describe these particular problems in more detail at a later time.

We should not be here just talking about cutting red tape, Mr. Chairman. We should not be passing legislation that will weaken important regulatory protections that aim to ensure a safe and healthy environment for our children. What we should be doing is taking positive steps to make the regulatory process better for all Americans.

LEAGUE OF CONSERVATION VOTERS,
May 18, 2004.

Re: Oppose H.R. 2342, Support the Waxman (D–CA)/Tierney (D–MA) Amendment

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVES: The League of Conservation Voters (LCV) is the political voice of the national environmental community. Each year, LCV publishes the National Environmental Scorecard, which details the voting records of Members of Congress on environmental legislation. The Scorecard is distributed to LCV members, concerned voters nationwide, and the press.

LCV urges you to oppose H.R. 2432, which would require the Office of Management and Budget (OMB) to assess the feasibility of imposing regulatory budgeting on major agencies. Regulatory budgeting is a misguided concept that elevates the interests of regulated industries over all other considerations. At best, this bill would result in a waste of money at a time when federal resources are shrinking; at worst, it would contribute to a loss of vital protections for millions of Americans.

Regulatory budgeting caps the costs that government can impose on the private sector each year, regardless of the need for public protections. Under this system, once the ''budgeted'' cap has been reached, agencies must cease fulfilling their mandates—polluters get a free pass, workplaces go unprotected, and hazardous foods move into commerce.

OMB should be directed to account for actions that have taken place over the past three years as scores of critical safeguards have been weakened, rescinded, or abandoned in progress. LCV has noted with alarm the accumulating threat to public health and the environment caused by the rollback of regulations intended, to prevent destruction of the ozone layer, reduce air pollution, prevent neurological harm to children, reduce public exposure to toxins and contaminants, preserve crucial habitat for endangered species, ensure clean drinking water.

LCV supports the Waxman-Tierney Amendment to create a Commission on Politicization of Science in the Regulatory Process. The Commission would evaluate regulatory activities to determine the extent to which political considerations have undermined the quality and use of the science, and report within 18 months. This commission will address concerns among scientists and government professionals that political considerations are unduly influencing regulatory decisions.

Americans expect that the science used in development of regulations is not colored by politics. Please oppose H.R. 2432 and support the Waxman Amendment. LCV's Political Advisory Committee may consider including votes on this issue in compiling LCV's 2003 Scorecard. If you need more information, please call Betsy Loyless in my office at (202) 785–8683.

Sincerely,

DEB CALLAHAN,
President.

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

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

I want to start by expressing my thanks to Chairman DAVIS for his kind remarks and for his generosity in allowing us to proceed on this work. I want to add the compliments to my good friend and ranking member from Massachusetts, who has endured the past number of years through hearing after hearing after hearing and whose insights and suggestions have been most helpful. I am grateful to Chairman DAVIS for his becoming an original cosponsor of this bill.

As I mentioned in my support for today's rule, last June, with bipartisan cosponsorship, I introduced this bill. It makes incremental improvements in the existing processes governing paperwork and regulations instead of fundamentally changing the role of Congress in its oversight of agency rules.

As to the bill itself, it includes the following legislative changes. First, it seeks to ensure reduction in tax paperwork burdens on small business. It seeks to assist Congress in its review of agency regulatory proposals. And it seeks to improve public and congressional understanding of the true costs and benefits of regulations. My manager's amendment makes no changes to sections 1, 2, 3 and 4 of the reported bill.

□ 1715

I will discuss the changes to sections 5 and 6, which I included based on specific requests from the General Accounting Office and the Office of Management and Budget.

As to section 3, let me offer that the overall burden of Federal paperwork and regulatory requirements is staggering and it is a real drain on job growth, productivity, and American competitiveness. Incredibly, Federal paperwork and regulatory burdens have increased, not decreased, in each of the last 8 years. This occurs irrespective of who is in the White House and who is in control of Congress. Currently, the Internal Revenue Service accounts for 80 percent of the total government-wide paperwork burden on the public of over 8 billion hours; that is billion with a ''b.'' To reduce paperwork, section 3 requires that OMB, after consultation with the IRS and two other identified Federal offices, review and report to Congress on actions that the IRS can take to reduce the paperwork burden imposed on small business. For example, the IRS could introduce thresholds below which reporting is not required, they change existing threshold levels, or they could change the reporting frequency, the periodicity at which reports must be submitted.

Section 5 provides for assistance to Congress in its review of agency regulatory proposals. It permanently establishes a regulatory analysis function in the General Accounting Office. In the Truth in Regulating Act of 2000, Congress authorized a 3-year pilot test for this regulatory analysis function, but unfortunately it was never funded. This was partly due to the fact that GAO intended to use contractors instead of in-house expert staff during the test period, which is understandable. They did not want to tool up and then have the pilot test not be funded in the future; so they chose, frankly, a more prudent manner in doing it. The problem is the work never got done because it never got funded. This bill would ensure that the GAO has the in-house expertise comparable to the expertise in the OMB's Office of Information and Regulatory Affairs and that such services can be provided to Congress as proposals come forward.

On the eve of last Wednesday's full committee markup, GAO submitted a letter requesting various changes in the bill. I did not include these changes in my manager's amendment during the markup because GAO had not provided certain information that my subcommittee had previously requested and which was important to the bill.

OMB's current line item budget for OIRA is $7 million. That is an annual budget. But OIRA has multiple functions besides review of agency paperwork and regulatory proposals and analyses. For example, OIRA is responsible for government-wide statistical policy, information policy, and information technology policy. Since GAO had not provided information about the share of OIRA's budget devoted to regulatory analysis activities, after the full committee markup I asked OMB what proportion of its budget is devoted to review of agency paperwork and regulatory proposals and the related regulatory analyses. The estimate came back at 65 to 70 percent.

As a consequence, my manager's amendment authorizes $5 million in fiscal year 2005 and each year thereafter for GAO to perform its independent evaluations at the request of Congress of certain economically significant rules. GAO will be reviewing the various agency analyses such as its regulatory impact analysis and its regulatory flexibility analysis, the regulatory alternatives considered by the

agency, and the legislative history to ensure that the proposed and final agency rules are consistent with congressional intent.

In addition, GAO asked me to include a delayed effective date of 90 days after enactment, and this provision is included in a new section 5(b).

Section 6 requires certain changes to improve regulatory accounting. In 1996 Congress required OMB to submit its first regulatory accounting report. In 1998 and 2000, Congress enacted additional legislation to make OMB's regulatory accounting reports more useful. Currently, OMB is required to estimate the total annual costs and benefits for all Federal rules and paperwork in the aggregate, by agency, by agency program, and by major rule, and to prepare an associated report on the impacts of Federal rules and paperwork on certain groups such as small business.

To date, OMB has issued six final and a seventh draft regulatory accounting report. Each of the seven did not meet one or more of the content requirements under current statute. Part of the reason for this incompleteness is that OMB has not requested agency estimates, as it does annually for its Information Collection Budget for paperwork and for the President's budget, the fiscal budget of the United States. Section 6(a) requires Federal agencies to annually submit estimates of the costs and benefits associated with the Federal rules and paperwork for each of their agency programs. The caveat for agency input to be provided ''to the extent feasible'' was added to ensure that no further burden on or cost to the agencies occurred.

Currently, the economic impacts of Federal regulation receive much less scrutiny than programs in the fiscal budget. Both the introduced and reported bill versions of H.R. 2432 required OMB to integrate its annual regulatory accounting statement into the fiscal budget so that Congress can review simultaneously both the on-budget and off-budget costs associated with each Federal agency imposing regulatory or paperwork burdens on the public.

Current law requires OMB to submit its regulatory accounting report ''with'' the budget instead of ''as part of'' the budget. However, OMB has never submitted its final accounting statement with the budget. In fact, only once has OMB even published its draft in the Federal Register on the same day as the budget was submitted to Congress. Not submitting the regulatory accounting statement at the same time as the budget or publishing it separately from the budget in the Federal Register has precluded a timely side-by-side comparison for analytic purposes of the on-budget and off-budget costs associated with each major regulatory agency and each of its regulatory programs.

Last July, OMB's OIRA administrator testified that ''OMB believes it could be feasible to issue a separate volume with the budget that contains the final regulatory accounting report and perhaps some related budget information for comparison purposes.''

Nonetheless, at the insistence of OMB, in a letter submitted yesterday to the gentleman from Virginia (Chairman TOM DAVIS), my manager's amendment reluctantly removes the integration requirement, taking from it the ''as part of'' language and leaving it as the ''with'' language. Congress still expects OMB to comply with the law, that is, to issue its final regulatory accounting statement and associated report at the same time as and in a document that accompanies the fiscal budget documents. The House report accompanying H.R. 2432, which is this legislation, provides ample justification for integration, including witness testimony in support of integration and my 9-page April 22, 2004, comment letter to OMB on its draft seventh regulatory accounting report.

Section 6(b) requires OMB to designate not less than three agencies, or perhaps offices within an agency, to participate in a study of regulatory accounting for fiscal years 2006 and 2007 and then report to Congress on this study. These test will determine if agencies can better manage regulatory burdens on the public. My manager's amendment ensures that OMB will consult with key congressional committees, the Committee on the Budget and the Committee on Government Reform in the House and the Committees on the Budget and Governmental Affairs in the Senate.

H.R. 2432 focuses on process and should result in needed paperwork and regulatory relief especially for small business, and it will help Congress fulfill its constitutional role as a co-equal branch of government.

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

Mr. TIERNEY. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. WAXMAN), the ranking member of the full committee.

Mr. WAXMAN. Mr. Chairman, today we are debating a bill that claims to improve Federal regulations, reduce red tape and paperwork. Unfortunately, the substance and the timing of this bill make it clear that we are engaged not in public policy but in public relations.

This bill is part of the congressional Republicans' Hire Our Workers plan, also called the HOW plan. This is a public relations strategy designed to make the public think that Republicans in Congress have a plan to increase jobs and revive the economy, but in reality the plan is all show and no substance.

My Republican colleagues are going to spend a lot of time today talking about their opposition to paperwork, but here is what they will not tell us. The Bush administration and the Republican Congress have presided over record increases in paperwork. President Bush consistently rails against paperwork. He urged paperwork reductions as a Presidential candidate, as President-elect, in every year of his administration, and on at least seven separate occasions thus far this year. Just 2 months ago, President Bush said: ''We need to stop harassing small business owners and entrepreneurs with endless amounts of regulation and paperwork.''

So how do his policies match up? Last year Americans spent 700 million more hours filling out government forms than they did during the last year of the Clinton administration. This was not an accident, and it was not the product of an out-of-control bureaucracy. Most of the increase came from legislation supported by the administration and passed by the Republican majority in the Congress. In fact, the major culprits are the tax bills that President Bush promoted and Congress passed.

The administration and the Republican leadership are putting this bill before the Congress so they proclaim they are doing something about governmental red tape.

They are doing something. They are increasing record levels of the amount of paperwork that we have to deal with.

The gentleman from Massachusetts (Mr. TIERNEY) and I released a reported today that documents how paperwork has increased under the Bush administration, and I am going to insert this report with my comments today. What is happening on paperwork is just like what has happened on so many other issues. The President says he is a fiscal conservative, but he has driven our Nation deep into debt. The President says he is behind education, he is the Education President, but he will not fund the No Child Left Behind Act.

And with this bill we see that when the President says he will cut paperwork, what actually happens is that he increases paperwork.

This public relations campaign on paperwork is especially distressing because there are real regulatory problems this Congress is ignoring. These include the increased politicization of science and the undue influence of special interests. But unless we adopt the amendment that the gentleman from Massachusetts (Mr. TIERNEY) and I will be offering, this bill will do nothing to address these fundamental problems. This legislation will not improve the economy, reduce paperwork, or enhance the well-being of this country. It will only make it harder for agencies to carry out their mandates to protect public health, the environment, and other values. This Congress should be taking real action to address real problems.

I urge my colleagues to vote for our amendment when we offer it later in the debate.

House of Representatives, Committee on Government Reform—Minority Staff, Special Investigations Division, Revised May 2004

GOVERNMENT PAPERWORK BURDENS HAVE INCREASED SUBSTANTIALLY UNDER THE BUSH ADMINISTRATION

(Prepared for Representative John F. Tierney, Representative Henry A. Waxman)

EXECUTIVE SUMMARY

President Bush has made reducing the burdens of completing government paperwork a key item in his economic agenda. In speech after speech, he emphasizes that ''we must reduce unnecessary government regulation and red tape so businesses can focus on consumers and customers, not paperwork.''

Contrary to the President's rhetoric, however, total government paperwork has increased substantially under the Bush Administration to an estimated 8.1 billion hours in fiscal year 2003. Last year, Americans spent over 700 million more hours filing out government paperwork than in the last year of the Clinton Administration. The largest annual increase in paperwork burden ever measured occurred under the Bush Administration in fiscal year 2002.

Government paperwork increased again in fiscal year 2003. In its most recent data on paperwork burdens, the Bush Administration relies on ''adjustments'' to show a nominal reduction in the federal paperwork burden in fiscal year 2003. However, adjustments in agency paperwork estimates do not necessarily reflect any actual reduction in the number of hours that Americans spend filling out paperwork. Focusing on the real impacts on Americans, GAO reports that ''[d]uring fiscal year 2003, the total paperwork burden, exclusive of adjustments, increased again by about 72 million burden hours.''

Statutory changes promoted by President Bush and enacted by Congress, particularly to the tax code, are among the largest sources of the increased paperwork burden. The Administration is also pursuing new regulatory changes that will impose additional paperwork burdens on Americans, including increased paperwork requirements for low-income families.

I. PRESIDENT BUSH'S PROMISES TO REDUCE PAPERWORK

President George W. Bush has frequently criticized the amount of ''paperwork'' required by the federal government. From the very outset of his campaign for the presidency, President Bush emphasized his commitment to reduce government paperwork. In an address in Los Angeles in September 1999, for example, President Bush said:

''The only thing we know for sure is that federal money comes with a lot of regulations and paperwork. By one estimate, this consumes about 50 million hours each year—the equivalent of 25,000 full-time employees just to process the forms. . . . New layers of federal mandates and procedures have been added to the old until their original purpose is long forgotten. It is a sad story of high hopes, how achievement, grand plans, and unmet goals. My administration will do things differently.''

Since being elected, President Bush has continued to promise to reduce government paperwork burdens. He argues that paperwork ''stifle[s] innovation and the entrepreneurial spirit,'' and he has said that ''we must reduce unnecessary government regulation and red tape so businesses can focus on consumers and customers, not paperwork.''

In a speech last December, President Bush stated:

''And a lot of times government has a tendency to over-regulate, which is a non-productive cost to these small business owners who would rather be employing people and making it easier for somebody to find work, than filling out reams of paperwork that probably doesn't get read anyway.''

President Bush has repeatedly stated his commitment to reducing federal paperwork requirements and he made doing so a key element of his ''Six-Point Plan for the Economy.'' In September 2003, President Bush stated: ''We need to continue to work for regulatory relief on small and large businesses, so that instead of filing needless paperwork, you're working to make your work force more productive and to meet the needs of your customers.'' In November 2003, he stated: ''We've got to cut useless government regulations. We need to do it at the federal level. . . . We need to make sure our entrepreneurs are focused on job creation, not filling out needless paperwork.'' In March 2004, President Bush reiterated these points:

I bet you spend a lot of time filling out paperwork. I bet not much of your paperwork is ever read. The government needs to let you focus on your business, on developing goods and services. It needs to let you focus on hiring people, rather than spending hours filling out paperwork. In order for us to keep jobs here at home and expand the job base, we need better regulatory policy at the federal, state, and local level.

Just over a month ago, President Bush said: ''We need to stop harassing small business owners and entrepreneurs with endless amounts of regulation and paperwork.''

President Bush has also touted actions he has taken to reduce paperwork. In May 2003, he highlighted the establishment of a task force on reducing paperwork:

To enhance economic security for working people throughout the economy we must reduce the burden of regulation and litigation on small businesses as well. Employers don't want to spend their time and resources filling out forms or fighting junk lawsuits. They want to be out on the shop floor or behind the cash register creating profits and jobs. And that is why this administration has launched a task force to find ways to reduce paperwork and small-business owners in America. We must enact regulatory and lawsuit reforms so that our business owners can do what they do best: create jobs.

In June 2003, President Bush took credit for an executive order that purported to reduce paperwork burdens, stating: ''I'm concerned and mindful about what paperwork and regulations do to small businesses. So I put down an executive order that requires all federal regulatory agencies to minimize the burden on our small businesses.''

II. PAPERWORK INCREASE UNDER THE BUSH ADMINISTRATION

There is a large gap between President Bush's rhetoric about the need for paperwork reduction and the performance of his Administration. According to data from the General Accounting Office and the Office of Management and Budget, the burden of government paperwork on American citizens has actually increased substantially under the Bush Administration. At the same time as President Bush has been promising to reduce paperwork burdens, Americans are actually spending more time doing paperwork than ever before.

A. The Requirements of the Paperwork Reduction Act

The primary tool for measuring and controlling paperwork requirements imposed by federal law and regulations is the Paperwork Reduction Act. Collecting information is essential for the government to collect taxes, administer programs, and enforce laws. The Paperwork Reduction Act aims to make these information collections as efficient as possible. It requires agencies to estimate the time it will take to fill out a form or otherwise provide information to the government, obtain approvals of larger information collection requests from the Office of Management and Budget, and reduce the overall hours of paperwork by a given percent each year.

Each agency is required to submit a report each year providing the number of paperwork burden hours that the agency imposed during the previous year. The annual PRA reports from each federal agency provide a picture of the total hours of paperwork required by the federal government. For the past several years, GAO has analyzed these reports annually at Congress' request. This report relies on the analyses provided by GAO, as well as data provided to Congress from the Office of Management and Budget.

B. Total Paperwork Burdens

The annual paperwork burden today is over 700 million burden hours higher than it was when President Bush took office. In fiscal year 2000, the annual paperwork burden imposed by the federal government was measured at about 7.4 billion hours. By the end of fiscal year 2003, the annual paperwork burden stood at 8.1 billion burden hours. This is an increase of nearly 10%.

The Internal Revenue Service (IRS) accounts for more paperwork than any other federal agency, with 81% of the total paperwork hours. In contrast, EPA currently accounts for only 1.8% of federal paperwork burden, and the Department of Labor, including OSHA, accounts for only 2.0% of federal paperwork burden.

C. A Record Increase in Paperwork Burdens in Fiscal Year 2002

The first two years of the Bush Administration saw large increases in the number of hours of paperwork burden. In fiscal year 2001, the federal government required 7.6 billion hours of paperwork, an increase of 290 million hours from the year before.

In fiscal year 2002, the increase in the paperwork burden was approximately 570 million hours. Almost 300 million hours of this increase was due to program changes that added or reinstated paperwork obligations. This was the largest increase in paperwork since the Paperwork Reduction Act was amended in 1995. The total paperwork burden for fiscal year 2002 was 8.2 billion hours.

D. Increases in Paperwork Burdens in Fiscal Year 2003

This year, the Administration is reporting a small decline in the overall number of reported paperwork burden hours from last year's record high of 8.2 billion hours to 8.1 billion hours.

According to the General Accounting Office, however, ''[t]his year, the story, while on the surface may appear encouraging, is not.'' GAO's analysis reveals that the purported drop in government paperwork is entirely due to ''adjustments'' that ''are not the result of direct federal government action but rather are caused by factors such as . . . agency reestimates of the burden associated with a collection of information.'' GAO concludes that ''[d]uring fiscal year 2003 the total paperwork burden, exclusive of adjustments, increased again by about 72 million burden hours.''

E. Causes of the Paperwork Increases

Much of the increases in paperwork burden since fiscal year 2000 has been driven by statutory changes proposed by the Administration and passed by Congress.

The largest sources of statutory increases in paperwork have been the recent tax law changes, which have introduced substantial additional complexity and burden for individuals and small businesses in filling out

their tax forms. For example, Americans spent an additional 330 million hours filling out tax paperwork in fiscal year 2002, with the implementation of the Economic Growth and Tax Relief Reconciliation Act of 2001 and other IRS regulations.

Similarly, the IRS reports that its implementation of the Jobs and Growth Tax Relief Reconciliation Act of 2003 ''generated an estimated 113.9 million additional hours of burden.''

One example of the increased paperwork is the changes to the taxation of capital gains in the Jobs and Growth Tax Relief Reconciliation Act of 2003. To implement these provisions, the IRS made numerous changes to Form 1040, Form 1040A, and associated schedules. Among other changes, the IRS added 13 extra lines to Schedule D, which taxpayers must file to report their capital gains and losses. Overall, just this portion of the paperwork changes driven by the Jobs and Growth Tax Relief Reconciliation Act of 2003 increased the paperwork burden for individual taxpayers by over 16 million hours in fiscal year 2003. For families with modest incomes and few capital gains, the increased paperwork burdens significantly offset any benefit from the capital gains tax reductions.

The paperwork increases have also hit small businesses. Together the Jobs and Growth Tax Relief Reconciliation Act of 2003 and the 2000 Community Renewal Act added complexity to Form 1120S and its associated schedules. These forms are used by S corporations, which are often small businesses or the self-employed. Due to these added complexities, S corporation filers spent almost 12 million additional hours filling out tax forms in fiscal year 2003.

F. Increases in Future Paperwork Burdens

Additional paperwork increases are likely in fiscal year 2004 and future years under policies being pursued by the Bush Administration. For example, the Bush Administration will require labor unions to report extensive new financial information starting in fiscal year 2004. Under the new rule, all unions with annual receipts of at least $250,000 will be required to report almost all of their receipts and disbursements. It is estimated that roughly 4,500 labor organizations will have to comply with this requirement, only 65 of which are large international unions. One union, the Airline Pilots Association, estimates that the required reports will produce 15,863 pages, or about five-and-a-half feet of paper, each year.

Based on a survey of unions, the new reporting requirements were estimated to cost unions somewhere in the range of $700 million to $1.1 billion per year. The same report estimated that fullfilling the new reporting requirements would require on average, roughly 353 hours per union employee, per year.

The Bush Administration is also currently testing new paperwork requirements for low- and moderate-income families to demonstrate their eligibility for the Child Tax Credit portion of the Earned Income Tax Credit. This is an important tax credit for workers in low wage jobs and the recently unemployed who have children to support.

Under the pilot program that applies to 50,000 individuals, persons seeking the credit must supply proof from a third party that the child they are claiming under the Earned Income Tax Credit lived with them for more than six months in that year. The individual must produce official records meeting the proof requirements, an affidavit from a third party, signed under penalty of perjury, or a letter on official letterhead from a third party, such as a landlord or social service agency employee. The IRS estimates that this new requirement imposes an additional 40 minutes of paperwork burden for each person filling out these forms.

III. CONCLUSION

As a candidate, George Bush railed against government paperwork burdens and promised that ''[m]y administration will do things differently.'' As President, Mr. Bush continues to urge reductions in government paperwork burdens. But in practice, the Bush Administration has actually increased paperwork burdens. Today, Americans are filling out far more paperwork under the Bush Administration than ever before.

Mr. OSE. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Chairman, I thank the gentleman for yielding me this time and for bringing this bill to the floor.

As we look at our efforts to be more competitive as a society, we clearly have to look at the regulations imposed by government and be sure that any of those regulations, any of that paperwork, is justified.

The cost of paperwork and regulatory constraints have been steadily increasing in America. America's small business owners are feeling the pinch; and they believe, along with those who support this bill, it is time to do something about it.

Tax relief is not the problem; but we do need a simpler, fairer tax system because all of these things we put into law do require different levels of compliance.

What this bill attempts to do is find out what those compliant costs are. Paperwork and regulatory burdens cost small business of fewer than 20 employees $6,975 per employee just to fill out the paperwork and comply with federally imposed regulatory burdens. That is nearly 60 percent more per employee than if they have more than 500 employees in their business. So the burden is disproportionate on small business though it is not insignificant on all of our businesses as we create jobs and make an effort to compete in a world economy.

Mr. Chairman, we can loosen the chokehold of paperwork and regulation. To do so, we need to be fully informed on the true cost of these regulations.

□ 1730

H.R. 2432 would require the Office of Management and Budget to seek agency input on the cost and benefits of agency regulatory programs when creating the annual regulatory accounting report.

The bill offered by the gentleman from California (Mr. OSE) authorizes that the Office of Management and Budget designate not less than three agencies or offices within an agency to participate in a 2-year regulatory budgeting study and report the results to Congress. We can then use that information to determine if regulatory budgeting is a useful tool for managing regulatory burdens on the public.

Mr. Chairman, I urge all my colleagues to support the Ose bill, the Paperwork and Regulatory Improvements Act. It is an excellent and important first step in reducing the hidden job tax, levied on small businesses particularly, and consumers across the country.

Mr. TIERNEY. Mr. Chairman, I yield 3½ minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, I thank my friend for yielding me time.

Mr. Chairman, I rise in opposition to the bill, but more specifically I want to speak in support of the Waxman-Tierney amendment. The amendment should garner the support of every Member of this body, because this body authorizes and funds the activities of CDC, of EPA, of FDA and every other Federal agency.

We have an oversight role, and under our watch, science is being subverted to promote political and ideological goals. Advisory goals are being stripped of scientific experts and seeded with industry representatives and ideologues. Reports are being censored and data is being manipulated to promote the administration's political and ideological objectives.

This is a dangerous, dangerous precedent. This did not happen with President Bush, Sr., it did not happen with President Clinton, it did not happen with President Reagan, it did not happen with Republican or Democratic Presidents the way that it is happening today under this very politicized, very partisan, very ideologically driven White House.

The Federal Government has no business hiding from the facts, much less suppressing them. That means the Federal Government should not turn over science, real science, to ideology, to industry representatives, to corporate interests.

In February of this year, 20 Nobel Laureates and dozens of other leading U.S. scientists issued an unprecedented statement of concern about the misuse of science by the Bush administration. This is not a Democrat on the House floor saying this, this is 20 Nobel Prize-winning scientists and dozens of other leading scientists.

''When scientific knowledge has been found to be in conflict with the political goals, the Bush administration has manipulated the process through which science enters into its decisions.''

These are Nobel Laureates and other scientists talking.

''This has been done in the Bush administration by placing people who are professionally unqualified or who have clear conflicts of interest in official posts and on scientific advisory committees, by disbanding existing advisory committees, by censoring and suppressing reports by the government's own scientists, and by simply not seeking independent scientific advice.'' That is from 20 Nobel Laureates, not from a bunch of Democrats complaining about it.

To prove the point that these are not our words, the Director of the National

Bureau of Standards in the Nixon administration, another Republican who played it straight, did not have this ideologically driven agenda, Dr. Lewis Branscomb of the Nixon administration, said, ''I am not aware that President Nixon ever hand-picked ideologues to serve on advisory committees or dismissed from advisory committees well-qualified people if he didn't like their views. I don't think we have had this kind of cynicism that we see today with respect to objective scientific advice since I have been watching government, which is quite a long time.''

The Bush administration is manufacturing reality to fit its beliefs, and then they have the nerve, they have the gall, to call it sound science. That is not science, it is censorship. This Nation cannot afford it, this body should not abide it. I urge my colleagues to pass this amendment. Regardless of our political affiliation, we should not be afraid of the truth, nor should we permit its subversion.

Mr. OSE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. I thank the gentleman for yielding me time, and I congratulate him for bringing this important legislation to the floor today.

Mr. Chairman, I rise to express my strong support for H.R. 2432, the Paperwork and Regulatory Improvements Act. Today, Federal paperwork and regulations are stifling American business. The Small Business Administration estimates that Americans spend over 8 billion hours a year on Federal paperwork, costing our economy an estimated $843 billion, an amount far exceeding Canada's GDP and even the pretax profits of all U.S. corporations.

Small businesses are especially hard hit. Those businesses employing 20 people or less face regulatory costs of almost $7,000 per employee, compared to $4,500 for larger companies, SBA data shows.

In 2002, the Federal Register topped 80,000 pages, one of the highest totals ever, leading the Cato Institute to affectionately refer to these regulations as the 10,000 commandments.

Instead of making it easier for our economy to create and sustain good paying jobs, burdensome Federal regulations are an incentive for U.S. companies, large and small, to find other ways to do business, including relocating to places with less burdensome regulations. This wasted time and money is hurting America's ability to compete in the global marketplace.

Mr. Chairman, let us make sure Federal agencies are not placing an unnecessary burden on workers and businesses. Let us make sure Congress has the tools and information it needs to hold regulatory agencies accountable.

This Congress has a responsibility to get the Federal Government out of the way of private enterprise and let it do what it does best, create jobs. Let us pass the Paperwork and Regulatory Improvements Act.

Mr. TIERNEY. Mr. Chairman, I yield 3½ minutes to the gentleman from Maine (Mr. ALLEN).

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

Mr. Chairman, today our Republican colleagues are talking about reforming government regulation. There is a big problem with government regulation, and especially environmental regulation under the Bush administration.

This administration has turned regulatory decision-making over to big campaign donors with polluting industries. We all know what happens to public health and the environment when industry writes rules.

I want to mention three areas: the utility industry, the livestock industry and industrial laundries.

Consider the EPA's recently proposed rule on mercury pollution from power plants. A few years ago, EPA set up a process to involve all of the interested parties, States and localities, public health representatives, fish and wildlife advocates, power plant owners and others. These stakeholders worked for over a year. They gave EPA a set of regulatory recommendations, and they were working on other technical recommendations.

Then last spring, EPA halted the process and went behind closed doors. Nine months later, EPA emerged with an entirely new proposal based on another section of the Clean Air Act, and it allows many power plants to do nothing to control mercury emissions, perhaps for years, perhaps even for decades.

Now, as we now know, key parts of this deregulatory proposal were actually written by the power industry, which is one of President Bush's largest donors. The EPA Inspector General is now looking into the proposal and the new administrator has promised to go back to do further analysis. This is simply not the way agencies are supposed to do regulation.

Yesterday, we learned from the Chicago Tribune that livestock industry lobbyists are also setting environmental policy. The livestock industry sold the EPA on a proposal to let factory farms off the hook for air pollution violations. In exchange, the industry would conduct some monitoring, and monitoring only. Livestock lobbyists did not just come up with the idea; they also worked on all the details. EPA then publicly presented the proposal using, as EPA materials, slides that had been prepared by the lobbyists. The livestock industry is also an important source of campaign contributions to Republicans.

On the same day as the Chicago Tribune story, the Washington Post detailed how industrial laundry lobbyists influenced an EPA rule on hazardous waste disposal. The key company in this industry is owned by a Bush Pioneer who had raised at least $100,000 for the President's 2000 campaign.

The Post reports that EPA gave industrial laundry lobbyists an advance copy of a portion of the proposed rule, the lobbyist edited the rule and EPA adopted the changes. EPA did not grant such access to any other interested parties, which included environmental advocates, a labor union, hazardous waste landfill operators and competitive industries.

These are not accidents or isolated incidents. The Bush administration defends these proposals. Apparently, the administration sees nothing wrong with providing special access to large donors who own or represent polluting industries. But when industry buys the regulatory process, all Americans pay the bills. The prices are health, polluted air, dirty water, poisoned land, tainted fish and dying forests.

We do need regulatory reform, but this bill would only make the real problems worse.

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

Mr. Chairman, I would just remind Members that this bill does not speak to any agency in specificity, but only to process.

Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. SCHROCK), who also happens to be the distinguished vice chairman of the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs.

Mr. SCHROCK. Mr. Chairman, I rise in strong support of H.R. 2432, and I am glad to be a cosponsor of the very sensible bill offered by the gentleman from California (Mr. OSE).

Mr. Chairman, small businesses and the public need relief from the burdensome and costly impact of Federal rules and paperwork. In 2001, the Small Business Administration found that firms employing fewer than 20 employees face an annual regulatory burden of $6,975 per employee. The SBA also found that Federal regulations and paperwork compose $843 billion in compliance costs on small businesses.

As the chairman of the Committee on Small Business Subcommittee on Regulatory Affairs and Oversight and as a member of the Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs chaired by the gentleman from California (Mr. OSE), I have heard on numerous occasions the testimony of small business owners about how regulations cost our small businesses time and money.

This bill will provide relief to small businesses by reducing the tax paperwork for small business. It will improve the completeness and timeliness of the Office of Management and Budget's regulatory accounting reports, and it provides for a study of the feasibility of regulatory budgeting that is desperately needed to better manage the huge regulatory burdens on the public, especially small business.

Mr. Chairman, I urge my colleagues to support this bill because, in the end, it will free up more time and money for small businesses that, in turn, can reinvest in new technologies, new research and additional development.

Most importantly, this bill will also allow businesses to create more jobs for America's families.

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

Mr. Chairman, as I noted, under this administration, we have had the largest increases in the number of hours of paperwork burden ever.

Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas (Mrs. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I thank the gentleman for yielding me time.

I rise in support of the Waxman-Tierney amendment to establish a Commission on Politicization of Science in the Regulatory Process. We need this commission because Congress and the administration have failed to do their jobs adequately. We also need this commission because scientific information has become politicized more and more recently, and this really has to change.

We have all read and heard of the allegations that politics has been used as a litmus test for the appointment of scientists to the Federal science advisory panels and that interpretation of scientific information has been skewed to emphasize uncertainties and justify inaction.

When 20 Nobel Laureates sign a letter stating that their belief is in the existence of a problem, we should take notice and examine the allegations. Yet Congress has failed to hold any hearings on this issue.

Dr. Marburger, the President's chief science advisor, does little more than issue a rebuttal to the Union of Concerned Scientist's report, denying that any problem exists.

It is true that the plural of anecdote is not data. However, at some point a series of anecdotes begins to look like a pattern. The pattern is disturbing and threatens to undermine our ability to rely on scientific and technical information as we weigh alternative policies.

□ 1745

At a minimum, the number of cases and the range of scientific issues they encompass create the perception that the Federal science advisory process has been undermined by politics. The perception alone is damaging. Policymakers and the public must have confidence in scientific information and scientific advice provided by experts.

Policy and regulatory decisions are political. Science can inform our decisions and help us to understand the likely outcomes associated with different policy choices. However, science does not determine policy choices. This is our job.

We must examine the processes we use to incorporate scientific information into our policy decisions, and we need constructive suggestions about how to ensure that political influence over the development of scientific information is minimized. It appears the current system is ripe for manipulation, and reform is needed. There are steps we can and should take to make it more difficult to politicize science. The commission can help us to identify these steps.

I urge support of this amendment. It is too costly and too misleading for us to depend on hearsay and ideology to substitute for the truth in scientific findings.

Mr. OSE. Mr. Chairman, how much time remains?

The CHAIRMAN. The gentleman from California (Mr. OSE) has 8 minutes remaining. The gentleman from Massachusetts (Mr. TIERNEY) has 13 minutes remaining.

Mr. OSE. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, I rise today in strong support for H.R. 2432, the Paperwork and Regulatory Improvement Act, of which I am a cosponsor. This important legislation will enable Congress to take responsibility for the laws and regulations imposed on this Nation.

Over the past 20 years, the costs and impacts of regulations have increased dramatically. We routinely authorize executive branch agencies to issue rules implementing the laws we pass in Congress. Just as Congress needs a Congressional Budget Office to check and balance the executive branch in the budget process, it also needs an analytic capability to check and balance the executive branch in the regulatory process. Our delegation of authority to the agencies does not relieve us of our duty to ensure the responsiveness and effectiveness of those agency regulations. Agency rules and regulations have the force and effect of law. They spew forth from the agencies more than 3 or 4,000 rules and regulations every 2 years, and Congress rightly should have better oversight.

Since the 104th Congress, I have led the fight for a Congressional Office of Regulatory Analysis resulting in the passage of the Truth in Regulating Act of 2000. That statute authorized a 3-year pilot project, adding a function at the General Accounting Office to respond to Congress' request for an independent evaluation of selective economically significant proposed rules, including an evaluation of the proposals that are consistent with congressional intent. Instead of using their own experts, GAO planned to hire outside contractor experts for the 3-year pilot test. As a consequence Congress did not fund this approach.

Today it is regrettable that despite the passage of TIRA, we still do not have an independent analysis of the various agencies regulatory analyses required by law or by executive order. H.R. 2432 would permanently authorize this function within GAO, ensuring full-time agency expertise within GAO. More importantly, the GAO's analysis would allow us to submit more informed and more influential comments on the cost, scope, and content of proposed rules during the public comment period.

Clearly it is time to increase the transparency of important regulatory decisions, promote effective congressional oversight,and increase the accountability of agencies. The government is accountable to the people and must take responsibilities for the rules established under the laws Congress passes.

Passage of H.R. 2432 would be one step toward Congress meeting its regulatory responsibilities. It is long past time for us to stop trying to change the subject and politicizing good public policy for small businesses. I urge my colleagues to vote for this bill, which is a small step towards giving some agencies the oversight they require.

Mr. TIERNEY. Mr. Chairman, I urge my colleague to stay around for the amendment that the gentleman from California (Mr. WAXMAN) and I will present to talk about politicization of particular projects and policies.

Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Chairman, I rise in strong support of the Waxman-Tierney amendment, which would create an expert commission to study the politicization of science and make recommendations on how to protect science from political interference in the decision-making process.

This is an extremely important bill. It should have bipartisan support. We need our decisions to be based on science, not politics. Yet too often the decisions that are coming forward really overrule the recommendations of the scientists for a political goal or a certain ideology. For one example, 2 weeks ago, the FDA denied an application to allow the sale of Plan B emergency contraception and give it over-the-counter status. In this case, the science was very, very clear; and the FDA's own advisory panel voted 27 to zero that Plan B could be safely sold as an over-the-counter medication.

It then voted 23 to 4 to recommend that the FDA approve the application to make it available over the counter, but the FDA's commissioner ignored this determination and overruled the opinion of his own expert panelists. He was in conflict with the science and the experts.

I must say that according to the New England Journal of Medicine, the FDA's decision has no scientific basis. Editors wrote that ''a treatment for any other condition, from hangnail to headache to heart disease, with a similar record of safety would be approved quickly and immediately.''

So this really is a horrific decision. It flies in the face of science.

Mr. Chairman, the following are several news articles that have appeared in major newspapers and letters of support from Planned Parenthood and NARAL in support of the Waxman-Tierney amendment.

PLANNED PARENTHOOD
FEDERATION OF AMERICA, INC.,
Washington, DC, May 18, 2004.

DEAR REPRESENTATIVE: Today, Representatives Waxman and Tierney will offer an amendment to H.R. 2432, the Paperwork and Regulatory Improvements Act. The amendment would create an expert commission to study the politicization of science and make recommendations on how to protect science from political and ideological manipulation and interference. Planned Parenthood Federation of America strongly urges you to support this amendment.

Over the past few years an alarming amount of decisions that should have been decided on scientific merits have been politicized. Ideology has crept into all aspects of the government's decision-making on science. Some of the most egregious offenses have affected women's health and well-being. The most recent example is the Food and Drug Administration's (FDA), the gold-standard for scientific integrity, denial of Plan B emergency contraception's (EC) over-the-counter status. This major public health setback was politics at its worst. There is no scientific reason to restrict access to this safe, effective backup method of contraception. This decision flied in the face of a joint hearing of the FDA Nonprescription Drugs and Reproductive Health Drugs Advisory Committees recommendation of 23 to 4 that the FDA make EC available over the counter. Virtually all major medical and health care organizations, including the American College of Obstetricians and Gynecologists, support making EC available without a prescription.

In addition, in October 2002 Department of Health and Human Services web sites removed medically accurate information about condom effectiveness and the lack of a proven link between abortion and breast cancer. Then in November 2002, the National Cancer Institute (NCI) Web site posts a ''revised'' that suggests an unproved link between abortion and breast cancer, a link that has been soundly refuted.

These attempts to replace science with ideology deserve investigation and Representatives Waxman and Tierney's amendment to set-up an expert commission to do just that deserves your support.

Thank you for your time and attention to this issue. Please do not hesitate to contact us with any questions you may have.

Sincerely,

GLORIA FELDT,
President.

NARAL PRO-CHOICE AMERICA,
Washington, DC, May 18, 2004.

HOUSE OF REPRESENTATIVES,
Washington, DC.

DEAR REPRESENTATIVE: Later today, when the House considers H.R. 2432, the Paperwork and Regulatory Improvements Act, an important public-health issue is expected to arise. Reps. Henry Waxman and John Tierney will offer an amendment to establish an independent, bi-partisan commission to study whether political considerations have undermined the quality and use of science in the executive branch, and to make suggestions for how science can be protected from politicization. NARAL Pro-Choice America strongly supports the Waxman-Tierney amendment and urges lawmakers' support.

Since the first days of the Bush administration, public health and sciences have been politicized and subverted in favor of an ideological agenda:

Federal funding for embryonic stem-cell research has been slowed to a trickle because of severe restrictions imposed for ideological reasons—bringing potentially life-saving science to a virtual standstill;

The Food and Drug Administration two weeks ago refused an application allowing over-the-counter sale of Plan B®, an emergency contraceptive pill—overriding the recommendations of its own hand-picked advisory panels, its own scientist-experts, and scores of medical and public-health organizations;

Respected federal agencies, including the National Cancer Institute and the centers for Disease Control and Prevention, have censored public-health information and scientific research from their Web sites in order to satisfy the demands of fringe anti-choice activists;

Risky and unproven ''abstinence-only'' programs have been promoted at the expense of proven-effective approaches to teen-pregnancy reduction like traditional sex-education programs and better funding for contraceptive services through the Title X program;

Individuals with questionable scientific credentials but robust anti-choice and political connections have been appointed to key federal panels that make recommendations on public-health policy;

Federal health-care reports have been ''edited'' to remove mention of information that could be potentially embarrassing to the administration;

Federally funded researchers who study contraception and related topics have been added to a ''hit list,'' triggering the National Institutes of Health to warn the scientists that they could be subjected to special political scrutiny; and

Financial support for a long-standing, nonpartisan public-health conference was rescinded because the diverse list of speakers and audience members included representatives from groups that do not share the Bush administration's choice views.

These are only some of the examples in which science has appeared to be subverted for political purposes. The American public deserves a federal government that does not censor, rewrite, or hide important health information, and one that makes policy decisions based on sound science—not ideology. This issue bears very close examination, and the Waxman-Tierney amendment is an important step in the right direction.

Attached is more information about the troubling pattern of politics overriding science in the Bush administration. As always, thank you for your consideration.

Sincerely,

ELIZABETH A. CAVENDISH,
Interim President.

This commission, this independent commission would look at these decisions and make sure that they are based on science. I am very disturbed because over the past year an alarming number of decisions that should have been decided on scientific merit have been politicized. I cite the one 2 weeks ago.

Mr. Chairman, the following are a series of other decisions that are very, very questionable and do not rely on science.

[From USA TODAY, May 10, 2004]

PLAN B DECISION CALLED POLITICAL

(By Rita Rubin)

Now that the Food and Drug Administration has disregarded their recommendation to make emergency contraception available without a prescription, some members of two FDA advisory committees say they've thought about resigning over what they view as a political decision.

''E-mails suggesting mass resignations are already flying around among people who were on this committee,'' says Michael Greene, a Harvard OB–GYN who serves on the Reproductive Health Drugs Advisory Committee. ''People are just hopping mad. The decision is blatantly contrary to the science and the facts, and so blatantly politicized.''

In December, Greene's panel and the Non-Prescription Drugs Advisory Committee voted 23 to 4 in favor of selling Plan B, a ''morning-after pill,'' over the counter. The FDA almost always follows its outside experts' advice.

But Steven Galson, acting director of the FDA's Center for Drug Evaluation and Research, last week rejected Barr Laboratories' plan to make Plan B a non-prescription drug. He cited a lack of data about whether the drug can be safely used by girls ages 11 to 15 without a doctor's supervision.

Critics of Galson's decision say that information, which the FDA never previously required for a non-prescription drug, is unnecessary and nearly impossible to get.

''There are no data that would convince this White House to take this product over the counter,'' says James Trussell, head of Princeton's Office of Population Research and a voting consultant to the reproductive health drugs panel. ''The only way that this drug is going to be approved is if we get a new administration.''

Vanderbilt drug expert Alastair Wood, of the non-prescription panel, says, ''What's disturbing is that the science was overwhelming here, and the FDA is supposed to make decisions on science.''

In a news conference, Galson acknowledged that he overrode the opinion of his staff as well as that of the advisory committees but denied that anyone outside the FDA influenced his decision. ''As is the case with a lot of these difficult decisions, there may not be agreement among people who are experts in data analysis,'' Galson said.

Frank Davidoff, who sits on the non-prescription drugs advisory panel, calls Galson's comments ''disingenuous.'' Davidoff, editor emeritus of the Annals of Internal Medicine, notes that 44 members of Congress wrote panel members to urge them to reject Barr's plan.

Opponents of selling Plan B over the counter argue that emergency contraceptive pills cause abortions and that easier access will lead to increased promiscuity.

''The morning-after pill is a pedophile's best friend,'' Wendy Wright, senior policy director for Concerned Women of America, a public policy organization, said in a statement after learning of Galson's decision. ''Morning-after pill proponents treat women like sex machines.''

Proponents of non-prescription sales of Plan B, most effective when taken within 24 hours of unprotected intercourse, say there is no evidence that it would increase promiscuity. ''In fact, the evidence is to the contrary,'' says Davidoff. And Galson says the FDA believes Plan B primarily prevents pregnancies rather than ends them.

Davidoff says he has thought about resigning from the committee. ''But I don't think I will. There's always an issue: Can you do more good by hanging in there?''

Barr spokeswoman Carol Cox says her company was encouraged that the FDA left the door open. Barr has proposed selling Plan B without a prescription to those over 15 and with one to younger girls. That would be unprecedented, and Galson has asked Barr how it would meet prescription and non-prescription labeling requirements in one package.

Mr. Chairman, over 40 Nobel laureates have supported the idea of an independent commission that makes sure that these decisions are not based on politics, but on the merits.

We cannot afford to have our decisions, our scientific decisions based on political manipulation which has certainly happened in these cases. This is a tremendously important amendment, and I hope that my colleagues on both sides of the aisle will support the Waxman-Tierney amendment.

Mr. OSE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I certainly want to commend the gentleman from California (Mr. OSE) and the gentleman from Virginia (Mr. TOM DAVIS) for taking this very bold step on regulatory reform.

There is no question that we need regulatory reform. It has been estimated that Americans pay more than $800 billion a year to comply with regulatory burdens, and that amounts to about $8,000 per household. I am talking to you, Mr. and Mrs. Taxpayer out there.

The IRS alone accounts for about 80 percent of the paperwork burden on the public. In the House budget language, and I serve on the Committee on the Budget, I inserted some language on regulatory reform, and I would like to read just part of it: ''It is the sense of this House that Congress should establish a mechanism for reviewing Federal agencies and their regulations with the express purpose of making recommendations to Congress when agencies prove to be inefficient, duplicative, outdated, irrelevant, or fail to accomplish their intended purpose.''

Clearly, this will be the result of the gentleman from California's (Mr. OSE) very fine bill. Obviously, in accordance with the language in the House budget resolution, some of the provisions I would like to detail are that they strengthen the Congressional Review Act by providing Congress with more information much earlier in the process. It also provides Congress with in-house expertise comparable to the administration's experts at the Office of Information and Regulatory Affairs.

Certainly, additional reforms are necessary. We need regulatory reform that goes even further than this very fine bill. And I am sure we will be seeing that later this year or next year. We must remember that the Constitutional responsibility in article 1, section 8 ''to make all laws which are necessary and proper'' rests with us.

Congress is elected by the people, for the people and is held accountable to the people. Having a regulatory system that reflects these principles are not only outlined in the Constitution but are reflected in this bill.

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

Mr. Chairman, I continue to be amused by the railing on the other side of all this paperwork burden as if they did not understand that the cause of that was their own administration. The President ran on a platform of cutting back the regulatory burden on businesses; and if you go back in history during that period of time before 2000, you can see speech after speech telling us how terrible the paperwork burden was and what he was going to do to improve it. But the fact of the matter is if you look at the report done for the gentleman from California (Mr. WAXMAN) and for me, it states clearly, ''The annual paperwork hours today is over 700 million burden hours higher than it was when President Bush took office.'' In the year 2000, it increased by 7.4 billion hours. In 2003 it went up to 8.1 billion hours. It is an increase of over 10 percent.

The Internal Revenue Service accounts for more paperwork than any other Federal agency with 81 percent of the total paperwork burden hours. Yet that is exactly where most of the increases came. The largest sources of statutory increases in paperwork have been the recent tax law changes. They have been introduced and made a substantial additional complexity and burden for individuals and small businesses in filling out their tax forms.

And that, Mr. Chairman, is the reason for the increase.

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

Mr. OSE. Mr. Chairman, how much time remains on our side?

The CHAIRMAN. The gentleman from California (Mr. OSE) has 3 minutes remaining.

Mr. OSE. Mr. Chairman, may I inquire of the gentleman from Massachusetts (Mr. TIERNEY) as to whether he has additional speakers.

Mr. TIERNEY. Yes, I have additional speakers coming.

Mr. OSE. Mr. Chairman, we are down to 3 minutes on our side.

Mr. TIERNEY. Mr. Chairman, I have two more speakers on their way over.

Mr. OSE. Mr. Chairman, I would ask unanimous consent for an additional 5 minutes for each side for the purpose of debate on this bill.

The CHAIRMAN. That unanimous consent request is not in order in the Committee of the Whole.

PARLIAMENTARY INQUIRY

Mr. OSE. Parliamentary inquiry, Mr. Chairman. Under the general rules of debate within the Committee of the Whole, how might we address a shortage of time here treating each side equally?

The CHAIRMAN. The Committee of the Whole does not have authority to extend general debate time established by the House.

Mr. TIERNEY. Mr. Chairman, how much time do I have remaining?

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

Mr. TIERNEY. Mr. Chairman, I yield myself 1¼ minutes.

Mr. Chairman, let me reiterate some of the things I may have touched on earlier and maybe one new point. The bill that we are talking about here today really does not reduce paperwork or improve the regulatory process. One of the problems it has, it talks about a study on regulatory budgeting, but yet it does not define the term ''regulatory budget.''

In prior hearings, the subcommittee chairman indicated he thought this was going to set a cap on the cost that an agency's combined regulations could impose on the public. An agency with a regulatory budget would then face an arbitrarily set cap on how much its regulations could cost industry in any given year; and under that system, no consideration whatsoever would be given to why the regulation was needed. Once the agency hit that cost cap, it cannot issue any more regulations even if another regulation is needed to save lives, prevent injuries, protect our environment, or improve homeland security.

□ 1800

One good example of this is the EPA recently announced its new clean air, nonroad diesel rule that, according to the EPA, will cut emissions from industrial and other diesel-powered equipment by over 90 percent. If the EPA had a regulatory budget and had reached its cap for the year, it would not have been able to issue that rule, no matter how necessary the rule or how much pollution it would have cleaned up. That essentially is one of the major problems with this bill.

Mr. Chairman, I think that we cannot allow that type of a study to even start down that path. We do not want to be measuring things just on costs, without factoring in safety obligations and other improvements in homeland security, our environment and preventing injuries.

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

Mr. OSE. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. MANZULLO).

Mr. MANZULLO. Mr. Chairman, as the Chairman of the Committee on Small Business, we have held close to 60 hearings on the issue of the loss of our manufacturing base in America, and much of that is centered on the fact that we have a tremendous burden of regulations. These regulations come from the people and agencies that issued the regulations, regardless of who is in the White House.

What we are trying to do here today is to have a bipartisan approach to cut away at these regulations and not concern ourselves as to who is responsible for the promulgation.

H.R. 2432 permanently authorizes the General Accounting Office to perform analyses of major rules proposed or issued by the Federal agencies. This would have proven invaluable in responding to the Department of Housing and Urban Development's proposed regulations on modifying real estate closing procedures.

HUD's analysis was woefully inadequate. An independent analysis by GAO that accurately estimated the costs of the proposal on small business

would have been helpful to the Committee on Small Business and other Members of Congress as we considered actions needed to avert a potential disaster for thousands of small businesses involved in residential real estate settlement.

H.R. 2432 also addresses the problems of paperwork burdens imposed by the IRS on small businesses. Our committee held a hearing on the IRS compliance with the Regulatory Flexibility Act. At that hearing, the IRS contended that many of its paperwork burdens are imposed by statute. In reality, the Service imposes the reporting and record-keeping requirements under various broad rule-making authorities contained in the Internal Revenue Code. Leaving it up to the IRS to determine how to reduce paperwork burdens it imposes on taxpayers is akin to the fox guarding the hen house.

We would urge the House to adopt H.R. 2432.

Mr. TIERNEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Chairman, I thank the gentleman for the work he has done on this bill and the work to point out the real problems with this bill.

I must tell my colleagues, I would be in the corner of those who want to control the regulatory process. I chaired the EEOC, completely reformed the agency to reduce regulations, and one of the reasons I am for controlling the regulatory process is because overregulation makes people hate government. I do not hate government. I think government does many good things.

I come to the floor to tell my colleagues one of the reasons why I oppose this bill. During hearings we discussed so-called regulatory budgeting. That is not defined in this bill, as it should be, but it was clear during the hearings that the point was to set a limit on the total costs of regulations. This limit is based on the gross costs, not the net costs, which would account for benefits from social legislation or regulations.

For example, we have seen lead in the water in D.C., and now we think it is all over the United States. Who would not believe that in trying to control lead in the water, even if it proved costly, we would not know more if we knew what the benefits were.

Assuming we could ascertain that, let us look at how inconsistent my good friends on the other side of the aisle are.

When it comes to tax cuts, they insist upon something called dynamic scoring. I know of no reputable economist who believes in dynamic scoring, but they say what we should count are the benefits from the tax cuts as well as the expenditures or the costs to the government. Well, if this is the case with tax cuts, why are we not counting the benefits of regulations as well as their costs to get a fair estimate? That is only one of the problems with this bill.

Mr. OSE. Mr. Chairman, might I inquire, I believe I have but 1 minute left?

The CHAIRMAN pro tempore (Mr. BEREUTER). The gentleman from California (Mr. OSE) has 1 minute remaining. The gentleman from Massachusetts (Mr. TIERNEY) has 5½ minutes remaining.

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

Mr. TIERNEY. Mr. Chairman, I yield 2½ minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Chairman, today I rise in support of the Waxman-Tierney amendment. This week we are debating regulatory reform. However, I believe that the greatest threat facing our regulatory system is the political manipulation of the scientific process.

Repeatedly, the Bush administration has been caught with their hands in the cookie jar, removing, manipulating or ignoring findings of credible scientists on the environment so we can promote the regulations it believes makes political campaign donors and the conservative right wing happy.

The pattern is there, and it is disturbing.

First, in August of 2002, the Department of Health and Human Services replaced 15 of the 18 members on the advisory committee at the National Center For Environmental Health. These scientific advisory positions were filled with a number of people who were very closely related to the industry that they were supposed to be regulating.

Can my colleagues imagine that political appointees at the Department of Health and Human Services were also caught tampering and removing information about the disparities that exist between racial and ethnic minorities in health care?

Then, secondly, in June of 2003, the EPA published a comprehensive report on the environment, while omitting information on global warming. The threat to the community I represent is extraordinary, longer droughts, more water shortages, tougher fire seasons. Last year, our fire season was vicious, but in the EPA's report, no one would know that those threats exist because the White House refuses to let the EPA publish what the scientists consider to be the best available science.

Most recently, on April 29, 2004, EPA experts called attention to a new Bush policy that will hamper accurate modeling of the effects of power plants.

These examples are just a few of many the administration has done in terms of removing, manipulating and ignoring the findings of credible scientists. More than 20 Nobel Laureates, dozens of scholars, credible scientific journals and many scientific organizations have expressed concern about the impact this manipulation could have on the U.S.'s role in the world as a leader in science.

We cannot create effective policy without the free input of qualified scientific experts. We need to stop the manipulation of science and restore integrity to the scientific process. Support this amendment.

Mr. TIERNEY. Mr. Chairman, I yield 2¼ minutes to the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. Mr. Chairman, I rise in strong support of the Waxman-Tierney amendment.

The biggest threat facing the regulatory system today is political interference with the scientific process. The interference threatens the integrity of the science-based agencies and hampers their ability to apply the best possible information and expertise to regulatory problems.

There is a rising concern in the scientific community and among former agency administrators about the unprecedented political interference with science occurring today.

In one egregious example, HHS released a heavily edited version of the National Health Care Disparities Report, a major report requested by Congress. This document hardly mentioned the word ''disparities,'' did not state that the disparities were a problem, and even said that racial and ethnic groups had health advantages compared to the general population.

Members of Congress then obtained a June 2003 copy of this same report that was prepared by HHS scientists. The scientists had actually found that racial and ethnic disparities in health care are ''national problems'' that are ''pervasive in our health care system'' and carry a significant ''personal and societal price.'' These important conclusions had been censored from the final version by the political appointees at HHS.

I, along with other Members of the Congress, wrote HHS Secretary Thompson to protest the manipulation of science on health care disparities and to request copies of all drafts and comments on the disparities report. HHS initially defended its report saying that it was just trying to show that the glass was half full. Deleting scientists' conclusions about racial and ethnic disparities is not public relations; it is the manipulation of science for political ends.

A month later HHS Secretary Thompson admitted that there was a mistake made and released the scientists' version of the report, but we still do not know what went wrong and never received any further explanation for this false information.

An independent, bipartisan Commission on the Politicization of Science is urgently needed to protect the public health from incidents like this.

The Waxman-Tierney amendment will establish an independent, bipartisan commission to investigate the politicization of science in the regulatory process and make recommendations to restore scientific integrity.

The CHAIRMAN pro tempore. The gentleman from Massachusetts (Mr. TIERNEY) has 45 seconds remaining. The gentleman from California (Mr. OSE) has 1 minute remaining.

Mr. OSE. Mr. Chairman, it is my understanding that I have the right to close?

The CHAIRMAN pro tempore. The gentleman is correct.

Mr. TIERNEY. Mr. Chairman, I yield myself the balance of the time.

I just say, Mr. Chairman, I think we have heard adequate reasons here why this bill comes up short in what would be a help in any sense in types of burden relief. It does have to be a situation where we are concerned about who is responsible.

One of the colleagues on the other side of the aisle raised that issue that we should not be, but hopefully, we need to enlist the support of this administration and a majority here to help get the burden down, and this administration has had record increases in paperwork burdens, mostly because of the Internal Revenue Code changes that they have made, which have substantially added to that situation.

Not only did it not address the recession and not address the job losses, which have been historic, it also failed to do anything about reducing paperwork burdens and, in fact, increased that substantially.

So I think that this debate has made that clear, Mr. Chairman. I would advise folks to please read the report the gentleman from California (Mr. WAXMAN) and I had done and introduced in the RECORD and vote against this bill.

Mr. OSE. Mr. Chairman, I yield the balance of the time to the gentleman from Wisconsin (Mr. RYAN) for the purpose of closing.

Mr. RYAN of Wisconsin. Mr. Chairman, I thank the gentleman for yielding me the time. I also thank the gentleman from California (Mr. OSE) for his leadership on this issue. It is really a great tribute to all the work that he has done.

Mr. Chairman, one of the things that we are talking about these days is, how do we stop pushing jobs overseas? One of the problems we have is, we are in the time of global competition, and our manufacturers and our small businesses are really struggling to compete in the global marketplace.

One of the ways in which we push jobs overseas is by making it more expensive to do business in America and to hire people to build things in America is the cost of regulations.

This bill, the Paperwork and Regulatory Improvements Act, helps make good on the promise that Congress is giving to the American people that we are going to reduce the cost of regulations. Getting the essential information on how the costs and benefits accumulate on our regulations is a critical component to our agenda to reduce the cost that our government imposes on businesses so they can be more competitive in the global marketplace so that we can keep jobs in America.

This is about jobs. It is about common sense. I urge adoption of this bill.

Mrs. BLACKBURN. Mr. Chairman, I want to thank our chairman for his work on H.R. 2432, the Paperwork and Regulatory Improvements Act, and I rise today in support of this overdue legislation. I came to Congress to support small businesses, and this is a step in the right direction.

We have all heard the saying—the road to ruin is paved with good intentions. This is an appropriate statement to consider as we discuss the purpose of the original Paperwork Reduction Act. In 1980 this legislation was passed to ensure that government didn't place an undue repetitive and duplicative paperwork burden on the Nation's businesses. In 1995, Congress again took up the issue and amended PRA by establishing additional paperwork reduction goals. Unfortunately, the result has not been less paperwork.

Since 1995, the paperwork burden has consistently increased. In a 2002 report to Congress, OMB found that the Department of Labor alone imposed over 181 million hours of paperwork in FY 2001. And OMB estimated that processing the paperwork costs business $30 an hour—the Labor Department's regulations alone, at that rate, are costing American businesses $5.43 billion. And the total per-employee cost of regulation can be as much as 60 percent greater for small businesses.

Mr. Chairman, time and again, at town halls and business roundtables across my district, I'm hearing from business owners, small and large, that they are frustrated and, quite frankly, they are tired of the government costing them time and money for purposeless paperwork.

H.R. 2432 gives Congress the tools needed to effectively study and gauge the value of particular regulations and make informed, cost-benefit judgments on their worth. I urge my colleagues to support this commonsense legislation today.

Mrs. CHRISTENSEN. Mr. Chairman, I rise today in support of the Waxman/Tierney amendment to establish an independent commission on the politicization of science in the regulatory process. As a family physician and Chair of the Congressional Black Caucus Health Braintrust, I have made numerous appearances on this floor to remind my congressional colleagues and this Nation about the gaping deficiencies in our healthcare system. With these deficiencies being most salient in minority communities, members have introduced and passed a number of legislative proposals geared towards eliminating racial and ethnic health disparities. Public Law 106–129 was one of these proposals and required the Agency for Health care Quality and Research to produce annual reports on the existing disparities in this Nation.

But the Bush administration, who seeks to evangelize individual responsibility as the sole mechanism for redressing health disparities and improving health care for the underserved, have produced policy directives sought to downgrade proven programmatic efforts to eliminate health disparities, and overtly question the reality of the health care system's failings in the requested report entitled National Health Care Disparities Report (NHDR).

The NHDR was published by Department of Health and Human Services' Agency for Health Care Quality and Research in December of 2003 and took the position that racial and ethnic minorities are in better health than the general population. After an investigation was launched at the request of Congressman HENRY A. WAXMAN (D–CA) and members of the Congressional Minority Caucuses, it became apparent that there were two starkly different versions of the report.

The June version of the report found "significant inequality" in health care in the United States, referred to health care disparities as "national problems," emphasized that these disparities are "pervasive in our health care system," and found that the disparities carry a significant "personal and societal price." The December version of the report that was released, however, contains none of these conclusions. Furthermore, the June versions of NHDR defined "disparity" as the condition or fact of being unequal, as in age, rank, or degree, and included the term over the 30 times in the "key findings" section of the executive summary. By contrast, the December version leaves "disparity" undefined and deletes the uses of the "disparity" throughout the report.

After much political pressure and public embarrassment, the Secretary of Health and Human Services retracted the December report and released the June version. But after three months of aggressively defending and justifying the December report it was clear the Administration's understanding of death from health disparities and unequal treatment of the underserved by the health care system based on ideological perspective rather than science. Perspective-based policy making in health care is problematic because its solutions hinge on its biases. With over a century of science-based evidence available, such policy-making appears not just partisan before activity harmful.

Mr. Chairman, we do not have time to allow political ideology to take precedent over science. I urge my colleagues to support the Waxman/Tierney amendment and put an end to politicization of science.

Mr. TOM DAVIS of Virginia. Mr. Chairman, please include the attached exchange of letters between Chairman BOB GOODLATTE of the Committee on Agriculture, Chairman JIM NUSSLE of the Committee on the Budget and myself in the CONGRESSIONAL RECORD at the end of the debate on H.R. 2432 under general leave.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, May 14, 2004.

Hon. TOM DAVIS,
Chairman, House Committee on Government Reform, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: This correspondence is in regard to H.R. 2432, the Paperwork and Regulatory Improvements Act of 2003. As you are aware, the Committee on Agriculture was granted a sequential referral of H.R. 2432 because of its jurisdictional interest in agriculture commodity programs created and reauthorized in the Farm Security and Rural Investment Act of 2002.

Section 4 of H.R. 2432 amends the Farm Security and Rural Investment Act of 2002 (Public Law 107–171) by eliminating provisions that were inserted to ensure the farm bill programs and payments would apply to the crops of the 2002 crop year.

Knowing of your interest in expediting this legislation, I will discharge H.R. 2432 from further consideration by the Committee on Agriculture. I do so with the understanding that by discharging the bill the Committee on Agriculture does not waive any future jurisdictional claim over this or similar measures. In addition, in the event a conference with the Senate is requested on this matter, the Committee on Agriculture reserves the

right to seek appointment of conferees, if one should become necessary.

Thank you very much for your courtesy in this matter and I look forward to continued cooperation between our Committees as we deal with these issues in the future.

Sincerely,

BOB GOODLATTE,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, May 14, 2004.

Hon. BOB GOODLATTE,
Chairman, Committee on Agriculture, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter regarding the Agriculture Committee's jurisdictional interest in H.R. 2432, the Paperwork and Regulatory Improvements Act. Section 4 of H.R. 2432 repeals eight provisions within the Farm Security and Rural Investment Act of 2002 (P.L. 107–171). Those eight provisions exempted certain farm programs from the requirements of the Paperwork Reduction Act.

I agree that the Committee on Agriculture does not waive its jurisdiction over H.R. 2432 or P.L. 107–171 by waiving further consideration of the bill. In addition, I will support your request for conferees from the Agriculture Committee should a House-Senate conference on this or similar legislation be convened.

I will include a copy of your letter and this response as part of the Government Reform Committee's report and the Congressional Record during consideration of the legislation on the House floor. Thank you for your cooperation as we work towards the enactment of H.R. 2432.

Sincerely,

TOM DAVIS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, May 18, 2004.

Hon. TOM DAVIS,
Chairman, Committee on Government Reform, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN: On May 10, 2004, the Committee on Government Reform ordered reported H.R. 2432, the Paperwork and Regulatory Improvements Act of 2004. As you know, the Committee on the Budget was granted an additional referral upon the bill's introduction pursuant to the Committee's jurisdiction under Rule X of the Rules of the House of Representatives.

Because of your willingness to consult with this Committee, and because of your desire to move this legislation expeditiously as an individual bill, I have agreed that the Committee will be discharged of the bill. However, the Committee does not waive any part of its current jurisdiction. In addition, the Committee reserves its authority to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I ask your commitment to support any request for conferees by the Committee on H.R. 2432 or similar legislation.

I request that you include this letter and your response in your Committee Report and in the Congressional Record during consideration of the legislation on the House Floor. Thank you for your attention to these matters.

Sincerely,

JIM NUSSLE,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, May 18, 2004.

Hon. JIM NUSSLE,
Chairman, Committee on the Budget, Cannon House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter regarding the Budget Committee's jurisdictional interest in H.R. 2432, the Paperwork and Regulatory Improvements act. The bill was primarily referred to the Committee on Government Reform and additionally to the Committee on the Budget. Section 6 of H.R. 2432 requires the Office of Management and Budget to study the feasibility of integrating of the regulatory accounting statement into the President's budget. The contents of the President's budget is within the Budget Committee's rule X jurisdiction, and accordingly, the Speaker additionally referred H.R. 2432 to your Committee.

I agree that the Committee on the Budget does not waive its jurisdiction over H.R. 2432 by waiving further consideration of the bill. In addition, I will support your request for conferees from the Budget Committee should a House-Senate conference on this or similar legislation be convened.

As you have requested, I will include a copy of your letter and in the Congressional Record during consideration of the legislation on the House floor. Thank you for your cooperation as we work towards the enactment of H.R. 2432.

Sincerely,

TOM DAVIS,
Chairman.

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

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

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

H.R. 2432

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Paperwork and Regulatory Improvements Act of 2004''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) In 1980, in the Paperwork Reduction Act, Congress established the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget. OIRA's principal responsibility is to reduce the paperwork burden on the public that results from the collection of information by or for the Federal Government. In 2002, OIRA estimated that the paperwork burden imposed on the public was 7.7 billion hours, at a cost of $230 billion. The Internal Revenue Service accounted for 83 percent of the paperwork burden.

(2) In 1995, Congress amended the Paperwork Reduction Act and established annual governmentwide paperwork reduction goals of 10 percent for each of fiscal years 1996 and 1997, and 5 percent for each of fiscal years 1998 through 2001, but the paperwork burden increased, rather than decreased, in each of those fiscal years and fiscal year 2002. Both the Office of Management and Budget and the Internal Revenue Service need to devote additional attention to paperwork reduction.

(3) In 2002, the House Report accompanying the Treasury and General Government Appropriations Act, 2003 (House Report 107–575) stated, ''The Office of Management and Budget has reported that paperwork burdens on Americans have increased in each of the last six years. Since the Internal Revenue Service imposes over 80 percent of these paperwork burdens, the Committee believes that OMB should work to identify and review proposed and existing IRS paperwork.''.

(4) One key to success in paperwork reduction is the Office of Management and Budget's systematic review of every new and revised agency paperwork proposal. Recent statutory exemptions from that office's review responsibility, especially those without any stated justification, should be removed.

(5) In 2000, researchers Mark Crain of George Mason University and Thomas Hopkins of the Rochester Institute of Technology, in their October 2001 publication titled ''The Impact of Regulatory Costs on Small Firms'', estimated that Americans spend $843 billion annually to comply with Federal regulations. Congress has a responsibility to review major rules (as defined by section 804 of title 5, United States Code) proposed by agencies, especially regulatory alternatives and the costs and benefits associated with each of them. In 2000, in the Truth in Regulating Act, Congress established new responsibility within the General Accounting Office to assist Congress with this responsibility.

(6) In 1996, because of the increasing costs and incompletely estimated benefits of Federal rules and paperwork, Congress required the Office of Management and Budget for the first time to submit an annual report to Congress on the total costs and benefits to the public of Federal rules and paperwork requirements, including an assessment of the effects of Federal rules on the private sector and State and local governments. In 1998, Congress changed the annual report's due date to coincide with the due date of the President's budget, so that Congress and the public could be given an opportunity to simultaneously review both the on-budget and off-budget costs associated with the regulatory and paperwork requirements of each Federal agency. In 2000, Congress made this a permanent annual reporting requirement.

(7) The Office of Management and Budget requires agencies to submit annual budget and paperwork burden estimates in order to prepare certain required reports for Congress, but it does not require agencies to submit estimates on costs and benefits of agency rules and paperwork. The Office of Management and Budget needs to require agencies to submit such estimates on costs and benefits to help prepare the annual accounting statement and associated report required under section 624 of the Treasury and General Government Appropriations Act, 2001.

SEC. 3. REDUCTION OF TAX PAPERWORK.

Section 3504 of title 44, United States Code, is amended by adding at the end the following new subsection:

''(i) In carrying out subsection (c)(3), the Director shall (in consultation with the Internal Revenue Service and the Office of Tax Policy of the Department of the Treasury and the Office of Advocacy of the Small Business Administration) conduct a review of the collections of information conducted by the Internal Revenue Service to identify actions that the Internal Revenue Service can take to reduce the information collection burden imposed on small business concerns, consistent with section 3520(c)(1) of this chapter. The Director shall include the results of the review in the annual report that the Director submits under section 3514 of this chapter for fiscal year 2006.''.

SEC. 4. REPEAL OF EXEMPTIONS FROM PAPERWORK REDUCTION ACT, ETC.

(a) REPEALS.—The following provisions of the Farm Security and Rural Investment Act of 2002 (Public Law 107–171) are repealed:

(1) Subparagraphs (A) and (C) of section 1601(c)(2).

(2) Section 1601(c)(3).
(3) Section 2702(b)(1)(A).
(4) Section 2702(b)(2)(A).
(5) Section 2702(c).
(6) Subparagraphs (A) and (C) of section 6103(b)(2).
(7) Section 6103(b)(3).
(8) Subparagraphs (A) and (C) of section 10105(d)(2).
(9) Section 10105(d)(3).
(b) EFFECTIVE DATE.—The repeals of the provisions listed in subsection (a) shall take effect 180 days after the date of the enactment of this Act.

SEC. 5. AMENDMENT OF TRUTH IN REGULATING ACT TO MAKE PERMANENT PILOT PROJECT FOR REPORT ON RULES.

The purpose of this section is to make permanent the authority to request the performance of regulatory analysis to enhance Congressional responsibility for regulatory decisions developed under the laws enacted by Congress. The Truth in Regulating Act of 2000 (Public Law 106–312; 5 U.S.C. 801 note) is amended—
*(1) in the heading for section 4, by striking ''**PILOT PROJECT FOR**'',*
(2) by striking section 5 and redesignating section 6 as section 5; and
(3) in section 5 (as redesignated by paragraph (2))—
(A) in the heading, by striking ''AND DURATION OF PILOT PROJECT'';
(B) in subsection (a), by striking ''(a) EFFECTIVE DATE.—''; and
(C) by striking subsections (b) and (c).

SEC. 6. IMPROVED REGULATORY ACCOUNTING.

(a) REQUIREMENT FOR AGENCIES TO SUBMIT INFORMATION ON REGULATIONS AND PAPERWORK TO OMB.—Section 624 of the Treasury and General Government Appropriations Act, 2001 (as enacted into law by Public Law 106–554; 114 Stat. 2763A–161), is amended
(1) by redesignating subsections (b), (c), and (d) as subsection (c), (d), and (e), respectively, and
(2) by inserting after subsection (a) the following new subsection:
''(b) AGENCY SUBMISSIONS TO OMB.—To carry out subsection (a), the Director of the Office of Management and Budget shall require each agency annually to submit to the Office of Management and Budget an estimate of the total annual costs and benefits of Federal rules and paperwork, to the extent feasible—
''(1) for the agency in the aggregate; and
''(2) for each agency program.''.
(b) INTEGRATION OF OMB ACCOUNTING STATEMENT AND REPORT INTO PRESIDENT'S BUDGET.—Section 624 of the Treasury and General Government Appropriations Act, 2001 (as enacted into law by Public Law 106–554; 114 Stat. 2763A–161) is further amended in subsection (a), by striking ''with the budget'' and inserting ''as part of the budget''.
(c) REGULATORY BUDGETING.—(1) Chapter 11 of title 31, United States Code, is amended by adding at the end the following new section:

''§ 1120. Regulatory budgeting

''(a) The Director of the Office of Management and Budget, after consultation with the head of each agency, shall designate not less than three agencies (or offices within an agency) to participate in a study on regulatory budgeting for fiscal years 2006 and 2007. The designated agencies shall include three regulatory agencies or offices from among the following: the Department of Labor, the Department of Transportation, the Department of Health and Human Services, and the Environmental Protection Agency.
''(b) The study shall address the preparation of regulatory budgets. Such budgets shall include the presentation of the varying estimated levels of benefits that would be associated with the different estimated levels of costs with respect to the regulatory alternatives under consideration by the agency (or office within the agency).
''(c) The Director of the Office of Management and Budget shall include, in the accounting statement and associated report submitted to Congress for calendar year 2006 under section 624 of the Treasury and General Government Appropriations Act, 2001 (as enacted into law by Public Law 106–554; 114 Stat. 2763A–161), a presentation of the different levels of estimated regulatory benefits and costs with respect to the regulatory alternatives under consideration for one or more of the major regulatory programs of each of the agencies designated under subsection (a).
''(d) In the accounting statement and associated report submitted to Congress for calendar year 2009 under section 624 of the Treasury and General Government Appropriations Act, 2001 (as so enacted), the Director of the Office of Management and Budget shall include a report on the study on regulatory budgeting. The report shall—
''(1) assess the feasibility and advisability of including a regulatory budget as part of the annual budget submitted under section 1105;
''(2) describe any difficulties encountered by the Office of Management and Budget and the participating agencies in conducting the study; and
''(3) recommend, to the extent the President considers necessary or expedient, proposed legislation regarding regulatory budgets.''.
(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:
''1120. Regulatory budgeting.''.

The CHAIRMAN pro tempore. No amendment to the committee amendment is in order except those printed in part D of House Report 108–497. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

□ 1815

It is now in order to consider amendment No. 1 printed in part D of House Report 108–497.

AMENDMENT NO. 1 OFFERED BY MR. OSE

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

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

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. OSE:

In section 5, insert ''(a) PERMANENT AUTHORITY.—'' before ''The purpose''.

In section 5, strike paragraph (2) and the matter preceding subparagraph (A) of paragraph (3) and insert the following:

(2) in section 5, by striking ''$5,200,000 for each of fiscal years 2000 through 2002'' and inserting ''$5,000,000 for each fiscal year beginning after September 30, 2004''; and

(3) in section 6—

Add at the end of section 5 the following:

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 90 days after the date of the enactment of this Act.

In section 6, strike subsection (b) and redesignate subsection (c) as subsection (b).

In section 1120(d) of title 31, United States Code, as proposed to be added by section 6(b) (as so redesignated), in the matter preceding paragraph (1), insert after ''Management and Budget'' the following: '', after consultation with the Committees on the Budget and on Government Reform of the House of Representatives and the Committees on the Budget and on Governmental Affairs of the Senate,''.

In section 1120 of title 31, United States Code, as proposed to be added by section 6(b) (as so redesignated), strike the closing quotation marks and second period at the end and insert the following:

''(e) The report on the study on regulatory budgeting required under subsection (d) shall also be submitted directly to the Committees on the Budget and on Government Reform of the House of Representatives and the Committees on the Budget and on Governmental Affairs of the Senate.''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 645, the gentleman from California (Mr. OSE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. OSE).

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

Mr. Chairman, this particular amendment is technical in nature. It conforms the text that was sent over from the committee to the expectations of everybody here on the floor. Specifically, it changes the applicable dates. In section 5, it changes the effective date of the GAO requirement to 90 days after the date of enactment. It deletes the integration requirement of the budget and regulatory accounting statement, and it includes consultation with the Committee on the Budget and the Committee on Government Reform of the House and the Budget and Governmental Affairs Committees in the Senate.

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

The CHAIRMAN pro tempore. Does anyone claim the time in opposition to the amendment?

Mr. TIERNEY. Mr. Chairman, I claim the time in opposition; and though I rise to claim the time in opposition, we do not oppose the amendment.

The CHAIRMAN pro tempore. Without objection, the gentleman from Massachusetts (Mr. TIERNEY) will control the time in oppostion.

There was no objection.

Mr. TIERNEY. Mr. Chairman, Congress did create a 3-year pilot program in the Truth in Regulating Act, the so-called TIRA act, of 2000. That required the General Accounting Office to report on economically significant rules, if asked by the chairman or the ranking minority member. Authorization for funding was included in the bill; but, unfortunately, during the entire 3-year pilot program, Congress never appropriated any money to fund the project. Because of this, the pilot program never happened.

The bill before us today would make this pilot project permanent, oddly enough. The amendment of the gentleman from California (Mr. OSE) would provide authorization of $5 million each year to fund the project; but the General Accounting Office has said it would need $8 million in actual funds,

not just promised funds, in order to perform the extra work required in this provision.

What the General Accounting Office really supports is making this provision a pilot project instead of making it permanent, which seems to make eminent sense, given the fact that the original pilot program was not able to be conducted. We should fund the pilot program and find out whether it even works before we make it permanent.

Mr. Chairman, I submit for the RECORD a May 11, 2004, letter from the General Accounting Office comptroller, David Walker, to the ranking member, the gentleman from California (Mr. WAXMAN). In this letter, Mr. Walker writes, and I quote, ''If Congress wants TIRA to continue, we believe it should do so as a pilot project rather than as permanent authority.''

The entire letter is as follows, Mr. Chairman:

UNITED STATES GENERAL ACCOUNTING OFFICE,
Washington, DC, May 11, 2004.

Hon. TOM DAVIS,
Chairman, Committee on Government Reform, House of Representatives.

DEAR MR. CHAIRMAN: The Truth in Regulating Act of 2000 (TIRA), Pub. L. No. 106–312, 114 Stat. 1248 (Oct. 17, 2000), became effective on January 15, 2001. (Codified at 5 U.S.C. §801 note.) TIRA contemplated a 3-year pilot project, during which GAO would perform independent evaluations of ''economically significant'' agency rules when requested by a chairman or ranking member of a committee of jurisdiction of either House of Congress. The independent evaluation would include an evaluation of the agency's analysis of the potential benefits, potential costs, and alternative approaches considered during the rulemaking proceeding. Under TIRA, GAO was required to report on our evaluations within 180 calendar days after we received a committee request.

Section 6(b) of the Act, however, provided that the pilot project would continue only if, in each fiscal year, ''a specific annual appropriation not less than $5,200,000 or the prorated equivalent thereof shall have been made for the pilot project.'' Section 6(c) of the Act directed GAO to submit to Congress, before the conclusion of the 3-year period, ''a report reviewing the effectiveness of the pilot project and recommending whether or not Congress should permanently authorize the pilot project.'' During the 3-year period contemplated for the pilot project, Congress did not enact any specific appropriation to cover TIRA evaluations. The authority for the 3-year pilot project expired on January 15, 2004.

On June 11, 2003, Congressman Ose introduced H.R. 2432 that, in section 5, would make TIRA's pilot permanent. In August 2003, GAO provided staff of Congressman Ose with amendments to H.R. 2432 to make clear that the same limitation enacted in TIRA would continue if H.R. 2432 was enacted, that is, GAO could not conduct any TIRA evaluations without a specific appropriation enacted by Congress. (GAO's proposed amendment enclosed.)

The GAO has conducted no TIRA evaluation. Therefore, in our view, if Congress wants TIRA to continue, we believe it should do so as a pilot project rather than as a permanent authority. Moreover, we cannot support any proposal to make TIRA permanent, such as H.R. 2432, without the inclusion of language that makes clear that a specific appropriation must be enacted before GAO can conduct TIRA reviews. In a recent GAO report, we noted that the Office of Information and Regulatory Analysis within the Office of Management and Budget (OMB) has reviewed approximately 600 ''economically significant'' rules a year since 1994. While realistically GAO would only be asked to review selected rules, any expansion of GAO's scope without additional dedicated resources would pose a serious problem for us, especially in light of what will likely be increasing budgetary constraints. It would also likely serve to adversely affect our ability to provide the same level of service to the Congress in connection with our existing statutory authorities.

TIRA evaluations will require a significant amount of resources that cannot be absorbed within, for example, GAO's fiscal year 2004 appropriation, given the substantial present workload at GAO, our current backlog of pending requests, and the anticipated need for contracting for specialized expertise to assist us in our evaluations of particular rules. Accordingly, we respectfully request that H.R. 24321 be amended to condition GAO's obligation to conduct independent evaluations on the enactment of a separate and specific annual appropriation. To cover the cost of such work we propose an amendment to H.R. 2432 authorizing an annual appropriation of $8,000,000 for fiscal year 2005.

Thank you for your consideration of this important matter.

Sincerely yours,

DAVID M. WALKER,
Comptroller General of the United States.

Enclosure.

AMENDMENTS TO THE TRUTH IN LENDING REGULATING ACT

Section 5 of Public Law 106–312 is amending by striking everything after the heading and inserting the following:

(a) There are authorized to be appropriated to the General Accounting Office to carry out this Act $8,000,000 for fiscal year 2005.

(b) For each fiscal year thereafter, there are authorized to be appropriated an amount equal to the prior fiscal year's authorization plus an amount calculated by multiplying the prior year's authorization by the change in the Consumer Price Index as prepared by the Department of Labor for that fiscal year.

Section 6 of Public Law 106–312 is amended by striking subsection (b) and inserting the following new subsection (b):

(b)(1) Absent a specific annual line item appropriation in the General Accounting Office's appropriation for fiscal year 2005 of not less than $8,000,000 for this purpose, the General Accounting Office shall not conduct in fiscal year 2005 any independent evaluations as authorized by this Act.

(2) Absent a specific annual line item appropriation in the General Accounting Office's appropriation for each fiscal year thereafter of not less than the amount authorized for that fiscal year by section 5(b) for that purpose, the General Accounting Office shall not conduct in that fiscal year any independent evaluations as authorized by this Act.

The underlying bill that we are considering has other problems also, Mr. Chairman, and I will mention those briefly.

One is the provision that would require targeted agencies to participate in a study on regulatory budgeting. And I talked a little about this in the last session we had. An agency with a regulatory budget faces an arbitrary cap on how much its regulations can cost industry. The benefits of regulation, such as saving lives or preventing injuries, are not even considered under such a regulatory budget.

A study of regulatory budgeting may seem harmless enough, but it actually is not. It is one step down the path of regulatory budgeting that would be a step too far. The underlying bill requires every agency to submit every year to the Office of Management and Budget the annual costs and benefits of all rules and paperwork, to the extent feasible, for the entire agency and every program.

Mr. Chairman, I am concerned the committee report states this provision, and I quote, ''requires Federal agencies to submit annual estimates of the costs and benefits associated with the Federal rules and paperwork for each of their agency programs.''

We have not offered an amendment to strike this provision because the committee majority informed us before we considered the bill that this provision is not intended to require agencies to conduct any extra cost-benefit evaluation beyond that which they already prepare. Expanding the use of cost-benefit analysis would divert resources from the work that agencies are supposed to be doing to carry out their core missions, and it would not add value or improve the quality of decision-making in the regulatory process.

I could go on, Mr. Chairman, with the problems in this bill; but the bottom line is this bill does nothing to improve the regulatory process and could, in fact, result in a worsening of the regulatory process.

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

Mr. OSE. Mr. Chairman, I yield 2½ minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, I rise today in support of the amendment of the gentleman from California (Mr. OSE) and his bill, the Paperwork and Regulatory Improvements Act, and thank his staff as well for the fine work they have done. This legislation is a needed addition and an improvement of existing law. H.R. 2432 would increase the transparency and effectiveness of government and lessen the burden associated with taxation-related paperwork for small businesses.

In 1980, the Congress passed the Paperwork Reduction Act, which established the Office of Information and Regulatory Affairs. The principal responsibility of this office is to reduce the paperwork burden from Federal regulations on the American public. The burden is considerable.

According to a 2001 study, Americans spend an estimated $843 billion annually to comply with Federal regulations. It is our responsibility as Members of Congress to review the new agency rules and regulations. Most importantly, it is our duty to find ways to reduce red tape. In order to fulfill this responsibility, Congress needs detailed information on the costs and benefits associated with each regulation. The

Paperwork and Regulatory Improvements Act would ensure this information is provided to Congress.

H.R. 2432 would do three things. It would require the Office of Management and Budget to seek agency input for its annual regulatory accounting report to Congress; permanently fund an independent regulatory analysis function within the General Accounting Office; and authorize OMB to designate at least three agencies to conduct a 2-year study on regulatory budgeting.

Based on the results of this study, OMB will report to Congress on the feasibility of regulatory budgeting. We can then determine if it is a useful tool for managing regulatory burdens on the public.

Finally, this legislation addresses the challenges small businesses face with regard to the paperwork burden. Small businesses spend an extremely disproportionate amount of resources, time, and money on compliance with regulations. The largest share, almost 80 percent of the paperwork, is taxation-related paperwork.

H.R. 2432 would require the OMB and the Internal Revenue Service to jointly develop specific solutions to reduce the paperwork burden on small businesses. It is time Congress paid attention to this pressing problem.

Mr. Chairman, I would like to urge all of my colleagues here today to support this sound piece of legislation.

Mr. OSE. Mr. Chairman, might I inquire how much time remains.

The CHAIRMAN pro tempore. The gentleman from California (Mr. OSE) has 1½ minutes remaining, and the gentleman from Massachusetts (Mr. TIERNEY) has 2 minutes remaining.

Mr. OSE. If I understand correctly, the gentleman from Massachusetts has the right to close on this? It is my amendment.

The CHAIRMAN pro tempore. The gentleman from California, as the proponent of the amendment for which there is no opposition, has the right to close.

Mr. TIERNEY. Mr. Chairman, I yield myself such time as I may consume, and I will just use the couple of remaining moments to talk about something that both of the last speakers raised.

I think it is important to note that while we are all concerned about paperwork burdens, especially on small businesses, the Internal Revenue Service accounts for more paperwork than any other Federal agency. It is 81 percent of the total paperwork hours. In contrast, the Environmental Protection Agency only accounts for 1.8 percent of Federal paperwork burden; the Department of Labor, including OSHA, only accounts for 2 percent of the Federal paperwork burden. So, again, we get back to the point that if we really want to do something about this, we could look at the tax bills that were passed by this administration which increased the paperwork burden 290 million hours in one year and 570 million in another year and continue to be going at a record pace.

We should be concerned about that, and we should be concerned again about the regulatory budget aspect that is being suggested in this bill. Again, it does not do enough to take care of the issue of regulations needing to be in place to save lives, to prevent injuries, to protect our environment, or to improve homeland security. All of those things must be factored in every bit as much as the dollar cost. And this whole idea of regulatory budgeting would not allow for that. It would in that sense be counterproductive and against the interests of the American people.

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

Mr. OSE. Mr. Chairman, I yield myself the balance of my time.

Regarding the amendment at the desk, it is a technical amendment. It conforms to the actual writing of the bill reported from the committee to the representations we have made here on the floor.

I thank the gentleman from Massachusetts for his kind remarks on the amendment, and I urge its passage.

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

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

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 2 printed in part D of House Report 108–497.

AMENDMENT NO. 2 OFFERED BY MR. WAXMAN

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

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

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. WAXMAN:

Add at the end the following new title:

TITLE II—COMMISSION ON POLITICIZATION OF SCIENCE IN THE REGULATORY PROCESS

SEC. 201. ESTABLISHMENT OF COMMISSION.

There is established in the legislative branch the Independent Commission on Politicization of Science in the Regulatory Process (in this Act referred to as the ''Commission'').

SEC. 202. DUTIES.

The Commission shall carry out the following duties:

(1) Examine and evaluate executive branch regulatory activities and associated decisions to determine the extent to which political considerations have undermined the quality and use of science. As part of this examination and evaluation, the Commission shall consider the regulatory activities and associated decisions listed in—

(A) ''Politics and Science in the Bush Administration,'' an August 2003 report prepared by the minority staff of the Committee on Government Reform of the House of Representatives; and

(B) ''Scientific Integrity in Policymaking,'' a March 2004 report prepared by the Union of Concerned Scientists, which was accompanied by a statement of concern signed by 20 Nobel Laureates and other distinguished scientists.

(2) Report to Congress and the President on its findings and conclusions, as well as make recommendations to Congress and the President on measures that can be taken to enhance the integrity of science in executive branch regulatory activities and associated decisions.

SEC. 203. COMPOSITION OF COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the President, who shall serve as chairman of the Commission;

(2) 1 member shall be jointly appointed by the minority leader of the Senate and the minority leader of the House of Representatives, who shall serve as vice chairman of the Commission;

(3) 2 members shall be appointed by the majority leader of the Senate;

(4) 2 members shall be appointed by the Speaker of the House of Representatives;

(5) 2 members shall be appointed by the minority leader of the Senate; and

(6) 2 members shall be appointed by the minority leader of the House of Representatives.

(b) QUALIFICATIONS; INITIAL MEETING.—

(1) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(2) OTHER QUALIFICATIONS.—Individuals that shall be appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in scientific professions, governmental service, and public administration.

(3) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed within 45 days following the enactment of this Act.

(4) MEETINGS.—The Commission shall meet and begin the operations of the Commission as soon as practicable. After its initial meeting, the Commission shall meet upon the call of the chairman or a majority of its members.

(c) QUORUM; VACANCIES.—Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(d) CONFLICTS OF INTEREST.—Each member appointed to the Commission shall submit a financial disclosure report pursuant to the Ethics in Government Act of 1978, notwithstanding the minimum required rate of compensation or time period employed.

SEC. 204. POWERS OF COMMISSION.

(a) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title, hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Commission or such designated subcommittee or designated member may determine advisable.

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties of this Act.

(c) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission may secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Federal Government, information, suggestions, estimates, and statistics for the purposes of this Act. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive Orders.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 205. STAFF OF COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairman, in consultation with vice chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The staff director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 206. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 207. REPORTS OF COMMISSION; TERMINATION.

(a) INTERIM REPORTS.—The Commission may submit to Congress and the President interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress and the President a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

SEC. 208. TERMINATION.

(a) IN GENERAL.—The Commission, and all the authorities of this Act, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(b) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report.

SEC. 209. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated funds not to exceed $5,000,000 for purposes of the activities of the Commission under this Act.

(b) DURATION OF AVAILABILITY.—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

At the end of section 2, insert the following:

TITLE I—AMENDMENTS RELATING TO PAPERWORK REDUCTION

Redesignate sections 3, 4, 5, and 6 as sections 101, 102, 103, and 104, respectively.

The CHAIRMAN pro tempore. Pursuant to House Resolution 645, the gentleman from California (Mr. WAXMAN) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Chairman, I yield myself 4 minutes of debate time.

H.R. 2432, the bill that is before us today, is intended to improve the way that Federal agencies create and implement regulations, but in its current form this legislation will do nothing to address the most serious threat to the integrity of the regulatory process: political interference with science.

Without good science for policymakers, we cannot make the best policy judgments. We as policymakers or the regulatory agencies need good science, science that has not been interfered with by politicians. That is why the gentleman from Massachusetts (Mr. TIERNEY) and I are offering this amendment to establish an independent commission to investigate whether science is being politicized and to make recommendations to Congress to protect scientific integrity.

This amendment responds to the concerns of the scientific community. Twenty Nobel Laureates, major scientific organizations, and leading scientific and medical journals have protested a pattern of political interference with science by the Bush administration. This pattern has involved gagging scientists, suppressing research, and rewriting reports to eliminate scientific answers that conflict with the administration's political or ideological agenda. It has also involved misleading the public and Congress on key scientific facts, manipulating performance measures for ideologically favored programs, and stacking advisory committees, scientific advisory committees stacked with people who will come up with the right political answer.

The Bush administration's interference with science has undermined efforts to protect the public's health, safeguard the environment, and even provide accurate information about the war on terrorism. We have a report that we have prepared called ''Politics and Science in the Bush Administration,'' and it goes through a whole pattern of interference with scientific decisions.

We have heard about the interference with scientific research at the National Institutes of Health. We have heard about suppression of information where the environmental scientist wanted to talk about the global warming issue, but their report was taken out of the overall category of information about environmental problems in this country. We know that this administration favors the kinds of programs that would talk about abstinence for sex for teenagers, and they do not want to really talk about some of the other programs that have a broader perspective, including family planning.

But even in the last couple of days, we have another example where we even are seeing that accurate information that is needed for us to have about the war on terrorism is being stopped. The State Department did a report on patterns of global terrorism; and according to the report, terrorist attacks fell to a record low in 2003. At the press conference releasing the report, Deputy Secretary Armitage said: ''You will find in these pages clear evidence that we are prevailing in the fight.''

□ 1830

But this is a fabrication resulting from manipulation of the data. In fact, significant terrorist attacks reached a 20-year high in 2003. It is deplorable

that this administration would manipulate data to make it seem like terrorism is less a threat than ever when, in reality, the very opposite is true.

I ask my colleagues today to join me in supporting this amendment. It is supported by a wide range of groups, including the League of Conservation Voters, Planned Parenthood, and the Union of Concerned Scientists.

Respect for evidence and the scientific process is not a partisan issue. I urge that we take the responsible step of supporting an independent bipartisan commission to investigate the politicization of science and restore scientific integrity across the Federal Government.

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

Mr. OSE. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN pro tempore (Mr. BEREUTER). The Chair recognizes the gentleman from California (Mr. OSE) for 10 minutes.

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

Mr. Chairman, this is not the first iteration of this amendment we have seen. We also saw this in committee. While I would describe its purpose as well-meaning and well-intended, my position in the committee and my position today are the same, and that is that this piece of legislation dealing with regulatory processes and paperwork burden is not the proper vehicle to establish a commission dealing with the quality of science that this or any other administration might otherwise wish to entertain.

I would ask the gentleman from California (Mr. WAXMAN) just for clarification. The amendment mentions a report dated August 2003, and yet I have a copy here that is updated November 13. Might I inquire as to which report we are working off of?

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

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

Mr. WAXMAN. Mr. Chairman, the August report was updated on November 13, 2003. They are practically identical reports.

Mr. OSE. Mr. Chairman, are we working off the August report or the November report?

Mr. WAXMAN. Whatever the amendment provides. It does not make too much difference. It is the same report with the same substance outlining the political interference with science by the Bush administration.

Mr. OSE. Mr. Chairman, reclaiming my time, regardless of the date, I would still register my opposition on the basis that this regulatory process and paperwork reduction legislation is not the vehicle by which we should properly discuss the quality of science that this or any other administration might wish to use in the deliberative decisions that they make.

Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Chairman, I would suggest this kind of partisan language would not be appropriate in any legislation.

I assume the goal of the gentleman from California (Mr. WAXMAN) is not to politicize science and research, yet I respectfully suggest that is what this amendment does. And the comments of the gentleman on the floor were sort of blasting the Bush administration for some of the things that they have done.

I am chairman of the Subcommittee on Research, and the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) is the ranking member of that subcommittee. In fact, all of the members on that committee, Republicans and Democrats, and on the full Committee on Science work very diligently to not politicize what we are doing in science and research in this country.

This amendment requires that a commission be created to study the politicization of science by the Bush administration. What we all sort of agree is, politicizing this is what we are doing with this amendment. I urge my colleagues, I urge the Democrats not to start, even though it is an election year and we are approaching the election, not to start politicizing.

We have references to the Committee on Government Reform. Regardless of whether it is an August or November date, it is a minority staff report that the majority had nothing to do with, and it is directing the commission in this amendment. And by the way, this amendment, as I count the pages, a 10-page amendment in a 9-page bill, otherwise directs this new commission to take the minority report and study that report that bashes the Bush administration.

The sponsor references the Union of Concerned Scientists and their report; and the Union of Concerned Scientists, with all due respect, is a left-wing organization which has been bashing the Bush administration for the last 2 years.

So I think we need to be very careful of not politicizing what we are doing in science and research in this country and in this Congress.

On the Union of Concerned Scientists, Mr. Marburger, the scientific adviser for the President, informs me that they have studied and reacted to every point of suggested criticism in that report. If there is additional review of the gentleman's minority report, I would be glad to instigate it in our Subcommittee on Research because I think it is important that we do not politicize. But it seems to me, and I would respectfully and humbly suggest that passing this amendment does just that, it politicizes by creating a commission that bashes the Bush administration.

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

Mr. Chairman, I would like to point out that science has already been politicized by the Bush administration, and that is what our report has pointed out. This report was favorably received in the leading scientific journal Nature. It was cited dozens of times in scientific and medical literature, including the New England Journal of Medicine and Science.

The issue that we pointed out is named the fifth most important story of 2003 by Discover magazine. When we point out how the Bush administration has politicized science, we are accused of being supporters of left-wing organizations and we should not politicize science.

Let us get an independent, bipartisan commission to review whether science has been manipulated and distorted and otherwise subjected to political pressures by this administration.

Mr. OSE. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Chairman, I have in my hand this ''Dear Colleague'' letter, one of several, actually, from the gentleman from California (Mr. WAXMAN). This one is titled ''Keep Science Out of the 'Political and Ideological Shredder.' '' It goes on to quote articles in several newspapers, including my own, the Atlanta Journal-Constitution.

This is what the Atlanta Journal-Constitution said about this President. On the political censoring of a report on health care disparities, the Atlanta Journal-Constitution concluded that, to paraphrase rhythm and blues legend Sam Cooke, top aides in the Bush administration do not know much biology, and I am old enough to remember that song, I did not know much about trigonometry, or the French he took, but he did know that 1 and 1 is 2. The Atlanta Journal-Constitution very conveniently left that part of the verse out, that he did know 1 and 1 is 2.

That cuts right to the matter. All of these rules and regulations and all of this science they are talking about and the politicization of it, what we are talking about is having rules and regulations based on good science that makes sense. We hear from the other side and some of the Members who are supporting this amendment this whole spring, talking about outsourcing of jobs and all of the jobs that are lost by this administration over the last 3 years; and they conveniently forget that we are losing a lot of jobs because of these burdensome rules and regulations, many of which, as Sam Cooke knew years ago when he wrote that song, could be a little bit nonsensical.

But he did know 1 and 1 is 2, and that is what this President and this administration knows, and that is why this bill, H.R. 2432, is a good one and that is why this Waxman-Tierney amendment is a bad one.

The Waxman amendment would not result in paperwork reduction or regulatory improvement. The amendment is purely a political attack on the Bush administration and asserts that political considerations have undermined the quality and use of science.

Listen to what President Bush's science adviser, Dr. Marburger, recently stated, ''The President believes that policies should be made with the best and most complete information possible and expects his administration to conduct its business with integrity and in a way that fulfills that belief.''

Mr. Chairman, this is a good bill and it is a bad amendment. I stand to oppose the amendment and support the bill.

Mr. WAXMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Chairman, I am always amazed to see how frightening it is for our colleagues to be confronted with a nonpartisan study, and that would be by a commission that was appointed by the President and by members of that party and members of this party.

One of the speakers talked about this being political and partisan. Basically, we are in an atmosphere here that is political by nature. It is our obligation, if the President is putting a twist onto different regulations and either avoiding their implementation or manipulating them and missing science altogether, our obligation is to make sure this is set right; and a commission should look at it to make sure that all regulations are either enforced or implemented based on good, hard science and not ideology and politics, as many are accusing the President of doing.

We should not stop with the Atlanta Journal-Constitution. We should go on to the New York Times that editorialized that ''the administration belittled, misrepresented, altered, or quashed multiple reports suggesting a clear link between greenhouse gas emissions and the burning of fossil fuels like coal and oil.''

The Chattanooga Free Press wrote that ''the Bush administration has elevated its political agenda, ideology and vested interests over substantive scientific concerns about the environmental and health consequences of its policies.''

Citing the manipulation of data on caribou in the ANWR and the firing of qualified experts from a lead poisoning advisory committee, the Boston Globe concluded ''at a time when so many issues are grounded in laboratory or field work, this corrupting of scientific evidence misinforms lawmakers and the public and could make scientists unwilling to work for the government.''

And the Philadelphia Inquirer concluded that ''the Bush administration is risking public trust in vital government agencies by putting scientific findings through a political and ideological shredder.''

The Kansas City Star declared that ''it is time for a thorough review.''

So it is not just the Democratic Party over here. I would assume there are members in the Republican Party who are sensible enough to want to have a good analysis of this done, and want to put aside all of the political shenanigans of this administration.

Across the country, editorial page after editorial page acknowledges this is the most political White House we have ever had on these issues; and everybody wants it to stop, stop taking these regulations and manipulating them to say something that is not true or accurate. Let us get the science right.

This is the perfect bill for this to be brought forward in. We are talking about regulations, and it is imperative that regulations are implemented in a proper way based on scientific evidence and not politics.

This White House has politicized this, not this party. I would think my colleagues on the other side of the aisle, if they have a shred of desire to see the integrity of this institution maintained, would join us and vote for this amendment.

Mr. OSE. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Mr. Chairman, I thank the gentleman from California (Mr. OSE) for this vital legislation, and I rise in support of the gentleman's effort to reduce the paperwork and the regulatory costs that do not provide health, protection and safety for people in America today.

There is $843 billion that could be used to grow this economy, to create jobs, to do the things that our workers need. We have to get this study out of the way so we can do the right thing and make sure that the regulations we have are transparent, they can be seen by the people that write them, that are impacted by them, and make sure that these regulations do what they are intended to do, not sap the economy, not cut jobs.

I support the bill.

□ 1845

Mr. WAXMAN. Mr. Chairman, I yield myself the balance of my time.

There is no transparency when this administration appoints people to a lead poisoning scientific committee and puts a person on who represents the industry point of view, comes right from the industry, and then comes in and recommends a level of lead that is harmful to kids.

It is not transparency when references to global warming are taken out at the insistence of the White House, the EPA administrator is forced to drop it out of his or her analysis of overall problems.

It is not transparency when we have Web sites that say to women, you should worry about having an abortion because it could lead to breast cancer when there is no scientific basis for it.

What we have is continuous interference in scientific decisions by the political people in this administration.

We need to respond to the concerns that have been raised by 20 Nobel laureates, by Science Magazine, Nature Magazine, New England Journal of Medicine, leading scientific organizations, including the American Academy For the Advancement of Science, by making sure that we have good scientific data, not politicized scientific data.

We are calling for a bipartisan commission to examine this politicization of science that we are now seeing so frequently by this administration, so that we can stop it and let the policymakers make the decision based on good science.

Our country is losing its edge as a leader in science because scientists do not want to work in an atmosphere where an administration wants to just do favors for the right-wing religious extremists who want to stop science that might offend their notions of what they think is appropriate. And they do not want to work for an administration in the scientific area where industry groups that reward this administration with campaign contributions are rewarded by having the science distorted to suit their needs.

I ask for support for the amendment.

Mr. OSE. Mr. Chairman, I yield myself the balance of my time.

I just want to reiterate my rationale for not supporting the amendment. If my colleagues look at the amendment, it refers to a report put out by the minority staff entitled ''Politics and Science in the Bush Administration.'' We have not had that report vetted. It was issued by the minority staff. There has been no input by the majority staff or review.

I daresay that that would be a very, very dangerous template to set for this Congress, because who knows what other committees might adopt majority or minority reports and then just jam them down the other side's throat.

I would urge my colleagues to oppose this amendment and instead seek to have it discussed under the purview of the Committee on Science. This particular piece of legislation dealing with regulatory process and paperwork reduction is not the vehicle that should properly deal with this issue. This may well be a very serious issue, but this is not the vehicle where it should properly be discussed.

I urge my colleagues to vote ''no'' on the amendment.

Mr. TOM DAVIS of Virginia. Mr. Chairman, I rise in opposition to this amendment. We had a very similar measure at the committee markup and defeated it there.

The amendment is supposed to create an expert commission to study the politicization of science and make recommendations for how to protect science in the regulatory process from political and ideological manipulation and interference.

The problem with a commission like this is it is designed to find a problem and highlight it. Whether the problem is real or serious the commission fails if it finds nothing at all.

This is the kind of unfair fishing expedition that can only harm and destroy public faith in the Federal rulemaking process.

Even worse than being unnecessary, the commission is expensive and duplicative, and

its powers are questionable. It will cost $5 million. The commission will also duplicate the work of the permanent congressional office of regulatory affairs the base bill creates. And, the commission would have the authority to enter into contracts, but it is unclear if such contracts could be awarded without any competition. Certainly my colleague didn't intend to provide sole source authority to the commission.

There is no question that the Bush administration is surpassing previous administrations in its commitment to good science. Under this administration, OMB has issued the first information quality guidelines that establish rigorous quality standards for using science when developing regulations.

Mr. Chairman, it does not make sense to fund an unneeded commission with a predetermined finding that will misrepresent the good work of this administration. I'm opposed to this amendment and I ask that all Members vote to defeat it.

Mr. MARKEY. Mr. Chairman, I rise in support of the gentlemen's amendment.

Knowledge is power, or as Francis Bacon used to say "Nam et ipsa scientia potestas est." Bacon inspired both this observation and what we have come to know as the scientific method, the underpinning of modern science. Whatever the inspiration for his famous quote, it appears that from the very beginning, science and politics mixed.

Here in Congress we rely on scientists to inform policy, since the term congressional "expert" is really an oxymoron—like "Jumbo Shrimp" or "Jobless Recovery." Scientists tell us whether Yucca Mountain can be used to safely store nuclear waste for a hundred thousand years, how fast global warming is occurring, and whether therapeutic cloning is possible.

Unfortunately, the Bush administration has taken its relentless drive to weaken the environmental regulations of this country to a whole new level, and it has politicized the scientific process in a way we haven't seen since Galileo was tried and jailed by the Inquisition.

Lead is one of the most dangerous and potent toxins to the brains of young children. A year and a half ago, I learned that the Bush administration had rejected the CDC staff nominations of three renowned scientists to its Advisory Panel on Preventing Childhood Lead Poisoning. In their place, individuals with clear ties to the lead industry were nominated—including one who had actually been nominated by the lead industry, and another who was an expert witness for the lead industry, testifying that lead posed very little health risk in lawsuits brought against it. Clearly, the lead industry was unhappy with the CDC panel, which was considering revising the safe blood lead levels downward. So it decided to perform a little policy alchemy by compromising the advisory committee process. I tried to head it off by issuing a report entitled "Turning Lead into Gold: How the Bush Administration is Poisoning the Lead Advisory Committee at the CDC." While one of the nominees admitted her conflict of interest and bowed out, the other industry nominees serve on that panel today.

The lead industry seems to have gotten its way for now. This same committee just recently decided not to lower the lead level of concern, despite a clear finding by a CDC working group that there are adverse health effects at the lower level.

To add insult to injury, the President is proposing a $35 million cut in funds for lead abatement in low-income homes. In the face of significant national drinking water needs—illustrated by the shocking revelations of extremely high lead levels in the Washington, DC, water—the President's budget also proposes to cut water quality funding by $822 million. This all adds up to a policy that counts politics more than all of the science on the adverse effects of lead on young children.

Vote "yes" on the Waxman-Tierney amendment to restore integrity to the government's scientific process.

The CHAIRMAN pro tempore (Mr. BEREUTER). The question is on the amendment offered by the gentleman from California (Mr. WAXMAN).

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 201, noes 226, not voting 6, as follows:

[Roll No. 187]

AYES—201

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—226

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—6

DeMint
Deutsch
Hayworth
Hunter
Leach
Tauzin

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. BEREUTER) (during the vote). Members are advised 2 minutes are remaining in this vote.

□ 1911

Mr. GARRETT of New Jersey and Mr. GARY G. MILLER of California changed their vote from ''aye'' to ''no.''

Ms. DeGETTE changed her vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

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

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

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BONNER) having assumed the chair, Mr. BEREUTER, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2432) to amend the Paperwork Reduction Act and titles 5 and 31, United States Code, to reform Federal paperwork and regulatory processes, pursuant to House Resolution 645, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

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

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

Mr. OSE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on passage will be followed by 5-minute votes on H.R. 2731, by the yeas and nays; and the motion to suspend the rules on H.R. 4176, by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 373, nays 54, not voting 6, as follows:

[Roll No. 188]

YEAS—373

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Baca
Bachus
Baird
Baker
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pascrell
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—54

Allen
Andrews
Baldwin
Berman
Blumenauer
Brady (PA)
Brown (OH)
Capps
Capuano
Conyers
Davis (IL)
DeFazio
Dingell
Engel
Filner
Frank (MA)
Grijalva
Hastings (FL)
Hinchey
Holt
Honda
Jackson (IL)
Jones (OH)
Kleczka
Kucinich
Lee
Lewis (GA)
Markey
McCollum
McDermott
Meehan
Miller, George
Mollohan
Nadler
Oberstar
Olver
Owens
Pallone
Pastor
Payne
Rothman
Rush
Sabo
Sánchez, Linda T.
Schakowsky
Sherman
Slaughter
Solis
Stark
Tierney
Van Hollen
Watson
Waxman
Woolsey

NOT VOTING—6

DeMint
Deutsch
Hayworth
Leach
Smith (MI)
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BONNER) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1931

Mrs. JONES of Ohio, Mr. RUSH and Mr. ENGEL changed their vote from ''yea'' to ''nay.''

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

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

OCCUPATIONAL SAFETY AND HEALTH SMALL EMPLOYER ACCESS TO JUSTICE ACT OF 2004

The SPEAKER pro tempore. The pending business is the question of the passage of the bill, H.R. 2731, on which further proceedings were postponed earlier today.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on passage of the bill on which the yeas and nays are ordered.

This will be a 5 minute vote.

The vote was taken by electronic device, and there were—yeas 233, nays 194, not voting 6, as follows:

[Roll No. 189]

YEAS—233

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)

Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Manzullo
Matheson
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—194

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu

NOT VOTING—6

DeMint
Deutsch
Hayworth
Leach
Pryce (OH)
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BONNER) (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1939

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

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to section 6 of House Resolution 645, the text of H.R. 2729, H.R. 2730, H.R. 2731, and H.R. 2432 will be appended to the engrossment of H.R. 2728; and H.R. 2729, H.R. 2730, and H.R. 2731, and H.R. 2432 shall be laid on the table.

BOBBY MARSHALL GENTRY POST OFFICE BUILDING

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4176.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MURPHY) that the House suspend the rules and pass the bill, H.R. 4176, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 421, nays 0, not voting 12, as follows:

[Roll No. 190]

YEAS—421

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hayes
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz

Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—12

Brady (TX)
Davis (AL)
DeMint
Deutsch
Gephardt
Hastings (WA)
Hayworth
Larson (CT)
Leach
Moran (VA)
Pearce
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1947

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON S. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005

Mr. PRICE of North Carolina. Mr. Speaker, subject to rule XXII, clause 7(c), I hereby announce my intention to offer a motion to instruct on S. Con. Res. 95, Concurrent Resolution on the Budget for Fiscal Year 2005.

The form of the motion is as follows:

Mr. Price of North Carolina moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the concurrent resolution S. Con. Res. 95 be instructed to agree to the pay-as-you-go enforcement provisions within the scope of the conference regarding direct spending increases and tax cuts in the House and Senate. In complying with this instruction, such managers shall be instructed to recede to the Senate on the provisions contained in section 408 of the Senate concurrent resolution (relating to the pay-as-you-go point of order regarding all legislation increasing the deficit as a result of direct spending increases and tax cuts).

MOTION TO INSTRUCT CONFEREES ON S. CON. RES. 95, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005

Mr. STENHOLM. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore (Mr. BONNER). The Clerk will report the motion.

The Clerk read as follows:

Mr. Stenholm of Texas moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the concurrent resolution S. Con. Res. 95 be instructed, within the scope of the conference, to reject provisions that provide for an increase in the statutory debt limit.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. STENHOLM) and the gentleman from Iowa (Mr. NUSSLE) each will control 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume.

This instruction is pretty simple. The effect of this motion would be to call on the House and the Senate to have a full and open debate and vote on increasing the debt limit, instead of using the budget resolution to avoid a debate on increasing our Nation's debt limit.

Under House rules, passage of the budget resolution conference report would deem that the House had passed separate legislation increasing the debt limit upon passage of the budget resolution, without a separate vote or opportunity for debate or amendments on the issue. Republicans were highly critical of this rule when the House of Representatives was under Democratic control and repealed it in 1997, but have revised it now that the national debt is growing at a record pace.

As a result of the Hastert rule, passage of the budget resolution conference report in the House and Senate would automatically approve a $700 billion increase in the debt limit to increase our Nation's debt limit to more than $8 trillion, without a separate vote and at least discussion, which we at least will have tonight.

Last year, the Republican leadership slipped through a $984 billion increase in the debt limit, the largest increase in the debt limit in the history of our country without an up-and-down vote. This came less than 8 months after we raised the Federal debt ceiling by a whopping $450 billion, and now the House leadership is trying to slip through another $700 billion increase in the debt limit without any debate.

That is wrong. In this, the people's House, the House of Representatives, we should be discussing and debating this issue of major significance.

The national debt has increased by $670 billion over the last 12 months and $1.5 trillion over the last 3 years. The Congressional Budget Office projects that the national debt will exceed $10 trillion in just over 4 years under our current budget policies, which the majority in this body say we will not change.

Congress should have a full and open debate and vote, up or down, on increasing our national debt limit above $8 trillion. It would be irresponsible to use parliamentary maneuvers to slip an increase in the debt limit into law without addressing the fiscal problems highlighted by the need to increase the debt limit.

If my Republican colleagues honestly believe that tax cuts with borrowed money is good economic policy, if my Republican colleagues believe that three wars and three tax cuts, soon to be four, is good economic policy, then my colleagues should have the courage to stand up and vote and tell the American people, We are going to increase our credit card limit in order to make room for that economic policy.

Just like credit card spending limits serve as tools to force families to examine their household budgets, the debt limit reminds Congress and the President to evaluate and sometimes reevaluate our budget policies.

It has been very frustrating for me, constantly and consistently with my majority friends, seeing no willingness to take another look at the economic policy we are under. Just borrow the money and keep on trucking and explain it away.

Any farmer or small businessman who needs an extension of their credit must work with the bank to reestablish a financial plan in order to get approval from the bank. We should be following that principle by working on putting our budget back in order before we vote to raise our credit limit.

One of the things Congress should consider as part of the full and open debate we are calling for when we increase the debt limit is reinstating budget enforcement rules which make it harder to pass legislation which puts us further into debt; and tonight, my hat is off to our fiscally responsible Senators, the ''fiscal four'' in the other body that are holding forth, that are saying to the Senate and to this House, who are not listening, we will not vote for a budget that does not reinstate pay-as-you-go rules.

Pay-as-you-go was good in 1990 when I worked with the then-minority in passing it. Pay-as-you-go was good in 1997 when the Republicans had taken over this body and some of us voted with my colleagues. In fact, without us, they could not have passed it. We said pay-as-you-go was a good budget enforcement tactic.

I see the chairman of the Committee on the Budget is here tonight, and I will ask him right now, what is it

about today that is different from 1997? Why does my colleague believe that putting some little persuasion into this body to, in fact, be a little bit more restrained on our fiscal policy, rather than just borrowing and spending at the rate we are going, what is it that has changed?

Again, my hat is off to our friends in the Senate, the courageous four, Senator SNOWE, Senator COLLINS, Senator MCCAIN and Senator NELSON. This is one House Member that appreciates them continuing to hold out for fiscal responsibility.

They were agreed to by a majority of this House in 1997, but for some strange reason, the leadership in this House today says, what we did in 1997 does not count. It is what we are doing today that counts.

But we hope they hold forth, and I appreciate very much the opportunity to at least discuss tonight and not trying to hide it in some budget resolution that we are going to increase our debt ceiling to $8 trillion, almost $100 billion. And we are going to hide it instead of discussing it and debating it, but we will tonight, we will discuss and debate it.

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

Mr. NUSSLE. Mr. Speaker, I rise in opposition to the motion to instruct, and I yield myself as much time as I may consume.

Mr. Speaker, let me, through the Speaker, make it very clear to the people who are watching around the United States and around the world that maintaining the credit of the United States is one of the most important leadership and governing principles that must be adhered to.

I certainly understand why there will be Members who come to the floor who want to shake the markets, who want to suggest to people that maybe our credit is not good, who want to talk down the economy, want to provide some fear in the marketplace about what exactly will happen to our debt, but I just want to make it very clear that that will not be the principle of the governing party and the majority. There has never been a doubt that the United States will pay its debts when they are due. We have never defaulted on our loans, regardless of who was the party in control.

As a result, our creditworthiness is second to none. We have a very low borrowing cost, and as a result, we waste very little tax dollars on interest now, particularly compared to historic highs.

Without increasing the debt limit in a timely manner, the Department of Treasury would have to jump through a myriad of hoops to reallocate funds to ensure debts are paid. This is a completely unnecessary and ridiculous waste of their resources, and it is an unnecessary signal to the markets.

So there will be people who come to the floor, and they unfortunately did it all day today. I heard friends of mine from the other side who came to the floor today with hope in their voice that the economy was going to get worse, that the marketplace was going to be shaken, that there was going to be negativity out there about the economy. They may want to talk it down. They may want to try and scare people about the future, but as I say and make it clear, our country has never defaulted. We will not at this time.

No one is trying to hide anything. I mean, my gosh, it is 8 o'clock on the East Coast. My constituents are watching, 7 o'clock in Iowa and in Texas. I believe that makes it Mountain Time; it is 6 o'clock, and 5 o'clock in California. No one is hiding. We are all here talking about the debt. So no one is hiding.

The Gephardt rule, as it is called, kind of an interesting name, does not hide anything. It makes it very clear that when we pass a budget, we extend the debt in order to cover that fiscal policy; and I want to make that sure to our marketplace and to the people that are watching. Our credit is secure; The full faith and credit of the United States is secure.

So while tonight, for approximately an hour, we will hear negativity, we will hear talking down the economy, we will hear hoping that things get worse, let me just suggest to my colleagues that things are actually getting a little better, and that is good news.

We are better off than we were 4 years ago. That will continue as we continue to climb out of the Clinton recession that was inherited in the year 2000.

We did exactly the right thing at the right time to get the economy back on its feet, and we have seen the strongest growth in our economy over 20 years as a result. People are going back to work. There are now more people working in our country than at any time in American history.

Sure, more people need to go back to work. Sure, we want to create more jobs. Yes, we want more entrepreneurs, but please do not allow those who are talking down the economy, wringing their hands, hoping people will be negative, we believe, toward the future, for probably some political purpose.

Do not allow that to shake your confidence in the United States, because what we are doing here is far more important than the unfortunate politics that seem to be taking over the floor these days as we move closer and closer to November.

So maintaining our credit has always been first and foremost for a fiscal policy, and we will do that again as a governing majority.

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

Mr. STENHOLM. Mr. Speaker, I yield myself, again, such time as I may consume.

I am very disappointed in my friend from Iowa for once again taking the political line. I was not talking down the economy of the United States. Nothing that I said had anything to do with what my colleague just said.

All we are saying is, we ought to have a legitimate discussion as to the effect of the economic policies that we are, in fact, enforcing with the gentleman's vote time after time after time.

I am not here tonight to talk down anything. I hope the economy booms as a result of my colleague's policy, and we are seeing signs that it is making progress. That is good and I rejoice in that.

All we are suggesting, though, is, and if my colleague would agree and join with me in putting PAYGO back as he did in 1997, we could have a budget agreement, bipartisanly supported at the drop of hat. But for some strange reason, the majority is saying no, we will not do it, even less than what we did in 1997 in putting in some enforcement.

□ 2000

Because you blindly believe that we can fight three wars and have a tax cut a week and that somehow, some way, we are going to be able to borrow this money into infinity. I respect your right to believe that. I do not. I do not.

And I believe very strongly we should put some rules back that we used to have bipartisan support on, and which the chairman, the gentleman from Iowa (Mr. NUSSLE), and I used to vote together on but tonight we seem to be apart on. That is what is puzzling to me.

Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Mr. Speaker, I thank the gentleman for yielding me this time.

As I said last week, when we were debating yet another unpaid-for bill here on the floor, I do not believe the people of this country realize just how bad things are financially. My friend from Iowa said things are getting better. The governing majority here in the House took credit for balancing the budget when President Clinton was in the White House, and since the time that President Bush took the oath of office, they have set out on a fiscal plan that has so far borrowed $1.1 billion a day every day that we have had a one-party government in this country. With this debt increase, that figure is going to move to $1.7 billion a day.

So far this fiscal year, the government, the governing majority here, has borrowed and we have paid interest on, or so far this year we have paid interest of $100 billion in the 7 months of this fiscal year. That is $14 billion a month, $475 million a day, and $20 million an hour. We will have paid interest, by the time this debate is over, of $20 million. We, me, them, him, our children, our grandchildren are paying $330,000 a minute in interest just now. Right now, since I started talking, we have been writing checks of almost

$330,000, or $5,500 a second. The United States Treasury each day prints currency with a total face value of about $696 million. At that rate it would take 10,201 days, or 28 years, just to print enough money to pay off the national debt.

The gentleman was talking about the United States' full faith and credit. That is true. And I, to my knowledge, have, although protesting, have voted for this country not to renege on its credit. That would be a worldwide financial catastrophe. But we cannot continue on the path we are going. Most economists now say that we are in a structural deficit. This has nothing to do with recession. That is a cyclical deficit, and one that gets one by when things go bad. We are now in a structural deficit.

The reason we are in a structural deficit is because we have simply done this: we have cut revenue, increased spending, albeit most of it necessary, and borrowed it all. If it were not for the fact that this is a structural deficit, one might make an argument that this is good economic policy. But if one believes, as most reputable economists do, that we are in a situation that we are going to borrow into perpetuity, as a famous economist, Herbert Stein, said, ''What can't go on forever won't.''

There will be a day, and I do not know who the poor souls will be that will have to face it, but there will come a day when we cannot continue to borrow money because people will not buy our paper when they do not have the confidence in our economy and do not have the confidence in this Nation to make good on their borrowings.

Last year, we borrowed $370 billion. That was the deficit. This year, it is expected to be $500 billion. Nobody in this country has been asked to do anything in order to address this issue except the men and women in uniform who we sent overseas to fight for us. And what we are doing here in Congress is borrowing all the money and giving them the bill for it, plus interest. Now, if that is good financial policy, well, I have a different view.

If it was only borrowing money that we owed to each other, one, again, might make an argument that this is a matter of bookkeeping, but that is not the case. I just have the most recent figures about how much of our national deficit, how much of our borrowings are being financed by foreign interests. The Japanese, just last month, increased their holdings of our paper by $32 billion. Said another way, we borrowed $32 billion from the Japanese last month to finance this deficit that these young people are going to have to pay, and they are going to have to pay it with interest. The Japanese now own over $639 billion worth of our paper.

The United Kingdom increased their holding of our debt by some $16 billion just in 1 month. Mainland China increased their holding of our paper by $4 billion. They now own almost $150 billion. And you put that with Hong Kong, another 60, they own over $200 billion.

This list, Mr. Speaker, is mammoth. It goes on and on. We are putting this country in hock to the rest of the world by allowing these deficits to continue to run amuck.

I contend that this is a national security issue, and the reason I say that is because of something my grandfather told me many years ago when he was in the banking business. He said it is easier to foreclose on a man's house than it is to shoot your way in the front door.

We do not have to worry as much as we did because we have spent a lot of money in a bipartisan manner on our national defense. But we have to worry about our financial future, I contend, because with this unbelievable increase in the holdings of our debt by foreign countries, now 37 percent of the full $1 trillion or so that we owe, foreign interests own 37 percent of that. Of the $1.7 trillion that is owned by foreigners, central banks, that is governments and other public entities abroad, hold almost $1 trillion of that.

Now, there will come a day, and again I hate to talk about this but this is a national security matter, there will come a day when they do not see things as we do in the world, and there will come a day when they will either threaten to call their note when it comes due and insist on payment of this principal amount or threaten to dump it on the market. In either case, we are faced with severe consequences as a Nation.

I contend that if this keeps going like it is going, that there will be a time in the near future, not the long-term future, that we will be unable to act in the best interest of this country if we are so beholding to a foreign government, be it an Asian government or the OPEC countries. OPEC, for example, owns $45 billion worth of our debt. If they insisted on being paid when their notes come due, we would have to borrow that. And in order to borrow that, we will have to pay more and more interest as we continue to put the financial balance sheet of this country in less and less of a favorable light in the international financial community.

I was reading the London Financial Times the other day about it, and the people in Europe are very concerned about what we are doing in America. They are concerned because they know that we, as the leading economic power in the world, or were, that we cannot continue on this course. And this business of deeming the debt increase by a budget resolution is really a sleight of hand. It is a way for us to avoid facing up to the fact that we are continuing to go in debt, we are continuing to borrow money that we do not have, and that we do not have the intestinal fortitude to either raise money by asking people to pay taxes or cut spending. One has to do one or the other.

What my friend from Texas was talking about with regard to PAYGO is nothing more than saying, look, if you are going to spend money or reduce revenue, find some way to offset it. It is as simple as that. And all of us who have budgets in our family households know that when we get either a pay cut or our expenses are outrunning what our income is, we have to do one or the other. We have to get either more income or we have to cut our expenses, wherever we may find a place to cut them. This Congress is not facing that.

This Congress is not leveling with the American people to the extent that I believe is just not only good public policy but is the moral thing to do, and that is to tell people we cannot continue to borrow money in the name of the American people and borrow it not only from ourselves but now from foreign governments. That is a recipe for disaster. There is going to be a financial Armageddon if we do not figure out a better way to do things around here than to deem the debt ceiling raised by some budget resolution.

Nobody is talking about the economy. I am with the gentleman from Texas (Mr. STENHOLM). I hope our economy booms. But most reputable economists now say that we are borrowing money so fast, with this underlying debt that is so huge, that no matter what we do the economy cannot catch up to the amount of debt that we are piling on it. Said another way, our debt acceleration curve is going up faster than the economy can expand to catch it.

That is not a hard concept to figure. And once one gets that in one's mind, one realizes very quickly that if we were in an airplane, we would be in a death spiral. We have to do something different, or we are going to hit the ground. This is nothing more than common sense, and I just wish that the chairman of the Committee on the Budget would join us and say forthrightly to his colleagues and to anyone who will listen that we cannot continue down this path that is only going to get worse with the baby boomers coming on and with the things we know we have to face with regard to national defense and the war in Afghanistan, the war in Iraq, and the war on terrorism.

We simply cannot continue to borrow like we have been borrowing. This $1.1 billion a day every day is going to go, if this passes, to $1.7 billion a day, in the last 4 years. Look, let me just say that in July of 2002, the debt ceiling in this country was raised some $400-plus billion. We ran through that in less than 1 year. On Memorial Day weekend last year, 2003, we raised the debt ceiling $980 billion. It is estimated that we will hit that ceiling sometime in August or the September time frame.

Now, when one is borrowing $1 trillion in a little over a year, that is an unsustainable financial course for this country. Our economy is not infinite. Our economy can only stand so much debt, just like my household can only stand so much debt for my house or my cars or for whatever I choose to buy.

And once we get past a certain point, we are unable, credit card debt, whatever, we are unable to do anything more than the minimum.

When we reach that point, and any of these foreign interests call on us for payment, then we are going to have to go to the world community and refinance it. And when we do, it is going to be a financial calamity for this country and for all of us who live in it.

□ 2015

That is why we are here tonight, not because of any politics. I was talking about this, as was the gentleman from Texas (Mr. STENHOLM), when the Democrats had the House and Senate, when the Democrats had the White House; it does not matter. There is only one financial balance sheet in this country, and that financial balance sheet is hemorrhaging every day over a billion dollars, and somebody has to face up to it. The fact of the matter is that this is a one-government town, and if they do not face up to it, it will not be addressed. Every day that goes by, it only gets worse, not better.

If we do this, we are going to go from an average borrowing of $1.1 billion a day since 2001 to an average borrowing of $1.7 billion a day. The interest we are paying is going to consume all of the available revenue coming in, so there will not be moneys available for health care in this country, there will not be moneys available for an investment in human capital called education, there will not be moneys available for anything except writing interest checks to people all over the world.

That is really a tragedy for this country, if it comes to that.

I would just plead tonight that using this budget, and I know it has been done before, but using that to raise the debt ceiling without an honest debate on our economic policy with respect to revenue and expenditures of the Federal Government is really a dodge. I do not think that is something we ought to be doing, I do not think, certainly, in the short term and, God forbid, the long-term interests of our country.

Mr. NUSSLE. Mr. Speaker, I yield myself such time as I may consume.

I just ask the question: What is your solution?

It is an interesting speech. So does that mean we do not increase the debt limit? I understand that the other side does not want me to comment on the fact that someone is talking down the economy or talking about fiscal calamity or things like that to scare the marketplace, but the gentleman said all those things. I assume the gentleman means, do not pass a debt limit, or maybe the gentleman has another solution.

Mr. TANNER. Mr. Speaker, will the gentleman yield?

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

Mr. TANNER. No, Mr. Speaker, I did not say, do not pass a debt limit. I said it would be a financial calamity if we did not.

Mr. NUSSLE. I would continue to yield to the gentleman if he has a solution as to what we should do.

Mr. TANNER. We had a Blue Dog budget.

Mr. NUSSLE. Mr. Speaker, reclaiming my time, so the Blue Dog budget is your solution?

Mr. TANNER. It is one of them. It is not ''the'' solution. There is not ''a'' solution tonight that we can do. But I can say this: What we are doing is unsustainable financially.

It does not do any good to question me. I do not have any votes. When the gentleman talks about spending, the Democrats have not spent any money in this place for 10 years because we do not have any votes.

Mr. NUSSLE. Mr. Speaker, reclaiming my time, and to correct the record, I would just get the CONGRESSIONAL RECORD out and show all of the votes and show the bipartisan support for a number of spending bills over the last 10 years, huge bipartisan support for all 13 appropriations bills, for the emergency supplementals, for the war with Iraq, to support our troops, which press release after press release after press release goes out claiming credit for the spending on the other side.

My guess is even the gentleman from Tennessee (Mr. TANNER) probably has put out one or two of those press releases, as most Members do.

Having said that, this is not the same as a family budget during periods of relative calm where dad and mom are working and there is no particular problem within the family. What we have here is a situation where the roof collapsed and where dad lost his job, and what you are telling that family is they cannot go borrow money?

Everybody knows in an emergency situation like that, when a family faces that kind of financial difficulty, one of their options has to be to be able to go borrow money.

Let us review the bidding here. We had a balanced budget on September 10, 2001. Remember those good old days. We had a balanced budget. Everybody took credit for it. Trust me, it was not just the Republican side of the aisle that took credit for it. I remember all sorts of credit that was being taken.

But what did that balanced budget get us? Did it protect our country that day? Did it keep us out of a recession? Did it make sure that we had good intelligence about what was coming the very next day? No, it did not. We had a deficit for our defense, we had a deficit for our intelligence, we had a deficit in homeland security, we had a deficit for growth in our economy. And, yes, we had a balanced budget, but we were running deficits all across the board in a number of areas. That was the legacy that Bill Clinton, the President, left us after he left office. That was the legacy of deficits even though, yes, the books balanced.

Well, the Soviet Union had a balanced budget, and it did not mean they were doing very well with regard to their future.

A balanced budget is an important indicator, and it is one that the gentleman and I support, but it is not the only indicator, particularly when we know within 24 hours of celebrating a balanced budget on September 10, we were hit with one of the worst attacks this country has ever seen, and where that was a gut punch to the economy that took us just till now to recover, and we are still recovering and hope to continue to recover.

That is the exact wrong time to ask those people who are working hard for more tax money. Instead, it is time to limit spending, which is exactly what our budget did. Unfortunately, the other side, in a number of budgets, offered a different approach. Most of them offered spending increases. Yours did not, but all of them offered major tax increases at a time that we felt was not the right time for our economic situation.

It was not the time to ask those families, those small businesses, those parents with children, those married couples, to dig deeper in their pockets, but rather we should find the fortitude here to freeze the budget; and that is exactly what we are going to propose in the budget as it comes to the floor. We believe that it takes more than just rhetoric to solve this problem.

I understand the other side of the aisle has the right to come to the floor and to offer motions to instruct. But again the solution is not found within this motion. The solution is found within a budget that gets majority support and actually does the job of controlling spending, growing the economy, and protecting our country. That is the reason we have chosen the budget that we have; and we believe, as a result, we will get back on good footing and get back to a balanced budget in near time.

Mr. STENHOLM. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. TANNER) for purposes of a response.

Mr. TANNER. Mr. Speaker, maybe I did not make myself clear. What the gentleman from Iowa (Mr. NUSSLE) is talking about is a situational budget deficit. What most economists are saying now is we are in a structural deficit. That is a huge difference.

If the roof falls in, sure you have to borrow money, but that is a temporary thing. We are not in a temporary deficit situation. We are in a perpetual deficit situation, a structural deficit situation.

I might tell the gentleman, after September 11, there has not been one single adjustment, as far as I know, in your economic game plan that you put in place in April of 2001. In fact, you made it worse. You started in April 2001, because we had a surplus, with, Let us give the people their money back. That was fine, except it was all based on a projection of surplus, and the money was not yet here. And you have not changed anything.

Circumstances have changed dramatically. We are spending money now

that we had no idea we were going to have to spend on September 10, but we have to spend it now because circumstances are changed. What you are talking about is, you have not changed your economic plan to adjust to a change of circumstances, and God knows, there was one.

We are saying we need to adjust our game plan to circumstances that have changed dramatically since September 10.

Mr. NUSSLE. Mr. Speaker, I yield myself 30 seconds to respond to the gentleman.

I would say, yes, we did adjust our plan and the gentleman voted for it. We had a stimulus plan in 2002 that was bipartisan that the gentleman joined in. We did adjust in order to not only deal with September 11, but to deal with the economic gut punch that the already inherited recession that we received took as a result of the downturn in the economy caused by September 11.

There have been adjustments in the game plan throughout these budgets, and the gentleman has supported some of those.

Mr. Speaker, I yield 8 minutes to the gentleman from Ohio (Mr. PORTMAN).

Mr. PORTMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

I would say to the gentleman from Tennessee (Mr. TANNER), I appreciate the fact that over the years the gentleman has been willing to stand in this well and support fiscal discipline in the area of spending restraint; and you have done it frankly against your own party's wishes many times.

The difference that I have with the presentation, at least of the Blue Dog budget this year and I think what you are saying ought to be our economic plan, is that we believe that tax cuts, the right tax cuts, lead to economic growth. The fiscal condition you talk about, either the short-term budget deficit or the long-term structural deficit, can be handled by only one thing, and that is restraining spending and growing the economy through smart policy.

That is why we are for tax relief. Since the gentleman from Iowa (Mr. NUSSLE), chairman of the Committee on the Budget, has put together some incredible charts that have not been used yet tonight, I would like to go through the charts and talk about how we differ on this.

Again, to give you credit for being able in the past to stand up against your own party on spending, to be able to talk about fiscal discipline in those ways, but to focus on the fact that after September 11, and indeed as you say before September 11, we were focused not just on spending, but on growing the economy and being sure that we had the opportunity out there to increase revenues and give people that slice of the American dream which we are now seeing.

The first slide has to do with how we got into the deficits in the first place. Tonight and through the process here, and I would say to the gentleman from Texas (Mr. STENHOLM) and the gentleman from Tennessee (Mr. TANNER), we have had this debate for the last 6 months. We have had it over the economic policy in the context of the budget. We had it in the committee, on the floor, but I have heard time and time again, and again tonight, if we did not have those tax cuts, we would not have these deficits. Here are the numbers.

The reason we got into a deficit was twofold. One, as the chairman of the Committee on the Budget said, we had a poor economy. President Bush inherited that economy. The economy started to weaken back to 2000, and in March 2001, we went into a recession, technically into a recession. The shallowest recession we have had in our Nation's history, we believe, and I think that is because of the tax relief we put through in 2001, but the fact is that the economy was spiraling into a recession.

The weak economy in 2002 and 2003 was 68 percent and 50 percent of our deficit. Right there is the single biggest reason.

The second reason, the second biggest reason was spending. As the gentleman from Tennessee (Mr. TANNER) say earlier, we had some spending needs including, as he said, increases in our defense spending, which he supported; including being able to respond to the terrorist threat here at home, homeland security spending; and including just responding to September 11. Over $100 billion alone was in responding to September 11, although that pales in comparison to loss of capital gains revenue and income tax revenue because of the worsening economy.

So what do we do in response to that? We put tax cuts in place in 2001 and 2002 and 2003. To say we did not change our economic game plan, my gosh, in 2002 we specifically put a stimulus package together because of the weakening economy that was further hit by September 11, and in 2003 did the same thing. Again, tax cuts did not cause the deficit, tax cuts grew the economy.

This is another way to look at an earlier chart showing with a combination of the weaker economy and spending increases, we got ourselves into a deficit situation.

On the spending side, we have to recognize again, as some of my Blue Dog friends have recognized through the years, that if we do not get control of spending, we are never going to get out of these deficits and into a strong financial situation because we will continue to spend and spend and spend.

This chart shows between 1990 and 1996, we actually had some improvements in terms of the spending picture, but look at 2003, up and up and up. Noninterest outlays increased 3.6 percent faster than inflation each year since 1997. Again, some of spending was necessary and the roof did cave in and we had to fix the roof. Frankly, we had to pick up, as the chairman said, a defense deficit. In other words we had not invested in our defense as we should have over the previous 8 years, and we had to do that, as well as responding to the war on terrorism.

□ 2030

Another part of spending in terms of the long-term structural deficit of course and the concerns that have been talked about tonight is on the mandatory side, the so-called entitlement spending, a bigger and bigger part of our budget. And the reason we put in our budget the PAYGO provision, yes, pay-as-you-go provision, on mandatory spending and entitlement spending is if we do not do that, we will never be able to get our spending under control. It has averaged 5.4 percent each year despite declines in net interest costs. So interest costs have gone down, and yet our entitlement spending has gone up and up.

So back to the tax cuts and why we did them. Here is an analysis that I find really interesting. We had job loss over the last few years. If we had not put the tax cuts in place, this is what would have happened: two million additional jobs would have been lost over the last 3 years.

Finally, what have the tax cuts resulted in? Only the best economy in 20 years. I mean, we are pulling ourselves out of the deficit because the economy is growing. This year, as a percentage of our economy, our deficit will be 4.2 percent. The year I ran for Congress, 1992, it was 4.7 percent; 4.2 percent is nothing to be proud of, but it has been worse. In fact, in 1983 it was 6 percent. And it is the percentage of our GDP, all the economists agree, which is the appropriate measurement of our deficit and its impact on our economy.

But here is what is interesting. If the Members will look at our budget, because we restrain spending, because we put the tax cuts in place that are causing this growth, that will go down to 3.1 percent, 2.1 percent, 1.8 percent, 1.7 percent, and 1.6 percent over the next 5 and 6 years.

That is the point. We are doing the right thing. The economic policy is working. Faster economic growth than we have had in 20 years, over 1 million new jobs added in the last 8 months. Last month alone 288,000 new jobs were added to our economy; the month previous, over 300,000 new jobs. We are not only turning the economy around in terms of higher productivity, keeping interest rates in check, low inflation, but we are actually adding jobs with higher productivity.

We are the envy of every industrialized economy in the world. We have the best economy in the world of any of the industrialized countries. This notion that Japan or other countries will not believe in the U.S. economy, my gosh, we have turned the corner. And at this point, as we are getting jobs back, as we are getting the economy on

track, as we have turned the corner, to increase taxes would be exactly the wrong thing to do.

And, again, this is where we disagree. We do not disagree on the need to restrain spending, but we do disagree on the impact of tax relief and the need to grow the economy rather than put new taxes in place, which will hurt exactly what we are trying to do, which is to get the economy moving, get jobs back, and begin to increase those revenues.

Those income tax revenues, capital gains revenues are going up. Guess what, the Congressional Budget Office has already told us they will be up, they think, 30 or $40 billion this year alone, and that is just after a month or two.

I guess the final thing I will say is that I am glad we are having this debate tonight, and it is about economic policy, and it is in the context of whether we raise the debt limit or not. And as the gentleman said, we need to raise the debt limit. We do not want to have the credit of the United States be questioned. And we will. We will do the right thing. But in doing so, we also have to recognize that the economic picture is brighter. We have turned the corner. We are doing better. We have made strides in this budget in terms of keeping the spending under control. Basically flat spending in domestic discretionary spending except for homeland security and defense. Everything else is pretty much flat. The tax relief is working to grow the economy. That is the combination that we know works. That is time-honored. Historically that is how we have been able to get out of our deficits. That is how we deal with the long-term structural deficit the gentleman talked about earlier.

And I applaud the chairman for being here tonight to talk about that economic policy, and I applaud the gentleman for raising his motion tonight.

Mr. NUSSLE. Mr. Speaker, I yield myself such time as I may consume.

Let me just say to the gentleman from Texas, and we have, as the gentleman from Ohio said, been on the same side of the issues over the years often, thankfully more often than it appears sometimes we have been against each other of late. And I am not sure it is necessarily against each other as much as it is a difference of opinion, particularly with regard to the benefit of taxes at this point in time in our economic situation.

And I want to provide some information at this point. We really do believe that the tax relief that we have passed is beginning to work, and certainly it is in combination with a good fiscal policy, with a good Fed policy, low interest rates, a number of things that are helping us. But let me just go through these.

I think it is important to understand that the tax cuts are working. They are working. Allowing people to keep their money and to spend that money on their own behalf we believe is a much wiser way of proceeding than to take that money to spend it in Washington, and the result of that we believe are some of these numbers: real gross domestic product growth is at its highest pace in 20 years, 20 years since we have seen this high a growth in the gross domestic product. Over the last 6 months of 2000, real GDP growth was at a rate less than 1 percent. So that is why we talk about the fact that we had a growth deficit. The economy was not growing. We had to get that moving. Even before September 11, we recognized that. And after September 11, we made adjustments because we knew the gut punch the economy took was something that no one was prepared for and we had to make fiscal adjustments, which we did and even received bipartisan support for.

Net household income reached a record high at the end of 2003, which was $2.5 trillion higher than at the end of 2000. Housing markets are the strongest in 20 years. The unemployment rate is now falling down .7 percentage points from June of last year to April of this year. In contrast, 4 years ago, January 2000 to 2001, the unemployment rate rose during that period of time by three-tenths of a percentage point. Payroll unemployment is growing strongly now, over 1.1 million jobs just over the last 8 months, up by 867,000 over the first 4 months of this year. And as I said, we have the most people working in this country that we have ever had in our history.

Manufacturing jobs are increasing. Manufacturing industrial production is growing strongly. Real disposable income. Unemployment insurance claims are falling. All of the signals are there to suggest that not only is the tax relief package working, that Americans are going back to work, that their economy that they have to deal with around their kitchen table is finally working, and when their budgets work, when their economies work, when their families are prosperous, when they are working, when they are making an income, when they are paying taxes as a result of that growth in their income and having a job, it impacts the receipts that are coming in here. And we know that that is happening because we have already heard Treasury suggest that the receipts that are coming in are making our fiscal situation much better.

Will that in and of itself be enough? No. We are not betting that growth alone will balance the budget. No one is ever suggesting that, and that is why we believe we have to protect the country. That is going to cost money. And, thankfully, I believe we stand in a bipartisan support most of the time for those kinds of prospects and projects in homeland security and national defense. But it also means holding the line in those other areas; and that is why, as the gentleman from Ohio said, we do believe in pay-as-you-go, particularly for those new entitlements, particularly for those automatic spending programs that have not had the kind of oversight that they have needed over the years.

Our budget is going to provide that. We are not only going to do this without a tax increase, but we are going to start to go through and weed the garden, looking for waste, fraud, and abuse in those areas of mandatory spending. We are going to go through and look for ways for us to cut out wasteful programs within our appropriation accounts and freeze those nondefense and nonhomeland security accounts. We are going to do the tough work that that requires.

We hope that Members on the other side will join us; but my guess, different than the chorus that we have heard tonight, which I commend my friend from Texas for bringing to our attention, but different than the chorus we are hearing tonight, which is concern about that spending; it will be different. My guess is most of the amendments that we hear about during the appropriation season coming up in June and July will be about increasing spending. My guess is that we will hear about the fact that children are not getting enough money and that seniors are not getting enough money and that States are not getting enough money and that health programs are not getting enough money. My guess is that that is the chorus that we will hear. It will be the unfortunate and consistent wringing of hands that Washington is not spending enough money.

And when we see more discipline from both sides, but particularly from my friends on the other side, with all my friends, not just the gentleman from Texas, who usually joins us with that kind of fiscal restraint, but when I see that kind of restraint from all my friends on the other side of the aisle, it will be easier for us to come to bipartisan agreement with regard to the budget. If all we ever hang our hats on do not allow the tax cuts to be made permanent, do not allow for the predictability of these tax relief packages, do not allow this fiscal policy to work, do not allow for these jobs to be created, then I think it is going to be much more difficult for the two sides to come together and to come to an agreement. And with that we will have to have a vote. We will have to have a budget. The majority will rule. Sometimes we will win; sometimes we will not. But right now we have the votes, we believe, in order to continue to steer a course back toward a balanced budget, but to do it in a way that respects the need to protect our country, to make sure that we are able to prosecute successfully the wars that we are involved in, to make sure that we can get our economy back on its feet and growing again, and that we can create opportunities far into the future for our kids and our grandkids. Those are things that we hope to be able to accomplish in this budget.

The interesting thing I would just say in closing is that the Blue Dog

budget that the gentleman from Tennessee is advocating raises the debt ceiling. It is kind of interesting that it is not without its flaws. It raises the debt ceiling. In fact, over the period of time of the budget, almost as much, not quite as much, but almost as much as the budget that we will be presenting here on the floor hopefully by the end of this week, the interesting thing about it is that the debt ceiling will go up under the exact budget that the gentleman from Tennessee was advocating.

I respect the fact that the budget came forward, but it is one thing to say that our budget will require the debt ceiling to be increased. It is another thing to look inward and to say, guess what, we are doing the exact same thing. And why? Because the choices are pretty tough at this particular time. We have got to make sure that we fund our defense and homeland security. We have to make sure that we fund those important programs such as making sure that our seniors have a prescription drug benefit. And we have to make sure that at that same time we are able to keep the economy growing and providing opportunities for the future. If we assume those few things, there are very few choices left except to raise taxes; and as I say, that is where there is a departure on both sides.

We will not raise taxes. That is not what we are going to do in this budget. That is not what we are advocating at this time in our economic history. And that is the reason that we oppose this particular motion to instruct. We believe that we should manage our economy, which includes our debt ceiling, in a responsible way. And we believe our budget does that.

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

Mr. STENHOLM. Mr. Speaker, I yield myself the balance of my time.

I think it is important, in light of the chairman's closing comments, to restate that I will vote to increase the debt ceiling because to do otherwise would be irresponsible. But I think it is critical for us to seriously consider changing a little bit the game plan that we are under and that is reinstate pay-as-you-go. The chairman and the gentleman from Ohio made eloquent defenses of their economic game plan, and that is all past. I am worried about today forward. We keep talking about everything we have done in the past. We keep talking about 9–11–01. And, yes, this country was thrown into a crisis and, yes, we had to make some additional investments, all of which are very true. But what about today forward? Why continue blindly because of a philosophical belief that the perfect plan that we put into effect 3 years ago, 2 years ago, 1 year ago is still good, when, in spite of the gentlemen's eloquent arguments, the structural deficit of this country is a major problem that will not be cured by growth, will not, based on an overwhelming consensus of economists?

□ 2045

Mr. Speaker, the gentleman tonight has made an eloquent argument for his philosophy. But it is interesting when you look at the last 44 years, under Democrats, the economy grew 5.7 percent faster than debt. For 24 years of Republican leadership, the debt grew 6.8 percent faster than the economy. And when we look at the current 4 years, the debt is going to increase 10 percent greater than the economy.

Yes, we rejoice at the good things that are happening in jobs, and we hope they continue. But should we get that kind of economic recovery by borrowing $2.3 trillion on the future of this country?

The gentleman continues to want to talk about tax cuts, and the Blue Dog budget supported tax cuts for purposes of getting the economy going again. But we also believe in pay-as-you-go.

We are fighting three wars. I would defy anyone in this body to find any time in the history of our country in which we have fought a war by cutting the amount of revenue available to fight the war. With all due respect, that does not make sense to me, and I believe, as the gentleman from Tennessee said, that is morally wrong. That is not a philosophical difference. That is not something we come out here and vote about. That is passing on a debt to our children and grandchildren that we should not be doing today.

Now, I appreciate the opportunity tonight to debate, and all we are saying is, we should have a vote on it. I will vote to increase the debt ceiling. I will vote for it tomorrow, provided we put pay-as-you-go back into place so that it forces this body to make tough decisions on spending and on revenues.

The gentleman from Iowa voted with us in 1997 when we had a tougher pay-as-you-go rule. We said we would sequester if the revenue did not magically appear. I do not want to get into these chart arguments, but revenue has collapsed under the economic program the gentleman is defending here tonight. It has collapsed. We have less revenue to spend and we are fighting a war.

So what are we doing? We are borrowing on our children's future.

Let me remind everyone, the baby boomers are about to begin retiring, and I suspect that the people of America pretty soon are going to be wondering, what the heck are we doing here having the philosophical arguments we are talking about tonight and ignoring the pressure on the economy of the United States that is going to occur when the baby boomers begin to retire in 2011?

The largest single economic pressure on this country is going to occur, and all we are doing tonight is digging the hole deeper and deeper and deeper, and it is structurally going down. No matter how eloquently my friends on the other side come on the floor and talk about it, the deficits are going to continue to go up, because the economic game plan we are under cannot work.

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

The SPEAKER pro tempore (Mr. KLINE). All time for debate has expired.

Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Texas (Mr. STENHOLM).

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

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

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

KEEP ROOSEVELT ON THE DIME AND HAVE A NATIONAL HEALTH CARE SYSTEM

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

Mr. BROWN of Ohio. Mr. Speaker, I received a letter in the mail from a young friend.

"Dear Congressman BROWN:

"I'm happy to be writing to you.

"I have an issue I think is important. I don't want the FDR dime to be changed to the Reagan dime because FDR has a real story. The story is when FDR tried to find a cure for polio, he asked children and grown-ups all over the United States to send dimes to the White House. By the end of the year, they had collected more than $1,000 in dimes.

"There would be no particular reason to have Mr. Reagan on the dime, but there is a reason that FDR should be on the dime. It is almost like having a monument to FDR in your pocket.

"I think another very important issue is health care. I believe we should have a national health care system. If people don't have health care and they get sick, they could die. If I get a very bad disease, I might get very good antibiotics and live. I would get those antibiotics because I have health care. But other people couldn't get antibiotics if they didn't have health care and couldn't afford them.

"Thank you for letting me write to you."

It is signed Alex Friedman.

"P.S. I am an 8-year-old in the third grade."

SPECIAL ORDERS

The SPEAKER pro tempore Under the Speaker's announced policy of January 7, 2003, and under a previous order

of the House, the following Members will be recognized for 5 minutes each.

CREATING A SMART SECURITY PLATFORM FOR THE 21ST CENTURY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, stopping the spread of weapons of mass destruction and keeping the American people safe must be our highest priority. On that point, President Bush and I agree. Where we differ is how to avoid equating our security with aggression and military force.

I have introduced legislation to create a SMART Security Platform for the 21st century. SMART stands for Sensible, Multilateral American Response to Terrorism.

SMART Security calls for aggressive diplomacy, a commitment to nuclear nonproliferation, strong regional security arrangements and vigorous inspection regimes.

SMART Security would maintain the United States commitment to existing international treaties, like the treaty on the nonproliferation of nuclear weapons, which the United States became a state party to in 1970, and the Comprehensive Test Ban Treaty, which the U.S. signed in 1996, but never ratified. Both treaties are vital to international security interests.

The Nuclear Nonproliferation Treaty is the only binding commitment to disarm nuclear weapons by states that possess them. The goal of the Comprehensive Test Ban Treaty is simple: to ban all testing of nuclear weapons.

Earlier today, I offered amendments to the defense authorization bill that would express the sense of Congress that the United States Government should fully implement and observe all commitments and obligations to the Nuclear Nonproliferation Treaty and should work towards the ratification of the Comprehensive Test Ban Treaty. By expressing the sense of Congress to support both of these important international treaties, the United States can once again assume the role of global leader in the area of nuclear weapons.

Let us send a message that you do not need nuclear weapons to be a world power.

SMART Security also means supporting and adequately funding programs like the Cooperative Threat Reduction Program, CTR, which works with the Russian Federation to dismantle nuclear warheads, reduce nuclear stockpiles and secure nuclear weapons in the former Soviet Union. This program is crucial to nonproliferation efforts.

In 1991, an estimated 30,000 nuclear weapons existed throughout the former Soviet Union. These conditions led to the serious concern that nuclear materials could be smuggled beyond the borders of the former Soviet Union or that Soviet nuclear scientists might be able to export their expertise or actual nuclear materials to rogue nations or terrorist groups.

CTR enlists the Department of Defense to dismantle nuclear warheads, reduce nuclear stockpiles and secure nuclear weapons and materials in the former Soviet Union. Under CTR, more than 20,000 Russian scientists, formally tasked to create nuclear weapons, have now worked to dismantle nearly 6,000 nuclear warheads, 479 ballistic missiles, 435 ballistic missile silos, 97 bombers, 336 submarine-launched missiles, 396 submarine missile launchers and 24 strategic missile submarines.

That is why today I offered an amendment to the defense authorization bill that would replicate this program in Iran, to help rid that country of the nuclear materials that inspectors from the International Atomic Energy Agency are discovering every day.

The United States and Iran need to work together toward the common goal of reducing the world's supply of nuclear weapons because, in the long run, negotiating with other countries will keep us much safer than scaring them into submission.

The Bush doctrine has been tried and it has failed. There has to be a better way, and there is, one that emphasizes brains instead of brawn, one that is consistent with American values. SMART Security defends America by relying on the very best of America, our commitment to peace and freedom, our compassion for the people of the world, and our capacity for multilateral leadership.

Let us be smart about our future. SMART Security is tough, it is pragmatic, it is patriotic, and it will keep America safe.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana 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 gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

(Mr. EMANUEL 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 gentleman from California (Mr. HUNTER) is recognized for 5 minutes.

(Mr. HUNTER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

HOUSE SHOULD INVESTIGATE ABUSES AT ABU GHRAIB PRISON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, where is the investigation of the House of Representatives into the abuses at the Abu Ghraib prison? Why are the Republican leaders dragging their feet? What are the administration and the war department afraid of?

Every day, the American people face new revelations, new allegations and more damage control by the administration. It is time to get it all out in the open. It is time to figure out how high up the chain of command this scandal goes. It is not credible for military commanders and the Secretary to claim justice will be served, when they themselves may be deeply involved in the scandal.

Is the new definition of justice in America to have those under suspicion serve as judge, jury, defense and prosecution? Today, top civilian and military leaders are again portrayed at the center of the scandal by mainstream media around the world. Is it true? We need to know.

Today's New York Times carries a story entitled ''Military Police Receive Orders to Strip Iraqi Detainees.'' For the first time, a story places a senior military commander, a colonel, in the midst of the scandal. The revelation comes from a source reading a transcript of the military investigation to Times reporters.

Today's Christian Science Monitor carries the story, ''Military lawyers advised Pentagon two years ago to protect prisoners, but JAGs said Pentagon political appointees had a harsher agenda.'' JAG stands for Judge Advocate General. They are military lawyers. It contains a quote given to ABC News by a general in charge of the JAG Corps from 2000 to 2002.

Rear Admiral Don Guter told ABC News ''If we, 'we' being the uniformed lawyers, had been listened to and what we had said put into practice, then these abuses would not have occurred. That's about as clear-cut as it gets.''

Our own military lawyers were on the record, and ignored by the civilians in charge.

Here is another insight the American people need to hear. United Press International today is running a story with the headline, ''Army, CIA Want Torture Truths Exposed.''

Why? Because they fear being made scapegoats by the administration and civilian Pentagon leaders.

□ 2100

Quoting this story, it says, ''Indeed, intelligence and regular Army sources have told UPI that senior officers and officials in both communities are sickened and outraged by the revelations of mass torture and abuse and also by the incompetency involved.''

The most serious allegations are contained in the report by Pulitzer Prize-winning journalist Seymour Hersh in the current issue of The New Yorker

magazine. Let me read the first paragraph.

The roots of the Abu Ghraib prison scandal lie not in the criminal inclinations of a few Army reservists, but in a decisions approved last year by Secretary of War Donald Rumsfeld to expand a highly secret operation which has been focused on the hunt for al Qaeda.

He wanted to move it over to Iraq. ''Rumsfeld's decisions embittered the American intelligence community, damaged the effectiveness of the elite combat units, and hurt America's prospect in the war on terror.''

This one paragraph alone ought to be enough to have the Republicans on their feet demanding an investigation. Instead, Republican leaders in this House remained silent as each new revelation damages U.S. credibility around the world, not to mention the morale of our soldiers.

The stories place Rumsfeld, Under Secretary Stephen Cambone, and Deputy Secretary Paul Wolfowitz in the decision-making roles in the scandal. Is that true? The American people and the world need to know.

Denials by Rumsfeld's spokesman will not silence the calls for truth. Indeed, if Secretary Rumsfeld has no prior knowledge, he ought to be the first person demanding an impartial inquiry by the House of Representatives. The time has come for full disclosure, not carefully orchestrated photo ops.

I call on the Republican leadership in the House of Representatives to begin an impartial and open investigation into the atrocities that occurred in Iraq. The American people are resilient. They are resilient enough to face the truth. So is everyone else who has nothing to hide.

ARE YOU BETTER OFF NOW THAN YOU WERE FOUR YEARS AGO?

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, between now and the end of this session of Congress I will continue to ask the question, Are you better off than you were 4 years ago? And I think whether you answer that question by reference to war and peace or education or access to health care or any number of topics, the answer is clearly no. But tonight I would like to answer that question specifically by reference to the economy.

Mr. Speaker, when President Bush took office, he inherited a $236 billion budget surplus and an economy that had created 22 million jobs during the 8 years of the Clinton administration, 1.6 million jobs in the half-year alone.

When President Bush took office the projected budget surpluses were enough to cover the costs of Social Security during the baby boomers' retirement years, and the country was experiencing the biggest drop in child poverty in a generation and the lowest poverty rate in 20 years. Four years later under President Bush, the President is looking to create his first net job. Meanwhile, 8.2 million Americans are looking for work. The unemployment rate is 30 percent higher than it was when President Clinton left office; 2.2 million private sector jobs have been cut on President Bush's watch; and 2.7 million manufacturing jobs have been shed.

One of the major reasons for the current jobs recession is the increased exporting of high-paying white and blue collar jobs overseas. Consider several examples from the township of Edison, the largest town in my congressional district. Earlier this year the Ford plant closed leaving more than 900 New Jersey employees without jobs. Last year the Frigidaire air conditioner plant closed in Edison and shifted production to Brazil leaving 1,600 unemployed residents in Edison.

You would think the Bush administration would be concerned about these job losses; however, President Bush and his economic advisers view the movement of American factory jobs and white collar work to other countries as a positive transformation that will in the end enrich our economy. And for those Americans who have jobs, many have seen their household incomes decrease over the last 4 years by an average of almost $1,500.

These cuts in income coupled with skyrocketing increases in insurance, health care, gas prices at a 23-year high, and college tuition increases averaging 28 percent have made it extremely difficult for middle-class Americans to make ends meet. And yet the President tours around the Nation touting his accomplishments. Based on these numbers, how can President Bush say America's middle class is better off now than it was 4 years ago? He simply cannot.

Consider, Mr. Speaker, also the government spends $900,000 more each minute than it takes in thanks to a historic reversal in fortune during the last 4 years. Under President Bush's guidance and the policies of the Republican Congress, we have gone from historic surpluses to historic deficits, numbering in the $400 billion range this year alone.

My friends on the other side of the aisle say it is not their fault that a war, a recession and a terrorist attack are to blame. I have actually heard them call it the perfect storm. But those excuses, in my opinion, ring hollow. Republicans are in charge of the White House and both Houses of Congress. So what are they doing about the challenges facing Americans? Absolutely nothing.

Do Republicans have a plan to create jobs or to reduce the deficit? No. Do they have a plan to stop the outsourcing of American jobs like those at the Ford and Frigidaire plants in my district? No. The only thing they seem to have a plan for is giving tax cuts to those who need them least.

Americans are facing record job losses, record deficits and record debt, and yet President Bush's only economic answer seems to be more tax cuts.

Mr. Speaker, in my opinion it is time the Bush administration realizes that shipping jobs overseas and cutting taxes for the wealthiest elite in our country will not create jobs. President Bush and Congressional Republicans have had 4 years to turn this jobs recession around, and they have failed.

Democrats, on the other hand, are fighting to create economic opportunity for all Americans. Republicans are just standing in the way. So I ask once again, are we better off than we were 4 years ago? The answer certainly with regard to the economy is a resounding no. And I think we can say that for so many other aspects of what we have experienced here in the last 4 years.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

(Mr. GEORGE MILLER of California 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 gentleman from New York (Mr. HINCHEY) is recognized for 5 minutes.

(Mr. HINCHEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

JUSTIFIABLE COMPENSATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, I probably will not take the full 5 minutes because I am going to be joining my friend, the gentleman from Ohio (Mr. BROWN), a little later for a Special Order. But there was something that I wanted to point out that I think is relevant to every one of us who serves in this body.

Following the exposure of the prisoner abuse in the prison in Baghdad, our Secretary of Defense, Donald Rumsfeld, has said that he believes that the prisoners who were abused should be compensated by our government.

Now, I do not have any real problem with that if in fact the abuse can be verified. But what puzzles me greatly is the fact that there have been other prisoners held in captivity in that part of the world, and I am talking about American prisoners, American POWs, who were held during the first Gulf War by the Iraqi regime and some 16 of those ex-prisoners who were held by the Iraqi regime and treated terribly. They have described the abuse they endured while they were being held during that first Gulf War, and following

that they brought suit against the Iraqi Government. And they laid claim on the right to compensation, and it has been reported that our government had some $1 billion, perhaps even more than $1 billion which we had frozen. These were Iraqi Government assets which had been frozen, and these American ex-POWs having been tortured at the hands of the Iraqi regime asked the courts to grant them compensation. And lo and behold the courts, my understanding is, made the right decision and said that they were entitled to compensation. And they were hoping to be compensated from these frozen Iraqi funds. And lo and behold, and this is almost shocking, I believe, the Bush administration opposed these ex-POW American veterans from receiving compensation from the Iraqi Government, although we had the funds that could have been used to compensate them.

Those funds, it is reported in the press, those funds have now been sent back to Iraq for the rebuilding of Iraq. Now, the question that I would ask the President is why would this administration support the compensating of Iraqi prisoners who were held in an American prison and were subject to abuse and would oppose compensation for American soldiers who were held in an Iraqi prison and abused? It just seems like a double standard that is difficult to explain. And so I believe the American people should be aware of this. And they should hold this administration accountable.

If the Iraqi prisoners who were abused should be compensated, then certainly the American prisoners who were held by the Iraqi Government and subjected to terrible abuse, they should be compensated as well.

I think this is a stark contradiction, but I do not think it is inconsistent with the way this administration has treated veterans when it comes to other benefits, and we will be talking about that a little later. But I felt like this situation was egregious enough, the contrast was stark enough that the American people should be aware of it.

CARING FOR OUR VETERANS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Ohio (Mr. BROWN) is recognized for 60 minutes as the designee of the minority leader.

Mr. BROWN of Ohio. Mr. Speaker, I rise tonight with my two friends, the gentleman from Ohio (Mr. RYAN) from Niles in northeast Ohio and the gentleman from Ohio (Mr. STRICKLAND) from a district that runs from Portsmouth, along south from the Ohio River, up east including parts of Mahoning County near Youngstown. We will talk about the treatment of veterans in this country and the problems that we have seen, and the strength of the veterans administration, the good things it has done but how it really has fallen short, a Federal agency that has done remarkably good work for so many, but fallen woefully short in the last couple of years.

I want to continue the theme that the gentleman from New Jersey (Mr. PALLONE) mentioned, the gentleman from Washington (Mr. MCDERMOTT), others, the gentlewoman from California (Ms. PELOSI) earlier this week, Are you better off today than you were 4 years ago? And I think this theme particularly is reinforced when asking about veterans. Are veterans in this country today better off today than they were 4 years ago?

And I think we will see as the evening goes on in the next 30, 40, 50 minutes or an hour, how the veterans really have been shortchanged by this administration, how the Veterans Administration does not work as well as it did. Our benefits to veterans are not nearly as adequate, never really generous, as they used to be. I want to talk about that, whether veterans are better off today than they were 4 years ago.

As I said, I am joined by the gentleman from Ohio (Mr. RYAN) and the gentleman from Ohio (Mr. STRICKLAND). Last week Secretary Principi and President Bush announced that they would close three Veterans Administration hospitals in the United States: one in Mississippi; one in Pittsburgh, Pennsylvania area; and one in Brecksville, Ohio in northeast Ohio. The Ohio facility serves 48,000 veterans in our region of northeast Ohio.

I find it ironic and a little sorrowful that as we head into Memorial Day next week, as we prepare to dedicate the World War II memorial, that the President and Secretary Principi and his administration announce plans to close VA hospitals. Prior to Secretary Principi's announcement, I, along with the gentleman from Ohio (Mr. STRICKLAND) and the gentleman from Ohio (Mr. RYAN) sent a letter to the Secretary asking him not to close the Brecksville hospital.

Our letter echoed the sentiment of more than 5,000 veterans who signed petitions; it echoed the sentiment of several thousand more who came to rallies and meetings and wrote us letters and made phone calls to us saying this VA hospital in Brecksville, one of the best in the country, treating homeless veterans, a model for the country in treating veterans with mental illness, protesting that this hospital be closed.

I met with hundreds of local veterans who voiced their opposition, as has the gentleman from Ohio (Mr. STRICKLAND) and as has the gentleman from Ohio (Mr. RYAN). Instead of listening to the men and women who served this Nation, the administration is foisting upon American veterans a plan that will force them to travel further and wait longer for health services they depend on.

□ 2115

In the case of Brecksville, they are closing a facility with a leading reputation for mental health services, and for the last 43 years Brecksville has pioneered innovative, nationally recognized programs and services for homeless vets and veterans with mental illnesses.

Since 1971, Brecksville has offered inpatient mental health services, including acute substance abuse treatment and acute and long-term psychiatric care, to veterans from all 50 States.

We are creating new veterans. The irony of closing these three hospitals, the irony of cutting veterans benefits, health and education benefits, which has happened in this House of Representatives on this floor and with this President, the irony of doing that, the irony of closing these hospitals that lead up to Memorial Day is every day we are creating more veterans in this country as soldiers return from Iraq, sometimes with scars, emotional scars, physical scars, mental scars, where they really do need treatment.

Approximately one-third of the adult homeless population served their country in the armed services. On any given day, as many as a quarter million male and female veterans are living on the streets or in shelters, and perhaps twice as many experience homelessness at some point during the course of the year.

For many homeless and mentally ill veterans who struggle with local public transportation, closing Brecksville will double, even triple, the number of miles they will be forced to travel.

The administration made big promises to American veterans. George Bush can hardly go anywhere without singing the praises of our men and women in uniform, even though, as the gentleman from Ohio (Mr. STRICKLAND) has pointed out many times on the floor, they sing their praises but do not provide them with safe drinking water, did not provide our soldiers with body armor, do not outfit our Humvees with metal plate armor underneath the Humvees and on the door of the Humvees, so that they are much more dangerous.

There is hardly a day goes by that the President does not in one of his fund-raising speeches around the country, which are almost daily, that he does not, the President, sing the praises of our veterans.

At the same time, this administration has cut veterans benefits, cut education and health care benefits, raised the price of prescription drugs, and now, strike three, is closing these three hospitals which are serving hundreds of thousands of veterans.

When I think about a veteran in my district who originally was paying a relatively small copayment per drug per month, that copayment has tripled, and now the administration wants to double that copayment again. It is just amazing to me the President of the United States would do that in a time of war.

It is especially amazing when you look at the price of drugs in Canada,

the price of drugs in France, in Germany and around the world, how much less drugs cost in those countries. In fact, every once in a while I have taken, over the last 6 years, busloads of seniors to Canada to buy less expensive drugs, but how can you look a veteran in the eye and say, Hey, you ought to go to Canada and buy your prescription drugs? How can you tell a veteran he or she should go to Canada and buy their prescription drugs because they are cheap?

Under this administration, a third of America's veterans have unprocessed claims, and 130,000 veterans are waiting for appeals decisions.

New enrollment fees and increased costs of prescription drugs will cost veterans $2 billion over the next 5 years.

This administration is opposed to the renewal of imminent danger pay for families of active duty soldiers in Iraq and Afghanistan. Think of that. The administration and the Secretary of the VA sing the praise of American soldiers, and then oppose giving those soldiers a little extra money when they are in the face of danger in Iraq and Afghanistan.

We are spending $1.5 billion a week in Iraq turning our young men and women into veterans. We ought to be able to ensure when they come home that they receive the best health care. Our veterans deserve better.

It begs the question earlier, are veterans better off than they were 4 years ago? I think when you look at what this administration has done with soldiers and with veterans, it is a decided no.

I yield to my friend from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, I want to thank my friend, the gentleman from Ohio (Mr. BROWN), and I look forward to hearing in a moment from another gentleman from Ohio (Mr. RYAN), but the gentleman from Ohio (Mr. BROWN) said something that triggered a recollection that I want to share with him.

I had said earlier here on the floor that this administration apparently wants to compensate Iraqi prisoners who were abused in the prison in Baghdad, and I understand why Secretary Rumsfeld has reached that conclusion, but I also pointed out that I was puzzled that the administration, on the other hand, was opposing American ex-POWs who had been held in captivity in Iraq during the first Gulf War getting compensation from the Iraqi Government. So there seems to be a double standard.

On the one hand, the administration is willing to compensate the Iraqi prisoners who were abused and opposes the American prisoners who were abused from getting compensation. But there is a second contradiction, a second example of where this administration seems to favor people in Iraq versus the good old, homegrown American.

An example is the fact that just last week it was reported that, back in December, Paul Bremer, who is our point man in Iraq, had gone to the Department of Labor and secured $5 million, and this was $5 million that the Congress had no awareness of, in order to pay unemployment compensation to former Iraqi soldiers. These were Iraqi soldiers who were no longer working as soldiers.

And so this administration got $5 million in order to pay them unemployment compensation at the very same time that the administration, for months now, has been fighting extending unemployment compensation to unemployed Americans.

Mr. BROWN of Ohio. Mr. Speaker, reclaiming my time, I would add that there are 50,000 Ohioans alone who have seen their unemployment benefits expire in the last 6 months, 1 million Americans. These are people looking for a job, playing by the rules, but cannot find a job.

The President said the economy is growing. We heard our friend from Iowa and the gentleman from Ohio (Mr. PORTMAN) saying things are great, jobs are coming back, the economy is great. Well, 50,000 Ohioans cannot get their unemployment benefits.

Mr. STRICKLAND. Mr. Speaker, one other point I pointed to throughout was a discrepancy between the administration's wanting to compensate abused Iraqi prisoners and not compensate America's abused prisoners; and then I pointed out that it sought money to pay unemployment compensation to unemployed Iraqis while fighting extending unemployment benefits to Americans.

There is a third example of how the administration is favoring the Iraqis over Americans, and that is the fact that in Iraq we have promised Iraqi citizens health care. We have said that we are going to provide universal health care to the Iraqi citizens, while we have got millions, some 44 million Americans, with no health coverage, and we have got Americans who are losing their health coverage on a daily basis, and yet this administration seems to not care about that at all.

So here are three clear-cut examples of where this administration has a double standard and where this administration is willing to put resources into Iraqis and into Iraq, while refusing to help the people right here at home who are in desperate need of help.

Mr. BROWN of Ohio. I thank my friend, the gentleman from Ohio (Mr. STRICKLAND), for his comments, and I yield to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Mr. Speaker, if people were just watching this and just tuned in and they hear us talk about some of these issues, I mean we go back to our districts every week and we talk to people who are not engaged in the day-to-day debates that we have here.

You would think we are making this up, because it goes on and on and on and on, and you would think that the Democrats are just playing partisan politics. But if you just clearly look at the facts, you will find that we are not making this up, and you may come to understand as you listen to a lot of the special orders, you listen to the 1-minute speeches, you listen to the debate on the House floor, why some of us are so outraged at what is happening here.

With the veterans' issues that we are talking about and closing down of the facility in Brecksville, Ohio, which many of the veterans in my district go to for service; and they are moving it into downtown Cleveland into Wade Park. We are asked to support this move because the administration has told us that there will be no decline in the service, there will be more services. There will be more services; it will be better for everybody.

I hate to be the guy to spoil the party, but this administration does not have a very good track record on keeping their promises, and whether you go to Iraq, whether you go to their economic policy, the domestic policy, No Child Left Behind, promises to veterans, promises for Pell Grants, whatever it has been, they have not lived up to the promises they have made.

So why should the gentleman from Ohio (Mr. BROWN), the gentleman from Ohio (Mr. RYAN), the gentleman from Ohio (Mr. STRICKLAND), the Congressman down in Mississippi, the gentleman from Pennsylvania (Mr. DOYLE), why should we take this administration at their word that they are going to take care of our veterans? Because they have not; they have not with our soldiers, they have not with our Reservists. And so we are here tonight, I think in part, to hold their feet to the fire and to question the kind of leadership that they are getting.

One or two points that I just want to make: The Secretary of Veterans Affairs has said that the budget that is coming out of this, that the budget, not that the President recommended, is $1.5 billion short, billion with a ''B'', short of what is needed. The veterans organizations have said that the President's request is $3 billion short of what they need.

Now, is the veterans organization too high and the Democrats too high? I do not think so, but at the very least, the administration should at least follow the lead of the Secretary of Veterans Affairs, who says $1.5 billion more to meet the needs.

For this administration to continue its shortsighted approach, along with all of its domestic policies, this one is what kills me, and especially because the gentleman from Ohio (Mr. BROWN) has spent so much in the health care field in understanding the needs for investment.

There is a $50 million cut in the award-winning VA medical prosthetic research and development program. Now, here is an award-winning program that is developing prosthetics for amputees, the best around; and we

have soldiers in Iraq right now that are losing arms and legs as we speak, and we are cutting funding for the research and development of better prosthetics.

It continues, it continues, it continues; and it is just the shortsightedness that this administration has. To do it for young kids, to do it for the poor, to do it for the uninsured is shameful, but to do it to the veterans who have given us this system that we have here today, I think it is especially shameful.

I am glad to join you here tonight to continue this conversation.

Mr. BROWN of Ohio. The gentleman from Ohio (Mr. RYAN), my friend, was mentioning that people watching this at home just sometimes might think it is almost like we are making this up, this could not be like this. Why would people do these kinds of things?

Why would President Bush talk such a good game about the military? He was in the military, and remember when he landed on the ship and was in his flight suit, and he certainly showed the American people that he was one of the military, but why would he then turn around and make these cuts? But these are political choices.

I mean, we sit in this body, the 435 of us, we come down to the House floor with this little plastic card and we vote ''yes'' or ''no'' on issues. This is a question. Government is about making choices. We decide. What do we do about prescription drugs, what do we do about Medicare, and what do we do about the environment?

Well, the Congress has made a series of choices about tax cuts and the budget and expenditure of money, and this Congress and this President who has pushed this Congress, and the Congress pretty much rubber-stamps, the gentleman from Texas (Mr. DELAY) pretty much rubber-stamps what the President wants. This Congress made a choice.

If you make $1 million a year, you get a $123,000 tax cut. If you are worth $100 million and you pass away, rather than $30 or $40 million of that going to the government, now, under Republican plans, even though that is only one-half of 1 percent of the public that would pay this tax, that has been eliminated.

So when somebody that makes $1 million pays a tax of $123,000 and no longer pays it, then that money has got to come from somewhere. So what happens is Congress makes a choice. Do you give that millionaire, the guy making a million, do you give them the $123,000 tax cut, and when you do it, it means you have got to cut veterans benefit? Or do you not give him the tax cut and fund these veterans' programs?

Clearly, my Republican friends have made the decision, as has President Bush, to give the millionaire the $123,000 tax cut and to deny veterans health care benefits, education benefits, raised their prescription drug costs, closed the Brecksville Hospital and Pittsburgh Hospital and Mississippi Hospital.

These are choices that people make. That is why we hold elections. The voters will say, Yeah, we like it that George Bush gives a millionaire a $123,000 tax cut and cuts veterans benefits; or they will say, We should not give these tax cuts to the superwealthy. Instead we should meet our commitments on health care and education.

I had a group of people come into my office today, and it is a little off the subject, not much, a group of people with Lou Gehrig's disease, ALS, and this government has refused to fund research the way we have been funding it the last 4 or 5 years.

□ 2130

And the question, again, is: Do you give a millionaire a tax cut of $123,000 or do you fund programs in research and development that really are going to make wonderful scientific discoveries and save lives?

To me, the answer is pretty clear. To my friends on the other side of the aisle it is equally clear, but they have a different viewpoint. I am not saying they are immoral or sleazy. I am just saying they made the choice that they would rather give a millionaire a tax cut than to fund veterans benefits, than to keep Brecksville open. They would rather give a tax cut to the wealthiest 5 percent. Not somebody making $50,000 or $100,000. I am talking about people making $1 million a year, to give tax cuts to them; and when they do, we end up closing VA hospitals, we end up cutting veterans health care benefits, we end up cutting veterans education programs, and we end up with State university tuitions going up through the roof, at Ohio State, at Kent State, and Akron U and all over.

Mr. Speaker, I yield to the gentleman from Ohio.

Mr. STRICKLAND. I thank my friend for yielding, Mr. Speaker, and I think the most important thing we do is to make choices. That is the most important function of a legislator is to make choices, to decide how we are going to use the people's resources, what is going to get supported and what will not get supported.

The gentleman from Ohio (Mr. RYAN) said earlier that folks watching may think we are making this up because it sounds so outlandish, why would an administration favor Iraqi prisoners over American prisoners, and why would some of these terrible decisions be made. And it is almost as if it is so bad it must not be true.

But I want to share a letter here which each Member of this Chamber received from four veteran service organizations. I am talking about the AMVETS, the Paralyzed Veterans of America, the National Legislative Director for the Disabled American Veterans, and the Veterans of Foreign Wars. They sent to us this letter. Every Member in this Chamber got this letter as we were considering the budget resolution, which laid out how much we were going to be willing to spend for our veterans. I just want to read a passage from that letter, which we all received:

''On behalf of the coauthors of the independent budget,'' and the independent budget was created by these veteran organizations, so, ''On behalf of the coauthors of the independent budget, the AMVETS, the Disabled American Veterans, the Paralyzed Veterans of America, and the Veterans of Foreign Wars of the United States, we are writing to urge you to oppose and vote against H. Con. Res. 393, the House budget resolution for fiscal year 2005.''

And then they continue: ''Passage of the budget resolution as presented would be a disservice to those men and women who have served this country and are currently serving in Iraq, Afghanistan, and around the world in our fight against terrorism.''

Now, those words did not come from the gentleman from Ohio (Mr. RYAN) or the gentleman from Ohio (Mr. BROWN), or the gentleman from Ohio (Mr. STRICKLAND). Those words came from these veteran service organizations, these organizations whose sole purpose is to look out for what is right for the veterans of this country.

And so this administration has a credibility problem. And it is fine to salute the flag, it is fine to walk around on an aircraft carrier, it is fine to stand and get your picture made with veterans; but what really counts here is how we spend our resources. And the fact is that our veterans are being shortchanged by this President and by this administration. It is as simple as that. They are not putting resources into veterans health care, the resources that are needed even to maintain the current level of services.

I think we should be expanding services. I think we should get rid of this prohibition on priority 8 veterans being excluded from VA health care. But that is not what I am talking about here. I am talking about just having enough money to maintain our current level of services. And even with the President's budget, he was asking in that budget that additional financial burdens be placed upon the backs of our veterans. The President actually sent us a budget that said that veterans should have to pay $15 a prescription rather than $7 a prescription.

Mr. RYAN of Ohio. Mr. Speaker, if the gentleman will yield on that point, because this is an important point to make.

Mr. STRICKLAND. I certainly will.

Mr. RYAN of Ohio. Everyone who in some way receives some kind of public assistance, whether it is the veterans, or No Child Left Behind, or people going to school, everyone, Medicare, all the social programs that we have been asked to make some kind of sacrifice. The only people who have not been asked to make any sacrifice at all are the wealthiest people in our society.

Mr. STRICKLAND. Absolutely.

Mr. RYAN of Ohio. They have been asked to make no sacrifice at all, and these gentlemen were talking before we got up here, about an hour ago, and they said, quote, and I wrote it down, ''Republicans will not raise taxes.'' And I think there were two words left out of that. Republicans will not raise taxes, well, maybe three words, on the rich.

Mr. STRICKLAND. On the rich, that is right. Excuse me, but they are raising taxes or causing taxes to be raised on the working folks of this country.

Mr. RYAN of Ohio. Absolutely.

Mr. STRICKLAND. Mr. Speaker, if you go to Ohio, we now pay more taxes in Ohio in part because of the cuts that have been made at the Federal Government level. And across this country working people are paying more in property taxes, they are paying more in excise taxes, they are just paying more in taxes in general while the folks at the very top, and as my friend, the gentleman from Ohio (Mr. BROWN), said, we are talking about millionaires, we are not talking about the family that makes a couple hundred thousand dollars a year. We are talking about the millionaires.

Tonight, in Iraq, we have soldiers sacrificing and their families back here at home are sacrificing. And I want to tell you, they are about the only ones sacrificing, because this President is not asking anything from anybody except our soldiers and their families. In wars past, we have paid for those wars. What we are doing is passing the cost of this war on to the next generation. It is a rather shameful set of circumstances that our country faces today.

Mr. RYAN of Ohio. If the gentleman will yield, Mr. Speaker, the ultimate irony of this whole deal, and this job provides a lot of opportunities to have some very great moments, very sentimental moments, and one I remember distinctly is when we walked into the Cannon caucus room and we were having a veterans' hearing for their budget. All the veteran organizations were there and filled this huge, beautiful room. They were in wheelchairs, on crutches, bent, amputees, just sacrifice written all over their face. Those are the veterans who have created and protected the system, the democratic and capitalistic system that we have right now and that allows people to create wealth for themselves.

The fundamental aspect of this system is to have a strong economic and democratic system which has been given to us by these veterans. And these people who are benefiting from this system have not been asked to sacrifice. I just wanted to make that point.

Mr. BROWN of Ohio. Reclaiming my time, Mr. Speaker, I think we have established pretty well tonight why Republican leaders and George Bush do this, why they have made these cuts in veterans benefits, why they made cuts to close the Brecksville Hospital. It is a question of choices they have made between giving a $123,000 tax cut to a millionaire or funding these programs.

The second question to ask, as we examine the whole question of are we better off, are veterans better off today or the American people better off today than they were 4 years ago, is to the look at how all this happened.

The three of us, joined by 400 of our colleagues, sat in this Chamber in the middle of the night, month after month after month, passing some of the worst legislation, legislation that my friends in the Republican leadership do not want people to see, so we passed these bills literally in the middle of the night, after midnight; and I want to talk about a couple of them.

Starting a year ago, starting literally 14 months ago, at 2:54 a.m. on a Friday in March, the House cut veterans benefits by three votes. At 2:39 a.m. on a Friday in April the House slashed education and welfare by five votes. At 1:56 a.m. on a Friday in May, the House passed the leave-no-millionaire-behind tax cut by a handful of votes. At 2:33 on a Friday in June, Republicans boarded the midnight express and passed the Medicare privatization prescription drug bill by one vote. At 12:57 a.m. on a Friday in July, the Republicans again boarded the midnight express and eviscerated Head Start by one vote. Then, after returning from summer recess, after the August recess, at 12:12 a.m. on a Friday in October, the GOP again boarded the midnight express and voted $87 billion for Iraq. Two months later, again in the middle of the night, the Medicare bill passed. The debate started at midnight, the vote started at 3 a.m. Normally, the vote takes 20 or 30 minutes. The roll call stayed open until 6 a.m. It was a 3-hour vote.

In every single case, these bills were passed after the press had gone home and people had turned their television sets off, those watching C–SPAN, and the country had gone to bed. So not only are they passing legislation that cuts veterans benefits, legislation that discriminates against veterans, proposals that shut down hospitals and cut back drug benefits and reduce education benefits for veterans, they are doing it, and again this is not made up, it is documented in the CONGRESSIONAL RECORD, they are doing this in the middle of the night, under the cover of darkness, as they board the midnight express.

So the public does not see this. By the time it gets in the paper on Saturday, it is old news. It is a couple of days later. It is never on the front page, and the public only learns about it when they realize their veterans' benefits have been cut again by the Bush administration.

Mr. STRICKLAND. If my friend will yield, Mr. Speaker.

Mr. BROWN of Ohio. I yield to my friend from Ohio.

Mr. STRICKLAND. The gentleman is absolutely correct that much of this is being done in this Chamber well after midnight, when most Americans are asleep and the press is not here, with the hope that the American people will not really fully understand what has been done.

But I am encouraged, because as I go back to my district and I talk to my veterans, as I travel across Ohio and I talk to veterans, I think the veterans get it. They understand. They understand their efforts to raise the cost of their prescription drugs; they understand that the President wants to impose a user fee, an annual user fee of $250 on many of our veterans; they understand that if they are a priority 8 veteran, they may even be a combat-decorated veteran, but if they are a priority 8 veteran and this administration thinks they receive a high income, of course that could be about $24,000. You know, we make about $155,000 in this Chamber and the American people need to know that, when this administration is trying to imply that if you make about $24,000 or $25,000 and you are a veteran, you are high income and so you are no longer able to participate in the VA health care. I want to tell you that is quite shameful, and the veterans know it.

They also know that this disabled veterans tax, which basically says that if you retire from the military and you have earned your pension and you are disabled as a result of your military service and you are entitled to disability compensation, you cannot get both. For every dollar of disability pay you get, $1 is deducted from your military pension. We have been trying to get rid of that discrimination against veterans. And, guess what? The President has said if we do it, he will veto the bill. He will veto the bill.

Here is a letter from Secretary Rumsfeld to the gentleman from California (Mr. HUNTER) indicating that if the bill authorizes concurrent receipt of military retirement pay and veterans disability compensation benefits, then he would advise the President to veto the bill. So what did we do? We half fixed it. We took a baby step, and there are veterans in this country tonight who deserve their pensions and they deserve their disability compensation, and we are nickel and diming them, depriving them, discriminating against them. It is absolutely wrong, and I believe the veterans are coming to understand what is being done to them.

Mr. Speaker, I yield to my friend.

Mr. RYAN of Ohio. Well, I just wanted to say that that is a letter sent from the head of the Department of Defense, the Republican-controlled administration sent to this Congress saying that if you pass a benefit for the veterans, we will veto the bill. It is that clear. It is black and white.

Mr. STRICKLAND. If my friend would yield.

Mr. RYAN of Ohio. I would be happy to yield.

Mr. STRICKLAND. It is not really passing a benefit. It is a bill to try to

keep this government from taking something away from the veterans that they have earned. If they have served their time in the military and they are entitled to receive a pension, they should get it. And if they have been disabled and qualify for disability benefits, they should get the disability benefits, and there should be no offset.

If you worked in any other part of the Federal Government, you would not be subjected to this discrimination. It is only the veteran that is being subjected to this kind of discrimination.

□ 2145

Mr. BROWN of Ohio. Mr. Speaker, the gentleman from Ohio (Mr. STRICKLAND) filed a lawsuit some time ago.

Mr. STRICKLAND. Yes.

Mr. BROWN of Ohio. The lawsuit was basically to force the VA to do what it is charged by this Congress to do, and he will explain. But it was not just a question of policy decisions that the Congress and the President have made to cut benefits, to fail to take care of the soldiers with body armor; it was not just bad decisions by Congress and the President. It also was incompetence by the VA and underfunding by the VA to take care of many of the people who were in their charge. I would ask the gentleman from Ohio to explain that.

Mr. STRICKLAND. It is quite simple. I was shocked many months ago when the VA put out a memo, and I am paraphrasing, but I am true to the spirit of the memo, which basically said, too many veterans are coming in for services and it is costing us too much money. We do not have enough money to provide those services. So henceforth, all of you who are health care providers are forbidden to market VA services to veterans. And it got quite specific.

These health care providers were told they could not participate in community health fairs in their local communities. They were told they could not send out newsletters.

Mr. BROWN of Ohio. Mr. Speaker, reclaiming my time, so President Bush and the Secretary of the VA have decided the VA should offer services to American veterans, but they are not allowed to tell anybody that they are offering these services?

Mr. STRICKLAND. I call it the ''If they do not ask, we will not tell policy.'' If the veteran does not ask what they are entitled to receive, the VA will not proactively provide that information.

I tried to work this out. I went to Secretary Principi, a man that I know and admire, as a matter of fact, and we tried to work this out. I tried to get them to rescind this gag order, because it is a gag order. It is a gag order placed upon the health care providers. We just could not get them to budge.

Finally, I decided to initiate legal action and I got the Vietnam Veterans of America to join me. We filed a suit. That suit is currently before the court. It is my hope that the court will decide that this policy of the VA is, in fact, contrary to the law and will require them to rescind this terrible policy.

It is a terrible policy because there are veterans out there, for example, if I can just give an example, veterans out there who may have been exposed to Agent Orange while serving in Vietnam. We now know that exposure to Agent Orange, even all of these years later, can lead to serious health consequences. For example, certain cancers are more likely to be found in those soldiers who were exposed to Agent Orange, such as prostate cancer, for example.

There may be veterans out there who have been so exposed and are not aware that they are at risk, that they should come into the VA facilities for an examination, and if they are found to have one of these illnesses, that they are entitled to receive medical care from the VA.

That is just an example of why this outreach to veterans is so important and why it is so really quite pathetic that an administration that says it cares about veterans would take this action to limit the information that is disseminated to veterans who are in need of this kind of information.

This is a matter of health, and it can be a matter of life and death. That is why I think it is so shameful that we would have a policy, and as the gentleman says, at the same time we are giving tax cuts to millionaires, to millionaires, we are taking steps to limit the dissemination of information to our veterans because if they come in, it may cost too much money to provide them the care they need.

Mr. BROWN of Ohio. Mr. Speaker, just before I wrap up, this is all very puzzling. I understand why President Bush is hostile to good environmental policy, because environmentalists do not vote for him. He does not seem to care.

I understand that President Bush pushes legislation that kind of restricts the rights of minorities because minorities do not vote for him. I understand why he is hostile to organized labor because he does not get many labor union votes from steelworkers or auto workers or food and commercial workers.

But I do not understand why he is so hostile to veterans. That really puzzles me because a lot of veterans voted for President Bush. They liked the fact that his father was a decorated veteran. They liked the fact that he served this country through the National Guard honorably and fully, at least before the news broke they thought he did, and they voted for him because they thought he was sort of a stand-up tough guy and would stand up for American interests.

It astounds me that this President would change our policy and military doctrine, would attack Afghanistan, attack Iraq, make noises about Iran and other places such as North Korea, but when the veterans come home, not treat them any better than he treats them.

The only answer I can figure is, he is so wedded and focused on his tax policy, on cutting taxes for the very wealthy, saving literally over a trillion dollars in taxes for the richest 1 percent, that everybody else suffers, veterans suffer, school kids get shortchanged, seniors through the Medicare program get shortchanged, environmental enforcement gets shortchanged, food safety enforcement, research for the NIH get shortchanged; and that is the only explanation I can come up with.

Mr. Speaker, I yield to the gentleman from Ohio.

Mr. RYAN of Ohio. Mr. Speaker, I think it is appropriate for us to talk about what the Democrats' plan is and what we would do. I think it is important not just to criticize, although there is plenty of room for criticism in this administration.

The Democratic budget that we want for veterans would increase the tax for those who make more than a million dollars a year, not all of it. As the gentleman from Ohio (Mr. BROWN) said, they get $123,000 back from the Bush tax plan. We would say they would only get $100,000 back. They would have to give around $20,000 of their tax cut back.

Part of that money we would use, $2 billion of it, to restore the full survivor benefits to families of military retirees. $2.5 billion we would put in veterans health care. We would improve military housing for 50,000 military families.

So if anyone is at home asking, what is the Democratic plan, this is our plan: $2.5 billion for health care, 50,000 families for military housing, $2 billion to restore full survivor benefits. And our legislation, if we were controlling this Chamber, the other Chamber and possibly the White House, would permanently permit Reservists to buy military health care through the TRICARE program.

Many of the Reservists, almost 2,000 of them, and I hear often about the health care issues, our plan would allow them to buy permanently into the TRICARE program. We would give them pay raises, things the gentleman from Ohio (Mr. BROWN) talked about, the combat pay, et cetera; our future veterans would be taken care of.

So the Democrats have a plan. Let the millionaire keep $100,000, we are going to take a few thousand away and invest it into our veterans and into the research and development for our amputees that will be coming back, so they have the best possible health care that the United States of America, the wealthiest superpower ever in the history of world, can at the very least take care of its veterans.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman from Ohio (Mr. STRICKLAND) and the gentleman from Ohio (Mr. RYAN), and I look forward to

the comments of the gentleman from Michigan (Mr. SMITH).

PAYING FUTURE BENEFITS

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). Under the Speaker's announced policy of January 7, 2003, the gentleman from Michigan (Mr. SMITH) is recognized for 60 minutes as the designee of the majority leader.

Mr. SMITH of Michigan. Mr. Speaker, the challenge is unending, and one thing I am nervous about in terms of Washington sometime in the future is paying the Social Security benefits, the Medicare and Medicaid benefits that we have promised, because what we have done over the last 30 years is promise more than we have money to pay for in those promises for Social Security and Medicare and Medicaid.

In the next 2 days, we are going to take up the budget. There has been a compromise reached between the House and the Senate for a budget resolution, and that is how we plan to spend our appropriations and money for the 2005 fiscal year which starts the end of September 2004 and goes through 2005.

We spend most of the year or a lot of the year dealing with the appropriations bills that are discretionary, so-called discretionary. A little less than half of the appropriations total spending of the Federal Government is discretionary spending, a little more than half of the total government spending is entitlement spending.

I started out with a pie chart showing how we are spending money in the 2004 year, this year, about $2.2 trillion dollars; and as Members see by this pie chart, the largest piece of this pie of Federal spending is Social Security. The Federal Government will spend about $500 billion on Social Security this year in 2004.

Interest, as we go around the pie chart, interest is at 14 percent of total spending. That is about $300 billion that we are paying in interest.

As we have heard over the last several days, interest rates are going up. I suspect Mr. Greenspan and the Federal Reserve are going to decide to increase the discount rate, increase the interest rate, and so we can expect to see interest rates go up. At the same time, we are increasing the total debt that we have to pay interest on, and that means that this 14 percent over the next 15 to 20 years can go to 25 percent, instead of 25 percent of the total budget paid in interest on the debt. So it should concern us.

Actually, what we are doing, and I am a farmer from Michigan, and on the farm we try to pay down the mortgage of the farm so our kids will have a little better chance and a little better success in their living standards maybe than their parents, but in this Chamber and in the Senate and in the White House over the last 30–40 years, what we are doing is increasing the debt that we are passing on to our kids.

Defense spending, 19 percent last year and now 20 percent; domestic discretionary spending, 16 percent; other entitlement spending, 10 percent; Medicaid, 6 percent, growing very quickly; Medicare, 12 percent. Medicare is projected to overtake the size of the total pie in the next 20 years.

Medicare will overtake Social Security in the next 15–20 years. So what that means in terms of entitlement spending, if you reach a certain age, you are entitled to Medicare benefits; if you are at a certain level of poverty, you can get food stamps. If you are a certain age, also you get Social Security, if you are at a certain poverty level, you can get Medicaid.

Medicaid is the medical coverage for low income; Medicare is the government's health care program for seniors.

This chart, a very colorful chart, shows what is happening to the increase in spending of entitlement programs, increasing at about 5.5 percent a year. So total Federal Government is growing two and three and, in 1 year, almost four times the rate of inflation.

A lot of that problem is the increased cost of entitlement spending. Of course, the question is, will this Chamber have the intestinal fortitude, along with the Senate and the White House, will this Chamber have the intestinal fortitude to control spending? Will we have the willingness to cut down on some of the increase in discretionary spending?

Today in my office, like I suspect in other Members' offices, there were people suggesting there was a need for more government spending. We heard in the previous hour that government should spend more, and it was unfair for the government not to spend more on different programs. The situation that this country is facing is an increased demand for Federal spending matched with a situation where 50 percent of the adult population in this country paid less than 1 percent of the income tax. Think about it.

We have now divided the wealth through government programs and taxation to the extent where 50 percent of the adult population in this country pay 1 percent of the income tax.

□ 2200

So we can understand why some people are saying give us more government, it does not cost us much.

Look at this next chart on what we have done in what I call unfunded liabilities, the promises that we have made in excess of what money we have to pay for them. On the top line we have got Medicare part A as an unfunded liability of $21.8 trillion.

Let me stop here and give my definition of unfunded liability. Unfunded liability is today's dollars that we would have to put in a savings account that is going to earn the rate of inflation plus the time value of money. This is the money we would have to put in an account today to accommodate the needs of these programs over the next 75 years: Medicare part A, $21.8 trillion; Medicare part B, $23.2 trillion; Medicare part D, the drug program that we just passed recently. Will we have the willingness to reduce these other programs? We did not have the willingness not to increase the prescription drug program. So what we are borrowing from our kids is $16.6 trillion of unfunded liabilities, that we have, in effect, decided that our problems are so great today that it justifies taking that money away from our kids, suggesting that maybe they are not going to have their own problems to deal with, but we are leaving them this unfunded liability in addition to a huge debt. It totals up to $73.5 trillion, unimaginable in terms of what we are leaving as far as a legacy to our kids and our grandkids.

This is another chart that says it in a different way. If we are going to accommodate Medicare, Medicaid, and Social Security and take the money out of the general fund to pay for the money that is going to be needed for these programs over and above what is coming in from the FICA tax, what is coming in from the taxes to pay for these programs, by 2020, in 16 years, it is going to be 28 percent of the budget that is required to make up the difference between the money coming in for Social Security and Medicare and Medicaid and the additional money that is going to be needed. Simply, by 2030 it is going to take 52 percent of the general fund budget to accommodate these programs.

We know we cannot do that. Is that going to mean a drastic reduction of some of these programs? Is it going to mean a drastic increase in what we are going to have to borrow in future years? The challenge now before us is we are increasing debt at the same time that interest rates are going up. So as the Members recall, the pie chart today, spending $300 billion a year, 14 percent of the total Federal spending on interest costs, that could double in the next 20 years.

This is a quick snapshot of the red and the green, if you will, of what is happening in Social Security. In 1983 the Greenspan Commission dramatically increased Social Security taxes and at the same time dramatically reduced benefits. But even so, the short-time surplus coming in is going to run out in 2017, and then we are looking at a future of huge deficits that somehow is going to have to be made up if we are going to continue this program.

As I go around my southern district of Michigan, a lot of people wonder more exactly how Social Security works. This is just a very brief way of how this highly progressive program started. We started it in 1934; and at that time, the provisions were that once people reached 65, they were entitled to benefits and they would have to pay in all those years. But in a pay-as-you-go program, we found out that the money coming in from Social Security was very ample and that most people

died before they reached the age of 65. So another way to say that is most people paid in their benefits but never collected much of anything and the program worked very well.

From the beginning program, the benefits have been highly progressive and based on earnings. At retirement all of the workers' wages up to the tax ceiling are indexed to present value using wage inflation. Let me say that a different way. If one had a $20,000 job 15 years ago, that $20,000 job today might be $40,000 with wage inflation. So Social Security puts down $40,000 income for that $20,000 job they were earning maybe 16 years ago. So everything is indexed based on what that kind of job would pay today. And then they take the best 35 years of earnings and average them together and decide what that person's benefits are going to be. So they take the best 35 years. Maybe they did not work 5 years. So 5 years would be entered as zero, and then they would take the 30 years of pay and divide by 35. So, in effect, if they did not have those working years, they would be indexed as zero. If someone works 40 years, then they would take the best 35 years.

The annual benefit for those retiring in 2004, this is where it is progressive in terms of the payout: 90 percent of earnings up to $7,344; 32 percent of the earnings between that amount, $7,344 and $44,268; and then 15 percent of the earnings above $44,268. Early retirees receive adjusted benefits.

A question that is often asked on complaints of abuses for SSI of families down the road is that maybe some people think they do not deserve the supplemental security income, and people are concerned that this comes out of Social Security. Actually it does not come out of Social Security. SSI comes out of the general fund even though it is administered by the Social Security Administration.

Going back up to this 15 percent of earnings above $44,268, one way that I have structured my legislation that results in solvency for Social Security is I add another ben point of 5 percent. That has the effect, Mr. Speaker, of slowing down the increase in benefits for high-income retirees. So it is going to cost money. Either we reduce benefits or we increase the income. I do a little of both in my legislation. But one way I do it, breaking off from this chart, is I add another ben point of 5 percent that has the result of slowing down the increase in benefits for the high-income retirees.

We have talked a lot about personal savings accounts. The Democrats and a lot of the news media refer to it as privatization of Social Security. Let me just say, Mr. Speaker, that there is no legislation that privatizes Social Security. The most that any of the legislation that I have seen does is take a portion of what people are paying in for Social Security, 12.4 percent of earnings, and my bill is as high I think as any legislation I have seen, and what I do in my legislation is take 2.5 percent of earnings and allow that amount or that percentage of one's earnings to go into one's own individual retirement account that becomes their property, that unlike Social Security, if one dies, they can pass it on to their heirs. It is part of their estate.

When Franklin Roosevelt created Social Security back in 1933 and 1934, he wanted to feature a private sector component to build retirement income. I mean, this was a time after the Depression with people going to the poor house, and the Congress and the White House and FDR said, look, there is a better way. Let us have a law that forces savings while people are working to make sure they save some of that money to increase or guarantee a little bit more of Social Security so they do not have to go over the hill to the poor house when they retire. So we passed that law and said here is mandated savings. But Franklin Roosevelt said let us do it in privately owned accounts and simply say they have got to set aside this much of their earnings, they cannot take it out until they retire.

In fact, when the Senate passed their Social Security bill in 1933, they said let us do it the way the President suggested and have private savings accounts owned by the individual with limitations on where they could invest the money, but it was owned by the worker. This House passed a bill that said, no, let us have the Federal Government take it all in and pay it out when these people retired, and we will have a system where people that are working pay in their money today and that way we can start paying benefits out right away.

So we charged workers to pay into the Social Security, and immediately we started paying benefits to senior citizens, older people. So that was very good for some of those older people to immediately receive that benefit, but what it does on this kind of a pay-as-you-go program is it depends on more and more workers paying in more and more of their earnings into Social Security taxes to accommodate a growing senior population.

Now we are faced with 78 million baby boomers that are going to begin retiring in another 4 years. That means 78 million individuals that are at the height of their earnings, paying in maximum Social Security benefits, and are going to be going on to the system, taking out maximum benefits. And that is where the demographics start hitting us.

The Social Security actuaries last month suggested that we are in a very bad situation in terms of the insolvency of Social Security with an unfunded liability of $12 trillion for Social Security, that we would have to put that $12 trillion in a savings account today to accommodate the additional money that is going to be needed over and above what is coming in payroll taxes, FICA taxes.

Social Security spending exceeds tax revenues in 2017, is what the actuaries said. The Social Security trust fund goes broke in 2037. That is a little bit of a pretend figure because when we really run out of money in 2017, this government, this Congress, House and Senate and the White House, have already spent all of the extra money coming in from Social Security. They spent it on other programs. So there has never been a savings account with any individual worker's name on it. In fact, Mr. Speaker, what really should concern all of the people, the electors in this country, is that they are not entitled to any Social Security benefits. The Supreme Court now in two rulings has said that Social Security taxes are simply another tax, Social Security benefits are simply another benefit, and there is not an entitlement just because one pays Social Security taxes all their life.

Insolvency of Social Security is certain. We know how many people there are and when they are going to retire. We know that people will live longer in retirement. We know how much they are going to pay in and how much they will take out. Payroll taxes will not cover benefits starting in 2017, and the shortfalls will add up to $120 trillion between 2017 and 2075. $120 trillion between 2017 and 2075, and the one way to define unfunded liability is how much money would have to go in a savings account today to accommodate that $120 trillion; and what that is, is about $12 trillion today in a savings account that is at least going to draw the interest at the rate of inflation and a time value for the money.

□ 2215

On the demographics, here is what happened as to how many people are working, paying in their Social Security tax. In 1940, there were 28 people working and paying in their Social Security tax for every one retiree. In 2000, three people were working in the United States paying in their Social Security tax for every one retiree. The estimate by the actuaries at Social Security is that in 2025 there will only be two people working paying in their Social Security tax. That means, again, we are faced with a dilemma of not having enough money and possibly increasing taxes.

The Social Security trust fund, I was Chairman of the bipartisan Social Security Task Force. In fact, when the Democrats and Republicans met for about a year hearing witnesses and understanding the dilemma of what Social Security is facing, what we found out is we had unanimous agreement that we have got to do something to fix Social Security, and the longer we put off a decision, the more drastic the solution is going to have to be.

This chart reacts to what a lot of people have asked me, that if government would just keep their hands off the surplus coming in for Social Security and pay back what we borrowed, everything would be all right.

The little stack on the left represents what is in the trust fund, including the

interest that has accumulated by IOUs of what government has, and I put it in quotes, ''borrowed'' from the trust fund. That is $1.4 billion that the government owes the trust fund to pay back what it has borrowed and spent on other programs. But the shortfall in Social Security, $120 trillion in future dollars, $12 trillion today, is what is needed to accommodate and keep Social Security solvent.

There needs to be a fix. It is unconscionable that we simply tend to look the other way and not face up to the problem of Social Security.

In campaigns, I have been in Congress for the last 12 years and I started my first Social Security bill in 1993 when I first came to Congress. In that first election, and every election, there has been the charge by my opponent that ''Nick Smith wants to take away your Social Security.''

It is sort of effective, because so many of our seniors today depend on Social Security for their livelihood that it scares the dickens out of them to think that maybe somebody is messing around with the program and is going to take away their Social Security benefits. So politically, some people call it the third rail of politics, it has been difficult for politicians to try to explain the program.

In the 8 years of the Clinton administration, President Clinton originally was dedicated to doing something to fix Social Security. Because once you talk to the people that understand the program, that know its insolvency and know the hugeness, the dramatic trillions of dollars that are needed to fix this program and the importance of this program to so many seniors, President Clinton wanted to fix it.

He had several task forces. I served on those task forces. I went to the White House. We talked about the problems with Social Security. But it ended up that the President and most of the Members of the House and most of the Members of the Senate did not want to talk about it. ''Let us put it off until the next election.''

President Bush was brave in the campaign, and he talked about it. Senator LINDSEY GRAHAM and others, including myself, every year talked about the need to fix Social Security. So we are coming closer. There is a greater understanding by more and more people that there needs to be something done to save this program.

So I call, Mr. Speaker, on voters in this election coming up this year to size up your Congressional candidate. Ask them which Social Security bill that they have cosponsored is going to save Social Security. And do not let them get by with this rhetoric that, ''Look, I am going to do everything necessary to save Social Security.'' You need a plan, you need action, you need forward, in-advance thinking. It cannot be a crash program. It has to be gradual.

What I have learned over the last 12 years, and I have introduced this Social Security bill every 2-year session over the last six sessions, every 2 years it had to be a little more dramatic in terms of reaching solvency, because you have lost the surplus over those past years that has been coming in.

As we said, Social Security has a total unfunded liability of over $12 trillion. The Social Security trust fund contains nothing but IOUs. To keep paying promised Social Security benefits, the payroll tax will have to be increased by nearly 50 percent or benefits will have to be cut by 30 percent, and we do not want that to happen.

Here is another chart that I made up trying to show that Social Security is not a good investment. The average retiree gets a return on the money that they have sent in for Social Security of 1.7 percent on that investment.

If you happen to be a minority, a young black man that dies on the average at age 62, as we originally started back in the 1934–35–36 period, you did not live quite long enough to draw benefits. So there is actually a negative return for minorities.

The average return is 1.7 percent. I put in this column, it is representing the Wilshire 5000, and if you were invested in that index of stocks over the last 10 years what you earned is 11.86 percent after inflation, over the decade ending January 31, 2004.

So that is why in my bill we can guarantee if you decide to go into a retirement savings account, where 2.5 percent of your earnings is transferred by government into an account owned by you and managed by the government, with limited investments, we can guarantee, if you choose that option, you will get as good or better a return than you would staying under the Social Security traditional program. But we still leave it optional in my bill, that you can stay with the current Social Security program if you want to.

Another way of saying it is not a good investment, if you retired in 1980, you had to live 4 years after retirement to break even. If you retire next year, in 2005, you have to live 23 years after retirement to break even, collecting those Social Security benefits. After that, it goes up to 26 years that you have got to live after retirement to break even on your Social Security.

The next charts, please.

Our pages are so great. They are going to finish up I think in 2 weeks. These are the full-year pages. They get up about 5:30 every morning, if they want to eat something before they go to school, and then they are ready to work for Members of Congress and the U.S. House of Representatives. There are also pages in the Senate.

Back to Social Security.

Mr. Speaker, 76 percent of families pay more in payroll taxes than income taxes. I say that and I show that because I think it would be very unfair to say that we are going to solve Social Security by again raising the payroll tax. Of course, that is what we have done over the years.

Every time we have run out of money, because what we have done over the years too is continued to increase benefits. Actually, Medicare in 1965 was an amendment to the Social Security bill, to add Medicare privileges or health care coverage for seniors. So we have continually increased the benefits in Social Security, and in so doing we have simply increased the taxes to pay for those extra benefits and the increased costs.

In 1940, we increased from 1 percent to 2 percent the rate on the first $3,000 as the total maximum payment of taxes. The maximum was $60 dollars. In 1960, we tripled it and raised it to 6 percent and increased the base to the first $4,800. In 1980, it was over 10 percent of the first $26,000. By 2000, we raised it to 12.4 percent of the first $76,000. Today, in 2004, it is 12.4 percent of actually now $89,000.

So we have continued to increase taxes to cover benefits, in a situation where the birth rate has gone down, so there are fewer workers in relation to an increased number of seniors, because seniors, number one, are living longer.

In the Social Security Task Force, the bipartisan Social Security Task Force that I chaired, we had medical futurists suggesting that within 20 years, anybody that wanted to live to be 100 would have the medical technology to allow them to be 100 years old, and within the next 30 years, anybody that wanted to live to be 120 years old, it was their projection that people could live to be 120 years old. Of course, that means a tremendous increase in the amount that the would be paid out from Social Security compared to the amount coming in to Social Security.

These are six principles that I thought were reasonable in developing any Social Security changes to keep it solvent: Protect current and future beneficiaries; allow freedom of choice; preserve the safety net.

What I do in my bill is I leave half of the money in the trust fund and only use half of the money in the trust fund to accommodate the transition to personal savings accounts.

What I think we also have to do is make Americans better off, and not worse off. That means, to me, in addition to some other provisions of a Social Security bill, that we do not solve it by increasing taxes; that we do not simply say, well, we will increase taxes on the rich.

Some people have suggested, well, why not make Social Security into a welfare program and only pay out Social Security benefits to people that really need it? It is interesting, both Democrats and Republicans, labor unions and others have said, well, that is going to take away the support for Social Security, because, now in America we have a system where you can start out poor and end up one of the richest people in the country.

We have a system where saving a little bit early on and continuously, with

the magic of compound interest, can make an average-earning individual the equivalent of a millionaire when they retire. So my suggestion to parents and grandparents and to young people is to encourage that savings in young workers, because if they save now, it can secure their retirement, and who knows what future Congresses are going to do to Social Security in terms of cutting benefits, if we continue to put off the solution to this problem?

Lastly, it creates a fully-funded system and no tax increases.

I am going to just briefly run through, Mr. Speaker, my Social Security bill.

The Social Security trust fund voluntary accounts would start at 2.5 percent of your earnings and would reach 8 percent of income by 2075. In every case, the benefits you would receive would be more than if you stay with the current Social Security system. Investments would be safe, widely diversified, and investment providers would be subject to government oversight. The government would supplement the accounts of workers' earnings that earn less than $35,000.

Actually, this was a suggestion, I think it was maybe the Golden Savings Account that President Clinton suggested, where we start putting in a little extra money for low income workers in their savings accounts so that the magic of compound interest can increase the benefits for them. So that is what I do in my bill. I say that workers earning less than $35,000 would have additional money put into their personal retirement accounts to ensure that they build up significant savings for retirement.

My bill has been scored by the Social Security Administration actuaries to restore long-term solvency to Social Security. As I mentioned earlier, all of my bills that I have introduced have been scored to make Social Security solvent.

What I am concerned about, and what I am nervous about, and this is my last year in Congress, is that the tendency is going to maybe just to go a little ways in terms of solving the problem, and to put off what is needed for a long-term solution until later on.

□ 2230

And so we mess around with the edges a little bit and we say, well, this means that we are not going to face the real dilemma, the real problem, the real catastrophe for another 10 years. So let us fix it a little bit. I think that would be a huge mistake. In my bill, no increases in the retirement age. No changes in the COLA; that is the annual increase based on inflation that is given. And no changes in benefits for seniors or near-term seniors.

Solvency is achieved through higher returns from worker accounts and slowing the increase in benefits for the highest earning retirees. On worker accounts, accounts are voluntary and participants would receive benefits directly from the government along with their accounts. So you still have Social Security. It is not privatizing Social Security. There is still a structure for Social Security. In fact, this bill does nothing with the insurance provisions of the Social Security legislation. So the disability insurance, the accident insurance is still totally a government insurance program ensuring workers that if they get hurt on the job and they are eligible under Social Security, they will get disability benefits under Social Security until they reach the age of 62 or 65.

Government benefits would be offset based on the money in their account, not on the money earned. In other words, if you earn more than the 1.7 percent, you can be guaranteed that you are going to have benefits that exceed current Social Security. Workers could expect to earn more from their accounts than from the traditional Social Security. And, again, as I mentioned earlier in my bill, we guarantee that the benefits that you earn, if you take the option of a personally owned account, the benefits that you earn would be greater than staying in the traditional Social Security.

All workers accounts would be earned by the work and invested through pools supervised by the government. Regulations would be instituted to prevent people from taking undue risk in investments, and workers have to have a choice of three safe indexed funds to start with, with more option after their balance reaches $2,500. Not so tough, right? Not so tough. We can do it. And this is scored by the Social Security Administration to keep Social Security solvent.

Here is a provision that I call ''fairness for women.'' It might not be politically correct. Maybe I should say fairness for spouses, but what I provide in my legislation for married couples, account contributions would be pooled and then divided equally between husband and wife. In other words, Mr. Speaker, the man and the wife each would have their separately owned accounts and they would have identical amounts of money. So if one spouse is earning 80,000 and the other spouse is earning 10,000, you would add those together and each spouse would be credited based on 2.5 percent that increases every year of that 45,000. So man and wife would have the same money going into their each separately owned accounts.

It would increase surviving spouse benefits to 110 percent of the higher earning spouse's benefits. So if your husband dies and he has the higher Social Security benefit, my legislation provides that the continuing Social Security check would be 110 percent of the highest Social Security benefit received by either the husband or wife.

I do this because a tremendous increase in cost of the government is nursing homes. At roughly $50,000 a year for nursing home costs, people that assume that they were going to die at 80 or 85 now are living to 90 or 95. They run out of their savings and when they do that, they have no estate and they end up taking the Medicaid provisions that are for low income, or in this case non-income, that have now spent all their money. But if we can encourage these people to stay in their homes longer rather than going into the expensive nursing homes, it is going to reduce the overall cost for government. That is why I increased the amount from 100 percent to 110 percent to encourage staying in your own home after one spouse dies.

The third provision is stay-at-home mothers with kids under five would receive retirement credit. I mean, they are probably working harder quite often than maybe their husband's work or the other way around, whoever stays home. But to encourage a parent to stay home with those young kids, I put a provision in where they are going to earn credits for those years that they stay home with kids under five years old up to a certain limit.

Here is some additional provisions that I put in my legislation to encourage additional savings. Increased contribution limits for IRAs and 401(k)s and pension benefits, so I increased that; a 33 percent tax credit for purchases of long-term care insurance up to $1,000 a year, $2,000 for a couple; low-income seniors would be eligible for $1,000 tax credit for expenses related to living in their own home and that is in addition to the 110 percent of Social Security benefits, and households caring for dependent parents would also be eligible for $1,000 credit for expenses.

Social Security at $12 trillion unfunded liability is what we have not been willing to deal with; and yet that is the lowest of the insolvency figures. Again, the insolvency of Social Security is $12 trillion going into an investment fund today; but for the rest of Medicare and Medicaid, it is an additional $60 trillion that would have to go into a fund.

So Social Security is what I have been working on, but we are going to also have to deal with Medicare and Medicaid provisions to somehow encourage logical, good decisions reducing the cost of health care.

The whole thing of our future in America, we are a country that was originally created under our Constitution to have the kind of incentive that provides the people that work hard and save hard and go to school and use their education are better off than those who do not. But over the last 30 years we have sort of evolved into a divide-the-wealth philosophy where today 50 percent of the adult population pays about 1 percent of the income tax and the other 50 percent pays 99 percent of the income tax. So more and more people are electing legislators that promise them more government benefits and that is the danger.

This is the 195th birthday of Abraham Lincoln. And he said in his famous

Gettysburg address, Can a nation of the people and for the people long survive. At least he implied that. I think it can, but I think it is going to take some leadership, some willingness to face up to some of these challenges, less partisanship, more bipartisan cooperation in terms of trying to solve and deal with some of these problems that are facing this country.

We have got to have the kind of education, we have got to give education the kind of priority it needs. We have got to continue to invest in research to make sure that we develop the kinds of products and an efficient way to produce products that the world wants to buy to make sure that we continue to be competitive in this country.

We are the greatest country on Earth, militarily, economically; but now we are moving into a dangerous situation where we are overspending every year, going deeper into debt, where we are making promises that our kids and our grandkids are going to find very difficult to pay for. And so the challenge is not just in our Republic, with Members of Congress. The challenge is also in this election year and every election year to size up the candidates that you think are going to be willing to make the tough decisions, to solve some challenges that this country is facing.

With that, Mr. Speaker, I would ask all of my colleagues to examine the Social Security bills that have been introduced, to consider sponsoring some of that legislation or writing their own legislation to solve and keep Social Security solvent.

30-SOMETHING DEMOCRATS

The SPEAKER pro tempore (Mr. CARTER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes.

Mr. MEEK of Florida. Mr. Speaker, once again it is a pleasure to come before the Members of the House and the American people to talk about issues that are facing all Americans.

As you know, week after week we come to the floor, the gentleman from Ohio (Mr. RYAN) and myself and other members of the 30-something Group to talk about things that are facing young Americans, which also I think have a lot to do with the bottom line of American families, as they start to work on their finances, work on their future, and I am glad to do that.

The first week we came we started talking about the issues of student loans, the fact that more Americans are graduating from college in debt, unable to purchase a home or take part in the American dream. We also talked about the issues that were facing students in America here with the price of text books, which then also has an issue that is placed on the table of their parents are trying to make sure they come up with the in some cases $800 to $1,500 for text books on top of exploding tuition costs, which I must say is a student tax and a tax on the American people.

Last week, we talked about the cost of health care as it pertains to the young people having an opportunity to have adequate health care outside of going to the emergency room, for that level of health care that they so desperately need and is so very, very important that we have a health care plan here in the United States versus some sort of health care savings plan that the average American, that the administration is pushing that does not make as much sense as it should make to the average American.

We talked about voter suppression also last week, voter suppression on college campus, and we want to make sure we get the word out that it is important that students and parents of students, where your children are going to be on a college campus this fall, that they can register to vote there in that city, that town, wherever they go to school, because we had an issue and we still do to this day, individuals that are supervisors of elections that are saying, or the Secretary of State that is saying, well, you are a resident of Indiana, but you cannot register to vote at the University of Georgia. Well, you can.

The Supreme Court has already spoken to this issue, and so it is important that we get that out and we encourage many people who want to learn more about voter suppression to contact the Rock the Vote organization. On their Web site they have information pertaining to that issue.

We also want to continue to encourage people to e-mail us. We have received quite a few e-mails. I know we both will talk about it tonight. I am so excited about the fact that we are getting such a great response from the American people, young and old. And I will say some of these e-mails are really going to help us direct hopefully this House, if given the opportunity to lead in this House in the majority, to make sure that average Americans are heard. And I will talk a little bit about our Web site; I hope the gentleman would.

I also want to, as we did last week, I want to thank the gentlewoman from California (Ms. PELOSI), who is the Democratic leader in this House, for pulling us together, helping us realize the importance of young Americans, that we have a voice in this process, in this democracy and allowing us to be on the floor once a week to not only respond to e-mails but also share with the American people about what is going on.

Mr. RYAN of Ohio. Mr. Speaker, I thank the gentleman for taking a lead on this. He is quarterbacking tonight.

I think there are some great issues. Just so we know, we wonder sometimes when we stand on the floor how many people are out there watching. And I just got off the phone with my wife and she is changing from ''Law and Order'' to C-SPAN so that they can watch us here tonight. So we know we have a little bit of an audience out there. But, again, it is the Thirtysomething Democrats@mail.house.gov. And I have a stack of e-mails here that we have received since we started doing this, and it is amazing the response we are getting.

I think as we have talked about this, and it was not too long ago that we were in college and participating in a variety of activities there, and we felt that the political leadership was not engaging us. And I think that is something that the gentlewoman from California (Ms. PELOSI) has made it a point that as a Democratic Caucus we are going to go out and we are going to pay attention to what the needs of the students are. We recognize that they are the future of the country. We do not just want to pay them lip service. We want to make sure that we are there for them with the issues that they care about and on the issues they need us to be there for them.

□ 2245

If we are going to continue to thrive as a democracy and country we are going to need to invest in our young people, and we cannot just say we are only going to take care of senior citizens. I think there is a responsibility there and we have a commitment there, but at the same time, we need to make sure that we let these young people know that we are committed to the issues they care about, we are committed to them, we want to see them get educated and see them recognize their own dreams, their own aspirations. In many instances, that is through a college education, period, end of story.

It is not the only thing you need but for a good many Americans, if you want to succeed, you have to do it by going and furthering your education.

So the question that we have here tonight is, are young people better off today, are students better off today than they were 4 years ago? I think if you look at the chart that we will put up and some of the statistics that we will talk about here today, it is clear that young people are not better off today than they were just 4 years ago.

In the past 4 years, the unemployment rate for people ages 16 to 24 has gone up 3.7 percent through the Department of Labor statistics. So there are thousands of kids who are young people who are out there trying to get jobs, trying to find work, and they cannot find work.

Then this is not so much off the subject, but I found this article today that I wanted to talk about and bring up today.

This is from San Jose, California, and the title of the article is Offshoring of U.S. Jobs Accelerating. We talk about how we have to educate our young kids. In every single trade agreement that we have passed, the commitment was we are going to continue to invest in education, K through 12, No Child

Left Behind, Pell grants, consolidation of student loans, investment in our young people. We are going to move the country forward by investing in our young people, and if you get an education, the promise was, then you have work in this country.

So this study that was done roughly, and that is a quote, roughly 830,000 U.S. service sector jobs ranging from telemarketing and accountants to software engineers and chief technology officers will move abroad by the end of 2005. Eight-hundred-and-thirty-thousand jobs will move offshore, high-tech jobs, by 2005.

This same outfit did a study a couple of years ago, and they said it was only going to be 588,000. Now it is 830,000.

So the question is, do you have the opportunity that you had if you would have graduated in 1999 or 2000 and the kind of job market that a Democratic Congress and a Democratic President created through balancing the budget and being fiscally responsible and leading an enormous economic growth and creating the kind of jobs needed?

Mr. MEEK of Florida. Mr. Speaker, can I say, without one Republican vote. Democrats did that on behalf of our future, balancing the budget.

Mr. RYAN of Ohio. Many Democrats lost their job over it because they made the sacrifice.

Mr. MEEK of Florida. And did the right thing.

Mr. RYAN of Ohio. To do it right and to create long-term and probably really what we have, and I think young people sense this when I talk to them because they have grown up in the culture of where we are talking about stocks and politics, and they are a little more sophisticated than even we were just a few years ago, but a lot of those young people recognize that the decisions that are made in this body and the political decisions that are made are made for short-term political advantage, not long-term prosperity for the country.

I think you have seen it over the past few years that the decisions that are made about how can we win the next election, and I am from the school of thought that if you do right when you are in power, when you do right by leading, that the electorate will take care of itself and the people will vote for candidates who support issues that make the country better, make the country stronger, economically, politically and whatever.

But I think it is important for us to realize that the kind of atmosphere that we are creating here, the lack of investment in education, the lack of investment in K through 12, the lack of investment for our college kids is coming home to roost, and we are not creating any kind of new jobs. We are losing jobs.

But what is the next industry? If you are not investing in the young people, you are not going to be able to create the next industry.

I am going to share one statistic with you and then I am going to kick it back over to the quarterback here tonight.

Some of the major technology hubs over the past few years, Silicon Valley, famous; Seattle, booming; Austin, Texas, everything was great. Those areas now have a higher unemployment rate than the Nation at large, and I think when we are talking here tonight about what is the future prospects of the young people who are hopefully out there tonight watching this, if not studying and going to school and trying to make themselves better, what are the future prospects, and think when you hear statistics like that where great areas of concentration of high-tech wealth and job creation have higher unemployment rates than the Nation at large, I think that there is a lot of things that need to be done, and I think the answer to that is investment into education.

So I am hoping that through raising the awareness for the young people here that we have an opportunity to hopefully engage these young people like the gentlewoman from California (Ms. PELOSI) wants to do, reach out to these students and 20 somethings and 30 somethings and engage them in the process and let them know that they have a right to stand up and they have a right to be involved in this process.

Mr. MEEK of Florida. Well, the only way we are going to see the shift that we need, and I am so glad that you are referring to studies that were not only done recently but were done 4 years ago, and also having a backdrop of reading articles that are in daily publications and the facts from the Department of Labor, U.S. Department of Labor of what the reality is, because many times people may turn on CSPAN, Members may be sitting in their offices listening to us right now, and they are saying, oh, well, that is just the 30 Something Democrats, upset because they are not in the majority right now; so they will say and do anything, and we will tell the American people anything.

I just wanted to say this is not the gentleman from Ohio (Mr. RYAN) report or the gentleman from Florida (Mr. MEEK) report. This is the report of the reality of what is going on in this government that we serve in and what is happening to the American people.

The rubber meets the road when one has to go into the emergency room for health care services. I must say if we cough or our throat feels a little funny today, we walk down to the clinic. We have good health care. Fine, not a big long wait. We are not told what veterans are told; we will see you in a couple of months. If we need to see an ophthalmologist or optometrist or whatever the case may be, oh, sure, in a matter of hours, not days, not weeks.

Folks did not elect us to Congress nor any Member to Congress to say I want you to have better health care; we love you so much we want you to have better health care than what I have. No, they elected us to make sure they have life better for them. That is our purpose, and I am pretty sure that a lot of Members come to this body thinking that that is what they would do eventually.

We have impediments of allowing us to be able to provide a better way of life, and so the question that you mentioned earlier, are you better off than you were 4 years ago, well, looking at the numbers, it does not necessarily look that way.

In the past 4 years, the unemployment rate for 16 to 24-year-olds have gone up 3.7 percent, and I think it is also important, in the past 4 years a number of unemployed college grads have doubled from 600,000 in 2000, a whopping 1.2 million in 2004 and this is the Economic Policy Institute in case someone wants to check that out.

Goodness, I do not want to talk about gas prices. Have you filled your car up lately?

Mr. RYAN of Ohio. I am not sure we want to talk about it because it is painful.

Mr. MEEK of Florida. Well, I do.

Mr. RYAN of Ohio. I drive back and forth from Ohio to Washington, and it is just, to try to get it on the turnpike or in a big city like Washington, shameful.

Mr. MEEK of Florida. Last night, I filled up, and you have to have a credit car when you fill up. No more of that, oh, I will just take 20 bucks out and make it happen. You may get a quarter of a tank in some gas stations.

So when you look at these issues it is not within our control. It is not our control. That is the reason, well, we do not necessarily set the agenda here in this House. We had a great debate today on the issue of overtime pay. Please, tell me that we are not arguing about taking away overtime from Americans. Please tell me that. Please tell me that what you are saying, I wish it was untrue about American jobs that are going overseas. Guess what, when they fire you, they do not come and ask you are you a Democrat or Republican or Independent. You are fired because your job is now overseas.

So the only way I think that we are going to change that is that the American people help people like yourself, myself, the gentlewoman from California (Ms. PELOSI) and some Republicans who want to do something about it, and I think it is important. So the only way that is going to happen is that we can bring it here to this floor. We do not have to talk about it in a special order after legislative business. We can actually take action towards making life better on behalf of every American.

Mr. RYAN of Ohio. I think when you ask and we talk about what do you do, and I think there is ample evidence for criticism of what has been happening, not only in this chamber but the leadership throughout our government, the lack of leadership, I guess I should say, throughout our government, and the variety of issues that have not been

touched upon here tonight and a lot more that we have, but what are we going to do? What should we do? What is the answer? It is one thing I think to criticize and critique, but what is the answer?

I think part of the answer is all we have to do is look back throughout the history of this country from its inception, and many people like to say, well, the government is not worth anything, the government cannot initiate anything. If you look at all of the major advancements that have been made in the country from the post office, to land grant colleges, to the railroads, to the interstate highway, Medicare, Medicaid, civil rights, Social Security, the GI Bill, the Pell grants, Federal housing, all of these initiatives have, in one way or another, moved the country forward. Who was it that moved the country forward? It was always the government who was leading the way to move the country forward.

The research on the Internet was government investment. The research for diseases now at NIH, government investment, and now I just heard Secretary Abraham, Secretary of Energy, he wants $50 million for a new super high-tech fast supercomputer to give our country a competitive advantage. Who is the Secretary of Energy? Who does it belong to? Where does the money come from? It comes from here. It comes from the government.

The government always has had a role to play. It will continue to have a role to play, and I think the philosophy that people are trying to push down the American people's throats now of here is your 300 bucks, while tuition and fees has increased by 28 percent under this current administration; tuition and fees at 4-year public institutions increased by 35 percent; tuition and fee increases at public 2-year institutions increased by 60 percent; tuition and fees increased in 49 of the 50 States in 2003.

You and I come here at eleven o'clock at night. Our wives are watching and hopefully trying to engage some young people.

□ 2300

But why do it? Because we need to establish a program in this country that will move the country forward.

Now, after 9–11, we had opportunities for energy efficiency, or another GI bill, or you could have asked the American people to ride to work on bikes and they would have gone out and done it because they were committed to moving the country forward and committed to doing whatever it takes. And yet look at the inaction, look at the one solution for every problem. This is a one-trick pony. Tax cuts, tax cuts, tax cuts. And they are not going to the people in my district.

Fifty percent of the people in my district in Youngstown, Ohio; in Niles, Ohio; in Warren, Ohio; and in Akron, Ohio, 50 percent of the people got a tax cut, but 50 percent did not.

Mr. MEEK of Florida. Mr. Speaker, it is also important for my colleague to identify that the majority of the tax cut is going to the individuals with the most money, the individuals that are making over $1 million a year. A lot of my constituents are not. If I had to go out and run the election saying I am only concerned in my district with those who are making over $1 million, I would be surprised if I received 50 votes out of the number that I need.

Mr. Speaker, my colleague and I have been very, very on target as it relates to sharing with the American people, with not just pointing out and describing the inequities of leadership or the inequities of our so-called health care plan, because we do not have one right now, but I just want to share this with our listeners here.

The amount of young adults 18 to 29 years old who are uninsured has gone up 8 percent since 2000, and in 2000 only 22 percent of all young adults were uninsured. Now 30 percent of the uninsured Americans are young adults, despite the fact that their age group represents just 15 percent of the population. These are uninsured numbers, I just want to add and correct myself.

I think it is important that there is a piece of legislation authored by one of the members of our caucus, the gentleman from Arkansas (Mr. SNYDER). He has a bill, House bill 3192, that aims to help young adults without health insurance.

I want to also share with the American people that the Federal Government, we in the Congress are supposed to be in the business of not only helping the people that we represent, especially this Congress, but also assisting States. Now, we have the benefit up here, and here I have my credit card here. I do not have any money in my wallet, but I can go back in and pull a credit card out, I pulled my credit union credit card out, and we have the ability here to just swipe the card and add it to the deficit. Swipe the card and add it to the deficit to the point that we are borrowing money by knocking on the bank of China, saying, hey, can you help us pay down our debt. But we are not doing it on behalf of everyday Americans. We are doing it on behalf of making sure that we can provide tax cuts to people who are not asking for it.

For the middle-class individual, we support some of these tax cuts. We support the family tax cut as it relates to child tax credit and things of that nature. But when we start talking about tax cuts for billionaires, fundamentally, I believe, especially in this deficit time, in this time when States are running deficits because they cannot take a credit card out and swipe it and say I will put it on the card, they have to balance their budgets. So they balance their budgets on behalf of who? The people in their State. Those people are who? Americans that we represent. And what do they do at the State level? They then in turn pass it on to the county government. Well, county, sorry, but you have to let us know how you are cutting costs. We are going to get down to the bottom of this.

What is important is that we start getting to the top of the whole situation, and the top is in the White House, the top is here in this House of Representatives, the top is over in the other body where we have the kind of leadership that we have that is allowing this legislation to pass. This is what some academics call devolution of taxation. We will cut it here, but we will raise it there.

I can tell you right now, for the Americans listening to us and Members of Congress and mayors and council members, or city commissioners, school board members, they know exactly what we are talking about. They get it. They know.

Tell me if this sounds familiar in a community near you or as to Members of this House or people that are watching us now. Has there been a referendum for a bond issue or something to help pay for schools? Of course there has been. Has there been an extra penny for transportation or something of that level, or a gas tax increase on the local level to try to make up some kind of shortfall in revenue? Of course there has been. It is going on now. To seniors, are you getting the same service that you were receiving as relates to an activity program or a good-will program in your neighborhood or in your community? Of course there have been cuts.

The reason why there have been cuts is not the fact that we have not been able to provide the level of service that we have been providing in the past. And I have great concern about being in the Congress and standing over the largest, or be taking part in the largest deficit in the history of the Republic.

One would assume, listening to some of our colleagues in the majority, if we were to believe what they are saying, it is those liberal Democrats that brought us here. Oh no, it has been a long time. And they cannot say that. I challenge the other side constantly. I wonder where the deficit hawks are, those individuals that came to this floor, just like we are here on this floor talking about how they cannot believe the deficit is where it is. I cannot believe this. How did we allow the deficit to get out of control?

Guess what? Democrats delivered a balanced budget. They got what they asked for. Then they turn around and flip the script and try to make it seem as though the Democrats did something fundamentally wrong. Now we have a deficit that people do not understand how we are going to get it down. I guarantee people are going to suffer. Student loans? Forget about it. The banking community is here, and they are trying to make the situation even worse for students that are trying to pay their loans back. They will never pay them. They will always be in debt to the banks for getting an education.

Mr. Speaker, the gentleman from Ohio (Mr. RYAN) gave some great statistics that even when individuals graduate from college, where will they go? Where will the jobs be? Back when President Clinton was President, there were jobs looking for people. Now there are people looking for jobs. And the President says, well, for anyone who is willing to work. Well, I do not have a lot of constituents saying, Congressman, I am not willing to work. They want to have a job. They need that job. It is very, very important that we help them.

Mr. Speaker, I just want to share this one point with my colleague, but I have to say I love to hear my friend when he is sharing these statistics and everything. I just sit right here, and I say this is amazing, look at this guy. The way my colleague deploys the information, it is just so informative. And this is good because we are addressing folks who know what it means for someone to call your house and say are you going to pay this bill or this student loan that you have, or what have you? These are what real people go through, receiving a letter in the mail that you do not know how they are going to pay it.

For the individuals that own credit cards, because they do not have a job and they are trying to make ends meet, they are paying what the bank or the credit card is asking for, $23 versus paying to the principal because they cannot afford to do so because they are in debt. So it is important for us to share this information.

The government spends $900,000 a minute. Every minute, $900,000. That is a lot of money. And it borrows $1.1 billion a day. That is an awful lot of money, $1.1 billion, to pay down on this deficit that is in the trillions. And people talk about our children are going to pay. My colleague, we are going to pay it, and seniors are going to pay it. Because Social Security is not going to be what it should be and how it should be.

So when my colleague started talking about are we better off today than we were 4 years ago, and I know my colleague wants to say something. He is ready to get back on the mike, and I am going to give him a chance in just a minute, but I think it is important for us to share this. We shared about a piece of legislation that one of our colleagues has sponsored now to help young Americans without health insurance. I am 37. Individuals such as myself, the 50-somethings, the 60-somethings can say, well, we have health care needs. Of course, we do. But guess what? When that young person, that grandson or that son or daughter finds him or herself in a health crisis, who is going to pay for it? Nine times out of 10 they will mortgage their homes to pay for the health care costs for their children and grandchildren.

So this is not an issue; this is interconnected. It is all together, and it is going to be the reality of America, or it is the reality of America.

□ 2310

Mr. RYAN of Ohio. Mr. Speaker, I think the gentleman from Florida (Mr. MEEK) makes some great points. I believe this is a good opportunity for us to try to communicate some of these points.

To continue on a point that the gentleman was making, the gentleman was talking about the devolution of taxes and going from the Feds cut their taxes and they push it off onto the States. And the States, in many instances, cut their taxes too and have reduced revenue, and they are passing it on to the county. And we see the local school boards, we see the university raise its tuition prices, we see mental health levies, transportation levies, disability levies, and senior citizen levies for senior programs, parks; we see levies for just about everything.

We have the devolution down until it gets to the local level, and the reason why we have a Federal Government to pass money along is because a lot of those areas are poor. They do not have the money to treat people with mental health problems in their county. They do not have the money. We need the Federal Government and the States to come in and help those poor communities.

A lot of the school districts, and this is something that is going on in Ohio, some of the school districts, they do not have the local tax base to be able to fund an adequate education for their kids. So you need the State to be involved or you need the Federal Government to be involved in order to help them.

That is one stream that comes down, and it is pushing down on the poor citizens in our communities all across the country regardless of the State.

Then, as you reduce the Federal revenues and, as you said, you borrow the money, you reduce the Federal revenues; but then you have to figure out what you are going to give back because the revenues are not there to give back. It is not like we are returning surplus money to the millionaires, it is not like when Clinton left office, and we had billions of dollars to give back. There is no surplus to give back, and we keep giving back. So where do we get the money? We pull out the credit card. We borrow the money to give it to the top 1 percent.

So we are cutting services on this end. We are pushing the burden down to the local level, and then we are borrowing money to give to rich people; and then in this other area here, we are pushing the burden off on the next generation. It is a tax shift off onto your kids, to your grandkids some day, my kids and my grandkids.

So we are going to have a higher rate of taxes for your grandkids because of this indulgence, this binge that we have been on, the binge that this administration has been on; and we are pushing it down to these kids at the same time that the baby boomers are moving into our systems, our Medicare system and our Social Security system.

What are we thinking? This makes no sense to do what we are doing. It is mind-boggling.

I was on the floor a couple of hours ago with the gentleman from Ohio (Mr. BROWN) and the other gentleman from Ohio (Mr. STRICKLAND) and we were talking about veterans. When you listen to this, if you are home just listening this, Law and Order is over, now you are turning on CSPAN, watching us, you think those are two partisans down there talking, and a few hours ago there were three, just trying to score political points, just blatant politics. But then you look at the facts and you look at what is going on with our country and the lack of investment in people, the lack of investment in all of the programs that we have believed in for years, you begin to recognize it is an issue of priorities. It is an issue of we would rather give these tax cuts because we think in the long run it will help us win an election as opposed to what is best for the country.

Mr. MEEK of Florida. Mr. Speaker, we are in our districts working next week, but the week after next what we should have, we need to get a nice credit card. Just write the deficit in, expiration date unknown, put the credit card there. You know how they have the pictures now with the football teams, we need to talk about that, and I think that is something that we need to talk about over the break.

Mr. RYAN of Ohio. Over the break, maybe we can get away from here and open up and let the creative juices roll, and we can come up with something.

Mr. MEEK of Florida. Yes, and I have a couple of credit cards. None with any substantial balance, but there was once upon a time that was the case. We know better now. I think it is important to understand that young people make youthful indiscretions, and some of those indiscretions are financial.

Another thing is, when we set the deck, when we cut Pell Grants and cut opportunities, low-interest student loans to students that need them, and these are Democrat, Republican, Independent kids that are trying to educate themselves, that is another thing. That is indiscretion based on this Congress knowingly doing this. That is a fundamental problem when we have more young people coming out.

Are you better off? I am looking at this chart that is next to the gentleman, and you can see it better than I can. The gentleman and I are both Letterman guys. He is coming on in a few moments on another station, and I always like to hear his top 10. We have more than 10 here.

When we look at those that are employed, January 2001, 132.4 million were employed. Now we have 130.9 million, and there are more people in the United States of America than there were 3 to 4 years ago.

Unemployment, January 2001, was 5.6 million. Now unemployed is 8.2 million. We are going in the wrong direction.

Not in the labor force, but want a job, 4.6 million then; 4.7 million now. You would assume these numbers would be heading higher rather than going lower.

Mr. RYAN of Ohio. Absolutely. I think an amazing number here, and I know viewers cannot see these at home, but these are official statistics.

Household debt in January 2001 was $6.6 trillion. Household debt today, $8.8 trillion; $2.2 trillion more of household debt. And that is the issue that we keep talking about because the debt tax, the tax per household from this reckless binge that we have been on over the past 3 years is ultimately going to cost your kids and your grandkids enormous amounts of money to pay for that debt.

Mr. MEEK of Florida. There is one thing coming out at me, like 3–D, 15 gallons of regular gasoline, January 2001, was $18.90. Now, May 2004, is $26.33.

Let me just say this, it is one thing to talk the talk, and it is another thing to walk the walk. We have a lot of guys down on Pennsylvania Avenue at the White House. They have the bully pulpit. They are members of the administration talking about what the indicators said, and we believe that the indicator is going to indicate. But when it comes down in the final analysis, the American people more is coming out of their pockets than they are getting in their pockets, if they are getting anything.

So when we start talking about young people, once again, I go back to the parents and grandparents. I think the goal of every parent and grandparent or even aunt or uncle is to see their kids or grandkids do better than what they have done. That is their goal.

What we are seeing now, and this information can be found if Members want to find it. You can check onto the Web site, this information is there at housedemocrat.gov/areyoubetteroff. It is amazing, people come up with these Web sites.

□ 2320

Mr. MEEK of Florida. It is just amazing what we are finding and what we are seeing and what is actually happening out there.

One other thing I wanted to mention. I want to talk about a broken promise. President Bush said 4 years ago that he promised to increase Pell grants to $5,100. For the past 4 years the President and congressional Republicans have frozen or cut the maximum Pell grant award. The Pell grant stands at $4,050 today. That is $1,000 off the mark. But meanwhile we are here on this floor to make permanent tax cuts for the most affluent individuals in this country. The only way that this is going to change, not if we do the 30–Something hour every week. We can only inform the American people. They are going to have to act.

They are going to have to make sure that we have the kind of leadership that is willing to stand up to special interests and say, no, it is not going to happen. We have a constitutional right to make sure that we watch out for the future of this country and to stand here on this floor today not because of our doing, and we voted against a lot of the stuff that has put us in this situation now, laws or legislation passed. I always say this is the biggest cake and ice cream administration I have ever seen. It is almost like sitting one's kid down at the table and say, hey, do not worry about the veggies, do not worry about eating your baked chicken. Turn those plates around and eat that cake and ice cream, go ahead, all you want. But what happens eventually? Either obesity, diabetes, or something. And that is what we are finding ourselves in.

Well, we are down in the polls; so let us see what kind of tax we can come up with today. We will give maybe 30 percent to average Americans and the other we will give to friends and individuals that have money. So I think it is important that we look at that.

I wanted to just hit one more Web site because I think it is important we pay attention to this. It is rockthevote.com on voter suppression, to make sure that young people can vote. And, Mr. Speaker, I want to tell the gentleman from Ohio that I am telling school districts in Florida to tell the kids in school to send notes home to their parents to remind them to vote in the general election. Now, those kids have Republican moms and dads, Democrat moms and dads, Independent moms and dads. But anyone who is paying attention to what is going on with their child in school, they are going to have an issue of what is happening here. So if those parents were to go out and vote, it would be a different conversation. We would be on the floor talking about, what, under the gentlewoman from California (Ms. PELOSI) as Speaker, we passed on behalf of the American people, not just Democratic kids, not just Democratic 30-somethings, not just senior Democrats, but on behalf of all Americans, and it will be fair. It will be fair to the business community. It will be fair to the other everyday Americans.

I am going to let the gentleman go ahead because, like I said, he has a way of being able to supply that information; but once again we as Democrats are looking to make sure that we have opportunities to provide opportunities for young Americans. During the Clinton administration, more than 10 million people were able to take advantage of the New Hope Scholarship tax credit and other scholarships. Students saved $8 billion through the direct college loan program. JOHN KERRY is talking about the same. He is talking about $4,000, not once in the college experience but per semester, per year, credit to be able to allow young people to attend college even though student loans have gone up. That will allow them to be able to receive a college education.

Let me share this, Mr. Speaker, before I yield. During the Bush administration, college tuition has increased by 28 percent. That is that devolution of taxation we talked about earlier, when we cut it up here and we hand it down to State governments. They have to find it somewhere. So where do they go for it? The weak prey, seniors and students and young children, cutting back and saying that public schools need to suck it up and do better. 400,000 qualified high school graduates will not attend a 4-year college this year because of financial barriers; 200,000 will not attend college at all. This is not because they do not want to. It is because they cannot afford to. So I think it is important that if we are going to have a workforce that will be able to take those jobs under a new administration, hopefully under a new leadership here in this House of Representatives, that they will be able to get through school to be able to provide the kind of skilled worker that we need versus what we are experiencing now, more and more jobs going offshore than right here in our own communities, State, and country.

Mr. RYAN of Ohio. Mr. Speaker, I think the gentleman from Florida is absolutely right, and he is as articulate as anyone is around here.

A couple of issues that I want to talk about. And we are going to wrap up here in a few minutes. The hour is getting late, but I think it is important to just say that what we want this Congress to do, what we want this President to do is to take a strong leadership role in creating a new economy for the young people of this country. And I come from an old steel town, very strong during the industrial age; and what I hear from the retirees, I hear from people who have been working in a lot of these mills over the years and are coming close to retirement, is, What are our kids going to do? And when we look back at how we succeeded during the industrial age, the GI bill, the investments in infrastructure, the investments in the interstate highway systems, and I think needs to be duplicated, not in the same, but look at the space program, the national priority to educate people. It was not just about going to the Moon, which was a great national priority; it was about getting people, young people and the country engaged in math and science and engineering and physics because that administration understood that that would spin off into the economy, and those engineers who were getting educated were not just working in the space program. They were working in a lot of other industries. So I think it is important for us to do that. That is one.

And, two, I have heard the President say the economy is turning around. I cannot help, as we are wrapping it up here in the final couple of minutes, but to just acknowledge the fact that just a few miles outside of my district in Canton, Ohio, Timken, which was a

staple in Canton and Massillon, some of the greatest high school football in the country, the Timken Company is going to close up shop, 1,300 jobs in this community. Howard Fineman just wrote a great article about Timken and its potential effect on the election, but 1,300 jobs in Ohio were bleeding. And the President and others want to say that the economy is turning around, and I cannot help but say, where? Where? Maybe if they have a little bit of stock, and the stock market is not even doing all that well. And gas prices are going up. I mean, where is it getting better? It is not. It is getting progressively worse. We have the financial albatross around our neck with the current war, and we are having a number of problems. So these are some things where we have to make education a national priority for us.

Mr. MEEK of Florida. Are you better off now than you were 4 years ago? Mr. Speaker, I just want to, if we can, share just a few of our e-mails that we received, and I am going to start off. From Melanie B. of Maryland, and I will just leave it at that. She is a political and science and social worker major at the University of Maryland, Baltimore campus, will be 30 years old this year. And she goes on to say that ''I have noticed over the past 2 years how tuition costs have gone up and continue to go up. Just over the past year, I have gotten really interested in the workings of the Congress. I tune into C–SPAN quite often now, and I was so happy to listen to the 30-Something Group talk Tuesday night. It almost brought me to tears.''

□ 2330

It almost brought me to tears.

''I started my education late at 25. I am working full-time for an attorney to put myself through school. My parents were unable to help me. I live on my own, which leaves me no choice but to work full-time, or I wouldn't be able to support myself. It is going to take me 6 years to complete both degrees. I started at the community college and transferred.

''I received a scholarship from the National Honor Society, but lost the scholarship after the first semester. In order to keep the scholarship you are required to go to school full-time, 12 credit hours, and keep a GPA of 3.5. I was not able to do so, and just by dropping down to 9 credit hours I lost the little bit of money I had for access to school.

''I make too much money to qualify for a Pell Grant, which means that by the time I finish school, I will be in a mountain of debt. I hope to go to grad school, but right now I am not sure that that will be an option. I can't imagine the cost of grad school adding to my already outstanding debt.''

That is a reality of what is going on out there. Community college, had a scholarship, have to work full-time, lost scholarship because she has to work to support herself, had to go to 9 hours, she lost it. She wants to continue her education, but cannot; not because it is not offered, but because she cannot afford it, and also because she will be in so much debt.

If you will read one.

Mr. RYAN of Ohio. I will read a couple here and start wrapping things up here. Alan T, a senior at Oklahoma State University, sent us an e-mail.

''I am spending over $300 a semester for textbooks that have been used four or five times already by previous students. My best friend was unable to be the first in his family to graduate from a major university due to the fact that he was unable to pay for textbooks, parking permits and other student fees that are burdening students more and more,'' also probably a few parking tickets, if I remember college well. Those are also a cost that students must endure.

''I can either pay my bursar, or I can pay my rent. Next year, I won't buy my textbooks, so I can pay both.''

The fact that we have people making this decision, it sounds eerily similar to the decision that a lot of our senior citizens have to make between food and prescription drugs.

Joseph Oliver from North Dakota, a 20-year-old chemical engineering student:

''Full disclosure, I do want to tell you that I am historically, even though I am only 20, a conservative voting citizen. The investigation into textbooks,'' for those of you at home, we have a bill that is going to investigate the high cost of textbooks, also provide a $1,000 tax credit for you to be able to deduct that, or credit that, for your textbooks, up to $1,000 a year, or your parents up to $1,000 a year.

''The investigation into textbooks is long past due. I spent nearly $600 for three classes of books, then was unable to sell any of them back because the new editions were released.''

If anything gets you more upset in college, than you would drop hundreds of dollars for a textbook, and then you would go back at the end of the semester to get hopefully 10 or 20 bucks back, and they say, ''We are not buying these back any more.'' I mean, that was ridiculous.

Mr. MEEK of Florida. Mr. Speaker, I still have some of my textbooks from college at home, because I was so upset, I was appalled by the fact they would not even give me even one-tenth of what I spent for them, and I did not even give them the privilege of giving me $5 for the textbook. I kept the textbook, even though maybe Bush 41 was the last President of the United States in it.

Go ahead. That is just a personal issue.

Mr. RYAN of Ohio. He goes on to say, ''That was the biggest unseen cost of college.'' He also goes on to talk about the variable interest rate for student loans. ''I have a fixed rate of nearly 3.4 percent right now. If that were to change, the light at the end of the tunnel would get a little less bright. I work 18 hour days in the summer to afford the opportunity of continuing school. I get upset every year, because I get penalized for working hard, among other factors, when it comes to receiving financial aid.''

I am going to wrap up here and just, again it is an honor to be here with the gentleman from Florida (Mr. MEEK) to talk about these issues. I think it is important, if you are there, please send us your e-mail to us, find the rockthevote about voter suppression. But continue to send us these, because it is important for us to know exactly what your issues are.

I do want to take this opportunity, since we are not going to be here next week and this is my first term in Congress, to wish my mother a happy birthday. She is 60-years-old, so I wanted to wish her a happy birthday. Also my cousin, Phil Guerra who is also turning 60 this year.

I wanted to take this as an opportunity to wish them a happy birthday before we take off for our Memorial Day break. And just to say again, we got to keep plugging away. We got a long road here. But you establish what you stand for, you take it to these young students, these young kids, and I think you have an opportunity to change the way the country is run, and I think that is a great opportunity that we have here.

Mr. MEEK of Florida. Congratulations to the young people in your family. They are still young, and they still have a lot to do. 30somethingdems@mail.house.gov, 30somethingdems@mail.house.gov.

I want to thank the gentleman from Ohio (Mr. RYAN), for this evening. I look forward to coming back in another 2 weeks to talk about other issues that are facing young Americans.

RECESS

The SPEAKER pro tempore (Mr. CARTER). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 36 minutes p.m.), the House stood in recess subject to the call of the Chair.

N O T I C E

Incomplete record of House proceedings. Except for concluding business which follows, today's House proceedings will be continued in the next issue of the Record.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

8178. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Phosphomannose Isomerase and the Genetic Material Necessary for Its Production in All Plants; Exemption from the Requirement of a Tolerance [OPP-2004-0135; FRL-7358-9] received May 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

8179. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's ''Major'' final rule — Control of Emissions of Air Pollution from Nonroad Diesel Engines and Fuel [OAR-2003-0012; FRL-7662-4] (RIN: 2060-AK27) received May 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8180. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan; San Joaquin Valley Unified Air Pollution Control District [CA 280-0444; FRL-7657-3] received May 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8181. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; State of Missouri [R07-OAR-2004-MO-0001 FRL-7661-4] received May 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8182. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District [CA269-0452; FRL-7659-8] received May 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8183. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Maryland; Revisions to the 2005 ROP Plan for the Cecil County Portion of the Philadelphia-Wilmington-Trenton 1-Hour Ozone Nonattainment Area to Reflect the Use of MOBILE6 [MD161-3110a; FRL-7648-3] received April 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8184. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval of Section 112(l) Authority for Hazardous Air Pollutants; Equivalency by Permit Provisions; National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry; Commonwealth of Virginia [VA001-1001a; FRL-7648-4] received April 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8185. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Clean Air Act Reclassification, San Joaquin Valley Nonattainment Area; California; Ozone [CA 112-RECLAS, FRL-7648-8] received April 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8186. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Conditional Approval and Promulgation of Implementation Plans: Michigan: Oxides of Nitrogen Rules [MI84-02; FRL-7647-6] received April 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8187. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Interim Final Determination that State Has Corrected a Deficiency in the Arizona State Implementation Plan, Arizona Department of Environmental Quality [AZ 126-0074b; FRL-7650-3] received April 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

8188. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Environmental Performance Track Program [OA-2004-0001; FRL-7650-6] (RIN: 2090-AA13) received April 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.