CORRECTIONS DAY POLICY AND PROCEDURES

JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH, NATURAL RESOURCES, AND REGULATORY AFFAIRS

OF THE

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

AND THE

SUBCOMMITTEE ON RULES AND ORGANIZATION OF THE HOUSE

OF THE

COMMITTEE ON RULES HOUSE OF REPRESENTATIVES

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CORRECTIONS DAY POLICY AND PROCEDURES

TUESDAY, MAY 2, 1995

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH, NATURAL RESOURCES, AND REGULATORY AFFAIRS, COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT, AND SUBCOMMITTEE ON RULES AND ORGANIZATION OF THE HOUSE, COMMITTEE ON RULES,

Washington, DC.

The subcommittees met, pursuant to notice, at 9:40 a.m., in room 2154, Rayburn House Office Building, Hon. David M. McIntosh (chairman of the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs) presiding.

Present: Representatives McIntosh, Clinger (ex officio), Dreier, Solomon [ex officio], Pryce, Gutknecht, Shadegg, Ehrlich, McHugh, Fox, Goss, Scarborough, Waldholtz, Linder, Tate, Peterson, Beilenson, Waxman, Collins, Spratt, Kanjorski, Condit, and Slaughter.

Staff present: Subcommittee on National Economic Growth: Mildred Webber, staff director; Jon Praed, general counsel; and David White, clerk; Subcommittee on Rules and Organization of the House: Vince Randazzo, counsel; Committee on Government Reform and Oversight, minority staff: Bruce Gwinn, senior policy analyst; Matthew Pinkus, professional staff member; and Elisabeth Campbell, staff assistant.

Mr. MCINTOSH. This joint subcommittee hearing of the Government Reform and Oversight Committee and the House Rules Committee will come to order.

I am pleased to have Speaker Gingrich before us. I would commend him on his leadership in advancing Corrections Day. I believe Corrections Day will be a powerful new tool to eliminate rules and regulations that are expensive, destroy jobs, and in many cases are just plain stupid. It is a pleasure to have the Speaker here with us today. I am also particularly honored to be able to chair this with my colleagues who have a vast amount of greater experience than I do in running this institution, and it is an honor and a privilege for me to be here today.

Now it is my pleasure also——

Mr. DREIER. I should say that none of us have chaired any more hearings than you have though, Mr. McIntosh.

Mr. MCINTOSH. We definitely are going to be keeping busy.

It is also my pleasure to introduce the ranking member of my subcommittee, Mr. Peterson of Minnesota, and Mr. Dreier, who is the chairman of the subcommittee of the Rules Committee.

Mr. Dreier, do you want to introduce your ranking member?

Mr. DREIER. Well, let me just say that it is a great privilege for me to be here in behalf of the Rules Subcommittee on Rules and Organization of the House. We are very pleased to have the full chairman—the chairman of the full committee, Mr. Solomon, and the vice chairman of our subcommittee, Mr. Diaz-Balart, and are there any other Rules Committee members here? Mr. Beilenson is here from the Rules Committee and Mrs. Pryce is here from the Rules Committee, and this clearly demonstrates that we as a committee are making history in that we for the first time have really taken our show on the road, so to speak, teaming up with this subcommittee. And it is great to have Mr. McIntosh as my partner here.

On the 4th of January the new Republican majority implemented a package of rules changes that, among other things, reformed the committee system for the 104th Congress. But there is one reform that clearly did not need to be spelled out in House rules. That is the desire among the new committee and subcommittee chairmen to work together rather than against each other, and I believe that this hearing is symbolic of our commitment to make Congress more responsive to the American people, and Speaker Gingrich observed that in seniority we moved from McIntosh, Dreier, Clinger, and Solomon in descending order here, which was obviously a very interesting observation of the way things have changed here in the Congress.

I want to commend Speaker Gingrich for what he had done in bringing forward Corrections Day, working with the mayor of San Diego Susan Golding, Governor John Engler, and others, and I believe that we have a great opportunity here to proceed with dealing with some of the most stupid and inane laws that have come down the pike, and I hope we will be able to put into operation a system that will address that.

Thank you very much, and we look forward to your testimony, Mr. Speaker.

Mr. MCINTOSH. We will dispense with opening statements, except I want to recognize my chairman, Mr. Clinger, and I understand Mr. Solomon has a statement he will make after the Speaker.

Mr. CLINGER. I would also submit my statement after the Speaker has spoken, but I want to talk about the Speaker and also join in commending him for what I think is an inspired idea, and now we just have to figure out how to do it and make it effective. I look forward to hearing him and the rest of our witnesses.

Mr. WAXMAN. Mr. Chairman.

Mr. MCINTOSH. Yes.

Mr. WAXMAN. Mr. Chairman, I'm over here.

I would like the opportunity to make a very brief opening statement of no longer than 2 minutes in length.

Mr. MCINTOSH. Would you prefer to do it before or after the Speaker?

Mr. WAXMAN. I would prefer to do it at the beginning of the hearing.

Mr. MCINTOSH. All right. Mr. Waxman.

Mr. WAXMAN. Mr. Speaker, I'm pleased to see you and welcome you to our subcommittees' hearing.

I think it is a wise idea for us to want to correct problems that need to be corrected whether it is from bad regulations or bad legislation, and we ought to do that on a regular basis during legislative reauthorizations or through some process on the House floor. We now have a Suspension Calendar which can serve for that purpose.

But I do want to point out two pitfalls. One, I think we ought to be sure that we follow an open, bipartisan process that ensures that special interests are not being provided special access to correction legislation; and, second, we should provide ample opportunities for careful consideration of the substance of the corrections legislation so that we can be sure we are not legislating by anecdote. I just want to say that we have noticed both problems so far this year.

During the first 100 days special interests had unprecedented access to the legislative process, and I refer to articles that indicated that corporate polluters and other special interests were given a room in the Capitol to write talking points and draft amendments for proponents of H.R. 450 and H.R. 9. And likewise we have heard a lot of anecdotal evidence that turned out to be incorrect. We ought not to be rushing forward with legislation in the process of something called Corrections Day or any other process without it being based on sound backing, clear rationale, and bipartisan support. Otherwise I certainly support the idea of trying to correct problems. That is our job, through oversight and through legislative changes.

Thank you, Mr. Chairman.

Mr. MCINTOSH. Thank you, Mr. Waxman.

Mr. Beilenson also wanted to make a few comments.

Mr. BEILENSON. Thank you very much, Mr. Chairman, and I shall be brief. Basically I want to reinforce a couple of the points that my friend, Mr. Waxman, has just made.

I appreciate, along with the others, having this opportunity to join with our friends on the Government Reform and Oversight Committee to learn more about what having a Corrections Day in the House of Representatives might entail. We are looking forward to hearing what the Speaker is proposing along these lines, and what our other witnesses have to say about the idea.

At the outset, Mr. Chairman, I must admit that I'm skeptical of the need to define a new class of legislation and to establish a new process for considering bills that meet that definition. A key question that I hope the proponents of a Corrections Day will answer is, what makes corrections bills different from other legislation? It seems to me that virtually any bill which changes an existing law could be considered a correction to that law. How does one narrow the scope, and why is it necessary to do so?

There is some suspicion among some Members that the process for Corrections Day will entail shortcutting the legislative process in some way, that it will enable parties which have a grievance with the Government to obtain something they seek without a full airing of the issue. We very much hope that is not the case.

If the goal of Corrections Day is to achieve fast action on changing a law or regulation that presumably everyone thinks is excessive, burdensome, or ridiculous, it could be done simply by having the appropriate committee report a bill and then bringing it to the floor under an existing procedure, whether that be unanimous consent, suspension of the rules, or regular order.

This leadership, as we all know—and I say this with sincere admiration—has demonstrated a remarkable talent for getting committees to report bills at record speed. But whatever purpose the Speaker hopes to serve by establishing a Corrections Day, it is our hope that the regular legislative process will be used, the process that entails committee hearings, questioning, consultation with experts, and adequate deliberation in an open and bipartisan manner.

Again, we appreciate the opportunity to hear from the Speaker and other witnesses on this matter, and I thank you, Mr. Chairman, for allowing me to make these brief opening remarks.

Mr. MCINTOSH. Certainly. Thank you, Mr. Beilenson.

Mr. Peterson.

Mr. PETERSON. Mr. Chairman, I think this is a good idea and I think that in the past we have actually in a way abdicated our responsibility by giving more power to the bureaucrats than we give to ourselves. Somehow or another we have got to take this back, and I guess I'm hoping that we can figure out some way to do that.

It is puzzling to me why we would have a situation where we can't get rid of regulations that bureaucrats have promulgated. As a Congress, we have to go back to a process where we can do that.

Mr. MCINTOSH. Now I think we should hear from the Speaker who has proposed this new process, and every time I described it to anyone in Indiana they were extremely excited about it. So without further ado, let me present the Speaker of the House, Mr. Gingrich.

STATEMENT OF HON. NEWT GINGRICH, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES

The SPEAKER. Well, let me say, Mr. Chairman, I appreciate very much the chance to be here, and I actually think it was helpful to have the prior comments because I think it legitimately frames the real concerns and how we should approach this.

I start from the premise that we have been trapped in a system in which we either have very large policy changes—the Clean Air Act, the Clean Water Act, to take two examples that Mr. Waxman is very familiar with—or we do nothing. And, you end up with Senator Proxmire, who was a very senior Member of the other body, issuing a Golden Fleece Award, which is great public relations, except if these things were that dumb why wasn't a senior Senator able to do more than issue a press release? So you end up in a situation where the difference is not policy, the difference is implementation. In effect we say, well, we'll do sort of generic oversight and if we find in a general pattern that has been dumb enough, consistently enough, in enough places, we will eventually pass a rule to change being quite that dumb. I was like everybody else, you go back home and you say, well, people complained about something that was just so evidently stupid, and you say, "Boy, I sure agree

with you, but those are the bureaucrats, we are only the elected officials." I finally began to figure out that this was exactly backwards. The way the Founding Fathers had designed the system, they had not set out to replace King George's tyranny with a bureaucratic tyranny of Americans but they actually thought that elected officials were supposed to be powerful. Part of the frustration in the country and part of the term limit movement and part of the turmoil that leads to Ross Perot as a third party candidate is this general sense that you keep hiring people, and you keep sending them up there, and they don't get the system under control, so what would it be like to get the system under control?

Now Corrections Day, frankly, was an accident. Mayor Susan Golding of San Diego came to see us along with Mayor Dick Reardon of Los Angeles. She got to talking about an Environmental Protection Agency requirement that San Diego build a secondary waste treatment plant, the requirement which EPA had lost in district court to the city of San Diego. She said here is a $10 billion requirement which makes perfect sense on the Great Lakes except, as most of you know from geography, San Diego is not on the Great Lakes, it is on the Pacific Ocean. They had Scripps Oceanographic Institute testifying that if you took enhanced primary waste as 350 feet below sea level on the Outer Continental Shelf of the largest body of water in the world that was fine, but instead EPA, sitting in Washington, was saying no, it is not fine, we don't care what oceanographers think, we want you to spend $10 billion of your local money, and I said, you know—I sat back for a minute because this is what I had heard all my life except this time we were in charge and we had claimed we would be different, and I said, well, why don't we correct it?

The difference, I would say to Mr. Waxman, is between policy and implementation. You may have a policy which in general is correct, but in implementing it an agency may be doing something profoundly dumb. I'm not—I don't particularly debate the San Diego example, I'll give you a second one from the IRS in a second, but an implementation which is not illegal, it is just stupid.

I mean to be told what we are going to do is be stupidly legal but pay your taxes and be proud of us I think is an inadequate model, and I began to think about State legislatures where it is not at all uncommon to pass a fairly narrowly drawn bill designed to cure one specific problem because at the State legislative level you can afford to do that.

So let me give you the second example which I think is an absolute prime candidate for a Corrections Day procedure. Let me say I agree entirely that it should be reviewed in the open, it should be done on a bipartisan basis, there should be staff involvement of both parties, everything should be out in the open, and we shouldn't take anecdotes because all of us can come up, you know, with our particular version. But let me give you a second anecdote, if you will, that has been in the public press.

The Internal Revenue Service is now talking about doing a lifestyle audit where they decide that they are going to come and review everything about your life to see whether or not they approve of the amount of taxes you have been paying. I have yet to find anybody who thinks it is rational in a free society to hire a bu-

reaucracy to do a life-style audit, and yet I'm certain that within the current broad explanation of IRS powers they are technically within their rights.

I would just suggest to you that the country would be very happy to have the Congress intervene quite decisively and say to the IRS we think that is a step too far, we don't think you ought to go and harass innocent taxpayers because you have decided you want to challenge their life-style. Now I'm just raising that as an example of what could be a very useful, very narrowly drawn bill.

Obviously, going back to the earlier point, that should come out of Ways and Means, it ought to be reported to Rules, this is my guess, although I frankly hope that the two committees, meeting together, will, of themselves, make the recommendation for the procedure, that there should be some orderly procedure.

But there is a step beyond this. I believe if citizens, whether they are private citizens, they are corporations, they are trade associations, or, you know, we tend to forget special interest groups can be a Weyerhaueszer or it can be the Sierra Club, they are both special interests, so whatever special interest might be in a negotiation, or it could be the city government or the State government. Their first step in negotiating with the bureaucrat is not to be powerless but to say you are doing something so dumb I'm going to take it to my Congressman or Congresswoman and ask them to consider it for Corrections Day, I think you automatically rebalance a little bit of the power between bureaucrats and citizens.

Second, if through a review process we have a pattern once a week or once a month of bringing up the dumbest things and repealing them, we begin to set a standard of common sense that I think does have an impact.

Third, if a particular agency shows up month after month or week after week, I think that sends a signal to the particular oversight committee, you ought to review this agency from top to bottom.

And then last, let me be very direct. I think if we were to run into an agency which, despite our best efforts over a 2 or 3-year period didn't get it, that the correct answer is to zero it out and start over and hire an entire new agency. I mean I think that the elected officials of this country, if we are going to reestablish belief in a free society, have an obligation to be responsive to the taxpayers and that the bureaucracy is subordinate.

No single action is subordinate. Let me make this very clear. No single elected official should be able to reach into a bureaucracy to, in fact, change something. That would be replacing the rule of law with the rule of individuals, and that would be dictatorship, but we as a collective legislative body, with the signature of the President, should be superior to the specific concern of any specific agency which we create, pay for, and empower.

Now to give you an example of how far this idea has gone, it started as the idea of, let's correct the San Diego situation. I explained it to a breakfast of Republican Governors, and Governor John Engler suggested that we make it a regular experience. Just talking about it casually, Governor Tommy Thompson of Wisconsin, Governor George Allen of Virginia, Governor Terry Branstead of Iowa, the Community College Association, the Association of Pri-

vate Pension and Welfare Plans, the city of Fort Worth, Governor Howard Dean of Vermont, Governor Jim Edgar, have all come up with very specific proposals, and in Governor Edgar's case he went back home, told his senior staff about the idea, and brought in a five-page, single-spaced letter with correction proposals from the State of Illinois.

Now I'm just suggesting that we don't want to get into micromanagement and we ought to set some standard of relative cost, relative dumbness, relative urgency, but there ought to be a screening process. I want to commend in particular Congresswoman Barbara Vucanovich and Congressman Bill Zeliff and Congressman McIntosh, who have been working on this for the House Republican leadership, and they are going to talk about it a little bit. Tom DeLay has been developing this whole question of how do you deregulate. He wrote the foreword to a new book called "Red Tape in America: Stories from the front line" by Craig Richardson and Jeff Siebert, and I'll just give you two last examples so you can understand where we are coming from, again, drawing the distinction between general policy and legal but dumb behavior.

Two examples out of "Red Tape in America." An elderly woman in Wyoming was prohibited by bureaucrats from planting a bed of roses on her land. In Florida the owner of a three-person silk screening company was fined by OSHA for not having a hazardous communications program for his two part-time employees.

Now there is some point here where common sense—how do you, in a free society, in the information age, with great complexity, how do you reinstill common sense in bureaucracies which all too often are made up of people who have never done any of the work that they are supervising and who have never been to the site for which they are setting a regulation?

And so I think Corrections Day, properly approached, can in fact be one more tool in that direction. I think it has to be done in an orderly, open, bipartisan manner. It has to be done with expert consultation, but I think if the average citizen knew that we were serious about correcting the bureaucracy when it was dumb and if they knew that they could go to their Member of the Congress, Democrat or Republican, liberal or conservative, and say to them, "This one is so dumb, I think you ought to propose it for Corrections Day," I think you would in fact see more common sense in the system.

I appreciate very, very much the two committees, on a common sense, practical basis, getting together to meet. I think it is exactly the way we ought to function and commend all of you for participating.

Mr. MCINTOSH. Thank you very much, Mr. Speaker. I truly appreciate your effort in this regard and can tell you that literally everyone I talked to in Indiana was very enthusiastic about it.

I know that you have got a very tight schedule. I wanted to see if you had any time.

The SPEAKER. Yes. Particularly I want to allow any of our friends on the Democratic side who have any concerns about the way we would approach this, because this will not work if it is just a partisan game, but it will work if every Member of the House feels that they have standing and they have an opportunity to bring

things to the floor and to be part of a genuine effort to educate and apply common sense to the bureaucracy.

Mr. MCINTOSH. Terrific, and we will ask a few questions, and when you need to leave let us know.

Mrs. Collins had wanted to make a statement, I believe, and I thought I might start with her if she has any questions and then open it up for anybody else.

Mrs. Collins, did you have any questions for the Speaker?

Mrs. COLLINS. I have an opening statement that I'm going to give at the end of the Speaker's remarks. I think that will be better because there is a flow that is going on here that I don't want to interrupt.

Mr. MCINTOSH. Thank you, Mrs. Collins.

Mr. Peterson.

Mr. PETERSON. Thank you, Mr. Chairman.

Mr. Speaker, I think we are in agreement on where we are heading, you and I, and I think others. My concern is how we are going to get there. The little bit of research that I have done on this tells me that you are right. We are in a situation where either we have to get rid of the whole statute or we don't get anything accomplished.

My question is, how do we change this without changing the Administrative Procedures Act? However, if we are going to be that fair and that bipartisan, I'm afraid that we are going to get into a situation where it is all or nothing, which is where we have been for the last 20 or 30 years. I think you are being too fair maybe to make this work.

The SPEAKER. Well, we don't have to be unanimous. I would, for example, argue that bills will break into two groups, and, again, I'm not a lawyer so some of this I think has to be worked by staff experts to make sure that it is technically done right.

Let's take the example of the IRS proposal to have life-style audits. There should be a way, frankly, to write a directive to the IRS that says you are not authorized to do this, period, and it has got to be written technically correctly. If it turns out as Ways and Means, I would assume, would want to have a hearing on it, and sometimes you might want to have a hearing on seven corrections in the same day, or another correction may be so big and so complicated you want to spend—have only a hearing on that topic, let's take this example. If it turned out when we checked with Members on both sides of the aisle that this was a relatively popular idea—and I think, frankly, blocking the IRS from having this kind of audit will turn out to be overwhelmingly popular—I would recommend that you design a procedure where, for those items, it comes up under suspension on a bipartisan basis, we send it to the Senate, and, frankly—I mean I think Senator Daschle and Senator Dole have a much harder problem than we do because of the unprotected nature of Senate legislation, but maybe we could even get an agreement over there that there are things so commonsensical that they could actually just pass as opposed to becoming subject to filibuster amendment and the usual game playing.

So I would want to start with the idea that any time we had a bill where we had a bipartisan broad agreement we do exactly as I think Mr. Waxman is saying, we bring it up under suspension.

Part of the difference is, I want to communicate to the country the idea that there is a corrections process, that your Member is part of it, and if you run into a bureaucracy that is particularly dumb or particularly outrageous, that you have an avenue of power, not just an avenue of griping, and that if it turns out that you are right and it is legitimate and serious, that something that can be done.

Now I think even if we were only to pass four or five corrections a month—and I think we could do more than that on the suspension basis, but even four or five a month would send a signal of change to the country that would rebuild, I think significantly, faith in elected officials.

So I don't know if that is responsive, but that is sort of how I see it happening.

Mr. PETERSON. Well, as I understand it, the situation now is that with some of these programs you have to get at it through the appropriations process. I guess that is the only way we can——

The SPEAKER. I think that is a matter of scheduling, and when I leave—which I'm told Senator Dole wants me to come, and I tend to be very responsive to Senator Dole in these kinds of moments, so let me just say, I would want to hear from the Rules chairman, but I believe that many things which in the past we tried to get at in the appropriations process was a function of what could be scheduled and that in fact if the Rules Committee were willing to work with the membership on this specific corrections process we wouldn't have to encumber appropriations bills with all sorts of extraneous things, we could go straight at changing them, and that would be my goal.

Let me just back up and say one last thing because I am told I have got to run over to this meeting. I would really like this—if this is going to work, it has to be bipartisan, it has to be genuine, it can't just be game playing. Mr. Waxman's injunction is right, it can't be taking care of a handful of lobbyists or taking care of someone's special interest. There has got to be a sense that there is a standard you rise above, that the bureaucracy has to be particularly dumb to do it, and that it has to be something where it is silly—it is silly to go home and defend it. That is probably the best standard I can give you. If it is silly to go home and defend it, why don't we quit doing it?

And I want to ask on a bipartisan basis both committees to design a procedure so every Member could go home by June and say to their constituents if something happens that is so silly that you can't really defend it, let me know because I would like to bring it to the attention of the Corrections Day process. I think that is the spirit I would like to set.

Mr. WAXMAN. Would the gentleman yield to me?

The SPEAKER. Sure.

Mr. WAXMAN. Mr. Speaker, I don't disagree with what you are saying because we ought to be able to respond to problems, we ought to be able to respond to them in a simple, finite way and not have to do a major bill to deal with a specific problem.

But let me just ask you this question about the IRS matter. I do want to put in the record a letter from our colleague Congressman Norman Mineta, who has indicated, I think very convincingly, that

the San Diego example is not a good example, but that will be debated.

But the IRS issue raises a question in my mind. Let's say you have a man who owns a restaurant. He pays no taxes because he claims he has no income. He buys a $90,000 Jaguar, buys a $500,000 dollar home. And then buys another $500,000 vacation home. Shouldn't the IRS be able to do something to evaluate this man because it seems like something may be wrong?

The SPEAKER. Sure, but in that case, Mr. Waxman, there is a discrepancy sufficiently large to have a presumption that there may be criminal conduct.

We have been told in the news reports—and this may turn out if Ways and Means holds a hearing not to be true—but we have been told in news reports that the IRS is thinking about randomly pulling names and then doing a life-style audit and forcing you to prove how you can have your property.

Now I was responding to reports I had been told from several news sources that they are going to be randomly pulling people out and auditing them. Now I think the average American's idea of the IRS showing up on a random lottery basis——

Mr. WAXMAN. Well, I agree that would be horrifying and we ought to stop that.

The SPEAKER. So we ought to just look and see which it is.

Mr. WAXMAN. In other words, you would want the committee of jurisdiction to take testimony on the issue so we are sure we are not——

The SPEAKER. Absolutely.

Mr. WAXMAN [continuing]. Legislating without the full facts and not just on someone's anecdote, and, second, you would want it on a bipartisan basis so it would require a two-thirds vote because it is just obvious to us——

The SPEAKER. Well, no. I said that there are two procedures. I would certainly want it—I would want it to go through on a purely bipartisan basis, and I would like the staff on both sides, the Members on both sides, to participate. If it was something which couldn't get two-thirds but could get 60—you know, could clearly get a majority on a bipartisan basis, I would feel very reluctant to bring up as a correction something which was only Republican. It would seem to me that there was something profoundly wrong. It can't be that dumb if you can't get Democrat votes.

Mr. WAXMAN. Well, it has got to be profoundly stupid, and if something is profoundly stupid and can't get something that is more than a simple majority, it sounds to me there is a contradiction here. If it is controversial——

The SPEAKER. Then you may want to look at, do you really want to require to have two-thirds? Do you really want to require to have two-thirds? I just raise that as something for you all to look at, and I would like to get back from you a recommendation on how to proceed and how do we set the right threshold, but I do believe we will do the country a lot of good if we can send the signal that we are very serious about giving people some vehicle for something which is so outrageous that currently they feel powerless about.

Mr. WAXMAN. But the committee of jurisdiction would hold hearings?

The SPEAKER. Absolutely. In my judgment you have to start with the experts who spent the time studying the topic.

Mr. WAXMAN. Thank you.

The SPEAKER. Thank you all.

Mr. MCINTOSH. Thank you very much, Mr. Speaker, for launching this project.

Before we get to our second panel, let me now turn to those who deferred on their opening statements.

Mr. Solomon, do you have a statement?

Mr. SOLOMON. Mr. Chairman, yes, I do, and I hate to take up all of the time, but I do have some points I would like to make that might clarify the air for some of the Members.

First, I really want to commend the Speaker on his innovative and his constructive proposal for a House Corrections Day. I can't think of anything that is more important that will face this Congress during this session. I think this is a much needed antidote to public cynicism over the Federal Government and its sometimes unresponsive and bungling bureaucracies, and my district has suffered immeasurably because of it.

Second, I really want to commend subcommittee chairmen, David Dreier and David McIntosh, as well as the full committee chairman, Mr. Clinger, for really taking the initiative to hold this joint subcommittee hearing of our two committees, also Barbara Vucanovich and Bill Zeliff who are out in the audience, and Tom DeLay who will be testifying in panels later on. I hope this will set an example for other committees and subcommittees to work closer together on problems of mutual concern. It is certainly preferable to expending time and energy on needless turf fights, which we in the Rules Committee run into all the time.

Third, without preempting or prejudging the various proposals that will be made by various witnesses today for creating Corrections Day, let me put forward a few standards and suggestions for consideration in formulating a workable Corrections Day process, and this is purely my opinion that has arrived from my experiences with dealing with all of the complex rules and the turf battles with all of the committees over all of these years.

First, there should be a major concern to a large segment of our leadership and membership. As Mr. Gingrich, our Speaker, has said, they should be confined to a single subject. I do not think we should en bloc groups for debate. They should not involve the expenditure of additional moneys for the raising of additional revenues. Again. We would be getting away from the original intent of the Corrections Day. They should be reported by the committee of jurisdiction so that Members will have the benefit of a full report to allow them to make fully informed decisions. And that deals with what Mr. Waxman was worried about before. They should be referred to a new corrections calendar, in my opinion and in addition to their normal calendar only by direction of the Speaker. They should be considered on a Corrections Day either once or twice a month, preferably on Tuesdays after suspensions. That would be a logical time to take them up. They should be subject to not less than 1 hour of debate. They should not be subject to amendment unless offered by the manager of the bill, which is the case, as you know, under current suspension bills.

They should also require, in my opinion, a three-fifths supermajority vote for passage rather than the two-thirds vote required for suspensions, because we can always go to the suspension and two-thirds if we want to. They should not be subject to a motion to recommit and should remain eligible for consideration by special rule if they do not achieve the three-fifths vote for passage. That is what happens with suspensions now. If they happen to be defeated they can always go to the Rules Committee under normal rules and procedures of the House.

Mr. Chairman, I think we should avoid overloading the corrections calendar to the point where Members do not have an idea of what they are voting on, and we should avoid unreported corrections bills, again, something that some of the Democrat minority was concerned about, that would force us to base our votes only on anecdotal evidence or heat of the moment impulses or passions, and we all have those from time to time.

If we establish a process along these lines that I have outlined, I really do think we can have a truncated process without sacrificing informed and deliberative decisionmaking.

I certainly remain open to other suggestions and ideas that will be made by our witnesses and others for putting together a Corrections Day process, but hopefully we will be united and guided by the overriding goal as laid out by the Speaker of this House of developing a process that is truly workable and that is deliberative and effective in addressing the problems of burdensome, duplicative, and obsolete agency regulations or actions.

Now I just have to take a minute to talk about the problem itself. Let me speak to the various problems I have encountered in my Congressional District and even my own home town of Glens Falls in upstate New York, a little community of 16,000 people. As you might expect, nestled in the middle of the Adirondack Mountains on the shores of Lake George, tourism, forestry, and dairy are the major industries in my home town. Both of these industries—the three of them are threatened by extreme environmental regulations. Another industry in the region, a major industry, three major medical device companies are now moving offshore because of restrictive and senseless Food and Drug Administration regulations, and most recently a 100-year-old cement company may be forced to close their doors because of a new interpretation of the clean air regulations by the EPA. It has been there for 134 years.

Mr. Chairman, Glens Falls, NY, is small town U.S.A. It was voted that back in 1944, just a beautiful little town, and just look at what Federal Government regulations are doing to it today. It is so pathetic. Let me give you specific examples of the devastation that misguided Government regulations have caused in my home town.

The cluster rule was but one reason why Scott Paper Co. laid off 400 people and shut down two paper mills. The cluster rule may force Finch Pruyn Paper Co. to lay off 1,000 people, in an area where the unemployment is as high as it is in the entire United States already, and go out of business. The Safe Drinking Water Act requires hotel and motel owners to put up unsafe drinking water warning signs, killing tourism and costing hundreds of jobs,

just because they aren't on a municipal water supply, and they meet all the other health regulations, all of them.

New EPA kiln emission standards could put the Glens Falls Cement Co. out of business, another 130 people unemployed who cannot find jobs, ever, if that goes out of business, up in the mountains where I live.

In 1994 Melancroft Medical announced plans to relocate its manufacturing operations to Ireland and Mexico where they can market their products directly to the EEC without waiting 5 to 10 years for the FDA approval. That costs the United States 450 jobs; they are gone. A similar medical device, Angiodynamics, is also considering closing its doors and moving to Ireland for the very same reason.

Let me just outline a traumatic effect of the cluster rule on the paper industry. Mr. Chairman, the cluster rule is the biggest and most costly rule ever proposed by the EPA for a single industry in America. Because of the inflexibility of tremendous costs involved, 33 U.S. paper mills could be forced to close, eliminating 21,000 jobs.

For Finch Pruyn, I mentioned before in my home town, the effect is even more damaging. That is because the most stringent aspect of the EPA's cluster rule applies solely to the small category of paper grade sulfite mills that they belong to. This aspect requires totally chlorine free bleaching.

Now EPA intended to eliminate the discharge of chlorinated compounds into waterways, and they determined that technology did not exist to permit the larger category of craft mills to adopt totally chlorine free paper bleaching. Thus, only paper grade sulfite mills would have to comply. In other words, all the craft mills can stay open but the sulfite mills have to close down, close their doors. This regulation undermines the economy of upstate New York. It is not based on good science, it upsets the competitive balance in the marketplace, and, Members, this is a prime example of the type of damage we need to remedy through the Corrections Day.

I just pray to God that we are going to be able to enact this and we are going to be able to come back and revisit some of these absolutely absurd regulations that discriminate against certain segments and certain industries in America.

So Mr. Chairman, I thank both of you for holding this hearing today. We are going to do something with this, and it is going to change the economy of this country, and we are going to be competitive with other industrialized nations around this world once again.

Thank you very much.

Mr. MCINTOSH. Thank you very much, Mr. Chairman. I appreciate your coming and your input into this will be invaluable in moving forward in understanding how the rules should operate.

Let me turn now to Mrs. Collins for her statement. Thank you for deferring earlier.

Mrs. COLLINS. Thank you, Mr. Chairman.

The Federal Government has enormous responsibilities in administering the laws we pass in Congress. We in the Congress have similar responsibilities in turn to oversee the operations and activities of the executive branch and Federal agencies.

Oversight is a principal responsibility of the Committee on Government Reform and Oversight and one which I take very seriously. That is why I am concerned about proposals that bypass the normal protections of the legislative process. Hearings, debate, deliberation, and amendments cannot be dispensed with simply for public relations.

I have similar concerns about Corrections Day. Once again the Republican leadership seems to have a press release in search of a policy. I sincerely hope that the Speaker and other Republican Members here today can reassure us that this is not in fact the case.

There is much about the concept of Corrections Day that I can support. Reevaluating legislation and correcting errors is something that Congress should do more often. For example, I supported an excellent example of a correction on the House floor just a short time ago to repeal the tax break enjoyed by billionaires who renounce their American citizenship.

I think we can all agree that Congress and government should do a better job and that wasteful and foolish practices should be changed. Congress bears a responsibility for some of these problems, and Federal departments in issuing regulations or administering laws can create or exacerbate others.

However, some of the Speaker's public comments about Corrections Day have given me serious cause for concern. In a press release dated March 23 of this year he announced the appointment of a partisan task force, the Corrections Day Steering Group, of Republicans, to review suggestions for bills to take up on Corrections Day. Now this panel is not bound by any rules or laws to operate in public, and so we don't know where the ideas for corrections are coming from.

As a matter of fact, I have a list here of a "Corrections Inventory." I don't know where this list came from. Among items on the list are "Department of Education, 1992 Higher Education Act, State postsecondary review entities;" "private pension law reform, IRS code revisions to provide design-based safe harbors;" "EPA, rainfall overflow of sanitary sewer systems," et cetera. But I can guess where the list came from. This is a paper prepared for Republican Members, and it contains a wish list of special interest candidates for Corrections Day, some of which may go far beyond the idea of undoing obvious errors.

[The information referred to follows:]

CORRECTIONS INVENTORY

1. FAA Landfills & Airports
2. Fish & Wildlife, Back Bay Wildlife Access
3. Defense Logistics Surplus DOD Property, Humanitarian Assist. Program, Foreign Military Sales
4. Federal Trade Commission, Nestle Purchase of Alpo Pet Food
5. Federal Highway Admin, P.L. 100–418, Metric Measurements
6. Dept. of Education 1992 Higher Educ. Act State Postsecondary Review Entities
7. Private Pension Law Reform, IRS Code Revisions To Provide Designed Based Safeharbors
8. EPA, Rainfall Overflow of Sanitary Sewer Systems
9. State Covert Auditing of Emission Test Vendors, 40 CFR 51.363(a)(4)
10. Individuals With Disabilities Act Revisions:
    1. Apply Federal Administrative Procedures Act
    2. State Option To Combine IDEA Fund With Other Fed. Funds

3. Authority for States To Use 10% of IDEA Funds for Non-Categorical Supports and Services for Children With Disabilities
4. State Ability To Use Simplified Application for Local Education Agencies
11. Clean Air Act, Employee Commute Options State Compliance
12. ISTEA Requirement of Recycled Rubber for Paving
13. EPA Penalties for Standards Not Yet Announced
14. Safe Drinking Water Act, EPA Requirement for State Monitoring of 25 Contaminants
15. Title V Permit Fees Under Clean Air Act Not Counted as Match for Federal Grants
16. IRS and SSA Requirement That States Verify Asset/Income Information
17. Home and Community-Based Services Eligibility for Employment Services
18. State Supplementary Payments for SSI Recipients
19. Federal Community Mental Health Services Block Grant Planning Requirements
20. Justice Dept. Substance Abuse RFP's Require Notice of Funds Available
21. Title IV–E Client Eligibility Requirements for AFDC
22. Religious Freedom Restoration Act Required Religious Services for Any and All Religions in State Prisons
23. CDBG Requirements Too Burdensome for Small Communities
24. Federal Management Improvement Act Requirements That States Pay Interest on Federal Funds
25. Dept. of Labor Should Not Prohibit Coverage of Bank Costs Related to Unemployment Ins. Taxes
26. FUTA and SSA Require State To Withhold Tax From Unemployment
27. Take Federal Unemployment Trust Fund Off Budget
28. Amend Fair Employment Standards Act To Prevent Absurd Rulings for Law Enforcement Agencies
29. Streamline Data Collection for Federal Education Programs
30. Amend Single Audit Act To Require Audits for Grants in Greater Amounts
31. 50 CFR 930, Requires Agencies To Review Competence & Physical Qualifications of All Employees Who Operate Vehicles
32. OSHA Requirement of 4 Member Firefighting Crews

Mrs. COLLINS. It seems obvious to me that lobbyists for special interests will converge on the Republican task force en masse with so-called corrections which have little or nothing to do with errors or problems in laws and regulations, while the average American will be absolutely frozen out. How can we be assured that members of the public will be heard and that the panel will not be dominated by special interests?

We don't need any more hastily drafted, sloppily written legislation secretly prepared by special pleaders coming to the floor of the House, and so, Mr. Speaker, Mr. Chairman, I would strongly urge the Republican leadership not to create any new type of legislation which circumvents the safeguards and protections we have in the rules, protections designed to give us time to think and analyze and to do a good job ourselves. If we have made mistakes, we may do worse by trying to rush in to correct them.

Corrections Day should be a bipartisan process. We should utilize the existing legislative procedures, not short-circuit them. These matters should be handled through our normal process in committee and under the open procedures endorsed in the original version of the Contract With America.

The Democratic members of the relevant committees should approve any legislation to be brought to the floor. Selection of bills should be out in the open. The bills should involve matters which are truly noncontroversial and should not involve serious disagreements over legislative policy. If we can make changes to improve the performance and responsiveness of Congress, we should, but we should only do so in ways which enhance the quality of the work

we do rather than create new processes which serve the special interests rather than the interests of the American people.

I yield back the balance of my time.

Mr. MCINTOSH. Thank you, Mrs. Collins.

I would like to now recognize my chairman, Mr. Clinger, for an opening statement.

Mr. CLINGER. Thank you very much, Mr. Chairman, and I'm pleased to join with you and Chairman Dreier, Chairman Solomon, and all of the members of the panel here today in this very interesting, innovative, and exciting prospect that we are going to be considering and discussing this morning.

Depending on how it is structured, Corrections Day can provide us with a truly unique opportunity to fix in an expedited manner some of the laws, policies, or regulations that simply do not make much sense and are unnecessary, outdated, and overreaching. We are going to have a chance to reinvent government not just through talking about it, but by taking concrete steps to make government more reasonable and efficient.

There is no reason, no reason at all, to continue unnecessary or nonsensical government policies. We can change the way government operates and show that we will teach it new tricks. It is also an opportunity for us to communicate to Americans outside of the Beltway that not only are we serious about changing government, but to come forward and help us identify what may be needed in terms of a correction. One of the most innovative ideas, is that we are really going to be encouraging Americans to come forward with those suggestions that they think clearly make no sense and have the sense that something can actually be done about it—where actions can be taken.

Perhaps most importantly in structuring Corrections Day is that we need to define what is a correction. It may be most useful initially to focus our attention on administrative policies and regulations. Coming from the Oversight Committee perspective, regulations and policies often do not receive thorough oversight review since they have not been funneled through the legislative process. In addition, policies and regulations promoted by Federal agencies often go far beyond what statutes intended if there even is a statutory basis, thus providing government bureaucrats with power that extends beyond what is held by Congress. For example, the Title V permitting regulations proposed by EPA to comply with the Clean Air Act go way beyond what the statute requires and could result in an extremely high cost to our economy without corollary environmental benefits, some of the examples that Chairman Solomon alluded to.

If regular order is not the procedure that is used to structure Corrections Day, I do have specific suggestions that I would like to put on the table for consideration. As I understand it, the committee processes might be short-circuited. The disadvantage of bypassing committees is that issues would not be vented or considered thoroughly by various stakeholders in a public forum, and that is a very serious concern that needs to be dealt with.

First, if this is the case, I believe that we would need to establish a standardized review process by which proposals made for Corrections Day will be closely scrutinized and issues would be vented.

This may involve establishing an oversight review board consisting of congressional Members, perhaps using some of the chairmen of Government Reform and Oversight and Rules Committees, who would then serve to consult with oversight, appropriations, and authorizing committee members on issues within their jurisdiction. The committees of jurisdiction should be involved in the review process so that their expertise can be applied to whatever the issue is under consideration. We do not want to find ourselves taking proposals to the floor that have serious unintended consequences, which can happen if we do not give them thorough venting in the committee.

Second, what are the views of the stakeholders? What is the justification for the needed change? Does the proposed legislative fix address the problem? Each proposal should have to meet specific criteria prior to being considered for floor action.

And third, Mr. Chairman, I believe that there should be some mechanism for prioritization of proposals: For example, whether we want to go after the most costly and ridiculous regulations and policies first or whether we might want to consider having various themes for each so-called Correction Day, for example, a small business day. By having themes, this would allow for identification of many different policies or regulations that impact a specific constituency and provide a unified effort to get those issues resolved in one context.

Corrections Day I think is an exciting opportunity for us to call attention to Washington policies, regulations, or procedures that make no sense and in some cases, as the Speaker has said, are just plain dumb, and put an end to them. At the same time, I would urge that we move cautiously and establish careful review procedures.

So I appreciate consideration of these suggestions and I certainly look forward to hearing suggestions from our other witnesses who have given this a great deal of thought and particularly the task force which we will be hearing from.

Thank you very much.

Mr. McINTOSH. Thank you very much, Chairman Clinger.

We do want to get to the next panel, but let me just check to see if any other members of the two subcommittees have a statement they would like to make. We can also put them in the record if they have any written statements.

Let me now move to the next panel: The Whip of the Congress, Mr. DeLay; Mrs. Vucanovich, who is the chairman of the task force for the Speaker to develop this procedure; Mr. Zeliff, who has served on that task force; and Mr. Bilbray, who has some experience with the San Diego issue which prompted many of the first discussions of how to establish a Corrections Day process.

Welcome to all of you, and thank you very much for your effort and time in working on developing this new process.

Mr. DeLay, would you please share with us your views? You have got enormous experience in the problems with the regulatory area and how this process might aid us in trying to eliminate those problems.

STATEMENT OF HON. TOM DeLAY, MAJORITY WHIP OF THE HOUSE OF REPRESENTATIVES

Mr. DELAY. Mr. Chairman, I thank you and the other chairman, Mr. Dreier, and the full committee chairmen, Mr. Clinger and Mr. Solomon, and ranking members for beginning the process of Corrections Day and putting all this together.

I was really excited when this idea was first raised in a leadership meeting with the Speaker as I immediately thought it would be the perfect way to deal with the myriad of rules and regulations that are unduly costly or simply make no sense.

The size of government has reached unbelievable proportions, and it is an unfortunate fact that the average American had to work full time last year until July 10 just to pay for the cost of government: Taxation, mandates, and regulations. What this means is that 52 cents out of every family's hard earned dollar went to the government either directly or indirectly. The governments of this country got to spend the majority of American families' hard earned dollars.

On November 8 the American people sent a message to Washington. I feel very strongly that they voted for a smaller, less intrusive government. The House began to address this mandate to reduce the burden of government by passing a number of regulatory reform bills earlier this year, and the Senate is prepared to follow suit. However, while we are making significant changes to the process by which regulations are promulgated, there is still the arguably even bigger problem of regulations that are currently on the books but shouldn't be and are encroaching on people's lives every day. Many of these are just hard to believe.

Under the Clean Air Act one can end up in jail for filling out a form incorrectly. You can be forced to pay $600,000 for failing to fill out a Federal form even if you have complied with an identical State law. OSHA requires employers to provide detailed safety information and training regarding the use of such hazardous substances as diet soda, Joy dish washing liquid, and chalk. You can face a grand jury if you harm a protected falcon even if you do so to save a chicken that the falcon is in the process of killing in your front yard. One can be criminally convicted of contaminating wetlands for moving two truckloads of dirt. OSHA can fine a roofer for chewing gum while on the job. The Federal Government can hold up progress on a residential project in order to protect a wetland that is six ten-thousandths of an acre or about the size of a ping-pong table.

Some of these examples come from the Heritage Foundation's book that all of you have received in your packet of information and to which the Speaker referred, called "Red Tape in America: Stories from the front line." I highly recommend it, as it documents regulatory horror stories from numerous Federal agencies and departments, demonstrating clearly how the Federal regulatory system has gone way too far.

Giving the Federal Government the benefit of the doubt, I assume it is not intentionally trying to wreak havoc on people's lives. Nonetheless, the American people shouldn't have to continue to suffer the consequences of poorly written or poorly implemented rules and regulations.

My colleagues, Corrections Day is not a gimmick, it is a real opportunity to right wrongs. All across the country Americans are fed up with a system that is overly intrusive, unreasonable, and excessively costly. It is wonderful to see that in a general sense both Democrats and Republicans alike have reached a consensus that the Federal Government has grown far bigger than was ever intended to and needs to be cut back. So I beg you to take this opportunity to address one aspect of the problem and create a process by which we can repeal these most egregious, oppressive, and ridiculous regulations that the government has promulgated. I thank you for your consideration, and I urge your support for creating a Corrections Day.

Mr. MCINTOSH. Thank you very much, Mr. DeLay. I appreciate your efforts in that regard enormously.

Mrs. Vucanovich, you have thought about this a great deal and studied the issue of how we can proceed. Would you please share with us your vision for how Corrections Day would work?

STATEMENT OF HON. BARBARA VUCANOVICH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEVADA, AND CHAIRMAN, CORRECTIONS DAY STEERING COMMITTEE

Mrs. VUCANOVICH. Thank you very much, Chairman McIntosh, and I want to add my thanks to Chairman Dreier and the other members of both the subcommittees and full committees and thank you for holding this hearing today.

This is an idea whose time has come, and I can attest to that fact, that there is a great deal of public support for the Corrections Day concept. We have been flooded with requests for legislation, and every meeting that I attend I am told what a great idea Corrections Day is, and I think it is more important than ever that we in Congress show that government really does work and that we are relevant to the day-to-day lives of Americans. Corrections Day offers this body a chance to show that we can react to real needs in a timely manner.

After reviewing the options and talking with many constituents and fellow Members of Congress, I am more convinced than ever of the need for a rapid response system for misguided government. It is important that we develop a means to address obviously silly, redundant government regulations in a rapid fashion. The Congress does not currently have a procedure designed to fix the little annoyances of government that drive the average American crazy. Our only option is to await a technical corrections bill or reauthorization of the program. In many cases this is an unacceptable delay. Our constituents simply don't understand why they must wait 5 years for a bill to correct what seems to them a minor item, and frankly I don't really understand it myself.

As chairman of the steering committee appointed by the Speaker to establish Corrections Day, I would like to share with you some of the committee's conclusions. Our recommendation to this committee is to provide a procedure that streamlines the process of correcting obvious problems with a minimum of delay in a bipartisan manner. Corrections Day should avoid far-reaching and highly controversial items.

The intent of Corrections Day is not to replace debate and lengthy study of complex issues when it is needed. We also don't want to tread on the jurisdiction of standing committees. I believe there is a middle ground available which will allow us to meet these criteria. I can tell you with my brief experience chairing the Steering Committee on Corrections Day that people in our country want us to take action on these trifles without excuse and without delay, and I thank you, Mr. Chairman, for allowing me to give you my input, and I hope that you all will consider very seriously doing something about legislating and Legislative Corrections Day.

Thank you. I yield back the balance of my time.

Mr. MCINTOSH. Thank you very much, Mrs. Vucanovich.

Mr. Zeliff has been very active in attempting to adopt a corrections procedure in the A to Z legislation, and I think that experience has granted him a great deal of wisdom in this matter as well.

Mr. Zeliff.

STATEMENT OF HON. WILLIAM H. ZELIFF, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW HAMPSHIRE

Mr. ZELIFF. Thank you, Mr. Chairman. I, too would like to thank you and Mr. Dreier, Mr. Solomon, and Mr. Clinger for your leadership in doing something that is long overdue.

Frankly, I think the Speaker has a great gem of an idea, and what we have to do, our challenge is, how do you make this idea work. I think this is the kind of an idea that will get us into the 20th century before the 20th century is over. It is kind of like cleaning out our closets. We need to change or break the culture, and this is a process that will challenge us to do it better. It focuses on correcting our mistakes; it gives us the opportunity to make the system more efficient.

Some folks on the other side of the aisle may rightly be concerned by bringing out such things as careful consideration of substance, sound bytes, and clear legislative purpose, pointing out our job of oversight, and obviously this all needs to be maintained in a very accountable way.

Our intent is to provide an efficient process to allow us to be accountable, to do our work more efficiently, and I think that is the key here as we look to the future. We need to make all the things that we do much more efficient than we have done in the past. We have got to figure out a way to put those things on a fast track where we can, and this particular case provides a focus. Then we can be held responsible for our results.

Some of the things that I picked up in my 10 town meetings held in the last 3 weeks: "Government is out of control. Government is not being held accountable. We have overreached and outreached to a point where we need to sit back and look at some of the things we have done." Certainly the IRS life-style audit is a good example. Superfund is another example. We can go on and on.

My idea on A to Z last year was originally intended to do an A to Z on spending cuts, an A to Z on regulatory reform, and an A to Z on tax loopholes.

This Corrections Day frankly is great, because it addresses the problems in a very orderly way. It goes through the committee process, goes through the rules, gives everybody input, it is a bipar-

tisan approach as we tried to do before, and I think it will help us get to where we want to go.

As a small businessman, just to put that perspective to work, we had an incentive program. We gave people rewards and money for coming up with ideas changing our culture, changing the stupid way we have been doing business, making it more efficient. Obviously the savings that we made we were willing to share with our employees.

So I think it is about time that we look for opportunities on how to be more efficient. The Corrections Day concept is great idea. Hopefully both sides of the aisle can come up with a way, the procedures to make it fair, bipartisan, and very effective, because I think it is a way for all of us to somehow be able to do our work much more efficiently.

Thank you, Mr. Chairman.

Mr. McINTOSH. Thank you very much, Mr. Zeliff.

Let me now turn to one of my fellow freshman, the Representative from San Diego, Mr. Bilbray.

STATEMENT OF HON. BRIAN P. BILBRAY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. BILBRAY. Thank you, Mr. Chairman. I would like to thank you and the other chairman and the chairwoman from the proud State of Nevada for leading the charge, just reviewing where we want to go with this, I have to say that I speak today on this issue, what we call the San Diego situation or the fiasco; I like to say the tragedy.

I need to point out, I speak for the entire delegation of the House of Representatives who come from the county of San Diego, a county that has a population twice that of Nevada, a size of about Kansas, and both Democrats and Republicans totally support the concept that we need correction of a well-intentioned but misguided Federal regulation.

It is a bipartisan issue not only from the Federal point of view, but even from Democrats like Senator Steve Peace who strongly support it, and, Mr. Chairman, I need to point out that I speak not as somebody who operated a sewer system in San Diego but as somebody who operated the Public Health Department, the Environmental Health Department.

For 20 years I have been working on the pollution and the regulatory problems in San Diego, and I come from the position of trying to protect the public health and the frustration of running into Federal regulations that not only do not encourage public health but can at times stop you, or divert you from addressing major public health problems.

Mr. Chairman, as of today there are over 30 million gallons of raw sewage pouring across the Mexican border and closing the beaches of south San Diego County. My children were not allowed to surf on our beaches that we live only six blocks from. I have to drive them an hour north to be able to find a place that I felt comfortable with having my children surf. The Federal bureaucracy has failed the environment in San Diego County, and at the same time that a foreign government and the Federal bureaucracy has ignored this problem, one that has been allowed to occur through

the Federal inaction and a wink of the eye and say go ahead, you can dump sewage for the next few days. The thing is that we have had all this attention about something that anyone and everyone who has really researched the San Diego outfall issue has said that the law's inconsistent—the technical interpretation of the laws is inconsistent with the intent.

The fact is, this issue with the secondary sewage mandate of San Diego was not something that was brought to me by the people of San Diego, it was brought to me by a man called Roger Revelle, and those of you who do not know Dr. Revelle, did not know him, he was the director—the senior member at the Scripps Institute of Oceanography. He also happened to be the individual, you might remember, who originally developed the concept called the greenhouse effect, it is somebody who has pretty good environmental credentials. The fact is that when we looked at the Federal mandate to go to secondary sewage, and when the studies were done of the environmental impact of fulfilling the letter of the law, it became quite obvious to not only those of us in the environmental health point of view, but those of us who have been involved in environmental activism, that the damage that was going to be created by initiating the law was greater than doing nothing at all, and that was a major concern.

We have tried to raise awareness that the law, the intent of the law, was not being followed. It has been a hard struggle, and let me tell you as somebody who was on the other side of this issue before we kept hearing at the local level:

> We know that this law is ridiculous, but the Congress has mandated that we do this, and the bureaucracy said we don't have a choice, we are stuck with what Congress forced on us, so unless you can go to Congress and try to change those guys or those people's attitude, we are just stuck with this, and it is stupid, it's ridiculous, and environmentally damaging.

I would have to say, Mr. Chairman, it is much like a situation—I don't believe it is like cleaning out the closet; I would equate it to the concept that this is a 1972 vehicle. It was great, it was up to date when we first adopted it, it was best for the science at the time, but we now have new science and we not only have a right to put in new spark plugs, a new carburetion system, a new injector system, a new catalytic converter, even maybe a seat belt, but we have a responsibility to do that. I know there are the purists that say no, leave it the way it was in 1972, don't change it, but I think that we are talking about a situation here that not only will save the taxpayers millions of dollars, but also will clean up the environment.

But let me just say one thing else. Probably more important than even money or the environment, for those of us here in Washington it may do something very radical, and that is, it may institute a degree of confidence that we really can respond to reality and reflect reality, and I think that is something we really want to do.

I want to make sure that we draw the Federal attention away from the letter of the law and the misguided intentions, that we tune up and we use a new spark plug, we use a new carburetor to make it run better and more cost effective, but I also want the Federal agencies to address the real environmental problems, not just what they think we are mandating from Washington. I don't

think you wanted to mandate stupidity. The citizens don't understand why the Federal Government is mandating it, and I think if we respond to this, it will work, it will be appropriate, and I think that it is something that we can all be very proud of.

Dr. Revelle is no longer with us today, he passed away last year, and, Members of Congress, I would like to just say if there was anything we could do, this could be the Revelle bill, to be able to straighten this mess out for the environment and for our children. As he said to me a week before he passed away, he said, "Brian, if you do anything else, bring some sanity to this stupid situation, change the mandate and make it reflect science and the environment, not the bureaucracy and regulation." The question we have before us, those of us that are fighting the environmental battles, is, is the regulation more important than the environment? If the environment is what is important, we not only have the right to change that regulation, we have the responsibility to do it, and we have to have the guts to do the right thing on this item.

Thank you, Mr. Chairman.

Mr. McINTOSH. Thank you very much, Mr. Bilbray.

Let me ask Mr. DeLay and the other members of the panel, I know you have all got busy schedules, do you have time for a few questions, or do you need to——

Mr. DELAY. Well, Mr. Chairman, if you don't mind, I would appreciate taking first any questions that would be coming to me. I have a leadership meeting that started 20 minutes ago, and I need to be moving along soon.

Mr. McINTOSH. OK.

Mr. WAXMAN. Mr. Chairman, before Mr. DeLay leaves, I hope he will let some of us ask him some questions.

Mr. DELAY. I would be glad to.

Mr. WAXMAN. I mean when we have hearings it is two way.

Mr. DELAY. I didn't say I wouldn't answer questions, Mr. Waxman.

Mr. WAXMAN. OK.

Mr. McINTOSH. He just has a leadership meeting.

Why don't we proceed quickly to the questions, and I have one. The thing that I keep puzzling through in my mind is the relationship of this process to the committee process generally, and perhaps, being a freshman, I'm naive to this, but it always struck me that it would be possible to have the committees view this as something that empowered them, as an additional opportunity to bring legislation to the floor. I was wondering if you or the other Members would comment on that generally and how you see this relating to the regular business that the committees would be doing?

Mr. DELAY. If I may, Mr. Chairman, I can speak to that. I think, as the chairman so rightly puts, this empowers particularly subcommittees to really look at what is going on, particularly in those agencies that they may have oversight responsibilities for. It also puts an extra burden on those subcommittees to respond to complaints by American citizens to abuses that they feel are being perpetrated on them by the Federal agencies.

I also might say that I hope that the procedure will consider allowing, as I think one of the panelists alluded to, no amendments

on this kind of bill, particularly as we go through the procedure of working out some sort of process with the Senate.

You know, I have been here 10 years, and I have received time and time again the excuse by chairmen of subcommittees or full committees that we just can't address this particular environmental problem because it would open up the entire Clean Air Act or we can't address a certain OSHA problem because it would open up the entire big policy decisions made by Congress. This is a way to rifle shot a particular problem, and it is also a way to empower committees to do the things that their constituents are calling them to do.

Mr. MCINTOSH. Thank you, Mr. DeLay.

Any other comments from the other panel members on that?

Mr. Peterson.

Mr. PETERSON. Mr. Chairman, Mr. DeLay, first of all there are a number of us on this side that are interested in helping you. If you want to expand your task force, we would be happy to work with you on that.

Mr. DELAY. If I could respond, this is a task force that was appointed by the Speaker, but that is an excellent suggestion, and I will take it to the Speaker.

Mr. PETERSON. Thank you.

Mrs. VUCANOVICH. I might tell you, Mr. Peterson, that is one of the things that we have recommended, a bipartisan advisory committee, and we think that there are just as many Democrat Members who are as disturbed as we are about some of the silly legislation or regulations.

Mr. PETERSON. Thank you.

The second thing, just to follow up a little bit on the chairman's observations, from what I have heard I'm a little skeptical that much is going to change. I'm going to say something here that might irritate some folks, but I think to some extent this problem is caused because the committees don't legislate in as much detail as I think they should and they turn too much over to the agencies. That is what gets us in this trouble.

I'm a little skeptical that the committees are going to change the process if we just give them some other title. Has there been any consideration given to having some other committee have somewhat of a hammer? Maybe this committee or subcommittee could set up some kind of process where we could force the committee to deal with some of these things.

I think unless we have some kind of a hammer or some other way to go at this, we are going to get stalemated within the committee process. Have you looked at that at all?

Mr. DELAY. I'm sure that Chairman Vucanovich can speak to this, but yes, we have considered that. That is why we set up this task force to conduct a screening process. It would act not as a committee, but rather as the Speaker's tool to call to the attention of a committee a particular idea that it may or may not be reluctant to consider and sort of encourage committees to take up a particular issue.

I think, frankly, that when the committees find this expedited procedure to be helpful, taking care of a lot of problems that they don't particularly want to take care of in a huge reauthorization

bill or a huge policymaking bill, they will be eager to take part, I might finish by saying that the leadership of this majority is very interested, as exhibited by the Speaker by coming here to testify, in correcting a lot of these dumb regulations and will be urging committees to be doing a lot of work in this regard.

Mr. PETERSON. But this is the Government Reform Committee that we serve on. We have jurisdiction in every area. You haven't considered giving this committee additional authorization to actually have a kind of discharge petition process? In other words, if some other committee won't move and we hold hearings and decide that that committee is entrenched or protecting turf or whatever, that we could actually bring that to the floor.

Mr. DELAY. I think that is something that this joint committee should suggest when it designs the procedure, and it is something that should be considered by both leaderships, the minority and the majority. It is part of designing the procedure.

Mrs. VUCANOVICH. And that is why we think that a formal structure enhances the visibility of actually this process in a very powerful way, and we certainly don't want to take any of the jurisdiction away from the committees, but we think that with the guidelines that we will propose, that it will—it certainly will be a way to take care of these small things without upsetting, for instance, the Clean Air and Clean Water and so forth.

But we don't want to take away any of the committee structure, but at the same time we think if we actually have a structure that is set up and its corrections calendar—you know, we do have suspensions; we think that this will be an opportunity to keep the committee going.

Mr. PETERSON. I think you are being too nice. Frankly, I think that we ought to have a hammer over some of these committees. I think they have caused some of this problem, and frankly I don't care if we stir them up a little bit. I think it needs to be done.

Mrs. VUCANOVICH. Maybe you can help us with those details.

Mr. MCINTOSH. Thank you very much, Mr. Peterson.

Does anyone have additional questions for Mr. DeLay?

Mr. Waxman.

Mr. WAXMAN. Mr. DeLay, I appreciated your testimony, and I know you have to leave, but you went through a litany of examples that sound on the surface to be matters of concern to all of us, but we have heard lots of anecdotes this session of Congress that turn out not to be accurate. We heard that baby teeth weren't going to be returned from one agency and that buckets were going to have to have holes in them under Government regulations. We have heard about some guy in Florida that was required to do something. When we have looked below the surface, it turns out some of these claims that sound so ridiculous just weren't accurate, it wasn't full information. That is why I'm pleased that the Speaker told us this morning that the committees of jurisdiction will have a chance to hold hearings, because we wouldn't want to make laws based on misinformation or anecdotes that turn out to be inaccurate.

I think it is important that the committees that have expertise deal with the issues, and I have no problem, and I don't think there is anything that prohibits us now to deal with specific, finite

questions without having to go into the whole Clean Air Act, Clean Water Act or whatever. So I do—I did want to make that point to you.

But the question I have of you is, why should we restrict this only to foolish actions by government agencies? Why not areas where the public needs to be protected and we will all agree about it? For example, if some of these broad sweeping laws that are being proposed and, in fact, passed the House are passed in their present form, I believe we are going to find a situation where—that the consumers are going to be faced with toxic substances that none of us would ever want to see them exposed to, that can do a great deal of harm, where we would be able to put on the corrections calendar to correct the fact that there is not regulation that is going to be necessary.

Or for example, I have been very involved in the smoking issue. I don't see why there is any reason why cigarette smoking, which is the leading cause of disease and death in this country, isn't regulated. Will we be able to come in and say there ought to be a clear regulation to prevent the pushing of cigarettes on kids in violation of the law? Will it just be one way, to stop government action, or will it be to encourage government action as well when it is necessary to protect the public?

Mr. DELAY. Well, first off, I agree with you that, as everyone has alluded to, this should be an open process, hearings should be held, and you should get to the bottom of any sort of complaint that comes from American citizens and our constituents.

I would say, and, Mr. Waxman, you have been here long enough to understand this when you have got the votes, you should run with it. If you have got the votes, run with it under the procedure.

But I would just say to you this is a hearing to work all those kinds of issues out, and if you are so inclined to have it the other way and you have the votes in committee and on the floor to allow that sort of procedure, then that might be good.

But this whole idea is to react to agencies that legislate through regulation and in some cases step beyond the bounds of the intent of the legislation and are preying on the American people, not to put into place proactive types of regulation.

Mr. WAXMAN. If something is really foolish, if a government agency is doing something improper, there should be no question that all of us ought to stand behind trying to stop that from happening. On the other hand, if some harm is going to occur to the American people and we need government to step in, I would hope there would be no disagreement over that as well and that we have an opportunity to deal with it.

I just hope we don't get in the situation, Mr. DeLay—and I'll say it quite openly and frankly—where we have special interest groups, lobbyists, campaign contributors, screaming loudly and getting their issue taken care of sometimes even at the expense of the public because they have been able to try to get their supporters to advance their cause in a way where they wouldn't otherwise stand the scrutiny of hearings and legitimate process and so they are on an accelerated timetable. I assume you wouldn't want that either.

Mr. DELAY. I would not want that either, and I share the gentleman's concern. That is why I do support an open process and a

hearing process and a normal process that this legislative body goes through. But I would also like to respond to something you brought it up in your opening remarks. We have all used the term "special interests," but it usually means people that disagree with us.

Mr. WAXMAN. I'm willing to confine it to campaign contributors, and I don't think that the powerful special interest groups that give lots of money to office holders for their campaigns or their political efforts ought to have a greater say over legislation than ordinary Americans who can't afford lobbyists and can't afford to give big contributions.

Mr. DELAY. Neither do I, but if I can finish my statement, Mr. Waxman, I consider people that come and avail themselves and tell me some of the problems that they are experiencing in their day-to-day lives, I consider them constituents, I consider them Americans, and they have interests that are very special to their concerns. Surely you are not suggesting that you have never met with or received advice from or were assisted in writing legislation by such groups that have interests that are special concerns to them, groups such as Greenpeace or the Environmental Defense Fund or the ACLU or labor unions or Nader's Public Citizen group or trial lawyers or any other liberal organizations that have special concerns about what is going on in this Congress.

Mr. WAXMAN. Mr. DeLay, I have never had them in the room drafting the legislation.

Mr. Chairman, I have questions of some of the other panelists. Are we going to have a chance to go over that?

Mr. DREIER. Would you yield?

Mr. WAXMAN. Yes, but I want to see if I'm going to have time to ask——

Mr. MCINTOSH. Yes, there will be time for additional questions.

Mr. WAXMAN. Then I want to yield to my colleague.

Mr. DREIER. I thank my friend for yielding, and I would simply respond to the question that has been raised about special interest involvement here by saying that the Speaker addressed that in his testimony by making it clear that we want to publicize to the American people that this Corrections Day process is one which is going to allow them to come forward not simply with a gripe about the operations of the Federal Government but with a vehicle that we are going to put forward that will allow them to address the concerns that exist there. So I think the Speaker has very adequately pointed to the fact that the design for this is for the average American to feel as if he or she has an opportunity to step forward and deal with a concern that they have, and I thank my friend for yielding.

Mr. WAXMAN. I thank you, Mr. Dreier.

I just hope that we can deal with the problems of actions that people complain about, but inactions as well that they complain about by the Federal Government, because those too are also questions that affect the public interest.

I look forward to a chance to question the other members of the panel, Mr. Chairman. Thank you.

Mr. MCINTOSH. Thank you.

Do any of the members of either of the subcommittees have questions for Mr. DeLay?

Mrs. COLLINS. Mr. Chairman.

Mr. MCINTOSH. Yes, Mrs. Collins.

Mrs. COLLINS. Mr. DeLay, I have a question. I have here a list that is called "Corrections Inventory," and on this list there are several items, about 32 of them. One of them is "Individuals With Disabilities Act Revisions," and it says under that, "1. Apply Federal Administrative Procedures Act, 2. State Option To Combine IDEA Fund With Other Federal Funds, 3. Authority for States To Use 10 percent of IDEA Funds for Noncategorical Supports." Another one that says something about, "50 CFR 930, Requires Agencies To Review Competence and Physical Qualifications of All Employees Who Operate Vehicles." Another one, "Title IV–E, Client Eligibility Requirements for AFDC," et cetera.

My question is, have you seen this list?

Mr. DELAY. I have not seen that list.

Mrs. COLLINS. Would you have any idea where it might have come from, how it might have been developed, who was consulted, or any of that?

Mr. DELAY. I haven't seen the list. I don't know where it came from. I don't know how you got it. I would just suggest that I don't even know the meaning of the list because we don't have a Corrections Day procedure yet, and we have already testified that anything that would come to floor under a Corrections Day procedure would go through the normal open legislative process.

Mrs. COLLINS. So you have no list—you don't already have a list of things that you might want to have——

Mr. DELAY. Oh, I've got plenty of lists in my own mind. Being a businessman for 20 years, I have got a list. In fact, I refer you again to the Heritage Foundation book that I had a lot of input in, the "Red Tape in America," and many other lists that are out there that we ought to look at as candidates for the Corrections Day procedure.

Mrs. COLLINS. Well, Mr. Zeliff just grabbed his microphone. I'm sure Mr. Zeliff wants to say something.

Mr. ZELIFF. I just wish, and, you know, I think your intent is well justified, but I think what we have here is a gem of an idea to make us more efficient: How do we focus on mistakes so that we can get beyond the mistakes, get the things that are holding us up from being more successful, and so whether you have a list or everybody has a list, I think what we need to do is set up a process so that we can process those lists, and there may not be any finalists on your list.

Mrs. COLLINS. Excuse me for interrupting you, but I am concerned if there are already lists, because no Democrats have been on this committee—on the steering committee that has been set up.

I would also like to know where these lists are generated from because I want to know who is doing it. One of the witnesses here, either you or the Speaker, has said that people are calling your offices and they are talking about the things that have to be looked at. Nobody has called my office, and I don't know about other Members. I can speak only for the Seventh Congressional District of Illi-

nois, but I want to know where these people are who are asking that all of these things be reviewed. They haven't been calling me.

Mr. MCINTOSH. Mrs. Collins. Would you yield for 1 second?

Mrs. COLLINS. Yes.

Mr. MCINTOSH. Am I to understand—what Mr. DeLay and Mr. Zeliff were saying, is there was——

Mrs. COLLINS. I think they can talk for themselves. I mean I asked them a question. Now are you going to ask them a question, or what are you going to do?

Mr. MCINTOSH. I want a clarification on your question. Are you asking, is there an official list?

Mrs. COLLINS. I have already asked that question. What I'm concerned about is where these lists are coming from.

Mr. MCINTOSH. And are they official?

Mrs. COLLINS. And are they official. The answer has already been given that there is no list and therefore they are not official, so what I want to know now, is where are these requests coming from?

Mr. ZELIFF. Well, you know, the requests can come from anywhere in the world.

Mrs. COLLINS. But the world hasn't called me either.

Mr. ZELIFF. Well, you will be connected.

Mr. DELAY. We will be glad to connect your phone, Mrs. Collins, if it is not connected, but I have file cabinets full of requests from constituents as well as people around the country.

Mrs. COLLINS. Well, I would like to know who some of those people are.

Mrs. VUCANOVICH. If the gentlelady would yield, I would like to just emphasize what our Speaker did say in his opening statement was that after he spoke to the Governors Association, that he received many, many requests, and I think the first 40 requests came from the Governors Association, including Governor Edgar.

Mrs. COLLINS. That makes more sense to me than the world at large. Thank you very much.

Mrs. VUCANOVICH. Sure.

Mr. ZELIFF. Could I just add one comment? I don't think there is anybody intending here to exclude anybody. I think what was said before, and I think we may need to reemphasize it, is that we want to open this up into a bipartisan process. I think that we are talking about doing that and adding Democrats to the process, and certainly anybody that has—I mean there is no limit to where the ideas come from. Democrats can create good ideas, as Republicans can, and I'm sure everybody's input is going to be welcome.

Mrs. COLLINS. Thank you very much. I appreciate that.

Mr. MCINTOSH. Thank you.

Mrs. Collins, you might also want to know, over the break Mr. Peterson and I held a field hearing and heard from several dozen citizens in Indiana, and the staff will be compiling a list from that record of ideas as well, which will be publicly available to everyone.

Mrs. COLLINS. So there will be an official list.

Mr. MCINTOSH. I don't know that it will be official. These are just testimony, and it will provide ideas that can be considered as the advisory committee goes forward.

Mr. DELAY. And, Mr. Chairman, I could also say that I will be glad to urge anybody that contacts me, to contact Mrs. Collins. [Laughter.]

Mrs. VUCANOVICH. You will be overwhelmed.

Mr. MCINTOSH. Mrs. Waldholtz.

Mrs. WALDHOLTZ. Thank you, Mr. Chairman.

[The prepared statement of Hon. Enid G. Waldholtz follows:]

PREPARED STATEMENT OF HON. ENID G. WALDHOLTZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. Chairman, I applaud the Speaker's idea for a "Corrections Day" in Congress to eliminate irresponsible, nonsensical federal regulations.

Regulations impose a heavy cost on our economy and are killing small business which create the majority of jobs in our country and particularly in my state of Utah. Each new mandate means higher costs, increased litigation, more failed businesses, and fewer jobs for Utahns.

Government administrators currently face no explicit requirement to consider the effects of the rules that they develop. Nor have lawmakers done so in the past. Even when agencies or congressional committees have considered the effects of proposed regulation, policy makers often did so in ways that were simplistic or relied on faulty assumptions and models. Moreover, nowhere in the entire federal regulatory process does anyone consider the accumulative effects of proposed and existing regulations.

These common-sense approaches will assist bureaucrats in prioritizing regulatory decisions, ensuring that limited public resources are targeted to the greatest needs. Billion of dollars will no longer be wasted battling problems that are no longer considered especially dangerous, freeing up money for other problems that pose greater threats to public safety.

But, as good as these reforms are, they still don't address the problem that we have with current federal regulations. That is why I support a "Corrections Day". It's not enough for us to ensure that future regulations are controlled, we need to reform the current regulatory maze.

For example, Salt Lake County, in my district, is being forced to comply with the Environmental Protection Agency's centralized automobile emissions program—the I&M 240 program. The I&M 240 program will force Salt Lake County to implement centralized testing facilities for auto emissions. The cost of the equipment—$150,000 per lane for equipment alone—means that a community the size of Salt Lake County can afford to have only a few testing centers.

This means that people will have to travel long distances, to have their cars tested rather than dropping them off at the local garage near work or home. Most people will be forced to perform this chore on their day off, creating long lines at the testing centers. In addition, the thousand of dollars that the current testing facilities have invested in emissions equipment will be lost.

Salt Lake County would be forced to spend almost $25 million to comply with EPA's program despite the fact than other inexpensive alternatives are available. For example, the ASM program proposed in California is 98.4 percent as efficient as the I&M program and would cost only $30,000 per lane compared to $150,000 under the I&M program. The I&M program represents only a 1.6 percent efficiency improvement at five times the cost. Yet EPA is still forcing Salt Lake County to comply with the I&M program.

Another example of the effect regulatory burdens place on business and our ability to efficiently put products on the market place is illustrated by a situation that has occurred at a medical lab in my district

Over the Easter district work period, I visited a medical laboratory located in my district, Abbott Labs. During our tour, I observed the manufacture of plastic syringes that had been originally manufactured by a lab in Florida. Abbott Labs had purchased the equipment and the right to manufacture these syringes. It took Abbott Labs less than 16 weeks to move the entire production line and start producing the syringes within established manufacturing tolerance levels. But, it took the Federal Drug Administration 16 months to approve the product despite the fact the source material came from the exact same suppliers. The only difference between the Abbott Lab product and the previous product was that the manufacturer's name stamped on the side was different.

During the 1980's, America's ability to create jobs was the envy of the world. No longer. The American job-generating machine has slowed dramatically, and regula-

tion deserves much of the blame. The regulatory burden relaxed through most of the 1980's, and private-sector employment grew by 19 million jobs. Since 1989, however, the regulatory burden has grown substantially. It is no surprise that job growth as anemic over the same period.

Government red tape is a costly frustration to Utah business and few business owners would be surprised to learn that unnecessary and inefficient regulation costs the American economy an estimated $600 billion each year, or more than $5,900 per family.

I strongly support a "Corrections Day" to free Americans from bureaucratic red tape and help to remake our economy into the greatest job-making machine in the world.

Mrs. WALDHOLTZ. Mr. DeLay, I know you need to leave, but I wanted to raise an issue that I know you have been working on. One of the people who has called me, without me being on the steering committee for Corrections Day or anything else, are people who are dealing with auto emissions testing, and Salt Lake County is currently being faced with draconian penalties by the Environmental Protection Agency if they don't fall into compliance with the I&M 240 centralized emission testing program, and the regulation involved completely ignores a program in California that is one-fifth as expensive and over 98 percent as effective. So I'm getting calls about this.

I get calls about lots of other things. People stop me in the grocery store to tell me about problems that they have had, and I think part of the problem that we have had in Congress is that we have not had a mechanism to respond quickly to things that are clearly a problem when they are actually implemented in the public, and so I applaud your efforts to do this.

My question for you, Mr. DeLay, and perhaps the other Members can address this after you have left, so the other Members have an opportunity also to ask you some questions, but where do we find the line between what committees need to handle through the regular legislative process and what kinds of things can we handle through a Corrections Day process? I'll just ask you, for example, would this kind of EPA testing program be something we could address through a Corrections Day?

Mr. DELAY. I'm glad you brought that up, Mrs. Waldholtz, because it shows the problem.

When I raised the problem about emissions testing in the Clean Air Act, the Environmental Protection Agency wasn't really interested in listening to me. Additionally, and this was last year, some of the committee chairmen stated that we cannot reopen the Clean Air Act to address this one particular problem. Subsequently, the EPA more or less—I don't know if it officially did this—realized that the centralized emissions testing that was proposed, for instance, in Houston, TX, my home town, didn't make a lot of sense. However, they say, well, we can't do a whole lot about that, as we will be sued if we change certain things to accommodate more convenient and more common sense approaches to emissions testing.

This would be a great candidate for Corrections Day if the EPA is being straight about its assessment of going too far, as it might be supportive of an expedited process to correct that problem that they see in the Clean Air Act without having to "opening up the Clean Air Act" to a total review.

Mr. MCINTOSH. Thank you, Mr. DeLay.

Mr. Beilenson.

Mr. BEILENSON. Thanks, Mr. Chairman.

Just a brief comment, if I may—and I say this with all respect because the members of the panel, with the exception of the new gentleman from San Diego whom I've not had the pleasure of meeting personally but obviously is a very intelligent and concerned person, the others are all good friends or ours—to be frank about it, your testimony has not been very helpful. You have got the nub of a nice little idea here, but we still have to discuss in some specificity how we handle it.

Mrs. Waldholtz asked exactly the kind of question that needs to be asked, along with a good many more of them, and answered as well. We need some help in defining and writing the kind of process that we need to accomplish what you all and what we too may want to accomplish. Do we need a new process at all, or, as a couple of people have suggested at various times, including perhaps the Speaker—I don't mean to be speaking for him, but I think I heard him say this—should we simply designate a suspension day every now and then as a Corrections Day. Maybe that is the best way of doing it.

So do we need a new process entirely? What would be the exact process of handling the corrections bills prior to enabling them to have floor consideration? There are all kinds of ideas about things that need to be corrected, but what we need help on—and we ask your help in the weeks to come—is how to write a process and define these concepts in such a way as to make it possible for all of us to accomplish what we want to accomplish.

Mrs. VUCANOVICH. Mr. Beilenson, I would like to try to answer that. I think since we have been talking about just what procedures to use for Corrections Day, and we debated about whether we wanted a corrections calendar or how we wanted to do it, whether we would do a combination of suspensions and regular order or suspension of the rules or regular order, or a monthly corrections package, we looked at all of these, and we are in the process—I suppose that is what this hearing is about. But we recognize that we do need to have some factors that have to be considered in setting priorities, and that is why we are hoping for input on both sides of the aisle, and I suppose some of the factors are, if we are going to do this, is the legislation controversial, and how many people would support it, and whether it would be Democrats and Republicans or just what, and the number of people affected.

I mean we are not going to do this for some one person who has a bird in his yard that he doesn't think needs to be there, and also we have to look at criteria about preparation time and the urgency. If you look at some of the people who have, particularly in the West, who have suffered from a lot of the regulations that come down—and when I say the West I always think about the western States that have public lands but—and also the savings or the costs.

So I think we are in the process of setting down those criteria, and we hope we will get input from the other Members.

Mr. BEILENSON. Well, I thank the gentlelady and thank the chairman, and I look forward also to our next panel, where we have some folks who deal with some of the specifics and may be of some help to us.

Mrs. VUCANOVICH. Sure. We are going to be followed by Billy Pitts and some of the others who worked with these procedures over a long period of time. They probably have a lot more expertise than we do on the actual procedures.

Mr. ZELIFF. I would just like to add one little quick thing, Tony. I think that, frankly, most of these issues, I would say almost 100 percent of them, are going to be consensus issues. They are going to have a scale of zero to 10 of stupidity, and they are going to be in the 10 range, and so the things that we bring up together here, people on both sides of the aisle are going to view it as a vehicle of getting things done, cleaning it up and moving forward, and I don't see it as a big fight, I see it as more of a consensus.

Mr. BEILENSON. I agree.

Let me just say one more thing, if I may, very quickly, Mr. Chairman.

Mr. MCINTOSH. Certainly.

Mr. BEILENSON. To back up something that our friend Mr. Peterson said earlier, to a certain extent this proposal is a result of committees not having done their job well enough, not having spent enough time on oversight and so on. Part of the problem is that there are not enough Members of this Congress, if I may say so, with all respect, who settle into the job of legislating and spend enough time in Washington and going to hearings, thinking through some of these things. They are too anxious to go home and make little sound bytes and talk about all the things that need to be done, rather than staying here and working.

We have only 435 Members in the House. We need at least a couple of hundred of them working hard, mostly full time, to accomplish our work. We are not going to be able to escape this problem even if we have this kind of process, because someone around here is going to have to take a serious look at these kinds of matters. So I hope that this will encourage us to do our committee work.

Mr. BILBRAY. I would just like to say, we are really talking about, let's do a reality check. The intentions of the legislation, much like we talk of 20 or 30 years ago, need to include a reality check every once in a while, and if we have got people come—and I don't know where the lists come from, but if you have got people saying, excuse me, I think there is a gap between the theoretical approach of the legislation and the practical application, and so we bring it out and we basically shine a light on it and say is this a reality we meant to create, and if it wasn't, we are going to have to take care of it. So I think it can be very healthy for the people in Washington to finally sort of do a reality check, a performance review, and then see if the law is appropriate, and then also we can fine-tune it to really do what we meant it to do if we find a problem.

Mr. BEILENSON. Of course, and I was only suggesting, Brian, that we should have been doing a better job of checking on how things are working many years after we first passed them than in fact we have been doing.

Mr. BILBRAY. As our new reality.

Mrs. WALDHOLTZ. Would the gentleman yield on that?

Mr. BEILENSON. Of course.

Mrs. WALDHOLTZ. Tony, I agree with you that I think we need to do a better job in our oversight, but I also think we have to acknowledge that part of this problem has been created by some very activist agencies who choose to take on the mantle of legislation through regulation. So I think it is a two-pronged problem.

Mr. MCINTOSH. If I might interject, let me say, from the standpoint of someone who served on the executive side, that this process and the hearings that it will generate in the committees I think will have an enormously beneficial effect and will find that there seems to be a huge number of targets of opportunity out there that will find the agencies are actually more responsive to the citizens and ingenious in finding ways of correcting many of the problems of their own as the hearing process works.

Mr. BEILENSON. I'm sure you are right, Mr. Chairman. We just want to make sure there are hearings in committees.

Mr. MCINTOSH. And I think there is a lot of merit to that.

Mr. DELAY. In defense of some of the oversight hearings, if you don't have a process like this, there is no process by which you can easily correct a problem other than browbeating a bureaucrat or an agency and going through the appropriations process to do so.

Mr. BEILENSON. With respect, if you were chairman of a committee and you cared about some particular matter, you could have gotten the votes to report out a bill—a little rifle shot, as my friend Mr. Waxman has suggested—to correct some of these things. That's if you had been in a position prior to now, which you haven't been, to do that. I think committees could have done this, and one good thing about this whole matter, I think, will be to encourage committees to do the kind of work they should have been doing all along, whether we establish a specific new process or not.

Mr. MCINTOSH. Thank you very much.

Mr. Condit, I note that you had a question for Mr. DeLay.

Mr. CONDIT. Actually, because we have taken a lot of time and I know Mr. DeLay has to leave, I'll make it real brief.

I just want to say for the record that I think this suggestion is a very constructive suggestion and hope that we can figure out a way to make this work, but I would like the committee as well as Mr. DeLay and other people interested in this to take heed to what I think was suggested by the Speaker and members of this panel, and that is that we make this balanced. I don't know if you have figured out a way to do a one for one—the minority offers one, the majority offers one—but I think it ought to be balanced, and that would be my suggestion, that we figure out a way to make sure that we get a one-for-one kind of ratio so that the minority and the majority end up with the same thing on the floor, because there are a lot of us who are interested in doing this, and we don't want to be sort of out of the loop because we don't have access to the task force or to whatever policy we put together.

In addition to that, I would encourage some way—Mr. DeLay, you or the Speaker—and I know the Speaker left to go meet with Mr. Dole, but, you know, the House can't unilaterally change Federal law or regulations, we are going to need to work out a system that works with the Senate as well. So I think we need to spend a lot of time making sure that happens because we can have an all-day, 2-day session on the floor every month and end up just

spinning our wheels if we don't have some sort of arrangement on the Senate side.

So that is basically, out of consideration for time, Mr. Chairman, I just wanted to make those comments for the record. It doesn't require a response unless Mr. DeLay wants to respond.

Mr. MCINTOSH. Any response from Mr. DeLay?

Mr. DELAY. Only that I agree with Mr. Condit, and we will consider those suggestions. We are in the process of consulting with the Senate, and you are right, we can't do this without the Senate.

Mr. MCINTOSH. Thank you very much and thank you, particularly Mr. DeLay, for missing your meeting.

Would the other members of the panel mind waiting a few minutes? Mr. Waxman had said he had some questions.

Mrs. VUCANOVICH. Mr. Chairman, I'm perfectly willing to stay. I also have a leadership meeting, the same leadership meeting, but that's fine, I would be happy to answer Mr. Waxman's questions, just be late.

Mr. MCINTOSH. Thank you.

Mr. Waxman.

Mr. WAXMAN. Thank you, Mr. Chairman.

I will be very brief because we have gone over some of these issues, but I do want to, on the point that Mr. Bilbray raised with regard to the San Diego sewer issue, put into the record a letter from our colleague, Congressman Norman Mineta, to the Honorable David Dreier and the Honorable David M. McIntosh dated May 1, today—I guess it was yesterday, May 1, 1995, and it is a letter pointing out that this is a more complicated issue than one would think at first glance.

Without objection, Mr. Chairman, I would like unanimous consent to put that letter in the record.

Mr. MCINTOSH. Any objection? Seeing none, the request is granted.

[The letter referred to follows:]

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
U.S. HOUSE OF REPRESENTATIVES,
May 1, 1995

The Honorable David Dreier,
Chairman, Subcommittee on Rules and Organization of the House,
Committee on Rules,
Washington, DC 20515

The Honorable David M. McIntosh,
Chairman, Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs,
Committee on Government Reform and Oversight,
Washington, DC 20515

DEAR CHAIRMEN: I understand that tomorrow your Subcommittees will hold a joint hearing on the concept of a Corrections Day and on the suitability of H.R. 794, exempting San Diego from major portions of the Clean Water Act, for consideration under possible future Corrections Day procedures. Unfortunately, due to previously scheduled commitments, I am unable to testify in person. However, this letter is to make my views known, and I request that it be made a part of the hearing record.

H.R. 794 should not be enacted under Corrections Day procedures or under any other procedures.

The issue here is not whether San Diego should have to achieve secondary treatment of its sewage, as most communities are required to do under the Clean Water Act. That question has already been decided by Congress, in P.L 103–431 (copy attached). And it was Congress' decision that San Diego should not have to do secondary treatment. P.L. 103–431 provides highly preferential status to San Diego by re-

opening only for San Diego the Section 301(h) waiver window, which for all other communities was open only from 1977 through 1982. As a result, San Diego is allowed to apply for a waiver from the secondary treatment requirement in the Clean Water Act, and it has recently done so. EPA has already indicated that it expects to grant the waiver in the very near future.

So with no further legislative action, San Diego will not have to do secondary treatment

What, then, is the purpose of H.R. 794?

Simply put, San Diego wishes to renege on the commitments it made last year as part of its justification for getting the special waiver from secondary treatment.

Some background is useful here. In passing the Clean Water in 1972, Congress faced the question of whether to require all cities to do the same level of sewage treatment, or to base treatment requirements on the local conditions of the water body into which the treatment works discharged. Congress decided that the most reasonable approach was to require all cities to do a basic level of treatment—referred to as secondary treatment—and then subsequently and only where clearly necessary to protect receiving waters, standards could be raised to higher levels of treatment. Under the Act, all communities were required to achieve secondary treatment by July 1, 1988. The majority of communities have not been required to do more, although some, including my own City of San Jose have gone considerably beyond secondary treatment to tertiary trentment.

The secondary treatment requirement, and the corresponding basic level of treatment for industrial dischargers, has accounted for most of the success under the Clean Water Act, which is widely acknowledged to be the most successful of the environmental statutes. Key to that success is that a basic level of treatment was required up front, so that cleanup could begin before the endless litigation which has plagued most environmental programs. More difficult questions of how much treatment was enough were postponed until later, and in most instances have not needed to be raised at all.

In the 1977 Amendments to the Act, Congress created the Section 301(h) waiver window, under which communities with deep ocean outfalls could apply for and receive a waiver from the secondary treatment requirement if they could show that there would be no harm to health and the environment as a result. Communities could only submit waivers from 1977 through 1982, although waiver applications submitted within the window could be acted on after 1982.

Approximately 40 cities, many of them small communities adjacent to close-in deep waters along the Alaska and Maine coasts, have received the waivers. Unfortunately a few larger coastal cities, with more dubious claims of having deep ocean outfalls, wasted years in failed attempts to qualify for the waiver, and as a result are now far behind where most communities are and are having to play a very expensive game of catch-up. San Diego is one of those cities.

San Diego applied for the secondary waiver during the original 301(h) window, at a time when its ocean outfall was approximately 2 miles out and 200 feet deep. It was originally not EPA, but the State of California under Governor Deukmejian, which rejected San Diego's application as inconsistent with the State Ocean Plan. California based that decision on the fact that the outfall was in a major kelp bed which was actively used for recreation, and on the fact that it did not consider the existing outfall pipe to be reliable. Several years later, California's concerns were borne out when the outfall pipe burst, spewing sewage which washed ashore forcing the closure of 4.5 miles of beaches.

Based on the negative findings of the State of California, President Reagan's Administration gave San Diego's waiver application a tentative denial in 1986.

At this point, San Diego had the option of revising its waiver application and continuing to pursue it. It could have, for example, done what it has done in the 1990's, which is rebuild its outfall pipe to a deeper point farther out (it is now approximately 4.5 miles out and 310–320 feet deep) and meet the waiver requirements in that way. San Diego considered that option, but in 1987 rejected it in favor of keeping its existing outfall and investing instead in secondary treatment. As a result, in 1987, San Diego voluntarily withdrew its waiver application, knowing that under law it would as a result be committed to achieving secondary treatment and could not go back to seeking a waiver.

If San Diego had not withdrawn its application, no waiver legislation would ever have been necessary for San Diego. Only because it first decided to seek a waiver, then in 1987 reversed itself and decided it did not want a waiver, then in the early 1990's reversed itself again and decided it did want a waiver, did Congress have to face the question of providing special legislation for San Diego.

Thus, if the purpose of Corrections Day is to "correct" ill-advised federal regulatory or legislative requirements, San Diego's secondary treatment is hardly an ap-

propriate case. The issue of San Diego's secondary treatment stands more for vacillating and inconsistent municipal decision-making than it does for federal intrusiveness and inflexibility. The problem here was not inflexible federal laws or regulations. Federal law was flexible in that it gave San Diego the opportunity to deal with the objections of the State of California either by going to secondary treatment or by extending its outfall pipe. San Diego's problem was that it could not stick with one decision or the other; it was not capable of handling the flexibility it was given.

When San Diego reversed itself for the second time and sought, in the last Congress, a legislatively granted waiver, it made several key representations as to why it should be accorded the special treatment of having the waiver window reopened for it. (See for example the letter of Congressman Filner to me, March 2, 1994, attached.) First, it represented that it required only a slight deviation from secondary treatment standards and only with respect to biological oxygen demands (BOD). It would continue to meet, for example, the secondary treatment standard for 85% removal of Total Suspended Solids. Second, it would reduce the total amount of its discharge by undertaking a major reclamation project, by which a significant minority of San Diego' total wastewater would be reclaimed and used for various landside purposes. And third, by obtaining a waiver it would be subject to the same kinds of monitoring and periodic renewal that any waiver holder and any permit holder is subject to in order to assure that there are no substantial deviations.

In the course of considering that legislation during 1994, San Diego again began changing its mind as to what it was willing to do. As a result, the bill enacted in the Fall of 1994, at San Diego's insistence, relaxed not only the BOD standard from 85% to 58%, bit also lowered the Total Suspended Solids standard from 85% to 80%; and it reduced the amount of reclamation and extended the date by which it would achieve that reclamation, as compared to San Diego's initial representations. The bill Congress enacted in the Fall of 1994 was what San Diego said in the Fall of 1994 it could do and was willing to do. Yet early in 1995, San Diego was back trying to get out of what it had just said it would do. Under H.R. 794, San Diego would receive in effect a permanent exemption from secondary treatment—no conditions, no review, no questions asked. Not only would the secondary treatment standard be tossed aside, but so would the 58% BOD standard and the 80% Total Suspended Solids standard. Anything that was "chemically enhanced primary treatment" would qualify. That simply means screening out the larger solids and adding chlorine to the rest—basically untreated sewage except for the addition of chlorine. Any requirement for reclamation would be tossed aside. And there would be no requirement for monitoring and periodic review. It is important to note that this bill would allow San Diego to provide significantly less treatment than it provides today.

So the issue presented by H.R. 794 is not whether San Diego should have to do secondary treatment—it will not have to do secondary treatment whether this bill is enacted or not. The issue is whether San Diego should have to do the things it proposed a few months ago that it should do in lieu of secondary treatment and whether it should even have to continue the low level of treatment it provides today.

I should also note that it is sometimes claimed that the Scripps Institution of Oceanography supports this bill. That is not true, and we have just reconfirmed that with the Director of the Institution. There are a couple of employees of the Institution who, as individuals, endorsed a secondary waiver for San Diego, but who declined to endorse H.R. 794 as introduced. I understand that these individuals have recently said that with certain modifications they could support H.R. 794, but whatever their position may be, they do not speak for Scripps.

The most immediate question for purposes of this hearing is whether these issues presented by H.R. 794 should be decided by some new Corrections Day procedure yet to be worked out, or whether they should be decided through normal legislative deliberation. I do not believe H.R. 794, or any similar bill, is an appropriate candidate for Corrections Day.

First, this is not a case of excessive or rigid federal requirements needing to be corrected. The problem here is that Federal law—Section 301(h) in particular—gave San Diego a degree of flexibility which it could not handle. First San Diego wanted a waiver, then it rejected the waiver option, then it wanted the waiver and needed legislation to get it, then it wanted legislation to eliminate the commitments it had devised to get the waiver legislation. San Diego is a better case for giving less flexibility to municipalities than it is for giving more. And I consider that very unfortunate, because as a former mayor myself I have long worked to achieve greater flexibility for municipalities. The Judge in the San Diego sewage treatment case, Judge Rudi M. Brewster (a Reagan appointee who has agreed with San Diego that secondary treatment is not necessary), summed up this sorry story when he described San Diego as follows: "the court concludes that the sewage treatment program in this City has been victimized by a failure of political leadership dating back at least

three decades. The City has maintained a policy of inaction, except when action was literally forced upon it by state and federal orders, directives, sanctions and threats of more severe enforcement measures. While the City grew, minimal capital was invested to replace and upgrade antiquated and obsolete collection lines and pump stations. The result is the outrageous record of spills, closures, and distress to residents over sewer backups in their homes, churches and businesses." What has needed correcting here has been local, not federal.

Second, San Diego is already getting its secondary waiver pursuant to legislation enacted last year. No further legislation is necessary or advisable; it's only purpose is to even further weaken the limited protections in the waiver San Diego is about to get under last year's bill. Last year San Diego wanted and got a waiver. This year it wants carte blanche to pollute as it sees fit, and it shouldn't get it.

Third, it is not as though Corrections Day is necessary for there to be Congressional consideration of this bill. Provisions similar to H.R. 794 have already been included in Section 309 of H.R. 961, which was recently reported to the House by the Transportation and Infrastructure Committee and is now expected to be on the floor of the House next week. This situation hardly stands for the proposition that without Corrections Day issues like San Diego's sewage treatment cannot get expeditious legislative action. This issue will be on the floor faster as part of H.R. 961 under normal procedures than it would as H.R. 794 under Corrections Day procedures.

And finally, the concept of Corrections Day is that there should be an opportunity to repeal federal requirements which are so clearly ill-advised that their repeal would be non-controversial and approved by an overwhelming and bipartisan vote. Similarly, as Corrections Day bills would be brought up under Suspension Calendar procedures, they would, under the Suspension guidelines instituted at the beginning of this Congress, be subject to prior clearance by the Ranking Democrat of the Committee jurisdiction—in this case me. I think it should be clear from the above that this bill is not non-controversial and that I oppose it.

Sincerely yours,

NORMAN Y. MINETA,
Ranking Democratic Member, Committee on Transportation and Infrastructure.

March 2, 1994

Congressman Norman Y. Mineta,
2251 Bayburn Houss Office Building,
Washington, DC 20515

Dear Chairman Mineta: Thank you for allowing me the opportunity to continue our dialogue on my proposed amendment to the Clean Water Act.

I truly appreciate your leadership on environmental issues and your reluctance to weaken the Act. But my proposal does not weaken the Clean Water Act. In fact, it stengthens the Act by requiring a reduction in the total volume of pollutants discharged into the ocean. Furthermore, it accomplishes this by providing an incentive for another worthwhile environmental goal—water reclamation and reuse.

The only standard of the current Clean Water Act that we are seeking relief from is Biochemical Oxygen Demand (BOD), which all scientists agree—including those from Scripps Institute of Oceanography and the Environmental Protection Agency—is absolutly irrelevant for ocean dischargers.

To reiterate, my proposal would require the City of San Diego to remove a minimum of 85% of all suspended solids, reduce the total volume of solids discharged into the ocean, as well as initiate an aggressive water reclamation and reuse program.

If my proposal is not approved, the City of San Diego will be forced to upgrade its wastewater treatment plants to secondary standards. Ironically, the total amount of pollutants discharged into the ocean will increase as sewage flows increase. And the opportunity for a model reclamation and reuse program will be lost!

In either case, San Diego ratepayers will have to pay billions of dollars to upgrade our sewage treatment system. I would hope that you would help us to use these resources wisely—to invest in our future, water reclamation, rather than to meet arbitrary guidelines that will not have any measurable impact on our ocean environment.

Sincerely,

BOB FILNER,
Member of Congress.

PUBLIC LAW 103–431—103d CONGRESS (H.R. 5176)

TO AMEND THE FEDERAL WATER POLLUTION CONTROL ACT RELATING TO SAN DIEGO OCEAN DISCHARGE AND WASTE WATER RECLAMATION.

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 "Ocean Pollution Reduction Act".

SEC. 2. SAN DIEGO OCEAN DISCHARGE AND WASTE WATER RECLAMATION.

Section 301(j) of the Federal Water Pollution Control Act (33 U.S.C. 1311(j)) is amended—

(1) in paragraph (1)(A) by inserting before the semicolon at the end the following: ", and except as provided in paragraph (5)"; and

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

"(5) EXTENSION OF APPLICATION DEADLINE.—

"(A) IN GENERAL.—In the 180-day period beginning on the date of the enactment of this paragraph, the city of San Diego, California, may apply for a modification pursuant to subsection (h) of the requirements of subsection (b)(1)(B) with respect to biological oxygen demand and total suspended solids in the effluent discharged into marine waters.

"(B) APPLICATION.—An application under this paragraph shall include a commitment by the applicant to implement a waste water reclamation program that, at a minimum, will—

"(i) achieve a system capacity of 45,000,000 gallons of reclaimed waste water per day by January 1, 2010; and

"(ii) result in a reduction in the quantity of suspended solids discharged by the applicant into the marine environment during the period of the modification.

"(C) ADDITIONAL CONDITIONS.—The Administrator may not grant a modification pursuant to an application submitted under this paragraph unless the Administrator determines that such modification will result in removal of not less than 58 percent of the biological oxygen demand (on an annual average) and not less than 80 percent of total suspended solids (on a monthly average) in the discharge to which the application applies.

"(D) PRELIMINARY DECISION DEADLINE.—The Administrator shall announce a preliminary decision on an application submitted under this paragraph not later than 1 year after the date the application is submitted.".

Approved October 31, 1994.

Mr. WAXMAN. Mr. Bilbray, I don't feel it would be all that productive to debate these issues with you, but I think there are serious concerns expressed by people——

Mr. MCINTOSH. Would the gentleman yield for 1 second?

Mr. WAXMAN. Yes.

Mr. MCINTOSH. Would you have any questions for Mrs. Vucanovich?

Mr. WAXMAN. You know, I don't particularly, except some of the general questions, and as a Member of the leadership, if she wouldn't mind just staying one more minute, I'll be brief, I'm sorry, and we should have probably, if I might say, Mr. Chairman, gone through in 5 minutes, each of us, and all the panelists could have left, because a lot of the questions of Mr. DeLay were questions that other members of the panel might have addressed.

But, Mr. Bilbray, the point in Mr. Mineta's letter is that corrections for San Diego were handled in previous legislation and that there is an argument that a fundamental problem with San Diego's argument, it is already provided relief, additional legislation might be harmful because they acted on conditions that they get this waiver, and I just put that out there.

Mr. BILBRAY. And I will just say, I haven't met with the Congressman yet and I am going to meet, because I think there are

some misunderstandings here where not only are we proposing to continue extensive monitoring—the monitoring system for the outfall has become so extensive that the EPA is now contracted with the city of San Diego to not only monitor for that outfall but to monitor for the entire northern half of the Baja Peninsula, and, Mr. Waxman, I would say this, if the institute of science—the Academy of Sciences came forward to this body in 1972——

Mr. WAXMAN. Mr. Bilbray, could I just—because I really don't want to get into the issue.

Mr. BILBRAY. OK. No, no, but what I'm saying is, this is a bigger issue. The fact is, if you have got data and science, if we were told in 1972 there isn't a problem with sewage—with secondary sewage, there isn't a need for it, we have got the data that says that there is no environmental damage going, I don't think, and I think you agree, if the scientists stood before you and said, "Congress, it isn't needed," there would not have been any problem here.

What I'm concerned about is a million-and-a-half-dollar process that is diverting attentions and resources away from something that everyone in the Environmental Health Department in the State of California, the CAL EPA, and the local academy—I mean the Academy of Sciences, national, says isn't a problem, but it is diverting away from true environmental problems and the question is, is the process serving the environment, and if the process is not serving the environment then we have an obligation to change it.

Mr. WAXMAN. The only thing I would just want to say is that when a Federal judge who was appointed by the Reagan administration fined San Diego $3 million for sewage overflows that violated the Clean Water Act, the judge held, "the sewage treatment program in the city has been victimized by a failure of political leadership dating back at least three decades; the city has maintained a policy of inaction except when action was literally forced upon it by the Federal orders, directives, sanctions, and threats of more severe economic measures; the result is an outrageous record of spills, closures, and distress to residents over sewer backups in their homes, churches, and businesses," and Mr. Mineta has written a letter that provides additional detail and expresses strong opposition to this particular corrections legislation.

Mr. BILBRAY. Mr. Waxman——

Mr. WAXMAN. No. It is my time, and I do want to ask——

Mr. MCINTOSH. Wait. You can't ask him a question and then not let him have a chance to answer it.

Mr. WAXMAN. I did not ask—Mr. Chairman, I didn't ask a question, I simply wanted to point out that Mr. Bilbray, who testified on this subject and said this ought to be a topic for Corrections Day—I did want to point out there are some complications in this issue, some contrary views. It may not be so obvious that this ought to be a correction.

I think that in part you are right, that San Diego should be able to get a waiver, but the conditions of the waiver, under what circumstances they ought to get it, is still something that ought to be of concern.

Mr. BILBRAY. Mr. Waxman, can I clarify that last statement?

Mr. WAXMAN. Mr. Chairman, if I could have additional time to ask other members of the panel questions I would be glad to yield time, but I do want a chance to ask——

Mr. BILBRAY. Mr. Chairman, I would appreciate that.

Mr. MCINTOSH. Let me just say yes, you will have additional time, Mr. Waxman.

Mr. Bilbray, let me ask your indulgence for 1 second. I know it is somewhat unfair to make a statement and then not let you respond, but if we could have the other issues come forward and then let you make your statement in response to that.

Mr. WAXMAN. I'm not trying to cut you off, I'm just simply trying to get to the other questions on this whole Corrections Day issue, and maybe the San Diego issue could be fashioned in a way that it ought to move forward on a Corrections Day calendar, but maybe it ought to move forward on another calendar. This is not the only way for us to pass individual pieces of legislation.

Mr. BILBRAY. OK.

Mr. WAXMAN. And there is a Clean Water Act reauthorization that is moving forward as well.

But Mrs. Vucanovich, as a Member of the leadership, I'm concerned how we distinguish among those issues that are obviously dumb and require correction and those which constitute substantive policy disagreements. Are we going to have an objective criteria, or is it simply going to be 60 votes or two-thirds votes, and if you have the votes then you call it dumb, and if you don't have the votes there is a serious policy disagreement, or do you think that will just be ironed out in the hearings in the committee?

Mrs. VUCANOVICH. We hope, Mr. Waxman, that we will have an equal advisory committee, if that is the word, I'm not sure just how we will set that up, but both Democrats and Republicans in an equal number. We hope that we are not going to pick something out of the air that is the most controversial thing that you can think of and then say we are going to try to pass this, I don't think that is our intent, but I think all of us will agree that there are many just dumb regulations that are being implemented and shouldn't be.

Obviously, I don't think we are going to be able to pass something if we don't have an agreement on what the criteria are, and I think that is what we are in the process of trying to set up.

Mr. WAXMAN. Well, I've seen a lot of dumb things pass.

Mrs. VUCANOVICH. Oh, I have too.

Mr. WAXMAN. So it isn't a question of whether the votes are there or not, the question is whether or not we are going to have an expedited procedure of something that is going to be called dumb but it is not without controversy.

Mrs. VUCANOVICH. I would hope that that isn't our reason for existence.

Mr. WAXMAN. You are envisioning a committee, Democrats and Republicans, to oversee what goes on in this calendar?

Mrs. VUCANOVICH. That is my intent.

Mr. WAXMAN. OK, that is an interesting and helpful clarification.

Would tax provisions be open to be put on the table?

Mrs. VUCANOVICH. We haven't really set down exactly what would qualify, but, again, I think it has to have the input of wheth-

er it has to be hearings or however we have to do it. Yes, certainly tax provisions could be if you are talking about how the IRS sets up their criteria of when they audit people, but in any event we are hoping that what we will do is have provisions that everyone agrees are dumb.

Mr. WAXMAN. I appreciate that.

And then the last question I have of you or Mr. Zeliff or Mr. Bilbray, whichever one wants to respond: One of our later witnesses is going to point out that a lot of businesses are trying to make decisions based on what the law appears to be, so would Corrections Days run the risk of creating substantial disruptions for some sectors of the economy or for enforcement of the laws if we rush to make changes in a piecemeal manner?

Mrs. VUCANOVICH. Well, I think you are talking about would it be retroactive. Is that what you are talking about?

Mr. WAXMAN. No. I think people make decisions as to what the law is going to be for the next couple of years, and if you suddenly change it——

Mr. BILBRAY. I think there is an issue here where you have certain agencies or in a geographical location there will be an appropriate interpretation of the law, and then in another location there will be an outrageous interpretation of the law, and the business community in the private sector is out there saying "which one is the legislative intent." So this one works the other way too, Mr. Waxman, the fact that sometimes it is site specific, and you will have business people going, "Wait a minute, I know over here where I have got another State they do it totally different," and so they are confused. There could be a possibility, and I appreciate you don't want to change the rules on the community, but there are places where you should clarify the rules because they are getting conflicting reports.

Mr. ZELIFF. Just as a businessman, I would say to you that the risk is the other way around. Most of the stuff that will be corrected will be beneficial for small businesses and large businesses alike, and the fact is that they can't plan under current law. They will be happy to have our corrections rather than a lack of consistency.

Mr. WAXMAN. A lot of dumb things are written into law because one business wants to have a competitive advantage over another, and that is really what I was thinking about, and once we start changing that it can have consequences.

Mr. Bilbray, I hope you had a chance to see Mr. Mineta's letter. I put it in the record. I want to give you a chance to say a few words about it, but the only reason I raised it is, I didn't want it to go uncontroverted that this isn't an issue that is without controversy.

Mr. BILBRAY. OK. I think to clarify the fact——

Mr. MCINTOSH. Excuse me 1 second. Mrs. Vucanovich needs to leave. Are there any other questions for her? Any other questions for Mrs. Vucanovich or Mr. Zeliff?

Mrs. VUCANOVICH. Thank you, Mr. Chairman.

Mr. MCINTOSH. Thank you very much.

Mr. Bilbray.

Mr. BILBRAY. Thank you, Mr. Chairman.

Mr. Waxman, the letter clarifies why there shouldn't be a controversy, because if you read it, it was the Brewster case, and just to point out, I was one of the lead witnesses for the Sierra Club lawsuit against EPA and the city of San Diego, and I got the County of San Diego Public Health Department to join with the Sierra Club on this ruling.

When Judge Brewster made that ruling—read it again, and if Congressman Mineta would read this he would understand it—it supports the correction, because what the judge said, Judge Brewster, he said that the city had failed—where the city had failed was in upgrading the collection lines and the pumping facilities that were causing the backups, that there was more environmental damage done because they were not taking care of infrastructure that was real; rather, they were responding to Federal mandates on the outfall, and if you read that letter again you will notice the outfall is not even mentioned in that.

That supports the concept that I'm saying, that someone who, you know, really is tired of having to see that my beach is polluted, that the interpretation of the Federal law by the EPA is perpetuating and helping to encourage this problem. That was Brewster's statement, and it was against not just the city of San Diego, it was against the EPA's secondary mandate at the same time.

So what I'm saying is, when I meet with Congressman Mineta, that is what I can point out, that what is being—you know, what they think is being said is actually supporting the fact that we need a corrections here, and Judge Brewster more than anyone else, in this statement, supports the correction on this problem.

Mr. WAXMAN. I guess one of the essential points that you will be discussing with Mr. Mineta and others is, if you give a permanent waiver to San Diego you remove the ability of EPA not just to monitor, but with the kind of history that San Diego has, which is not admirable, to make sure that they do take action with sewage disposal that is going to protect the public.

Mr. BILBRAY. What we are planning to do is this, and I think that we may disagree about the relationship of government and the citizens at large. What we are saying is that people are not guilty until proven innocent and that every 5 years you should not be dragged before a court and forced, with 26 pounds of documentation, to prove what scientists say will not happen in the foreseeable future, but it will include the monitoring, as you said, constant monitoring.

So all we are proposing to do is changing it so that the process follows function, that we protect the environment and that the resources be used to protect the environment, not the millions of dollars and the 26 pounds of what used to be a forest every 5 years just because of the procedure. That is all we are saying, the same monitoring. In fact, the monitoring agency will be the EPA. The EPA is paying the city of San Diego to do it because they do it better than the EPA. This has all been included in our strategy, and this will be discussed as we come up.

All we are saying is that if science and the Academy of Sciences says there isn't a problem and there is no foreseeable problem, then we should monitor the problem and only bring it up for trial,

only bring it up for processing, if the monitoring detects there is a problem.

Mr. WAXMAN. The disagreement we have is not a broad philosophical one, I think the disagreement—and it is one we need to discuss—but the disagreement seems to be that, according to a judge, the sewage treatment program in San Diego has had, "a failure of political leadership," and the judge indicates that there has been an outrageous record of spills closures and distress to residents over sewer backups in their homes, churches, and businesses.

Mr. BILBRAY. Nothing to do with the outfall.

Mr. WAXMAN. I think that we need to make sure that, whatever we are going to provide for, that we don't simply trust San Diego to do what is right if they have a record where they have not acted responsibly.

Mr. BILBRAY. Again, this judge's statement was to EPA and the city of San Diego, and that is why he was distressed, and I think that we need to clarify that these words actually are an indictment of the Federal Government with the city of San Diego at that time because they were following Federal mandates on this issue, and that is why the judge was so vocal on this issue, and I say that as somebody who sat through the trial.

Mr. BEILENSON. Would the gentleman yield?

Mr. WAXMAN. I yield.

Mr. BEILENSON. Just for a moment, if I may, Mr. Chairman.

What may be even more relevant, I say to my friend from Los Angeles and our friend from San Diego, is that this clearly is a complicated and controversial matter that may not really lend itself quite so easily as we were led to believe at the outset to being part of a new process. In a sense, that is the relevant consideration here. There are two sides to this matter.

The ranking minority member of the full committee is very much opposed to it, although hopefully you can change his mind, Brian. But it may not, as I just said, be something which can easily be resolved in the way that the Speaker and some of his friends have in mind.

Mr. BILBRAY. Well, to be blunt, the real controversy here is, is there a flaw in the Clean Water Act as we passed it in 1972, and does it need to be corrected, at least when the evidence goes the other way.

Mr. BEILENSON. We certainly need a hearing to find out an answer to that.

Mr. BILBRAY. Well, I'm saying all you need to do right now is to read the report that we commissioned as a Federal Government, the Academy of Sciences, that says the law does not reflect the science and should be changed.

Mr. BEILENSON. I don't mean to be picking on you, Brian, or your suggestion; I'm just suggesting that a lot of these things, seem to make a lot of sense to their proponents may be far more complicated and controversial once you get into them and may defy our trying to squeeze them into some kind of new simplified process.

Mr. BILBRAY. And I appreciate that. I just get—I guess the frustration of those of us that are living with environmental problems is that we forget sometimes that people are wedded to the legislation even more than they are the environment sometimes because

that is what we see here in Washington, we don't see the pollution on the beaches of the Pacific.

Mr. BEILENSON. Yes. Be patient because you are much closer to a solution than you have ever been before.

Mr. MCINTOSH. Let me just say I think this is extremely helpful to us as a real life example of something that may or may not work under this new process.

I want to now move on to discuss further issues in the question of the process of Corrections Day. Are there any other questions for Mr. Bilbray?

Mr. Fox.

Mr. FOX. Thank you, Mr. Chairman. I did want to ask a couple more questions, if I could, of Congressman Bilbray. He obviously has a great deal of expertise in the area.

By having the Corrections Day, we are going to be able to move toward fast tracking some reforms in Congress that you have been discussing. Do you see Corrections Day as focusing on legislation or focusing more on regulations and policies?

Mr. BILBRAY. I think that you would need to look at policies, and what you will find is many times the agencies will say we are just following the rules you told us to do in legislation, and you have to respond to it. So I think that obviously you will startup the path by starting at the smallest denominator, the agency on the street, and then you see if there is a pattern, are the people with the Clean Air Act enforcing it as—interpreting it the same way in a nonattainment area in Pennsylvania as a nonattainment area in California, and if they are, then you can follow it up. If they are not, then you start saying, now is it a site specific issue, and do we need to modify it based on the way the regs are being enforced as opposed to base legislation?

So I think there are going to be times you are going to run right up to the base legislation like we did with the Clean Water Act, that we were told again and again we know that this is not reasonable but Congress is not reasonable and you have to go to Congress to change this, we can't do it; and even the judge said that.

Mr. FOX. Well, how do you handle the situations we had in Pennsylvania? We had incorrect data by the agencies being applied to the businesses and therefore the Tripta production was going to be mandatory, causing great economic harm without great environmental benefit.

Mr. BILBRAY. Well, I think that what you are saying right there are in a lot of the other things. We need to make a decision as policymakers; is the process more important than the product? Is our goal expendable because we designed or we are part of it is the Federal process, the Federal process is important?

What I'm here to say is, the Federal process is only viable as long as the product it produces is viable and that when we get down here, the more you look into it, you need to do this reality check of, is it doing what we intended it to do, and I think there are times you are going to find no, it isn't. There are times you can see we can do more, and I'll tell you, as Mr. Waxman pointed out with tobacco, my father died from tobacco consumption, but maybe we ought to talk about minor girls smoking in the tunnel of the Capitol to set up some credibility with the American people now

where we have minors smoking on the premises, and nobody talking about that, but we'll talk about something else. Maybe we need to start looking at our own process to develop our own credibility, and I think that is probably even a bigger issue than sewage or air pollution or all this other stuff.

Mr. FOX. Mr. Chairman, if I may, to follow up, do you think that by reason of your own investigation on the issue prior to your being part of the Congress that we have delegated too much authority to the Federal agencies?

Mr. BILBRAY. I think you have. I think that what is happening is that in a Jeffersonian democracy, where citizens' rights are premier or at least are very high, that government now places individuals in a position that they do not have rights unless they can prove that it will not impact the Federal agenda or the State agenda. I think we have a major problem, in that the bureaucracy is dictating to the citizen, that government is dictating to the individual rather than the way our Founding Fathers meant it to be, and that is, the individual should dictate in a group to government and government should be responding to the individuals, cumulatively speaking, not asking individuals to respond to a monolithic government.

Mr. FOX. The challenge I think we have, finally, is whether or not we need to look at agencies one by one as far as corrections, whether we talk about a sunset review process whereby an agency or bureau or department is no longer effectuating the original goals for which it was intended or duplicating State procedures, and whether or not those regulations should be sunsetted.

Mr. BILBRAY. Mr. Fox, I think you need to say one thing: Is the private citizen innocent until proven guilty or is he or she guilty until a Federal agency finds them innocent, and I think the issue here, much like with the San Diego sewage issue, is that there is no court in law—in fact, Federal Judge Brewster said that the verdict of the Congress of the United States was not appropriate, was immoral, and should be changed, and so the jury has already said that government is wrong on some of these issues. What we need to do is to get back to the fact that it should never get to that point, people should have the right to individual behavior until such time as they are found guilty of violating some kind of general code.

Mr. FOX. I think both of these committees, the Rules and Government Reform, are going to move ahead and try to make those changes for reform.

Thank you, Mr. Chairman.

Mr. MCINTOSH. Thank you, Mr. Fox.

Are there any other questions? If not, we will move on to the next panel.

Mr. BILBRAY. Thank you, Mr. Chairman.

Mr. MCINTOSH. Thank you very much, Mr. Bilbray.

Mr. MCINTOSH. Let me call forward our next panel of witnesses. On it is Mayor Roger Cornett of Richmond, IN, who is a good friend of mine from my district, and I'm delighted he is here. As we were going through several of our town meetings, he brought forward various examples where regulations just didn't make sense from his perspective as a mayor of a city in Indiana. Also Mr. James

Herr, who is the chairman and CEO of Herr Foods, Inc. If I remember correctly, Mr. Herr published a little booklet called "Chips of Wisdom," which I enjoyed very much and still have on my desk. It is an excellent example of what the private sector can do to further knowledge in our country.

Mr. FOX. That is the noncaloric version.

Mr. MCINTOSH. That is right, all dietary.

Mayor Cornett, if you could lead off with your testimony about examples you have seen as you administer the city of Richmond, and feel free to give us any information you have and can supply greater information at length for the record.

STATEMENTS OF ROGER CORNETT, MAYOR OF RICHMOND, IN; AND JAMES S. HERR, CHAIRMAN AND CEO, HERR FOODS, INC.

Mr. CORNETT. Thank you very much, Mr. Chairman and distinguished members of the committee. It is a privilege and honor for me to be here today to represent the municipal government of Richmond, IN. My name is Roger Cornett, and I'm currently serving as mayor. I'm here to share with you information about situations that face our municipal government on a regular basis as a result of Federal regulations.

Our community of 38,000 people operates a public transit system which is composed of six fixed routes served by nine buses. In addition, we operate a paratransit system for the exclusive use of the handicapped and senior citizens. This system has five fully equipped vans that provide on-call service 12 hours a day 6 a.m. to 6 p.m. 6 days a week. These vehicles are all equipped with wheelchair lifts and other amenities to satisfy the requirements of their constituents: senior citizens and the handicapped.

In 1993 it became necessary to replace some of the buses for the fixed routes. As a result of new Federal regulations under the Americans With Disabilities Act, the new buses had to be equipped with wheelchair lifts even though we were operating a fully equipped paratransit system. The additional cost per bus to provide this equipment was over $6,500 per unit. So far we have received five buses for an additional cost of $32,500, with a sixth bus on order, and ultimately all nine buses will be converted for a total cost of over $58,500. The overall cost of all nine buses is $414,000, 80 percent of which is paid for by the Federal Government. Since the new buses started running in 1994, only one citizen has used the lifts on these buses. Even though this is not a tremendous amount of money, it is an example of an unnecessary expenditure in our community because of the "one size fits all" mentality. In the future we will have to modify the sidewalks wherever the bus stops to allow for a level spot with a concrete pad to land the lift. In order to satisfy this requirement, the city must install at least 132 concrete pads 4 feet by 4 feet at a total cost of $80,000. It makes no sense to spend the money necessary to comply this additional requirement when only one citizen is unnecessarily using the equipment.

In the case of these regulations and many others facing our city we think there are alternative solutions that would cost much less. However, the "one size fits all" mentality always prevails. Spending on regulations takes priority over other expenditures in the com-

munity. Our city employees are usually the ones who suffer, with inadequate compensation for their work and inadequate equipment to perform their duties safely. We are a working class community and just not wealthy enough to satisfy Federal requirements and still be fair to all our employees.

There is no question that we could manage our affairs more effectively with less cost if we had the freedom to act in a manner that is more appropriate for our city and its citizens.

I am pleased that Congress is planning to institute a Corrections Day to address regulations that everyone would agree need to be changed. I hope you will consider these regulatory problems facing us in Richmond on Corrections Day in the future.

Thank you very much.

Mr. MCINTOSH. Thank you very much, Mayor Cornett. I appreciate your coming and testifying today. That was one of the issues on the paratransit that came up at our field hearings and impressed me greatly. That was an example where money was being needlessly spent.

Mr. Herr.

Mr. HERR.

Mr. HERR. Thank you, Mr. Chairman and members of the committee, for inviting me to discuss the needs for correction of the most burdensome regulations.

My name is James S. Herr, and I am chairman and CEO of Herr Foods, Inc., in Nottingham, PA, and I would ask that my written statement be submitted for the record.

For an understanding of our problem, you need a brief history of my company. I started Herr Foods Co. in 1946 with an investment of $1,750 and employed one woman half time. I borrowed $1,700 from my girlfriend's employer who was an attorney in Lancaster. My girlfriend and I got married a year later and worked together from 4 a.m. to 11 p.m. most every day to grow the business. We have five children and involved them in the business as much as possible while they were growing up. They are all married, and four of the five are actively involved in the business. The one daughter has her own business, a small business, of editing and proofreading in Peachtree City, GA. Today our independent business, Herr Independent Business, employs 1,000-plus people, and we think of each of them as our extended family.

A lot of this growth came before the regulations got so burdensome, and I would like to give you an example of that. We had a fire in 1951 which completely destroyed our buildings and our contents. We decided to start over, so we bought a 37-acre farm in Nottingham, PA, demolished the farm and built a 40-by-90 factory and bought some used equipment and started up operations in 6 months from the time of the fire. By contrast, in 1989 we decided to build a 15,000 square foot warehouse in Elkridge, MD. It took 2 years to get all the permits and cost us additional funds because of wasted time and regulations. If the 1989 regulations had been in place in 1951 we never would have been able to hold our customers and startup again.

I might add, in 1952, we started our business in a depressed area in Nottingham, PA, which is now enjoying an additional infusion

of $14 million in wages per year. Total company wages are $29-plus million.

When Congress passes laws, part of the burden is that the laws get caught in bureaucracy. The Clean Water Act, for example, has been taken over by regulatory bureaucracy and delay. One of the principal concerns of business today is the time and effort consumed in merely attempting to conform to the regulation. As regulatory agencies mature, the method of obtaining approval becomes increasingly difficult with more and more individual approvals required for each succeeding application. Timeframes for approval become distorted and extended as each person required to review and sign off on a given application seems to want to leave his or her mark on it.

We have a great need for the regulation writers to have a common sense understanding of the business people who are carrying out the regulations. Many regulations are too cumbersome, and communications break down. It takes too long these days to get permits necessary to grow and expand a business.

Take the environmental regulators as an example. I agree that we need to protect our environment, and I think most all businessmen will agree. What then is the common sense solution to improving the environment? If the regulators would state the problem they see and work together with the business person for a solution we could solve the problem and do it in a much shorter timeframe. This would be much more productive than trying to catch the business person in a moment of trouble and sock them with a fine.

However, for the most egregious and burdensome regulations I believe the concept of correction day seems to be a step in the right direction. The time has come to focus not on instituting new regulations. Instead, Congress should take this opportunity to correct the regulations that everyone can agree are outdated or overly burdensome and are too complex. From where I'm sitting, the mood is already shifting out there. Some Government agencies seem to be understanding that many rules they make do not work. However, more must still be done. I hope this mood continues to grow, and I hope that Congress and the agencies can work together to eliminate archaic and oppressive regulations for the betterment of our society.

Thank you very much for the opportunity to address your committee.

Mr. McINTOSH. Thank you very much, Mr. Herr, and your full statement will be made part of the record for this proceeding.

Mr. HERR. Thank you.

[The prepared statement of Mr. Herr follows:]

PREPARED STATEMENT OF JAMES S. HERR, CHAIRMAN AND CEO, HERR FOODS, INC.

Mr. Chairmen, my name is James S. Herr. I am the Chairman and C.E.O. of Herr Foods, Inc., and I also serve in another capacity as Chairman of the Board of the National Federation of Independent Business (NFIB). NFIB is the nation's largest small business advocacy organization, representing more than 600,000 small business owners in all 50 states and the District of Columbia. The typical NFIB member employs five people and grosses $250,000 in annual sales. NFIB's membership mirrors the nation's industry breakdown with a majority of its members in the service and retail sectors. It is also important to realize that NFIB sets its policy by directly surveying its members on issues important to small business.

Thank you, Mr. Chairmen and members of thc Committees for inviting me here to discuss the need for correcting our country's most burdensome regulations.

For an understanding of our problems, you need a brief history of my company. I started Herr Foods Company in 1946 with an investment of $1,750 and employed one woman part time. I borrowed the $1,750 from my girlfriend's employer, an attorney from Lancaster. My girlfriend and I got married a year later and worked together from 4:00 a.m. to 11:00 p.m. everyday to grow the business. We have five children and involved them in the business as much as possible while they were growing up. They are all married and four of the five are actively involved in the business. The one daughter has her own business of editing and proofreading in Peachtree City, Georgia. Today our independent business employs 1,000+ people and we think of each of them as our extended family.

A lot of this growth came before the regulations got so burdensome. For example: A fire completely destroyed our building and contents in September of 1951. We decided to start over so we bought a 37-acre farm, demolished the barn and built a 40-by-90 factory, bought some used automatic equipment and started up operations in 6 months from the time of the fire.

By contrast, in 1989 we decided to build a 15,000 square foot warehouse in Elkridge, Maryland. It took 2 years to get all the permits and cost us additional funds because of wasted time and regulations. If the 1989 regulations had been in place in 1951, we never would have been able to hold our customers and start up again. I might add, in 1952 we started our business in a depressed area in Nottingham, Pennsylvania, which is now enjoying an additional infusion of $14,000,000 in wages per year—total company wages are $29,000,000+.

We have a great need for the regulation writers to have a common sense understanding of the business people who are carrying out the regulation. The regulations are too cumbersome, and communications break down. It takes too long these days to get permits necessary to grow and expand a business.

Take environmental regulations as an example. I agree that we need to protect our environment and I think most all businessmen will agree. What, then, is the common sense solution to improving the environment? If the regulators would state the problem they see and work together with the businessperson for a solution, we could solve the problem and do it in a much shorter time frame. This would be much more productive than trying to catch the businessperson in a moment of trouble and socking them with fines.

However, for the most egregious and burdensome regulations, I believe the concept of Correction's Day seems to be a step in the right direction. The time has come to focus not on instituting new regulations; instead, Congress should take this opportunity to correct the regulations that everyone can agree are outdated, are overly burdensome or are too complex. From where I'm sitting, the mood is already shifting out there. Government agencies seem to understand that many rules they make do not work. I hope this mood continues to grow, and I hope that Congress and the agencies can work together to eliminate archaic and oppressive regulations for the betterment of our society.

REGULATIONS THAT ADVERSELY AFFECT SMALL BUSINESS

1. The Family Leave Act causes a lot of extra paperwork because of the mandates that are imposed. Most employers are fair in the trying to give help where needed to keep happy employees. This should not be mandated.

2. We should repeal the Davis-Bacon Act. The Davis-Bacon Act was enacted during the depression to require federal contractors to pay locally prevailing wages on construction projects. The law is a way to keep union and non-union wages at roughly the same level. Congress is currently pushing to repeal this law and is receiving opposition from the President.

3. OSHA Ergonomics Standard. OSHA is currently launching a major initiative into the ergonomic design of the workplaces to help eliminate repetitive trauma disorders. This has been criticized as having dubious merit and will be an extremely expensive proposition for most businesses and would add a lot more paperwork.

4. Clean Water Act Reauthorization.

Issue 1—Regulatory Bureaucracy and Delay

One of the principal concerns of business today is the time and effort consumed in merely attempting to conform to the regulation. As regulatory agencies mature, the methods of obtaining approval become increasingly Byzantine, with more and more individual approvals required for each succeeding application. Time frames for approval become distorted and extended as each person required to review and sign off on a given application seeks to leave his or her mark on it.

Issue 2—Cost/Benefit Ratio

As with so many items, the cost of going from good to excellent to perfect increases geometrically. Regulations which continue to tighten down discharge criteria without reference to the cost of achieving that level of treatment do the country the disservice of discouraging investment in otherwise worthwhile projects.

Issue 3—Sound, Applicable Science

The EPA and the states should be required to demonstrate that sound, proven scientific evidence has been used in formulating reglations and permit limitations. If, for example, biomonitoring of a potentially toxic waste is required, the species of plants and animals used for a given permit should be indigenous to the stream at hand, not some exotic, extremely sensitive creatures which will never be found at the site under the best of conditions.

Thank you for the opportunity to address the Committees.

Mr. MCINTOSH. Let me ask, Mayor Cornett, if the city could have a process by which they could seek waivers for this requirement under the Americans With Disabilities Act and perhaps other mandates that the Federal Government places on local government, would that be something that you would see as a useful correction that could be brought up, or would you recommend that we try to address these as we hear from each government about particular regulatory processes?

Mr. CORNETT. I think seeking a waiver would be certainly an alternative. There are many times at the local level that, because of circumstances, special situations, that an appeal on a particular rule would be in order, in my opinion, in order for common sense to prevail.

In my opinion, because of the "one size fits all" mentality, or I can't make an exception because then I'll be in big trouble, common sense doesn't prevail, and I don't find any problem with making an exception. I think if it is common sense, it is good to make an exception and still enforce the rule maybe equally or the same elsewhere.

We just get very frustrated, and the frustration leads to anger, very frankly, when common sense doesn't prevail because of what it might affect somewhere else. With all due respect for other communities, we would like to be able to do what is right by our citizens without being influenced by what is going on elsewhere.

Mr. MCINTOSH. Actually, without opening up the question fully, let's take, for example, one that was discussed this morning on San Diego with the sewage treatment. As mayor in the Midwestern city where those requirements are necessary in order to protect ground water and other treatment is necessary because of the geographic situation there, which is very different than San Diego's being next to the ocean, would it cause a problem for you or for the city if San Diego were given a waiver or there was a process by which they didn't have to comply with a particular regulation, but because it did make sense for cities in the Midwest and others to have that regulation apply to them—I guess putting yourself on the other side of that where you were not able to receive a waiver but some other city was, would you envision that as being a fair process?

Mr. CORNETT. I certainly would. I think as long as, as has been stated here this morning, that the policy or the ultimate result is obtained, I would have no problem at all in granting other cities exceptions or allowing us to do things a bit differently than other people and therefore let them do things differently as long as we end up with a clean environment, as long as we end up with a safe place for all of us to live.

There has to be more than one way to solve things depending on the soils, and our landfill, for instance, has a special soil which is different than other places, and we think that the rules that apply to that ought to be different because of the different makeup, and yet so much of it, is whatever we do here we have to do everywhere, whether it makes sense or not.

Mr. MCINTOSH. Thank you, I appreciate that. I think that is the correct approach.

Mr. Herr, let me ask you a question about your business experience. Have you found that in the past, because of some of these regulations and perhaps the permitting requirements needed in order to expand your facilities, that you have made decisions which have resulted in perhaps slower growth than you would have liked to see or even in some cases necessary to close down some operations and perhaps therefore cause the loss of job opportunities in some communities?

Mr. HERR. Well, the one that I indicated to you up here in Maryland, it, of course, hampered our business by 2 years as far as building the warehouse, so we may have had more product in the Washington area if we could have started 2 years earlier.

However, we are right in the midst of working on a solution to our waste water at our home plant, and we have been working for a whole year now trying to solve that problem, and it seems like it goes from one person to another person to another person, and it is just very difficult to get it solved.

I cannot say that we were shut down or hampered in any way by these people, but it just seems like it is very difficult to get decisions out of these organizations.

Mr. MCINTOSH. I appreciate that.

Let me ask a question on a slightly different track, and it is picking up on something the Speaker had mentioned earlier today, which was, Members would no longer be in a position where a constituent, in this case the mayor, or Mr. Herr's Congressman or other Members that you are aware of are confronted with these type of problems and the Member says, "Well, there's not much I can do because that is held up as part of a reauthorization of a larger bill," and he thought that was a valuable way of empowering constituents to be able to call upon their Members to do that.

Have either of you experienced in the past in dealing with Members of Congress the phenomenon where there was a sympathy for the problem that was brought by you to them but this general inability to operate because of the procedures requiring a larger look or that the particular problem which may not—which may be rifle shot being caught up in a larger process here in Congress? Is that something that you had heard from Members who had represented your communities in the past?

Mr. CORNETT. Certainly I have. On the instant that I indicated here, there are others who agree that this is not necessary, to put these lifts in, but they say, "We don't have any choice, you have to go ahead and do it, and if you don't the funds will stop." I haven't had any of them directly blame Congress, as has been mentioned here this morning, but obviously that is where the ultimate decision is made and that is the easiest place to dump it.

Mr. HERR. I might add on that very issue that he was speaking about, we have spent about $100,000 extra putting in walkways and things for the handicapped people, and I doubt very much if we have had anyone use it, or there might be one or two people using it, so it seems like there is a lot of waste there, and I think it costs businesses a lot more than what they anticipated when they started, because I was at the hearing with President Bush when we testified against that for that very reason, but it was made very clear to us that this is going to pass regardless of what we said, and it did, and it cost us money, but it cost all businesses money. I don't know how you evaluate that as far as helping the American people.

Mr. MCINTOSH. Yes, and if I understand correctly, Mayor Cornett, in your case you also spent money on the paratransit system, so that there is an alternative to provide the very same service.

Mr. CORNETT. That is right. It is customized, door-to-door, by appointment, yes.

Mr. MCINTOSH. I thank both of you. I have no further questions. Do any of the other Members?

Mr. BEILENSON. I have one tiny question, if I may.

Mr. MCINTOSH. Mr. Beilenson.

Mr. BEILENSON. First of all, we appreciate the testimony of both of you gentlemen. I have a very minor question of the mayor, if he would be so kind, just as a matter of curiosity. You testified both to the fact that you have to retrofit your nine regular buses with lifts for disabled persons, but you also mentioned that in the future you will have to put down these 4-by-4—I think it was 4-by-4 concrete pads, and my question is, do you have to provide these same pads for the paratransit buses or vehicles at all, or are they able to operate without them?

Mr. CORNETT. No. Those go to residences and pick people up and can be operated off the street.

Mr. BEILENSON. Do you not do the same thing with the regular buses perhaps? I mean not to the residences.

Mr. CORNETT. Well, the buses are on a fixed route, and they stop the same place every time, and that is where the regulation comes, that there needs to be a pad there for the lift to land on.

Mr. BEILENSON. OK. Thanks.

Thanks, Mr. Chairman.

Mr. MCINTOSH. Thank you, Mr. Beilenson.

Do any other Members have any questions for the panel?

Mr. Fox.

Mr. FOX. Thank you, Mr. Chairman.

First to Mr. Herr, welcome. You have been a great business leader for us in the Northeast, and we appreciate all that you have done to achieve the great American dream through your company. We agree with you that the mood is changing here in Washington. We are trying to hold the line on taxes, become pro-business and pro jobs, and in the same process pro reform.

I would like to expand on the chairman's question by asking what percent of businesses in NFIB that you represent would you say didn't expand because of overregulation or couldn't grow due to that same problem?

Mr. HERR. I do not have the exact answer to that, but we can get it for you.

Mr. FOX. That would be helpful because as we move forward in trying to have Corrections Day become a reality and to make the kinds of fundamental changes in Congress and how our agencies impact. I only have to look to a local business in my district, close to where your plant's headquarters was established, who won a $25,000 contract with the Government, only to have to hire an attorney, an accountant, and engineer to respond to 187 pages of documents.

So perhaps we need, Mr. Herr, for you and Mr. Cornett to develop some kind of liaison with bureaucrats so we can make the Government more user friendly and not just work through Congress. However, if you are the people that have the regulations put upon you, at least make sure that we are doing so with ones that are common sense, as you have stated, ones that are less expensive and less onerous, so we don't have people that have good products that could sell to the Government, good services the Government needs, only to walk away, not have a company grow, not have employees be paying taxes and stabilizing the economy just because the regulations are so severe. So I didn't know what your thought was on how to make the Government more user friendly and therefore more pro-business.

Mr. HERR. Well, the one thing that I alluded to was the fact that if they would come to us with the problem—and I think it has already been brought out here that in various parts of the country you have different situations as far as the environment, how much water the land will take, and some things like that.

The thing that I was speaking to was the fact that if they came to us and said that you have a problem here and how are you going to solve it, and if we would tell them, OK, the best way to solve that problem—we would get our engineers, and there are a lot of engineers out there that we can get for nothing that would be glad to come in because they supply us with some various supplies, and we can get a lot of expertise that the offices do not have, but it is different than what the regulation says.

I think the problem is, they try to write the regulation to meet every circumstance, and I don't think you can do that. I think that we need to have regulation that says OK, we are going to clean up the environment and we want you to tell us how would you do that, and then have a meeting, a joint meeting, and work on it together, and we could get to the bottom of the problem.

But when you have to go from this person to this person to this person, I mean we are waiting now about 2 months just to figure out if we can—they want a couple of extra monitoring wells. Well, we are glad to put the monitoring wells in, but we can't get the OK to even do that, and the only basic problem, as I said, when we have a monitoring well, that is fine, I'm all for that, because that tells you what the water is like, the ground water, and the only thing is, when your man comes out to check that monitoring well, I want my man to be right there and take a sample too, and we have found out it was a good thing we did that, because the agency came back and said that certain things were wrong, and we said, "Wait a minute, what are you talking about?" And we got our sam-

ples out and our records and found out that they didn't have a record on that particular well, they had lost it somewhere along the line. So those are the things that go on that are very frustrating for the business people.

Mr. FOX. That is why I think it would be good to have a reality check here so that the regulations have some semblance of common sense. We need to have the business sector, through NFIB and other related groups, have contact with the bureaucracy that we fund to make sure that what we are doing is not more burdensome but less burdensome. So if you can get back to us through NFIB and, Mr. Cornett, about other problems that aren't in the testimony that Chairman McIntosh and Chairman Dreier and Chairman Solomon have, we certainly would appreciate it.

Thank you, Mr. Chairman.

Mr. MCINTOSH. Thank you, Mr. Fox.

Are there any other questions for this panel of witnesses?

Well, let me thank both of you for coming and testifying today. I appreciate particularly individuals who are willing to travel to bring their views forward to this committee, and it will be enormously helpful to have real examples of what some of the problems are. As we move forward with this process, we will keep you informed as to how it goes forward, and hopefully all of America will see that Congress is moving to correct many of these problems.

So thank you.

Let me now turn the gavel over to my colleague, Mr. Dreier, for the remaining panel. In so doing, let me commend him for his help in this effort. His expertise in the rules of the House and how we can make this new process work is invaluable, and I know his commitment to reform is long standing, and so it is a pleasure to be able to serve with him. Let me turn the gavel over to him.

Mr. DREIER. Thank you very much, Mr. Chairman.

Let me say at the outset that I appreciate the very, very helpful testimony that has been provided to this point, and in his opening statement the Speaker made it very clear that when it comes to actually implementing his concept of a Corrections Day we will need to rely on staff, first rate staff, to provide us with the detailed analysis that will be necessary, and at this point we are going to deal with some former staff members of the House of Representatives, some experts who worked very closely with me when I had the privilege in 1993 of co-chairing the Joint Committee on the Organization of Congress.

First we are going to hear from Mr. Peter Robinson, who is a founder of Bailey and Robinson, a government affairs unit of Ketchum Public Relations. Prior to his current position, he was senior aide to Speakers Tom Foley and Jim Wright. He also served as Assistant Parliamentarian for the House of Representatives for a 12-year period.

We will also hear from Mr. David Mason, who is the director of the U.S. Congress Assessment Project for the Heritage Foundation. Mr. Mason previously served as deputy assistant secretary of defense for House affairs. He served for almost 10 years on Capitol Hill as a staff member for Senator John Warner, Representative Tom Bliley, and then House Republican Whip Trent Lott. And Dr. James Thurber is professor of government and director of the Cen-

ter for Congressional and Presidential Studies and the Campaign Management and Lobbying Institutes of the American University in Washington. Dr. Thurber has served in government as a legislative assistant to the late U.S. Senator Hubert H. Humphrey and U.S. Representative John G. O'Hara of Michigan. He was also a consultant to the very famous and powerful Joint Committee on the Organization of Congress in 1993 and 1994. It took a new majority to implement much of its work, I should note. And last but not least, our very good friend and now very important executive from Cap Cities/ABC, Mr. Pitts. Mr. Pitts, as we all know, served as the chief of staff to former House Republican Leader Bob Michel. He served for a quarter of a century as floor assistant to our Republican leadership.

I welcome all of you and look forward to some great recommendations as to how we can take this concept, which virtually everyone has acknowledged can in one form of another be helpful to deal with some of the concerns of the American people, and we will start out with you, Mr. Robinson.

STATEMENTS OF PETER ROBINSON, ATTORNEY, BAILEY & ROBINSON; DAVID MASON, DIRECTOR, U.S. CONGRESS ASSESSMENT PROJECT, THE HERITAGE FOUNDATION; WILLIAM PITTS, VICE PRESIDENT, GOVERNMENT RELATIONS, CAPITAL CITIES/ABC, INC.; AND JIM THURBER, PROFESSOR OF GOVERNMENT, THE AMERICAN UNIVERSITY

Mr. ROBINSON. Thank you, Mr. Chairman. It is a pleasure to appear before the distinguished members and chairmen of the two subcommittees today to discuss a corrections process or calendar in the House of Representatives. As you have indicated, I believe the specific purpose of this panel is to explore the procedural options, ramifications, about legislation to address particularly burdensome rules, regulations, and the like.

I'll turn to the procedural aspect in a moment, but I really am wearing two hats, I think. One is based on my experience here in the House of Representatives first in the Parliamentarian's Office, then as a strategic aide to the former Democratic leadership. But since I left Capitol Hill I have been engaged in government relations practice with Bailey & Robinson, a unit of Ketchum Communications. I would like to immediately note that my firm is completely bipartisan and that my partner, Mr. Bailey, is an inveterate Republican, so we are actively involved on both sides of the aisle. In our business we represent a variety of highly regulated industries including manufacturing, pharmaceutical, health, energy, financial services, and transportation, just to name a few.

I have witnessed a variety of instances where Federal regulations or their enforcement lacked flexibility, predictability, and common sense to the point of goofiness or worse. Working these problems out has involved intensive work with concerned Members and committees of Congress as well as with the agencies. We have often found that a serious problem or dispute, particularly where a specific industry has become a target, may require coordinated campaigns involving all types of communications.

Now I can testify that real jobs and the survival of real businesses are often at issue, and there is no doubt that the efforts

under way in this Congress are something that is much needed out there. When a business or State or local government has a dispute with an agency, specific and immediate corrective legislative action sometimes is the route, but often I have found that it is the route of last recourse.

Part of the way our system works frequently is for industry to try to negotiate with the agencies while working with Congress to try to bring out a negotiated solution, and one of the things I would like to point out is that with regulators and even with Congress there is frequently simply a lack of simple information and understanding about an industry and how it works. I'll throw out one small example.

When the administration proposed a Btu tax several years ago, which went down in flames in the Senate but which passed this House, very few people in the administration or in Congress recognized the unique status of the aluminum industry where electricity is, chemically speaking, an essential ingredient of making aluminum rather than an incidental use by the industry, and it took months to carry this argument through the administration and through Congress in order to get special treatment of this in the Btu tax as it passed the House.

I would also point out that there is often science on both sides of an issue and that information and educational campaigns are a very necessary part of working with the agencies and with Congress. After all, I think industry will tell you that most of the time it is essential to establish some kind of working relationship with the agencies. Sometimes that is, frankly, out of fear, but also it can lead to a more productive relationship in the future.

As to a piecemeal approach to regulatory correction, I would say it is unfair for industry to have to guess how they are going to have to comply with regulations, but it also is probably inappropriate for Federal officials not to know where the law is going on a day-to-day basis. They have to have notice, and they have to know where they are going to be down the line.

While some have characterized Corrections Day as a boon to lobbyists, I think that is a little exaggerated. There is also a flip side of this issue, which I think all of you have seen, which is the fact that industry makes marketplace decisions all the time based on the law as they understand it and the status of regulatory enforcement. Much of the focus here has been in the environmental arena, but one need only look at the financial services industry, the computer industry, to realize the effect on long-range planning that the present status of FTC review, antitrust review, and the law on the books has. A Microsoft, for example, is keenly aware of where the law is and where it is going and every step it takes.

For every private sector loser there is also likely to be a winner in complicated areas of law such as energy, telecommunications, and the like, so I believe that Congress must proceed carefully in upsetting this apple cart. Therefore, I recommend that if there is a corrections process that there need to be strict guidelines and review to qualify proposals. There must be some type of committee review. The administration must be heard. Every attempt should be made to consult all affected parties as a change in the law or regulations may have a ripple effect or unintended consequence not

at all apparent in the text of the bill. A simple revision or correction may have an unknown effect on how other related laws should be administered or how courts will construe legislative history or the general obligations of the agencies.

Finally, there should be some bipartisan input such as through an informal clearing committee with members with some of the expertise and background to judge the qualifications of a proposal and to put it into the context of the whole body of law. There might also be some responsibility on this committee to actually assess the likelihood of Senate action. I would not recommend that these guidelines be written in the House rules, and as a matter of fact I probably would not recommend that a formal corrections calendar process itself be written into the rules. The rules of the Republican Conference on suspension are quite explicit, and something along this line might suffice.

What other options are there for dealing with agencies which seem to lack guidance or have too much authority or seem to be making inflexible and erroneous decisions? The appropriations process is one clear option and one of the best congressional avenues of oversight on a year-to-year basis to keep agencies on a short leash. Limitations on the use of the funds are available, within certain guidelines, within the House rules, not to change the law but to deny the use of funds for certain purposes, rules, or regulations. As a matter of fact, it is through the appropriations process, through limitations and even legislation, that you force the Senate to address something since appropriation bills are must pass legislation.

Despite the hue and cry about legislating in appropriations bills, I have often found that the authorizers who were unable to process authorization bills rely on the appropriations process to make their own points. The State, Commerce, Justice appropriations bill is a perfect case in point where most of the programs are unauthorized and year to year the appropriations bill is what keeps the agencies on a leash and gives them direction.

Another thing you might think about is simply reinstituting the authorization process. Far too often important agencies and departments have no authorization year after year, and this is clearly a venue to have some direction to the agencies and to make policy.

Another targeted approach to congressional review, of course, is the regulatory reform that is moving through Congress. Whether a moratorium or a congressional veto approach, while not specifically a correcting approach, it certainly could effectuate that result.

As far as regular calendars of the House are concerned, I'm aware of only two calendars which are subject matter specific, and that is the Private Calendar and the DC Calendar. Now neither one of them are used very much. As a matter of fact, there might be a correcting resolution which is suitable for the Private Calendar, and it is probably not a very usable avenue, however, because only a couple of Members objecting can kill a bill.

Motions to suspend the rules are clearly available under the guidelines under the Republican Conference rules. I would point out that while motions to suspend the rules can pass anything, the vast majority of bills under suspension have been reported from committee and have had review.

Then there is the Rules Committee with the expertise to clear either individual or omnibus corrections measures. However, generally a report by a committee with jurisdiction is presumed with the Rules Committee.

Finally, just a general comment on how you proceed in terms of, if you do decide to set up a process, how you do it and whether it becomes a part of the House rules. My advice, based on experience, is that while there is a constant political backdrop to the House rules, they generally avoid and should avoid elevating legislation dealing with certain subjects or based on certain premises.

I remember back in the 102d Congress when I helped the Democratic leadership craft a rule that required every spending or revenue bill to contain as part of its text a CBO cost estimate. The purpose was political and quite clear, to ensure that congressional scorekeeping rather than OMB scorekeeping under an administration of the different party would control budget decisions. This rule was difficult to implement, was ignored, and was repealed 2 years later, and I think that is an example of a symbolic approach in the standing rules that shouldn't be repeated.

That concludes my testimony at this point.

[The prepared statement of Mr. Robinson follows:]

PREPARED STATEMENT OF PETER D. ROBINSON, ATTORNEY, BAILEY & ROBINSON

Distinguished Members and Chairmen of the Committees, it is a pleasure to appear before you today to discuss a "corrections" process or calendar for the House of Representatives.

As I understand it, the specific purpose of this panel is to explore procedural options and ramifications for a regular legislative approach to address particularly burdensome or ridiculous federal rules, statutes, and perhaps court decisions.

I will turn to that topic in a moment, based on my experience here in the House first in the Parliamentarian's Office and then as a strategic advisor to Speakers Wright and Foley. But I would first like to touch on what guidelines should govern a so-called "corrections" process, based on my experience in the private sector.

Since I left Capitol Hill, I have been engaged in government practice with Bailey & Robinson, a unit of Ketchum Communications. In our business, we represent a variety of highly regulated industries. This includes manufacturing, pharmaceutical, health, energy, financial services, and transportation, to name a few. I have witnessed a variety of instances where federal regulations or their enforcement lacked flexibility, predictability, and common sense to the point of goofiness or worse. Working these problems out has involved intensive work with concerned Members and committees of Congress as well as with the agencies. A serious problem or dispute, particularly where a specific industry has become a target, may require coordinated campaigns involving lobbying, grassroots, and media.

Real jobs and the survival of real American companies can be very much at issue. Few people would deny that efforts underway in this Congress and in the Administration to review and streamline federal regulations are needed—and the American people are demanding less government in their lives.

When a business or a community has a dispute with a federal agency, specific corrective legislation may be the only remedy, but it has also often been the last recourse. Part of the way our system works is for industry to bring their concerns to the agencies in order to educate, to inform and to negotiate.

The partnership that comes out of private industry working with the federal government, with Congress, and often with states and local communities, is a valuable commodity for all parties. One example—when the Administration proposed a BTU tax several years ago—we spent months with a major domestic producer of aluminum educating policy and career staff from the executive branch, and Members of Congress and their staff, on the technical and practical effect on the industry. The fact is that electricity is not merely incidental to making aluminum—it is chemically-speaking, an essential ingredient, and thus an energy tax would have had a crippling and regional effect.

That argument prevailed, but it could not be carried overnight or without a careful, widespread effort. Hopefully, the understanding about the industry that came out of this debate will last.

After all, it is important for industry to establish a mutual relationship with career professionals in the federal government. They must be assumed to responsibly carry out the law as it is presented to them, and responsible and efficient regulatory enforcement requires a deliberate approach to changing those laws. As it is unfair for industry to have to engage in guesswork about how a law will be enforced, it is inappropriate to have federal officials guessing what the law will be from day to day under a piecemeal approach.

While some have characterized corrections day as a boon to lobbyists, that may be a bit exaggerated. I reiterate that a legislative fix may by the only solution for industry or state and local governments. But industry also makes marketplace decisions all the time based on the state of the law. One only has to look at the financial services, the telecommunications, or the computer industry to realize the effect on long-range business planning of the law on the books and the status of regulatory enforcement. A Microsoft is keenly aware of the competitive advantages and disadvantages, the limits and horizons, flowing from antitrust and FTC review. The recent federal appellate court decision on ethanol as a gasoline additive may immediately benefit other sectors of the fuel industry. For every private sector loser there is likely to be a winner.

Congress must proceed carefully in upsetting this "apple cart."

For these reasons, and based upon my experience as a parliamentarian, I recommend that strict guidelines and review qualify proposals for a corrections process. There should be some type of committee review. The Administration should be heard. Every attempt should be made to consult all affected parties, as a change in the law or regulations may have a ripple effect or unintended consequences not at all apparent in the text of a bill. A simple revision or correction may also have an unknown effect on how other related laws should be administered, or how courts will construe legislative history or the general obligations of the agencies. Finally, there should be bipartisan input, such as through an informal clearing committee with Members, from both sides of the aisle, with appropriate expertise to judge the qualifications of a proposal and to put it into the context of the whole body of law.

I would not recommend that guidelines such as these be written into the House rules, nor would I recommend that a formal corrections calendar process itself be written into the rules. The rules of the Republican Conference could suffice. For example, as an existing example of how this might work, guidelines for suspension legislation are presently in the party rules.

What options are, or could be, available under current House rules and procedures?

The appropriations process is one clear option and one of the best congressional avenues for keeping agencies on a "short leash" year after year. Limitations on the use of funds are available, within certain boundaries, not to change the law but to deny the use of funds for certain purposes, rules, or regulations. As a matter of fact, a limitation which can pass the muster of House rules and a majority vote has to be addressed by the Senate, as appropriations bills are must-pass legislation.

Despite the hue and cry about legislating in appropriation bills, the authorizers, when unable to process annual authorizations, have in fact often relied on the appropriations process to make their own points—the Commerce, State, Justice bill has been a case in point. More frequent processing of regular authorization bills is the perfect venue to make corrections on a routine and vetted basis. Another standard, and usually effective, tactic has been report language in an appropriation or authorization bill; the Administration ignores such direction at its peril.

A targeted approach to congressional review is represented by regulatory reform proposals moving through Congress. A moratorium or congressional veto approach, while not a correcting approach, could certainly effectuate that result.

As far as regular calendars of the House are concerned, the only two subject-specific calendars appear to be the private calendar and the District of Columbia calendar, neither of which are used very much. The private calendar may in fact be appropriate for corrections legislation drafted specifically to relieve an individual or company, although under the present rule several Members objecting may kill a private bill.

Motions to suspend the rules clearly are available for corrections legislation and unreported bills may be brought up under this procedure, although most suspensions are in fact reported from committee. The counterbalance to the fact that anything can be brought up under suspension, and that debate is limited and amendments are prohibited, is the two-thirds vote requirement. With proper guidelines

and bipartisan consultation, suspension is a recognized device for handling corrections.

Then there is the Rules Committee, with the expertise to clear either individual or omnibus corrections measures for the floor. Generally, however, a report by the committee with jurisdiction is presumed.

My final observation relates to whether a corrections calendar or special process should be engrained in the rules of the House. While House rules have a constant political backdrop, they generally avoid elevating legislation dealing with specific subjects or based on certain premises. I remember when I helped the Democratic leadership craft an amendment to the rules in the 102nd Congress to require spending and revenue bills to include in their text a CBO cost estimate to be determinative as a matter of law. This rule was an attempt to ensure that congressional estimates, rather than those of OMB under Republican control, would control budget decisions. The rule was difficult to implement and was usually ignored, until it was repealed two years later.

In his Manual of Procedure which still guides this House, Thomas Jefferson wrote that, on the regularity and consistency of parliamentary rules, whether the rules "be in all cases the most rational or not is really not of so great importance. It is much more material that there should be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business. . . . It is very material that order, decency, and regularity be preserved in a dignified public body."

That concludes my testimony.

Mr. DREIER. Thank you very much, Mr. Robinson. You have in large part outlined early on in your testimony exactly what it is that we are trying to pursue here, and I appreciate that.

We have a recorded vote on, and we have asked Mr. Fox to cast his vote and then come back, so we are going to recess, but I think it will be very brief because Mr. Fox will then call on that very famous Claremont Men's College graduate, Mr. Mason, to proceed with his testimony. So we will stand in recess for just a few minutes.

[Recess.]

Mr. FOX [presiding]. Mr. Mason, we interrupted you in order to have some floor votes, and now we are back. If you can continue your testimony I know we'd appreciate it.

Mr. MASON. Thank you, Mr. Fox. I would also like to express my appreciation for being allowed to present testimony this afternoon.

Mr. FOX. We are privileged to have you here. Thank you.

Mr. MASON. I will summarize by saying I don't think you are going to be able to accomplish the sorts of things you have talked about without a new procedure or new calendar that doesn't now exist in the House rules. And it is largely for the reasons and sorts of arguments that Mr. Beilenson and Mr. Bilbray were getting into this morning.

I think the number of real legislative provisions of relief that will be able to be handled in a noncontroversial way, where there won't be another side of the issue are very, very limited and that in order to do real work in the corrections process you are going to need to do something other than suspensions.

I know we have had cases for many years where major bills, reauthorizations, were hung up over very parochial, minor points, and I can only imagine if you start trying to get committees to process large numbers of corrections in a short period of time that there is soon going to be a pretty high toll, whether it is a matter in some cases of Members having pride of authorship of having written the original legislation some years ago or participated in the reauthorization process or simply wanting for their town something different. For instance, there seemed to be a sense in some

of the Members' comments that, gee, San Diego hadn't done such a good job, and so even though the merits of this case might support a correction we don't want to let San Diego off the hook too easily.

So for all those kinds of reasons I think you are going to need a new process, though I would say it is one that you ought to try and develop in an evolutionary fashion. In other words, you ought to try a few on suspension, you ought to try a few through the normal rules process, and I would suggest as well you perhaps try the Calendar Wednesday procedure to move some of these pieces of legislation on to the floor and figure out what may indeed work best.

One of the merits of Calendar Wednesday is that you don't need to go through the Rules Committee, you do allow amendments, you can adopt a bill by a simple majority vote, but you can also move to close off debate, and I know there has been a concern about being arbitrary on the part of the majority in disallowing amendments.

For my own part, I would be concerned if Corrections legislation was moving through on a very fast track with no opportunity for amendment at all, because I can imagine in several cases there is going to be agreement that a problem needs to be fixed but perhaps some disagreement about exactly how the fix ought to be constructed, whether, for instance, it ought to be very narrowly drawn to one locality or it ought to be more generic to say every community that fits that particular set of circumstances. So if you have a procedure that allows some amendments, Members may be a little more comfortable in bringing those up.

I know my testimony will be included in the record, so I'm just going to quit there. I also would beg your indulgence. I have a medical appointment I need to get my wife to fairly shortly this afternoon. So if you don't have questions, I'm going to go ahead and exit before the rest of the panel continues.

[The prepared statement of Mr. Mason follows:]

PREPARED STATEMENT OF DAVID M. MASON, DIRECTOR, U.S. CONGRESS ASSESSMENT PROJECT, THE HERITAGE FOUNDATION

Chairman Dreier, Chairman McIntosh and Members of the Subcommittees, I appreciate this opportunity to discuss the proposed Corrections Day process, which I believe can represent an important development in House procedure with a far reaching affect on the federal regulatory and legislative processes. I am flattered to appear on this panel with Dr. Thurber, and especially with two former colleagues from the House staff, Mr. Pitts and Mr. Robinson, both of whom are highly expert in House procedure, and who acted as guides and teachers to me during my time in the House. I would also like to thank Congressman DeLay for citing the Heritage Foundation's new book, "Red Tape In America" in demonstrating the need for a process to correct the excesses of the regulatory state.

In outline, I believe that the Corrections Day proposal is an innovative and appropriate response to a new set of legislative challenges and conditions, including the dramatic political reversal last fall and the growing consensus about the need to rein-in an invasive and over-active federal government. Speaker Gingrich is to be commended for recognizing and moving forward with this proposal, though I would note that he is being uncharacteristically cautious and measured in proposing, initially, only a minor and evolutionary, though still useful, change in House procedures. I fear, however, that the suspension of the rules process may unnecessary restrict the scope and subjects of corrections legislation.

Ultimately, I believe the full purpose and utility of a corrections procedure will be accomplished only with a more specialized and flexible procedure and/or a separate calendar for corrections bills. Because such a procedure is likely to be best designed through experimentation and evolution, I cannot provide the text of a rules

change. At a minimum, however, the task force that develops substantive guidelines for what constitutes corrections legislation should consider new procedures at the same time, and the leadership and the Rules Committee should be willing to utilize the full range of existing procedures and powers in advancing corrections measures.

OUTLINE OF A NEW CORRECTIONS PROCEDURE

In outline, the new corrections process should:

provide for a streamlined route to the floor through a new calendar or motion;

demand some consultation in scheduling with the minority party;

relieve committee reporting requirements, provided a minimum seven day's notice;

establish a method for challenging the expedited process (as opposed to the bill itself);

grant limited and pre-defined opportunities for amendment; and

allow passage with a simple majority vote.

This combination of standards would balance the requirements for adequate information and opportunity for discussion with the need for a new process to provide reasonably swift and sure disposition of corrections measures.

TO CHANGE OR NOT TO CHANGE?

In considering whether to add yet another rules change or changes to those already adopted this year, I would point out to the new majority party that after 64 years of barely interrupted control of the House by one party, any number of additional rules changes are likely to be necessary and appropriate to suit the new majority and its purposes. While whatever rules you adopt should be fair, the principal concern should be the adequacy of procedures to your goals and purposes. While common sense and tradition demand respect for established forms, House procedures should not be allowed to congeal into a straight jacket for the body politic.

Pundits have debated whether this change in majorities is more like that of 1946 or of 1930. In this regard, I would point out that among the rules changes adopted by the House in 1931 were changes in the Consent Calendar, the Discharge Calendar, Calendar Wednesday, and provisions for District of Columbia business. I can find no reference to similar changes in 1947, though, of course, committees were reorganized the previous year. While it is obvious that a few rules changes alone could not preserve a political majority, the contrast suggests that the seriousness of purpose evidenced by a willingness to adapt procedures to new goals may be linked to the durability of party majorities.

NEED FOR A SPECIFIC PROCEDURE

It is clear that the forms and procedures used over the last sixty years to accomplish a hyperextension of the national government's reach and role in the federal system will not be the same as those best suited to halt and reverse those mistakes or to move the government in new directions. Just as the House has already taken significant steps in reforming its committee structure and procedures, additional reforms in floor procedures and rules may be necessary and appropriate to suit the new majority and its purposes.

On those rare occasions, for instance, when the executive branch repeals regulations, it does so in different ways, usually under presidential or congressional directive, than the routine process of issuing or updating regulations. In the same fashion, the House needs a different process for repealing or otherwise remedying specific legislative and regulatory problems than it does for considering and approving broader legislation.

I also believe that it is entirely appropriate that there be a lesser burden on measures to repeal, remove or relieve requirements than on those that would add to or create new laws.

WHY A CORRECTIONS PROCEDURE WOULD BE DIFFERENT

As the Speaker and the Majority Whip so ably described, citizens are demanding not merely change in Washington, but a different type of action altogether. Citizens share national goals and purposes, but want the national government to allow, and occasionally help, communities and groups in meeting those goals and needs. Too often today the federal government is an impediment rather than an aid in this regard.

New procedures such as those for unfunded mandates, and a regulatory moratorium and veto, should stop or limit the degree to which new burdens to local initiative and activity are piled up. They do not, however, do anything about the mass

of statutes and regulations, many of which are now dated if they were ever useful, which are already on the books. A corrections process will allow the House to begin addressing problems in existing law and regulation on the basis of common sense priorities: coming to the most outrageous and expensive abuses first.

The process of considering numerous corrections may even help to suggest what forms more comprehensive legislation, such as reauthorizations of broad statutes or changes in overall regulatory procedures, should take.

INADEQUACY OF THE SUSPENSION PROCESS

I fear that the two-thirds majority required for suspensions may be too high a hurdle for many legitimate measures, even those targeting widely-decried legislative or regulatory abuses. Disputes over related but less clear-cut issues, or because of partisan or jurisdictional turf battles could well block a two-thirds majority. This sort of reverse log rolling or legislative blackmail has often stalled major legislation over minor or parochial points, and I suspect committee leaders would quickly find themselves paying steep legislative tolls for corrections measures if every one is required to muster a two-thirds vote.

I also foresee the likelihood of nearly universal agreement that a particular law or regulation needs to be fixed combined with significant disagreement about how to do so. Disagreements over specific community- or facility-directed fixes versus more generic remedies are particularly easy to imagine. For this reason, it would be useful for a corrections procedure to leave at least some room for amendments or substitutes. It may not be necessary for the Rules Committee to take an active role in vetting amendments for corrections, since, due to the envisioned narrowly-focused nature of such measures, corrections bills are not likely to be subject to a wide variety or number of amendments. If some amendments and alternatives are possible, minority party members are likely to feel far more comfortable about the procedure, and about considering specific bills under it. If amendments are limited by the nature of the legislation or by a new process the majority need not be concerned by the threat of dilatory tactics or the potential need to issue controversial closed rules in order to expedite the legislation.

PROCEDURAL ALTERNATIVES

In addition to the suspension procedure, I would urge you to consider Calendar Wednesday an related provisions for DC business as a possible means of advancing corrections and as a model for a new procedure. The call of committees allows bills to come to the floor without a rule, provides opportunities for amendment, but also, at least in some instances, allows a floor manager to move to close or limit debate. The procedure also allows opponents to bring the question of consideration, which might provide an opportunity to challenge the expedited procedure as distinct from the underlying legislation itself.

The leadership might begin by using the Calendar Wednesday process for selected corrections, and then considering changes to that process or developing a parallel rule for corrections based on the initial experience.

Among the adaptations which may be useful are a definition in rules of the standards for a corrections measure. A focus on a single provision of an existing law or regulation is the most obviously likely standard, but there may be others as well. A new procedure should provide relief for most or all requirements for committee reports, since measures are likely to be short and self-explanatory. At the same time, if the new calendar or procedure required at least a week's notice, anyone with questions about a bill would have adequate opportunity to raise them. You might also consider providing that the raising of the question of consideration would trigger a delay until the next corrections day. This would ensure consultation with the minority in scheduling, allow opponents to challenge the expedited process, and provide time for negotiated changes in the face of opposition, but all under a certain deadline. Finally, provided adequate notice, amendments should be required to be pre-filed, allowing the bill manager to shape and propose a debate limitation early in consideration if a limitation is necessary. By guaranteeing at least a vote on all pre-filed amendments, this procedure would not cut anyone off, and the limited nature of corrections is likely to make it unusual that a large number of amendments would be filed in any case.

Again, I thank the subcommittees for the opportunity to present these views, and I welcome your questions an the opportunity to continue discussing this new procedure as it is developed.

Mr. FOX. OK. Well, I thank you very much for your testimony, Mr. Mason, and we will include your full statement for the record.

Unless we have a question from Chairman Dreier, we will move on to the next witness.

Mr. DREIER. I thought your wife just had her baby.

Mr. MASON. She just had the baby and now she needs to go back.

Mr. DREIER. Oh, my gosh. OK. Brilliant testimony. I enjoyed it greatly.

Mr. MASON. Thank you, sir. And I certainly would remain available. Your fine staff and Mr. McIntosh's staff have already consulted with me some, and I would be happy to answer questions or provide any follow-up if I can later on.

Mr. DREIER. Thank you very much, Dave.

Mr. MASON. Thank you.

Mr. FOX. Thank you, Mr. Mason.

We will move on then to Mr. Pitts.

Mr. PITTS. Thank you, Mr. Chairman.

I, like Dave before me, will probably truncate my statement and ask that the entire statement be included as part of the record.

Mr. FOX. So ordered.

Mr. PITTS. First I want to thank you and the committee for the opportunity to appear before you today as to what procedures might be utilized regarding "Corrections Day" or, in other words, a designated class of measures to be assigned a particular place in the legislative schedule for the floor of the House of Representatives.

I have had some experience with the legislative floor schedule, having spent 25 years working for the House, much of it as a floor assistant to the minority leadership, and I hope that my input proves to be of some value. I would also like to remind you that I am no longer an employee of the House and am now am vice president for government affairs at Capital Cities/ABC. Thus, while I hope my testimony today will prove helpful and impartial I would urge you to keep in mind my allegiance to Capital Cities and weigh my testimony accordingly.

Some of the questions that came to mind when I was first considering this procedure:

Are we talking about making minor corrections that are merely technical or editorial, or is the purpose to address regulatory rulemaking, or is it both or more?

Are statutory enactments necessary to achieve the purpose, or should procedures be explored that would allow the House to merely express that certain activity must be addressed?

Is there a need for immediate remedies, or should longer-term structural changes be pursued in the current oversight and review process?

I want to focus a little bit on this aspect of using a statutory change to apply to rulemaking. There may be some instances that you might find that freezing in law statutorily a regulatory rulemaking procedure might in the end not be the best way to proceed.

The hearing today obviously is to assist the committee in its attempt to determine what is the best procedure, the best means to consider these "corrections." From my perspective today, the question is how the House should consider such a designated class of legislative procedures.

I would like to focus on one aspect that has been touched upon in Pete's testimony earlier, and that is the use of appropriation bills to address actions of executive or regulatory agencies. In many cases report language alone accompanying a bill was all that was necessary to clarify or correct executive activities. Until the early 1980's the general membership of the House had the ability to offer amendments on appropriation bills in the form of limitations on the use of funds. The amendments were designed to stop or restrain activity, although only for the time period covered by the bill. Limitations on appropriations is a relatively crude mechanism for restraint and must be, by its very nature, tied directly to the funds in the bill.

I included in my statement an example that I thought might be the kind of corrections that you are talking about. This came from March 1960:

> None of the funds appropriated in the bill shall be used to pay an amount due under a contract which was awarded to the higher of two bidders because of a certain Defense Department policy.

It sounds on its face like it is something that should be corrected obviously, because why are we paying for the highest price contract rather than the lowest price contract?

But limitations on the use of funds in appropriations bills have been rare of late since the House adopted a rule in 1983 requiring that they survive a vote that the committee rise and report the bill back to the House. This motion allowed the managers of bills to avoid a vote on most limitations.

Now I am not advocating that we encumber appropriation bills with lots of limitations as the Appropriations Committee has got a deadline to meet and has got to get their bills signed into law prior to the fiscal year, but the committee may want to consider some kind of "ex parte" action apart from the appropriations process where they consider limitation-like amendments separately that would have the effect of essentially freezing for a year, for a limited time period, that proposed rulemaking, and then maybe if they desire to, the House could fold it in with the regular appropriation bill when the House considers it at a later date.

My recommendations at least at this initial stage, which I found were very similar to those recommended by both Chairman Solomon and Chairman Clinger, are: A clear definition of corrections should be established. A determination should be made as to whether statutory changes are uniformly the best means to correct the activity in question. They should be narrow in scope and deficit neutral if they are to be consistent with the Budget Act. Corrections should be considered by a committee prior to floor action. Bipartisan guidelines and procedures should be developed for the consideration utilizing existing procedures as much as possible, and I think as an ongoing thing that a more thorough examination of the existing oversight mechanism should be undertaken.

Now I say that knowing full well that I was part of the Bolling-Martin reform in 1974, the Patterson-Frenzel reform of the late seventies, as well as the Hamilton-Dreier reform just of last Congress, and in every one of those attempts we discussed oversight, we examined what we could do to try to correct the failings of having lots of unauthorized appropriations and the failings of the au-

thorizing committees to sort of meet their deadlines, and we really found it was difficult to come up with any one solution. Instead, it might be a combination of many of the things that have been suggested here today.

Thank you.

[The prepared statement of Mr. Pitts follows:]

PREPARED STATEMENT OF WILLIAM R. PITTS, JR., VICE PRESIDENT, GOVERNMENT AFFAIRS, CAPITAL CITIES/ABC, INC.

Mr. Chairman, first, I want to thank the Chairman and the Committee for asking me to assist you regarding what procedures might be utilized for a "Corrections Day" or, in other words, a designated class of measures to be assigned a particular place in the legislative schedule for the Floor of the House of Representatives. I have certainly had some experience with the legislative Floor schedule, having spent twenty-five years working for the House, much of it as a Floor Assistant to the Minority Leadership. I hope that my input proves to be of some value.

I would also like to remind you that I am no longer an employee of this great institution and am now Vice President for Government Affairs of Capital Cities/ABC, Inc. Thus, while I hope that my testimony today will prove helpful and impartial, I would urge you to keep in mind my allegiance to Capital Cities, and weigh my testimony accordingly.

Let me also emphasize that my testimony reflects solely my own views and thoughts about the procedural or parliamentary issues that might be considered.

The purpose of "Corrections Day," as I understand it, is to set aside some specific time and effort to address activity that Congress feels is unwarranted, unnecessary, or a waste of tax dollars. I am not sure exactly what the definition of a "correction" is, or in what form the legislative measure will be, nor will I comment on the desirability of such a set aside. As to the idea, there are some obvious procedural questions. Are we talking about making minor corrections that are merely technical or editorial, or is the purpose to address regulatory rulemaking, or is it both and more? Are statutory enactments necessary to achieve the purpose or should procedures be explored that would allow the House to merely express that certain activity must be addressed? Is there a need for immediate remedies, or should longer-term structural changes be pursued in the current oversight and review process?

For any attempt to force multiple statutory changes, it is obviously important to acknowledge the role of the other half of this bicameral legislature, the Senate, as well as that other important branch of our government, the Executive. I am not now going to address the implications of requiring Senate action or Presidential approval. I need not remind you of the old maxim—the best way to ensure enactment is to be part of legislation that must be enacted by some scheduled deadline.

The hearing today is to assist the Committee in its attempt to determine what is the best procedure, the best means to consider these "corrections." From my perspective today, the question is how the House should consider such a designated "class" of legislative measures. I will address some of the existing options that are available within the existing rules and procedures of the House of Representatives.

Historically, the basic rules and procedures for the House of Representatives have had a general acceptance by a substantial bipartisan majority as each party in control of the House has continued those same core procedures. There are currently procedures in the rules of the House for specific classes of measures. They are:

1) The Private Calendar;
2) The Consent Calendar; and
3) District Day.

Private Calendar bills generally involve immigration cases and claims against the government. District Day bills involve matters touching on the operations of our Federal City—the District of Columbia. The Consent Calendar is intended for the consideration of bills of little or no controversy that both sides of the aisle have cleared for passage by unanimous consent. Over the last decade all three of these special procedures have fallen from favor and have been used very little.

I have attached from the "Congressional Record" the last notification of official objectors and announcement of the bipartisan guidelines for the consideration of bills on the consent calendar. That was during the 99th Congress—1985–1986.

I think that the Committee should review the procedures of these special calendars and designated days such as the Consent Calendar. The Consent Calendar involves bipartisan cooperation and requires the establishment of guidelines and the appointment of Official Objectors to review and discuss the measures on their behalf. A feature of the Consent Calendar worth considering is the actual listing of

those bills in a "calendar" and the establishment of specific days of the month for their consideration.

The basic methods of consideration of measures on the Floor of the House of Representatives are as follows:

1) By unanimous consent;
2) Under suspension of the Rules;
3) Pursuant to a House Resolution reported by Committee on Rules;
4) Under a special privilege established by law and/or under the Rules;

These basic methods of Floor consideration of measures have endured since the early days of the House of Representatives. They have lasted because of a bipartisan consensus that these core procedures and their precedents have allowed the House the opportunity to work its will in a timely manner while attempting to preserve minority party rights and participation and the opportunity for every representative to participate to the maximum extent possible.

These methods have certain key assumptions at their core. They assume that it is important that the procedures of the House continue to provide adequate protections and safeguards to ensure a thorough and complete consideration of all aspects of any issue. They assume that all measures will be generally accompanied by reports, reflecting the views of committees of jurisdiction, as well as any minority, additional, or dissenting views. They assume that the Members should also understand any possible applicability of the Budget Act and the proposed changes in relation to current law. They recognize that it is important to solicit and understand the views of the executive branch or relevant agency with respect to most legislative proposals. And finally, they assume that members should always have sufficient and relevant information on which to make their judgement as to how to vote.

Aside from attempting to obtain unanimous consent, consideration under suspension of the rules may prove to be a good method of acting on a designated class of legislation. This procedure must be used with caution, as it allows limited debate or opportunity for changes to be made. All protections and reporting requirements are waived. No amendments are in order and the time for debate is limited to forty minutes. When a measure is considered under suspension, all rules and safeguards are suspended, such as those embodied in the Budget Act. This would not allow the membership to determine easily if a proposal amounted to an entitlement or would add to the deficit. The limitations during the consideration of a proposal under suspension must be weighed against the requirement that it takes a two-thirds vote of the House, a quorum being present, for passage.

There are also privileged matters such as appropriation bills that may be considered in Committee of the Whole House on the State of the Union without the need for the adoption of a separate resolution providing for their consideration. There have been times when the Appropriations Committee has determined that it needs waivers of the rules because of such matters in a bill as unauthorized appropriations or legislation and has asked the Rules Committee to provide the necessary waivers.

The House has in the past used appropriation bills to address actions of the Executive or regulatory agencies. In many cases, report language accompanying a bill was all that was necessary to clarify or "correct" executive activity. Until the early 1980's, the general membership of the House had the ability to offer amendments on appropriation bills in the form of limitations on the use of funds in the bill. The amendments were designed to stop or restrain activity, although only for the time period covered by the bill. Limitations on appropriations is a relatively crude mechanism for restraint and must be by its very nature tied directly to the funds in the bill. An example of a limitation from 1960:

"None of the funds appropriated in the bill shall be used to pay an amount due under a contract which was awarded to the higher of two bidders because of certain Defense Department policy."

Limitations on the use of funds in appropriations bills have been rare since the House adopted a rule in 1983 requiring that they must survive a vote that the committee rise and report the bill back to the House. This motion allowed the managers of the bills to avoid a vote on most limitations.

A measure may also be considered by the House under a "rule" or resolution providing for its consideration reported from the House Committee on Rules. In essence the Rules Committee sets the parameters for debate and consideration of a measure. It can determine how much debate and what amendments, if any, would be in order. The Rules Committee has to guarantee the Minority party the right to offer a motion to recommit to any bill or joint resolution considered under a "rule."

That was a brief overview of the existing procedures for the consideration of measures on the Floor of the House of Representatives. Based on the limited information

I have regarding the intentions of "Correction's Day" I would like to initially suggest the following:

1) A clear definition of "corrections" should be established;

2) A determination should be made as to whether statutory changes are uniformly the best means to "correct" the activity in question;

3) They should be narrow in scope and deficit neutral if they are to be consistent with the Budget Act;

4) "Corrections" should be considered by a committee prior to Floor action;

5) Bipartisan guidelines and procedures should be developed for their consideration utilizing existing procedures as much as possible;

6) A more thorough examination of the existing oversight mechanisms should be undertaken.

I would be happy to answer any questions that you may have.

ANNOUNCEMENT OF OFFICIAL REPUBLICAN OBJECTORS FOR THE CONSENT CALENDAR FOR THE 99th CONGRESS—CONGRESSIONAL RECORD MARCH 28, 1985

Mr. MICHEL. Mr. Speaker, I take this time to announce the official objectors for the Republican side for the 99th Congress.

For the Consent Calendar, our official objectors will be the gentleman from Pennsylvania [Mr. WALKER], the gentleman from California [Mr. LUNGREN], and the gentleman from New York [Mr. WORTLEY].

• Mr. FLIPPO. Mr. Speaker, the members of the Consent Calendar Committee have agreed, for the 99th Congress, upon the following policies and procedures: First, generally, no legislation should pass by unamanimous consent which involves an aggregate expenditure of more than $1 million; second, no bill which changes national policy or international policy should be permitted to pass on the Consent Calendar but rather should be afforded the opportunity of open and extended debate; and third, any bill which appears on the Consent Calendar, even though it does not change national or international policy, or does not call for an expenditure or more than $1 million, should not be approved without the membership being fully informed of its contents if it is a measure that would apply to a majority of the Members of the House, in which case the minimum amount of consideration that should be given such a blll would be clearance by the leadership of both parties before being brought before the House on the Consent Calendar. Such a bill would be put over without prejudice one or more times to give an opportunity to the Members to become fully informed as to the contents of the bill.

It must be pointed out to the membership that it is not the objective of the objectors to obstruct legislation or to object to bills or pass them over without prejudice because of any personal objection to said bill or bills by any one member or all of the members of the Consent Calendar Objectors Committee, but rather that their real purpose, in addition to expediting legislation, is to protect the membership from having bills passed by unanlmous consent, which in the opinion of the objectors, and Members of the House might have objection to.

Mr. FOX. Thank you very much, Mr. Pitts.

Chairman Dreier, do you have some questions?

Mr. DREIER. No, no.

Mr. FOX. I'll start if I may then. Or we can hear Dr. Thurber first. We will do that.

I will ask then if Dr. Jim Thurber, professor of government from the American University, would speak next, and then we will hold our questions until after his testimony.

Mr. THURBER. Thank you very much. It is a pleasure to appear before you, and I would like to thank Mr. Dreier in particular for inviting me and also for being a champion of reform.

I have a book that is coming out from Congressional Quarterly Press that documents your work over the last 2 years and what you did during the first few days of this Congress.

Mr. DREIER. It has a brilliant preface.

Mr. THURBER. There is a brilliant foreword to it, and I'm hoping that it sells many copies. I did not get an advance on it.

I would like to thank you for inviting me. This is a unique and seemingly popular idea, the Corrections Day, and I have a few questions about it.

I'm a conservative when it comes to changing existing rules of the House with respect to this particular idea. I find that I agree to a great extent with Mr. Robinson and Mr. Pitts, but I have a few other comments to make. I will make them in summary and ask that my entire testimony be put into the record.

First, I have several questions associated with the relatively vague definition of corrections so far. So far people have been using examples, anecdotes, to define what a correction should be. I did the basic thing, I went to Webster's Dictionary and found that the verb to correct is defined as to make or to set right. Correction means to amend, an amendment, which is a common action through which the regular law making practice exists in the legislative body.

The definitions of corrections so far that have appeared in the press and in other documents include, but are not restricted to correcting drafting errors or unintentional ambiguities in the legislation. Now we all remember the OBRA a few year years ago that had a woman's name and her telephone number on it. That is a type of noncontroversial correction we are referring to there.

Also, changing regulations that have become outdated due to changing conditions or rectifying agency errors or reversing court decisions—which has not been discussed at all this morning—that impose arbitrary and unreasonable costs or burdens on private entities or State and local governments. Still other definitions from those proposing a Corrections Day include changes in government actions that Congress considers unwise and improper and wiping out laws, regulations, and rules deemed ludicrous. Within these definitions there is a great deal of substance that is not always obvious. Corrections, in my opinion, should be limited on Corrections Day to the obvious, noncontroversial, and bipartisan problems that are identified. Even these changes should have substantial bipartisan support, a two-thirds vote required for passage such as a motion under the suspension of the rules or rule 27 of the standing rules of the House.

According to one proposal, Corrections Day would be created to, "do away with rules, regulations, or laws which are over-burdensome and proven to be a financial black hole." It is unclear how to define that without having due process through the committees of the House of Representatives. I think that there is probably consensus among almost everyone that the committees should be assigned to review a corrections bill or amendment before it goes to the floor, and probably it should go through the Rules Committee also.

I would also add that we have processes existing now for making corrections. It is the authorization process, the appropriations process, the budget process. No one has mentioned Title X of the Budget and Empowerment Control Act which are recisions and deferrals that make corrections. You can make these corrections now quickly if you have consensus through these regular processes.

An expedited procedure is currently available, I have mentioned it, the suspension of the rules, but that procedure assumes such

measures will go through the committee process, are scheduled for consideration with the minority, and are reported formally to the House with a two-thirds vote required if technical corrections are necessary rather than policy corrections. I think this existing procedural framework is the best vehicle for making corrections.

If policy corrections are to be made, then I think the regular amending process with deliberation by the committees is the best procedure, and you can call it a corrections process and identify these particular bills coming out of the committee as being bills that are on the corrections calendar, but I would not see a need to a change in existing rules to do so.

I have several concerns about using a special corrections calendar without the safeguards of the input of agencies, interested parties, and costing by the Congressional Budget Office at the appropriate time. I favor the regular order as the appropriate procedure for considering corrections and amendments in the House.

I have other questions which are in my testimony. Let me summarize them by saying that I also am concerned about the unintended consequences of the actions on a Corrections Day. Let me explain. Making a law requires research and careful deliberation and, most importantly, compromise. It is our democratic way. The majority has changed up here. The democratic way is to, in my opinion, go through the regular legislative process again to change these laws.

It seems to me that there would be a great reluctance to make the sort of decisions and compromises needed to make good and effective laws if a carefully constructed compromise can be undone in a single day on the floor of the House. In addition, the public can be adversely affected by this instant legislation. What would be the point in complying with a law one did not like if one thought it would be killed in a day through a correction? Moreover, if one did not comply by expending resources or changing behavior and then the law was quickly corrected, is there not likely to be a great deal of resentment and confusion by those affected?

In conclusion, I think that the corrections idea is interesting. However, I think that you can pursue it using existing rules and you can call amendments, "corrections." However, one does not say "corrections" to the Clean Air Act one says "amendments" to the Clean Air Act. Otherwise it is disingenuous. There is ample procedure and policy available to Congress to change legislation.

Thank you.

[The prepared statement of Mr. Thurber follows:]

PREPARED STATEMENT OF JAMES A. THURBER, PROFESSOR OF GOVERNMENT, DIRECTOR, CENTER FOR CONGRESSIONAL AND PRESIDENTIAL STUDIES, THE AMERICAN UNIVERSITY

Thank you for your invitation to comment on the policy and procedural options to facilitate a Corrections Day process in the U.S. House of Representatives.

I have a few short remarks regarding several issues associated with the proposal and would be pleased to answer any questions you may have. My comments focus on the conceptual nature of Corrections Day and on various procedural options that have been proposed for structuring a Corrections Day.

First, I have several questions associated with the relatively vague definition of "corrections" as it has been proposed. Webster's Dictionary defines the verb to correct as: "to make or set right". A correction also defined as a "rectification" or "amendment", a common action by a legislative assembly. The definition of corrections under the current proposal has included, but is not restricted to: correcting

drafting errors or unintentional ambiguities in legislation; changing regulations that have become outdated due to changing conditions; rectifying agency errors; reversing court decisions that impose arbitrary and unreasonable costs or burdens on private entities or state and local governments. Other definitions of correction measures include changes in government actions Congress considers unwise or improper; curing drafting errors or unintentional ambiguities; and wiping out laws, regulations, or rules deemed ludicrous. Within these definitions there is a great deal of "substance."

Corrections should be limited to non-controversial changes such as drafting errors. Even these changes should have substantial bi-partisan support (two-thirds vote required for passage) such as motions under the suspension of the rules (Rule XXVII of the standing rules of the House).

According to one proposal, Corrections Day would be "created to do away with rules, regulations, or laws which are overburdensome and have proven to be a financial black hole." It is unclear what process would determine the definition of what is overburdensome and a financial black hole before the issue is considered on the floor of the House. What is "dumb and expensive" to one person or organization may have been established and revised ("corrected") after years of careful consideration and evaluation.

The authorization, appropriations, and budget processes in Congress currently determine what needs to be corrected or changed in existing law. The regular legislative process and careful annual oversight of government programs currently determines what needs to be corrected or amended. The annual appropriations process is a proper vehicle for rectifying problems and making corrections after appropriate committee hearings and consideration on the floor of the House.

An expedited procedure is currently available to consider these corrections through the suspension of the rules, but that procedure assumes that such measures will go through the committee process, are scheduled for consideration with the minority, and are reported formally to the House with a two-thirds vote required for passage. If "technical corrections" are necessary rather than "policy corrections," I think this existing procedural framework is the best vehicle for making corrections. If "policy corrections" are to be made then the regular amending process with deliberation by committees is the best procedure.

I have several concerns about using a special Corrections Calendar or the Suspension of the Rules for corrections without safeguards that the committees, agencies, interested parties, and Congressional Budget Office have appropriate time to deliberate and consider the proposed correction. Generally, I favor the Regular Order as the appropriate procedure for considering corrections or amendments in the House. Here are some of my concerns:

Would a Corrections Calendar give privilege to corrections bills on the House floor without a rule from the Rules Committee and utilize a simple majority for passage? If so, what would be an appropriate period of deliberation, adequate input of expertise from a variety of perspectives, and how would minorities be protected? Another approach could be to obtain a rule from the Rules Committee for consideration of individual corrections bills. Again, without hearings by the committee or committees of jurisdiction, this shortcuts the deliberative process that is necessary when considering legislation. A monthly corrections bill made up of many proposals under a restrictive rule from the Rules Committee is also being considered. I am concerned this proposal would give even less time for Members to consider the corrections under consideration. Efficiency at the cost of deliberation, expertise and representation is a major flaw of these proposals.

A Corrections Day may have serious problems with the influence of special interests. Without regular hearings and filing committee reports so that all members understand the implications of a correction, narrow interests may have access to make changes that are not in the public interest. The unintended consequences of changes by one special interest may have a negative impact on many interests without careful deliberation by the workshops of Congress, the committees.

One potentially severe unintended consequence of a "Corrections Day" is its effect on the legislative process. Let me explain. Making a law requires research and careful deliberation and most importantly compromise. It is our democratic way. It seems to me there would be a great reluctance to make the sort of decisions and compromises needed to make good and effective laws, if a carefully constructed compromise can be undone in a day. In addition, the public can be adversely affected by this instant legislation. What would be the point in complying with a law one did not like if one thought it would be killed in a day through a "correction". Moreover, if one did comply by expending resources or changing behavior and then the law was quickly "corrected," is there not likely to be a great deal of resentment and confusion?

Finally, Congress does not use the term "corrections" when amending acts, but that is exactly what is being done. One does not say "corrections" to the Clean Air Act one say "amendments" to the Clear Air Act. Otherwise it is disingenuous. There is ample procedure and policy available to Congress to change legislation; this is a short-sighted attempt to short-circuit the processes in place and it should not be instituted. Thank you.

Mr. FOX. Thank you very much for your testimony, Dr. Thurber.

Now we have heard from the whole panel, I will ask Chairman Dreier if he has questions.

Mr. DREIER. Thank you very much.

I thank all of you for your very helpful testimony, and I would like to raise a couple of points. Jim, I concur that we shouldn't be dramatically altering the operations of the Congress, the rules of this place. I too am a conservative, but I think the Speaker in his testimony this morning, which we all heard, was really outlining—trying to put forward a vehicle whereby the American people could finally feel as if they would have an opportunity to say to their Representative in Congress that there is something that does meet, I think, the three criteria that you outlined: Obvious, noncontroversial, and bipartisan, but an absolutely preposterous idea that is out there, a law that is out there, and there may be, as all of you have pointed out, ways in which we could address this now through limitation amendments and other items, but I think that the goal here is to really proceed with some of the specific, very narrow areas of concern.

Testimony was provided earlier in which a statement was made that we don't know exactly how great the ripple effect is going to be from this, but, quite frankly, that happens with every single law that we have. There is a tremendous effect that it has all the way across the board with virtually everything.

So I guess one thing that I would pose other than the three criteria that you outlined, Jim: Would you all establish what you would consider to be a definitional criteria for us in looking at the whole prospect of a Corrections Day?

Mr. THURBER. May I comment on this very quickly because it may not be directly related to a definition or a criteria of corrections. I think this has to do with leadership. I think that, Mr. Dreier, if you have a bipartisan committee that sits down and decides in a bipartisan way what kinds of issues that they think, in an objective way, not simply a checklist but decides what is "dumb and stupid" and then sends a message from the leadership with a time limit to the committee of jurisdiction to deal with this particular issue, I think you have a Corrections Day process started without any changes in the existing rules.

Mr. DREIER. You went through a litany of items that should be included in looking at this—budget estimates and agency input, administration input, and all.

Mr. THURBER. Right, and interested parties.

Mr. DREIER. Right, and I think it is incorrect to conclude that we don't plan to include all of those factors. I mean that is yet to be determined.

Mr. THURBER. Right. However, when I wrote the testimony I didn't have all of the testimony to date. It is obvious to me that there is a lot of consensus between both parties and everybody that has appeared here with respect to using the regular legislative

process through the committees for corrections. I'm sorry I can't add quickly other easily measurable criteria.

Mr. DREIER. Billy?

Mr. PITTS. If I could, as a question of personal privilege, sort of take issue with the doctor's earlier statement about an amendment that had a woman's name and telephone number on it, because I was a victim of the late, great Phil Burton in that instance. That was Gramm-Latta——

Mr. THURBER. Sorry. It wasn't an amendment. It is just scribbled on the side of a bill.

Mr. PITTS. Right, but it actually wasn't part of the legislation.

Mr. DREIER. May 1981.

Mr. PITTS. That is right.

Mr. DREIER. I had been here 4 months then.

Mr. PITTS. How well you remember, I'm sure.

Mr. DREIER. Very well.

Mr. PITTS. There have been examples of guidelines that have been adopted. The Private Calendar and the Consent Calendar were two, and I included one example as part of my testimony where the majority and the minority got together and did sort of generic guidelines that were not put in the rules of the House but instead were put in the record to sort of give the membership and the public an idea of what it was the criteria was for determining which bills would be on the Private Calendar and which bills would be considered under the Consent Calendar. My lament, as I put in my remarks, is that we really haven't used that bipartisan procedure since 1985, and I would like to see more bipartisanship in measures such as you are proposing here because I think that it works best when it is bipartisan.

Mr. DREIER. Great.

Mr. PITTS. So I would be an advocate of developing some kind of guidelines that would not make them part of the rules of the House.

Mr. DREIER. Of course the whole idea is that if we are going to have a supermajority we know that it has to be bipartisan.

Pete.

Mr. ROBINSON. Well, I think obvious, noncontroversial, and bipartisan are a pretty good starting point.

I think perhaps there ought to be some sense of urgency, something that perhaps can't wait the ordinary legislative process. Committee consideration I believe is very important for bringing in budgetary concerns and for some kind of judge on the ripple effect.

But it has occurred to me this morning that perhaps there are certain areas of the law and areas of the relationship between the public and the Federal Government that we are most concerned about, and I'm not sure they have to be ingrained in guidelines, but clearly we are talking about heavy regulation in the labor area, environmental area, FDA area. I'm not sure we are talking about in a general sense tax law. I think perhaps that ought to be off the table and handled separately through the Ways and Means Committee with very careful deliberation. I'm not sure you are talking about financial services.

Mr. DREIER. The IRS question is the one that Newt was raising earlier.

Mr. ROBINSON. Right. I think you have to proceed cautiously in the tax arena. That's all I'd say. But perhaps there are some industries we are not talking about being brought into this on a routine basis such as telecommunications.

Mr. PITTS. A couple of comments. One is, the State legislatures now are memorialing and petitioning the Congress, and if you look in the back of the Record on a regular basis these petitions are being referred to committees, and they are asking for corrections. What is happening is, those corrections in many cases are minor corrections, are usually folded in or reserved when the larger authorization is being considered, so really maybe you should ask the individual authorizing committees to start pulling out those minor things and considering them separately.

Mr. DREIER. It is interesting that you raise that because the San Diego question, as far as the sewage treatment, is going to be addressed in the Clean Water Act, and there are other areas where I think that probably will be the case, but I think it has been the public attention that this issue of Corrections Day has gotten that had led many States to move forward and make recommendations to us as to what things they think we should address.

Mr. PITTS. The problem you are going to have then, again, is going to be going through and culling out and prioritizing which corrections you want to move forward quickly.

Mr. DREIER. Especially if they all end up going to the Rules Committee.

Mr. THURBER. I would be also concerned about "reverse pork barreling" if you have "rifle shot" corrections. Pork barreling is a necessity for say Phoenix and for everybody else it is pork barrel.

Mr. DREIER. Is that the way it works?

Mr. THURBER. Yes, right.

The rifle shot approach rather than—in other words, limited scope in a correction can be dangerous. There can be unintended consequence in the sense that you will have people all coming in for very, very special sorts of things rather than having a correction that corrects the entire rule associated with the allocation of something. Maybe the correction should be giving the agency general direction for making decisions rather than changing one specific thing in Boise, Portland, or something like that.

Mr. PITTS. That is why I was suggesting the possibility of some kind of like mini-moratorium on some of these rules that essentially sort of holds it in place until the authorizing committees have time to deliberate more fully on its implications not only locally but nationally.

Mr. DREIER. Let me thank you all very much for your very helpful testimony, and I would like to make this request of you as we proceed with the deliberations in establishing the steering committee and with our goal of putting into place a Corrections Day. I hope that you all will continue to stay in touch with us, and I thank you very much.

I have to go downstairs in a few minutes, so you can ask your questions, and I thank you all.

We have got this sort of unique cochairman position here, but the gavel is now going to be handled by Mr. Fox, who is trying to turn

it over to me, and I'm not going to let him because I have got to go downstairs.

Thank you all very much.

Mr. FOX. Actually I think we owe you a debt of gratitude for all the work you have done prior to this date in working with Chairman McIntosh and Chairman Solomon.

I did have a couple of questions for the panel.

Mr. DREIER. Turn on your microphone, John.

Mr. FOX. I did want to thank Chairman Dreier for his efforts and what he has done——

Mr. DREIER. You didn't have to say that again.

Mr. FOX. That is fine.

I think long before today's hearing Mr. Dreier has shown his leadership on this issue along with Chairman Solomon, Chairman Clinger, Chairman McIntosh, and Mr. Peterson.

I did want to ask a couple of questions and follow up, if I may, to Mr. Robinson first.

In your testimony on page 3 you relate to discussions on the calendars, and in speaking of having a Corrections Day I wondered, based on your testimony at the bottom of the page, whether you believe that this should be on a Private Calendar, or should it be on corrections through suspension of the rules, or perhaps another procedure?

Mr. ROBINSON. I think perhaps it is a mix and a match, frankly. I'm not sure that the Private Calendar works, let's put it that way, because the Private Calendar, for one thing it has to be drafted very specifically to indicate that it is just an individual or an individual business that is being relieved. I'm not sure you want to draft something that way.

The other problem with the Private Calendar is that, although bills have to be reported from the committees, it is rather a cumbersome process because only a few Members objecting can kill a bill, and I don't think you want to be in that situation. It has to be something which is totally noncontroversial, so it is probably not suitable.

I think the Suspension Calendar is certainly a way to address corrections with the understanding that it takes a two-thirds vote.

Mr. FOX. How often would you see it coming up? Every day? Once a week? Once a month?

Mr. ROBINSON. Periodic. I'd say maybe twice a month or something like that, clearly designated.

Mr. FOX. I also wanted to follow up with Mr. Pitts, if I could, and Dr. Thurber could jump in at any time on these kinds of questions.

Mr. THURBER. Actually, could I make a point?

Mr. FOX. Please do, Doctor.

Mr. THURBER. I think it is important to have these correction bills if you have a procedure to come up individually rather than having them packaged. There was one recommendation by someone I had read that there would be a package of many bills together as a corrections package that would go to the floor. I think that would be a mistake. I would recommend taking them up singly.

Mr. FOX. For deliberation?

Mr. THURBER. Yes.

Mr. PITTS. I would agree with that. If I may make a couple of—first of all, I don't think that the Private Calendar is really the appropriate mechanism for corrections. Those are immigration cases and claims against the Government as differentiated from what I believe your intentions are here today.

Mr. FOX. That is correct.

Mr. PITTS. But the aspects of a calendar that I do like is that it kind of puts all in one place, highlights what it is that you want the House to consider on a given day.

Now Pete made reference to the Suspension Calendar. There really, quite frankly, is no such entity. Bills under suspension are taken from the Union Calendar, and if you look at the Union Calendar it literally has a list of every bill reported out of committee.

So I like the idea of being able to designate in one place or be able for the public, the Members of Congress, and their staff to be able to see in advance and anticipate what it is that is coming up. Quite frankly, you really don't have that ability right now even on suspension bills. You usually get them the Thursday or Friday of the week before. I mean there is some anticipation if you are a member of a committee that certain legislation will be considered under suspension.

So I like highlighting it and printing it sort of as a separate document. I like the idea of having a special designated day or 2 days a month for consideration so that people can plan in advance.

Mr. FOX. That probably is appropriate based on the time factor.

The last question I would ask of the panel, and it really came up in your testimony originally, the questioning, Mr. Pitts, regarding the definition of corrections. Do you see it as regulations and rulemaking, or do you see it as another area of legislative endeavor?

Mr. PITTS. Well, that is the problem that I have. I would guess, particularly with the Members from the western States, that they feel most aggrieved and want to correct what is rulemaking or regulations, but I'm not sure that statutory enactments is the best way to address that. As I suggested in my remarks, on many occasions merely a statement by the managers as part of a report of an appropriation bill is sufficient to change an agency's mind about a particular rulemaking proposal. So I'm not sure. I actually am wondering myself what the definition of correction should be. I have no easy answer. I don't believe that there is an easy answer.

Mr. FOX. If you didn't change the rules for the agencies, how else would you communicate your dissatisfaction with the status quo?

Mr. PITTS. You could make expressions on the floor of the House that aren't necessarily a statutory enactment. The House could go on record saying that this proposed regulation or rule is inconsistent with the original intent. When that happens there is going to be kind of a Pavlovian bells ringing and saliva flows at the agency, at the authorizing committees, at the Appropriations Committee level. I mean there are ways rather than trying statutorily to change a rulemaking that could be used. I'm not advocating that in a broad-based sense, but I want you to be very careful about statutorily changing all proposed rulemakings. I don't think it is going to work across the board.

Mr. FOX. That would be part of our debate.

Go ahead, Doctor.

Mr. THURBER. I am a coauthor of a book on that topic, and it was supposed to be on micromanagement from Congress. What we found out was that micromanagement, which is a negative thing in some people's minds in the bureaucracy, was actually comanagement and that there was a great deal of communication going on, as you well know, between the agencies and the committees on Capitol Hill, and informal directions to change the rules that they are intending to promulgate or maybe to interpret them differently on existing rules that they have promulgated, and to put moratoriums on rules also, and this is done not only through the appropriations process but it is done through the intent associated with the committee report, it is also done through messages from various individuals that hold positions of authority here, the chairs and subcommittee chairs, as you well know.

Mr. FOX. I thank you for your comment.

Mr. ROBINSON. Mr. Chairman, could I just throw out one kind of off-the-wall suggestion. There is something short of a law which certainly sends a message to the administration. That is a resolution of inquiry which can be drafted on just about any subject. It can only call for facts and statements by the administration and records, but these are privileged in nature. They need committee consideration, but once they are reported they are privileged, and it can send a very strong message to the administration that there is a problem in a certain area.

Mr. FOX. Talking about sense of Congress resolutions as well.

Mr. ROBINSON. Correct.

Mr. PITTS. That would be an extreme measure, to use a resolution of inquiry, but I think it is important for you to develop a mechanism, if not at the committee level, certainly at the leadership level, where the administration is notified of the concerns that you have of what is going on.

The administration, through OMB, may not necessarily be fully aware of all the implications of any proposed rulemakings and would want and readily accept the Congress's input as to any particular item that you have concerns about.

Mr. THURBER. Mr. Fox, one final point. No one this morning has mentioned court decisions, although the Speaker in a speech approximately a month ago included in his phrase for corrections "dumb court decisions." I think it is appropriate at this point to leave court decisions out of a corrections process and rely upon the amending process or statutory process on the Hill to deal with court decisions that people think are dumb. I would leave that out. I think that would cause a great deal of controversy if you included that in the definition of things that need to be corrected at this point.

Mr. FOX. I would say, speaking for the joint committees, that we are very impressed with the testimony that you gentlemen have given, including Mr. Mason, who had to leave early.

The fact is that there is a sense of urgency about Congress in a bipartisan way to accomplish the goals we intend on reform, and of course without doing injustice to the Constitution or violating the coequal branches, there is sometimes a frustration that the courts sometimes legislate when in fact they are to adjudicate.

But there is an immediacy factor overall that I think we feel from our constituents, and I think that is part of what you are hearing in the frustration level of some of the witnesses who are Members of Congress; for instance, Congressman Bilbray, who felt a particular problem in his district and his region. I would say at this time that your testimony has certainly left me with the impression that we need to proceed in a way that does justice to the Constitution, is bipartisan, will change in some respects the burdensome regulations and procedures which are helping us not to do our job as well, and make sure we do so in a deficit-neutral fashion in the least controversial matters. I think we also need to have greater involvement of those individuals, such as the business people, like Mr. Herr, who were here today because they in fact will be the ones receiving the regulations. If we have an understanding from bureaucrats regarding what the ultimate outcome is of the regulations we place those upon, it certainly deals more with reality.

If there is no other testimony before this joint committee, I will call it adjourned and thank you very much for coming.

[Whereupon, at 1:22 p.m., the subcommittees were adjourned.]