percent since 1960. In 1982, the tax share stood at 19.8 percent of GDP. By 1989, the tax share had declined slightly to 19.2 percent of GDP—much the same as it had been back in 1960.

In short, whether we have raised or lowered tax rates, the percentage of GDP in taxes has hovered at 19 percent. The issue, of course, is by how much? Is it fair that the lower 50 percent of income earners pay the same amount of taxes of a large and growing GDP, or of an anemic, stagnant one?

Here again, the real numbers destroy the myth. The story. According to the Federal Office of Management and Budget (OMB), in 1982, the year the tax cuts were implemented, tax receipts stood at $637.8 billion. Total tax receipts had increased to $990.7 billion.

How did this come about? By lowering taxes, the government freed up capital and entrepreneurial spirit, creating jobs and wealth and expanding the size of the economic pie. From 1982 to 1989, GDP increased from $3.1 to $5.4 trillion. Therefore, while tax revenues as a share of GDP remained relatively constant at just over 19 percent, the dollar amount of tax revenues collected by the federal government rose dramatically, because the economy grew so much.

Tax cuts will increase economic growth and thereby reduce the deficit. The question is, by how much? Economist Bruce Bartlett, a former assistant secretary of the Treasury, notes that the OMB figures show that increases in real GDP significantly reduce the deficit. "The real deficit could be diminished by more than $150 billion if the economy grew just 1 percent faster than currently projected over the next five years."

Of course, Bartlett says, there is no guarantee that the Republican tax cuts will achieve a 1 percent faster growth rate. But there is no doubt they will increase growth above this level, "even if nothing else has occurred." If growth is just 0.4 percent faster per year it would be enough to make the tax cut deficit-neutral, based on the OMB data.

Thus, a dispassionate review of the figures shatters the myth that the Reagan tax cuts increased the deficit. The problem was not our revenue stream, either in terms of the percentage of GDP paid in taxes, or in real tax dollars received. The problem was too much spending. From 1982 to 1989, government spending rose from $746 billion to $1.14 trillion—a 50 percent jump.

Tax cuts in the 1980s can help produce the same type of economic growth they generated in the 1960s. This growth in turn will help us pay for all. All we must do is reduce the rate at which government spending grows. CBP figures show that, if we simply hold the rate at which federal spending grows to a little over 2 percent per year, we can cut taxes by $189 billion and balance the budget by the year 2002.

MYTH NO. 3

But this reference to tax cuts brings us face to face with another myth, namely, that tax cuts disproportionately benefit the rich at the expense of the poor.

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for almost twenty years. Use of a simple (one-house), concurrent (two-house), or joint (two houses plus the President) resolution are among the options that have been debated in Congress previously. These proposals are sometimes limited to a brief period of time, as in INS v. Chadha, 462 U.S. 919 (1983), the Supreme Court struck down as unconstitutional any procedure where a sword vote (two to one) could be obtained by some Members of Congress to use a joint resolution of disapproval. The one-house or two-house legislative veto (as procedures involving simple or concurrent resolutions, respectively) was previously called, was thus voided.

Because Congress often is unable to anticipate the numerous situations to which the laws it passes must apply, Executive Branch agencies sometimes develop regulatory schemes at odds with congressional expectations. Moreover, during the time lapse between passage of legislation and its implementation, the nature of the problem addressed, and its proper solution, can change. Rules can be surprisingly different from the expectations of Congress. It is within this context that the congressional review gives the public the opportunity to call the attention of politically accountable officials to concerns about newly created agency rules. If these concerns are sufficiently serious, Congress can stop the rule.

Brief procedural history of congressional review

In the 104th Congress, the congressional review legislation originated as S. 348, the “Regulatory Oversight Act,” which was introduced on February 2, 1995. A year later, the Senate passed the amended version of S. 348, with Senate Majority Leader Trent Lott and Senator Thurmond in the lead. However, the House did not agree to a conference on H.R. 450 and S. 349, so the Senate version (S. 349) passed the Senate on March 29, 1995. The House approved its own rule (as section 3006) to H.R. 450, the first debt limit extension bill. The Senate modified the House-passed version to substitute the text of S. 219 for the debt limit bill that was scheduled to be taken up on the calendar the week of March 31. The final compromise language was the result of this joint discussions and negotiations.

On March 28, 1996, the Senate passed S. 942, the “Comprehensive Regulatory Enforcement Fairness Act of 1996,” as part of the “Regulatory Reform Act of 1995.” As amended, S. 942 was a substitute for the Senate version of S. 291, the “Regulatory Reform Act of 1995,” which also included a congressional review chapter.

The Senate and House then took up the congressional review legislation. On May 26, 1995, the Senate Judiciary Committee reported out a different version of S. 343, the “Comprehensive Regulatory Reform Act of 1995,” which also included a congressional review provision. The congressional review provision in S. 343 was defeated by a vote of 50 to 49. On February 29, 1996, a House version of H.R. 553 was offered by its sponsors, Senators Nickles and Harry Reid, as a substitute amendment to S. 219, the “Regulatory Transparency Act of 1995.” As amended, S. 343 was one of the most significant changes in the legislation that was attached to the debt limit bill that was scheduled to be taken up in Congress this week of March 24. The final compromise language was the result of these joint discussions and negotiations.

Pursuant to subsection 801(a)(3)(A), a federal agency promulgating a rule must submit a copy of the rule, the final rule, and a concise general statement of the rule to the President of the Senate, the President pro tempore of the House, the Speaker of the House, and the Comptroller General before the rule can take effect. In addition to a copy of the rule, the final rule, and the report required under subsection 801(a)(1)(A), the report shall contain a concise general statement of the rule relating to the rule, including whether it is a major rule under the chapter, and the proposed effective date of the rule. Because the 60-day period does not cover rule-making actions that must be published in the Federal Register before they can take effect, it is not expected that the submission of the rule and the report to Congress and the Comptroller General will lead to any additional delay.

Section 808 provides the only exception to the requirement that rules must be submitted to each House of Congress and to the Comptroller General before the rule can take effect. Subsection 808(1) excepts specified rules relating to commercial, recreational, or subsistence activities. Subsection 808(2) excepts certain rules that are not subject to notice-and-comment procedures. It provides that if the relevant agency finds “for good cause” that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, [such rules] shall take effect at such time as the Federal agency promulgating the rule determines. Although rules described in section 808 shall take effect when the relevant Federal agency determines pursuant to such a finding, the agency still must submit such rules and the accompanying report to each House of Congress and to the Comptroller General as soon as possible. Pursuant to subsection 808, whichever rules described in section 808 are subject to congressional review and the expedited procedures governing joint resolutions of disapproval. Moreover, the congressional review period will not begin to run until such rules and the accompanying reports are submitted to the House of Congress and the Comptroller General.

In accordance with current House and Senate rules, covered agency rules and the accompanying reports were previously addressed and transmitted to the Speaker of the House (the Capitol, Room H-209), the President of the Senate (the Capitol, Room S-234), the Clerk of the House (GAO Building, 441 G Street, N.W., Room 1139). Except for rules described in section 808, any rule not submitted to the Congress and the Comptroller General will remain ineffective until it is submitted pursuant to subsection 801(a)(1)(A). In almost all cases, there will be sufficient time for an agency to submit notice-and-comment rules or other rules, that must be published to these legislative officers during normal office hours. If the President vetoes the bill that passed the Senate on March 29, 1995, the House of Representatives will reconvene on April 18, 1996, for the 60-day delay on the effectiveness to resolutions disapproving of proposed changes in the legislation that was attached to the debt limit bill. The House made several attempts to substitute the text of S. 942 for the House-passed version, including a provision that would have extended the effective period for any period when the House or Senate was in recess for more than three days. On November 9, 1995 both the House and Senate passed this version of the congressional review legislation as part of the debt limit extension bill. President Clinton signed the bill on November 15, 1995, for reasons unrelated to the congressional review provision.

On February 29, 1996, a House version of the congressional review legislation was published in the Congressional Record as title III of H.R. 994, which was scheduled to be brought to the House floor in the coming week. This bill was almost identical to the legislation approved by both Houses in H.R. 2586. On March 19, 1996, the Senate adopted a congressional review provision in S. 942, which was included into the Senate version of S. 219, the non-major rule extension bill. The congressional review provision in S. 942 was quite similar to S. 219, except that the delay period in the effectiveness of rules subject to congressional review and the expedited procedures governing joint resolutions of disapproval. Moreover, the congressional review period will not begin to run until such rules and the accompanying reports are submitted to the House of Congress and the Comptroller General. Pursuant to subsection 801(a)(3)(A), a major rule (as defined in subsection 802(2)) shall not take effect until at least 60 calendar days after the date on which the rule and accompanying information is submitted to Congress or the date on which the rule is published in the Federal Register, if it is so provided. If the Congress passes a joint resolution of disapproval and the President vetoes such resolution, the delay in the effectiveness of a major rule may be extended by the date on which the rule is published in the Federal Register before the rule can take effect, it is not expected that the submission of the rule and the report to Congress and the Comptroller General will lead to any additional delay.

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In the Senate, a “session day” is a calendar day in which the Senate is in session. In the House of Representatives, the same term is normally expressed as a “legislative day.” In the congressional review context, however, “session day” means a “session day” of the Senate and a “legislative day” of the House of Representatives unless the context of the sentence or paragraph indicates otherwise.
would not further delay the effective date of the rule. Moreover, pursuant to subsection 802(a)(5), the effective date of a rule shall not be delayed by this chapter beyond the date on which Congress prevents the President from rejecting a joint resolution of disapproval.

Although it is not expressly provided in the congressional review chapter, it is the authors’ intent that a joint resolution of disapproval prevent the President from enacting a law or from returning its veto to Congress within the time periods provided in subsection 801(a)(3). The situation described immediately above, no subsequent Congress may act on a joint resolution during the period of time that a major rule is in effect.

There are exceptions to the required delay in the effectiveness of a major rule beyond that provided in APA subsection 553(b)(B) or 801(a)(3) if the President determines that an expedited Senate procedure is necessary, or contrary to the public interest. A determination under subsection 801(c), subsection 804(2), or section 808 shall have no effect on the procedures to effectuate joint resolutions of disapproval.

A court may not stay or suspend the effectiveness of a rule beyond the period specified in section 801 simply because a resolution of disapproval is pending in Congress.

Subsection 802(c)–(d) specify special procedures that apply to the consideration of a joint resolution of disapproval in the Senate. Subsection 802(c) allows 30 Senators to petition for the discharge of resolution from the Committee on Rules and Administration. Subsection 802(d) provides that a joint resolution of disapproval may be introduced or referred in the Senate or the House, after the start of its next session. When a rule was submitted near the end of a Congress or prior to the adjournment of Congress in the next Congress, a joint resolution of disapproval regarding that rule may be introduced in the next Congress beginning on the 15th legislative day in the House during the 60 calendar days thereafter (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress). But if Congress did not have sufficient time in a previous session to introduce or consider a joint resolution of disapproval, the procedures to effectuate joint resolutions of disapproval in subsection 802(d), the rule and accompanying report will be treated as if they were first received by Congress on the 15th session day in the Senate, or the 15th legislative day in the House, after the start of its next session. When a rule was submitted near the end of a Congress or prior to the adjournment of Congress in the next Congress, a joint resolution of disapproval regarding that rule may be introduced in the next Congress beginning on the 15th legislative day in the House during the 60 calendar days thereafter (excluding days either House of Congress is adjourned for more than 3 days during the session) regardless of whether such a resolution was introduced in the prior Congress. Of course, any joint resolution pending from the first session of a Congress, may be considered further in the next session of the same Congress.

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normal rules of either House—with one exception. Subsection 802(f) sets forth one unique provision that does not expire in either House. Subsection 802(f) provides procedures for a joint resolution of disapproval when one House passes a joint resolution and transmits it to the other House that has not yet completed action. In both Houses, the resolution of the House to act shall not be referred to a committee but shall be held at the desk. In the Senate, a copy of a joint resolution may be considered directly only under normal Senate procedures, regardless of when it is received by the Senate. A resolution of disapproval is to be considered in the Senate immediately after its receipt, in the absence of any Senate action on the joint resolution of the second House. Subsection 802(f) is justifiably read as a separate instruction for his signature. Subsection 802(f) provides that a court or agency from inferring any intent of the Congress only when "Congress does not enact a joint resolution of disapproval." When it has not yet done so. In deciding cases or controversies properly before it, a court or agency must give effect to the intent of the Congress when such enactment becomes the law of the land. The limitation on judicial review in no way prohibits a court from determining whether a rule is in effect. Formerly, courts expected that a court might recognize that a rule has no legal effect due to the operation of subsection 801(a)(1)(A) or 801(a)(3).

Enactment of a joint resolution of disapproval for a rule that was already in effect

Subsection 803(b)(1) provides that: "Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution of disapproval of the rule shall not take effect (or continue), if the Congress enacts a joint resolution of disapproval, described under section 802, of the rule." Subsection 803(b)(2) provides that such a disapproved rule "may not be reissued in substantially the same form, and no regulation that is substantially the same as such a rule may not be issued, unless the reissued or new rule is specifically authorized by a law enacted after the date of the joint resolution disapproving the original rule." Subsection 803(b)(2) is necessary to prevent circumvention of a resolution disapproval. Nevertheless, it may have a different impact on issuing agencies depending on the nature of the underlying law that authorized the rule.

If the law that authorized the disapproved rule provides broad discretion to the issuing agency regarding the substance of such rule, the agency may exercise its broad discretion to issue a substantially different rule. Depending on the law that authorized the rule, an issuing agency may have both options. But if an agency is mandated to promulgate a particular rule and its discretion in issuing the rule is narrowly circumscribed, the enactment of a resolution of disapproval for that rule may work to prohibit the reissuance of any rule. The agency is prohibited from debating on the scope of judicial review was drafted in the recognition of the constitutional right of each House of Congress to "determine the Rules of its Proceedings," U.S. Const., art. I, §§ 5, 2, which includes being the final arbiter of parliamentary action.

The limitation on a court's review of subsidiary determination or compliance with congressional procedures, however, does not extend to judicial review of the enactment of a joint resolution of disapproval that was enacted into law. A court with proper jurisdiction may treat the congressional enactment of a joint resolution of disapproval as it would treat the enactment of any other federal law. Thus, a court with proper jurisdiction may review the resolution of disapproval and the law that authorized the disapproved rule to determine whether the issuing agency has the legal authority to issue a substantially different rule. The language of subsection 803(g) is also concerned with the issue of preventing a court or agency from inferring any intent of the Congress only when "Congress does not enact a joint resolution of disapproval." When it has not yet done so. In deciding cases or controversies properly before it, a court or agency must give effect to the intent of the Congress when such enactment becomes the law of the land. The limitation on judicial review in no way prohibits a court from determining whether a rule is in effect. Formerly, courts expected that a court might recognize that a rule has no legal effect due to the operation of subsection 801(a)(1)(A) or 801(a)(3).

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chapter, in large part, as an exercise of its oversight and legislative responsibility. Regardless of the justification for excluding or granting independence to some entities from the coverage of other laws, that justification does not apply to this chapter, where Congress has an interest in exercising its constitutional oversight and legislative responsibility over agencies, authorities, or entities covered by subsection 551(1) that establishes policies affecting any segment of the general public. Where it was necessary in special circumstances to provide, such as the exclusion for the monetary policy activities of the Board of Governors of the Federal Reserve System, rules of particular applicability, and rules of agency management and personnel. Where it was not necessary, no exemption was provided and no exemption should be inferred from the omission. The rationale is that the provision of section 806 which states that the Act applies notwithstanding any other provision of law.

The definition of a ‘major rule’

The definition of a ‘major rule’ in subsection 804(2) is taken from President Reagan’s Executive Order 12291. Although President Clinton’s Executive Order 12866 contains a definition of a ‘significant regulatory action’ that is seemingly as broad, several of the Administration’s significant rule determinations under Executive Order 12866 contain the rationale that agencies believe subsection 804(2) or 804(3) is inapplicable. The authors intend the term ‘major rule’ in this chapter to be broadly construed, including the non-numerical factors contained in the subsections.

Pursuant to subsection 804(2), the Administrator of the Office of Information and Regulatory Affairs in the Office of Management and Budget (the Administrator) must make the major rule determination. The authors intend that centralizing this function in the Administrator should provide for consistency across agencies. Moreover, from 1981-93 OIRA staff interpreted and applied the same major rule definition under E.O. 12291. Thus, the Administrator should rely on guidance developed and interpreted by OIRA during that time and previous major rule determinations from that Office as a guide in applying the statutory requirement of new rules.

Certain covered agencies, including many “independent agencies,” include their proposed rules in the Unified Regulatory Agenda published by OMB but do not normally submit their final rules to OMB for review. Moreover, interpretative rules and general statements of policy are not normally subject to notice-and-comment. The authors believe that the Administrator must make the major rule determination under this chapter whenever a new rule is issued. The Administrators of several agencies have recommended to OIRA that any agency covered by this chapter on whether a proposed rule is a major rule within the meaning of subsection 804(2), but the Administrator is responsible for the ultimate determination. Thus, all agencies or entities covered by this chapter will have to coordinate their rulemaking activity with OIRA so that the Administrator may make the final, major rule determination.

Scope of rules covered

The authors intend this chapter to be interpreted broadly with regard to the type and scope of rules subject to the Congressional review. The term “rule” in subsection 804(3) begins with the definition of a ‘rule’ in subsection 551(4) and excludes three subsets of rules that are modeled on APA sections 551 and 553. This definition of a rule does not turn on whether a given agency title 5 and title 12 notice-and-comment provisions of the APA, or whether the rule at issue is subject to any other notice-and-comment procedures. In fact, rules have been described by the courts as the ‘classic example of an interpretive rule’ within the meaning of the APA. See Wing v. Commissioner, I.R.T.C. 7 (1959). The terms whether such rules announce a general statement of policy or an interpretation of law of general applicability.

Most rules are agency actions that grant an approval, license, registration, or similar authority to a particular person or particular entities, or grant or recognize an exemption or relieve a restriction for a particular person or particular entities, or permit new or improved applications of technology for a particular person or particular entities, or allow the manufacture, distribution, sale, or use of a substance or product are exempted under subsection 804(3)(A) from the definition of a rule. This is probably the largest category of agency actions that are excluded from the definition of a rule. Examples include import and export licenses, individual rate and tariff approvals, wetlands permits, grazing permits, plant permits, drug and medical device approvals, new source review permits, hunting and fishing take limits, incidental take permits and habitat conservation plans, broadcast licenses, and product approvals, including approvals that set forth the conditions under which a product may be distributed. Subsection 804(3)(B) excludes “rules relating to agency management or personnel” from the definition of a rule. Pursuant to subsection 804(3)(B), the term, ‘agency organization, procedure, or practice’ is only excluded if it “does not substantially affect the rights or obligations of non-agency parties.” The authors’ intent in these subsections is to exclude matters of purely internal agency management and organization, but to include matters that substantially affect the rights or obligations of outside parties. The essential focus of this inquiry is not on the type of rule but on its effect on the rights or obligations of non-agency parties.

10TH ANNIVERSARY OF CHERNOBYL

Mr. LEVIN. Mr. President, on April 26, 1986, reactor number 4 at the V.I. Lenin Atomic Power Plant in Chernobyl near Kiev, Ukraine exploded. The explosion released a cloud of radioactive steam into the atmosphere reported to contain about 200 times more radioactive iodine than was released at Hiroshima and Nagasaki.

The explosion took an enormous toll on the people directly exposed to the radiation emitted from the site. Shortly after the explosion, Soviet officials admitted to 313 “anti-atomist” reactor operators and the team attempting to contain the damage. Thousands of workers were eventually exposed at the site.

However, children have been the first among the general population to suffer from the effects of the explosion at Chernobyl. Children are most susceptible to the radioactive iodine emitted from Chernobyl because of their active