States is now preparing responses. In Case A/11, Iran filed its Hearing Memorial and Evidence. In that case, Iran has sued the United States for $10 billion, alleging that the United States failed to fulfill its obligations under the Accords to assist Iran in recovering the assets of the former Shah of Iran. Iran alleges that the United States improperly failed to (1) freeze the U.S. assets of the Shah's estate and certain U.S. assets of close relatives of the Shah; (2) report to Iran all known information about such assets; and (3) otherwise assist Iran in such litigation.

In Case A/15(II:A), 3 years after the Tribunal's partial award in the case, Iran filed briefs and evidence relating to 10 of Iran's claims against the United States Government for nonmilitary property allegedly held by private companies in the United States. Although Iran's submission was made in response to a Tribunal order directing Iran to file its brief and evidence ''concerning all remaining issues to be decided by this Case,'' Iran's filing failed to address many claims in the case.

In August 1995, the United States filed the second of two parts of its consolidated submission on the merits in Case B/61, addressing issues of liability and compensation. As reported in my May 1995 Report, Case B/61 involves a claim by Iran for compensation with respect to primarily military equipment that Iran alleges it did not receive. The equipment was purchased pursuant to commercial contracts with more than 50 private American companies. Iran alleges that it suffered direct losses and consequential damages in excess of $2 billion in total because of the United States Government's refusal to allow the export of the equipment after January 19, 1981, in alleged contravention of the Algiers Accords.

4. Since my last report, the Tribunal has issued two important awards in favor of U.S. nationals considered dual U.S.-Iranian nationals by the Tribunal. On July 7, 1995, the Tribunal issued Award No. 565, awarding a claimant $1.1 million plus interest for Iran's expropriation of the claimant's shares in the Iranian architectural firm of Abdolaziz Farmafarmaian & Associates. On July 14, 1995, the Tribunal issued Award No. 566, awarding two claimants $129,869 each, plus interest, as compensation for Iran's taking of real property inherited by the claimants from their father. Award No. 566 is significant in that it is the Tribunal's first decision awarding dual national claimants compensation for Iran's expropriation of real property in Iran.

5. The situation reviewed above continues to implicate important diplomatic, financial, and legal interests of the United States and its nationals and presents an unusual challenge to the national security and foreign policy of the United States. The Iranian Assets Control Regulations issued pursuant to Executive Order No. 12170 continue to play an important role in structuring our relationship with Iran and in enabling the United States to implement properly the Algiers Accords. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 28, 1995.*

ANNUAL REPORT OF RAILROAD RETIREMENT BOARD, FISCAL YEAR 1994—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Transportation and Infrastructure and the Committee on Ways and Means:

To the Congress of the United States:

I transmit herewith the Annual Report of the Railroad Retirement Board for Fiscal Year 1994, pursuant to the provisions of section 7(b)(6) of the Railroad Retirement Act and section 12(1) of the Railroad Unemployment Insurance Act.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 28, 1995.*

(1430)

CORRECTIONS CALENDAR

The SPEAKER pro tempore (Mr. BARR). This is the day for the call of the Corrections Calendar.

The Clerk will call the first bill on the Corrections Calendar.

PHILANTHROPY PROTECTION ACT OF 1995

The Clerk called the bill (H.R. 2519) to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, and for other purposes.

The Clerk read the bill, as follows:

H.R. 2519

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Philanthropy Protection Act of 1995''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to the Investment Company Act of 1940.
Sec. 3. Amendment to the Securities Act of 1933.
Sec. 4. Amendments to the Securities Exchange Act of 1934.
Sec. 5. Amendment of the Investment Advisers Act of 1940.
Sec. 6. Protection of philanthropy under State law.
Sec. 7. Effective dates and applicability.

SEC. 2. AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940.

(a) EXEMPTION.—Section 3(c)(10) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(10) is amended to read as follows:

''(10)(A) Any company organized and operated exclusively for religious, educational, benevolent, fraternal, charitable, or reformatory purposes—

''(i) no part of the net earnings of which inures to the benefit of any private shareholder or individual; or

''(ii) which is or maintains a fund described in subparagraph (B).

''(B) For the purposes of subparagraph (A)(ii), a fund is described in this subparagraph if such fund is a pooled income fund, collective trust fund, collective investment fund, or similar fund maintained by a charitable organization exclusively for the collective investment and reinvestment of one or more of the following:

''(i) assets of the general endowment fund or other funds of one or more charitable organizations;

''(ii) assets of a pooled income fund;

''(iii) assets contributed to a charitable organization in exchange for the issuance of charitable gift annuities;

''(iv) assets of a charitable remainder trust or of any other trust, the remainder interests of which are irrevocably dedicated to any charitable organization;

''(v) assets of a charitable lead trust;

''(vi) assets of a trust not described in clauses (i) through (v), the remainder interests of which are revocably dedicated to a charitable organization, subject to subparagraph (C); or

''(vii) such assets (including assets revocably dedicated to a charitable organization) as the Commission may prescribe by rule, regulation, or order in accordance with section 6(c).

''(C) A fund that contains assets described in clause (vi) of subparagraph (B) shall be excluded from the definition of an investment company for a period of 3 years after the date of enactment of this subparagraph, but only if—

''(i) such assets were contributed before the date which is 60 days after the date of enactment of this subparagraph; and

''(ii) such assets are commingled in the fund with assets described in one or more of clauses (i) through (v) of subparagraph (B).

''(D) For purposes of this paragraph—

''(i) a trust or fund is 'maintained' by a charitable organization if the organization serves as a trustee or administrator of the trust or fund or has the power to remove the trustees or administrators of the trust or fund and to designate new trustees or administrators;

''(ii) the term 'pooled income fund' has the same meaning as in section 642(c)(5) of the Internal Revenue Code of 1986;

''(iii) the term 'charitable organization' means an organization described in paragraphs (1) through (5) of section 170(c) or section 501(c)(3) of the Internal Revenue Code of 1986;

''(iv) the term 'charitable lead trust' means a trust described in section 170(f)(2)(B), 2055(e)(2)(B), or 2522(c)(2)(B) of the Internal Revenue Code of 1986;

''(v) the term 'charitable remainder trust' means a charitable remainder annuity trust or a charitable remainder unitrust, as those terms are defined in section 664(d) of the Internal Revenue Code of 1986; and

''(vi) the term 'charitable gift annuity' means an annuity issued by a charitable organization that is described in section 501(m)(5) of the Internal Revenue Code of 1986.''.

(b) DISCLOSURE BY EXEMPT CHARITABLE ORGANIZATIONS.—Section 7 of the Investment Company Act of 1940 (15 U.S.C. 80a–7) is amended by adding at the end the following new subsection:

''(e) DISCLOSURE BY EXEMPT CHARITABLE ORGANIZATIONS.—Each fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of this Act shall provide, to each donor to such fund, at the time of the donation or within 90 days after the date of enactment of this subsection, whichever is later, written information describing the material terms of the operation of such fund.''.

SEC. 3. AMENDMENT TO THE SECURITIES ACT OF 1933.

Section 3(a)(4) of the Securities Act of 1933 (15 U.S.C. 77c(a)(4)) is amended by inserting after the semicolon at the end the following: ''or any security of a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940;''.

SEC. 4. AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.

(a) EXEMPTED SECURITIES.—Section 3(a)(12)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)(A)) is amended—

(1) in clause (iv) by striking ''and'' at the end;

(2) by redesignating clause (v) as clause (vi); and

(3) by inserting after clause (iv) the following new clause:

''(v) any security issued by or any interest or participation in any pooled income fund, collective trust fund, collective investment fund, or similar fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940; and''.

(b) EXEMPTION FROM BROKER-DEALER PROVISIONS.—Section 3 of such Act (15 U.S.C. 78c) is amended by adding at the end the following new subsection:

''(e) CHARITABLE ORGANIZATIONS.—

''(1) EXEMPTION.—Notwithstanding any other provision of this title, but subject to paragraph (2) of this subsection, a charitable organization, as defined in section 3(c)(10)(D) of the Investment Company Act of 1940, or any trustee, director, officer, employee, or volunteer of such a charitable organization acting within the scope of such person's employment or duties with such organization, shall not be deemed to be a 'broker', 'dealer', 'municipal securities broker', 'municipal securities dealer', 'government securities broker', or 'government securities dealer' for purposes of this title solely because such organization or person buys, holds, sells, or trades in securities for its own account in its capacity as trustee or administrator of, or otherwise on behalf of or for the account of—

''(A) such a charitable organization;

''(B) a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940; or

''(C) a trust or other donative instrument described in section 3(c)(10)(B) of the Investment Company Act of 1940, or the settlors (or potential settlors) or beneficiaries of any such trust or other instrument.

''(2) LIMITATION ON COMPENSATION.—The exemption provided under paragraph (1) shall not be available to any charitable organization, or any trustee, director, officer, employee, or volunteer of such a charitable organization, unless each person who, on or after 90 days after the date of enactment of this subsection, solicits donations on behalf of such charitable organization from any donor to a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940, is either a volunteer or is engaged in the overall fund raising activities of a charitable organization and receives no commission or other special compensation based on the number or the value of donations collected for the fund.''.

(d) CONFORMING AMENDMENT.—Section 12(g)(2)(D) of such Act (15 U.S.C. 78l(g)(2)(D)) is amended by inserting before the period ''; or any security of a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940''.

SEC. 5. AMENDMENT OF THE INVESTMENT ADVISERS ACT OF 1940.

Section 203(b) of Investment Advisers Act of 1940 (15 U.S.C. 80b–3(b)) is amended—

(1) by striking ''or'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; or''; and

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

''(4) any investment adviser that is a charitable organization, as defined in section 3(c)(10)(D) of the Investment Company Act of 1940, or is a trustee, director, officer, employee, or volunteer of such a charitable organization acting within the scope of such person's employment or duties with such organization, whose advice, analyses, or reports are provided only to one or more of the following:

''(A) any such charitable organization;

''(B) a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940; or

''(C) a trust or other donative instrument described in section 3(c)(10)(B) of the Investment Company Act of 1940, or the trustees, administrators, settlors (or potential settlors), or beneficiaries of any such trust or other instrument.''.

SEC. 6. PROTECTION OF PHILANTHROPY UNDER STATE LAW.

(a) REGISTRATION REQUIREMENTS.—A security issued by or any interest or participation in any pooled income fund, collective trust fund, collective investment fund, or similar fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940, and the offer or sale thereof, shall be exempt from any statute or regulation of a State that requires registration or qualification of securities.

(b) TREATMENT OF CHARITABLE ORGANIZATIONS.—No charitable organization, or any trustee, director, officer, employee, or volunteer of a charitable organization acting within the scope of such person's employment or duties, shall be required to register as, or be subject to regulation as, a dealer, broker, agent, or investment adviser under the securities laws of any State because such organization or person buys, holds, sells, or trades in securities for its own account in its capacity as trustee or administrator of, or otherwise on behalf of or for the account of one or more of the following:

(1) a charitable organization;

(2) a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940; or

(3) a trust or other donative instrument described in section 3(c)(10)(B) of the Investment Company Act of 1940, or the settlors (or potential settlors) or beneficiaries of any such trusts or other instruments.

(c) STATE ACTION.—Notwithstanding subsections (a) and (b), during the 3-year period beginning on the date of enactment of this Act, a State may enact a statute that specifically refers to this section and provides prospectively that this section shall not preempt the laws of that State referred to in this section.

(d) DEFINITIONS.—For purposes of this section—

(1) the term ''charitable organization'' means an organization described in paragraphs (1) through (5) of section 170(c) or section 501(c)(3) of the Internal Revenue Code of 1986;

(2) the term ''security'' has the same meaning as in section 3 of the Securities Exchange Act of 1934; and

(3) the term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 7. EFFECTIVE DATES AND APPLICABILITY.

This Act and the amendments made by this Act shall apply in all administrative and judicial actions pending on or commenced after the date of enactment of this Act, as a defense to any claim that any person, security, interest, or participation of the type described in this Act and the amendments made by this Act is subject to the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, or the Investment Advisers Act of 1940, or any State statute or regulation preempted as provided in section 6 of this Act, except as otherwise specifically provided in such Acts or State law.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BLILEY

Mr. BLILEY. Mr. Speaker, pursuant to clause 4, rule VIII of the rules of the House, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. BLILEY:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Philanthropy Protection Act of 1995''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to the Investment Company Act of 1940.
Sec. 3. Amendment to the Securities Act of 1933.
Sec. 4. Amendments to the Securities Exchange Act of 1934.
Sec. 5. Amendment of the Investment Advisers Act of 1940.
Sec. 6. Protection of philanthropy under State law.
Sec. 7. Effective dates and applicability.

SEC. 2. AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940.

(a) EXEMPTION.—Section 3(c)(10) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(10) is amended to read as follows:

''(10)(A) Any company organized and operated exclusively for religious, educational, benevolent, fraternal, charitable, or reformatory purposes—

''(i) no part of the net earnings of which inures to the benefit of any private shareholder or individual; or

''(ii) which is or maintains a fund described in subparagraph (B).

''(B) For the purposes of subparagraph (A)(ii), a fund is described in this subparagraph if such fund is a pooled income fund, collective trust fund, collective investment fund, or similar fund maintained by a charitable organization exclusively for the collective investment and reinvestment of one or more of the following:

''(i) assets of the general endowment fund or other funds of one or more charitable organizations;

''(ii) assets of a pooled income fund;

''(iii) assets contributed to a charitable organization in exchange for the issuance of charitable gift annuities;

''(iv) assets of a charitable remainder trust or of any other trust, the remainder interests of which are irrevocably dedicated to any charitable organization;

''(v) assets of a charitable lead trust;

''(vi) assets of a trust, the remainder interests of which are revocably dedicated to or for the benefit of 1 or more charitable organizations, if the ability to revoke the dedication is limited to circumstances involving—

''(I) an adverse change in the financial circumstances of a settlor or an income beneficiary of the trust;

''(II) a change in the identity of the charitable organization or organizations having the remainder interest, provided that the new beneficiary is also a charitable organization; or

''(III) both the changes described in subclauses (I) and (II);

''(vii) assets of a trust not described in clauses (i) through (v), the remainder interests of which are revocably dedicated to a charitable organization, subject to subparagraph (C); or

''(viii) such assets as the Commission may prescribe by rule, regulation, or order in accordance with section 6(c).

''(C) A fund that contains assets described in clause (vii) of subparagraph (B) shall be excluded from the definition of an investment company for a period of 3 years after the date of enactment of this subparagraph, but only if—

''(i) such assets were contributed before the date which is 60 days after the date of enactment of this subparagraph; and

''(ii) such assets are commingled in the fund with assets described in one or more of clauses (i) through (vi) and (viii) of subparagraph (B).

''(D) For purposes of this paragraph—

''(i) a trust or fund is 'maintained' by a charitable organization if the organization serves as a trustee or administrator of the trust or fund or has the power to remove the trustees or administrators of the trust or fund and to designate new trustees or administrators;

''(ii) the term 'pooled income fund' has the same meaning as in section 642(c)(5) of the Internal Revenue Code of 1986;

''(iii) the term 'charitable organization' means an organization described in paragraphs (1) through (5) of section 170(c) or section 501(c)(3) of the Internal Revenue Code of 1986;

''(iv) the term 'charitable lead trust' means a trust described in section 170(f)(2)(B), 2055(e)(2)(B), or 2522(c)(2)(B) of the Internal Revenue Code of 1986;

''(v) the term 'charitable remainder trust' means a charitable remainder annuity trust or a charitable remainder unitrust, as those terms are defined in section 664(d) of the Internal Revenue Code of 1986; and

''(vi) the term 'charitable gift annuity' means an annuity issued by a charitable organization that is described in section 501(m)(5) of the Internal Revenue Code of 1986.''.

(b) DISCLOSURE BY EXEMPT CHARITABLE ORGANIZATIONS.—Section 7 of the Investment Company Act of 1940 (15 U.S.C. 80a–7) is amended by adding at the end the following new subsection:

''(e) DISCLOSURE BY EXEMPT CHARITABLE ORGANIZATIONS.—Each fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of this Act shall provide, to each donor to such fund, at the time of the donation or within 90 days after the date of enactment of this subsection, whichever is later, written information describing the material terms of the operation of such fund.''.

SEC. 3. AMENDMENT TO THE SECURITIES ACT OF 1933.

Section 3(a)(4) of the Securities Act of 1933 (15 U.S.C. 77c(a)(4)) is amended by inserting after the semicolon at the end the following: ''or any security of a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940;''.

SEC. 4. AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.

(a) EXEMPTED SECURITIES.—Section 3(a)(12)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)(A)) is amended—

(1) in clause (iv) by striking ''and'' at the end;

(2) by redesignating clause (v) as clause (vi); and

(3) by inserting after clause (iv) the following new clause:

''(v) any security issued by or any interest or participation in any pooled income fund, collective trust fund, collective investment fund, or similar fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940; and''.

(b) EXEMPTION FROM BROKER-DEALER PROVISIONS.—Section 3 of such Act (15 U.S.C. 78c) is amended by adding at the end the following new subsection:

''(e) CHARITABLE ORGANIZATIONS.—

''(1) EXEMPTION.—Notwithstanding any other provision of this title, but subject to paragraph (2) of this subsection, a charitable organization, as defined in section 3(c)(10)(D) of the Investment Company Act of 1940, or any trustee, director, officer, employee, or volunteer of such a charitable organization acting within the scope of such person's employment or duties with such organization, shall not be deemed to be a 'broker', 'dealer', 'municipal securities broker', 'municipal securities dealer', 'government securities broker', or 'government securities dealer' for purposes of this title solely because such organization or person buys, holds, sells, or trades in securities for its own account in its capacity as trustee or administrator of, or otherwise on behalf of or for the account of—

''(A) such a charitable organization;

''(B) a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940; or

''(C) a trust or other donative instrument described in section 3(c)(10)(B) of the Investment Company Act of 1940, or the settlors (or potential settlors) or beneficiaries of any such trust or other instrument.

''(2) LIMITATION ON COMPENSATION.—The exemption provided under paragraph (1) shall not be available to any charitable organization, or any trustee, director, officer, employee, or volunteer of such a charitable organization, unless each person who, on or after 90 days after the date of enactment of this subsection, solicits donations on behalf of such charitable organization from any donor to a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940, is either a volunteer or is engaged in the overall fund raising activities of a charitable organization and receives no commission or other special compensation based on the number or the value of donations collected for the fund.''.

(d) CONFORMING AMENDMENT.—Section 12(g)(2)(D) of such Act (15 U.S.C. 78l(g)(2)(D)) is amended by inserting before the period ''; or any security of a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940''.

SEC. 5. AMENDMENT OF THE INVESTMENT ADVISERS ACT OF 1940.

Section 203(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(b)) is amended—

(1) by striking ''or'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; or''; and

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

''(4) any investment adviser that is a charitable organization, as defined in section 3(c)(10)(D) of the Investment Company Act of 1940, or is a trustee, director, officer, employee, or volunteer of such a charitable organization acting within the scope of such person's employment or duties with such organization, whose advice, analyses, or reports are provided only to one or more of the following:

''(A) any such charitable organization;

''(B) a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940; or

''(C) a trust or other donative instrument described in section 3(c)(10)(B) of the Investment Company Act of 1940, or the trustees, administrators, settlors (or potential settlors), or beneficiaries of any such trust or other instrument.''.

SEC. 6. PROTECTION OF PHILANTHROPY UNDER STATE LAW.

(a) REGISTRATION REQUIREMENTS.—A security issued by or any interest or participation in any pooled income fund, collective trust fund, collective investment fund, or similar fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940, and the offer or sale thereof, shall be exempt from any statute or regulation of a State that requires registration or qualification of securities.

(b) TREATMENT OF CHARITABLE ORGANIZATIONS.—No charitable organization, or any trustee, director, officer, employee, or volunteer of a charitable organization acting within the scope of such person's employment or duties, shall be required to register as, or be subject to regulation as, a dealer, broker, agent, or investment adviser under the securities laws of any State because such organization or person buys, holds, sells, or trades in securities for its own account in its capacity as trustee or administrator of, or otherwise on behalf of or for the account of one or more of the following:

(1) a charitable organization;

(2) a fund that is excluded from the definition of an investment company under section 3(c)(10)(B) of the Investment Company Act of 1940; or

(3) a trust or other donative instrument described in section 3(c)(10)(B) of the Investment Company Act of 1940, or the settlors (or potential settlors) or beneficiaries of any such trusts or other instruments.

(c) STATE ACTION.—Notwithstanding subsections (a) and (b), during the 3-year period beginning on the date of enactment of this Act, a State may enact a statute that specifically refers to this section and provides prospectively that this section shall not preempt the laws of that State referred to in this section.

(d) DEFINITIONS.—For purposes of this section—

(1) the term ''charitable organization'' means an organization described in paragraphs (1) through (5) of section 170(c) or section 501(c)(3) of the Internal Revenue Code of 1986;

(2) the term ''security'' has the same meaning as in section 3 of the Securities Exchange Act of 1934; and

(3) the term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 7. EFFECTIVE DATES AND APPLICABILITY.

This Act and the amendments made by this Act shall apply in all administrative and judicial actions pending on or commenced after the date of enactment of this Act, as a defense to any claim that any person, security, interest, or participation of the type described in this Act and the amendments made by this Act is subject to the provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, or the Investment Advisers Act of 1940, or any State statute or regulation preempted as provided in section 6 of this Act, except as otherwise specifically provided in such Acts or State law.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Virginia [Mr. BLILEY] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Virginia [Mr. BLILEY].

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

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

Mr. BLILEY. Mr. Speaker, I rise in strong support of H.R. 2519, the Philanthropy Foundation Act of 1995.

Mr. Speaker, the far-reaching, bipartisan support of the legislation before this body today underscores the importance of the Philanthropy Protection Act of 1995 to our Nation's charitable organizations and the many people they serve.

While the genesis of this legislation is in a misguided lawsuit pending in Texas, the impact of that lawsuit has already been felt across the country—from Georgetown University to the Salvation Army. Universities, hospitals, religious groups, and other philanthropic organizations that exist to help others have been forced to cut back their planned giving programs as a result of that lawsuit.

The impact is especially devastating at this time of year—when charitable organizations normally receive a significant portion of their funding through yearend gifts.

While charitable income funds permit donors to contribute assets and receive income from the investment of those assets, there is a vital distinction between a charitable income fund and an investment company. That distinction is the intent of the contributors to the fund. A person who invests money in an investment company has one primary goal: to make money. A person who contributes through a charitable income fund also has one primary goal: to give money away. These different goals mandate regulation that recognizes the distinction between the two.

The Philanthropic Protection Act will make it clear that charitable income funds are not investment vehicles. But the act will not open any loopholes for those who would dress up a fraudulent scheme in benevolent clothing. The antifraud provisions of the Federal securities laws will continue to apply to charitable organizations and income funds—so that criminals who create Ponzi schemes like the new era fraud will continue to be prosecuted.

The amendment in the nature of a substitute that I have offered clarifies and makes more efficient the exemption from the Federal securities laws that this legislation provides.

The amendment adds two additional categories of revocable assets to the types of assets that exempt charitable income funds may hold under this legislation.

The Securities and Exchange Commission staff has expressed concern in the past that a person who donates revocable assets may not have donative intent, but, rather, the intent of an investor.

However, under certain circumstances, the donative intent of donors who give revocable gifts is reasonably certain. The amendment prescribes two circumstances in which the donative intent of a donor is not put into doubt by a gift's revocability.

This amendment will make compliance with the terms of the legislation's exemptions less costly to charitable organizations and the Securities and Exchange Commission by eliminating the need for the Commission to promulgate a rule or process an exemptive application to address situations where there really is no question as to donative intent of a donor.

This act is one component of a twofold legislative effort by the Commerce Committee and the Judiciary Committee, and I applaud Judiciary Committee Chairman HYDE for introducing H.R. 2525, The Charitable Gift Annuity Antitrust Relief Act of 1995, to complete this effort.

The Judiciary Committee's legislation correctly excludes the application of its terms to the prohibition in section 5 of the Federal Trade Commission Act against deceptive acts or practices, That prohibition lies within the exclusive jurisdiction of the Commerce Committee.

For the same reasons we have maintained the applicability of the antifraud provisions of the securities laws in the Philanthropy Protection Act of 1995, the Federal and State laws that prohibit deceptive acts or practices should continue to protect charitable organizations and the donors who contribute to them.

However, the use of joint annuity rates by charitable organizations is not, in and of itself, a deceptive act or practice for purposes of the Federal Trade Commission Act and similar State statutes. It has been brought to my attention that plaintiffs have sought to use consumer protection statutes similar to the deceptive acts or practices prohibition of the Federal Trade Commission Act to attack antitrust conduct where antitrust remedies are not available. At least one State supreme court has dismissed such a case, refusing to reward creative pleading at the expense of consistent application of legal principles.

The Federal Trade Commission Act is not intended to serve as a back door through which plaintiffs may seek to revoke charitable donations by disguising antitrust allegations as consumer protection claims.

I would like to take a few moments to thank Congressman FIELDS for bringing this legislation to the attention of the committee. I also would like to thank ranking members Congressman DINGELL and Congressman MARKEY for their hard work and cosponsorship of this legislation.

I also commend you, Mr. Speaker, for your work in bringing the Corrections Calendar to fruition to enable this Congress to consider matters such as the Philanthropy Protection Act of 1995 on this streamlined and expedited basis. Congresswoman VUCANOVITCH should also be recognized for her excellent work in making the Corrections Calendar such a success.

Finally, I would like to thank Linda Dallas Rich, Steve Cope, and Brian McCullough of our staff for their diligent and excellent work on this initiative.

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

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

Mr. Speaker, I rise in strong support of H.R. 2519, the Philanthropy Protection Act of 1995. I am very pleased to have cosponsored the legislation, along with the gentleman from Texas [Mr. FIELDS], the gentleman from Virginia [Mr. BLILEY], the gentleman from Michigan [Mr. DINGELL], and I want to compliment at this time the gentleman from Illinois [Mr. HYDE] and the gentleman from Michigan [Mr. CONYERS] for their work on the companion piece of legislation which is moving through the House this afternoon on the same subject.

Mr. Speaker, H.R. 2519 clarifies the exemptions provided in the Federal securities laws for charitable organizations. Under existing law, companies organized exclusively for religious, educational, benevolent, fraternal, or charitable purposes traditionally have been exempted from the registration and reporting requirements established for investment companies, investment advisers, and issuers of securities. These exemptions have reflected a longstanding congressional intent that such organizations should not be asked to comply with the comprehensive scheme of investor protection regulations designed to protect investors in the securities of for-profit corporations.

Over the years, the SEC staff has issued a series of interpretive no-action letters that have spelled out the precise contours of these exemptions, thereby giving assurances to the charitable community that their fundraising activities would not result in any SEC enforcement action being brought against them. This arrangement worked quite well until very recently, when a class action lawsuit filed in the State of Texas placed a cloud of uncertainty over the exempt status of charitable donation funds.

This lawsuit has alleged that the charitable donation funds maintained by the defendants are operating illegally as unregistered investment companies and that the gift annuities offered by these charities are illegal unregistered securities. While there is good reason to believe that this lawsuit ultimately would not prevail on the merits, its very existence has created great uncertainty, confusion, and concern within the philanthropic community.

At the subcommittee's hearing last month, we heard testimony from several charitable and educational organizations, including the Massachusetts General Hospital, that the lawsuit in Texas has already had a chilling effect upon its donations. We also heard from the president of the Boston-based National Council of Planned Giving that this lawsuit was having an adverse impact on charities throughout New England.

H.R. 2519 would eliminate the legal uncertainties raised by the Texas lawsuit by writing into the statute the longstanding SEC staff interpretive report of the nature and scope of the charitable organization exemptions. To ensure that the exemptions in the bill would not provide a loophole that would permit fraudulent activity, the legislation provides that the antifraud provisions of the Federal and State securities laws apply to charitable donation pools and the organizations that operate them.

Again, I am pleased to be a cosponsor of this bipartisan consensus piece of legislation. I applaud the gentleman from Texas [Mr. FIELDS] and the gentleman from Virginia [Mr. BLILEY] for their expeditious bringing of the legislation to the floor before the end of the year when so many Americans make their decisions as to whether or not they are going to be making large charitable donations.

Mr. Speaker, I include for the RECORD an editorial in this matter which recently appeared in the Boston Globe.

The document referred to is as follows:

[From the Boston Globe, Oct. 16, 1995]

AN UNCHARITABLE LAWSUIT

Federal Judge Joe Kendall has a choice to make. Sitting in his Dallas chambers, he will soon decide whether to expose America's charitable institutions to an ignoble lawsuit that could cost them billions of dollars.

In 1988, Louise Peter, now 90, of Wichita Falls, Texas, gave her $800,000 estate to the Lutheran Foundation in an arrangement known as a charitable gift annuity. At regular intervals the foundation pays Peter a certain sum based upon the value of her donation. In return, the charity keeps the Peter fortune upon her death.

The annuities make sense. Donors minimize taxes and are able to enjoy their philanthropy while still alive. Charities, whose burdens burgeon with each pass of Washington's budget buzzsaw, enjoy greater and more consistent revenue.

The only people who have reason to feel less than happy about the annuities are some of the would-be heirs who are passed over. The family of Louise Peter wants her money.

Peter's grandniece, Dorothy Ozee, sued the Lutheran Foundation for issuing the annuity without an insurance license and for administering the Peter estate without license as a trust company, Ozee also accused the foundation of breaking federal antitrust laws by following the payout recommendations of the nonprofit American Council on Gift Annuities. Judge Kendall's preliminary ruling favored the greedy niece. Now he has to rule on her petition to make the lawsuit a class action against almost the entirety of America's philanthropic community. If the class is certified and the suit succeeds, the charities may be required to return billions in contributions plus treble damages.

That is absurd. Charitable gift annuities have represented a legitimate way to help others for more than 100 years. Congress should quickly follow the Texas Legislature's lead and reiterate that the regulations in question were never meant to apply to charities. Judge Kendall's duty is to put an end to Ozee's bitter agenda of revenge.

Mr. DINGELL. Mr. Speaker, I am pleased to be an original cosponsor of H.R. 2519, the Philanthropy Protection Act of 1995, and I rise in support of the bill. I commend the chairman of the subcommittee, Mr. FIELDS, for his strong leadership in introducing this bill and shepherding it through the hearing and markup process so promptly. I also commend the chairman of the Commerce Committee, Mr. BLILEY, for bringing this legislation to the House floor today. I want to thank both gentlemen for the bipartisan and cooperative manner in which this bill has been handled by you and your able staff.

Time is of the essence. As spelled out in our committee's report (104–333) on this bill, abusive litigation currently pending in Texas poses a grave threat to numerous charitable organizations who have been appropriately operating in compliance with the terms and conditions of no-action letters granted by the Securities and Exchange Commission. H.R. 2519 is part of a twofold legislative effort that includes H.R. 2525, the Charitable Gift Annuity Antitrust Relief Act of 1995, which has been reported to the House by the Judiciary Committee. This combined legislation will eliminate the bases for antitrust and securities law claims against charitable organizations who make legitimate use of joint annuity rates.

With respect to matters under the Commerce Committee's jurisdiction, H.R. 2519 would codify current SEC practice under the Federal securities laws and confirm Congress' intent—that the Federal securities laws apply to investments in securities, not to gift giving. Members should note that this bill does not affect the reach or scope of the antifraud provisions of the Federal securities laws and that those laws would continue to prohibit "Ponzi" schemes and any other frauds perpetrated under the guise of charitable activity. In other words, H.R. 2519 will not cut back in any way the authority or ability of the SEC to prosecute to the fullest extent activity such as that widely reported earlier this year in connection with the Foundation For New Era Philanthropy.

Finally, the Federal Trade Commission Act is not intended to serve as a back door through which plaintiffs may seek to revoke charitable donations by disguising antitrust allegations as consumer protection claims.

In closing, I believe that this bill strikes an appropriate balance between protecting investors and consumers and facilitating the ability of philanthropic entities to manage their donations.

Mr. BLILEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. FIELDS], chairman of the Subcommittee on Telecommunications and Finance of the Committee on Commerce.

(Mr. FIELDS of Texas asked and was given permission to revise and extend his remarks.)

Mr. FIELDS of Texas. Mr. Speaker, the goals of the Philanthropy Protection Act of 1995 before this body today echo the spirit of this season. This legislation will ensure that Americans may continue to help one another not just at holiday time, but throughout the year through gifts to charitable income funds.

We have all seen examples of the extraordinary work philanthropic organizations do. We must not allow ourselves to take this good work for granted. The funding that is provided through charitable income funds is essential to institutions like my alma mater, Baylor University—not just for providing scholarships, but for paying the bills to keep its doors open. Hospitals need the funding provided by charitable income funds not only to provide care for the sick, but also to conduct research to keep future generations healthy. Many other organizations rely on charitable income funds as a key element of their planned giving programs.

But right now many of these organizations are being forced to spend their resources on legal fees rather than the people who need their help.

The lawsuit in Texas that has given rise to the immediate need for this legislation alleges that charitable income funds are illegally unregistered investment companies. But the Investment Company Act of 1940, the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Advisers Act of 1940 were adopted to regulate investment activity—not gift-giving.

Charitable gift annuities, charitable lead trusts, and other charitable income funds permit donors to structure gifts to suit their financial capabilities. These planned giving vehicles permit every person—not just the wealthy—to make a significant donation to an organization he wishes to support.

At the same time, it is important to note that this legislation will not affect the reach or scope of laws that guard against securities fraud—because charitable organizations and the people who give to them should be protected from disreputable people who prey on good will.

I want to emphasize my agreement with the point made by Chairman BLILEY regarding the Charitable Gift Annuity Antitrust Relief Act of 1995, introduced by Judiciary Committee Chairman HYDE and numerous distinguished cosponsors. That legislation, together with the Commerce Committee's Philanthropy Protection Act, will eliminate the basis for antitrust and securities law claims against charitable organizations that legitimately use joint annuity rates.

The exemption the Judiciary Committee's bill provides from Federal antitrust law should not be vitiated by a clever lawyer who couches an antitrust claim as a deceptive trade practice claim under section 5 of the Federal Trade Commission Act or any similar State law. The Texas Supreme Court, in Abbott Laboratories versus Crystal Segura, threw out a claim that used exactly this tactic. The Federal Trade Commission Act's prohibition

against deceptive trade practices does not extend to antitrust claims, regardless of how those claims are manipulated.

I thank Chairman BLILEY for cosponsoring this legislation and shepherding it through the Commerce Committee so expeditiously. I also thank Congressman DINGELL for joining the bipartisan effort, as well as my good friend, Congressman ED MARKEY. I also want to thank the many other distinguished cosponsors of this legislation—the legislation's popularity speaks highly of its significance to all Americans.

I also would like to commend you, Mr. Speaker, for creating the Corrections Calendar. The expedited fashion in which the Corrections Calendar has enabled this legislation to receive the consideration of this body is invaluable to the thousands of charitable organizations that are waiting with baited breath for the threat to their funding to go away. I thank Congresswoman BARBARA VUCANOVICH for her excellent work in developing this important new tool, which will be invaluable to this Congress as we seek to accomplish our goals as efficiently and effectively as possible.

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Finally, I want to thank our staff, Linda Dallas Rich, Steve Cope, and Brian McCullough, for their dedication and hard work on this initiative.

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

Mr. MARKEY. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I am a member of the Corrections Day Advisory Group, and I support this bill that is before us today and the other bills that are going to be considered on the Corrections Calendar.

I last spoke about the corrections day on the House floor in June when we considered setting up a correction day. At that time, I raised the concern that the calendar would become a fast track for special interests to stop regulations to protect public health and the environment. Today, I am here to say that this has not happened and to commend the corrections day process.

The guidelines we developed for the Corrections Day Advisory Committee say that a corrections bill should address laws and regulations that are ambiguous, arbitrary, or ludicrous. The bill should be noncontroversial and have broad bipartisan support. The idea was to provide a forum for correcting silly, burdensome regulations that might not otherwise get the attention they deserve.

The Chair of the advisory group is the gentlewoman from Nevada [Mrs. VUCANOVICH]. Under her leadership, we have been learning how to apply these guidelines to the many bills that come before the Corrections Day Advisory Group.

The advisory group in general, and Chairman VUCANOVICH in particular, has been doing an excellent job in managing this Corrections Calendar. We have truly been identifying needless, burdensome regulations that can be corrected on the Corrections Calendar without controversy and with broad bipartisan support. At the same time, we have been rejecting bills that do not meet the corrections day criteria because they are controversial or address significant policy issues that should be considered under regular legislative procedures.

There are many examples of worthwhile corrections day bills that the House has enacted or is considering. The bill before us right now is an excellent example. Earlier this month, we passed a corrections bill that eliminated a duplicative reporting requirement relating to cardiac pacemakers, the Committee on Commerce reported a corrections bill that eliminates duplicative warning notices for products containing saccharin, and I hope we will also be able to deal with the issue of ride-sharing under the Clean Air Act in a way that meets the criteria of the Corrections Calendar.

I am particularly pleased to report that the existence of this Corrections Calendar has persuaded agencies to correct problems on their own. Let me give an example.

In September, the gentleman from Iowa [Mr. NUSSLE] brought a bill to the advisory committee that addressed a technical problem in the Clean Air Act. The problem was that the grain elevators that operate seasonally were being treated by air pollution regulators as if they were operated year round. The result was that these elevators might be classified as a major pollution source subject to permitting requirements.

Congresswoman VUCANOVICH and I wrote the EPA Administrator Carol Browner about the issue, informing her that this appeared to be a candidate for the Corrections Calendar. The Administrator investigated the issue, agreed that there was a problem that needed correcting, and promised to issue new guidelines correcting the grain elevator problem.

On November 14, the EPA fulfilled its commitment and issued the new guideline. The National Feed and Grain Association commended EPA on this action and estimated that the savings would be $10 to $20 million annually.

In closing, I particularly want to commend the gentlewoman from Nevada [Mrs. VUCANOVICH]. When the Corrections Day Advisory Committee first met, she said she wanted to feel her way step-by-step in establishing fair and appropriate procedures for Corrections Day. She has done an excellent job feeling her way. Speaking as one who initially had doubts about how the Corrections Day process would be handled, I am pleased to be able to say that it has been handled very fairly and productively under the leadership of the gentlewoman from Nevada [Mrs. VUCANOVICH].

The bill that is before us right now and the other bills on the calendar today under this procedure deserve the support of Members of the House. I hope that the Corrections Day Advisory Committee will present other worthwhile measures for the House to consider and to pass through this expedited procedure.

Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MARKEY] for giving me this opportunity to address this subject.

Mr. FIELDS of Texas. Mr. Speaker, I yield 5 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I thank the gentleman for yielding me this time. I would also like to thank the gentleman from California [Mr. WAXMAN] for the nice comments that he made just a few minutes ago.

Mr. Speaker, I rise today in support of H.R. 2519 and H.R. 2525, which address a critical need of the charitable community.

When we were working to establish corrections day we included in our definition of a corrections bill matters relating to court decisions. There was some discussion about the need for corrections day to deal with court decisions, and a general concern that we were designing a system to override, in a capricious way, all decisions we didn't agree with. At the time, it was difficult to cite an example of the type of case we had in mind. Now, here today we have the perfect example.

A court in Texas is considering Richie versus American Council on Gift Annuities in which it is alleged that the use of the same annuity rate by the various charities constitutes price fixing, and is thus a violation of the antitrust laws. This case has been certified as a class action suit greatly expanding its potential impact on the charitable community.

I think this is a clear example of a court case and possible decision that will have serious harmful impact. There is no evidence that this system of fixing annuity rates among charities causes any harm, in fact, the fixing of rates insures that giving decisions are made based on the merits of the charity rather than on the merits of the investment.

The House should put a stop to this misguided effort immediately, and I hope the other body will take up this legislation without delay.

Before I end today I would like to say a few words about corrections day in general and the progress we are making in perfecting the corrections process.

Last week this House passed a bill sponsored by Mr. WAXMAN and me to delete the heart pacemaker registry. As most Members know, Mr. WAXMAN and I seldom find ourselves on the same side of any issue. Despite our different outlooks, I must say that we have worked together very well over the last several months in getting corrections day to fulfill its purpose.

We have a very good group of people on our advisory group, who have been toiling away in anonymity and not always with much appreciation. The 12 of us, Mr. ZELIFF, Mr. MCINTOSH, Mr. SOLOMON, Mr. DREIER, Mr. JOHNSON, Mr. EHRLICH, Mr. WAXMAN, Mr. COLLIN PETERSON, Mr. CONDIT, Ms. RIVERS, and Mr. BECERRA have been meeting regularly since mid-July. During these months we have listened to many Members of Congress present their proposals for corrections day and worked diligently to get a flow of bills to the floor. I'm proud to say that we have made great progress.

Today marks the 5th corrections day. The House has passed a total of seven bills under this procedure and today we will pass bills eight and nine. One bill, the Edible Oil Regulatory Reform Act, has been signed into law by the President.

An additional benefit to this process has been the attention corrections day has brought to the regulatory process. We have found that by our advisory group looking into an issue we may be able to resolve the differences between the Federal agency and the constituent who is having a problem. As an example, Mr. WAXMAN mentioned our intervention on behalf of Congressman NUSSLE and his constituents resulted in a positive resolution of a problem between the grain elevator operators and the EPA.

In a time when the media is characterizing this institution as gridlocked, and the public view is that we are unable to solve the Nation's problems, it is encouraging to see that our legislative system can be made to work for the benefit of the average American. Again, Mr. Speaker, I would like to thank the gentleman from Virginia [Mr. BLILEY], the gentleman from Illinois [Mr. HYDE], and especially the gentleman from California [Mr. WAXMAN]. Also, I would like to thank the various staff members who have worked on this corrections day process.

Mr. MARKEY. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, I thank the distinguished gentleman from Massachusetts [Mr. MARKEY].

Mr. Speaker, I rise in strong support of H.R. 2519 and again to repeat from the previous week my urge that there is nothing we need more around here than corrections.

I would like to explain that the most correcting that is needed is not entirely addressed by H.R. 2519 by charities alone but also is to do away with the approach that the congressional Republicans have taken in their budget.

Referring to H.R. 2519, we clearly need to encourage more charitable giving. A summer study of 100 charities showed that, based on the Republican budget, they alone would cause the Nation's charities a $250 billion shortfall between 1996 and 2002. Now, it may just be coincidental that that is almost the amount of the tax cut that the Republicans intend to give to their rich friends. However, the head of the independent sector, Dr. Sara Melendez, says that the Nation's nonprofits will not only be unable to provide services at their current levels but their capacity will be so reduced that they will be incapable of meeting the increasing services that are projected for the new needs created by the Federal reductions in entitlement programs by 2002.

Now, H.R. 2519 takes a small step in correcting that. However, when we look at the huge problem that has been created by the Republican budget, and I quote here; for example, the study shows that the Lutheran Social Services of Michigan will have a shortfall of almost 280,000 days in nursing homes for the elderly.

The Crittendon Family Services in Columbus, OH, will serve 13 percent fewer people in their Family Preservation Services program.

The Arkansas Easter Seal Society will serve 20 percent fewer children in its early intervention program for children with disabilities.

In Houston, TX, the Family Resources Society will have to turn away 20,000 children from its Child Abuse Prevention and Treatment program, all because of the Republican budget cuts.

The Jewish Family Service of Los Angeles, CA, will be unable to meet the needs of some 80,000 meals for its Meals to the Elderly program.

If the participating organizations are to make up their program revenue with private giving, which H.R. 2519 will help them do, the contributions would have to increase by 125 percent from the previous year over and above expected increases.

Now, when we are going to cut services to the elderly from 17 to 9 percent, nursing homes for the elderly from 42 to 30 percent, community development programs from 50 to 31 percent, home health care from 39 to 27 percent, legal services from 40 to 4 percent, food services from 46 to 40 percent, we need H.R. 2519.

Because the Republican draconian cuts that impact the poor and the disadvantaged, which these charities under H.R. 2519 are designed to serve, and where that money is being given, the $245 billion that is being cut and given to the very rich in tax cuts, we can only hope that H.R. 2519 will encourage those same rich Republicans who get the $245 billion in tax cuts to give a little bit of it back. The harm they are causing the poor, the elderly, the disadvantaged, the disabled in this country and the young children is so huge that one wonders if this little correction is going to be enough to overcome that awful, heartless cutting and gutting of the social programs that protect the needy and the disadvantaged in this country.

While I urge my colleagues to vote for H.R. 2519, I urge them to remember that we cannot let this budget that the Republicans have suggested go through, giving all of this $245 billion in tax cuts to rich, taking it out of the hides of the poor. H.R. 2519, while it is a good bill, will do a little bit but not nearly enough to correct the egregious error and hurt that the Republicans are inflicting on American society.

Mr. RICHARDSON. Mr. Speaker I would like to voice support for this bipartisan legislation and I would like to commend Mr. BLILEY, Mr. FIELDS, Mr. MARKEY, and Mr. DINGELL for expediting this important bill.

Some years ago the New Mexico Boys Ranch, Inc. became a member of the Committee on Gift Annuities—now American Council on Gift Annuities—because they were told that the Securities and Exchange Commission and the U.S. Treasury Dept. utilized the committee to ensure that charities were properly trained and equipped to issue and administer charitable gift annuities to their donors. They were told that being a member was essential to demonstrate to both government regulators and donors that as a charity they were qualified to participate in this area of deferred giving.

This legislation will clarify that the American Council on Gift Annuities has not violated the law. It will dismantle a pending lawsuit that would otherwise limit the ability of the new Mexico Boys and Girls Ranches to provide services to children and potentially bankrupt and close the ranches permanently.

Because the future of philanthropy in the United States as we now know it is at stake and the future of the New Mexico Boys and Girls Ranches and many other new Mexico charities is threatened, I am wholeheartedly supportive of H.R. 2519.

NEW MEXICO
BOYS RANCH & GIRLS RANCH,
Albuquerque, NM, October 30, 1995.

Congressman BILL RICHARDSON,
Rayburn House Office Bldg.,
Washington, DC.

DEAR REPRESENTATIVE RICHARDSON, Years ago the New Mexico Boys Ranch, Inc. became a member of the Committee on Gift Annuities (now American Council on Gift Annuities) because we were told that the Securities and Exchange Commission and the United States Treasury Dept. utilized the committee to ensure that charities were properly trained and equipped to issue and administer charitable gift annuities to their donors. I was told that being a member was essential to demonstrate to both government regulators and donors that as a charity we were qualified to participate in this area of deferred giving.

I learned recently that a federal lawsuit had been filed in Texas that alleges that the American Council on Gift Annuities violated antitrust laws by providing actuarial tables to charities to assist them in determining the annuity rates for charitable gift annuities and that commingling of more than one charities' trust funds in a pooled income fund is a violation of the Investment Company Act of 1940, and other securities laws.

To my astonishment I learned last week that now the attorneys for the plaintiff have been granted class action certification to expand the suit to charities in every state. The plaintiff attorneys want to force charities to return all charitable gift annuities to the donors plus treble damages. With New Mexico Boys and Girls Ranch Foundation as a member of the American Council on Gift Annuities in the past, this would obviously greatly limit the ability of the New Mexico Boys

and Girls Ranches to provide services to children and has the potential of bankrupting and closing the ranches permanently.

Because the future of philanthropy in the United States as we now know it is at stake and the future of the New Mexico Boys and Girls Ranches and many other New Mexico charities is threatened, I am urgently asking you to co-sponsor (if you have not already done so) and support HR 2519, introduced jointly by Representative Thomas Bailey of Virginia, Chairman of the House Commerce Committee and Representative Jack Fields of Texas, Chairman of that committee's subcommittee on Telecommunications and Finance. I also urge you to co-sponsor and support HR 2525, introduced by representative Henry Hyde, Chairman of the House Judiciary Committee.

I would deeply appreciate hearing from you as soon as possible. I thank you in advance for your help in addressing this crisis. I honestly feel that the work of the charitable community throughout this nation will be seriously damaged if this legislation is not passed very soon.

Sincerely yours,

MICHAEL H. KULL,
President.

Mr. STEARNS. Mr. Speaker, I rise in strong support of H.R. 2519, legislation to modify our federal securities laws to preclude litigation that is threatening the future funding of our Nation's numerous philanthropic organizations.

Philanthropic organizations are some of the most important organizations in the United States today. These charitable, religious and educational groups have the laudable goal of providing assistance, support and hope to those in society that may need a helping hand.

When an individual makes the generous decision to contribute to a charitable donation fund, the charity should not be prevented from enjoying the benefits derived from that contribution because some disgruntled relative, feeling that the money should go in their pockets, makes a claim on the money. Such relatives should not be allowed to initiate lawsuits on these grounds especially when the donor made a valid gift with sufficient donative intent.

Charitable donations funds fall outside the purview of our securities laws for the simple reason that donors do not intend to reap high returns on their investments. Instead they are seeking to make a gift to charity.

I urge all my colleagues to support H.R. 2519 to prevent contributions intended for charitable donation funds out of the pockets of selfish relatives.

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Mr. MARKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BARR). Pursuant to the rule, the previous question is ordered on the amendment in the nature of a substitute and the bill.

The question is on the amendment in the nature of a substitute offered by the gentleman from Virginia [Mr. BLILEY].

The amendment in the nature of a substitute was agreed to.

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

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

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

The question was taken.

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

The SPEAKER pro tempore. Pursuant to clause 5, rule I, further proceedings on this bill will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. FIELDS of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to insert extraneous material on H.R. 2519.

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

There was no objection.

CHARITABLE GIFT ANNUITY ANTITRUST RELIEF ACT OF 1995

The Clerk called the bill (H.R. 2525) to modify the operation of the antitrust laws, and of State laws similar to the antitrust laws, with respect to charitable gift annuities.

The Clerk read the bill, as follows:

H.R. 2525

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Charitable Gift Annuity Antitrust Relief Act of 1995''.

SEC. 2. MODIFICATION OF ANTITRUST LAWS.

(a) EXEMPT CONDUCT.—Except as provided in subsection (b), it shall not be unlawful under any of the antitrust laws, or under a State law similar to any of the antitrust laws, for 2 or more persons described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) that are exempt from taxation under section 501(a) of such Code to use, or to agree to use, the same annuity rate for the purpose of issuing 1 or more charitable gift annuities.

(b) LIMITATION.—Subsection (a) shall not apply with respect to the enforcement of a State law similar to any of the antitrust laws, with respect to conduct described in subsection (a) occurring after the State enacts a statute, not later than 3 years after the date of the enactment of this Act, that expressly provides that subsection (a) shall not apply with respect to such conduct.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) ANNUITY RATE.—The term ''annuity rate'' means the percentage of the fair market value of a gift (determined as of the date of the gift) given in exchange for a charitable gift annuity, that represents the amount of the annual payment to be made to 1 or 2 annuitants over the life of either or both under the terms of the agreement to give such gift in exchange for such annuity.

(2) ANTITRUST LAWS.—The term ''antitrust laws'' has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(3) CHARITABLE GIFT ANNUITY.—The term ''charitable gift annuity'' has the meaning given it in section 501(m)(5) of the Internal Revenue Code of 1986 (26 U.S.C. 501(m)(5)).

(4) PERSON.—The term ''person'' has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

(5) STATE.—The term ''State'' has the meaning given it in section 4G(2) of the Clayton Act (15 U.S.C. 15g(2)).

SEC. 4. APPLICATION OF ACT.

This Act shall apply with respect to conduct occurring before, on, or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. HYDE] and the gentleman from Michigan [Mr. CONYERS] each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. HYDE].

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2525.

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

There was no objection.

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

Mr. Speaker, I rise in support of H.R. 2525, the Charitable Gift Annuity Antitrust Relief Act, which provides antitrust protection for nonprofit organizations that issue charitable gift annuities. H.R. 2525 has been crafted in an extremely narrow manner, so as to protect only very limited conduct and to avoid application to any potential anticompetitive conduct. I am pleased to be joined by the ranking member of the Judiciary Committee, Mr. CONYERS, in sponsoring this bipartisan measure.

Charitable gift annuities are one of the oldest and most commonly used planned giving vehicles in existence today. Many charities, including relatively small ones, issue dozens of gift annuity contracts each year, and they do so within rules established by the Internal Revenue Code. You have all probably seen the advertisements for charities that promise to ''pay you an income for life.'' This is what a gift annuity does, and it is the kind of giving that H.R. 2525 is designed to protect.

When a person enters into a gift annuity agreement, he or she is actually doing two things—making a charitable gift and purchasing a fixed income for life. Probably, if the donor could afford to do so, he or she would turn over to the organization as an outright gift the entire amount paid for the annuity; but the donor needs to make some provision for income while alive. The important thing to remember is that gift annuities are not arms-length commercial insurance transactions. Donors expect charities to benefit from their gift, and they know the charities will