

To Dr. Simpson and everyone involved at the VACC Camp: You have touched the lives of so many families and helped so many become happier and healthier children. Happy 25th anniversary, VACC Camp, and keep up the good work.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. GARRETT) is recognized for 5 minutes.

(Mr. GARRETT of New Jersey addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### GEORGIA'S FIRST SQUADRON, 108TH CAVALRY OF THE 48TH IN- FANTRY BRIGADE COMBAT TEAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GRAVES) is recognized for 5 minutes.

Mr. GRAVES of Georgia. Madam Speaker, I rise today to honor the distinguished service of seven men from Georgia's First Squadron, 108th Cavalry of the 48th Infantry Brigade Combat Team based in northwest Georgia.

On September 2, 2010, these men received the Bronze Star and Army Commendation Medals with "V" Device for their personal valor and action in an intense firefight during Operation Brest Thunder. Operation Brest Thunder, an operation involving U.S. troops, French marines, and the Afghanistan National Army, was designed in order to persuade the citizens of Afghanistan that it was safe for them to participate in the electoral process in the dangerous insurgency area of the Shpee Valley and the Kapisa Province.

It was through their bravery and boldness during this operation that the following men have been recognized for their outstanding action. The Bronze Star Medal with "V" device was awarded to:

Captain Nathaniel C. Stone of Monticello, Georgia; Sergeant First Class Kenneth Brooks of Calhoun, Georgia; Staff Sergeant William Bookout of Villa Rica, Georgia; Sergeant Roger Mavis of Dallas, Georgia; and Specialist Christopher Lowe from Savannah, Georgia.

Receiving the Army Commendation Medal with "V" device were Staff Sergeant William Moore of Newnan, Georgia, and Specialist Justin Evans of Silver Creek, Georgia.

During Operation Brest Thunder, a large number of Taliban had entered the Shpee Valley in Afghanistan in

order to reinforce insurgents already there. At the start of their mission, U.S. forces immediately took heavy fire from enemy forces in every direction.

After a fellow captain was mortally wounded, and the assisting soldier, Specialist Lowe, wounded and incapacitated, Captain Stone and Specialist Evans sprung into action. Captain Stone was dispatched to lead the Quick Reaction Force to evacuate Specialist Lowe and the fallen soldier from the battlefield back to the combat outpost. Meanwhile, Specialist Evans treated Specialist Lowe's wounds while staving off enemy fire.

Maneuvering under fire, Captain Stone and Sergeant First Class Brooks, the onsite commander, immediately assessed the situation and the course of action for evacuation. They soon realized that the only way to retrieve the casualties was to immediately employ their men to lay down fire at a tree line that had been the source of the heaviest assault.

Once their men were in place and able to begin an aggressive attack, Captain Stone, along with another soldier, sprinted approximately 50 meters up high ground towards the house where the casualties were located without regard for their own personal safety. Upon reaching Specialist Evans and Specialist Lowe, Captain Stone realized Specialist Lowe was losing a lot of blood and must be rapidly evacuated out of harm's way. Captain Stone sprinted towards one of the vehicles where Specialist Lowe was placed, while several rounds of enemy fire shot around him, skimming the top of his right boot.

And Captain Stone ran through enemy fire to ensure that Specialist Lowe received medical attention and that the body of his fellow soldier was retrieved.

This quick thinking and courageous action by Captain Stone and Specialist Evans, without regard for their own safety, saved Specialist Lowe's life and assured the retrieval of their fellow man. Throughout the duration of Operation Brest Thunder, Sergeant First Class Brooks, Staff Sergeant Moore, Sergeant Mavis and Sergeant Bookout endured heavy enemy fire.

These men led valiantly, calmly, and decisively. Although they were under heavy enemy fire, these men and their team pressed on and unfortunately sustained two casualties. However, they were able to maneuver their forces and hold overwatch positions until the Quick Reaction Force could respond to medevac any casualties and help neutralize the enemy threat. They simultaneously oversaw the defense of their combat outpost from heavy fire upon the return of their mission.

A few of these men have noted Operation Brest Thunder to be one of the toughest battles they have fought. But it is because of their strength of skill that a Taliban commander and almost two dozen insurgents fell, helping the

United States and her allies grow stronger, protecting her from those who wish to do her harm.

The courageous actions of these men show their commitment to their mission, to each other, and to their country.

Madam Speaker, I have taken this opportunity to commend the heroic actions of these men. But I would also like to take this opportunity to thank them. I would like to thank these men for sacrificing their lives and their livelihoods for this country.

I want to thank their families for showing tremendous support, strength, and resiliency, and I want to be sure that they and their brothers and sisters all across the United States Armed Forces know that we at home are always thinking and supportive of them. Americans can sleep more peacefully, Americans can live their lives more freely knowing that soldiers like these brave men from Georgia's First Squadron, 108th Cavalry of the 48th Infantry Brigade Combat Team are out there fighting for our freedoms.

God bless them and their families, and may the Lord continue to bless this great and glorious cause called America.

□ 1910

#### REPORT ON RESOLUTION PRO- VIDING FOR CONSIDERATION OF SENATE AMENDMENTS TO H.R. 4783, CLAIMS RESOLUTION ACT OF 2010

Mr. POLIS, from the Committee on Rules, submitted a privileged report (Rept. No. 111-660) on the resolution (H. Res. 1736) providing for consideration of the Senate amendments to the bill (H.R. 4783) to accelerate the income tax benefits for charitable cash contributions for the relief of victims of the earthquake in Chile, and to extend the period from which such contributions for the relief of victims of the earthquake in Haiti may be accelerated, which was referred to the House Calendar and ordered to be printed.

#### THE RULE OF LAW: FEDERAL REGULATIONS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Texas (Mr. CARTER) is recognized for 60 minutes as the designee of the minority leader.

Mr. CARTER. Thank you, Madam Speaker.

We've been talking for a couple of years now about the rule of law and how the rules that we set up for ourselves are rules that glue our society together. But there are times when there are rules that people have a misconception about. This happens more and more when you're back home, somebody will come to you in the business community or even in their personal life and complain about something or some way that the government was interfering with their lives.

There are times when, at least in my office, where people come in griping about it and unfortunately it's not the Federal Government. It's rarely not the Federal Government, but sometimes it's not the Federal Government but it's the State government. But almost always people presume that the law that is intrusive upon their life, and these are people that are not in the regular course of dealing with Washington, those laws were passed by Congress. So, therefore, Congress did this to you. And, in a way, it's true.

Tonight, I want to talk about Federal regulatory authority. Federal regulations. We're at a time right now that some would argue is at least equal to the Great Depression in a time of joblessness and in a time of economic stagnation. Some would argue we're second to the Great Depression. Which ever it is, we have literally hundreds of thousands and millions of people in this country who need a job. They need to work. They want to work. They want to be out there and be productive members of society. That's the most important thing in their life.

Feeding your family. People go to great strains to try to make sure that they can provide for their families. And I think all Americans feel that way. Nothing hurts more than to realize that whether it's your fault or the fault of the economy or what, you can't find a job in the town you live in, or maybe even anyplace within driving distance of where you live. You hesitate to move all the way across the country to someplace where you hear there are jobs because it's so disruptive to your family. The pressure is tremendously bad on people in this country right now. There are folks that are trying to create jobs, and they have things that are interfering with their lives.

There's all kinds of reasons why you get stagnation and you get companies that are fearful to create jobs, that people are, as we hear, quote, hoarding their profits. One of the reasons we talk about all the time is uncertainty—"I don't know what's going to happen and until I know what's going to happen, I'm holding onto my money." That might be actually some pretty good planning in many ways. But there's also that "I can't explain it" factor that is in people's lives. "I can't explain it; I just don't feel good about things right now." I believe that a lot of the "I can't explain it, I just don't feel good about things right now" feeling that a lot of Americans have, actually you could go back to what FDR said: "The only thing we have to fear is fear itself." We can't define what causes us to be afraid in many instances. But there are things that go on that we create in this Congress. Through acts of Congress, we create authorities, agencies, boards, commissions, departments, all kinds of entities that have career Federal bureaucrats that work for them, and we give them what's called regulatory authority. Regulatory authority basically

gives them authority to write additional rules to implement the overall plan of what the Congress perceived to be a need of the country and passed in the form of a piece of legislation. From that standpoint, I guess all rules are the resulting fault of the Congress. But in the vast majority of instances, the regulations are never addressed by the Congress.

Tonight, some of my friends are joining me and I'm really proud to have them here. We're going to talk about the fact that this is not the first time this has been recognized as an interference in the ability to create growth and create jobs in this country. Back in the nineties, back in, I believe it was right after the 1994 Republican takeover of the House, the Contract with America, there were a lot of pieces of legislation passed. Some of the things they tried to do were things that would get some of the regulators off the backs of small and large businesses which would prevent the creation of wealth, prevent the creation of jobs. They passed something called the Congressional Review Act. It was signed into law by President Clinton. The Congressional Review Act requires all Federal agencies to submit any new major regulation—that's what I was telling you about; agencies have regulatory authority and those regulations are like laws written by bureaucrats—to Congress for 60 days prior to the enactment of that regulation, during which time Congress can vote to block the new rules.

With President Obama in the White House and REID still throttling the Senate, the CRA, the Congressional Review Act, gives the House the potential to look at these things and to realize that probably the largest concentration of regulatory rules that will ever be written in the history of this country are probably going to be written, or are in the process of being written on ObamaCare right now.

You hear all these many things that are going on, if you just watch your television, about the Secretary has come up with a new rule and has granted a new waiver to rules, a temporary waiver, a permanent waiver, a 60-day rule; a rule forever. Rules are actually epidemic. Last year, the Federal Government issued a total of 3,316 new rules and regulations, an average of 13 rules a day. Seventy-eight of those new rules were major rules. A major rule is any rule that may result in an annual effect on the economy of \$100 million or more; a major increase in cost or prices for consumers; or a significant adverse effect on the economy. We are already seeing that ObamaCare seems to be the mother of all rules.

The Congressional Research Service reports that ObamaCare gives Federal agencies substantial responsibility and authority to, quote, fill in the blanks, fill in the details, for the legislation that was passed by this Congress and submitted for regulations.

□ 1920

There are more than 40 provisions in the health care overhaul that require, permit, or contemplate Federal rule-making. We have this tool called the CRA. And I've got a board here that tells you a little bit about it, and I told you some of it. So it passed as part of the Small Business Regulatory Enforcement Fairness Act of 1996, part of the Contract for America Advancement Act of 1996. The purpose was to allow Congress to review every new Federal regulation issued by the government, government agencies, or passed by a joint resolution and overrule that regulation.

The way it works is the Federal agencies shall submit to each House of Congress and to the Comptroller General a comprehensive report on any major proposed rule. Congress has 60 days to pass a joint resolution of disapproval of any rule. The Senate must vote on the CRA resolution of disapproval if this House votes to disapprove the rule. So that's the way it works. This is a tool that I have a lot of questions with.

My first job out of law school when I was a young, stupid lawyer and had a lot to learn was to be drafting legislation for the Texas Legislative Council. And I didn't learn a lot there, but I learned one thing: When the word "shall" appeared, it meant you do it. If it said "may," you had other options you could take. But if the legislation says "shall submit," you shall submit it. You shall do it. You have to do it. But interestingly enough, I don't think that this tells you what happens if you don't. So there are a lot of questions in this bill. This bill needs some further work.

A good friend of mine, Representative GEOFF DAVIS, has actually been looking into putting a little bit more teeth into the Congress' power to oversee these regulations. So, at this time, I'm going to yield as much time as he wishes to consume to my friend, GEOFF DAVIS, to tell us about what he looked at when he started with his REINS Act that he proposed and tell us about it.

Take the time you need.

Mr. DAVIS of Kentucky. Thank you, Judge. It's good to be with you tonight working in common cause on this issue. So many of us have seen not simply in the last 2 years or the last 4 years, but a growth of government really over the last 50 years that is unprecedented, and it's increasing every year in size.

The intent behind the Congressional Review Act in 1996 was absolutely solid. But when it went into law, one of the challenges that happened was that law didn't really have the teeth in it to force accountability of the agency community with the Congress. And I'm going to talk a little bit about some of the things that led up to our introduction of the REINS Act, H.R. 3765, the Regulations from the Executive In Need of Scrutiny Act. And it's a long name to really give the analogy of pulling back on this unbridled growth or

race to increase the size of the government.

The only time that the Congressional Review Act has been effectively used to block the implementation of a regulation was the ergonomics rule from the Clinton administration's Department of Labor that was going to be implemented in early 2001, and it was struck down by the incoming Congress and then signed into law by President Bush as one of his earliest legislative actions in 2001. Since that time of the Republican administration and a subsequent Democrat administration, we have seen an explosion of regulations. We can name virtually any agency in the Federal Government that on account of two reasons—one, a lack of congressional oversight and enforcement, where an agency can literally go out and move independent of the clear intent of Congress because of some of the nebulous language that's allowed to go into bills to get compromises to get it passed; and the second thing that happens in that, as well, is that these regulations get promulgated as a means of an administration in the executive branch to, in effect, subvert what the desire of the Congress is. We saw it in immigration policy. We've seen it in environmental policy, and we've seen it in aspects of defense policy. No Child Left Behind is filled with unfunded mandates that are placed upon local school systems. And the cumulative sum of this is a huge amount of the economy.

Compliance with regulation comes with a cost. There's a scoring system of rules, and what we chose to focus on was major rules, which I will get to in a minute, but a major rule is one that has a cumulative economic effect of \$100 million a year. That is an awful lot of money. But when we look at a country of over 300 million people, we can get there very, very quickly.

Let me give you a personal example. For people who might be watching this broadcast tonight, I ask you this question: Has your sewer bill gone up or your water bill gone up in the last 5 years? The majority of communities in this country have seen a great increase due to a mandate, an unfunded mandate, from the Environmental Protection Agency for storm water compliance. Is environmental stewardship relevant? Absolutely. But here is the bigger question. I'll go to northern Kentucky, and this became the genesis of the REINS Act.

We had just at the peak, the tipping point of economic growth, about 5 years ago, a consent decree was negotiated in a draconian fashion where we dictated to the water district in northern Kentucky for the three counties where I live, in Boone, Kenton, and Campbell Counties. That consent decree to mandate a change in storm water runoff and how that was going to be handled in our cities in those three counties of our 24 counties was an \$800 million unfunded mandate on three counties in Kentucky. It overnight

doubled everybody's water and sewer bills. The sewer bills were the first thing that came.

The second thing that we saw, though, because we are one of the more prosperous parts of the State in terms of having a sustainable tax base and manufacturing industry, as painful and unpleasant as it was, if it were, in fact, the correct thing to do, there was a means to cope with that. But I have towns in my district, particularly in the rural areas and some of the poorer areas, areas where folks do not have the tax base, smaller cities that have a diminishing and aging population that are heavily centered on retirees where the cost of storm water compliance is actually more than the city budget, and there is absolutely no relief at all or context to be applied in these regulations.

I was very concerned about this and had spoken out on it, and a constituent came and talked to me. And he just asked this question. He said, How come you all can't vote on these regulations? And we went to work. We went back and looked at the original intent of the Congressional Review Act. And the more that our legislative staff and I studied that, what we began to see was it takes an action of the House and the Senate overwhelmingly to repeal that regulation.

I thought about this from my time in manufacturing and operations, learning how to build things. If we can create something the equivalent of a stoplight that will simply stop the process, that becomes the basis of this, and that was the genesis of what became the REINS Act.

There was no way for accountability to be given to the American people. When it's a faceless executive in an agency, when it's a department, a sub-department within an agency that issues a regulation, comments are rarely carried out. As you noted earlier, we very rarely actually see those regulations briefed. It just comes in a thick congressional register of thousands of pages.

And here is the thing that came to mind when we looked at that idea of how to deal with this from a voting perspective. What my friend shared opened our eyes to do an amendment to the Congressional Review Act that would change the nature of it from Congress has the option to. As you know, our good friends in the Senate are somewhat slower than we are in being able to get things done. There are more abilities to throw a stumbling block in place. We decided just to take that same idea; let's create a mandated process that, in fact, will force these regulations to be vetted so the American people have somebody to hold accountable.

If the head of the EPA, for example, a regional director of the EPA came into my district in August and made a statement to the effect of, If we have to put you all out of business and you have to move to other parts of the

country that have a policy that we think is more acceptable, then so be it; but there's no ability for them to, in effect, strike back at the ballot box, to express another opinion. And these are not people that disagree with the EPA as an agency or any other agency for that matter. It's a question of constitutional authority, and it should be vested here. The power of the purse is in the House of Representatives, and the financial impact of these regulations should be in the House as well.

And this is what we propose with REINS—to rein in the government when a regulation of this magnitude is proposed. What would happen is that at the end of the comment period, instead of being enforced unilaterally upon the American people or being in endless court or remediation fights, what would happen, very simply, is those bills or those regulations would come back here to Capitol Hill. We would have a stand-alone, up-or-down vote, a no-excuses vote where Members of Congress of all 435 districts would have to vote and be accountable back to their citizens for the decision they took. If we're going to have an \$800 million increase in water and sewer bills, they would vote. If we're going to increase the unfunded mandates on our schools, there would be Members of Congress and of the Senate who would have had to take that vote. I think it would have a restraining factor, knowing that people had an out, that there was accountability.

□ 1930

This extends into so many areas with EPA rules and the multiple rules that you mentioned with health care and with the new financial regulations, I could go on ad nauseam, and the sum of this economically is devastating to our country and it moves us away from looking at ways to be more efficient.

I say put the stop in place. This bill will do that. The REINS Act, H.R. 3765, makes us all accountable to our citizens. The benefits of this are twofold. The first benefit is that this is non-partisan. In the Bush administration, as some of us have talked about, we noticed regulations that were being brought about and implemented that were against the better interest of our economy, of our communities in many parts of the country. There wasn't an open and public debate to be able to address that. The thing that this would do is it would push power back to the legislature where it needs to be, stop the unbridled growth of the executive branch so voters would always have a say.

The second thing it would do, and we saw this with the health care bill, 2,700 pages, much of it nebulous language that was given to us midnight Friday before a Sunday vote on that bill, there was no way to fully vet the consequences of that. I believe what the REINS Act would do is take those rules and it would lead to more streamlined and crisp language and eloquent legislative language stated, and avoid the

ability of any outstanding agency to subvert the will of Congress.

I appreciate being part of this discussion tonight.

Mr. CARTER. I thank the gentleman. My good friend, the gentleman from Georgia (Mr. WESTMORELAND) is here, and I want to let him make the comments he wishes to make.

Mr. WESTMORELAND. I want to thank my friend from Texas and also my friend from Kentucky for introducing the REINS Act, and especially the gentleman from Texas for your work in this body late at night like this, talking about things that we need to do and what the public expects us to do as far as ethics and as far as reining in some of the government that we have. You know, I think what a lot of people don't understand is that this new TSA ruling, this is something that did not come out of Congress.

Mr. CARTER. That is right.

Mr. WESTMORELAND. This came out of the Department of Homeland Security making their own rules. The ObamaCare bill that was passed out of here, I believe there are 111 agencies, boards and commissions that are to be formed by that bill. Each one of those will write their own rules and regs. For CBO or anybody else to try to tell us how much money this is going to cost, it is impossible because we don't know what type of rules and regs these agencies, boards and commissions are going to come up with.

We had a hearing in the Small Business Committee, and we had somebody there from the GAO. We asked them: When these agencies get this legislation, do they ever go back and talk to the Member that offered the legislation or the committee that it came back through?

No, not that we know of. It is not a rule. It is not a practice.

So while this body might pass something with a certain legislative intent, by the time it gets to that agency, they write rules and regs that go way beyond where this body wanted it to go perhaps, or maybe not as far as they wanted it to go. As the gentleman from Kentucky mentioned with the water bill, the Clean Air Act, the Clean Water Act, it has gone way beyond what the intention of this body was with the EPA and the Fish and Wildlife and the other agencies that got hold of that bill.

The REINS Act talks about the Portland cement, the new regulations that the EPA is trying to put on that. A lot of people don't know this, but if you live on a dirt road with the new dust requirements that the EPA may come out with, you are not going to be able to drive down that dirt road and create dust. Well, I live on a dirt road and I am going to tell you, I don't know how to keep it from having dust unless you have a rainstorm, and then you are going to get mud.

Mr. CARTER. You will need to have a water truck in front of you to get to your house.

Mr. WESTMORELAND. That's right. And we have people come up to us all of the time and say, you know, why did you all pass this law that says, you know, that you can't have dust or you can't have spray that blows if you are spraying your pastures or your fields or your bushes. You go, you know, that wasn't in the law. That is not something that we had; that's something that the EPA did or that is something that the IRS did or that's something that Homeland Security did on their own. And so I just think this is a great piece of legislation. I appreciate you opening up the debate to it.

Mr. CARTER. Recapturing a little bit of my time here, talking about the Portland cement issue, when I started looking into this, and first off to make this very clear, we are not talking about company called Portland Cement, we are talking about a process for making cement. It is kind of interesting. Cement is the second most consumed product globally in the world. The first is water. So honestly, just about everything that is constructed, buildings and roadways, has something to do with cement. And the projections on what this is going to do to the Portland cement industry, the people who make the concrete that we depend on, you know probably 90 percent of the skyscrapers of the world use some form of pre-stressed concrete to build a skyscraper. It is a major building material for a thriving economy. What they are telling us now is that construction spending amounts to about a trillion dollars annually, and that is about a fourth of the gross domestic product. The cement industry has declined in relation to the national economic downturn, and so has the construction industry.

If they do this, this could cost us around 153,000 jobs nationwide. That is lost jobs. We are trying to figure out a way to create jobs in this Congress; that is lost jobs. The cement industry generates \$7.5 billion annually in wages and benefits. According to the Minnesota Plan, about \$27.5 billion of America's economic activity, gross output, occurred in the cement manufacturing industry, and almost \$931 million in indirect tax revenues were generated for State and local governments. The economic footprint for the cement industry is a trillion dollars. It is very important.

Now what can happen. According to a study done by SMU, which happens to be in the great State of Texas, they have looked at what this regulation that is being proposed by the regulators, and when we say regulators, remember, nobody elected these people to this job. Most of them work under the civil service idea that once they are here, unless they commit armed robbery, you can't get them out of their job. So they are employees for life. They sit around in little offices and come up with all of these new ideas, and they expand upon the thoughts that Congress had when we

created these agencies. And I would argue that EPA has expanded beyond anybody's imagination the things that they can do. And they don't think about the fact, like blowing when you are crop dusting or spraying your roses in your yard if the wind is blowing, you're in violation of the EPA regulation they are proposing. They don't realize what the impact is on human beings.

What will happen to us on the Portland cement industry is right now our major competition is overseas anyway. I mean, China and Japan are importing, mainly China now, are importing tons of concrete into the United States every year. If we put our manufacturers out of business because of this extremely expensive regulation that would cause them to be noncompetitive in the world market. Even if they tried to compete, their increased costs would be such that they would be put out of business from a market standpoint. Other people would just have a better price. Even with shipping costs, they would have a better price. But more so, you lose all of the jobs that are created around here for the cement industry if you pass these regulations.

These are the kinds of things that Congress ought to be looking at because we are responsible to the people of the United States. This House is called the People's House because every 2 years we have to look our neighbors in the face and answer those questions that your neighbors ask you about why in the world did you guys do this?

□ 1940

Well, we're getting blamed for it anyway. We ought to at least look into it, and if we can do something about it, we ought to do something about it.

I see Congressman DAVIS is back. I'm glad to see you. We're talking about what this Portland Cement case is going to do to the cement industry. Quite honestly, it's disastrous.

Mr. DAVIS of Kentucky. I would agree wholeheartedly with you. In fact, we can extend that almost into every area of small business. For those who have experience in manufacturing and in any number of business areas or construction that deal with the use of various chemicals, resins and compounds, there is a compliance requirement called Material Safety Data Sheets, MSDS compliance, which requires a very large amount of documentation in a business. We look at Portland cements, which are very large businesses that have these burdens placed upon them that are very high, but it's even in very small businesses.

In working with many manufacturing companies in my time before coming to Congress, in the 12 years before my coming to Congress, after I had left the Service, I saw that these regulations created an undue hidden tax on America's ability to compete. It's not the idea of being antiregulation. I think standards can be very good and

very helpful, but it's the point at which that compliance is mandated and the context of that.

A case in point, I think, that I saw that typified this more than anything else was the case with my dry cleaners that I had used for years before I ended up running for office. It's called Braxton's Cleaners. It was started by a couple of entrepreneurs who wanted to build this business. They built it. It grew. They had very high quality customer service. Like all of us who have started small businesses, we've encountered the issue of how to deal with all of the hidden costs that come with just running any kind of small business.

Well, they hit a point where they were doing so much business—they were starting some satellite operations—that the owner decided that he would install another dry cleaning machine. He suddenly found out that, by wanting to do that, he had an EPA mandate through the State environmental cabinet of the Commonwealth of Kentucky that he had to have boreholes drilled through his floor to see if dry cleaning fluid in any capacity had gotten into the groundwater.

The standard that had been levied by the Environmental Protection Agency—and this is going back to actually 1999—for the amount of particulate matter of dry cleaning fluid—and essentially you and I could drink it. It would be awful stuff and probably make us sick, but it's not going to kill us—has been listed with many other chemicals as a possible carcinogen. You would have to pump this into somebody's body to create a real health issue, but it was so few parts per million that it was actually a higher standard than drinking water is in our county, which is maintained at a very high standard.

When this was found—and they found one teaspoon of water under the concrete pad at Braxton's Cleaners in Burlington, Kentucky—the inspector said, Well, you're going to have to remediate this.

His response was, Well, I don't have the money to do that.

Then the inspector said, You don't understand. We're going to shut you down if you don't do this.

So he spent over \$50,000, in effect, to tear up the floor and to clean up one teaspoon of water.

The context issue here is that this is not Dow Chemical pumping out millions and millions of gallons of highly toxic chemicals. This is the local dry cleaner. I've had friends who were auto mechanics, running small garages, who built businesses, and who were successful entrepreneurs—taxpayers—creating jobs and growing. They've run into the same kinds of issues that lose context when they're complying and seeking to fulfill the intent of the law.

Before I yield back, I'll mention one other. I see the egregious example of regulatory intrusion. The purpose, for example, of the Transportation Security Administration is to provide secu-

rity for the traveling public. That's the premise. I sat in here on October 31, 2001, as a candidate for Congress, during the anthrax scare, and I watched Norman Mineta—former Clinton administration Secretary of Transportation, who stayed over into the Bush administration—pleading as the father of two airline pilots not to implement the processes the way the TSA was going to. He said it would create an onerous cost, that it would create an excessive economic burden on the airline industry and that it wouldn't materially change the outcome of security. He advocated the use of a much more principle-based and systemic method used by the Israelis, which involves questioning and which gets the bags before they ever go into the airport.

Now we find a situation where I believe, personally, we're getting into some Fourth Amendment grounds, not as an attorney because I'm not one, but by questioning the need for these intrusive searches of everybody within the traveling public when, in fact, threats have already penetrated a secure area. The bigger question when I see the nun here and when I saw the video of the—

Mr. CARTER. Reclaiming my time for a minute, it is very clear from the cameras that this is basically a TSA employee doing a leg search of a nun.

Go ahead.

Mr. DAVIS of Kentucky. With that visual, keep in mind I've spent the last 26 years of my life traveling in and out of the Middle East in various capacities—serving there in the military and being in and out of the region, traveling on business, and now as a Member of Congress. I've had a chance to watch a system that is virtually flawless, and it's based on a series of questions that is not intrusive. It's a free society. They've maintained their civil liberties with a dramatically higher threat to terrorism.

Yet what we have done, if we look at this, is create the bureaucratization of security. We're not going to deal with the root cause issues; we're going to treat the symptoms. Nobody will ever take down an airplane with a box cutter or a pocketknife the way the hijackers did on 9/11. Now that citizens who are flying know, there have been multiple instances in flight where people have had erratic behavior, mainly trying to get to the lavatory, and they were tackled by passengers out of concern for this. Americans will fight back.

The situation has changed, and in effect, we're fighting the last battle; we're fighting the last terrorist attack as opposed to something like the Israeli system, which really incurs virtually no cost and manages to keep a very robust flying public that's very safe, and it all begins with asking questions.

People bring up the argument, Oh, well, you can't do that because that's profiling.

I would disagree with the misuse and misunderstanding of that term related

to the cost. We are driving people away from traveling right now because of these intrusions. It's creating a huge burden on the flying public, and it's entirely unnecessary because it's checking innocent people, and 99 percent of our capacity is devoted to checking people for a threat that any trained security inspector would know is not even there. That's a poor use of assets.

I'll go back to the Israeli system. I was traveling out of Israel, alone, with a backpack, 17 years ago, on a short trip that I had had to make into Jerusalem. At the time, because of what I did and because of where I had been in the military, I had had lots of stamps from countries all over that area—some areas which weren't particularly friendly to Israel. I was asked questions—a blue-eyed, Caucasian male, from the United States, who spoke with an Ohio Valley accent. They began asking me a series of questions.

They looked at the passport stamps and moved me over and said, We'd like you to talk to this person over here.

The other 200-plus people who were going on that L-1011 Delta flight, in fact, were moved right on through. I was asked questions for over an hour and a half. There was no cost to those other people. The airline was able to do what they did, and they were able to very quickly verify that I was, A, no threat and a legitimate customer. That system works, and it works today, and it's almost impossible for somebody to fool that system.

The other thing that's important is we don't need these billions of dollars spent on these scanners that are being overused. Again, it comes down to situation awareness. We can address this issue with a lower cost by stepping back and applying what you and Congressman WESTMORELAND have been talking about tonight, which is just bringing some common sense to this.

What is the problem we really want to solve? Give us the most flexibility and the most options to deal with this after the fact.

Again, before regulations like this should be implemented, I believe we need to have a vote of Congress. Let the will of the people be made known in this rather than just simply giving away another set of our liberties without asking that question when, in fact, it comes at a significant cost. I think if our taxpayers who don't travel regularly understood the amount of money that we spend on hardware, which can still be penetrated by some type of a serious threat that was just outside that set of assumptions in TSA, we'd be in a different world.

This doesn't impugn the motivation of the folks in the Transportation Security Agency. I know there is an ongoing argument below the senior management levels of what works and what doesn't work, and it is by those who have lived in that world. They've lived in a high-threat environment and have been able to thrive.

I believe we can do that; but again, let's come back to these constitutional

underpinnings that regulations and rules that are going to govern the lives, the comings and goings and the commerce of all Americans should be decided here in House of Representatives, over in the Senate, and then signed by the President and not brought into being on the unilateral decision of one individual.

Mr. CARTER. Reclaiming my time for a moment, this morning, in an airport, as I was coming to Washington, I was on one of the earliest flights going out of Austin, Texas. We're a midsized city, and I've never seen so many lines in my life. I mean, they were a good half mile long. They were back and forth and back and forth. All I could think was that I got there early enough that, by the time I got through, I could just sit and watch the rest of those lines build up. They built up, built up, built up. It was unbelievable.

□ 1950

A guy sitting next to me said, well, there are going to be a lot of people missing their flights today, they're not going to make it—because these were all the people, I guess, who were coming back from Thanksgiving and instead of flying on Sunday when the cost was more they waited until Monday to get a cheaper flight. Well, what is that going to do to the airline industry? They are going to have planes flying empty. They are going to have people demanding refunds. It's going to hurt the airline industry. Before we turn around, we're going to have somebody coming in here and saying, holy cow, TSA put together this regulation, and now we're causing all these airlines to get in serious financial problems and we're going to have to buy the airline industry like we bought the automobile industry. I think we should get out of that business. That's why this Congress, or somebody who must respond to the American people, needs to be involved. That is why I think putting teeth in the Congressional Review Act through the REINS Act is good.

I will yield as much time as Mr. WESTMORELAND needs.

Mr. WESTMORELAND. I thank the gentleman for yielding.

I wanted to go back to the cement.

Mr. CARTER. All right, let's go back to it.

Mr. WESTMORELAND. Being an old builder that really spent my whole life in construction, there is a byproduct that comes from power plants that's called fly ash. Fly ash is a byproduct that comes out of the coal-burning plants and it is used in concrete. It keeps it from setting up so rapidly to allow the people to work with it, to get a good finish on it. It takes it longer to set up. In the winter, you can either put calcium in the concrete to make it dry harder—or to at least make it dry if it's cold outside—or you can leave the fly ash out of it and use a bag mix, which makes the concrete more expensive.

The EPA came out with a rule—or they are looking at a rule that would

make this fly ash a toxin. And so the cement industry, the concrete industry went to them and said, look, we are mixing this stuff with concrete. Once the concrete is poured, it's encased, it's part of the mix, it's concrete. So the EPA said, yeah, that makes sense, it's not there. But we are still having hearings—or at least from people that are trying to help with the rulemaking—about burying this because right now a lot of that fly ash or the stuff that has been taken out of the TVA where those power plants ran have been taken to Alabama and put in the ground and other sites, and they are trying to make a rule to make that a toxic material. Well, the concrete industry thought they had it all settled until the EPA came back and said, you know what? I wonder if you recycle that concrete—because right now everything is being recycled, I mean, we recycle asphalt, we recycle concrete, we even recycle dirt, we clean the dirt—and so they said if you recycle this concrete, then it's going to put the fly ash back in the air. So what are you going to do with it? I mean, are you going to just bury it all now and put it in the ground or are you going to use it in concrete? And if you recycle it, you are actually putting it to better use because you're putting it back in concrete. And so this is just another part of those stupid regulations.

I come from the construction business, and I know that we, as the new majority that comes in in January, are going to do everything we can do to create jobs and we are going to work hard at it, but until we get the construction industry back on its feet, this economy is going to be very slow to turn around. We have got to put the building industry back on its feet. And doing things that the EPA is doing right now—and not only the EPA, but the Department of Labor with the new OSHA rules that are coming out, it is just all different types of things that are slowing down that building industry and slowing down our productivity that we have. Until that gets fixed, this economy is not going to recover like it can.

So I just hope that we can get something done about this where these rules and these regs have to come back in front of us. Let us have hearings on them. At least let us give them an idea of what the legislative intent was and also allow us to look at what these are and to vote on them because if we're going to get blamed for it, like you said, we might as well at least have a vote on it.

But when the EPA itself says that these regulations could cost the cement industry \$340 million a year and decrease the production in this country by 10 percent, in 2007 I guess it was, or whenever we had Katrina, we had a shortage of concrete, we had a shortage of cement. We actually couldn't import, there was a large import fee on it. We reduced that and started importing cement from Mexico just to make up

for the difference because we had a shortage. And now, if they continue with the regulations they're continuing with, in 5 years we wouldn't have any more domestic cement, it would all be coming from foreign countries. And what does that do? They produce it without the same environmental regulations that we have. So the EPA is just defeating its purpose of trying to clean the air up when we're having to import all of our cement.

The gentleman from Texas knows, we put our steel mills out of business, it cost thousands and thousands of jobs and money. If we put ourselves out of business in the cement industry, we are going to be totally reliant on our steel and our cement, two of the biggest components that we use in the construction of all of our facilities today.

Mr. CARTER. Reclaiming my time, what you just described is part of the American frustration factor that is part of what has got Americans frustrated in this economy right now. It is the unknown. It is the what is the government going to do to me next that's out there that has got businessmen, job creators standing around, scratching their heads, then they hear this story.

I want to tell you a story from my youth. I was working for the legislative counsel, and then when I left that job, I got hired as the attorney for the Ag Committee of the Texas House of Representatives. I will make this short, but it is a great story. The Federal Government passed a new meat-cutting law, and it was going to affect all these mom and pop sausage makers all over the State of Texas—at that time we had literally thousands of them. We were having hearings from these people complaining about what these new regulations were doing to them, and in comes two people from the Department of Corrections with a guy in a prison uniform. They put him on the stand in the Ag Committee and said, what are you here to testify about? And he said, me and my brother were the best sausage makers in east Texas, we were the best. And this fellow comes in our door one day and says, I'm from the Federal Government, I've got some new regulations. You're going to have to tear out all your equipment and buy new equipment. He said we went to the bank and we borrowed \$25,000 because he said we made the best sausage in east Texas and we put it all in. Six months later that same fellow came through our door and said we've got new regulations, you've got to have a drain and a cement floor and you've got to have all stainless steel, so all that stuff has got to go. He said, me and my brother, we went down and borrowed another \$50,000 from the bank and we redid all that. He said, about 1 year later that same fellow walked in the door and said, I've got bad news for you, so I shot the guy, and now I'm in prison for attempted manslaughter. That is a true story.

Mr. WESTMORELAND. Now he's making sausage for the State of Texas.



Mr. CARTER. That is how frustrating regulations can be.

I yield to my friend, Mr. DAVIS.

Mr. DAVIS of Kentucky. There are so many stories that we can think of, and it comes back to this issue of having context.

A very successful entrepreneur who actually started working in a coal mine at the age of 15, who is a very successful industry executive, made a comment to me when I first got elected to Congress that he wished that no person could run a Federal agency or serve in the House or the Senate unless they created one job so that they would know what it was like to deal with the consequences of regulations.

□ 2000

We come back and qualify this. The overall intent of the founding of some of these agencies was a very good thing, but let's step away from the EPA for a moment—we'll come back there in just a second—but move over to education.

We have some outstanding schools, blue ribbon schools in our region, and their increases in performance are not due to the mandates inside of the No Child Left Behind bill. In fact, I brought the Secretary of Education from the Bush administration, Dr. Margaret Spellings, to Kentucky in 2008. It took almost 9 months to get her there. Because I wanted her to be able to see as an educator—I'm the husband of a teacher and the father of a current school teacher—that the real key to success in education is not a regulatory mandate; it's again coming back to that context on the front lines.

In this case, I took her to two schools, one urban school and one rural school that had gone through dramatic turnarounds and that were both near the top of their state in their performance. And in each case it was a Back to the Future story. Reestablishing parental visitation, empowering teachers to bring families that might have some challenges literally into the community. Packing food backpacks for the weekend to make sure that kids in tough circumstances—having been a kid in a tough circumstance growing up, I appreciate what teachers did for me at the time.

And then we get down to the numbers. If we look at the impact of some of these regulations, when you have got an adequate performing or exceptionally well performing school system and then impose on that a mandate that requires a huge amount of paperwork and consumes hours of time, it detracts from the classroom. And then the promises under the Individuals with Disabilities in Education Act, which—the intent of the law is good but the implementation is awful because the promise of 40 percent funding on an unfunded mandate in already strapped school systems, and the best—the average funding in Kentucky runs between 11 and 13 percent of that 40 percent.

So again, it's a tax by regulation that's imposed on local communities on an issue frankly I think should be controlled by the States and local communities.

I'll give you another case in our district of a very successful young man from Lewis County, Kentucky. He ran in the current wave of activism of people wanting to make a difference. To get elected county judge executive of Lewis County, Kentucky. They are in tough economic times. His name is Tom Massie. He was a stellar student at Lewis County High School. He went to MIT. Got a graduate degree. He invented some remarkable robotics technologies. Was very successful in business, and came back home to invest in his county—not monetarily but to make a difference and turn it around.

Energy is an issue not only in Texas and Kentucky. We're energy-producing states. We help to run—in effect our States are part of the engine of this Nation to help lay that foundation in the base of the economy.

Tom Massie came up with a brilliant idea that didn't involve coal or oil or nuclear power—all of which we should use and let the market work in this area—but he came up with an idea that would leverage the resources available in Lewis County because it has one of the longest stretches of the Ohio River of any county in Kentucky. We also have a lot of hills. You might call them mountains in Texas where you live. We call them hills and hollers where we're from.

And this MIT-trained engineer had a brilliant idea. And he took the equivalent of a dual-faced pump—and he had seen some examples done in other parts of the world—that would create a system of two lakes, and we have the Ohio River flowing in the front of this, one of the largest rivers in the country. And all it would take is channeling water, pumping it up to a lake on the top of the hill and creating in effect a self-replenishing hydroelectric generating system that would meet the hydroelectric needs for a good part of that multicounty area in addition to the current base.

It would create jobs. It would provide low-cost utilities so working families and the elderly and the poor would have access to electricity. It would be cheap. It would be an incentive for businesses to grow and for manufacturing to come into these areas because we wouldn't just do it there, we would do it all through the river basins of our Nation.

He found something out in his first impact with the regulatory framework that was done out of context. This brilliant idea that would have saved jobs and created jobs in Lewis County, Kentucky. He found out if they take water out of the Ohio River—which I must say is not one of the more pristine rivers of the country in terms of all of its accumulated detritus coming from the Allegheny and Monongahela, coming down from Pittsburgh to Cairo, Illi-

nois—the water, it would be considered dirty by our standards. But if he takes water out of the river if they have overflow from rain and wants to put it back in, the whole project was killed on one basis: That any water put back into the river had to be cleaner than drinking water under the current EPA standards.

This affects the energy industry. Coal produces almost 60 percent of power in this country. One of the issues is with stream mitigation and slurry runoff, which is a problem, but the operators of the coal mine who want to comply—and most do; they want to do the right thing. They also create jobs, and they create jobs that have an impact not simply in West Virginia, Kentucky, southern Ohio, in my part of the world. They also support jobs and manufacturing in New York and New Jersey and Pennsylvania because that electricity goes by wire to other parts of the country.

That basically creates the same standpoint. If an operator wants to clean part of the creek, the standard actually is for water that's cleaner than the water that already exists with the wildlife population that already might be there. It creates kind of an impossible situation—a double bind for anybody who wants to do business.

My request is, let's step back. Regulations like that need to be brought into context. And the place to do that is here. And I just appreciate you investing the time to make this difference, to bring this issue before the American people because it's a question of the—the one saying I heard over and over through our election is we want to take back America. What's the taking back?

Really what we're talking about is restoring a constitutional balance that will allow and assure that the elected representatives and senators of the people will ultimately be accountable for any decisions made by the executive branch.

I appreciate a chance to participate in this debate and thank you for advocating so fiercely on this issue.

Mr. CARTER. I'm glad you're here with me, and I hope you'll join me again because we're going to be talking about this a lot this year because it's something that matters to the American people. I encourage them to contact us if there are regulations that are of their lives that are driving them crazy because we want to talk about these things. And we need to get to work getting the teeth put in the previous act so we can actually get this accomplished and start fleecing out these, I would say, intrusive regulations that are costing us jobs when our job here today and every day until this country is back on its feet is to create jobs, not cost jobs.

I think it's time for me to call it a night tonight. So we're going to rein this thing in. And I thank you for joining me tonight, Mr. DAVIS, and we will visit some more.

I yield back the balance of my time.

REPORT ON RESOLUTION IN THE  
MATTER OF REPRESENTATIVE  
CHARLES B. RANGEL

Ms. ZOE LOFGREN of California (during the Special Order of Mr. CARTER), from the Committee on Standards of Official Conduct, submitted a privileged report (Rept. No. 111-661) on the resolution (H. Res. 1737) in the matter of Representative CHARLES B. RANGEL of New York, which was referred to the House Calendar and ordered to be printed.

PIGFORD FARMS AND  
DISCRIMINATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes as the designee of the minority leader.

Mr. KING of Iowa. Madam Speaker, it's my privilege to be recognized to address you here on the floor of the United States House of Representatives and to take up the issues that are on my mind and the issues that I hope are on the minds of the American people, the minds of the people who are the elected leaders here in the United States Congress, and hopefully on the minds of those of us who see this American taxpayer dollar as a pretty sacred dollar that should be invested wisely and responsibly.

And there are any number of issues that can be brought up under that particular parameter. But I choose to come to the floor tonight, Madam Speaker, to talk to you about the situation of Pigford Farms.

Pigford Farms is an issue that emerged here in the United States government around about and exactly on, began I'd say in 1983, in 1983 when the United States Department of Agricultural civil rights office was closed. At that period of time, there wasn't an oversight department within the USDA that might have looked over the shoulders of our USDA employees to see if they were actually treating people equally with equal opportunity under the law, as I think everyone in this Congress will agree every American citizen deserves equal opportunity under the law. That's part of the 14th Amendment. We take an oath to uphold the Constitution that includes the 14th Amendment and equal protection under the law and provide for equal opportunity, not necessarily equality of result, but equality of opportunity.

And so I suspect that that focus under the USDA diminished somewhat or at least didn't have a check on it from 1983 on. But with the Pigford Farms issue—and this is the largest civil rights class action lawsuit in the history of America, Pigford Farms.

□ 2010

It looms over the heads of the Members of Congress here to be not what it

was just a few years ago, \$1.05 billion, not what it was when the Farm Bill passed here on the floor of the House under the direction of the chairman of the Ag Committee, COLLIN PETERSON of Minnesota, at an additional \$100 million, which was designed to be the sum total that would ever be required to sweep up any of the remnants of Pigford Farms, this civil rights case, and package it all up and make sure that people were compensated and put it behind us. No, it has reared its ugly head again, Madam Speaker. It's reared its ugly head with an issue called Pigford II.

It wasn't enough to have Pigford I. Pigford I, which emerged because I believe there was discrimination taking place within some of our USDA offices, particularly around the South, where the culture of segregation had prevailed beyond the end of the legal segregation that we had, and was still, I believe, in some of the offices manifested in the form of discrimination between the Farm Service Administration personnel. But that discrimination that then perhaps, and I think likely, and I believe did carry on through some of those years of the eighties, perhaps as far back as the seventies, but this case deals with the eighties, the eighties and the nineties.

So Pigford Farms, the chronology of it goes this way, Madam Speaker. In 1983, the United States Department of Agriculture Civil Rights Office was closed. In 1994, and this would be under Bill Clinton's administration with Dan Glickman as the Secretary of Agriculture, commissioned an accounting firm or an analysis firm to analyze the treatment of minorities and women in the Farm Service agencies throughout the United States.

The study examined the conditions from 1990 until 1995 and looked primarily at crop payments and disaster payment programs in Commodity Credit Corporations, that's CCC, loans. A final report found from 1990 until 1995, minority participation in Farm Service Administration programs was very low, and that minorities received less than their fair share of USDA money for crop payments, disaster payments, and loans.

Now, Madam Speaker, I am always suspicious of the "their fair share." I know that the word "fair" comes up in law over and over again. It comes up in many, many pieces of case law, precedent cases out there. If one would read through that case law, you will see the word "fair" over and over again. You will hear the word "fair" debated here on the House of Representatives over and over again. And whenever I hear this word "fair," didn't receive their fair share, I always cringe, because you know, we are a body that should be dealing with facts and empirical data. And the judgment should be on the facts, not the judgment of the facts.

But the word "fair" is always in the mind and the eyes of the person who utters that word "fair." And none of us

can agree on what the meaning of the word is of the word "fair." Didn't receive their fair share. Perhaps that's true. I actually believe it is true.

But Marilyn and I have raised three sons. And anybody that's raised two or more kids knows there is no such thing as fair unless it's the State Fair or the World Fair or the County Fair or a fair ball or a foul ball versus fair. But this word "fair" that's a judgment call is an amorphous word. It could be anything. It could be within the context of what was fair in 1776 doesn't fit with what was fair in 1865, doesn't fit with what was fair in 1942, and not with what's fair in 2010. It's subjective, not objective, the term "fair." And I would like to get away from using the word "fair."

But nonetheless, the data didn't support that African American farmers were engaged in the programs to a similar extent as non-African American farmers, what primarily would be white farmers. So that was the report from 1994. Two years later, actually the end of that year, 1996, December of 1996, the Secretary of Agriculture Dan Glickman ordered a suspension of government foreclosures all the way across the country pending the outcome of an investigation into racial discrimination in the United States Department of Agriculture's agency loan program. And he later announced the appointment of a USDA Civil Rights Task Force.

So under the Reagan administration the USDA Civil Rights Office was closed, 1983. Dan Glickman in 1996 reestablished a similar agency called the USDA Civil Rights Task Force. And in February of '97 that task force recommended 92 changes to address the racial bias that existed, I believe, and to the extent is negotiable or debatable as part of the USDA Civil Rights Action Plan. And while the action plan acknowledged past problems and offered solutions for the future improvements, it did not satisfy those seeking redress of past wrongs and compensation for losses suffered.

So there was a move that was made to try to alleviate the allegations of racial discrimination within the USDA. Dan Glickman stepped forward in 1996 and announced the formation of the Civil Rights Task Force. That press conference in December of 1996, Madam Speaker, was essentially the confession by the Department of Agriculture that they had engaged in racial discrimination with farm programs, crop payments, disaster payments, and loans. And this started then the litigation that was at least anticipated at the time. And this litigation began in 1997.

So in February, February 28 of '97, the Civil Rights Task Force of the USDA recommended 92 changes. And those changes were not implemented. And so in 1997, same year, the litigation against the U.S. Department of Agriculture for discrimination against African American farmers began in August of '97. Two cases. One was brought