The families of Bethlehem, PA, throughout the area are lucky to have a school superintendent that will fight the system in order to ensure that their children can learn the language of opportunity in America. It is time Congress takes up this fight by ending almost three decades of failed bilingual education programs and bring our educational focus back on teaching English again.

Whether it is Newsweek, whether it is a daily paper, no matter who has investigated this issue over the last 30 years, has said that changes have to be made. I am delighted now that we have a commitment that we are going to be addressing this issue in the near future here in Congress.

Let us help the brave men and dedicated men and women, like Thomas Doluisio, by passing H.R. 739, the Declaration of Official Language Act.

I thank the Speaker and the Members for yielding me this time.

PROPOSED CONSTITUTIONAL AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. SKAGGS] is recognized for 60 minutes.

Mr. SKAGGS. Mr. Speaker, let me just say, I have discussed with the gentleman from Texas [Mr. BARTON], who I believe is scheduled to have the hour special order following this one, and I think the country will be well served by a real give-and-take kind of debate on this very important issue of amending the Constitution to require a two-thirds vote by both the House and the Senate.

So I expect we are going to be yielding back and forth a lot for some questions and answers on both my time and the time of the gentleman from Texas later on. I hope it will be a useful, enlightening and serious discussion about this proposal which is way past due, because we have not had a serious, enlightened and careful discussion of this before it gets to the floor later today. In fact, the procedures that the majority has followed in scheduling this matter for the floor on April 15 really makes a mockery of the regular order that ought to be followed in bringing something of this substance and moment to the House for a vote.

Mr. Speaker, I spoke about that a little bit earlier. I am not going to belabor it again now. I do want to remind my colleagues that I, because of the abuse of process that the majority has followed in bringing this up without any vote in committee, any markup in committee, any time for Members to really examine it, I really think all possible procedural rights ought to be exercised, at least at this point in the process. But let me just talk for a moment, then I want to invite the gentleman from Virginia [Mr. MORAN], to engage on this with me, as well, talk for a moment about what, for me anyway, is one of the most central matters raised by this proposal. That is our reliance or not on the fundamental principle of majority rule in this Republic of ours.

I do want to commend the sponsors of this proposal for one thing. They recognized that if we are going to require supermajority votes to deal with any particular kind of legislation, in this case taxes, then you have got to put it in the Constitution. I think, in effect, they concede that the attempt made by the House a year ago January to do this by a mere change in House rules is constitutionally improper.

But I oppose this amendment, as I say, primarily because it violates what James Madison, the principal architect of the Constitution, and of its defense during the debate on ratification, what he called the fundamental principle of free government, and that is the principle of majority rule.

The Constitution makes very few exceptions to that principle, and none of them has to do with the core ongoing responsibility of governance, which includes, among other things, of course, how we raise the revenues necessary to fund the responsibilities that the Federal Government has. I believe we should be very, very wary of extending any of the existing supermajority exceptions to other areas, especially if it would complicate the essential responsibilities and competency of the Government.

Mr. Speaker, I think we need to be particularly aware of the fact that it is a logical corollary of any time we require a supermajority to do anything that we are giving effective control on that issue to the minority. You cannot have it any other way. Under this proposed amendment, that majority could be comprised of as few as 34 Members of the U.S. Senate, representing less than 10 percent of the American people. They would have effective power to control the Government's revenue and tax policy.

Now, that is bad enough as a matter of basic democratic theory and philosophy, but I think, putting that to one side, if we really look at what is likely to happen were this proposal to get into the Constitution, we will be amazed at the absurdly impractical consequences that will flow from it, some intended, perhaps, I suspect many of them unintended.

Let me just take a look at some of those that seem to me to be most significant. First of all, if this were in the Constitution, it would for all practical purposes lock into law whatever the then-current tax structure of the country might be at the time of the amendment's ratification, because I would suggest to you that it will be extremely difficult to meet the two-third vote requirement necessary to make any significant overhaul of the tax system. There may be some tinkering around the edges that could command two-thirds.

So if you like the tax system the way it is now, or if you have supreme confidence that some future Congress is going to get it just right before this amendment might be ratified by the States, then sure, embrace this. I simply do not have that level of confidence, certainly in the way the tax laws now are, or in the supreme wisdom of some future Congress that may adopt some reform or overhaul of the Tax Code to have gotten it just right later. But we should be aware that we are really buying into whatever the then-state of affairs happens to be at the time of ratification.

I think another consequence of this proposal would be to greatly complicate our efforts to balance the budget, which ought to be the central goal that we unite behind right now, particularly complicate the efforts to balance the budget as it relates to changes that will reduce the growth in entitlement programs. We all know that is where the money really is, if we are ever going to get this deficit problem under control.

Another reason that I think we ought to think long and hard and then reject this proposal is that as with the current rule of the House requiring, except when it is waived, which is always, requiring a three-fifths vote whenever there is a tax increase, this constitutional proposal is vague and will almost certainly generate confusion and litigation and, I believe, basically put the validity of most future tax legislation on hold for whatever period of time it takes for the courts to go through and parse out the language of this proposed amendment, deciding what is meant by some ''reasonable'' act of a future Congress to define what is meant by ''de minimis'' and any number of other vagaries that are inherent in this proposal.

☐ 1445

I have got a number of other points that I may get around to as the debate continues this afternoon, but my colleague from Virginia, Mr. MORAN, has really put in a great deal of time and effort in examining this proposal. I know he has a lot of things on his mind about this, and I would be pleased to yield at this time.

Mr. MORAN. I thank my very good friend from Colorado for yielding to me and for his valiant efforts to resist the political temptation to vote for a constitutional amendment which is really little more than political grandstanding.

Now there are any number of reasons that Members could choose to vote this down. They could vote it down because we already have a rule that requires a three-fifths vote to increase taxes and every time that it has applied to legislation the Committee on Rules has waived that rule.

They could vote it down because it is bad public policy. It says essentially that whatever is in the Tax Code now stays because it is going to be almost impossible to change it. It is going to be impossible to close the corporate

loopholes. Even things like capital gains reductions which are expected to increase revenue would be in violation of this legislation which says that—a piece of legislation that increases revenues by more than a de minimis amount requires a two-thirds vote.

They could vote it down because this debate has already occurred. This debate took place during the Constitutional Convention of 1787. Article IX of the Articles of Confederation required a supermajority vote to increase taxes, and it was found that it did not work. So they had to go back. They had to correct it because they realized that on a tough vote it is hard enough to get a majority of Members to do the courageous and right thing, let alone two-thirds of the body.

Mr. SKAGGS. Could I engage the gentleman just on that point because, you know, you stop to think of it, we would not have this Constitution to amend had it not been for the fact that a supermajority provision in the Articles of Confederation, just like the amendment that the proponents are proposing, was found to completely paralyze the then new National government of America. Is that not correct?

Mr. MORAN. It is absolutely correct. You know, I think that this amendment in some ways shows almost a contempt for the wisdom of our Founding Fathers. They tried to do what this does because they knew the political expediency of making it very difficult to increase taxes. But it brought our country into gridlock, and so that is why they had to go back in 1787 to say the only way we are going to move forward and realize our potential as a nation is if the majority rules; in other words, if every Representative has an equal vote. If you say that you require two-thirds, then the majority does not have an equal vote. The people who have a disproportionate vote are those in the minority because it only takes one-third plus one to prevent the will of the majority from becoming law.

Now this is particularly applicable in the Senate. In the Senate, as you know, every State, no matter how many people are in that State, have two Senators. There are 17 States that represent less than 10 percent of the American population. Those 17 States just happen to be represented by 34 Senators, one-third plus one. So that 10 percent has a disproportionate influence upon the course of legislation.

Now imagine, why should 10 percent of the people be represented by people who can thwart the bill of the majority of 90 percent of the population? That is not democracy, that is not equal representation. When you get into issues like a gas tax or any number of things that might affect rural areas more than urban areas, this becomes particularly apt.

Mr. SKAGGS. Let me interrupt the gentleman on this point as well, because I think it really bears looking at some concrete examples. As the gentleman has pointed out, a piece of legislation could pass the House, the body that directly represents people in this country, by an overwhelming majority, unlikely in the case of a tax bill because they are so difficult to pass, but let us say for the sake of example, and then be held hostage by 34 Senators even though 66 Senators might also agree that it is in the national interest. Or in a close case in the House, 146 of our colleagues here could stand in the way of the will expressed by 289 of our colleagues in the House, the one-third plus one that the gentleman points out.

Now is that really the kind of dramatic shift away from the fundamental principle of free government that Madison wrote about so persuasively over 200 years ago that is in the national interest? I fail to see the point.

Mr. MORAN. I think obviously the answer lies in the question. It is not. It is an aberration of what our Founding Fathers intended, and I think this is a terribly important point. You know, if I were a lobbyist for a corporation that was using a loophole to get billions of dollars of tax preferences, and we can name any number of them, I do not think we need to be specific, but we know that there are about $400 billion of tax preferences in our Tax Code where people can make a legitimate argument of uneven treatment. But if I were a corporation or a wealthy individual; for example, if I was one of these very wealthy individuals who decided that I did not want to pay taxes on gains I had made in this country, so I denounced my citizenship and decided I am going to claim my citizenship offshore, some island or whatever, and even though I can still live here 6 months, or 1 day less than 6 months, or whatever the law is, I would know the law, and in fact I do not have to change my standard of living or my annual vacation plans, I just decide I am no longer an U.S. citizen. I denounce my citizenship, I live someplace else and, thus, save billions of dollars in total on gains made in this United States.

We tried to get—and I will just finish this statement—we tried to get legislation through that would have saved $3.6 billion over 10 years just from a handful of wealthy families who denounced their American citizenship. We could not change that, we could not do the people's will to make them pay taxes on gains incurred in this country because all they would have to do is to go after those few folk over in the Senate, if they could not do it in the House, and, simply, they do not have to deal with the majority, with 67 percent. All they have to do is deal with one-third, and focus on them, and thwart the will of the majority.

Mr. SKAGGS. Well, certainly in my frame of reference $3.6 billion is not a, quote, de minimis, unquote, amount, which is the exception made on this proposed constitutional amendment. So, if I understand the gentleman, it would require the concurrence of two-thirds of both the House and the Senate even to get at such an egregious flaunting and flouting of fairness in our Tax Code as this expatriate tax break provision that you so well described.

You know, one of the other ironies in this is, because of the way this proposal is worded in talking about not raising internal revenues by more than a de minimis amount, rather than not raising tax rates or tax base, that we could end up being hung up over even passing a capital gains tax cut because certainly the advocates of a capital gains tax cut argue that it would increase revenues in some of the economic forecasting models that are used. So it seems to me that we are in the absolutely crazy situation in which it could even require two-thirds of the House and the Senate to adopt a cut in rates that the advocates claim would result in an increase in revenues.

Is that the way the gentleman reads this?

Mr. MORAN. It is exactly the way I read it, and it is the way that Mr. DREIER, who is one of the leaders on the Republican majority, reads it as well. In the Committee on Rules, consideration of this legislation said, well, what a minute, the way this is worded is that if you cut capital gains, and it does as we say that it does, we purport that it will substantially increase revenue in the first couple years, and that is probably true. As far as I am concerned, I think it probably does do that. In the outyears it may be a more problematic situation, but in the initial years people are going to sell their stocks and assets more quickly. It will raise revenue, but that means that you are going to have to get two-thirds of this body and two-thirds of the Senate to approve it because it increases revenue certainly by more than a de minimis amount.

Talk about the law of unintended consequences.

Mr. SKAGGS. If I may interrupt the gentleman again, as I mentioned at the outset, the gentleman from Texas, who is the principal sponsor of this proposal, and I agreed we would try to have a free exchange. I see he is on his feet. Perhaps he can enlighten us as to what that wonderful lawyer Latin phrase ''de minimis'' really means and how some future Congress will be able to make some sense out of this.

Mr. BARTON of Texas. I thank the distinguished gentleman from Colorado for yielding, and I am going to make two points, and then I am going to yield back since it is your time. I wanted to focus on this, the majority argument that you were speaking of, but before I do that I want to directly answer the question on de minimis. It is our intent that de minimis is equal or less, and in an economy that is $6 trillion, if you want to put a figure on it, in the implementation language and in the colloquy that we will have with the chairman of the Ways and Means Committee later this evening, we are going to say de minimis is one-tenth of 1 percent or less. So that is the number, but

de minimis is defined as negligible, or minimal, or having little or no value.

Mr. SKAGGS. One-half of 1 percent of GDP or one-tenth of 1 percent of GDP—or of Federal revenues?

Mr. BARTON of Texas. One-tenth of 1 percent of the existing revenue that is being generated by the current tax system.

Mr. SKAGGS. But would the gentleman agree there is nothing to prevent some future Congress from coming up with whatever arbitrary definition of de minimis it might see fit to impose?

Mr. BARTON of Texas. That is certainly true. A future Congress could change the implementation standard.

Mr. SKAGGS. Or is that the case, because it talks about reasonable legislation. Are we going to have the courts deciding whether a Congress has reasonably exercised its judgment about what de minimis means?

Mr. BARTON of Texas. This constitutional amendment, as all constitutional amendments, are subject to court review, which as a strict constitutionist I know that the gentleman from Colorado would support that.

Mr. SKAGGS. But let me yield to the gentleman from Virginia.

Mr. MORAN. If I might suggest to my friend from Texas, the Constitution is not a rough working draft. You know, here we are, for the first time you are telling us what the words ''de minimis'' mean, which you want to put into the Constitution. Well, what you are saying is, as I calculate it, anything that is less than $1½ billion, $1,500,000,000 could be considered de minimis. Is that——

Mr. BARTON of Texas. That is over an extended period of time based on the existing Tax Code. But obviously the gentleman from Virginia can go to the Webster's Dictionary and—we picked the least offensive word that we could to put in. The intent is to, in a broad sense, keep the tax burden, the Federal tax burden, on the American people in 19 percent or less, which it has been historically.

Mr. SKAGGS. As someone who studied Latin for 4 years, I do not find de minimis offensive, I just find it vague and confusing as something to put into the U.S. Constitution.

Now would it not have been preferable for this to go through the committee process so that we can really examine exactly what these terms mean before we vote on putting them into the Constitution?

□ 1500

Mr. BARTON of Texas. Mr. Speaker, If the gentleman will continue to yield, I think there is some validity to that concern. We did have one hearing at the Committee on the Judiciary subcommittee. I certainly was not opposed to hearings at the full committee. For whatever reason, those hearings were not held.

I will point out, and the gentleman knows as well as I do, as part of the balanced budget debate, we have had debates on the House floor four times in which the tax limitation balanced budget amendment was one of the amendments that was voted upon. As has been pointed out in the opening statements of the two gentlemen in this special order, we did have a short debate on the three-fifths vote for an income tax increase as a rule change at the start of this Congress. It is not as if this subject has never been debated on the floor.

I would also point out, Mr. Speaker, and the gentleman knows this also, this is not physics and rocket science. The American taxpayer very quickly grasps that two-thirds is a higher fraction than one-half.

Mr. SKAGGS. Reclaiming my time, Mr. Speaker, if the gentleman is making the claim that yes, this has great symbolic value as a bit of political rhetoric, I will concede that. But why do we have to do this, making such a rush of what ought to be the normal deliberative process that the House should go through, especially when we are talking about amending the Constitution?

As the gentleman knows, the language that we are supposed to vote on later today has never been the subject of a committee hearing or markup. In fact, it was introduced on the Thursday night before we left town for 2 weeks on Friday a couple of weeks ago. Is that not an extraordinary rush to judgment on something as complex and serious as amending the Constitution? And is not in fact the reason that this did not go to committee that the Committee on the Judiciary was seen as unwilling to mark up and report a proposal like this out?

Mr. BARTON of Texas. Mr. Speaker, if the gentleman will continue to yield, I will concede the gentleman's point that more debate at the committee would have certainly been in order. I am not going to deny that. I will point out, though, that the day after the vote on the tax limitation balanced budget amendment, I believe in February 1995, the Speaker of the House said that we would have a vote on the tax limitation amendment as a stand-alone amendment on April 15 or near April 15, 1996, so the concept has been out there for a year.

We certainly have had numerous hearings on it in some of the think tanks and things of this sort, so it is not as if this is a brand new concept that people have trouble grasping.

Mr. SKAGGS. If I may, Mr. Speaker, is it not correct that this proposal, the one we will vote on in the U.S. House of Representatives later today, perhaps——

Mr. BARTON of Texas. Hopefully today.

Mr. SKAGGS. That this language never existed on paper until the Thursday before this 2-week break and has never been the subject of a hearing in any committee of the Congress, much less being marked up by the committee of jurisdiction, the Committee on the Judiciary? Is that not correct?

Mr. BARTON of Texas. That is not quite correct.

Mr. SKAGGS. What is wrong with that statement?

Mr. BARTON of Texas. It was the subject of a hearing in the Committee on Rules when we went to the Committee on Rules to ask for consideration today.

Mr. SKAGGS. That was the morning after it was first introduced, is that correct?

Mr. BARTON of Texas. That is not the Committee on the Judiciary. But if I could, I would like to talk about your principle of majority rule. I think you said that there were 10 States, or 10 percent of the population had 34 Senators. I am going to just read the presentment clause in the Constitution. It says: Every bill shall have passed the House of Representatives and the Senate before it becomes a law, be presented to the President of the United States. ''Shall have passed.'' It does not say ''shall have passed by a majority,'' or ''shall have passed by a supermajority.'' It just says ''shall have passed.''

In the original Constitution there were 7 two-thirds supermajority requirements: Conviction in impeachment trials, article II, section 3, clause 6; expulsion of a Member of Congress, article I, section 5, clause 2; override of a Presidential veto, article I, section 7, clause 2, quorum of two-thirds of the States to elect the President, article II, section 1, clause 3; consent to a treaty, article II, section 2, clause 2; proposing constitutional amendments which is what we are doing today, article V; and State ratification of the original Constitution, article VII.

Since that time, there have been 3 additional two-thirds supermajority vote requirements added to the Constitution, which brings the number to 10. The purpose of a supermajority requirement, in my opinion, and if you read the Federalist papers and some of the writings of James Madison, it was felt that if the issue was large enough that it needs more than a slim majority, that you really need consensus, you need a supermajority or a two-thirds vote.

Certainly in today's era, it is this gentleman's opinion that raising taxes any higher than they already are is one of those occasions that we need to amend the Constitution and require a supermajority.

Mr. SKAGGS. Let me just say, I believe the gentleman's recitation proves my point, because none of the examples that the gentleman cites for requiring supermajorities has anything to do with the presentment clause. None of those examples involves the presentment of legislation to the President for his approval or disapproval or veto. In fact, they all have to do with extraordinary matters in the course of conducting the business of the country. None of them has to do with the core

legislative responsibilities of the Congress. And in fact, it is very clear from the fact that the framers, during the course of the Constitutional Convention, considered and rejected several times proposals to attach supermajority requirements to particular legislative matters, that it was not contemplated by them that the presentment clause could be some kind of excuse, covering the advisability of any supermajority requirement for regular legislative business.

So the gentleman's points are accurate as far as they go. They simply are irrelevant to the validity or not of the argument about the importance of majority rule as a central tenet of free government.

Mr. MORAN. Mr. Speaker, if the gentleman will continue to yield, I thank my friend for underscoring that point. In fact, it might strike one as the height of arrogance to think that after our Founding Fathers put together a Constitution that has withstood the test of time and made us the strongest country in the world economically, socially, and militarily and every other way, that after they debated this issue at length and decided several times that a supermajority would not work to come up with the revenue necessary to finance the expenses of our Government, now we want to come up, without committee hearings, and to second-guess, to change their decision. It strikes me, Mr. Speaker, as not particularly wise or, more importantly, consistent with the intent of our Founding Fathers.

Mr. Speaker, we may sometimes be in the posture of taking the less conservative approach. I think right now we are taking a very conservative approach. Do not treat our Constitution as a rough working draft. Recognize the wisdom that went into this Constitution.

My friend, the gentleman from Texas, has said that de minimis, the term de minimis was chosen because it was the least offensive term. I do not think that really ought to be the criteria by which we make legislation.

When we define it now, for the first time that I am aware of, as one-tenth of 1 percent of the Federal gross revenue, which is about $1.5 billion, I need to ask the gentleman, does this apply to that expatriate loophole where a few families can save themselves millions and millions of dollars by simply renouncing their American citizenship? That is a loophole that I would hope many of us would want and eventually will be able to close. Does that preclude us from being able to do that with a majority vote of this House?

Mr. BARTON of Texas. Mr. Speaker, if the gentleman will yield further, first of all we are not here to either praise Caesar or bury Caesar, Caesar being the current Tax Code; we are here to come up with an amendment to make it more difficult to raise taxes.

I guess what I might have said when I said ''least offensive,'' we wanted to use a term that was as close to revenue neutrality as possible, without saying revenue-neutral, because it is physically impossible if you want to change the entire tax system or you want to monitor it or modify it in some way, to speculate down to the penny that the change is not going to increase taxes. So de minimis was as close to revenue-neutral in terms of terminology as we could get.

Mr. MORAN. If I could suggest to the gentleman, $360 million is not exactly getting down to the penny. That is the amount of money that we would recoup if we simply made people pay taxes on gains generated here in the United States, rather than being able to denounce their citizenship and claim another residence to avoid taxes. That is $360 million annually, $3.6 billion over 10 years. But you are saying that if it is less than $1.5 billion, it does not count, it is de minimis. I do not know a lot of American families that consider $1.5 billion de minimis.

We need to know how many of these tax loopholes are going to be precluded from being closed with your legislation.

Mr. BARTON of Texas. If the gentleman will continue to yield, this legislation does not preclude any tax loophole from being closed. This gentleman from Texas is not on the Committee on Ways and Means. I believe each of you two gentlemen is. I may be incorrect in that assumption. So you and the other members of the Committee on Ways and Means can do whatever you want. If you pass a tax law that has the effect of raising the tax burden on the American people more than a de minimis amount, it will take a two-thirds vote. If you want to change taxes, cut taxes, you want to lower revenues, you can do that with a simple majority vote.

Mr. SKAGGS. Mr. Speaker, let me look at another recent example in our collective experience here earlier in this Congress. When we took up the majority's reconciliation bill last fall, I believe as I recall, there was a significant revenue-raising component to that, including changes in the Medicare part B premium.

I happen to think that we are going to need to deal with that aspect of the Medicare Program in order to put it on a sound financial footing eventually. I was not one to criticize that very difficult political choice that the majority brought to us at that time. But the amount of money involved in that Medicare proposal, I think over whatever economic timeframe you want to look at, was significantly more than the expatriate tax loophole involves, some tens of billions of dollars. The reconciliation bill including that provision did not muster anything close to two-thirds vote.

I think therein lies the problem, and the responsibility that we have to examine the consequences of what you are proposing that we do, not merely to discuss this in terms of the abstract notion that we are fed up with high taxes, but is this workable?

If we are going to have a deal with entitlement reform fairly and sensibly, which by most accounts involves asking wealthier Americans to pay more for their health care if they are able to, we are doing to be facing, if this is in the Constitution, a requirement of getting two-thirds. We know how difficult it is to pass something like that, because it is the political third rail of American politics; how difficult it is to get a simple majority. If we have to get a supermajority to deal with the wealthy end of things, and we cannot, what will be the course of least resistance? It is going to be cutting the benefits on the poor, which we can do by a simple majority.

I invite the gentleman's response to that conundrum.

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

Mr. SKAGGS. I yield to the gentleman from Arizona.

Mr. SHADEGG. Mr. Speaker, the fundamental essence of the gentleman's question is, is this workable. I believe the answer is, indeed, clearly it is workable. I think the language or the points that you make now highlight the difference between that language which is before this body today and the language of the rule, because what we have done is to let go of the original language proposed in the constitutional amendment introduced by the gentleman from Texas [Mr. BARTON] and indeed embraced a different concept.

That language would have said any increase in any tax rate or any increase in the base to which a tax is applied would require a supermajority; thus, the difficulty which you found in the language. Some would argue that, indeed, that is the preferable way to go, because it would mean that not only would we hold down increases but we would stop changing the Tax Code on a daily basis. Indeed, we made some 4,000 changes of one kind or another in the Tax Code in the last decade. But that is not the language that is before us today.

The language of the rule which you just raised, the language which, indeed, was constrained by rule, the legislation you referred to, is not the language that is before us today. The language that is before us today embraces the concept of revenue neutrality, and, indeed, that is the language which we put in the Arizona Constitution in 1992, and which has been placed in many other constitutions.

Mr. SKAGGS. Reclaiming my time, Mr. Speaker, I believe the gentleman from Arizona, who was just addressing the House, supported the majority's reconciliation bill, which included the significant adjustment in Medicare premiums, way more than a de minimis amount. Does the gentleman not agree that that is a difficult political hurdle to get over by a simple majority, much less by a two-thirds majority, and that if we are going to do fair entitlement reform, it is exactly the kind of tough

choice that a future House is going to have to make? Yet you are making it next to impossible for us to do exactly what is best advised for fair entitlement reform.

Mr. SHADEGG. If I can make one quick point, and then I would like to allow my colleague, the gentleman from Texas, to be able to respond, first, the fundamental point here is that you could accomplish any of that with a simple majority provided it was tax-neutral. So were you to raise a premium, you could offset that by lowering a tax on some other location. I believe, however, as the gentleman from Texas [Mr. BARTON] will point out, it did not apply to this instance at all.

□ 1515

Mr. BARTON of Texas. On that specific point, as you know, Medicare consists of two different parts, part A and part B. Medicare part A is funded by a tax, and you have to pay it if you are working in this country. I believe it is 1.2 percent, but it is certainly a tax.

Medicare part B is not mandatory, it is voluntary. Admittedly 94 or 95 percent of the American senior citizens choose to participate in Part B, but it is voluntary. Those that choose understand if they so choose they have to pay part of the premium.

Under the resolution that is on the floor today, it would not take a two-thirds vote to change the medicare part B premium. It would take a two-thirds vote to raise the part A tax, unless at the same time you lower taxes on that part.

Mr. SKAGGS. Reclaiming my time, I beg to differ with the gentleman. The gentleman's proposed constitutional amendment talks about any increase in the internal revenues—it does not talk about Internal Revenue Code—the internal revenues by more than a de minimis amount, made by any change in the law.

Whether Medicare part B is voluntary or not, you are certainly talking about changes in the law that drive a major, not a de minimis, a major increase in internal revenue.

Mr. BARTON of Texas. I will stand by what I say. I believe that my explanation is correct.

Mr. SKAGGS. Here again, would the gentleman agree, this is the kind of discussion and debate that ought to have occurred in the Committee on the Judiciary, so we could have had appropriate refinements made to clear up what is a fundamental area of vagueness and therefore potential uncertainty and litigations? That is why we should not be voting on this out of the regular order as we are going to.

Mr. BARTON of Texas. I am not opposed to more debate on it.

Mr. SKAGGS. Would the gentleman join me in moving to send this back to the Committee on the Judiciary so it can be the subject of hearings and markup?

Mr. BARTON of Texas. I will certainly join the Member in having hearings. After we pass it this evening with a two-thirds vote, we can continue to have these hearings.

Mr. SKAGGS. So we are going to decide what we have done after we have already passed it. That is a terrific standing of things on their heads.

Mr. BARTON of Texas. Again, the concept is not one that you have to be a physics major to understand. If you would realize that two-thirds is a larger number than one-half, you have grasped the principle that we are trying to establish.

Mr. SKAGGS. Let me yield to the gentleman from Virginia.

Mr. MORAN. If I might suggest to my colleague from Texas, we are not suggesting that our colleagues need to be physics majors but they ought to be responsible legislators, particularly when we are attempting to change the Constitution of the United States. We ought to know the definition of some of the terms.

You just threw out the idea that de minimis means $1.5 billion. Does that mean annually, or does that mean if you raise $1.5 billion over 5 years or 7 years or 10 years? None of these answers are evident.

Also, user fees, we are talking about going to a system where we can have user fees for bridges and for roads and for national parks and the like. Are user fees included here? If you read the language of the legislation we were given, the constitutional amendment, certainly they are because that is internal revenue being generated.

I do not think we ought to be, as I suggested, treating the Constitution as some kind of working draft that we can amend as the notion comes to us, either on the floor of the House or even in committee or in any personal way. What we ought to be doing is enabling all the Members of this body to understand fully the consequences of their actions. We have that responsibility, and that is not the responsibility of a nuclear physicist but it certainly is the responsibility of a Member of the House of Representatives.

Mr. SKAGGS. Let me ask the gentleman from Texas, since he is the authoritative person in interpreting this language, what does the amendment contemplate by the phrase ''internal revenues''? Is that as distinguished from external revenue, tariffs and excises?

Mr. BARTON of Texas. Internal revenue is certainly the internal income tax system, the internal revenue system of this Nation, and it is taxes that have to be paid by the American people. To the gentleman from Virginia, when he talked about user fees, you could certainly raise the user fee to the national parks by a majority vote. That is not part of the Internal Revenue Code of this Nation.

We will have the chairman of the Committee on Ways and Means on the House floor sometime this evening, and the chairman and I will engage in a colloquy in which just those kinds of questions are asked and answered.

Mr. SKAGGS. If I can reclaim my time, if the gentleman meant raising income taxes by more than a de minimis amount, why did the gentleman not use that term in the constitutional amendment rather than the term internal revenue, which has a much broader connotation to it than income taxes do?

Mr. BARTON of Texas. Well, there are some other broad-based taxes.

Mr. SKAGGS. Well, then, what would those be?

Mr. BARTON of Texas. The Social Security tax as a payroll tax is one.

Mr. SKAGGS. Why not the Medicare tax?

Mr. BARTON of Texas. The Medicare part A is a payroll tax.

Mr. SKAGGS. Why not the Medicare part B?

Mr. BARTON of Texas. Because that is voluntary. That is not a tax.

Mr. SKAGGS. But that is part of the Internal Revenue Code.

Mr. BARTON of Texas. That is a premium.

Mr. SKAGGS. It is part of the Internal Revenue Code, is it not?

Mr. BARTON of Texas. You can choose not to pay that. That is voluntary.

Mr. SKAGGS. Is it part of the Internal Revenue Code?

Mr. BARTON of Texas. Is the gentleman from Colorado paying that premium right now?

Mr. SKAGGS. The gentleman is not over 65, despite my appearance.

Mr. BARTON of Texas. You are not.

Mr. SKAGGS. Is it not part of the Internal Revenue Code?

Mr. BARTON of Texas. But you are paying the part A tax now.

Mr. SKAGGS. Right.

I submit that this is a very artful redefinition on the fly of these terms in a proposed amendment to the fundamental charter of the country, and we do not know what we mean.

Mr. BARTON of Texas. It is the gentleman's time and he has been very gracious and I think this is helpful. I do not want to abuse his time. But as in any constitutional amendment if we pass it, and in my opinion it is not if we pass it, it is when we pass it, there will be obviously implementation language, implementation law, legislation, as in any constitutional amendment. These types of questions will be extensively debated in the committee, on the floor, in conference with the Senate, in conjunction with the President and the Cabinet officers involved in the particular debate and I am absolutely confident that the democratic process will yield satisfactory answers to these questions.

The basic principle, once again, is making it more difficult to raise revenue, the tax burden of the American taxpayer, and I do not think there is any misunderstanding about that between the two distinguished gentlemen on the Democratic side, or certainly myself and the gentleman from Arizona [Mr. SHADEGG] on the Republican

side. That is the principle that we are debating.

Mr. SKAGGS. Reclaiming my time, I submit that there is a fundamental disagreement about what we mean. What the gentleman is saying is that, ''Well, we may not know what we mean today when we're amending the Constitution, but we'll figure it out some later time.''

I think that is really getting things backward. We need as much as we possibly can, and I think our discussion reveals that we do not yet have as clear an understanding as we possible can of the import of the gentleman's words in this proposed amendment.

Certainly most provisions of the Constitution have been subject to some litigation. We should not, however, go out of our way to leave terminology so vague and confusing as to unnecessarily invite a plethora of litigation and uncertainty in this area which ought to have, as much as we possibly can, some sense of precision and certainty.

Let me yield to my friend from Virginia again.

Mr. MORAN. I would underscore the point that my friend from Colorado has been making. We ought not be flying blind on legislation to amend the Constitution of the United States, not even knowing what the terms mean, not even getting it out of subcommittee or having consideration by the full committee, bringing it to the floor.

A lot of concepts have been around for a long time, but most of them the majority would never consider bringing to the floor without having full consideration by people, both Members and staff, to be able to look at this legislation, to understand what these terms mean, to be able to inform the Members so that they know what they are voting on. That is the first flaw.

This morning I had a little debate on a morning news show with Grover Norquist, head of Americans for Tax Reform, who came up with this idea and has been promoting it, and he made the same point that our colleague from Arizona, Mr. SHADEGG, has made with regard to the number of States, and the gentleman from Texas, Mr. BARTON, I know, has made it, who have these kinds of supermajority requirements.

But let me suggest there are some differences between those State budgets and the constraints they are under and the Federal budget. For one thing, States can borrow money, and most States do. Most States are able to get their capital money through long-term indebtedness. We cannot do that. We are on a pay-as-you-go basis. We have a current cash accounting system.

Another thing that States can do that we cannot do is go to the Federal Government as a funder of last resort. Look what happened in California, and I think Arizona was involved, any number of other States have been involved actually this year in any number of natural disasters. Florida. I will not list the whole number of States, but a great many States were victims of natural disasters this year.

They did not have the money in their budget. With some of them they did not have the money because it would have been too difficult to raise the revenue necessary, so they turned to the U.S. Government to fund the costs of repairing and rebuilding.

We have no one to turn to. In fact, I understand there is an exception: If war has been declared, then you can raise money. But there are any number of other things that could happen to this country that would necessitate us raising substantial revenue for the public good, the common good of this country.

We do not know what is going to happen in the future, and it may be a whole lot of these disasters that might occur at the same time. It may necessitate us raising revenue. But to think that 17 States that represent 10 percent of the population have the ability to thwart our responsibility to fund the needs of this country, those States may very well not experience a natural disaster, so it would be in the interest of those particular Senators and Members of Congress not to vote for that revenue raising.

But certainly if a majority of this body and the Senate thinks that it is necessary and is willing to show the political courage to vote to raise revenue for the common good of this country, then they ought to be able to do so and should not be thwarted, should not have their vote minimized, de minimized, if you would, by this legislation. That is exactly what this constitutional amendment would do.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I have great sympathy for the gentleman from Virginia when he talks about a certain number of States with a small percent of the population thwarting the will of the majority. Texas and Colorado were not in the original 13 Colonies. Virginia was. It was one of the big States, but it lost on that issue. It was called the great compromise. The House was the representative of the people, the Senate representative of the States. I can be sympathetic with you, but we lost that fight 200 years ago.

Mr. SKAGGS. Let me, if I may, pose another question to the gentleman about his language in this proposed amendment, and the gentleman from Virginia was touching on this. It provides that a majority could raise revenue either if there is a declared war, which we of course know happens rarely, or if the country is engaged in military conflict.

Mr. BARTON of Texas. Serious military conflict.

Mr. SKAGGS. Is it correct to interpret the military conflict language as involving a shooting conflict of some kind?

Mr. BARTON of Texas. Yes. It would not apply to the gentleman from Virginia's comments about floods and droughts.

Mr. SKAGGS. So it would not apply to the circumstance that the country endured for the better part of 40 years, namely, the cold war?

Mr. BARTON of Texas. It would not, no, sir. Unless you did it with a two-thirds vote.

Mr. SKAGGS. So if I understand this phrase correctly, if we were facing again that kind of dire threat to the national security but one that, God willing, does not get to the point of a shooting war, but nonetheless demanded the preparation of our military defenses in a way that required raising more money, it would take two-thirds to do that.

Mr. BARTON of Texas. That is correct.

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Mr. SKAGGS. Mr. Speaker, I am sure the gentleman is aware of the fact that on the eve of the prior two World Wars, we could barely muster a majority of this body to start facing up to that challenge to our own national security.

Mr. BARTON of Texas. On the eve of what we now call the First World War is when we got the 16th amendment that made the income tax constitutional. On the eve of the second war, which we now call World War II, we were in the throes of the Great Depression, and not only were we not spending much on military preparedness, we were not spending much on anything.

Mr. SKAGGS. The gentleman is well aware that the then sitting Congresses were sharply divided and we could barely muster a majority vote to start the preparations that were ultimately necessary for this great Nation to fulfill its international responsibilities and to protect itself. That is exactly the kind of corner this language is likely to put this country in in some future difficulty if it were to become part of the Constitution.

Mr. BARTON of Texas. But, of course, the response to that is that living in the future, living in the present, we are the world's greatest military power. No one questions that. We spend a higher percentage of our GNP today on military preparedness than we did before World War I or World War II. We are not in the dismal shape that we were in terms of military defenses.

Mr. SKAGGS. As the gentleman knows, if we put this in the Constitution, it is likely to be there for all time.

Mr. BARTON of Texas. We hope.

Mr. SKAGGS. Maybe the gentleman's crystal ball is clearer than mine in understanding now what lies ahead. If I can inquire of the Chair how much time remains.

The SPEAKER pro tempore (Mr. EWING). Six minutes remain.

Mr. SKAGGS. The gentleman from Virginia.

Mr. MORAN. I might remind the gentleman from Texas that one of the reasons why we are the strongest military

power is that we spent money that we did not have, particularly during the 1980's.

But what I think is more important to remind the gentleman is that none of the budget reconciliation measures proposed by President Reagan would have passed during the 1980's. None of them got two-thirds of a vote.

There is only one budget reconciliation measure, which was a minor one, in 1989 that passed with more than two-thirds. But it passed because it was minor. It was an easy vote. These others were not easy votes. It is never an easy vote to balance the budget, to come even closer to balancing the budget than we are doing today.

It certainly was not an easy vote to vote for the budget reconciliation measure in 1993, even though it raised money from the top 1.2 percent of Americans and, in fact, through any number of other measures actually reduced our deficit for 3 years in a row, generated over $500 billion of deficit reduction. That passed, as was suggested. If one Member of Congress had switched their vote, it would not have passed.

Now if you think that any responsible budget balancing measure is going to get through this House with a two-thirds requirement, you do not understand the dynamics of politics in America today. But that does not mean that we should not try to be, to propose votes that will require political courage, to try to continue to work to balance our budget, to reduce the amount of indebtedness, to reduce that interest.

If it was not for the interest on the debt created during the 1980's—because we cut taxes and did not cut expenditures, if it were not for the interest accumulated during that period of time—we would have a surplus in the budget today. We cannot raise taxes. We can cut them very easily. We can do it at the drop of an eyelid, and this is the kind of easy vote, to vote against the possibility of the Congress acting responsibly on budgetary and tax matters. But that is why it is wrong. It would be the irresponsible thing for the Members of this Congress to vote for today.

Mr. SKAGGS. You know, we look at history not just because it is fascinating to know where we have come from, but because it is also often instructive about the present and the future. And I think it is very useful to again go back to the debates in the Constitutional Convention about just this sort of provision, when the Framers seriously deliberated on the question of whether certain legislative subjects should be, should have a requirement of supermajorities to legislate. They understood because of their experience under the Articles of Confederation that this was a prescription for gridlock and paralysis. That is why we had a Constitutional Convention, to get us out of that problem.

One thing I believe we can always be sure of, we cannot predict the future. We do not know on April 15, 1996, what a Congress in April 2096 is going to be facing. And yet we are basically saying we do not trust them to have the tools that they are going to require to be good stewards of this Nation's future, that we are so arrogant this year that we will deprive them of the fundamental tools of governing this country by virtue of passing an amendment such as this.

I think it is extraordinarily ill-advised, even if we understood, which clearly from the debate over the last hour we do not understand, the meaning of the specific words being proposed to be put into the Constitution.

But even if we did, it is clear that this is impractical, ill-advised, and would be an extremely foolish and, as the gentleman has pointed out, really an irresponsible act for this Congress to take.

I yield to the gentleman from Virginia.

Mr. MORAN. The only remaining remark I have to make is that we do not act independently here. We have a responsibility to act in the best interests of our constituents. The worst thing this legislation does is to take away the equal representation of our constituents, the American people. The vast majority of the American people will lose the right, the power to determine the legislation of this land. The vast majority of people, two-thirds of the American population, will not have equal representation if this legislation passed because one-third plus one will have the controlling power over what this body, this body of Representatives of the American people, is able to do with regard to tax policy, with regard to balancing the budget, with regard to funding the necessary means of conducting our activities in whatever sphere we are talking about. It is irresponsible. And it is unfair to the vast majority of the American people to pass this today.

THE CONSTITUTIONAL AMENDMENT TO REQUIRE A TWO-THIRDS MAJORITY VOTE TO RAISE TAXES

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Texas [Mr. BARTON] is recognized for 60 minutes as the designee of the majority leader.

Mr. BARTON of Texas. Before I start my special order, I want to commend the gentleman from Colorado and the gentleman from Virginia for yielding time in this special order and once we give our opening statements we will be happy to reciprocate in the spirit and to the level that you did in your special order.

Mr. Speaker and members of the House, we are engaged in a serious debate. It is serious business to determine you should amend the Constitution of the United States. I would point out our Founding Fathers allowed for such amendment, and it has been amended, I believe, 27, perhaps 28 times, since the original Constitution was ratified in 1787.

If you go back to that time period when our Founding Fathers were debating the same issues that we are debating on the floor of the House this afternoon, you find some interesting facts. First of all, there was no such thing as an income tax anywhere in the world. There were obviously taxes, but those taxes were normally head taxes, property taxes, excise taxes, transaction taxes, duties, fees, tariffs, but there was no income tax because very few people in the world, certainly in the United States, had any income. We were an agrarian economy. Most Americans lived on farms or in small communities and there simply was not a resource there to be taxed. Even then, over 200 years ago, the Founding Fathers were very aware of the sensitivity of the tax burden on the American people. So while they did not require a super majority vote to raise taxes, they did require that the House of Representatives, which was the only body directly elected by the people and the body most responsible to the people, be the body where all tax bills originated.

For 125 years that limitation that all tax bills originate in the House of Representatives worked very well. We did not have an explosion in growth of the Federal Government. In 1913, we had the 16th amendment to the Constitution of the United States that said specifically that an income tax was constitutional. In 1913, 83 years ago, the first tax form, the first 1040, was passed out in 1913. This is a photocopy, a blown-up photocopy of the original 1040 form back in 1913.

Those of you that can read it, you find out some very startling information. First of all, the normal tax, the normal tax that most Americans who even had to pay an income tax paid, was 1 percent on net income up to $20,000. Less than one tenth of 1 percent of the American population had to pay that normal tax of 1 percent.

The richest American, an American who made over $500,000 in 1913, had to pay 6 percent. But most Americans paid no income tax, or paid 1 percent.

By 1949, the year that I was born, the tax burden had grown to 5 percent on the American taxpayer, and today the average tax burden is 40 percent. The marginal tax rate on the average taxpayer in America today is 40 percent. If you want to calculate percent increase from 1913, and 1 percent to 1996 and 39.8 percent or 40 percent, it is 4,000-percent increase 4,000 percent. That is too much.

The debate today is about making it more difficult to raise taxes on the American people in the future. It is not about whether we had the appropriate number of hearings in the Committee on the Judiciary. It is not about the exact definition of de minimis in Webster's Dictionary, it is all about the basic principle of making it more difficult to raise taxes than it is under