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Senate

The Senate was not in session today. Its next meeting will be held on Monday, March 22, 2004, at 12 noon.

House of Representatives

THURSDAY, MARCH 18, 2004

The House met at 10 a.m.

Rabbi Elie Spitz, Congregation B'nai Israel, Tustin, California, offered the following prayer:

Master of the Universe, may You bless our great country and its leaders. May You give them, our congressional leaders, the wisdom to discern the path of righteousness.

Scripture teaches: ''Today, I place before you life and death, blessing and curse. Choose life.''

Sixty years ago this day, the Germans invaded greater Hungary to oust the government and begin deportations of hundreds of thousands of Jews and others. Many of those who survived have modeled an affirmation of life and a passion for justice in the shadow of tragic loss.

May You, the Almighty, guide our congressional leaders toward affirming life and pursuing justice in all that they do. May they find Your light despite shadow.

Infuse their acts with strength and courage, memory and wise purpose, open hearts and outstretched hands.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New Jersey (Mr. ANDREWS) come forward and lead the House in the Pledge of Allegiance.

Mr. ANDREWS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 10 1-minute speeches on each side.

HONORING SPECIALIST MICHAEL WOODLIFF

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, last Friday in Punta Gorda, Florida, I attended the funeral services for one Specialist Michael Woodliff who was killed in Iraq. He was laid to rest in Arlington Cemetery on Monday.

At the ceremony there was no bitterness, but fond memories for a fallen hero. His friends and families describe his credos as faith, family, country. His father said to me, ''Michael died serving his country with pride in defending his homeland.''

Michael would not want the political debate that has taken place in the last 24 hours of acrimony and division. Michael would want us not to question the merits of the war in Iraq. He would want us to track the terrorists who killed him and others who killed those in New York on September 11.

Iraq has changed the world as we know it. Libya is cooperating on nuclear weapons. North Korea is talking about peace. Pakistan and India are trying to settle their longstanding skirmish over Kashmir.

Michael Woodliff died defending the honor of this country. Politicians should think of him when they utter words on this floor. His sacrifice to this Nation is a lot better than the speeches I have heard by some.

God bless you, Michael. Thank you for serving your Nation.

THE AMERICAN PEOPLE DESERVE THE TRUTH

(Mr. INSLEE asked and was given permission to address the House for 1 minute.)

Mr. INSLEE. Mr. Speaker, one of the reasons this current administration has run up the largest Federal deficit in the universe's history is it has not told the truth to the American people.

The most recent example of that is this story that has come out that the chief actuary for Medicare had numbers indicating that the President's Medicare bill would cost billions of dollars more money than the administration told the American people. Indeed, Richard Foster advised the administration that this bill would cost $534 billion, when the administration was telling the American people it would cost about $400 billion.

And the reason this individual was not able to blow the whistle at that time is they effectively said they would

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fire him if he told the truth to the American people.

In an e-mail disclosed yesterday in the Wall Street Journal, it was disclosed that this gentleman got an e-mail that said essentially, if you tell Congress or the American people the truth, quote, ''The consequences for insubordination are extremely severe,'' closed quote. We know what that means.

This administration told the person he would be fired if he told the truth to the American people. Well, we disagree with Jack Nicholson: We can handle the truth, and we deserve it.

IRAQ

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, a year ago our troops went into Iraq, removed Saddam Hussein from power, and the world is a safer place with him gone. Hussein was a homicidal tyrant who disregarded international law, basic human rights, and invaded his neighbors at will. He supported Palestinian terrorists and suicide bombers. He used chemical weapons of mass destruction against Iran and his own people. He killed thousands and thousands.

Hussein reigned over the people of Iraq in terror and he terrorized the region. Human rights organizations report that women told them that rape was routinely used by Iraqi officials as a means of torture and intimidation. Electric shock, pulling out fingernails, dripping acid on victims' skin, gouging out eyes, were torture methods used by Saddam's regime.

Iraq has come a long way since then. And if we stay the course, we can build a future for Iraq free of this kind of terror and deal a deathblow to the terrorists who rely on murder and coercion and death to advance the terrible agenda by building a free democratic Iraq.

THE RISING COST OF OIL

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, oil hit a new high yesterday. Prices over 2 bucks a gallon in places in the western United States; $30 billion will be extorted from American consumers this year because OPEC is fixing prices and driving up the cost.

Now, what is the response of the oil men at the Bush White House? A collective yawn and silence from the Bush administration. I guess their buddies in the oil industry are doing pretty well because they are adding on a little margin to these increases in prices.

Now OPEC is violating the rules of the World Trade Organization. We have an administration that is a big fan of the World Trade Organization and rules-based trade. Will they file a complaint on behalf of American consumers because OPEC is breaking the rules? They have told me they will not do that.

They are going to unilaterally disarm Americans in face of this attack against our economy by OPEC because some of their buddies in the oil industry are adding a little margin on and doing okay.

IRAQ

(Mr. MURPHY asked and was given permission to address the House for 1 minute.)

Mr. MURPHY. Mr. Speaker, 1 year ago the Iraqi people lived under the rule of a man who massacred and tortured his own people by the hundreds of thousands, who supported terrorists groups, and who was a human weapon of mass destruction.

Today 25 million Iraqis have been liberated and an example has been made of Saddam Hussein. Today America is a safer place. Today the world is a safer place because of the actions of our military.

Since September 11, thousands of Guard and reservists have been activated to fight the war on terror and 40 percent of the current force in Iraq is composed of these soldiers. And despite what some critics continue to say, Guard and Reserve service is just as honorable as regular military service. They have left their families and their jobs to serve their Nation. They too have seen the horrors of Saddam Hussein's regime and the gratitude of the Iraqi people as they work hand in hand to rebuild their country.

Today I thank all who serve. I give a special nod to our guardsmen, for when I see them, I do not see half a soldier, but I see twice a patriot.

THE TRUTH ABOUT THE MEDICARE BILL

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, Members of the House, we now learn that the efforts to provide a prescription drug benefit to the seniors of this Nation, which they so desperately need, that legislative process has now become a scandal.

We learned in the papers this morning that administration officials were threatened to be fired if they told the Congress the true cost of that legislation. We learned that the Medicare administrator was negotiating to set up a consulting business with the very people who would benefit from this legislation.

We learned that the legislative chairman of the committee was negotiating with the pharmaceutical industry for a contract to a job after leaving Congress. We learned in the New York Times that there is an inquiry now about the offering of a bribe to a Republican Member of Congress to support that legislation.

No wonder the senior citizens do not like this bill. It was never about them. It was only about the special interest and special money and campaign contributions and employment contracts for the Republican administrators and the Republican Members of the House.

ONE YEAR ANNIVERSARY OF THE WAR IN IRAQ

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, today this House should recognize that just 1 year ago the campaign started in Iraq to liberate the Iraqi people. A significant part of the war on terrorism, military victory in Iraq, and the capture of Saddam Hussein have helped move the world closer to safety.

Make no mistake about it, the decision to go into Iraq was not taken lightly. And the price of freedom is costly, but we must endure. We must recognize and relate the victories that have been achieved.

Unfortunately, we cannot count on our own news outlets to be objective and complete in this, because just last week, Mr. Speaker, a momentous event occurred that has yet to receive sufficient mention in the press. And this, of course, was the signing of the interim Iraqi Constitution by the 25 signatories.

The press scarcely reported what will likely be the outcome of this constitution and how this will shape the world events for the rest of this century.

Mr. Speaker, I want to congratulate our President on his leadership for getting this done. I want to congratulate Ambassador Bremer.

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I want to congratulate our soldiers and our Reservists who dedicate themselves to ensuring as much safety as possible for the people of Iraq. As we focus on the future, we must understand that sacrifices have to be made for democracy and freedom to flourish for generations to come.

CONSEQUENCES FOR TELLING TRUTH ABOUT MEDICARE BILL EXTREMELY SEVERE

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Mr. Speaker, the consequences for insubordination are extremely severe. That was the warning that the Medicare actuary Richard Foster received from his superiors for trying to tell the truth about the real costs of the Medicare bill. The penalties for misleading the American people are extremely severe as well.

Today, we learned that some in the Republican leadership knew all along the real cost of the prescription drug

bill and yet continued to hide that information from their colleagues on both sides of the aisle. Let me again quote from the Wall Street Journal's lead editorial yesterday: ''What's a mere $140 billion among friends?''

This is a case not only of politics trumpeting policy but of politics trumpeting principle. Some think that there are consequences for insubordination, but all of us know that the consequences of deception are extremely severe as well.

UNCOVERING SADDAM HUSSEIN'S LEGACY OF TERROR

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, in cooperation with the gentleman from California (Mr. HUNTER), the Committee on Armed Services chairman, I recently sent every Member of the House a copy of ''Iraq's Legacy of Terror: Mass Graves,'' a report that highlights the worst human rights atrocity of Saddam Hussein's regime. Hundreds of thousands of murdered Iraqis, including women holding their children with bullet holes, lie in at least 270 mass grave sites around the country.

Saddam's mass graves represent a crime against humanity surpassed in scope only by the World War II Nazi Holocaust, Pol Pot's Cambodian communist killing fields in the 1970s, and the Rwandan genocide in 1994. Thanks to the leadership of President Bush and the valor of the American military, along with our international allies, Iraqis no longer live in fear of Saddam's brutal regime. Today, the Coalition Provisional Authority is working with thousands of Iraqi families to identify and rebury their loved ones.

In conclusion, may God bless our troops, and we will never forget September 11.

WOUNDED CREDIBILITY

(Mr. TIERNEY asked and was given permission to address the House for 1 minute.)

Mr. TIERNEY. Mr. Speaker, the credibility of this administration abroad has been wounded severely because of the misleading representations about the reasons we went into that country; and no matter how we try to rewrite history, that fact will not go away.

The administration's credibility at home has been shot. It is failing every day with the decreasing job market and the failure to do anything about it.

This House must fight the loss of its credibility with respect, especially what has been going on with the Medicare measure that passed more recently.

We now find out in today's papers and the last week's papers that the administration knew well ahead of time that this bill was going to cost substantially more than it represented it was going to cost; and in fact, a member of the administration was threatened with the loss of his job if he told Congress the facts, if he let people know the facts.

We find that the chairman of one of the committees drafting the bill was offered a $2 million-a-year job by the industry that would benefit by $139 billion over the course of that bill; and we find that a Republican Member of this House now says that although he is not running, he was told that his son would get money or not get money for his campaign to succeed his father depending on the vote on that bill.

Mr. Speaker, the credibility of this House is endangered. We need an investigation into those circumstances. We cannot afford to let the credibility of this institution go the way of the credibility of the administration.

THE RIGHT PRESCRIPTION FOR BETTER HEALTH

(Mr. REHBERG asked and was given permission to address the House for 1 minute.)

Mr. REHBERG. Mr. Speaker, I am proud of the Medicare prescription drug legislation we passed not long ago that will give more seniors more access to prescription drugs at lower costs. Sadly, a lot of seniors have not gotten the word yet. They have not heard that Medicare will now give seniors choice and control over their prescription drug plans. They have not heard that Medicare will now pay 75 percent of drug costs and 95 percent of catastrophic drug costs. They have not heard that those who choose to enroll in the prescription drug program will receive discount cards this spring entitling them to save up to 25 percent off the cost of their medications. In fact, by 2006, seniors who have elected to sign up for their new prescription benefit will pay a monthly premium of as little as $35.

On top of that, low-income seniors will receive a $600 cash subsidy to defray the costs of their medications. Plus, those with incomes below the Federal poverty level will see their drug bills virtually eliminated. Their deductible and monthly premiums will be waived, and their copays will be as little as $1 per prescription.

Groups like AARP, the American Medical Association, and the American Hospital Association agree, we have given seniors the right prescription to better health.

CONGRESS DEPENDS ON TRUTHFUL INFORMATION

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, last year the Bush administration misled and systematically lied to the American people and to this Congress about the reasons why it said it was necessary to go into war with Iraq. We know that what they said about weapons of mass destruction, about nuclear weapons, about the biological weapons, we know all this was not true. The only question now is when they knew it was not true.

We now learn, Mr. Speaker, that the Bush administration misled this Congress deliberately and knowingly misled this Congress as to the cost of the Medicare bill by over $140 billion. We know that they threatened the actuary with being fired if he gave truthful information to Congress.

Mr. Speaker, we depend on truthful information to have democracy. Martha Stewart faces jail time for lying to the government. When are we going to hold this administration accountable for lying to the American people and to this institution so that we cannot do our work properly because we are working on false information? When are we going to appoint an independent counsel to begin to demand honesty so that we can represent the American people properly?

OUR PRESIDENT IS WORKING TO DEFEND AND PROTECT THE AMERICAN PEOPLE

(Mr. GARRETT of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GARRETT of New Jersey. Mr. Speaker, when in power, Saddam Hussein posed a grave and great danger to the Iraqi people, the region's stability, and the worldwide community. He ruled by oppression, deception, and fear; and the President's decision to go to war with Iraq was the right one, and the world is safer and better off without Saddam Hussein in power.

For 12 years, Saddam Hussein used tactics of denial, distortion, and delay to prevent the world from enforcing the 1991 cease-fire agreement that ended the Persian Gulf War and numerous other U.N. Security Council resolutions demanding complete disarmament. It proves Saddam Hussein's stance against a peaceful resolve in the region.

Now, while some skeptics continue to suggest that military action in Iraq was wrong, their answer never is that Iraqis or the world would be better off left with him in power.

Mr. Speaker, I stand here today in support of the President and his decisions, for I know his one overriding responsibility is to protect and defend the American people, and our President is working to do just that.

UNEMPLOYMENT RATES

(Mrs. MILLER of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MILLER of Michigan. Mr. Speaker, we in the Congress have been

working hard to improve the economy and to help to create an environment that allows for new jobs.

This morning we received some more good news that shows that the economy is improving and that the President's economic growth package is working. The Labor Department reported that initial claims for unemployment benefits fell by 6,000 last week. This is the lowest level in more than 3 years.

By cutting taxes for every American taxpayer and job provider, we are making it easier for employers to create new jobs and certainly to help our families meet their needs. We cannot turn back the momentum in the recovery as some on the other side have suggested.

No tax increase ever created a job. The only way to continue to grow our economy and to create new jobs is to hold the line on taxes.

Today's good news is welcome, and we will continue the fight for lower taxes and for more jobs.

PENSION FUNDING EQUITY ACT

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, when the savings and loan industry was in the depths of its problems in the 1980s, Congress created a statutory requirement for deficit reduction contributions to be made where these pensions were underfunded. This was renewed in 1987 and actually made more stringent.

Recently, the House has considered H.R. 3108. In fact, it is in conference with the Senate at this time; and there are rumors by the Senate to actually grant waivers for these employment contributions to a couple of airlines and a couple of steel companies. To me, the only thing worse than a bailout of an industry is a bailout of certain segments or certain companies within an industry, and that is exactly what the Senate version of the bill purports to do.

We should not be going this direction. The taxpayers will be put at risk here just like they were with the savings and loan industry, and we should have no part of it; nor should we have any part of actually having government pick winners and losers in the economy, saying that you are favored but you are not. That is far worse than actually bailing out an entire industry.

I urge the House conferees to reject the Senate version and for all conferees to accede to the House version of the bill.

JOBS MOVING OVERSEAS

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, last month Siemans announced that it was moving most of its 15,000 software jobs to China, India, and Eastern Europe. We have now lost 229,000 computer jobs since 2001. Pfizer and Levis now produce none of their products in this country, even though this is where they make most of their money.

Yesterday, The Washington Post carried a story about a chemical plant in West Virginia closing this month, just after its 75th anniversary. The story said we have lost 100,000 chemical jobs in the last 5 years because of cheap foreign competition and soaring natural gas prices.

The Clinton administration locked up 213 trillion cubic feet of natural gas due to pressure from environmental extremists. Conservative columnist Paul Craig Roberts, a Reagan Treasury Department official, wrote recently, ''The combination of war, job and income loss, unprecedented trade deficits, and the creation of Social Security entitlements for foreign nationals will break the U.S. long before another generation passes.

''Before the U.S. can reconstruct the world,'' he wrote, ''it must cease deconstructing itself.''

PROVIDING FOR CONSIDERATION OF H.R. 1375, FINANCIAL SERVICES REGULATORY RELIEF ACT OF 2003

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 566 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 566

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1375) to provide regulatory relief and improve productivity for insured depository institutions, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill (except those arising under provisions of the Congressional Budget Act of 1974 other than section 302(f)) are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Financial Services and the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute (except those arising under provisions of the Congressional Budget Act of 1974 other than section 302(f)) are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to the demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), my friend, pending which I yield myself such time as I may consume. During consideration of this resolution, all time is yielded for the purposes of debate only.

The resolution before us is a structured rule providing 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services. The rule waives all points of order against consideration of the bill. However, the only Budget Act waiver granted in this rule is for section 302(f).

It also provides that the substitute amendment provided by the Committee on Financial Services and the Committee on the Judiciary is considered as read as an original bill for the purpose of amendment.

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This rule also waives all points of order against consideration of the substitute, however, the only Budget Act waiver granted in this rule is for section 302(f). It makes in order only those amendments printed in the Committee on Rules report accompanying the resolution. These amendments shall be considered as read, and may only be considered in the order printed in the report, may only be offered by the Member designated in the report, and shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent; not to be subject to amendment and not to be subject to a demand for a division of the question in the whole House or in the Committee of the Whole.

Finally, this rule waives all points of order against the amendments printed in the report and provides one motion to recommit with or without instructions.

Mr. Speaker, today, I rise to introduce the rule for H.R. 1375, the Financial Services Regulatory Relief Act. This bill is commonsense legislation

that will diminish or eliminate outdated statutory banking provisions to reduce the regulatory compliance burden faced by our Nation's financial institutions to improve their productivity, as well as to make necessary technical correction to current statutes.

America's banking laws are full of outdated and burdensome regulations, some dating back to the Great Depression, that have long outlived their usefulness. To address the problem of outdated rules and the rapidly advancing and highly competitive financial services industry, in 2001, Committee on Financial Services chairman, the gentleman from Ohio (Mr. OXLEY), asked the State and Federal regulators of our Nation's financial institutions to provide him with a list of regulations that they believed have outlived their usefulness.

The regulators answered the chairman's call, along with the rest of the financial services community, providing the chairman with a number of suggestions that, when enacted, will benefit consumers and regulators alike by lowering the cost of transacting financial services.

This wide-ranging list of proposals affecting banks, savings associations, and credit unions was first passed by the committee as H.R. 3951, but unfortunately the 107th Congress expired before it could be considered on the House floor. The bill that is being considered on the floor today is a new and updated version of that original legislation and remains true to the original vision of providing regulatory relief in financial services that the gentleman from Ohio (Mr. OXLEY) and the bill's chief sponsor, the gentlewoman from West Virginia (Mrs. CAPITO) had when they began this process more than 3 years ago.

This legislation accomplishes a number of important things, and in the interest of time I will only mention a few. For instance, for banks, H.R. 1375 removes the prohibition on national and State banks from expanding across State lines by opening branches. It eliminates unnecessary and costly reporting requirements on banks regarding lending to bank officials; and it streamlines bank merger application regulatory requirements.

For savings associations, the bill removes lending limits on small business and auto loans, and increases the limit on their business loans. It gives these institutions parity with banks with respect to broker-dealer and investment adviser SEC registration requirements; and it gives thrifts the same authority as national and State banks to make investments primarily designated to promote community development.

For credit unions, the bill expands the investment authority of Federal credit unions. It increases the general limit on the term of Federal credit union loans from 12 to 15 years, and it eases restrictions on voluntary mergers between healthy credit unions.

Finally, for the Federal financial regulatory agencies, the bill provides agencies with the discretion to adjust the examination cycle for insured depository institutions to use agency resources in the most efficient manner. It modernizes agency recordkeeping requirements to allow the use of optically-imaged or computer-scanned images. It clarifies that agencies may suspend or prohibit individuals charged with certain crimes from participation in the affairs of any depository institution and not only institutions for which that individual is associated.

By fixing these and many other technical and outdated problems, H.R. 1375 will allow financial institutions to devote more resources to the business of lending to consumers and less to the compliance with outdated and unneeded regulations. Reducing these regulatory burdens will lower the cost of credit for consumers and help our economy to grow and to provide more jobs even more quickly.

And while there are a number of things that Congress still needs to accomplish, like creating a uniform and cutting-edge national privacy standard for consumers, this legislation is a great step in the right direction. It will make all of our country's financial institutions more efficient, while balancing the additional regulatory burden they face each day as a result of the USA PATRIOT Act, and it will help our banks, savings associations, and credit unions to focus their compliance efforts on combating money laundering and terrorist financing, not on wasteful and duplicative regulations.

I strongly support this rule and the underlying legislation, and I urge my colleagues to do so. I would like to congratulate the members of the Committee on Financial Services who have made great contributions to this bill, including the chairman, the gentleman from Ohio (Mr. OXLEY), the gentlewoman from West Virginia (Mrs. CAPITO), the ranking member, the gentleman from Massachusetts (Mr. FRANK), the gentleman from Pennsylvania (Mr. TOOMEY), and the gentleman from Alabama (Mr. BACHUS). These are the people who have helped to bring this bill to the floor today. I am proud of what they have done.

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

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS) for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

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

Mr. MCGOVERN. Mr. Speaker, the Committee on Financial Services and the Committee on the Judiciary referred an imperfect bill to the full House. However, in a rare bipartisan move, the chairman, the gentleman from Ohio (Mr. OXLEY), the ranking member, the gentleman from Massachusetts (Mr. FRANK), and the gentleman from Ohio (Mr. GILLMOR) joined together to try to fix what is one of the more controversial elements of this bill. And they deserve credit for trying to work in a bipartisan way and to build consensus and to bring something to this floor that a majority of this House will be able to support.

Unfortunately, last night, the Committee on Rules failed to follow the lead set by our three distinguished colleagues. In what has become a very disturbing standard of operating procedure in the people's House, the Committee on Rules once again issued a restrictive rule. Now, this is the 12th rule considered by this body this year so far, and only one of them has been open. Mr. Speaker, a restrictive rule on a noncontroversial bill, and I think it is fair to say if the manager's amendment gets approved, this is a fairly uncontroversial bill, is simply undemocratic.

Every day, the people I talk to grow more and more outraged with the way this Republican leadership shuts down the democratic process in this House. This restrictive rule I think is also an insult to the former chairman of the Committee on Financial Services, the gentleman from Iowa (Mr. LEACH), who I have great admiration for. The major controversy with the underlying bill is the regulation of industrial loan companies, or ILCs. The manager's amendment includes the compromise that I mentioned, worked out among the chairman, the ranking member (Mr. FRANK), and the gentleman from Ohio (Mr. GILLMOR).

The gentleman from Iowa (Mr. LEACH), as he testified last night in the Committee on Rules, was not satisfied with the compromise language on ILCs. And as is his right, he came to the Committee on Rules last night to offer an amendment regulating these businesses. Now, during their testimony, I asked the chairman and I asked the ranking member if they supported the right of the gentleman from Iowa (Mr. LEACH) to offer his amendment on the floor today. And while they said that they had some issues with the substance of his amendment, and they would not be able to support it, they both agreed that the former chairman of the Committee on Financial Services deserves the right to offer his amendment before the full House, an amendment that deals with a very important aspect of this bill.

Now, if the chairman of the Committee on Financial Services and if the ranking Democrat on the Committee on Financial Services do not have a problem with the offering of the gentleman's amendment, why in the world does the Committee on Rules have a problem with the gentleman from Iowa being able to offer his amendment?

The amendment that was brought before the Committee on Rules was completely in accordance with the rules of this House. There were no waivers that were required in order for it to be considered on the floor today. In fact, if

this was an open rule, he would be able to offer the amendment. There would be no problem. The gentleman from Iowa (Mr. LEACH) is a distinguished Member of this House who drafted this amendment in a thoughtful way, and I believe that the former chairman of the Committee on Financial Services deserves more than he is getting here today.

There are other amendments that were brought before the Committee on Rules last night that were not made in order. In addition, the Committee on Rules set a deadline for submitting amendments to the committee of 10 a.m. yesterday morning. By the time the Committee on Rules convened to report the rule last night, the Republican leadership knew full well that only 10 amendments would be offered today. Instead of granting an open rule so that all 10 amendments could be considered under regular order, the Committee on Rules granted this rule which provides for 1 hour of general debate and 70 minutes for consideration of the amendments.

With this restrictive rule, the Republican leadership not only shuts out one of their more distinguished Members but other Members who would like to offer amendments to this bill. Again, during the hearing last night in the Committee on Rules, both the gentleman from Massachusetts (Mr. FRANK) and the gentleman from Ohio (Mr. OXLEY) made mention of the fact that all these amendments could be dealt with in a relatively short period of time; that there was no reason why some of these amendments needed to be shut out of the process.

For the life of me, I cannot figure out why the Committee on Rules and the Republican leadership continues to insist on shutting down democracy in this House of Representatives. Sometimes, like today, it seems as though they stifle debate just because they can. It is like a bad habit they cannot break. Mr. Speaker, the Republican leadership is addicted to their own power, and I urge them to take the first step toward recovery by admitting that they have a problem, a big problem. And it is not too late. Democrats stand ready to help you, there are thoughtful Members on the Republican side who stand ready to help you.

There is no reason why this bill needs to come to the floor today under this restrictive process. This should be an open process. This should be a relatively noncontroversial process, but you have made it more controversial than it needs to be. So I hope the Republican leadership at some time comes to their senses and does the right thing, but I am not holding my breath. But we are going to continue to insist that this process be more open and be more democratic.

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

Mr. SESSIONS. Mr. Speaker, I yield myself such time as I may consume, and I would stand to be corrected, Mr. Speaker, but as I recall the testimony last night in the Committee on Rules, it was that the chairman of the Committee on Financial Services said that he had no problem making the amendment of the gentleman from Iowa in order, but would defer to the Committee on Rules to make that decision. And, in fact, we did.

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

Mr. SESSIONS. I yield to the gentleman from Massachusetts.

Mr. MCGOVERN. Mr. Speaker, maybe we need to go get the text of the hearing last night. I asked specifically whether or not either the gentleman from Massachusetts (Mr. FRANK) or the gentleman from Ohio (Mr. OXLEY) had a problem with the gentleman from Iowa (Mr. LEACH) offering his amendment, and the answer was no. There was no qualification.

So that is why I asked the question. And I repeated it several times during the hearing to make the point that even though they had some problems with the substance of the gentleman's amendment, they had no problem with him offering his amendment.

Mr. SESSIONS. Reclaiming my time, Mr. Speaker, I thank the gentleman for his comments, and as part of that same openness to the gentleman from Davenport, Iowa, I yield 8 minutes to the gentleman from Iowa (Mr. LEACH), the former chairman of the Committee on Financial Services, or perhaps it was the Committee on Banking and Financial Services at that time.

Mr. LEACH. Mr. Speaker, I thank the gentleman for yielding me this time, and let me just say that it is with the greatest sadness and discomfort that I rise in opposition to the rule, and because of the rule, I am also obligated to oppose, with every degree of intensity I can, the underlying bill.

□ 1045

Let me explain what is happening before this House. The underlying bill is a bill that is a deregulatory bill. It is good in many ways for virtually every sector of the financial community in parts. It is not necessarily good in all parts for the public interest. Some of this bill I very much support. Other parts of it I very much object to. But embedded in the bill is a new empowerment, an empowerment that goes to a charter that virtually nobody in the public has ever heard of called industrial loan companies. Industrial loan companies will now be able to offer virtually every feature and service of a commercial bank, but they will be able to offer it without the protections to the public comparable to that authorized for commercial banks.

What this implies is that we have a breach of what is called commerce and banking; that is, industrial loan companies can be owned by commercial entities. We also have a breach of standards of regulation that have come to be commonplace in the United States and now in Europe, what is called consolidated regulation. In America, we do this in the Federal banking statutes in which the Federal Reserve Board is the consolidated regulator of holding companies.

What we have here is an exception to that rule. What it means, and I think this Congress should understand this, is that there are a number of problems that occur in banking now and again, or financial services. One relates to incompetence, and so you have regulatory authority. In this case, the FDIC will be a partial regulator of these institutions. Then you have a problem that relates to very sophisticated new instruments of finance, particularly those described as derivatives kinds of products. Historically these are the province of larger institutions. Now they are increasingly used by smaller institutions. Industrial loan companies used to be very small, mom-and-pop in the financial services industry kinds of institutions. None up to 1987 was as large as $400 million in assets. Most were under $50 million. Now we have one that is $60 billion and we have eight that are over $1 billion in size. It is becoming the obvious charter of choice to a lot of companies.

But then let me also mention that you have a problem of criminality and criminalities of many kinds. It can be American-derived; it can be foreign-derived. One of the roles of the Federal Reserve of the United States is the gatekeeper to access to the American financial system, which is the Federal Reserve system, and what this statute will say is that the Federal Reserve system can be tapped by institutions, foreign or domestic, which the Federal Reserve will not have the power to regulate. And so if you take a Latin American bank, a Russian bank, if they get chartered by one of the five States allowed to authorize industrial loan companies, they will be able to tap into the payment system and to Federal deposit insurance and without Federal Reserve oversight.

I will tell you, this is a scandal. It is nothing less. It is an embarrassment to the committee of jurisdiction; it is an embarrassment to the Committee on Rules. Because all I asked the Committee on Rules to do was allow a single, short amendment that simply said if the new powers under this act come to be applied, an institution would have to come under the Federal banking statutes, meaning Federal Reserve oversight of the holding company. But the fix was in. The power groupings did not want this to happen. I will say to you in my time in the United States Congress, this is the greatest microcosm evidence of special interest reasoning that does not even allow debate on this subject in an amendment on the House floor.

I happen to be the senior member of the committee of jurisdiction, a former chairman. I consider it not particularly uncivil to me that I am not allowed to offer this amendment, but I consider it an embarrassment to the House that

this issue cannot be debated on the most important banking bill that is going to be before this Congress this year. Just so that no one is under any disillusionment, I am not on a hare. Chairman Greenspan and the Federal Reserve could not feel stronger about an amendment.

Mr. Speaker, we have seen in finance over the last decade some difficulties that have arisen. They have arisen because we have empowered the big without appropriate oversight. A legislative body really has a great deal of difficulty of understanding the subtleties of modern day finance. That is why we establish institutions in America that are designed to be the experts in this area. Most particularly we look in finance at very large levels, for example, in derivatives products, in money laundering, to holding company oversight to the Federal Reserve of the United States.

This Congress is saying that we do not want to see that oversight. This Congress is saying in this bill that we want to loosen things up. Here let me go to the structure of the bill because we have an interesting grandfather provision. We will say some will have these powers. Others after given dates of incorporation will not. Part of this is derived from a desire among some to stem a particular institution to get certain powers. I am not against any single institution. I am for everyone coming under the same law of the United States. This puts inequality under the law between financial institutions, ILC versus others, and then between types of ILCs. It is really preposterous.

All I am suggesting to this body is let us have evenness of law, let us have credible law to protect the public, and let us also recognize that when you make it easier for people to tie into the payment system that are foreign, you are inviting money laundering, among other things. You are inviting criminality. You are making it easier for the national security of the United States to be jeopardized. It is in that context that I would say to the committee of jurisdiction, I am deeply disappointed that this simple amendment could not be offered on this floor and, therefore, I must oppose this rule. I hesitate to oppose rules of my political party, but I have no option except to do so. I have to oppose the underlying bill even though there are a number of provisions in it that I strongly support. But this jeopardizes the United States public and the United States national security and I am deeply appalled.

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

I just want to commend the gentleman from Iowa for his comments. Again, I wish that he had the opportunity to offer his amendment because I think there were a lot of Members who share his concerns. Maybe before this debate is over with, we can get an explanation from someone on the Committee on Rules as to why his amendment which was perfectly in order, required no budgetary waivers, was not allowed here, which I think is really unfortunate. We certainly have the time to be able to debate it and every Member should have the right to vote up or down on it.

Mr. Speaker, I yield 8 minutes to the gentleman from Massachusetts (Mr. FRANK), the ranking Democrat on the Committee on Financial Services who most recently David Broder in a Washington Post article referred to as one bold thinker among Democrats, one of the most effective Members of this House.

Mr. FRANK of Massachusetts. Mr. Speaker, I deeply appreciate my colleague and neighbor's generous remarks and I am abashed that I bring nothing bold to this debate. I apologize, but sometimes boldness is not appropriate. I think this legislation is a very well balanced one and I will be, when we get into the substantive debate, arguing for it. There are a couple of amendments that will be offered. The gentlewoman from California has a good one that I believe will prove noncontroversial. The gentleman from New York has one that I think is a good consumer protection amendment that we will have some controversy about.

What this bill tries to do is to continue what I believe has been the pattern in the committee which we dealt with last year with regard to the extension of the rules governing credit. That is, recognize the importance of market forces while at the same time providing those consumer protections and those public interest protections that the market is not designed to do. That is, I think our posture ought to be that the market works, the market is a great mechanism for creating wealth and providing services and creating goods but that you cannot leave it entirely alone, and our job is to try and do such regulation as vindicates important public interests but not to the point where you might become a burden on the market. This is a bill that tries to fine-tune that sum, that cuts back in some areas in regulation in ways that I do not think cause trouble.

Let me just address the gentleman from Iowa for whom everyone in this House has a great deal of respect both for his own commitment to the legislative process as a very serious effort and from his own expertise on the committee. I differ with him substantively on this and we will get into it more when we get into the manager's amendment. I did, as my friend from Massachusetts said, agree that the amendment ought to be offered. I would have voted against it. We debated it fully in the committee.

I do want to just respond briefly. One of our differences, I think, between myself and the gentleman from Iowa is that I think he equates not regulation by the Federal Reserve to not regulation by anybody else. There is, after all, under the existing law regulation, for example, by the Federal Deposit Insurance Corporation. It is not simply in this area, but there have been other areas where I think the notion of the Federal Reserve being the only regulator is a problem.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Iowa.

Mr. LEACH. The gentleman is correct. The FDIC will regulate the depository institution but it cannot regulate the holding company. And what the Federal Reserve would do is regulate the holding company and would leave the FDIC as the primary regulator of the institution as it would be under the current law.

Mr. FRANK of Massachusetts. I understand that. But I believe that in this case, the entity that has a claim on the deposit insurance, that gets into the payment system, will be the entity that is regulated by the FDIC. Let us be clear in this bill, we are not creating ILCs. ILCs have been in existence for a considerable period of time. They are especially important in the States of California and Utah. I believe we will hear from some of our colleagues from California and Utah who think we are being unduly restrictive toward institutions which they say, experience has shown, play a useful role and do not interfere.

Mr. LEACH. If the gentleman will yield on that point, I think the Congress ought to be made aware that under law only five States can have ILCs. One is Utah, one is California, with Utah being the dominant one. But to vote for this approach means that people from 45 other States are going to see their institutions disadvantaged and devalued based upon our empowering institutions that can only operate in five States. It is really a quirk in the law that ought to be thought through.

Mr. FRANK of Massachusetts. Yes, I understand that. But I would differ that they were disempowered. I must tell the gentleman, here we may have some difference. I do not think our function here ought to be to worry about institutions. Our job is to worry about the economic function that institutions perform and what they offer consumers.

I understand that institutions will say this puts them at a disadvantage. I have been dealing with businesses in America for my 24 years here, in the Committee on the Judiciary with one set of businesses, in the Committee on Financial Services with another. Economists have downward sloping curves and upward sloping curves. We have a downward sloping metaphor. I am convinced from listening to testimony all this time that every single business in America is at a competitive disadvantage versus every other business. It is like in Lake Wobegon where everybody is above average. Here everybody is below in competitive advantage. Everyone argues that they have got a competitive disadvantage.

We are not here to protect institutions or to listen, I believe, to complaints that, gee, this one is a little unfair compared to the other in the way it ought to function. We also should note that in this bill which would allow them to extend to other States, there is a new restriction and that is the one that the gentleman referred to with the grandfathering, the institutions, any new ones would have to meet a certain test, others will have been in existence.

The other thing I would mention, though, is this. To the extent that we are talking about institutions that are not regulated by the Federal Reserve but have access to various advantages that we give banks, there is nothing unique about the ILCs in that regard. There are other banks in this country of various sorts that are regulated. As the gentleman knows, we have the Office of the Comptroller of the Currency, we have the FDIC, we have the Office of Thrift Supervision, we have State bankers. There are other banks that do not have Federal Reserve supervision. There is a difference between us. I understand there is a view, and the gentleman from his own long years of study and I differ, for example, with regard to the Basle Accords internationally. Many of us found an overreach by the Federal Reserve. There is a view that says the Federal Reserve is the kind of lead regulator and the others are relegated. I disagree with that.

Mr. LEACH. If the gentleman will yield further, what is being established by this law is the notion that comparable institutions in 45 States will come under Federal law and in five States will not in a very significant area of Federal law and, that is, holding company regulation.

□ 1100

That is really bizarre. We are saying five States will not operate under Federal law; 45 States will.

Mr. FRANK of Massachusetts. Mr. Speaker, reclaiming my time, I would differ with the gentleman. There is this problem we have here, which is, certainly, the notion of grandfathering is not unique. If one is doing something that might pollute the air in California, they are subject to different laws than if they are doing it in Iowa. We do not have this absolute uniformity. And part of the problem we have is this: when we decide to change laws in any area, banking, pollution, other cases, we sometimes find that there are existing patterns in particular States, and we have this dilemma. We do not want to necessarily nationalize them, but we do not want to disrupt existing arrangements. So the notion in this very diverse country that we will sometimes have a lack of uniformity is inevitable if we are going to be able to legislate sensibly; otherwise every time we try to do something new, we will be faced with the notion that we have to uproot what exists. I do not think that is a problem, but I do want to stress again the fact that there will be financial institutions that are not regulated by the Federal Reserve, which is nothing new; and leaving aside ILCs, there are other financial institutions not regulated by the Federal Reserve. I know we will debate this later because my understanding is when we get to the manager's amendment, which is to restrict ILCs to vis-a-vis the bill, we will have some opposition from people who think we are being too restrictive.

But I just wanted to get back to my central theme, and I just would add one other thing to my friend from Iowa. As my friend from Massachusetts said, when I was asked, I said I thought his amendment ought to be in order, and the gentleman from the Committee on Rules said that I defer to the Committee on Rules. That is the wrong verb. Being a man of some awareness of my surroundings, I often find that I submit to the Committee on Rules. There is not anything voluntary about it. That is a fact of life. But I would say to my friend from Iowa I appreciate the feeling he has now. I hope the next time a rule comes up in which significant Democratic amendments are restricted that his indignation might carry over a little bit and that he will not necessarily vote for such rules.

What this bill does in summary is to say that we understand the need both to have regulation and to keep it updated so that it meets its public interest requirements and does not become excessive.

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Duluth, Georgia (Mr. LINDER), from the Committee on Rules.

Mr. LINDER. Mr. Speaker, I thank the gentleman from Texas (Mr. SESSIONS), my friend and colleague, for yielding me this time. I rise in support of the rule and urge my colleagues to join me in approving it.

H. Res. 566 is a structured rule that makes in order a total of six amendments. Of that total, three are sponsored by Democrats and three by Republicans. This is a fair and balanced rule that will allow the House to work its will on a number of different issues, and this rule should be overwhelmingly approved by the House.

With respect to the underlying legislation, H.R. 1375, it would streamline the regulatory compliance process for banks, thrifts, and credit unions and would eliminate or alter outdated, ineffective, and duplicative regulations. Removing existing burdens on depository institutions has become even more necessary since the enactment of the 2001 USA PATRIOT Act which mandates that depository institutions, in addition to other functions, focus compliance efforts on combating money-laundering and terrorist financing.

Some highlights of H.R. 1375's provisions relating to credit unions include streamlining procedural requirements and voluntary mergers between healthy credit unions, providing an exemption to existing law to allow private insured state-chartered credit unions to join a Federal Home Loan Bank, and increasing the general limit on the term of Federal credit union loans from 12 to 15 years.

H.R. 1375 would also remove ineffective regulations governing banks and thrifts. Under the legislation, the prohibition on national and State banks expanding across State lines to open branches would be eliminated, bank merger application requirements would be simplified, limits on thrifts for small business and auto loans would be removed, and thrifts would be given the same authority as national and State banks to make investments primarily designed to promote community development.

In conclusion, H.R. 1375, sponsored by the gentlewoman from West Virginia (Mrs. CAPITO), streamlines some of the outdated and ineffective regulations that have been hindering the financial and business activity of depository institutions. Removing these burdensome regulations will not only encourage productivity but will also save depository institutions valuable time and money.

Mr. Speaker, I urge my colleagues to support the rule so that we may proceed to debate the underlying legislation.

Mr. MCGOVERN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York (Mr. WEINER), one of the more thoughtful Members of this House and a member of the Committee on the Judiciary.

Mr. WEINER. Mr. Speaker, I want to express my gratitude to the Committee on Rules for making my amendment in order and to the sponsors of the Financial Services Regulatory Relief Act, which seems to be an excellent piece of legislation, although somewhat complex for those of us who are not familiar with banking law.

My amendment is both very simple, very easy for average consumers and businesses to understand. In fact, I believe when many of my colleagues are confronted with my amendment, they are going to be shocked that what I proposed to ban is even permitted in the first place.

We all know that when someone writes a check to someone, let us say they are buying an air conditioner at a local appliance store, they write a check. If they do not have sufficient funds to cover that, very often in addition to having to make up the funds for the bounced check, they get a fee from the bank. I think many of us can quibble about whether that fee is too high or not, whether it is fair. However, that is reasonable. They have violated the essential rules of the transaction by not having enough money in the account.

What many Americans do not realize is that small business who is selling them that air conditioner, also when they have the check bounce, they are

out the money. They have lost their air conditioner because they have already turned it over to the customer. But little known to many Americans is they also pay a fee. Banks charge the victim of a bounced check fees in the magnitude of $10 to $25 and in some cases $30. Seventy-five percent of all banks in the country charge this fee to the victim. We may hear arguments that, well, it costs us some money for the transaction. I do not dispute that. In fact, the person who is bouncing the check is paying a fine. What is unique about this practice that my amendment seeks to ban is it takes a customer who has done nothing wrong, they have followed every single rule of their bank, every single rule of trust, every single rule of good faith, and there is no way they can avoid this fine. And who is getting it? Average consumers get it from time to time when someone purchases something from someone and they accept a check, but more often than not it is small businesses who are victimized. That is why so many small business groups are in favor of this amendment. The Consumer Federation of America representing consumers is supportive of this amendment.

I, frankly, would defy anyone to tell me why the person who received the check should be penalized or sanctioned. Do not argue to me that they need to be disincentivized or discouraged from accepting a check. Believe me, no one intentionally takes a bad check. They are already harmed in many ways. Do not tell me that there is money that it costs to process the transaction. That could very well be the case. The only point I am making is why should the person who has already been harmed once be harmed again?

And perhaps the worst possible reason is the one that underlies all of the opposition to this amendment to the extent that there is any. Banking institutions said, Hey, Congressman WEINER, we make a lot of money on this. That is not a good enough reason. Frankly, the rules of the banking system, like any rule, like any law, should provide people fundamental rules of the road, should provide disincentives to do something bad, should punish someone who does something bad; and at the end of day in the final analysis if they are a good citizen, a good consumer, they should be able to avoid the sanction.

In the case of this fee, there is no way that any of those four things apply. They cannot avoid the fee. They cannot do anything. They can ask, I want to see ID, I want to see their driver's license. You cannot even call up the bank and say, hey, does Mr. Smith have enough money in his account, because privacy laws now prohibit releasing that type of information. Simply put, there is no rational reason why the victim, the small business that is the victim, should have to pay this fee, and there is no reason why the consumer who is the victim of a bounced check should have to pay this fee.

I will be offering an amendment that, as I said, I am grateful to the Committee on Rules for making in order which will say they simply cannot charge this fee. This is one that is not fair. I do not care if they disclose it in bold print, it is simply not fair, and anyone who believes it is have them come to this floor and say during this debate that we believe it is fair. It has no more connection to the person who received that check than it is to someone walking by the bank that day, charging them the fee. There is no connection with what they did either, other than being in the wrong place at the wrong time.

If the banking community believes that they need additional money to pay for these transactions, there are plenty of ways that they can deal with this. They can charge more at the front end. They can have interbank relationships that say, You have a customer that wrote a bad check and we want a few dollars from you to help cover it, or they can spread out the cost throughout if it is that substantial, which I frankly do not believe it is. Some estimates say it is as low as 62 cents, even when the banks themselves say that they have a case where someone can test and I want a copy and I want to debate it; even that only costs them $4 or $5 or $6. The simple fact is this is a way that victims are victimized again, and I urge support of the Weiner amendment.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume to close for our side.

Let me just again get back to the issue of the rule. I understand that there may be occasions for rules to come before the Members of this House that are not completely open, and the majority does after all have the responsibility of making sure that this House runs, that the legislative agenda moves forward. And I would prefer that any rules that come to the floor that have any kind of restrictions in them be done in consultation with the chairman and ranking members of the appropriate committees and subcommittees.

But here we have a situation where the ranking member of the Committee on Financial Services and the chairman of the Committee on Financial Services said that they had no problems with the amendments that were being offered last night; and specifically in response to a question by me regarding the gentleman from Iowa's (Mr. LEACH) amendment, they said they had absolutely no problem with his offering that amendment on the floor today. And I do not understand why the majority of the Committee on Rules decided last night to cut the gentleman from Iowa (Mr. LEACH) out of the process.

There has been a very interesting dialogue between the gentleman from Iowa (Mr. LEACH) and the gentleman from Massachusetts (Mr. FRANK). This is obviously a very important issue. Members have strong feelings on both sides. This is the kind of amendment that we should have a debate on on the floor and Members of both sides should be able to vote up or down on. And it is not like we do not have the time. According to the schedule that the majority put out today, we are going to be out of here by three o'clock. I do not think this would take very much time.

They do not want to deal with issues of substance. We cannot deal with the extension of unemployment benefits. We cannot deal with a trade bill to stop sanctions against U.S. products. I do not know where the transportation bill is or health care bills or anything else, but we do have this bill on the floor. We do have the time. And it just seems to me to be somewhat puzzling that they could not find it within their wisdom last night as the majority to allow this amendment to come to the floor and for Members to vote up or down on it. Maybe it is just because they are in the habit of restricting things and closing things down.

But it just seems to me on a bill that is relatively noncontroversial where the chairman and the ranking member have no problem with the gentleman from Iowa (Mr. LEACH) offering his amendment, I do not understand why the Committee on Rules has such a big problem. And I think it is unfortunate, and I think Democrats and Republicans need to continue to point out the unfairness of this process. We can do much better. And on bills like this, there is absolutely no reason why this should not have been a wide-open rule. We could have handled this in a reasonable period of time, and we could have respected all the Members of this House, both Republican and Democrat; and I just think it is unfortunate that this is becoming a trend in the Committee on Rules.

We only had one open rule this year, notwithstanding all the great speeches those guys give about how they are committed to openness. This is not how we should be doing this, and I apologize to the gentleman from Iowa (Mr. LEACH) and others who did not have their amendments made in order last night, but I hope in the future that we do better.

Mr. Speaker, I yield back the balance of my time.

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

Mr. Speaker, the gentleman from Massachusetts does raise many very important points including that the distinguished chairman, former chairman, of the banking committee did appear before the Committee on Rules last night. The gentleman from Iowa (Mr. LEACH) is a very valuable and important and thoughtful member of our conference. The fact of the matter is the Committee on Rules has, in our own judgment, a lot of things which we consider on a regular basis, and some of those things do deal with whether a

person chose to have a vote in the committee of jurisdiction or not. The fact of the matter is that the gentleman did not request a vote in the committee of jurisdiction that he came from.

□ 1115

And we felt like that in the interests of us moving things on the floor, that it would be best in this circumstance to let the committee of jurisdiction speak on that matter. They chose not to; the gentleman chose not to. We do not always feel that bringing it to the floor is the correct place.

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

Mr. SESSIONS. I yield to the gentleman from Massachusetts.

Mr. MCGOVERN. Mr. Speaker, I am just trying to figure all of this out because, in the past, the Committee on Rules has used the excuse that Members have brought amendments up in their relevant committees of jurisdiction and they have not passed, so therefore we should make them in order. Now you are saying that because he did not, the gentleman from Iowa did not bring his amendment up in his committee of jurisdiction, that it should be made in order. So I do not understand.

Mr. SESSIONS. Mr. Speaker, reclaiming my time, as a matter of fact, the gentleman is correct. But there are circumstances many times related to how close a vote is, whether it is controversial; there are a number of things which identify that as what we might call or term a jump ball. It is important at various times for the Committee on Rules to look at and to weigh those things which we believe are important to the efficiency of the use of this time on the floor.

In this case, we made a determination as to what we were going to do. We have made 3 Democrat amendments in order, we have made 2 Republican amendments and a manager's amendment in order. I believe that the time which we took yesterday in the Committee on Rules was appropriately done by the young chairman of the Committee on Rules, the gentleman from California (Mr. DREIER), and I am very proud of what we have done.

Mr. Speaker, I urge my colleagues to join me in supporting this rule and the underlying legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of the rule as reported out of the Committee for H.R. 1375. While portions of this bill that fall under the jurisdiction of the Judiciary Committee came for review and analysis, I generally supported the version of H.R. 1375 as reported out of the Committee; however, I shared one reservation about a provision that was not addressed at the Committee markup. Section 609 of H.R. 1375 amends section 11(b) of the Bank Holding Company Act of 1956, 12 U.S.C. 1849(b), and section 18(c)(6) of the Federal Deposit Insurance Act, 12 U.S.C. 1828(c)(6), by reducing the minimum waiting period from 15 calendar days to 5 calendar days for banks and bank holding companies to merge with or acquire other banks or bank holding companies. Although no amendment was offered at the Committee, we feel that this provision should be struck from the bill.

Community organizations have raised concerns about this provision, which reduces to five days the pre-merger, mandatory 15-day waiting period with the Attorney General's approval. During the course of a bank merger process, both the Federal financial supervisory agency and the Department of justice review the merger proposal for competitive concerns. After a Federal Banking agency approves a merger, DOJ has 30 days to decide whether to challenge the merger approval on antitrust grounds. At a minimum, the merging banks must now wait 15 days before completing their merger. Currently, banking law allows third parties, other than Federal banking agencies or DOJ, to file suit during the post-approval waiting period. As proposed, section 609 would reduce the minimum 15-day waiting period to 5 days when DOJ indicates it will not file suit challenging the merger approval order.

This provision is anti-Community Reinvestment Act, CRA, and strips the organizations' right to seek judicial review of Federal bank merger approval orders. Without such review, community organizations will be deprived of impartial means and mechanisms for ensuring that CRA performance obligations are taken into account when considering merger approvals. Community-based organizations use such suits to obtain information about the merger and ensure that the merger will not result in disproportionate branch closures in low-income or minority communities. These organizations play an important role in the public interest. The mandatory 15-day waiting period should remain intact and section 609 should be removed from the bill, if passed today.

My amendment, number 9, would amend section 607 of H.R. 1375 as drafted. The specific language of this amendment reads:

SENSE OF CONGRESS.—It is the sense of Congress that, when a requesting agency requires expeditious action on an application for a merger transaction, consideration should be made as to the impact the merger transaction will have on corporate and individual customers in an effort to ensure that no harmful effects will result from the merger transaction.

This amendment, while very substantive, is also a less intrusive attempt to ensure that the emergency expedited application process for merger transactions called for in section 607 of this legislation will not allow applicants to harm customers and/or communities with the increased share of the respective market that will result from the transaction formed, as compared to my other amendment, Jackson-Lee No. 9. Under this "sense of Congress" provision, Congress will make clear its intent to retain an important degree of oversight over the expedited process provided for in section 607 as drafted. The import of this amendment only spells out what should already be inherent in the operation of our Federal Reserve Board. It is clear, however, that such a provision is necessary because so many individuals and communities are suffering from disparate treatment by lending institutions.

When we allow expedited review of a corporate act so substantial as a merger and of an act that will affect so many consumers, we must be very careful in conferring latitude to institutions or in curtailing our own oversight authority. The banking institutions covered under this legislation play a vital role in the lives of many individuals and corporations who receive their services.

In the case of the recent JP Morgan and Bank One merger, Bethel New Life, Inc. expressed on the Federal Reserve Board's record the fact that this transaction had a tremendous impact on the Chicago area. It was explained that the loss of a bank headquarters would result in job loss, less civic interest and commitment, and less detailed knowledge of the local community. Furthermore, there would be less interaction between senior bank staff and the variety of people involved in community development in underserved communities. A bank, merger if the bank is willing, may give community groups the opportunity to engage in discussion with the bank(s) about future community reinvestment goals. The Jackson-Lee Amendment No. 9 seeks to ensure that this kind of respect for the underserved communities remains intact with sufficient Congressional oversight.

While this legislation purports to facilitate the work of lending institutions by allowing them and other depository banks to devote more of their resources to the business of lending, section 607 makes it possible for some transactions to escape very important scrutiny.

As we see in the recent merger of J.P. Morgan Chase & Co., JPMCC, and Bank One Corporation, the capture of large portions of consumer markets in quick and easy transactions allow many individual and corporate customers to experience a negative impact of the transaction. The consolidation of the finance industry so rapidly allows institutions to exclude large parts of their activities from requirements set forth in the Community Reinvestment Act, CRA. CRA has been instrumental in increasing affordable housing, and making sure that banks throughout this country play a more responsible role in their communities. The CRA is working extremely well and must not be weakened by provisions such as those found in section 607. Instead of diminishing the CRA and other oversight tools that are in place, we must strengthen them. If this legislation passes as drafted, potentially fewer people will realize the dream of homeownership, fewer small businesses will get off the ground, fewer jobs will be created, and fewer neighborhoods will be rebuilt.

The CRA was enacted in 1977 to address these concerns by requiring banks to make loans in neighborhoods where they collect deposits.

Section 607 as drafted could allow for the virtual elimination of the oversight authority conferred through measures such as the Community Reinvestment Act relative to Houston businesses and individuals, as most of the authority will be vested in New York and diverted from Houston. Significant Community Reinvestment dollars are necessary for home loans for minorities, the development of affordable housing, small business loans for minorities, procurement opportunities for minority businesses, community lending for minorities, and community investment for industrial, commercial and social facilities in minority communities. It is absolutely essential that you thoroughly examine this merger in order to ensure that proper conditions are made to mitigate the imminent adverse affects on Houston's minority community.

The CRA is only enforced in connection with banks' merger and expansion applications as

is the subject of section 607. The Federal bank regulatory agencies periodically evaluate banks for their compliance with CRA and assign them one of four ratings: Outstanding, Satisfactory, Needs to Improve or Substantial Non-Compliance. In 1998, the agencies rated over 98 percent of banks as either Outstanding or Satisfactory, despite that fact that, for example, the banking industry has continued to deny the mortgage loan applications of African Americans and Latinos twice as frequently as those of whites. Thanks to databases compiled under the Home Mortgage Disclosure Act, HMDA, data are made available to show stark statistics about loan approvals and loan denials that banks are required to make public each year.

Mr. Chairman, I urge my colleagues to support Jackson-Lee No. 9 and support the legislation with this amendment and that of Mr. OXLEY.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3800

Mr. LINDER. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3800.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Georgia?

There was no objection.

GENERAL LEAVE

Mr. OXLEY. 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. 1375 and to insert extraneous material thereon.

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

There was no objection.

FINANCIAL SERVICES REGULATORY RELIEF ACT OF 2003

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Pursuant to House Resolution 566 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1375.

□ 1119

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1375) to provide regulatory relief and improve productivity for insured depository institutions, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Ohio (Mr. OXLEY) and the gentleman from Massachusetts (Mr. FRANK) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I am pleased to bring to the floor today H.R. 1375, bipartisan legislation making a number of changes to Federal banking, thrift, and credit union laws that will enable these sectors of the financial services industry to operate more productively and provide a higher level of service to their customers.

I want to begin by recognizing the efforts of the principal sponsor of this legislation, a valued member of the Committee on Financial Services, the gentlewoman from West Virginia (Mrs. CAPITO), as well as her primary democratic cosponsor, the gentleman from Arkansas (Mr. ROSS). In putting together this legislation, the gentlewoman from West Virginia (Mrs. CAPITO) and the committee consulted extensively with the Federal banking and credit union regulators, as well as affected private sector parties, to fashion a package that, by removing unneeded or outdated legal restrictions, helps to maintain the competitive standing of the U.S. banking and financial services system that has no equal in the world.

In the aftermath of the September 11 terrorist attacks on America, President Bush and this Congress have called upon the financial services industry to play a major role in the effort to starve al Qaeda and like-minded organizations of the funds they need to inflict terror on the civilized world. Title III of the USA PATRIOT Act enacted shortly after the September 11 attacks imposes a host of new mandates and due diligence requirements on financial institutions designed to identify and block the movement of terrorist funds through the global financial system. Committee on Financial Services has conducted extensive oversight on the implementation of title III, and I think I speak for many members of the committee in applauding the seriousness and sense of commitment with which the financial services industry has gone about fulfilling the front-line responsibilities it has been asked to assume in the financial war against terrorism.

Shouldering these burdens is not without significant costs, of course. The changes made by the PATRIOT Act require banks and other depository institutions to devote significant compliance resources to monitoring and examining transactions, verifying the identities of new customers, and responding to inquiries by law enforcement authorities seeking to track terrorist finances through the U.S. banking system. Both as a way of offsetting these new expenses and freeing institutions to devote sufficient resources to PATRIOT Act compliance and serving their customers, the committee began during the last Congress to try to identify regulatory or statutory requirements that could have outlived their useful purpose and could be eliminated without any adverse affects on the safety and soundness of the banking system or on basic consumer protections. H.R. 1375 is the end result of that process.

The legislation, which enjoyed bipartisan support in the Committee on Financial Services, reflects significant contributions from several members of the committee. For example, the bill incorporates legislation authored by the gentleman from California (Mr. OSE) which would permit credit unions to offer check-cashing and wire transfer services to individuals who are not members of the credit union, but are within its field of membership, thereby promoting alternative sources of banking services for many low- and moderate-income Americans. An important amendment offered in committee by the gentleman from Oklahoma (Mr. LUCAS) would greatly improve coordination between home and host State supervisors of State-chartered banks that operate branches in multiple States.

I also want to commend the gentleman from Ohio (Mr. GILLMOR) and the ranking member, the gentleman from Massachusetts (Mr. FRANK) for their hard work in crafting a compromise on an issue that was the subject of spirited debate in the committee: the extent to which certain commercially owned industrial loan companies, which are insured depository institutions chartered in a handful of States, should be permitted to exercise the new branching authority provided for in section 401 of the bill. I will offer a manager's amendment later today that incorporates the good work of the gentleman from Ohio (Mr. GILLMOR) and the ranking member on this difficult issue.

Finally, I want to thank the gentleman from Alabama (Mr. BACHUS), the chairman of the Subcommittee on Financial Institutions and Consumer Credit, for quarterbacking this effort in his subcommittee and helping to shepherd it through the full committee.

Thanks to hard work of the gentlewoman from West Virginia (Mrs. CAPITO) and the gentleman from Arizona (Mr. ROSS) and many other members of our committee, the House will have an opportunity to vote later today on legislation that improves the productivity and efficiency of our financial services industry. A vote for this bill is a vote to allow banks, thrifts, and credit unions to channel their resources away from complying with unneeded regulatory mandates and toward making loans and providing other financial products and services to consumers and to their small business customers, which can only help fuel economic growth in local communities across this country.

I strongly urge my colleagues to support this bipartisan piece of legislation.

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

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to express my appreciation to the chairman of the committee and the chairman of the subcommittee, because this is another example of where we have been able to work in a cooperative way. We do not agree on everything, but our method of operation allows us to refine our disagreements and to present to the House some legitimate policy disagreements, but in a form and in a context that does not interfere with our ability to go forward where there is consensus.

There will be two amendments that we will be debating. The gentleman from Alabama will offer one, which I plan to oppose, that would reject a request from the FDIC to make it easier for them to proceed against people in the banking area that they think have been negligent. The gentleman from New York (Mr. WEINER) will be offering an amendment that I think protects consumers. I feel strongly in favor of that one. Other than that, I believe we have agreement at the committee level. I want to emphasize, and I must say I am very hopeful that the Weiner amendment will be adopted, but we will have to see what happens.

I just want to reiterate my view that this reflects what I think ought to be our approach; namely, we start with respect for the market and an understanding that the free market is the best way to make our economy prosper. Particularly in the financial area that our committee has jurisdiction over, the role of the institutions as intermediaries in garnering the financial resources that are then made available to the people who do the production of goods and services, that is very important; and it is our obligation to make sure that that can be done with the maximum efficiency.

At the same time we recognize, many of us, that the market is not perfect. It does well what it is supposed to do, but there are areas of importance in our life that the market does not deal with. There are also inevitable tendencies in any institution, government, the private sector, the nonprofit sector, to do things that if there were constraints, it should not do. That does not mean that they are evil or that they are dysfunctional; it just means that human nature being what it is, no entity ought to be able to function without some restraints.

So our job is to provide for consumer protection in particular, which the market itself would not automatically do. Let me check that. In some areas I think we can rely on the market in the consumer area. There is a major merger, or a major sale in New England going on now where Fleet Boston is being bought by Bank of America. I have worked very closely with a number of entities that are advocates for low- and moderate-income people in the area of housing and in the area of small business and community development, because I do not think the market itself will take care of those. In other areas, in customer service, I think you can rely more on the market. There are competing institutions that will try to steal customers away. That is a good thing because, in the area of customer service, there will be competition. In areas where we are talking about lower-income people, competition does not do it, and we have to try to intervene.

What we need to do is to recognize the importance of regulation but, at the same time, make sure that we do not regulate unnecessarily, because there are regulatory costs. I do not object to regulatory costs if they are essential to achieving an important public purpose. Where they can be shown not to have that relationship, they ought to be removed. We ought to also try to pick among various regulatory approaches until we get the one that gives us the most benefit for the least cost. This bill is, on the whole, an effort to do that.

The chairman mentioned that in the controversial area of industrial loan corporations, we heard the forceful statements of the gentleman from Iowa who thinks that we should be more restrictive. We have Members who represent particularly States where the ILCs have played a major role, California and Utah in particular, who are represented in our committee, who think we have been too restrictive. The gentleman from Iowa (Mr. GILLMOR) took the lead, and I was glad to work with him, in using a formula we had previously adopted in the Congress; namely, that to be a financial institution you should be 85 percent financial in your revenues, and we have used that as a screen for the additional entities that might be entering the ILC field. I think that is a reasonable compromise. I think that will protect the public interests, while continuing to allow consumer choice, and I congratulate the chairman and others for creating the context in which we could work that out.

I know we will be proceeding to debate on a couple of controversial issues and, as I said, I think this is a good overall bill, but Members may be waiting to see what happens on some of the amendments to make their final judgment.

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

Mr. OXLEY. Mr. Chairman, I am pleased to yield 5 minutes to the gentleman from Alabama (Mr. BACHUS), the chairman of the Subcommittee on Financial Institutions and Consumer Credit.

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

Mr. BACHUS. Mr. Chairman, I thank the chairman for yielding me this time.

Mr. Chairman, the financial services industry spends a great deal of time and a great deal of money every year complying with outdated and ineffective regulations. That is money that could be loaned to consumers and industries to buy new cars, new homes, new factories, new businesses, and that is what this bill is all about. It is also, as the chairman correctly said, delivering on a promise that this Congress made these same institutions, when we imposed title III of the PATRIOT Act, and also the Sarbanes-Oxley accountability measures. We told them that we would come and follow that with legislation to compensate them for that cost.

□ 1130

And in that regard, as the chairman so well put, I want to commend the financial institutions in this country for helping starve al Qaeda and other terrorist organizations. They have done an excellent job of cutting off the flow, not only to the terrorist organizations but also to narcotics traffickers and other criminal organizations, which is another benefit of these new money laundering legislations that this Congress put on the financial institutions. So it has had a very positive effect even on some areas that we might not have anticipated.

Secondly, I would like to commend the ranking member, the gentleman from Massachusetts (Mr. FRANK). I would like to commend him for working closely on this legislation. We talk about bipartisanship in this body. This committee, under the chairman, the gentleman from Ohio (Mr. OXLEY) and the ranking member, the gentleman from Massachusetts (Mr. FRANK), has achieved on more than one occasion, on many occasions, a bipartisan spirit of cooperation which I think ought to be the model for other committees in the Congress as a whole. So I commend both these gentlemen.

I would like to commend the two sponsors of this bill, the gentlewoman from West Virginia (Mrs. CAPITO). She has done an excellent job. I would also like to commend the Democratic member of the committee who offered this legislation, and that is the gentleman from Arkansas (Mr. ROSS).

Finally, I would like to call special attention to the legislation of the gentleman from Oklahoma (Mr. LUCAS), the provisions within this legislation which will greatly improve the coordination between home and host State supervisors of State-chartered banks. When State-chartered banks branch beyond State lines, there is a great need for the bank supervisors to coordinate in the supervision. And I think this is a long overdue provision.

I would also like to commend the gentleman from Massachusetts (Mr. FRANK) and the gentleman from Ohio (Mr. GILLMOR) for working out, I think,

an excellent compromise on this ILC provision, their compromise, the widespread almost unanimous support of the committee. There are Members who this morning have protested it.

The gentleman from Iowa (Mr. LEACH) had offered on another bill the way he wanted to address this. The committee on the bank interest bill actually rejected that idea, competing idea, by a vote of 50 to 8. So this has been an issue that has been debated on prior occasions.

Finally, I would like to say that this is a regulatory relief bill, not a regulatory burden bill. For that reason, I will be offering an amendment to take and strike section 614 which equates independent contractors who do business with the bank, whether they be attorneys, whether they be accountants, whether they be appraisers, whether they be real estate agents, all sorts of independent contractors, which equates them with having the same knowledge of banking operation as insiders. That is simply not the case. And, in fact, I believe strongly that in these cases they ought to have the right to a jury trial, to a full hearing.

But if we do not strike section 614, any accountants, any attorney, any realtor, any appraiser who does business with the bank, will be subjected to having the same knowledge as an insider. Simply not the case. I think we all agree they do not have that same knowledge. And I oppose the Weiner amendment which is a regulatory burden amendment.

Mr. Chairman, I rise in strong support of H.R. 522, the Financial Services Regulatory Relief Act of 2003.

I want to begin by thanking Chairman OXLEY for the tremendous leadership he has shown in steering this complex bill through the legislative process. I also want to thank the ranking member of the committee, Mr. FRANK, for his support of this important piece of legislation.

This bipartisan legislation, introduced by our colleagues on the subcommittee, Mrs. CAPITO and Mr. ROSS, reflects a commonsense approach to easing regulatory burdens imposed on our nation's depository institutions. H.R. 1375 is largely a product of recommendations that the committee has received over the last several years from the Federal and State financial regulators.

The legislation has strong bipartisan support and was approved by the Financial Services Committee by a unanimous voice vote. It is supported by a host of interested parties, including the Financial Services Roundtable, America's Community Bankers, the National Association of Federal Credit Unions, and the Credit Union National Association.

The banking industry estimates that it spends somewhere in the neighborhood of $25 billion annually to comply with regulatory requirements imposed at the Federal and State levels. A large portion of that regulatory burden is justified by the need to ensure the safety and soundness of our banking institutions; enforce compliance with various consumer protection statutes; and combat laundering and other financial crimes.

However, not all regulatory mandates that emanate from Washington, DC, or other State capitals across the country are created equal. Some are overly burdensome, unnecessarily costly, or largely duplicative of other legal requirements. Where examples of such regulatory overkill can be identified, Congress should act to eliminate them.

The bill that Congresswoman CAPITO and Congressman ROSS have introduced—and that I am proud to cosponsor along with Chairman OXLEY—contains a broad range of constructive provisions that, taken as a whole, will allow banks and other depository institutions to devote more resources to the business of lending to consumers and less to the bureaucratic maze of compliance with outdated and unneeded regulations. Reducing the regulatory burden on financial institutions will also lower the cost of credit for consumers.

In closing, let me once again commend Mrs. CAPITO and Mr. ROSS for this important legislative as well as the full committee chairman, Mr. OXLEY. The chairman has demonstrated a strong commitment to getting regulatory relief legislation enacted this year. I look forward to working with him to help accomplish that objective.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. MEEKS), a very hard working member of this committee.

Mr. MEEKS of New York. Mr. Chairman, let me begin by congratulating the leadership, the gentleman from Ohio (Mr. OXLEY) and the ranking member, the gentleman from Massachusetts (Mr. FRANK) on this great bill.

It proves that when Democrats and Republicans sit down and talk and work together, we really can come to a consensus. And the leadership of this committee should be applauded in a way that this bill, this important bill has gone through the committee. And I thank both the ranking member and the chairman.

My position has never been to favor one depository institution charter over another but, instead, to support policies that give each charter the best opportunity to be competitive and improve service delivery to their business and individual constituents.

It is my assertion that H.R. 1375, the regulatory relief bill, does just that for national banks, savings institutions, and credit unions, all of whom are vital to the financial health of this Nation and the provision of financial services to businesses and individuals nationwide.

For national banks, the bill eases certain restrictions related to directors, provides for flexibility in declaring dividends, and makes it easier to expand through intrastate branching or mergers with State banks.

For savings institutions, the bill provides more flexibility to provide automobile loans and leases for personal use. It also eliminates the limitation on small businesses, lending based on percentage of assets. These changes, among others, will greatly allow savings institutions to increase the diversity of their lending portfolios.

Federally chartered credit unions will be able to purchase and hold for their own account highly rated investment securities. They will be able to provide check cashing and money transfer services to nonmembers within their field of membership.

These changes, along with others, such as easing the process for voluntary mergers, will help credit unions diversify their portfolios and provide more services to individuals and the communities that they serve.

The ever-changing dynamics of the financial service industry demands that from time to time this committee review the existing laws and take action where required, not just to increase the laws as we often do, but to adjust and even eliminate archaic laws that may be hindering the success of our financial industry. I believe that this is just what we have done with this regulatory bill, a bill that has a little bit of something for everyone.

Mr. OXLEY. Mr. Chairman, I yield 4 minutes to the gentlewoman from West Virginia (Mrs. CAPITO), the lead sponsor of this important legislation.

(Mrs. CAPITO asked and was given permission to revise and extend her remarks.)

Mrs. CAPITO. Mr. Chairman, I want to thank my colleague, the gentleman from Arkansas (Mr. ROSS), for sponsoring the Regulatory Relief Act of 2003 with me. He has been very instrumental in bringing this much-needed legislation to the floor. I also want to thank the gentleman from Alabama (Mr. BACHUS) and the ranking member, the gentleman from Massachusetts (Mr. FRANK), and especially the gentleman from Ohio (Mr. OXLEY) for shepherding this bill through the process, it has been a process, and their strong leadership on the committee.

With the passage of the Gramm-Leach-Bliley Act, the U.S. PATRIOT Act, and the Sarbanes-Oxley Act, Congress has imposed sweeping reforms and multiple new mandates on the financial services industry. While I firmly believe that these new laws have strengthened this important sector of our economy, such sweeping reforms do not come without a cost, a cost that is ultimately paid for by every American who writes a check, saves for their retirement, or simply purchases groceries with a credit card.

The gentleman from Arkansas (Mr. ROSS) and I introduced this bill to restore regulatory balance. While Federal regulations play an important role in protecting consumers, instilling confidence and ensuring a level playing field, overregulation can depress innovation, stifle competition, and actually retard our economy's ability to grow.

Periodically reviewing and questioning the regulations put into place over time will ensure that as industries and technologies change, so too will the rules that govern them.

This bipartisan legislation will roll back several outdated and burdensome mandates while also providing new commonsense provisions that together will benefit the financial services industry and their consumers.

To promote efficiency our bill allows the FDIC the flexibility to rely on new technology to store records electronically, streamlines the merger application process, and gives examining agencies the discretion to adjust the exam cycle so their resources can be used most efficiently, among very many other revisions in the regulatory process.

We provided enhanced consumer protection by prohibiting a person from working at a bank who has been convicted of a breach of trust and by allowing interagency data sharing to ensure that a lack of information does not result in malfeasance.

H.R. 1375 strikes a balance that will help the financial services community thrive, compete, and offer the best services to their customers. Again, I want to thank the ranking member and our chairman and the gentleman from Alabama (Mr. BAUCUS) and the other Members for the bipartisan nature of which this bill has been brought to the floor.

I urge my colleagues' support.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 5 minutes to the gentlewoman from New York (Mrs. MALONEY), a very able member of our subcommittee, the ranking member of the Subcommittee on International and Domestic Monetary Policy.

Mrs. MALONEY. Mr. Chairman, I thank the gentleman from Massachusetts (Mr. FRANK) for yielding and for his leadership.

I rise in support of the financial services regulatory relief legislation. This bill is the subject of several years of work and I thank the sponsors, the gentlewoman from West Virginia (Mrs. CAPITO) and the gentleman from Arkansas (Mr. ROSS) for their hard work.

I especially want to thank them for the inclusion of an amendment that I offered in committee with my colleague, the gentleman from Oklahoma (Mr. LUCAS). This amendment prohibits nonchartering States from unilaterally imposing a discriminatory fee against State-chartered banks from other States. It also strengthens cooperative agreements among the States for supervision of multistate institutions by giving Federal recognition to the cooperative agreements and requiring chartering States to follow them. This language is very important for preserving the vitality of our dual banking system.

As for amendments that will be offered today, I want to thank my colleague, the gentleman from New York (Mr. WEINER) for his checking amendment. He is a great consumer advocate. I have some concerns about how the amendment will work in practice, and I look forward to working with him on this as the process goes forward.

I also want to indicate my strong support for the Kelly-Toomey amendment. This language tracks legislation that the gentlewoman from New York (Mrs. KELLY) and I passed on the floor of this Congress earlier this year in the Business Checking Freedom Act.

This language builds on the important modernization of financial services that Congress has worked on in recent years. It lifts the prohibition on the payment of interest on business checking accounts after a 2-year phase-in. During the phase-in, banks may increase sweeps to interest-paying accounts to 24 intervals per month.

The prohibition on interest on both consumer and business accounts was enacted during the Great Depression. At the time it was enacted to limit competitive pressures to pay higher interests that were feared could lead to bank failures. Today given the global nature of financial services, interstate banking and many advances in technology, interest payment limits only distort competition and force businesses to seek out alternative interest bearing opportunities.

The prohibition on paying interest on consumer checking accounts was repealed by Congress more than 20 years ago and has not increased any concern about safety and soundness. Today the House, once again, takes an important step forward in offering this same benefit to the business community.

Importantly, this language will disproportionately benefit small businesses. Small businesses must keep money in checking accounts to meet payrolls and pay expenses. They are less likely to have complex financial arrangements that will allow them to get around interest restrictions.

The legislation also allows the Federal Reserve to pay interest on sterile accounts. These are reserves private banks hold at the Federal Reserve which the Fed can manipulate as a tool of monetary policy. And this provision is endorsed by Federal Reserve Chairman Alan Greenspan.

I support the legislation. I urge my colleagues to support it.

Mr. OXLEY. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. LEACH), the distinguished former chairman of the committee.

Mr. LEACH. Mr. Chairman, let me just say this bill has a number of very commonsense provisions, but in the name of a relatively large number of minor commonsense issues, there is more than a small measure of regulatory mischief.

This bill is about less regulation but it is also about more imbalance.

□ 1145

It empowers a hitherto largely unknown charter in America called Industrial Loan Companies to have all the powers of commercial banks and, added with one of the amendments that is likely to pass today, a power to not only branch in all 50 States, but to do checking in a business kind of way, something ILCs were not hitherto empowered to do.

We will be giving five States in America the right to offer a charter with less regulation than 45 States. We will be putting an inequity in law that relates to this charter versus all others; and then we are going to be putting in a very intriguing way inequity between the charters, that is, those that have existed for a while will have more rights than those industrial loan companies that will be empowered later.

I would only like to stress to my colleagues, because there is some misunderstanding here, that one of the theories of the grandfather is to block a particular institution from getting an industrial loan company charter with full powers, which by the way indicates that those full powers are very significant. That particular company is unpopular with some of its competitors in the financial services industry. It is unpopular with organized labor. So there is a grandfather provision against that company; but the intriguing aspect of it is, it is a very enfeebled grandfather provision.

It is enfeebled because it gives the States the power of interpretation. There is no tie-in to Federal statute; and so any new company can get a new ILC charter, can buy an existing ILC charter. Then there are rules about changing control, but States have different change-of-control statutes. Some change of control is 25 percent ownership; some over 80 percent ownership. So a company can buy an existing charter and take on all the powers of an ILC under the pre-grandfather provisions, even though there appear to be in this statute certain restrictions, for example, that relate to a percentage that is financial in nature of their current operating business. All this is being interpreted by State government which has a vested interest to give charters rather than to stop charters because it means more jobs for their States.

The history of the ILC is that they were small institutions until 1987 when Congress, without much forethought, exempted them from the Bank Holding Company Act; and so the largest ILC charter had been less than $400 million, now the largest is $60 billion, and there are eight above a billion in size. If we give ILCs all the powers contemplated in this bill, there will be a pell mell run to the ILC charter.

This will sweep assets from 45 States to five States. It will breach commerce and banking in ways that have never been breached in modern day, and it will create great pressure to move grandfather dates and change existing statute in other ways because of the obvious inequities that will almost immediately develop within the ILC charter itself.

So I would like to suggest to this body that this was something that could be handled very simply, credibly, and that is simply to put ILCs like most other financial institutions of any size under the Bank Holding Company Act; but because of insider power, that amendment was not even allowed to be considered on this floor, and I cannot tell my colleagues that it would have passed. I can tell my colleagues

that Chairman Greenspan thinks it would be very important to the security of the United States and, in many different ways, not only due to the fact that American ILCs can operate without oversight of the holding company but foreign companies can have ILCs.

So the FDIC, which is a very credible regulator, can look at the bank; but let us say a foreign company in Latin America or in Russia gets Utah to give them a charter. They create jobs in Utah. They could operate the bank credibly, but they could also be money laundering from their host company abroad, and so this is an invitation as a charter to greater money laundering.

I frankly urge my colleagues to think twice; and, unfortunately, I am in a position of suggesting opposing the bill.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 5 minutes to the gentleman from Vermont (Mr. SANDERS), a member of the committee, who is the ranking member of the subcommittee which has jurisdiction over this bill.

Mr. SANDERS. Mr. Chairman, I thank the gentleman from Massachusetts for yielding me the time.

Mr. Chairman, among other things, the Financial Services Regulatory Relief Act would make it easier for some of the biggest banks and other financial institutions in this country to merge. At a time in America where big institutions are becoming bigger and small institutions are being driven out of business, I think we have to ask whether this is a good idea. At a time in America when the people at top are making out like bandits, the middle class is shrinking and poverty is increasing. I think we have to ask whether it is proper for the United States Congress to give ''regulatory relief'' to huge multibillion dollar institutions. I think not.

Specifically, this bill would reduce the Federal review process for bank mergers from 30 days to a mere 5 days. This bill would allow the Officer of Comptroller Currency to waive notice requirements for national bank mergers located within the same State. This bill would end the prohibition of out-of-state banks merging with in-state banks that have been in existence for less than 5 years. This bill also gives Federal thrifts the ability to merge with one or more of their nonthrift affiliates; and, finally, this bill would eliminate certain reporting requirements for banks' CEOs in regard to inside-lending activities.

Mr. Chairman, I have serious concerns about the provisions in this bill; but equally important, I have major concerns about what this bill is not addressing, what it is not addressing, and what the American people and consumers all over this country are deeply concerned about.

For example, while the prime rate is at a historic low of 4 percent and the Federal Reserve has lowered the Federal funds rate 13 times to a mere 1 percent; credit card issuers are making record-breaking profits by ripping off consumers through outrageously high interest rates of 25 to 30 percent. How come in the midst of giving the ability of large banks to become larger, we forgot about demanding that interest rates go down so that people who already are hurting are not forced to pay usurious interest rates. I guess we just forgot about that.

Mr. Chairman, at a time when banks are making record-breaking $7.3 billion in late fees they collect from consumers, another major rip-off, there is nothing in this bill that would bring down these excessive fees. I guess we forgot about that issue as well.

Mr. Chairman, every Member of this Congress understands that throughout America we are hemorrhaging decent-paying jobs in manufacturing and in information technology; and one of the areas, one of the industries where we are hemorrhaging good-paying jobs is in the financial services industry. No mention, no mention in this bill of a concern that with these mergers comes the loss of decent-paying jobs. Maybe when we talk about financial services, we might want to talk about the ordinary people who do business in banks rather than just the needs of the CEOs who make huge compensation packages running these banks.

Mr. Chairman, while credit card issuers are ripping off middle class Americans by charging sky-high interest rates and outrageous fees, credit card CEOs are laughing all the way to the bank; and mark my words, this will be an issue that the American people will demand this Congress to address. We cannot ignore the fact that scam after scam is forcing hard-pressed American people to pay 20, 25 percent a year in interest rates on their credit card. That issue will come before the United States Congress.

In the midst of all of these rip-offs, if I may use that word, the compensation packages of the CEOs are going sky high. Over the past 5 years, the CEO of Citigroup made over $500 million in total compensation and the CEO of Capital One made over $169 million in total compensation. When we deregulate these industries, maybe we want to say a word on that issue as well.

Bottom line is that this legislation works on behalf of the largest financial institutions. It does not work on behalf of consumers, and I respectfully ask for a ''no'' vote on it.

Mr. OXLEY. Mr. Chairman, I am now pleased to yield 3 minutes to the outstanding gentleman from Ohio (Mr. LATOURETTE), a valued member of the committee.

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

Mr. LATOURETTE. Mr. Chairman, I want to talk about some of the smaller financial institutions in America. It has been about 6 years since the Congress passed the Credit Union Membership Access Act, a piece of legislation that forever changed the nature and the way the credit unions do business in this country, and I want to congratulate the gentleman from Ohio (Chairman OXLEY) and the gentleman from Massachusetts (Ranking Member FRANK) for including in this regulatory relief bill provisions that benefit credit unions once again.

Mr. Chairman, nearly 84 million Americans enjoy low-cost financial services at their credit unions. It is imperative that we allow credit unions to continue to change with the ever-expanding financial marketplace, just as we do with the banking and the thrift industry.

Credit unions do an excellent job of serving their members, a tradition we need to help protect and preserve. Sometimes the members of credit unions will be the men and women who are serving our country valiantly in the Armed Forces.

The bill being considered today would allow credit unions to build their own buildings on DOD facilities and to pay a nominal fee for rent, a practice which had been in effect but has recently been changed. Credit unions at DOD facilities provide our troops with the tools for money management so that while they are away defending our great Nation, their personal financial dealings back at home are not ignored. This may not always be profitable; but with credit unions, it is not a matter of profit. It is a matter of people. As member-owned not-for-profit entities, credit unions serve their members to the fullest capacity.

Another provision that I want to highlight would allow credit unions who convert to community charters to continue to serve their select employee groups who were added before their conversion. As we are all aware, with today's troubled economic times, there are times when a credit union that has been associated with a plant or an industry and it is closed down or the jobs are lost, the credit union is lost as well. The credit unions that serve the people whose jobs are gone and whose plants are closed, rather than also shutting down and leaving, are instead converting to community charters.

This accomplishes two things: One, it would allow the institution to stay open and bring in new members from the community; and, two, it allows those workers to continue their important relationship with their credit union.

Mr. Chairman, again I want to congratulate the gentleman from Massachusetts, ranking member FRANK, and Chairman OXLEY for crafting this bill, and I want to congratulate the trades that represent the credit unions in this town for making sure that H.R. 1375 has provisions with real teeth that benefit the credit union industry.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Before yielding time to one of the coauthors of the bill, the gentleman from Arkansas, who has done a lot of work on this, I did want to respond to the gentleman from Vermont.

Frankly, I was somewhat surprised to hear him raise some of those issues because he is, as I noted, the ranking member on the minority side of the subcommittee of jurisdiction; and I must say that had he raised some of them when we were considering this bill, he might not now feel they were being ignored.

One of them, of course, is not germane to this bill, the credit card question. That was debated and voted on in the committee last year, but some of the other issues he raised now, I just have to say that it is a little late to come to the floor, when the bill is already before us, and raise issues, particularly when you are the ranking member of the subcommittee and you have hearings and you have markup in subcommittee and you have markup in full committee.

In one case I would note he objected to the fact that this bill reduces the period during which the Federal Government can wait and study a merger for antitrust. Yes, I agree that that is a problem. We debated that one, in fact, in committee. It was the gentlewoman from California (Ms. WATERS) who raised that; and I appreciate the fact that because she, having raised it, stuck with it, she has worked with the majority, and an amendment that will put that back up to 15 days, instead of 5, I believe, is going to be accepted.

So I would like to inform the gentleman, he has left the floor, that there was, in fact, an agreement to address one of those issues that he raised.

He also raised the question of executive compensation, and I have been working with the very good staff that we have on our side of the committee to deal particularly with the aspect of executive compensation, top-level executive compensation, that is, the perverse incentive that stock options give to the top people.

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So that one I assure him is going to be dealt with. But I do not think it makes sense to deal with it only for financial institutions. I think it should be dealt with across the board.

The committee is going to remain in business, and I have to say to my now absent colleague from Vermont that, as ranking member, he is fully positioned to raise these, and many of the other members would be glad to work with him, as we were able to work with the gentlewoman from California when she took a very serious look at this and accomplished something.

Mr. Chairman, I yield such time as he may consume to the gentleman from Arkansas (Mr. ROSS), who is a cosponsor of this bill.

Mr. ROSS. Mr. Chairman, I am pleased to join my colleagues, the gentleman from Ohio (Mr. OXLEY), the chairman, and the ranking member, the gentleman from Massachusetts (Mr. FRANK), and the gentlewoman from West Virginia (Mrs. CAPITO) as a cosponsor of this legislation.

Mr. Chairman, I live in a small rural town, I am a small business owner, and I recognize the limited resources that exist for small businesses. H.R. 1375, the Financial Services Regulatory Relief Act will assist financial institutions in my congressional district, and all across America for that matter, by easing some of the regulatory demands they have, which will allow them to focus more on service to their customers.

The Committee on Financial Services held a hearing on this bill with representatives of each of the regulatory agencies responsible for oversight of these institutions. Each presented their perspectives on the legislation and the need for implementation. I appreciate the efforts of my colleagues and the committee staff who have worked together since the full committee markup to make further improvements to ensure the final bill reflects a true bipartisan product; and, indeed, it does. It is what I call a piece of commonsense legislation.

This legislation is well balanced for all financial institutions, both large and small; both rural and urban. I believe it is imperative that Congress continues to work to help strengthen our struggling economy by making sure that our financial institutions have the necessary tools they need to operate more effectively and more efficiently. They are an integral part of our community's economic development and need legislation like H.R. 1375 to alleviate some of the burdens that impede their services to the public.

Again, I thank my colleagues, Chairman OXLEY, Ranking Member FRANK, and the gentlewoman from West Virginia (Mrs. CAPITO) for all of their hard work on this, and I urge my colleagues to support this legislation, H.R. 1375.

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume to also recognize the leadership of the gentleman from Arkansas for being the lead Democrat sponsor on this legislation. We appreciate his hard work on this endeavor.

Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. ROYCE), a valuable member of the committee.

Mr. ROYCE. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise today to bring some more facts to the debate over industrial loan companies.

ILCs are well regulated, both at the State and Federal levels. They have played an important part in our country's financial system for over 100 years. I have a letter from the chairman, Donald Powell, of the Federal Deposit Insurance Corporation, and I will provide it for the RECORD, but I also thought I would just read some of the observations that Chairman Powell makes about ILCs.

Chairman Powell says that industrial loan companies and industrial banks have existed since the early 1900s, and overall it is the FDIC's view that ILC charters pose no greater safety and soundness risk than other charter types. As with any other insured institution, ILCs are subject to examinations and other supervisory activities. The FDIC's authority to pursue formal or informal enforcement actions against an ILC is the same as the FDIC authority with respect to any other State nonmember bank, with limited exceptions. In short, the FDIC does not believe that there are any compelling safety and soundness reasons to impose constraints on this charter type that are not imposed on other charter types.

Chairman Powell of the FDIC goes on to say that the FDIC and the State chartering authorities directly supervise insured ILCs, which must comply with the FDIC's rules and regulations, including those requirements for capital standards, safe and sound operations, and consumer compliance and community reinvestment. Further, as he says, the FDIC has the authority to examine any affiliate of an ILC, including its parent company, as may be necessary, to determine the relationship between the ILC and the affiliate, and to determine the effect of such relationship on the ILC.

I thought I would bring those facts to light. I know that some competitors of ILCs worry because they do not want more competition in the banking marketplace, but we all know that competition is good for consumers, it is good for businesses, and it is good for our economy as a whole. And since I have heard other companies make the argument that ILCs are not safe and sound, I wanted to respond by saying that ILCs are heavily regulated financial institutions, ILCs are regulated by the FDIC and by State banking regulators in every State in which they operate, and I think we should judge ILCs on the facts.

To that end, Mr. Chairman, I submit the letter of Chairman Donald Powell for the RECORD herewith:

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, April 30, 2003.

Hon. EDWARD R. ROYCE,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN ROYCE: Thank you for your recent letter concerning industrial loan companies. We are closely monitoring the recent attention that industrial loan companies are receiving and appreciate your questions.

Industrial loan companies and industrial banks (collectively, ILCs) have existed since the early 1900s. States with existing insured ILCs include California, Colorado, Indiana, Minnesota, Nevada, and Utah. There are 51 insured ILCs, with the vast majority operated from Utah (24) and California (17). The charters are unique in that, as long as they meet certain criteria (typically, not accepting demand deposits), they are not considered ''banks'' under the Bank Holding Company Act. As a result, an ILC's parent company is not subject to supervision by the Federal Reserve. Just as is true of unitary thrift holding companies and parent companies of limited-purpose credit card banks,

the parent companies of ILCs include a diverse group of financial and commercial firms.

Overall, it is the FDIC's view that ILC charters pose no greater safety and soundness risk than other charter types. As with any other insured institution, ILCs are subject to examinations and other supervisory activities. The FDIC's authority to pursue formal or informal enforcement actions against an ILC is the same as the FDIC's authority with respect to any other state nonmember bank, with limited exceptions. Those exceptions pertain to cross-guaranty authority and golden parachute payments, and legislative changes to eliminate those exceptions are being pursued in H.R. 1375, the proposed Financial Services Regulatory Relief Act of 2003. In short, the FDIC does not believe there are compelling safety and soundness reasons to impose constraints on this charter type that are not imposed on other charter types.

The risk posed by any insured depository institution depends on the appropriateness of the business plan and model, management's competency in administering the institution's affairs, and the quality and implementation of risk management programs. Similar to institutions with other charter types, an ILC's capital adequacy and overall safety and soundness is driven by the composition and stability of its lending, investing and funding activities and the competence of management.

The FDIC and the state chartering authorities directly supervise insured ILCs, which must comply with the FDIC's Rules and Regulations, including, but not limited to, those requirements for capital standards, safe and sound operations, and consumer compliance and community reinvestment. ILCs also are subject to Sections 23A and 23B of the Federal Reserve Act, which restrict or limit transactions with a bank's affiliates and the Federal Reserve Board's Regulation O, which governs credit to insiders and their related interests. Further, the FDIC has the authority to examine any affiliate of an ILC, including its parent company, as may be necessary to determine the relationship between the ILC and the affiliate and to determine the effect of such relationship on the ILC.

Answers to your specific questions are enclosed. If you would like additional information, please do not hesitate to contact me or Alice Goodman, Director of our Office of Legislative Affairs, at (202) 898–8730.

Sincerely,

DONALD E. POWELL,
Chairman.

Enclosure.

RESPONSE OF THE FEDERAL DEPOSIT INSURANCE CORPORATION'S DIVISION OF SUPERVISION AND CONSUMER PROTECTION TO QUESTIONS CONCERNING INDUSTRIAL LOAN COMPANIES

In what banking activities are these institutions engaged? Do they have the authority to provide services that may not be offered by full-service commercial banks?

Generally, the authority of industrial loan companies and industrial banks (collectively, ILCs) to engage in activities is determined by the laws of the chartering state. The authority granted to an ILC may vary from one state to another and may be different from the authority granted to commercial banks. Except for offering demand deposits, an ILC generally may engage in all types of consumer and commercial lending activities and all other banking activities permissible for banks in general.

Core ILC functions are traditional financial activities that can generally be engaged in by institutions of all charter types. The exception would be institutions organized and chartered as limited-purpose institutions, which generally focus on credit card or trust activities.

Existing ILCs can generally be grouped according to one of four broadly defined business models:

Institutions that are operated as community-focused institutions, including standalone institutions and those serving a community niche within a larger organization. These institutions often provide credit to consumers and small- to medium-sized businesses. In addition to retail deposits (many ILCs offer NOW accounts), funding sources may include commercial and wholesale deposits, as well as borrowings. Institutions that operate within a larger corporate organization may also obtain funding through the parent organization.

Independent institutions that focus on specialty lending programs, including leasing, factoring, and real estate activities. Funding sources for this relatively small number of institutions may include retail and commercial deposits, wholesale deposits, and borrowings.

Institutions that are embedded in organizations whose activities are predominantly financial in nature, or within the financial services units of larger corporate organizations. These institutions may serve a particular lending, funding, or processing function within the organization. Lending strategies can carry greatly, but, within a specific institutions, are often focused on a limited range of products, such as credit cards, real estate mortgages, or commercial loans. Corporate strategies play a larger role in determing funding strategies in these cases, with some institutions periodically selling some or all outstanding loans to the parent organization. Parent assessments of funding options across all business units frequently determine the specific tactics at the ILC level. A few institutions restrict themselves to facilitating corporate access to the payment system or supporting cash management functions, such as administering escrowed funds.

Institutions that directly support the parent organizations' distinctly commercial activities. These institutions largely finance retail purchases of parent company products, ranging from general merchandise to automobiles, truck stop activities, fuel for rental car operations, and heating and air conditioning installations. Loan products might include credit cards, lines of credit, and term loans. Funding is generally limited to wholesale or money center operations, borrowings, or other options from within the parent organization.

From a federal law perspective, one of the primary differences between an ILC charter and other depository institution charters is that certain ILCs have a grandfathered exemption from the requirements and restrictions of the Bank Holding Company Act (BHCA). Generally, an LIC can maintain its exemption so long as it meets at least one of the following conditions: (1) the institution does not accept demand deposits, (2) the institution's total assets are less than $100,000,000, or (3) control of the institution has not been acquired by any company after August 10, 1987.

How does the FDIC go about regulating ILCs? What authority does the FDIC have to examine ILC parent companies? Does the FDIC feel it has the tools necessary to adequately and comprehensively regulate ILCs and their relationship to their owners?

The FDIC regulates ILCs in the same manner as other state nonmember institutions. ILCs are subject to the FDIC's safety and soundness regulations (with two exceptions discussed below), as well as federal consumer protection regulations. Like all insured depository institutions, ILCs receive regular examinations, during which compliance with the regulations is reviewed and overall performance and condition are analyzed. For FDIC-insured, state-chartered institutions that are not members of the Federal Reserve System, the FDIC and/or the state authority will conduct the examination. The FDIC has agreements with most states to conduct examinations under alternating schedules, although in the case of a troubled institution, the FDIC and the estate authority generally conduct joint or concurrent examinations.

Transactions with affiliates are reviewed during each examination. An ILC's transactions with its affiliates are restricted by Sections 23A and 23B of the Federal Reserve Act, which are made applicable to state nonmember banks in general by section 18(j) of the FDI Act, 12 U.S.C. §1828(j). Section 23A essentially limits the total amount of loans to affiliates and limits other transactions between a bank and its affiliates. These restrictions also apply to loans to third parties to pay debts to or purchase goods and services from an affiliate. Section 23B generally prohibits any transaction with an affiliate on terms or conditions less favorable to the bank than a transaction with an unrelated third party.

While the FDIC does not have statutory authority to supervise the parent companies of ILCs, the FDIC does have the authority, in examining any insured depository institution, to examine any affiliate of the institution (under 12 U.S.C. §1820(b)(4)), including its parent company, as may be necessary to determine the relationship between the institution and the affiliate and to determine the effect of such relationship on the institution. In the case of a parent subject to the reporting requirements of another regulatory body covered under the Gramm-Leach-Bliley Act of 1999, such as the Securities and Exchange Commission or a state insurance commissioner, the FDIC has agreements in place to share information with the functional regulator.

In determining whether to grant deposit insurance to an ILC, the FDIC must consider the same statutory factors of section 6 of the FDI Act, 12 U.S.C. §1816, that it considers for all other applications for deposit insurance. These factors are:

The financial history and condition of the depository institution;

The adequacy of its capital structure;

Its future earnings prospects;

The general character and fitness of its management;

The risk presented by such depository institution to the deposit insurance fund;

The convenience and needs of the community to be served by the depository institution; and

Whether its corporate powers are consistent with the purposes of the Act.

The FDIC has determined that there are two limitations in our authority regarding ILCs as compared to other institutions. These two limitations would be addressed by remedies included in the Financial Services Regulatory Relief Act of 2003, as proposed. These are:

Amendment to clarify the FDIC's cross-guarantee authority: As part of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Congress established a system that generally permits the FDIC to assess liability across commonly controlled institutions for FDIC losses caused by the default of one of the institutions. Currently, cross-guarantee liability is limited to insured depository institutions that are commonly controlled as defined in the statute. The definition of ''commonly controlled'' limits liability to insured

depository institutions that are controlled by the same depository institution holding company, i.e., either a bank holding company or a savings and loan holding company. Since the parent company of an ILC is neither a bank holding company nor a savings and loan holding company, ILCs that are owned by the same parent company would not be ''commonly controlled.'' As a result, cross-guarantee liability may not attach to ILCs that are owned by the same parent company. The Financial Services regulatory Relief Act of 2003 contains language that would enhance the FDIC's efforts to protect the deposit insurance funds by establishing parity with other charter types. This discretionary authority would extend only against an insured depository institution under common control with the defaulting institution.

Amendment to clarify the FDIC's Golden Parachute authority: As part of H.R. 1375, there also is an amendment to section 18(k) of the FDI Act, 12 U.S.C. §1828(k), to clarify that the FDIC could prohibit or limit a nonbank holding company's golden parachute payment or indemnification payment. In 1990 Congress authorized the FDIC to prohibit or limit prepayment of salaries or any liabilities or legal expenses of an institution-affiliated party by an insured depository institution or a depository institution holding company. Such payments are prohibited if they are made in contemplation of the insolvency of such institution or holding company or if they prevent the proper application of assets to creditors or create a preference for creditors of the institution. Due to the existing statutory definition of a depository institution holding company, it is not clear that the FDIC is authorized to prohibit these types of payments made by nonbank holding companies (such as ILC parent companies).

What differences, if any, exist between the manner in which the FDIC regulates industrial loan banks compared with commercial banks?

As indicated above, the FDIC regulates ILCs in the same manner as all other state nonmember institutions.

In your view, would ILCs pose a greater risk to the safety and soundness of the banking system than traditional banks if both received enhanced de novo interstate branching authority?

We do not believe that ILCs would pose a greater risk to the safety and soundness of the banking system than traditional banks if both received enhanced de novo interstate branching authority. As described above, insured ILCs are subject to the same Federal supervisory regime that applies to other insured institutions. ILC transactions with their parent companies are subject to the same restrictions that apply to transactions between other insured institutions and their parent companies.

Can you comment generally on the capital adequacy and safety and soundness record of the ILCs and compare these to the performance of commercial banks?

ILCs currently have an examination rating distribution that is similar to the insured banking universe. Similar to institutions with other charter types, an ILC's capital adequacy and overall safety and soundness is driven by the composition and stability of its lending, investing and funding activities as well as competence of management.

For troubled ILCs, several common issues have generally been evident, each reflecting faulty strategic or tactical decisions rather than issues of permissible activities, commercial affiliations, or the regulatory regime over the larger corporate organization:

Poorly conceived lending strategies, characterized by concentrations in relatively higher-risk loan problems, economic sectors, or borrowers, have resulted in an excessive volume of poor quality credits.

Less than satisfactory internal processes have hampered institutions' ability to identify and respond to changing circumstances, including deterioration in credit quality, which have thwarted timely corrective actions or collection efforts.

Reliance on potentially volatile funds management strategies, including wholesale deposit solicitations, borrowings, and large-scale loan sales, have placed additional strain on the institutions' earnings performance and liquidity posture.

If any institution is identified as troubled, the FDIC modifies its supervisory strategy. In addition, these institutions are generally subject to formal and informal enforcement actions. As a rule, the FDIC's supervisory strategies and specific actions are coordinated with those of the chartering state authority. Further, in those situations in which the parent organization controls multiple insured institutions, the FDIC also coordinates with the other state authorities or primary federal regulators to ensure that a comprehensive strategy is implemented.

Given the concerns some observers have raised about the ILCs' ability to affiliate with a commercial entity, it is important to note that the current group of troubled ILCs have problems that are not unique to the ILC charter, nor do the troubled ILCs have a history of unusual influence from parent companies or affiliates. As described above, the issues facing the troubled institutions are not dissimilar to those encountered under all charter types, including those in a traditional bank holding company framework.

Can you describe the regulatory framework that addresses safety and soundness concerns, or potential conflicts of interest, that may arise from the relationship of ILCs to their parent companies?

In general, the regulatory framework used to address safety and soundness concerns and potential conflicts of interest regarding an ILC and its parent is the same as that applicable to any insured state bank. For example, with regard to safety and soundness, section 8 of the FDI Act, 12 U.S.C. §1818, generally provides the FDIC with the authority to (i) terminate or suspend the insurance of an ILC for unsafe or unsound practices or unsafe or unsound condition, and (ii) order the ILC to cease and desist from engaging in an unsafe or unsound practice, or from the violation of any law, rule, regulation, written condition imposed in connection with the granting of any application, or any written agreement with the FDIC.

We do not believe that the potential for conflicts of interest is any greater for ILCs than for other FDIC-insured institutions operating in a holding company structure. For example, an ILC and its parent company are subject to the tying restrictions of section 106 of the Bank Holding Company Act Amendments of 1970 to the same extent as if the ILC were a ''bank'' and the parent company were a ''bank holding company.'' Generally, the tying restrictions provide that a bank may not extend credit, sell or lease property, or furnish any service, or fix or vary the consideration for any of the foregoing based upon any of five specific conditions. Those conditions include, for example, that the customer obtain some additional credit, property or service from the holding company or an affiliate.

In order to ensure sufficient autonomy and insulation of the bank from the parent, the state authority or the FDIC typically imposes some or all of the following controls:

Executive ILC management is onsite at the ILC, as opposed to the sometimes distant location of the parent and affiliates;

The ILC Board of Directors consists of local representatives who are capable of providing strong oversight over the operations of the bank and establishing prudent policies and procedures;

Lending files, credit documentation and ILC policies are maintained at the institution and not the parent;

Lending policies and authorities are established and enforced by the ILC;

The bank's policies, processes and activities are consistent with regulatory laws, regulations, policy statements and other regulatory guidance;

Definitive bank-level business plans are established and followed by the bank;

All transactions with the parent or affiliate pass the strictest arms-length scrutiny; and

Sufficient resources are available at the ILC to carry out ILC activities.

With the above-noted prudential factors in place and experienced bankers at the helm of ILCs, we have not noted problems or issues unique to the ILC charter.

Mr. ROSS. Mr. Chairman, I am pleased to yield such time as he may consume to the gentleman from Utah (Mr. MATHESON), my colleague on the Committee on Financial Services and someone who has worked tirelessly on this piece of bipartisan commonsense legislation.

Mr. MATHESON. Mr. Chairman, I have listened to the debate today and there have been a couple of items that I think deserve some comment.

We have heard a lot of misinformation, in my opinion, about industrial loan companies. I think it is important that this Congress needs to go through an exercise in education about these institutions to learn about what they are and what they are not, and I want to address some of those things.

First of all, some people seem to think there is a lack of regulation; that ILCs are unregulated. That is not true. The FDIC regulates ILCs in the same manner as other State nonmember institutions. ILCs are subject to the FDIC safety and soundness regulations, as well as Federal consumer protections.

How about another thing that I often hear that I believe is a myth about this subject; that ILCs pose a threat to the safety and soundness of the national banking system. The fact is, overall, it is the FDIC's view that the ILC charters pose no greater safety and soundness risk than other charter types.

Another misconception out there about ILCs. Some people seem to think that ILCs may allow for inappropriate mixing of banking and commerce. The fact is, as the FDIC has said, they do not believe that the potential for conflict is any greater for ILCs than for other FDIC-insured institutions operating in a holding company structure. My colleague, the gentleman from California (Mr. ROYCE), is submitting a letter that was written by Chairman Powell from the FDIC that will provide greater expansion on those particular thoughts.

I voted for this bill when it came out of committee. I supported the regulatory relief bill, and I still think many components of the underlying bill are

very good and positive. I am concerned about the components of the manager's amendment that tend to place restrictions on the branching capabilities of industrial loan companies.

Now, you will hear a lot of people, in the earlier debate on the rule and whatnot, saying these provisions do not go far enough; that we need greater restrictions. I want to point out there is another point of view, which is that I think these go too far. I do not think it is helpful. I think it is important we should talk about just what ILCs mean to this country, just so people will know.

Industrial loan banks are FDIC-regulated depository institutions. And, yes, they are chartered in five different States. There are more than 50 industrial loan banks in operation. They have been in operation for many years. They are subject to the same banking laws and are regulated in the same manner as other depository institutions. They are supervised and examined both by the States that charter them and by the FDIC. They are subject to the same general safety and soundness, consumer protection deposit insurance, Community Reinvestment Act, and other requirements that apply to other FDIC-insured depository institutions, and they have an exemplary record in serving the communities in which they operate.

Industrial loan banks have already been subject to the same rules regarding interstate branching as other banks. And although they have rarely used this authority, these banks have been authorized to open branches by acquisition, where State laws allow.

Most owners of industrial loan banks are exempted from the Bank Holding Company Act regulation through a specific provision added to the Bank Holding Company Act in 1987. This is neither a loophole nor a particularly unique provision. Similar Bank Holding Company Act exemptions apply to many institutions not owned by other companies, and to financial institutions that do not offer a full range of banking services, such as credit card banks, Edge Act banks, grandfathered ''nonbank banks,'' grandfathered ''unitary thrifts,'' and trust banks. These exemptions benefit bank customers. They introduce additional competition into the marketplace without increased risk to the deposit insurance system.

As I said earlier, some people will claim that these industrial loan banks are unregulated. That is just not true. They are subject to many of the same requirements as bank holding companies, such as strict restrictions on transactions with their bank affiliates. They are regulated under State law and are subject to examination by the FDIC and to prompt corrective action and capital guarantee requirements if the banks they control encounter financial difficulties. These tools, in the words of FDIC Chairman Donald Powell, allow the FDIC to manage the relationships between industrial loan banks and their parents ''with little or no risk to the deposit insurance funds, and no subsidy transferred to the nonbank parent.''

I think that it is important to note that what we are talking about here is choices. We have heard about, oh, these are only chartered in 5 States and that is to the detriment of 45 other States. This is about American consumers being given more choices; more choices and more efficiency in our economy. We should not be afraid of competition. There are various interest groups out there that are going to oppose ILCs. And I think they oppose them because they are saying, oh, gee, we are disadvantaged. I think they are trying to protect an advantage. Competition is good. Competition is a good thing in our country and in our economy here. It is something I would advocate for.

And I think the people have been well served in the many years in which ILCs have been in existence, and I think that businesses and consumers will continue to be served in all 50 States by the benefits of the services that industrial loan companies provide.

So as I said at the outset, a lot of things have been said. I think there is a lot of confusion about what ILCs are and are not. I have tried to walk through some of the fundamental comments that have been made that raise concern for me, and I would also suggest that this manager's amendment, which is a purported compromise, is not necessarily something that I agree with. I think it goes too far in being restrictive, and I think that it gives me concerns for a bill that otherwise passed through committee with very little controversy.

Mr. LEACH. Mr. Chairman, will the gentleman yield?

Mr. MATHESON. I yield to the gentleman from Iowa.

Mr. LEACH. Mr. Chairman, the gentleman is, of course, correct in part of what he says on regulation. But the reason that ILCs were exempted from the Bank Holding Company Act was they did not have all the powers of a bank. Now they are being given all the powers of a bank and also want to stay exempt from the Bank Holding Company Act.

What the Bank Holding Company Act says is that the parent of an ILC will be examined in a consolidated way, the way Europe is moving to, the same as the United States has attempted to establish in principle. But with this bill we make a breach in principle of profound dimensions. It is that examination of the bank holding company that is critical to an understanding of how you protect the taxpayer and how you protect the financial system. That is what is so important in this debate.

Mr. MATHESON. Reclaiming my time, Mr. Chairman, I appreciate the comments of the gentleman from Iowa. We have had discussions about this in the past and we tend to take a little bit different point of view on this issue.

But I do appreciate his mentioning some actions that are taking place within the European Union. Financial owners of industrial loan banks may very well soon be subject to further regulation, and holding company supervision will be driven by the European Union mandate that institutions doing business there be subject to consolidated holding company supervision.

It is my understanding the Securities and Exchange Commission has proposed a consolidated supervisory regime for holding companies predominantly engaged in securities business.

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I do acknowledge that there are some other actions taking place to address this holding company issue and I am glad the gentleman raised that point. That being said, I guess I would just repeat one more time that I do believe that these are entities where, according to the Federal agency that regulates them now, the FDIC, they do not see any relationship in terms of, substantive, between the holding company and the bank component of the business.

Mr. LEACH. If the gentleman will yield on that point, as the gentleman knows there is a profound difference between the Federal Reserve and the FDIC on this point. The Federal Reserve holds the exact opposite position. The Federal Reserve is what is in charge of the payment system, and by this bill we are allowing people access to the payment system without thorough oversight of the parent company. All I am asking is that ILCs come under the same national law as everybody else that operates as the equivalent of a full service bank, nothing less, nothing more. But it does have the effect of devaluing all other financial institution charters. That is a concern, although the principal concern is protection of the public purse. In that regard, I agree that the FDIC has a different position.

But I only make one final point. Under the Gramm-Leach-Bliley Act, the effort was to have coordination of all the Federal banking regulators. Here you have one banking regulator that wants to operate outside coordination of all the others. In that regard, I have some concerns about FDIC judgment which I believe is driven by a desire to regulate a greater body of institutions. That is a personal view. Maybe they have other motives. I do not know. But I want Federal coordination. I want public protection to the maximum degree possible.

Mr. MATHESON. I appreciate those comments. I would just say I understand there is a difference between the FDIC and the Federal Reserve and there is a difference on this particular issue. I just want to point out that this is not just an ILC issue, though. There are other entities that are also not regulated by the Federal Reserve.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Indiana (Mr. CHOCOLA).

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

Mr. CHOCOLA. I thank the gentleman for yielding me this time.

Mr. Chairman, the banking industry estimates that it spends approximately $25 billion annually to comply with the regulatory requirements imposed at the Federal and State levels of government. While some of these regulations help to ensure the reliability of our financial services sector, many of the mandates that emerge from Washington, D.C. are overly burdensome, unnecessarily costly, and oftentimes hinder profitability, innovation and competition. Whenever we can identify examples of unnecessary regulatory obstacles, Congress should act to eliminate them.

H.R. 1375, the Financial Services Regulatory Relief Act of 2004, is a well-crafted bill that does exactly that. It allows credit unions, savings associations, and national banks to devote more of their resources to the business of lending to consumers and less to the bureaucratic maze of compliance with outdated and unnecessary regulations. It contains a broad range of provisions that, taken as a whole, will help grant parity among financial institutions of all characters and sizes as well as the agencies that regulate them and, most importantly, the customers they serve.

Of the many important provisions in this bill, several are significant for Indiana's credit unions. For example, access to the Federal Home Loan Bank is available only for financial institutions that are federally insured. H.R. 1375 contains a provision that would allow privately insured financial institutions to join the Federal Home Loan Bank. The Federal Home Loan Bank is a significant low-cost source of funds that a credit union can use to expand loan products, especially mortgage loans, to its members. Indiana has more than 20 privately insured credit unions, including Elkhart County Farm Bureau Credit Union, whose members could benefit from access to the Federal Home Loan Bank.

Currently, credit unions may only offer check cashing and money transfer services to members. H.R. 1375 contains a provision that allows credit unions to offer these services to anyone who is eligible for membership but has not yet joined the credit union. This would allow credit unions to extend services to underserved consumers at a lower cost than check cashers and money transfer providers, while introducing them to mainstream financial services.

By passing this legislation, Congress will demonstrate its commitment to reducing the regulatory burden. I urge all of my colleagues to support H.R. 1375.

Mr. OXLEY. Mr. Chairman, I yield myself the balance of my time. I would simply say this has been a very good debate and, in fact, a great representation of the legislative process at work. We have had a lot of strong opinions, particularly on the ILC issue. But overall this is an attempt to provide regulatory relief to institutions who have undertaken a tremendous burden, particularly under the PATRIOT Act strictures. For that reason, this bill needs to go forward.

Ms. LEE. Mr. Chairman, although I do have some reservations about this bill, I rise in support of the vast majority of the underlying bill and want to praise the excellent bipartisan leadership exercised in crafting it and moving it to the floor today. It was a long time in the making and I congratulate my colleagues on their hard work.

The bill provides much needed regulatory relief to credit unions, national banks, and savings and loan institutions. We all know that regulations can do great good, but they need to be reexamined and refined from time to time, especially when new consumer protections are warranted and where they can provide needed flexibility to enhance efficiency.

This bill does exactly that and I am pleased with many of its provisions, especially those that will help the credit unions compete, thrive and improve their services to consumers.

Mr. Chairman, I hope that we will improve the bill before us today by adopting the Manager's amendment, and Waters amendment, among others.

Mr. CANTOR. Mr. Chairman, I rise today to speak in favor of The Financial Services Regulatory Relief Act. This important legislation will help relieve several of the regulatory burdens that hinder the business practices of financial institutions throughout our Nation. By lifting these regulations, banks, credit unions, and other institutions will be able to better serve the average American.

Particularly, I would like to mention the importance of Section 208 of this legislation. This provision would remove a limitation on savings associations that prevents them from offering a larger percentage of automobile loans to their customers.

Presently, automobile loans are included in the household or consumer loan restriction limit of 35% of an institution's assets. Many savings associations will be forced to stop or limit the number of automobile loan products they offer because of this restriction. With less competition in the marketplace, the American people will be left with fewer options to purchase automobiles.

The language currently in this legislation will remove automobile loans from household or consumer loan restriction. This provision will help guard against predatory practices and add flexibility to the lending industry by creating better marketplace options for the American consumer.

For over 150 years, thrift banks have focused on providing consumers with the necessary means to obtain the American dream of ownership. We should not limit Americans in that dream.

Mr. Chairman, I would like to thank the Financial Services Committee and Chairman OXLEY for including this important provision in H.R. 1375. I urge that we pass this legislation, and I yield back the balance of my time.

Mr. TERRY. Mr. Chairman, I rise today in reluctant opposition to H.R. 1375.

The United States is a government of limited powers and of Federalism. We defer to the States to make their own determinations to ensure the health, welfare, and consumer protection of their citizens.

During my legislative career, I have fought to ease the regulatory burden on our Nation's businesses, our Nation's engines for growth. I have fought against unwarranted government intrusion.

As much as I support the removal of unnecessary and onerous regulatory burdens on our Nation's businesses, I am also a strong supporter of States rights.

In America we do not take a one-size-fits-all approach to government. One reason why we enjoy the highest standard of living in the world is because we have a laboratory of our States who are given the freedom to set their own paths. Similar to completion in the private sector, we allow States to offer competing plans to protect the safety and welfare of their citizens.

H.R. 1375 has many admirable provisions to ease the regulatory environment on our Nation's financial service industry; however, the bill amends the interstate branching laws to permit de novo interstate branching, thus eliminating the State's role in ''entry-by-acquisition'' only rules that apply under Federal law today. This is an unjustified unsurpation of State regulatory authority.

Currently, de novo interstate branching may occur only if a State's law expressly permits it. Seventeen States have passed laws that permit de novo branching, while thirty-three States, like Nebraska, do not.

It is for this reason only I reluctantly cannot support H.R. 1375.

Mr. CASTLE. Mr. Chairman, I rise today in support of H.R. 1375, the ''Financial Services Regulatory Relief Act.'' I commend Chairman OXLEY and Subcommittee Chairman BACHUS for continuing the Financial Services Committee's efforts to address regulatory relief for our financial institutions.

This legislation will address regulatory relief for a number of financial institution systems; banks, savings associations and credit unions. It eases regulatory burden which in turn will improve productivity, ultimately benefiting consumers and small businesses.

As Members of Congress it is important for us not to forget our role in oversight of the laws and regulations that we create and address the regulations as needed. We should ensure that the laws and regulations we create follow our original intent and are not overly burdensome. I commend our committee for revisiting the regulatory requirements. It is essential we make sure we have streamlined them for efficiency and not made them overly onerous.

Mr. Chairman, this legislation is a good bipartisan bill that members of the Financial Services Committee held a number of hearings on. I am pleased today that we have brought this much needed bill to the floor. I urge my colleagues on both sides of the aisle to join me in supporting this important and very necessary legislation.

Mr. BEREUTER. Mr. Chairman, this Member has been a strong supporter of regulatory burden relief for our financial institutions in the past. However, this Member will oppose the Financial Services Regulatory Relief Act of 2003 (H.R. 1375) because of the provisions which preempt the laws of over 30 states on either interstate bank branching, the bank acquisition ''age'' requirements or both. As a former State senator in the Nebraska Unicameral legislature, this Member believes Congress should continue to defer to State legislatures on these questions.

Under current Federal law, State and national chartered banks can branch de novo into a new State only if the State explicitly permits de novo interstate branching. This provision of Federal law was enacted in the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994. Furthermore, under Riegle-Neal, bank holding companies are permitted to acquire an existing bank in any State. However, under this law, a state can adopt ''age'' laws which provide that a bank holding company located out-of-State can only acquire a bank in the State if the bank has been in existence for a certain amount of time (up to 5 years) as determined by the State.

Section 401 of H.R. 1375 would preempt State laws as they relate to both interstate bank branching and the ''age'' requirement for the acquisition of existing banks. In the 107th Congress, this Member did offer an amendment on this subject during a Financial Services Committee Markup of the Financial Services Regulatory Relief Act of 2002. This Member's amendment would have deleted the provision of this bill which preempted the laws of States on bank branching and bank acquisition. Unfortunately, the amendment was defeated by a vote of 13 to 32.

In conclusion, this Member will oppose H.R. 1375 because of the provisions in Section 401 which preempted the laws of over 30 States. This Member strongly believes that these banking questions should be left to our State legislatures.

Mr. GUTIERREZ. Mr. Chairman, I had intended to offer an amendment on this legislation regarding the OCC preemption rules, but withdrew it in anticipation of revisiting that important issue soon on other legislation.

I do, however, want to state my strong support for a particular provision of H.R. 1375, the Financial Services Regulatory Relief Act of 2003. I am very pleased that credit unions will be permitted to offer remittance products to nonmembers under this legislation. I want to thank Chairman OXLEY, Ranking Member FRANK, CHARLIE GONZALEZ and DOUG OSE for their work on this important provision. Credit unions offer the lowest cost remittance products and the best exchange rates on the market. In addition, increased competition in this arena will provide more favorable options for consumers.

This is most important because many purveyors of remittance products charge extremely high fees and provide very unfavorable exchange rates to their consumers, and they often fail to provide adequate disclosure. I have legislation that addresses this issue, requiring meaningful disclosure of fees and rates, in the language that is used to advertise and/or transact business with consumers. I hope this meaningful legislation will soon advance to floor consideration.

Again, thank you, Chairman OXLEY and Ranking Member FRANK, for including this important remittance provision in the legislation.

Mr. OXLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. SIMMONS). All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 1375

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 ''Financial Services Regulatory Relief Act of 2003''.

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

Sec. 1. Short title; table of contents.

TITLE I—NATIONAL BANK PROVISIONS

Sec. 101. National bank directors.
Sec. 102. Voting in shareholder elections.
Sec. 103. Simplifying dividend calculations for national banks.
Sec. 104. Repeal of obsolete limitation on removal authority of the Comptroller of the Currency.
Sec. 105. Repeal of intrastate branch capital requirements.
Sec. 106. Clarification of waiver of publication requirements for bank merger notices.
Sec. 107. Capital equivalency deposits for Federal branches and agencies of foreign banks.
Sec. 108. Equal treatment for Federal agencies of foreign banks.
Sec. 109. Maintenance of a Federal branch and a Federal agency in the same State.
Sec. 110. Business organization flexibility for national banks.
Sec. 111. Clarification of the main place of business of a national bank.

TITLE II—SAVINGS ASSOCIATION PROVISIONS

Sec. 201. Parity for savings associations under the Securities Exchange Act of 1934 and the Investment Advisers Act of 1940.
Sec. 202. Investments by Federal savings associations authorized to promote the public welfare.
Sec. 203. Mergers and consolidations of Federal savings associations with nondepository institution affiliates.
Sec. 204. Repeal of statutory dividend notice requirement for savings association subsidiaries of savings and loan holding companies.
Sec. 205. Modernizing statutory authority for trust ownership of savings associations.
Sec. 206. Repeal of overlapping rules governing purchased mortgage servicing rights.
Sec. 207. Restatement of authority for Federal savings associations to invest in small business investment companies.
Sec. 208. Removal of limitation on investments in auto loans.
Sec. 209. Selling and offering of deposit products.
Sec. 210. Funeral- and cemetery-related fiduciary services.
Sec. 211. Repeal of qualified thrift lender requirement with respect to out-of-state branches.
Sec. 212. Small business and other commercial loans.
Sec. 213. Clarifying citizenship of Federal savings associations for Federal court jurisdiction.
Sec. 214. Clarification of applicability of certain procedural doctrines.

TITLE III—CREDIT UNION PROVISIONS

Sec. 301. Privately insured credit unions authorized to become members of a Federal home loan bank.
Sec. 302. Leases of land on Federal facilities for credit unions.
Sec. 303. Investments in securities by Federal credit unions.
Sec. 304. Increase in general 12-year limitation of term of Federal credit union loans to 15 years.
Sec. 305. Increase in 1 percent investment limit in credit union service organizations.
Sec. 306. Member business loan exclusion for loans to nonprofit religious organizations.
Sec. 307. Check cashing and money transfer services offered within the field of membership.
Sec. 308. Voluntary mergers involving multiple common-bond credit unions.
Sec. 309. Conversions involving common-bond credit unions.
Sec. 310. Credit union governance.
Sec. 311. Providing the National Credit Union Administration with greater flexibility in responding to market conditions.
Sec. 312. Exemption from pre-merger notification requirement of the Clayton Act.
Sec. 313. Treatment of credit unions as depository institutions under securities laws.

TITLE IV—DEPOSITORY INSTITUTION PROVISIONS

Sec. 401. Easing restrictions on interstate branching and mergers.
Sec. 402. Statute of limitations for judicial review of appointment of a receiver for depository institutions.
Sec. 403. Reporting requirements relating to insider lending.
Sec. 404. Amendment to provide an inflation adjustment for the small depository institution exception under the Depository Institution Management Interlocks Act.
Sec. 405. Enhancing the safety and soundness of insured depository institutions.
Sec. 406. Investments by insured savings associations in bank service companies authorized.
Sec. 407. Cross guarantee authority.
Sec. 408. Golden parachute authority and nonbank holding companies.
Sec. 409. Amendments relating to change in bank control.

TITLE V—DEPOSITORY INSTITUTION AFFILIATES PROVISIONS

Sec. 501. Clarification of cross marketing provision.
Sec. 502. Amendment to provide the Federal Reserve Board with discretion concerning the imputation of control of shares of a company by trustees.
Sec. 503. Eliminating geographic limits on thrift service companies.
Sec. 504. Clarification of scope of applicable rate provision.

TITLE VI—BANKING AGENCY PROVISIONS

Sec. 601. Waiver of examination schedule in order to allocate examiner resources.
Sec. 602. Interagency data sharing.
Sec. 603. Penalty for unauthorized participation by convicted individual.
Sec. 604. Amendment permitting the destruction of old records of a depository institution by the FDIC after the appointment of the FDIC as receiver.

Sec. 605. Modernization of recordkeeping requirement.
Sec. 606. Clarification of extent of suspension, removal, and prohibition authority of Federal banking agencies in cases of certain crimes by institution-affiliated parties.
Sec. 607. Streamlining depository institution merger application requirements.
Sec. 608. Inclusion of Director of the Office of Thrift Supervision in list of banking agencies regarding insurance customer protection regulations.
Sec. 609. Shortening of post-approval antitrust review period with the agreement of the Attorney General.
Sec. 610. Protection of confidential information received by Federal banking regulators from foreign banking supervisors.
Sec. 611. Prohibition on the participation in the affairs of bank holding company or Edge Act or agreement corporations by convicted individual.
Sec. 612. Clarification that notice after separation from service may be made by an order.
Sec. 613. Examiners of financial institutions.
Sec. 614. Parity in standards for institution-affiliated parties.
Sec. 615. Enforcement against misrepresentations regarding FDIC deposit insurance coverage.
Sec. 616. Compensation of Federal home loan bank directors.
Sec. 617. Extension of terms of Federal home loan bank directors.
Sec. 618. Biennial reports on the status of agency employment of minorities and women.
Sec. 619. Coordination of State examination authority.

TITLE VII—CLERICAL AND TECHNICAL AMENDMENTS

Sec. 701. Clerical amendments to the Home Owners' Loan Act.
Sec. 702. Technical corrections to the Federal Credit Union Act.
Sec. 703. Other technical corrections.
Sec. 704. Repeal of obsolete provisions of the Bank Holding Company Act of 1956.

TITLE I—NATIONAL BANK PROVISIONS

SEC. 101. NATIONAL BANK DIRECTORS.

Section 5146 of the Revised Statutes of the United States (12 U.S.C. 72) is amended—

(1) by striking ''SEC. 5146. Every director must during'' and inserting the following:

''SEC. 5146. REQUIREMENTS FOR BANK DIRECTORS.

''(a) RESIDENCY REQUIREMENTS.—Every director of a national bank shall, during'';

(2) by striking ''total number of directors. Every director must own in his or her own right'' and inserting ''total number of directors.

''(b) INVESTMENT REQUIREMENT.—

''(1) IN GENERAL.—Every director of a national bank shall own, in his or her own right,''; and

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

''(2) EXCEPTION FOR SUBORDINATED DEBT IN CERTAIN CASES.—In lieu of the requirements of paragraph (1) relating to the ownership of capital stock in the national bank, the Comptroller of the Currency may, by regulation or order, permit an individual to serve as a director of a national bank that has elected, or notifies the Comptroller of the bank's intention to elect, to operate as a S corporation pursuant to section 1362(a) of the Internal Revenue Code of 1986, if that individual holds debt of at least $1,000 issued by the national bank that is subordinated to the interests of depositors and other general creditors of the national bank.''.

SEC. 102. VOTING IN SHAREHOLDER ELECTIONS.

Section 5144 of the Revised Statutes of the United States (12 U.S.C. 61) is amended—

(1) by striking ''or to cumulate'' and inserting ''or, if so provided by the articles of association of the national bank, to cumulate'';

(2) by striking the comma after ''his shares shall equal''; and

(3) by adding at the end the following new sentence: ''The Comptroller of the Currency may prescribe such regulations to carry out the purposes of this section as the Comptroller determines to be appropriate.''.

SEC. 103. SIMPLIFYING DIVIDEND CALCULATIONS FOR NATIONAL BANKS.

(a) IN GENERAL.—Section 5199 of the Revised Statutes of the United States (12 U.S.C. 60) is amended to read as follows:

''SEC. 5199. NATIONAL BANK DIVIDENDS.

''(a) IN GENERAL.—Subject to subsection (b), the directors of any national bank may declare a dividend of so much of the undivided profits of the bank as the directors judge to be expedient.

''(b) APPROVAL REQUIRED UNDER CERTAIN CIRCUMSTANCES.—A national bank may not declare and pay dividends in any year in excess of an amount equal to the sum of the total of the net income of the bank for that year and the retained net income of the bank in the preceding two years, minus any transfers required by the Comptroller of the Currency (including any transfers required to be made to a fund for the retirement of any preferred stock), unless the Comptroller of the Currency approves the declaration and payment of dividends in excess of such amount.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter three of title LXII of the Revised Statutes of the United States is amended by striking the item relating to section 5199 and inserting the following new item:

''5199. National bank dividends.''.

SEC. 104. REPEAL OF OBSOLETE LIMITATION ON REMOVAL AUTHORITY OF THE COMPTROLLER OF THE CURRENCY.

Section 8(e)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(4)) is amended by striking the 5th sentence.

SEC. 105. REPEAL OF INTRASTATE BRANCH CAPITAL REQUIREMENTS.

Section 5155(c) of the Revised Statutes of the United States (12 U.S.C. 36(c)) is amended—

(1) in the 2nd sentence, by striking '', without regard to the capital requirements of this section,''; and

(2) by striking the last sentence.

SEC. 106. CLARIFICATION OF WAIVER OF PUBLICATION REQUIREMENTS FOR BANK MERGER NOTICES.

The last sentence of sections 2(a) and 3(a)(2) of the National Bank Consolidation and Merger Act (12 U.S.C. 215(a) and 215a(a)(2), respectively) are each amended by striking ''Publication of notice may be waived, in cases where the Comptroller determines that an emergency exists justifying such waiver, by unanimous action of the shareholders of the association or State bank'' and inserting ''Publication of notice may be waived if the Comptroller determines that an emergency exists justifying such waiver or if the shareholders of the association or State bank agree by unanimous action to waive the publication requirement for their respective institutions''.

SEC. 107. CAPITAL EQUIVALENCY DEPOSITS FOR FEDERAL BRANCHES AND AGENCIES OF FOREIGN BANKS.

Section 4(g) of the International Banking Act of 1978 (12 U.S.C. 3102(g)) is amended to read as follows:

''(g) CAPITAL EQUIVALENCY DEPOSIT.—

''(1) IN GENERAL.—Upon the opening of a Federal branch or agency of a foreign bank in any State and thereafter, the foreign bank, in addition to any deposit requirements imposed under section 6, shall keep on deposit, in accordance with such regulations as the Comptroller of the Currency may prescribe in accordance with paragraph (2), dollar deposits, investment securities, or other assets in such amounts as the Comptroller of the Currency determines to be necessary for the protection of depositors and other investors and to be consistent with the principles of safety and soundness.

''(2) LIMITATION.—Notwithstanding paragraph (1), regulations prescribed under such paragraph shall not permit a foreign bank to keep assets on deposit in an amount that is less than the amount required for a State licensed branch or agency of a foreign bank under the laws and regulations of the State in which the Federal agency or branch is located.''.

SEC. 108. EQUAL TREATMENT FOR FEDERAL AGENCIES OF FOREIGN BANKS.

The 1st sentence of section 4(d) of the International Banking Act of 1978 (12 U.S.C. 3102(d)) is amended by inserting ''from citizens or residents of the United States'' after ''deposits''.

SEC. 109. MAINTENANCE OF A FEDERAL BRANCH AND A FEDERAL AGENCY IN THE SAME STATE.

Section 4(e) of the International Banking Act of 1978 (12 U.S.C. 3102(e)) is amended by inserting ''if the maintenance of both an agency and a branch in the State is prohibited under the law of such State'' before the period at the end.

SEC. 110. BUSINESS ORGANIZATION FLEXIBILITY FOR NATIONAL BANKS.

(a) IN GENERAL.—Chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after section 5136B the following new section:

''SEC. 5136C. ALTERNATIVE BUSINESS ORGANIZATION.

''(a) IN GENERAL.—The Comptroller of the Currency may prescribe regulations—

''(1) to permit a national bank to be organized other than as a body corporate; and

''(2) to provide requirements for the organizational characteristics of a national bank organized and operating other than as a body corporate, consistent with the safety and soundness of the national bank.

''(b) EQUAL TREATMENT.—Except as provided in regulations prescribed under subsection (a), a national bank that is operating other than as a body corporate shall have the same rights and privileges and shall be subject to the same duties, restrictions, penalties, liabilities, conditions, and limitations as a national bank that is organized as a body corporate.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended, in the matter preceding the paragraph designated as the ''First'', by inserting ''or other form of business organization provided under regulations prescribed by the Comptroller of the Currency under section 5136C'' after ''a body corporate''.

(c) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after the item relating to section 5136B the following new item:

''5136C. Alternative business organization.''.

SEC. 111. CLARIFICATION OF THE MAIN PLACE OF BUSINESS OF A NATIONAL BANK.

Title LXII of the Revised Statutes of the United States is amended—

(1) in the paragraph designated the ''Second'' of section 5134 (12 U.S.C. 22), by striking ''The place where its operations of discount and deposit are to be carried on'' and inserting ''The place where the main office of the national bank is, or is to be, located''; and

(2) in section 5190 (12 U.S.C. 81), by striking ''the place specified in its organization certificate'' and inserting ''the main office of the national bank''.

TITLE II—SAVINGS ASSOCIATION PROVISIONS

SEC. 201. PARITY FOR SAVINGS ASSOCIATIONS UNDER THE SECURITIES EXCHANGE ACT OF 1934 AND THE INVESTMENT ADVISERS ACT OF 1940.

(a) SECURITIES EXCHANGE ACT OF 1934.—

(1) DEFINITION OF BANK.—Section 3(a)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(6)) is amended—

(A) in subparagraph (A), by inserting ''or a Federal savings association, as defined in section 2(5) of the Home Owners' Loan Act'' after ''a banking institution organized under the laws of the United States''; and

(B) in subparagraph (C)—

(i) by inserting ''or savings association as defined in section 2(4) of the Home Owners' Loan Act,'' after ''banking institution,''; and

(ii) by inserting ''or savings associations'' after ''having supervision over banks''.

(2) INCLUDE OTS UNDER THE DEFINITION OF APPROPRIATE REGULATORY AGENCY FOR CERTAIN PURPOSES.—Section 3(a)(34) of such Act (15 U.S.C. 78c(a)(34)) is amended—

(A) in subparagraph (A)—

(i) in clause (ii), by striking ''(i) or (iii)'' and inserting ''(i), (iii), or (iv)'';

(ii) by striking ''and'' at the end of clause (iii);

(iii) by redesignating clause (iv) as clause (v); and

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

''(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))) the deposits of which are insured by the Federal Deposit Insurance Corporation, a subsidiary or a department or division of any such savings association, or a savings and loan holding company; and'';

(B) in subparagraph (B)—

(i) in clause (ii), by striking ''(i) or (iii)'' and inserting ''(i), (iii), or (iv)'';

(ii) by striking ''and'' at the end of clause (iii);

(iii) by redesignating clause (iv) as clause (v); and

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

''(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))) the deposits of which are insured by the Federal Deposit Insurance Corporation, or a subsidiary of any such savings association, or a savings and loan holding company; and'';

(C) in subparagraph (C)—

(i) in clause (ii), by striking ''(i) or (iii)'' and inserting ''(i), (iii), or (iv)'';

(ii) by striking ''and'' at the end of clause (iii);

(iii) by redesignating clause (iv) as clause (v); and

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

''(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))) the deposits of which are insured by the Federal Deposit Insurance Corporation, a savings and loan holding company, or a subsidiary of a savings and loan holding company when the appropriate regulatory agency for such clearing agency is not the Commission; and'';

(D) in subparagraph (D)—

(i) by striking ''and'' at the end of clause (ii);

(ii) by redesignating clause (iii) as clause (iv); and

(iii) by inserting the following new clause after clause (ii):

''(iii) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))) the deposits of which are insured by the Federal Deposit Insurance Corporation; and'';

(E) in subparagraph (F)—

(i) by redesignating clauses (ii), (iii), and (iv) as clauses (iii), (iv), and (v), respectively; and

(ii) by inserting the following new clause after clause (i):

''(ii) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))) the deposits of which are insured by the Federal Deposit Insurance Corporation; and'';

(F) by moving subparagraph (H) and inserting such subparagraph after subparagraph (G); and

(G) by adding at the end the following new sentence: ''As used in this paragraph, the term 'savings and loan holding company' has the meaning given it in section 10(a) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)).''.

(b) INVESTMENT ADVISERS ACT OF 1940.—

(1) DEFINITION OF BANK.—Section 202(a)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(2)) is amended—

(A) in subparagraph (A) by inserting ''or a Federal savings association, as defined in section 2(5) of the Home Owners' Loan Act'' after ''a banking institution organized under the laws of the United States''; and

(B) in subparagraph (C)—

(i) by inserting '', savings association as defined in section 2(4) of the Home Owners' Loan Act,'' after ''banking institution''; and

(ii) by inserting ''or savings associations'' after ''having supervision over banks''.

(2) CONFORMING AMENDMENTS.—Subsections (a)(1)(A)(i), (a)(1)(B), (a)(2), and (b) of section 210A of such Act (15 U.S.C. 80b–10a), as added by section 220 of the Gramm-Leach-Bliley Act, are each amended by striking ''bank holding company'' each place it occurs and inserting ''bank holding company or savings and loan holding company''.

(c) CONFORMING AMENDMENT TO THE INVESTMENT COMPANY ACT OF 1940.—Section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–10(c)), as amended by section 213(c) of the Gramm-Leach-Bliley Act, is amended by inserting after ''1956)'' the following: ''or any one savings and loan holding company (together with its affiliates and subsidiaries) (as such terms are defined in section 10 of the Home Owners' Loan Act)''.

SEC. 202. INVESTMENTS BY FEDERAL SAVINGS ASSOCIATIONS AUTHORIZED TO PROMOTE THE PUBLIC WELFARE.

(a) IN GENERAL.—Section 5(c)(3) of the Home Owners' Loan Act (12 U.S.C. 1464(c)) is amended by adding at the end the following new subparagraph:

''(D) DIRECT INVESTMENTS TO PROMOTE THE PUBLIC WELFARE.—

''(i) IN GENERAL.—A Federal savings association may make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families through the provision of housing, services, and jobs.

''(ii) DIRECT INVESTMENTS OR ACQUISITION OF INTEREST IN OTHER COMPANIES.—Investments under clause (i) may be made directly or by purchasing interests in an entity primarily engaged in making such investments.

''(iii) PROHIBITION ON UNLIMITED LIABILITY.—No investment may be made under this subparagraph which would subject a Federal savings association to unlimited liability to any person.

''(iv) SINGLE INVESTMENT LIMITATION TO BE ESTABLISHED BY DIRECTOR.—Subject to clauses (v) and (vi), the Director shall establish, by order or regulation, limits on—

''(I) the amount any savings association may invest in any 1 project; and

''(II) the aggregate amount of investment of any savings association under this subparagraph.

''(v) FLEXIBLE AGGREGATE INVESTMENT LIMITATION.—The aggregate amount of investments of any savings association under this subparagraph may not exceed an amount equal to the sum of 5 percent of the savings association's capital stock actually paid in and unimpaired and 5 percent of the savings association's unimpaired surplus, unless—

''(I) the Director determines that the savings association is adequately capitalized; and

''(II) the Director determines, by order, that the aggregate amount of investments in a higher amount than the limit under this clause will pose no significant risk to the affected deposit insurance fund.

''(vi) MAXIMUM AGGREGATE INVESTMENT LIMITATION.—Notwithstanding clause (v), the aggregate amount of investments of any savings association under this subparagraph may not exceed an amount equal to the sum of 10 percent of the savings association's capital stock actually paid in and unimpaired and 10 percent of the savings association's unimpaired surplus.

''(vii) INVESTMENTS NOT SUBJECT TO OTHER LIMITATION ON QUALITY OF INVESTMENTS.—No obligation a Federal savings association acquires or retains under this subparagraph shall be taken into account for purposes of the limitation contained in section 28(d) of the Federal Deposit Insurance Act on the acquisition and retention of any corporate debt security not of investment grade.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 5(c)(3)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(3)(A)) is amended to read as follows:

''(A) [Repealed.]''.

SEC. 203. MERGERS AND CONSOLIDATIONS OF FEDERAL SAVINGS ASSOCIATIONS WITH NONDEPOSITORY INSTITUTION AFFILIATES.

Section 5(d)(3) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(3)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C); and

(2) by inserting after subparagraph (A) the following new subparagraph:

''(B) MERGERS AND CONSOLIDATIONS WITH NONDEPOSITORY INSTITUTION AFFILIATES.—

''(i) IN GENERAL.—Upon the approval of the Director, a Federal savings association may merge with any nondepository institution affiliate of the savings association.

''(ii) RULE OF CONSTRUCTION.—No provision of clause (i) shall be construed as—

''(I) affecting the applicability of section 18(c) of the Federal Deposit Insurance Act; or

''(II) granting a Federal savings association any power or any authority to engage in any activity that is not authorized for a Federal savings association under any other provision of this Act or any other provision of law.''.

SEC. 204. REPEAL OF STATUTORY DIVIDEND NOTICE REQUIREMENT FOR SAVINGS ASSOCIATION SUBSIDIARIES OF SAVINGS AND LOAN HOLDING COMPANIES.

Section 10(f) of the Home Owners' Loan Act (12 U.S.C. 1467a(f)) is amended to read as follows:

''(f) DECLARATION OF DIVIDEND.—The Director may—

''(1) require a savings association that is a subsidiary of a savings and loan holding company to give prior notice to the Director of the intent of the savings association to pay a dividend on its guaranty, permanent, or other nonwithdrawable stock; and

''(2) establish conditions on the payment of dividends by such a savings association.''.

SEC. 205. MODERNIZING STATUTORY AUTHORITY FOR TRUST OWNERSHIP OF SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 10(a)(1)(C) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)(C)) is amended—

(1) by striking ''trust,'' and inserting ''business trust,''; and

(2) by inserting ''or any other trust unless by its terms it must terminate within 25 years or not later than 21 years and 10 months after the death of individuals living on the effective date of the trust,'' after ''or similar organization,''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 10(a)(3) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(3)) is amended—

(1) by striking ''does not include—'' and all that follows through ''any company by virtue''

where such term appears in subparagraph (A) and inserting ''does not include any company by virtue'';

(2) by striking ''; and'' at the end of subparagraph (A) and inserting a period; and

(3) by striking subparagraph (B).

SEC. 206. REPEAL OF OVERLAPPING RULES GOVERNING PURCHASED MORTGAGE SERVICING RIGHTS.

Section 5(t) of the Home Owners' Loan Act (12 U.S.C. 1464(t)) is amended—

(1) by striking paragraph (4) and inserting the following new paragraph:

''(4) [Repealed.]''; and

(2) in paragraph (9)(A), by striking ''intangible assets, plus'' and all that follows through the period at the end and inserting ''intangible assets.''.

SEC. 207. RESTATEMENT OF AUTHORITY FOR FEDERAL SAVINGS ASSOCIATIONS TO INVEST IN SMALL BUSINESS INVESTMENT COMPANIES.

Subparagraph (D) of section 5(c)(4) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(4)) is amended to read as follows:

''(D) SMALL BUSINESS INVESTMENT COMPANIES.—Any Federal savings association may invest in 1 or more small business investment companies, or in any entity established to invest solely in small business investment companies formed under the Small Business Investment Act of 1958, except that the total amount of investments under this subparagraph may not at any time exceed the amount equal to 5 percent of capital and surplus of the savings association.''.

SEC. 208. REMOVAL OF LIMITATION ON INVESTMENTS IN AUTO LOANS.

(a) IN GENERAL.—Section 5(c)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(1)) is amended by adding at the end the following new subparagraph:

''(V) AUTO LOANS.—Loans and leases for motor vehicles acquired for personal, family, or household purposes.''.

(b) TECHNICAL AND CONFORMING AMENDMENT RELATING TO QUALIFIED THRIFT INVESTMENTS.—Section 10(m)(4)(C)(ii) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(ii)) is amended by adding at the end the following new subclause:

''(VIII) Loans and leases for motor vehicles acquired for personal, family, or household purposes.''.

SEC. 209. SELLING AND OFFERING OF DEPOSIT PRODUCTS.

Section 15(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(h)) is amended by adding at the end the following new paragraph:

''(4) SELLING AND OFFERING OF DEPOSIT PRODUCTS.—No law, rule, regulation, or order, or other administrative action of any State or political subdivision thereof shall directly or indirectly require any individual who is an agent of 1 Federal savings association (as such term is defined in section 2(5) of the Home Owners' Loan Act (12 U.S.C. 1462(5)) in selling or offering deposit (as such term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(l)) products issued by such association to qualify or register as a broker, dealer, associated person of a broker, or associated person of a dealer, or to qualify or register in any other similar status or capacity, if the individual does not—

''(A) accept deposits or make withdrawals on behalf of any customer of the association;

''(B) offer or sell a deposit product as an agent for another entity that is not subject to supervision and examination by a Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act (12 U.S.C. 1813(z)), the National Credit Union Administration, or any officer, agency, or other entity of any State which has primary regulatory authority over State banks, State savings associations, or State credit unions;

''(C) offer or sell a deposit product that is not an insured deposit (as defined in section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)));

''(D) offer or sell a deposit product which contains a feature that makes it callable at the option of such Federal savings association; or

''(E) create a secondary market with respect to a deposit product or otherwise add enhancements or features to such product independent of those offered by the association.''.

SEC. 210. FUNERAL- AND CEMETERY-RELATED FIDUCIARY SERVICES.

Section 5(n) of the Home Owners' Loan Act (12 U.S.C. 1464(n)) is amended by adding at the end the following new paragraph:

''(11) FUNERAL- AND CEMETERY-RELATED FIDUCIARY SERVICES.—

''(A) IN GENERAL.—A funeral director or cemetery operator, when acting in such capacity, (or any other person in connection with a contract or other agreement with a funeral director or cemetery operator) may engage any Federal savings association, regardless of where the association is located, to act in any fiduciary capacity in which the savings association has the right to act in accordance with this section, including holding funds deposited in trust or escrow by the funeral director or cemetery operator (or by such other party), and the savings association may act in such fiduciary capacity on behalf of the funeral director or cemetery operator (or such other person).

''(B) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

''(i) CEMETERY.—The term 'cemetery' means any land or structure used, or intended to be used, for the interment of human remains in any form.

''(ii) CEMETERY OPERATOR.—The term 'cemetery operator' means any person who contracts or accepts payment for merchandise, endowment, or perpetual care services in connection with a cemetery.

''(iii) FUNERAL DIRECTOR.—The term 'funeral director' means any person who contracts or accepts payment to provide or arrange—

''(I) services for the final disposition of human remains; or

''(II) funeral services, property, or merchandise (including cemetery services, property, or merchandise).''.

SEC. 211. REPEAL OF QUALIFIED THRIFT LENDER REQUIREMENT WITH RESPECT TO OUT-OF-STATE BRANCHES.

Section 5(r)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(r)(1)) is amended by striking the last sentence.

SEC. 212. SMALL BUSINESS AND OTHER COMMERCIAL LOANS.

(a) ELIMINATION OF LENDING LIMIT ON SMALL BUSINESS LOANS.—Section 5(c)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(1)) is amended by inserting after subparagraph (V) (as added by section 208 of this title) the following new subparagraph:

''(W) SMALL BUSINESS LOANS.—Small business loans, as defined in regulations which the Director shall prescribe.''.

(b) INCREASE IN LENDING LIMIT ON OTHER BUSINESS LOANS.—Section 5(c)(2)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(A)) is amended by striking '', and amounts in excess of 10 percent'' and all that follows through ''by the Director''.

SEC. 213. CLARIFYING CITIZENSHIP OF FEDERAL SAVINGS ASSOCIATIONS FOR FEDERAL COURT JURISDICTION.

Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by adding at the end the following new subsection:

''(x) HOME STATE CITIZENSHIP.—In determining whether a Federal court has diversity jurisdiction over a case in which a Federal savings association is a party, the Federal savings association shall be considered to be a citizen only of the State in which such savings association has its main office.''.

SEC. 214. CLARIFICATION OF APPLICABILITY OF CERTAIN PROCEDURAL DOCTRINES.

Section 11A(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821a(d)) is amended—

(1) by striking ''LEGAL PROCEEDINGS.—Any judgment'' and inserting ''LEGAL PROCEEDINGS.—

''(1) IN GENERAL.—Any judgment''; and

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

''(2) CLARIFICATION OF APPLICABILITY OF CERTAIN PROCEDURAL DOCTRINES.—In any proceeding seeking a monetary recovery against the United States, or an agency or official thereof, based upon actions of the Federal Savings and Loan Insurance Corporation prior to its dissolution, or the Federal Home Loan Bank Board prior to its dissolution, and arising from the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 or its implementation, and where any monetary recovery in such proceeding would be paid from the FSLIC Resolution Fund or any supplements thereto, neither the United States Court of Federal Claims, the United States Court of Appeals for the Federal Circuit, nor any other court of competent jurisdiction shall dismiss, or affirm on appeal the dismissal of, the claims of any party seeking such monetary recovery, on the basis of res judicata, collateral estoppel, or any similar doctrine, defense, or rule of law, based upon any decision, opinion, or order of judgment entered by any court prior to July 1, 1996. Unless some other defense is applicable, in any such proceeding, the United States Court of Federal Claims, the United States Court of Appeals for the Federal Circuit, and any other court of competent jurisdiction shall review the merits of the claims of the party seeking such monetary relief and shall enter judgment accordingly.''.

TITLE III—CREDIT UNION PROVISIONS

SEC. 301. PRIVATELY INSURED CREDIT UNIONS AUTHORIZED TO BECOME MEMBERS OF A FEDERAL HOME LOAN BANK.

(a) IN GENERAL.—Section 4(a) of the Federal Home Loan Bank Act (12 U.S.C. 1424(a)) is amended by adding at the end the following new paragraph:

''(5) CERTAIN PRIVATELY INSURED CREDIT UNIONS.—

''(A) IN GENERAL.—A credit union which has been determined, in accordance with section 43(e)(1) of the Federal Deposit Insurance Act and subject to the requirements of subparagraph (B), to meet all eligibility requirements for Federal deposit insurance shall be treated as an insured depository institution for purposes of determining the eligibility of such credit union for membership in a Federal home loan bank under paragraphs (1), (2), and (3).

''(B) CERTIFICATION BY APPROPRIATE SUPERVISOR.—

''(i) IN GENERAL.—For purposes of this paragraph and subject to clause (ii), a credit union which lacks Federal deposit insurance and which has applied for membership in a Federal home loan bank may be treated as meeting all the eligibility requirements for Federal deposit insurance only if the appropriate supervisor of the State in which the credit union is chartered has determined that the credit union meets all the eligibility requirements for Federal deposit insurance as of the date of the application for membership.

''(ii) CERTIFICATION DEEMED VALID.—If, in the case of any credit union to which clause (i) applies, the appropriate supervisor of the State in which such credit union is chartered fails to make a determination pursuant to such clause by the end of the 6-month period beginning on the date of the application, the credit union shall be deemed to have met the requirements of clause (i).

''(C) SECURITY INTERESTS OF FEDERAL HOME LOAN BANK NOT AVOIDABLE.—Notwithstanding any provision of State law authorizing a conservator or liquidating agent of a credit union to repudiate contracts, no such provision shall apply with respect to—

''(i) any extension of credit from any Federal home loan bank to any credit union which is a

member of any such bank pursuant to this paragraph; or

''(ii) any security interest in the assets of such credit union securing any such extension of credit.''.

(b) COPIES OF AUDITS OF PRIVATE INSURERS OF CERTAIN DEPOSITORY INSTITUTIONS REQUIRED TO BE PROVIDED TO SUPERVISORY AGENCIES.—Section 43(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(a)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (A)(i);

(2) by striking the period at the end of clause (ii) of subparagraph (A) and inserting a semicolon;

(3) by inserting the following new clauses at the end of subparagraph (A):

''(iii) in the case of depository institutions described in subsection (f)(2)(A) the deposits of which are insured by the private insurer, the National Credit Union Administration, not later than 7 days after that audit is completed; and

''(iv) in the case of depository institutions described in subsection (f)(2)(A) the deposits of which are insured by the private insurer which are members of a Federal home loan bank, the Federal Housing Finance Board, not later than 7 days after that audit is completed.''; and

(4) by adding at the end the following new subparagraph:

''(C) CONSULTATION.—The appropriate supervisory agency of each State in which a private deposit insurer insures deposits in an institution described in subsection (f)(2)(A) which—

''(i) lacks Federal deposit insurance; and

''(ii) has become a member of a Federal home loan bank,

shall provide the National Credit Union Administration, upon request, with the results of any examination and reports related thereto concerning the private deposit insurer to which such agency may have in its possession.''.

SEC. 302. LEASES OF LAND ON FEDERAL FACILITIES FOR CREDIT UNIONS.

(a) IN GENERAL.—Section 124 of the Federal Credit Union Act (12 U.S.C. 1770) is amended—

(1) by striking ''Upon application by any credit union'' and inserting ''Notwithstanding any other provision of law, upon application by any credit union'';

(2) by inserting ''on lands reserved for the use of, and under the exclusive or concurrent jurisdiction of, the United States or'' after ''officer or agency of the United States charged with the allotment of space'';

(3) by inserting ''lease land or'' after ''such officer or agency may in his or its discretion''; and

(4) by inserting ''or the facility built on the lease land'' after ''credit union to be served by the allotment of space''.

(b) CLERICAL AMENDMENT.—The heading for section 124 is amended by inserting ''OR FEDERAL LAND'' after ''BUILDINGS''.

SEC. 303. INVESTMENTS IN SECURITIES BY FEDERAL CREDIT UNIONS.

Section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended—

(1) in the matter preceding paragraph (1) by striking ''A Federal credit union'' and inserting ''(a) IN GENERAL.—Any Federal credit union''; and

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

''(b) INVESTMENT FOR THE CREDIT UNION'S OWN ACCOUNT.—

''(1) IN GENERAL.—A Federal credit union may purchase and hold for its own account such investment securities of investment grade as the Board may authorize by regulation, subject to such limitations and restrictions as the Board may prescribe in the regulations.

''(2) PERCENTAGE LIMITATIONS.—

''(A) SINGLE OBLIGOR.—In no event may the total amount of investment securities of any single obligor or maker held by a Federal credit union for the credit union's own account exceed at any time an amount equal to 10 percent of the net worth of the credit union.

''(B) AGGREGATE INVESTMENTS.—In no event may the aggregate amount of investment securities held by a Federal credit union for the credit union's own account exceed at any time an amount equal to 10 percent of the assets of the credit union.

''(3) INVESTMENT SECURITY DEFINED.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'investment security' means marketable obligations evidencing the indebtedness of any person in the form of bonds, notes, or debentures and other instruments commonly referred to as investment securities.

''(B) FURTHER DEFINITION BY BOARD.—The Board may further define the term 'investment security'.

''(4) INVESTMENT GRADE DEFINED.—The term 'investment grade' means with respect to an investment security purchased by a credit union for its own account, an investment security that at the time of such purchase is rated in one of the 4 highest rating categories by at least 1 nationally recognized statistical rating organization.

''(5) CLARIFICATION OF PROHIBITION ON STOCK OWNERSHIP.—No provision of this subsection shall be construed as authorizing a Federal credit union to purchase shares of stock of any corporation for the credit union's own account, except as otherwise permitted by law.''.

SEC. 304. INCREASE IN GENERAL 12-YEAR LIMITATION OF TERM OF FEDERAL CREDIT UNION LOANS TO 15 YEARS.

Section 107(a)(5) of the Federal Credit Union Act (12 U.S.C. 1757(5)) (as so designated by section 303 of this title) is amended—

(1) in the matter preceding subparagraph (A), by striking ''to make loans, the maturities of which shall not exceed twelve years except as otherwise provided herein'' and inserting ''to make loans, the maturities of which shall not exceed 15 years or any longer maturity as the Board may allow, in regulations, except as otherwise provided in this Act'';

(2) in subparagraph (A)—

(A) by striking clause (ii);

(B) by redesignating clauses (iii) through (x) as clauses (ii) through (ix), respectively; and

(C) by inserting ''and'' after the semicolon at the end of clause (viii) (as so redesignated).

SEC. 305. INCREASE IN 1 PERCENT INVESTMENT LIMIT IN CREDIT UNION SERVICE ORGANIZATIONS.

Section 107(a)(7)(I) of the Federal Credit Union Act (12 U.S.C. 1757(7)(I)) (as so designated by section 303 of this title) is amended by striking ''up to 1 per centum of the total paid'' and inserting ''up to 3 percent of the total paid''.

SEC. 306. MEMBER BUSINESS LOAN EXCLUSION FOR LOANS TO NONPROFIT RELIGIOUS ORGANIZATIONS.

Section 107A(a) of the Federal Credit Union Act (12 U.S.C. 1757a(a)) is amended by inserting '', excluding loans made to nonprofit religious organizations,'' after ''total amount of such loans''.

SEC. 307. CHECK CASHING AND MONEY TRANSFER SERVICES OFFERED WITHIN THE FIELD OF MEMBERSHIP.

Paragraph (12) of section 107(a) of the Federal Credit Union Act (12 U.S.C. 1757(12)) (as so designated by section 303 of this title) is amended to read as follows:

''(12) in accordance with regulations prescribed by the Board—

''(A) to sell, to persons in the field of membership, negotiable checks (including travelers checks), money orders, and other similar money transfer instruments (including electronic fund transfers); and

''(B) to cash checks and money orders and receive electronic fund transfers for persons in the field of membership for a fee;''.

SEC. 308. VOLUNTARY MERGERS INVOLVING MULTIPLE COMMON-BOND CREDIT UNIONS.

Section 109(d)(2) of the Federal Credit Union Act (12 U.S.C. 1759(d)(2)) is amended—

(1) by striking ''or'' at the end of clause (ii) of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ''; or''; and

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

''(D) a merger involving any such Federal credit union approved by the Board on or after August 7, 1998.''.

SEC. 309. CONVERSIONS INVOLVING COMMON-BOND CREDIT UNIONS.

Section 109(g) of the Federal Credit Union Act (12 U.S.C. 1759(g)) is amended by inserting after paragraph (2) the following new paragraph:

''(3) CRITERIA FOR CONTINUED MEMBERSHIP OF CERTAIN MEMBER GROUPS IN COMMUNITY CHARTER CONVERSIONS.—In the case of a voluntary conversion of a common-bond credit union described in paragraph (1) or (2) of subsection (b) into a community credit union described in subsection (b)(3), the Board shall prescribe, by regulation, the criteria under which the Board may determine that a member group or other portion of a credit union's existing membership, that is located outside the well-defined local community, neighborhood, or rural district that shall constitute the community charter, can be satisfactorily served by the credit union and remain within the community credit union's field of membership.''.

SEC. 310. CREDIT UNION GOVERNANCE.

(a) EXPULSION OF MEMBERS FOR JUST CAUSE.—Subsection (b) of section 118 of the Federal Credit Union Act (12 U.S.C. 1764(b)) is amended to read as follows:

''(b) POLICY AND ACTIONS OF BOARDS OF DIRECTORS OF FEDERAL CREDIT UNIONS.—

''(1) EXPULSION OF MEMBERS FOR NONPARTICIPATION OR FOR JUST CAUSE.—The board of directors of a Federal credit union may, by majority vote of a quorum of directors, adopt and enforce a policy with respect to expulsion from membership, by a majority vote of such board of directors, based on just cause, including disruption of credit union operations, or on nonparticipation by a member in the affairs of the credit union.

''(2) WRITTEN NOTICE OF POLICY TO MEMBERS.—If a policy described in paragraph (1) is adopted, written notice of the policy as adopted and the effective date of such policy shall be provided to—

''(A) each existing member of the credit union not less than 30 days prior to the effective date of such policy; and

''(B) each new member prior to or upon applying for membership.''.

(b) TERM LIMITS AUTHORIZED FOR BOARD MEMBERS OF FEDERAL CREDIT UNIONS.—Section 111(a) of the Federal Credit Union Act (12 U.S.C. 1761(a)) is amended by adding at the end the following new sentence: ''The bylaws of a Federal credit union may limit the number of consecutive terms any person may serve on the board of directors of such credit union.''.

(c) REIMBURSEMENT FOR LOST WAGES DUE TO SERVICE ON CREDIT UNION BOARD NOT TREATED AS COMPENSATION.—Section 111(c) of the Federal Credit Union Act (12 U.S.C. 1761(c)) is amended by inserting '', including lost wages,'' after ''the reimbursement of reasonable expenses''.

SEC. 311. PROVIDING THE NATIONAL CREDIT UNION ADMINISTRATION WITH GREATER FLEXIBILITY IN RESPONDING TO MARKET CONDITIONS.

Section 107(a)(5)(A)(vi)(I) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(vi)(I)) (as so designated by section 303 of this title) is amended by striking ''six-month period and that prevailing interest rate levels'' and inserting ''6-month period or that prevailing interest rate levels''.

SEC. 312. EXEMPTION FROM PRE-MERGER NOTIFICATION REQUIREMENT OF THE CLAYTON ACT.

Section 7A(c)(7) of the Clayton Act (15 U.S.C. 18a(c)(7)) is amended by inserting ''section 205(b)(3) of the Federal Credit Union Act (12 U.S.C. 1785(b)(3)),'' before ''or section 3''.

SEC. 313. TREATMENT OF CREDIT UNIONS AS DEPOSITORY INSTITUTIONS UNDER SECURITIES LAWS.

(a) DEFINITION OF BANK UNDER THE SECURITIES EXCHANGE ACT OF 1934.—Section 3(a)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(6)) (as amended by section 201(a)(1) of this Act) is amended—

(1) by striking ''this title, and (D) a receiver'' and inserting ''this title, (D) an insured credit union (as defined in section 101(7) of the Federal Credit Union Act) but only for purposes of paragraphs (4) and (5) of this subsection and only for activities otherwise authorized by applicable laws to which such credit unions are subject, and (E) a receiver''; and

(2) in subparagraph (E) (as so redesignated by paragraph (1) of this subsection) by striking ''(A), (B), or (C)'' and inserting ''(A), (B), (C), or (D)''.

(b) DEFINITION OF BANK UNDER THE INVESTMENT ADVISERS ACT OF 1940.—Section 202(a)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(2)) (as amended by section 201(b)(1) of this Act) is amended—

(1) by striking ''this title, and (D) a receiver'' and inserting ''this title, (D) an insured credit union (as defined in section 101(7) of the Federal Credit Union Act) but only for activities otherwise authorized by applicable laws to which such credit unions are subject, and (E) a receiver''; and

(2) in subparagraph (E) (as so redesignated by paragraph (1) of this subsection) by striking ''(A), (B), or (C)'' and inserting ''(A), (B), (C), or (D)''.

(c) DEFINITION OF APPROPRIATE FEDERAL BANKING AGENCY.—Section 210A(c) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–10a(c)) is amended by inserting ''and includes the National Credit Union Administration Board, in the case of an insured credit union (as defined in section 101(7) of the Federal Credit Union Act)'' before the period at the end.

TITLE IV—DEPOSITORY INSTITUTION PROVISIONS

SEC. 401. EASING RESTRICTIONS ON INTERSTATE BRANCHING AND MERGERS.

(a) DE NOVO INTERSTATE BRANCHES OF NATIONAL BANKS.—

(1) IN GENERAL.—Section 5155(g)(1) of the Revised Statutes of the United States (12 U.S.C. 36(g)(1)) is amended by striking ''maintain a branch if—'' and all that follows through the end of subparagraph (B) and inserting ''maintain a branch.''.

(2) CLERICAL AMENDMENT.—The heading for subsection (g) of section 5155 of the Revised Statutes of the United States is amended by striking ''STATE 'OPT-IN' ELECTION TO PERMIT''.

(b) DE NOVO INTERSTATE BRANCHES OF STATE NONMEMBER BANKS.—

(1) IN GENERAL.—Section 18(d)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)(4)(A)) is amended by striking ''maintain a branch if—'' and all that follows through the end of clause (ii) and inserting ''maintain a branch.''.

(2) CLERICAL AMENDMENT.—The heading for paragraph (4) of section 18(d) of the Federal Deposit Insurance Act is amended by striking ''STATE 'OPT-IN' ELECTION TO PERMIT INTERSTATE'' and inserting ''INTERSTATE''.

(c) DE NOVO INTERSTATE BRANCHES OF STATE MEMBER BANKS.—The 3rd undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 321) is amended by adding at the end the following new sentences: ''A State member bank may establish and operate a de novo branch in a host State (as such terms are defined in section 18(d) of the Federal Deposit Insurance Act) on the same terms and conditions and subject to the same limitations and restrictions as are applicable to the establishment of a de novo branch of a national bank in a host State under section 5155(g) of the Revised Statutes of the United States. Such section 5155(g) shall be applied for purposes of the preceding sentence by substituting 'Board of Governors of the Federal Reserve System' for 'Comptroller of the Currency' and 'State member bank' for 'national bank'.''.

(d) INTERSTATE MERGER OF BANKS.—

(1) MERGER OF INSURED BANK WITH ANOTHER DEPOSITORY INSTITUTION OR TRUST COMPANY.—Section 44(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(a)(1)) is amended—

(A) by striking ''Beginning on June 1, 1997, the'' and inserting ''The''; and

(B) by striking ''insured banks with different home States'' and inserting ''an insured bank and another insured depository institution or trust company with a different home State than the resulting insured bank''.

(2) NATIONAL BANK TRUST COMPANY MERGER WITH OTHER TRUST COMPANY.—Subsection (b) of section 4 of the National Bank Consolidation and Merger Act (12 U.S.C. 215a–1(b)) is amended to read as follows:

''(b) MERGER OF NATIONAL BANK TRUST COMPANY WITH ANOTHER TRUST COMPANY.—A national bank that is a trust company may engage in a consolidation or merger under this Act with any trust company with a different home State, under the same terms and conditions that would apply if the trust companies were located within the same State.''.

(e) INTERSTATE FIDUCIARY ACTIVITY.—Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended by adding at the end the following new paragraph:

''(5) INTERSTATE FIDUCIARY ACTIVITY.—

''(A) AUTHORITY OF STATE BANK SUPERVISOR.—The State bank supervisor of a State bank may approve an application by the State bank, when not in contravention of home State or host State law, to act as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, committee of estates of lunatics, or in any other fiduciary capacity in a host State in which State banks or other corporations which come into competition with national banks are permitted to act under the laws of such host State.

''(B) NONCONTRAVENTION OF HOST STATE LAW.—Whenever the laws of a host State authorize or permit the exercise of any or all of the foregoing powers by State banks or other corporations which compete with national banks, the granting to and the exercise of such powers by a State bank as provided in this paragraph shall not be deemed to be in contravention of host State law within the meaning of this paragraph.

''(C) STATE BANK INCLUDES TRUST COMPANIES.—For purposes of this paragraph, the term 'State bank' includes any State-chartered trust company (as defined in section 44(g)).

''(D) OTHER DEFINITIONS.—For purposes of this paragraph, the term 'home State' and 'host State' have the meanings given such terms in section 44.''.

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 44 of the Federal Deposit Insurance Act (12 U.S.C. 1831u) is amended—

(A) in subsection (a)—

(i) by striking paragraph (4) and inserting the following new paragraph:

''(4) TREATMENT OF BRANCHES IN CONNECTION WITH CERTAIN INTERSTATE MERGER TRANSACTIONS.—In the case of an interstate merger transaction which involves the acquisition of a branch of an insured depository institution or trust company without the acquisition of the insured depository institution or trust company, the branch shall be treated, for purposes of this section, as an insured depository institution or trust company the home State of which is the State in which the branch is located.''; and

(ii) by striking paragraphs (5) and (6);

(B) in subsection (b)—

(i) by striking ''bank'' each place such term appears in paragraph (2)(B)(i) and inserting ''insured depository institution'';

(ii) by striking ''banks'' where such term appears in paragraph (2)(E) and inserting ''insured depository institutions or trust companies'';

(iii) by striking ''bank affiliate'' each place such term appears in that portion of paragraph (3) that precedes subparagraph (A) and inserting ''insured depository institution affiliate'';

(iv) by striking ''any bank'' where such term appears in paragraph (3)(B) and inserting ''any insured depository institution'';

(v) by striking ''bank'' where such term appears in paragraph (4)(A) and inserting ''insured depository institution and trust company''; and

(vi) by striking ''all banks'' where such term appears in paragraph (5) and inserting ''all insured depository institutions and trust companies'';

(C) in subsection (d)(1), by striking ''any bank'' and inserting ''any insured depository institution or trust company'';

(D) in subsection (e)—

(i) by striking ''1 or more banks'' and inserting ''1 or more insured depository institutions''; and

(ii) by striking ''paragraph (2), (4), or (5)'' and inserting ''paragraph (2)'';

(E) by striking clauses (i) and (ii) of subsection (g)(4)(A) and inserting the following new clauses:

''(i) with respect to a national bank or Federal savings association, the State in which the main office of the bank or savings association is located; and

''(ii) with respect to a State bank, State savings association, or State-chartered trust company, the State by which the bank, savings association, or trust company is chartered; and'';

(F) by striking paragraph (5) of subsection (g) and inserting the following new paragraph:

''(5) HOST STATE.—The term 'host State' means—

''(A) with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch; and

''(B) with respect to a trust company and solely for purposes of section 18(d)(5), a State, other than the home State of the trust company, in which the trust company acts, or seeks to act, in 1 or more fiduciary capacities.'';

(G) in subsection (g)(10), by striking ''section 18(c)(2)'' and inserting ''paragraph (1) or (2) of section 18(c), as appropriate,''; and

(H) in subsection (g), by adding at the end the following new paragraph:

''(12) TRUST COMPANY.—The term 'trust company' means—

''(A) any national bank;

''(B) any savings association; and

''(C) any bank, banking association, trust company, savings bank, or other banking institution which is incorporated under the laws of any State,

that is authorized to act in 1 or more fiduciary capacities but is not engaged in the business of receiving deposits other than trust funds (as defined in section 3(p)).''.

(2) Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended—

(A) in paragraph (1)—

(i) by striking subparagraphs (B) and (C); and

(ii) by redesignating subparagraph (D) as subparagraph (B); and

(B) in paragraph (5), by striking ''subparagraph (B) or (D)'' and inserting ''subparagraph (B)''.

(3) Subsection (c) of section 4 of the National Bank Consolidation and Merger Act (12 U.S.C. 215a–1(c)) is amended to read as follows:

''(c) DEFINITIONS.—For purposes of this section, the terms 'home State', 'out-of-State bank', and 'trust company' each have the same meaning as in section 44(g) of the Federal Deposit Insurance Act.''.

(g) CLERICAL AMENDMENTS.—

(1) The heading for section 44(b)(2)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(b)(2)(E)) is amended by striking ''BANKS'' and inserting ''INSURED DEPOSITORY INSTITUTIONS AND TRUST COMPANIES''.

(2) The heading for section 44(e) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(e)) is amended by striking ''BANKS'' and inserting ''INSURED DEPOSITORY INSTITUTIONS''.

SEC. 402. STATUTE OF LIMITATIONS FOR JUDICIAL REVIEW OF APPOINTMENT OF A RECEIVER FOR DEPOSITORY INSTITUTIONS.

(a) NATIONAL BANKS.—Section 2 of the National Bank Receivership Act (12 U.S.C. 191) is amended—

(1) by striking ''SECTION 2. The Comptroller of the Currency'' and inserting the following:

''SEC. 2. APPOINTMENT OF RECEIVER FOR A NATIONAL BANK.

''(a) IN GENERAL.—The Comptroller of the Currency''; and

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

''(b) JUDICIAL REVIEW.—If the Comptroller of the Currency appoints a receiver under subsection (a), the national bank may, within 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such bank is located, or in the United States District Court for the District of Columbia, for an order requiring the Comptroller of the Currency to remove the receiver, and the court shall, upon the merits, dismiss such action or direct the Comptroller of the Currency to remove the receiver.''.

(b) INSURED DEPOSITORY INSTITUTIONS.—Section 11(c)(7) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(7)) is amended to read as follows:

''(7) JUDICIAL REVIEW.—If the Corporation is appointed (including the appointment of the Corporation as receiver by the Board of Directors) as conservator or receiver of a depository institution under paragraph (4), (9), or (10), the depository institution may, within 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such depository institution is located, or in the United States District Court for the District of Columbia, for an order requiring the Corporation to be removed as the conservator or receiver (regardless of how such appointment was made), and the court shall, upon the merits, dismiss such action or direct the Corporation to be removed as the conservator or receiver.''.

(c) EXPANSION OF PERIOD FOR CHALLENGING THE APPOINTMENT OF A LIQUIDATING AGENT.—Subparagraph (B) of section 207(a)(1) of the Federal Credit Union Act (12 U.S.C. 1787(a)(1)) is amended by striking ''10 days'' and inserting ''30 days''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to conservators, receivers, or liquidating agents appointed on or after the date of the enactment of this Act.

SEC. 403. REPORTING REQUIREMENTS RELATING TO INSIDER LENDING.

(a) REPORTING REQUIREMENTS REGARDING LOANS TO EXECUTIVE OFFICERS OF MEMBER BANKS.—Section 22(g) of the Federal Reserve Act (12 U.S.C. 375a) is amended—

(1) by striking paragraphs (6) and (9); and

(2) by redesignating paragraphs (7), (8), and (10) as paragraphs (6), (7), and (8), respectively.

(b) REPORTING REQUIREMENTS REGARDING LOANS FROM CORRESPONDENT BANKS TO EXECUTIVE OFFICERS AND SHAREHOLDERS OF INSURED BANKS.—Section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)) is amended—

(1) by striking subparagraph (G); and

(2) by redesignating subparagraphs (H) and (I) as subparagraphs (G) and (H), respectively.

SEC. 404. AMENDMENT TO PROVIDE AN INFLATION ADJUSTMENT FOR THE SMALL DEPOSITORY INSTITUTION EXCEPTION UNDER THE DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT.

Section 203(1) of the Depository Institution Management Interlocks Act (12 U.S.C. 3202(1)) is amended by striking ''$20,000,000'' and inserting ''$100,000,000''.

SEC. 405. ENHANCING THE SAFETY AND SOUNDNESS OF INSURED DEPOSITORY INSTITUTIONS.

(a) CLARIFICATION RELATING TO THE ENFORCEABILITY OF AGREEMENTS AND CONDITIONS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

''SEC. 49. ENFORCEMENT OF AGREEMENTS.

''(a) IN GENERAL.—Notwithstanding clause (i) or (ii) of section 8(b)(6)(A) or section 38(e)(2)(E), an appropriate Federal banking agency may enforce, under section 8, the terms of—

''(1) any condition imposed in writing by the agency on a depository institution or an institution-affiliated party (including a bank holding company) in connection with any action on any application, notice, or other request concerning a depository institution; or

''(2) any written agreement entered into between the agency and an institution-affiliated party (including a bank holding company).

''(b) RECEIVERSHIPS AND CONSERVATORSHIPS.—After the appointment of the Corporation as the receiver or conservator for any insured depository institution, the Corporation may enforce any condition or agreement described in paragraph (1) or (2) of subsection (a) involving such institution or any institution-affiliated party (including a bank holding company), through an action brought in an appropriate United States district court.''.

(b) PROTECTION OF CAPITAL OF INSURED DEPOSITORY INSTITUTIONS.—Paragraph (1) of section 18(u) of the Federal Deposit Insurance Act (12 U.S.C. 1828(u)) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

SEC. 406. INVESTMENTS BY INSURED SAVINGS ASSOCIATIONS IN BANK SERVICE COMPANIES AUTHORIZED.

(a) IN GENERAL.—Sections 2 and 3 of the Bank Service Company Act (12 U.S.C. 1862, 1863) are each amended by striking ''insured bank'' each place such term appears and inserting ''insured depository institution''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 1(b)(4) of the Bank Service Company Act (12 U.S.C. 1861(b)(4)) is amended—

(A) by inserting '', except when such term appears in connection with the term 'insured depository institution','' after ''means''; and

(B) by striking ''Federal Home Loan Bank Board'' and inserting ''Director of the Office of Thrift Supervision''.

(2) Section 1(b) of the Bank Service Company Act (12 U.S.C. 1861(b)) is amended—

(A) by striking paragraph (5) and inserting the following new paragraph:

''(5) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' has the meaning given the term in section 3(c) of the Federal Deposit Insurance Act;'';

(B) by striking ''and'' at the end of paragraph (7);

(C) by striking the period at the end of paragraph (8) and inserting ''; and''; and

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

''(9) the terms 'State depository institution', 'Federal depository institution', 'State savings association' and 'Federal savings association' have the meanings given the terms in section 3 of the Federal Deposit Insurance Act.''.

(3) The 1st sentence of section 5(c)(4)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(4)(B)) is amended by striking ''by savings associations of such State and by Federal associations'' and inserting ''by State and Federal depository institutions''.

(4) Subparagraph (A)(ii) and subparagraph (B)(ii) of section 1(b)(2) of the Bank Service Company Act (12 U.S.C. 1861(b)(2)) are each amended by striking ''insured banks'' and inserting ''insured depository institutions''.

(5) Section 1(b)(8) of the Bank Service Company Act (12 U.S.C. 1861(b)(8)) is further amended—

(A) by striking ''insured bank'' and inserting ''insured depository institution''

(B) by striking ''insured banks'' each place such term appears and inserting ''insured depository institutions''; and

(C) by striking ''the bank's'' and inserting ''the depository institution's''.

(6) Section 2 of the Bank Service Company Act (12 U.S.C. 1862) is amended by inserting ''or savings associations, other than the limitation on the amount of investment by a Federal savings association contained in section 5(c)(4)(B) of the Home Owners' Loan Act'' after ''relating to banks''.

(7) Section 4(c) of the Bank Service Company Act (12 U.S.C. 1864(c)) is amended by inserting ''or State savings association'' after ''State bank'' each place such term appears.

(8) Section 4(d) of the Bank Service Company Act (12 U.S.C. 1864(d)) is amended by inserting ''or Federal savings association'' after ''national bank'' each place such term appears.

(9) Section 4(e) of the Bank Service Company Act (12 U.S.C. 1864(e)) is amended to read as follows:

''(e) A bank service company may perform—

''(1) only those services that each depository institution shareholder or member is otherwise authorized to perform under any applicable Federal or State law; and

''(2) such services only at locations in a State in which each such shareholder or member is authorized to perform such services.''.

(10) Section 4(f) of the Bank Service Company Act (12 U.S.C. 1864(f)) is amended by inserting ''or savings associations'' after ''location of banks''.

(11) Section 5 of the Bank Service Company Act (12 U.S.C. 1865) is amended—

(A) in subsection (a)—

(i) by striking ''insured bank'' and inserting ''insured depository institution''; and

(ii) by striking ''bank's'' and inserting ''institution's''.

(B) in subsection (b), by striking ''insured bank'' and inserting ''insured depository institution''; and

(C) in subsection (c)—

(i) by striking ''the bank or banks'' and inserting ''any depository institution''; and

(ii) by striking ''capability of the bank'' and inserting ''capability of the depository institution''.

(12) Section 7 of the Bank Service Company Act (12 U.S.C. 1867) is amended—

(A) in subsection (b), by striking ''insured bank'' and inserting ''insured depository institution''; and

(B) in subsection (c)—

(i) by striking ''a bank'' each place such term appears and inserting ''a depository institution''; and

(ii) by striking ''the bank'' each place such term appears and inserting ''the depository institution''.

SEC. 407. CROSS GUARANTEE AUTHORITY.

Subparagraph (A) of section 5(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1815(e)(9)(A)) is amended to read as follows:

''(A) such institutions are controlled by the same company; or''.

SEC. 408. GOLDEN PARACHUTE AUTHORITY AND NONBANK HOLDING COMPANIES.

Subsection (k) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828(k)) is amended—

(1) in paragraph (2)(A), by striking ''or depository institution holding company'' and inserting ''or covered company'';

(2) by striking subparagraph (B) of paragraph (2) and inserting the following new subparagraph:

''(B) Whether there is a reasonable basis to believe that the institution-affiliated party is substantially responsible for—

''(i) the insolvency of the depository institution or covered company;

''(ii) the appointment of a conservator or receiver for the depository institution; or

''(iii) the depository institution's troubled condition (as defined in the regulations prescribed pursuant to section 32(f)).'';

(3) in paragraph (2)(F), by striking ''depository institution holding company'' and inserting ''covered company,'';

(4) in paragraph (3) in the matter preceding subparagraph (A), by striking ''depository institution holding company'' and inserting ''covered company'';

(5) in paragraph (3)(A), by striking ''holding company'' and inserting ''covered company'';

(6) in paragraph (4)(A)—

(A) by striking ''depository institution holding company'' each place such term appears and inserting ''covered company''; and

(B) by striking ''holding company'' each place such term appears (other than in connection with the term referred to in subparagraph (A)) and inserting ''covered company'';

(7) in paragraph (5)(A), by striking ''depository institution holding company'' and inserting ''covered company'';

(8) in paragraph (5), by adding at the end the following new subparagraph:

''(D) COVERED COMPANY.—The term 'covered company' means any depository institution holding company (including any company required to file a report under section 4(f)(6) of the Bank Holding Company Act of 1956), or any other company that controls an insured depository institution.''; and

(9) in paragraph (6)—

(A) by striking ''depository institution holding company'' and inserting ''covered company,''; and

(B) by striking ''or holding company'' and inserting ''or covered company''.

SEC. 409. AMENDMENTS RELATING TO CHANGE IN BANK CONTROL.

Section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) is amended—

(1) in paragraph (1)(D)—

(A) by striking ''is needed to investigate'' and inserting ''is needed—

''(i) to investigate'';

(B) by striking ''United States Code.'' and inserting ''United States Code; or''; and

(C) by adding at the end the following new clause:

''(ii) to analyze the safety and soundness of any plans or proposals described in paragraph (6)(E) or the future prospects of the institution.''; and

(2) in paragraph (7)(C), by striking ''the financial condition of any acquiring person'' and inserting ''either the financial condition of any acquiring person or the future prospects of the institution''.

TITLE V—DEPOSITORY INSTITUTION AFFILIATES PROVISIONS

SEC. 501. CLARIFICATION OF CROSS MARKETING PROVISION.

Section 4(n)(5) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(n)(5)) is amended—

(1) in subparagraph (B), by striking ''subsection (k)(4)(I)'' and inserting ''subparagraph (H) or (I) of subsection (k)(4)''; and

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

''(C) THRESHOLD OF CONTROL.—Subparagraph (A) shall not apply with respect to a company described or referred to in clause (i) or (ii) of such subparagraph if the financial holding company does not own or control 25 percent or more of the total equity or any class of voting securities of such company.''.

SEC. 502. AMENDMENT TO PROVIDE THE FEDERAL RESERVE BOARD WITH DISCRETION CONCERNING THE IMPUTATION OF CONTROL OF SHARES OF A COMPANY BY TRUSTEES.

Section 2(g)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(2)) is amended by inserting '', unless the Board determines that such treatment is not appropriate in light of the facts and circumstances of the case and the purposes of this Act'' before the period at the end.

SEC. 503. ELIMINATING GEOGRAPHIC LIMITS ON THRIFT SERVICE COMPANIES.

(a) IN GENERAL.—The 1st sentence of section 5(c)(4)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(4)(B)) (as amended by section 406(b)(3) of this Act) is amended—

(1) by striking ''corporation organized'' and all that follows through ''is available for purchase'' and inserting ''company, if the entire capital of the company is available for purchase''; and

(2) by striking ''having their home offices in such State''.

(b) TECHNICAL CORRECTIONS.—

(1) The heading for subparagraph (B) of section 5(c)(4) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(4)(B)) is amended by striking ''CORPORATIONS'' and inserting ''COMPANIES''.

(2) The 2nd sentence of section 5(n)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(n)(1)) is amended by striking ''service corporations'' and inserting ''service companies''.

(3) Section 5(q)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(q)(1)) is amended by striking ''service corporation'' each place such term appears in subparagraphs (A), (B), and (C) and inserting ''service company''.

(4) Section 10(m)(4)(C)(iii)(II) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(iii)(II)) is amended by striking ''service corporation'' each place such term appears and inserting ''service company''.

SEC. 504. CLARIFICATION OF SCOPE OF APPLICABLE RATE PROVISION.

Section 44(f) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(f)) is amended by adding at the end the following new paragraphs:

''(3) OTHER LENDERS.—In the case of any other lender doing business in the State described in paragraph (1), the maximum interest rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved from time to time in any loan, discount, or credit sale made, or upon any note, bill of exchange, financing transaction, or other evidence of debt issued to or acquired by any other lender shall be equal to not more than the greater of the rates described in subparagraph (A) or (B) of paragraph (1).

''(4) OTHER LENDER DEFINED.—For purposes of paragraph (3), the term 'other lender' means any person engaged in the business of selling or financing the sale of personal property (and any services incidental to the sale of personal property) in such State, except that, with regard to any person or entity described in such paragraph, such term does not include—

''(A) an insured depository institution; or

''(B) any person or entity engaged in the business of providing a short-term cash advance to any consumer in exchange for—

''(i) a consumer's personal check or share draft, in the amount of the advance plus a fee, where presentment or negotiation of such check or share draft is deferred by agreement of the parties until a designated future date; or

''(ii) a consumer authorization to debit the consumer's transaction account, in the amount of the advance plus a fee, where such account will be debited on or after a designated future date.''.

TITLE VI—BANKING AGENCY PROVISIONS

SEC. 601. WAIVER OF EXAMINATION SCHEDULE IN ORDER TO ALLOCATE EXAMINER RESOURCES.

Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), (9), and (10) as paragraphs (6), (7), (8), (9), (10), and (11), respectively;

(2) by inserting after paragraph (4), the following new paragraph:

''(5) WAIVER OF SCHEDULE WHEN NECESSARY TO ACHIEVE SAFE AND SOUND ALLOCATION OF EXAMINER RESOURCES.—Notwithstanding paragraphs (1), (2), (3), and (4), an appropriate Federal banking agency may make adjustments in the examination cycle for an insured depository institution if necessary to allocate available resources of examiners in a manner that provides for the safety and soundness of, and the effective examination and supervision of, insured depository institutions.''; and

(3) in paragraphs (8) and (9), as so redesignated, by striking ''paragraph (6)'' and inserting ''paragraph (7)''.

SEC. 602. INTERAGENCY DATA SHARING.

(a) FEDERAL BANKING AGENCIES.—Section 7(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(2)) is amended by adding at the end the following new subparagraph:

''(C) DATA SHARING WITH OTHER AGENCIES AND PERSONS.—In addition to reports of examination, reports of condition, and other reports required to be regularly provided to the Corporation (with respect to all insured depository institutions, including a depository institution for which the Corporation has been appointed conservator or receiver) or an appropriate State bank supervisor (with respect to a State depository institution) under subparagraph (A) or (B), a Federal banking agency may, in the agency's discretion, furnish any report of examination or other confidential supervisory information concerning any depository institution or other entity examined by such agency under authority of any Federal law, to—

''(i) any other Federal or State agency or authority with supervisory or regulatory authority over the depository institution or other entity;

''(ii) any officer, director, or receiver of such depository institution or entity; and

''(iii) any other person the Federal banking agency determines to be appropriate.''.

(b) NATIONAL CREDIT UNION ADMINISTRATION.—Section 202(a) of the Federal Credit Union Act (12 U.S.C. 1782(a)) is amended by adding at the end the following new paragraph:

''(8) DATA SHARING WITH OTHER AGENCIES AND PERSONS.—In addition to reports of examination, reports of condition, and other reports required to be regularly provided to the Board (with respect to all insured credit unions, including a credit union for which the Corporation has been appointed conservator or liquidating agent) or an appropriate State commission, board, or authority having supervision of a State-chartered credit union, the Board may, in the Board's discretion, furnish any report of examination or other confidential supervisory information concerning any credit union or other entity examined by the Board under authority of any Federal law, to—

''(A) any other Federal or State agency or authority with supervisory or regulatory authority over the credit union or other entity;

''(B) any officer, director, or receiver of such credit union or entity; and

''(C) any other institution-affiliated party of such credit union or entity the Board determines to be appropriate.''.

SEC. 603. PENALTY FOR UNAUTHORIZED PARTICIPATION BY CONVICTED INDIVIDUAL.

Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) is amended by adding at the end the following new subsection:

''(c) NONINSURED BANKS.—Subsections (a) and (b) shall apply to a noninsured national bank

and a noninsured State member bank, and any agency or noninsured branch (as such terms are defined in section 1(b) of the International Banking Act of 1978) of a foreign bank as if such bank, branch, or agency were an insured depository institution, except such subsections shall be applied for purposes of this subsection by substituting the agency determined under the following paragraphs for 'Corporation' each place such term appears in such subsections:

''(1) The Comptroller of the Currency, in the case of a noninsured national bank or any Federal agency or noninsured Federal branch of a foreign bank.

''(2) The Board of Governors of the Federal Reserve System, in the case of a noninsured State member bank or any State agency or noninsured State branch of a foreign bank.''.

SEC. 604. AMENDMENT PERMITTING THE DESTRUCTION OF OLD RECORDS OF A DEPOSITORY INSTITUTION BY THE FDIC AFTER THE APPOINTMENT OF THE FDIC AS RECEIVER.

Section 11(d)(15)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(15)(D)) is amended—

(1) by striking ''RECORDKEEPING REQUIREMENT.—After the end of the 6-year period'' and inserting ''RECORDKEEPING REQUIREMENT.—

''(i) IN GENERAL.—Except as provided in clause (ii), after the end of the 6-year period''; and

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

''(ii) OLD RECORDS.—In the case of records of an insured depository institution which are at least 10 years old as of the date the Corporation is appointed as the receiver of such depository institution, the Corporation may destroy such records in accordance with clause (i) any time after such appointment is final without regard to the 6-year period of limitation contained in such clause.''.

SEC. 605. MODERNIZATION OF RECORDKEEPING REQUIREMENT.

Subsection (f) of section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820(f)) is amended to read as follows:

''(f) PRESERVATION OF AGENCY RECORDS.—

''(1) IN GENERAL.—A Federal banking agency may cause any and all records, papers, or documents kept by the agency or in the possession or custody of the agency to be—

''(A) photographed or microphotographed or otherwise reproduced upon film; or

''(B) preserved in any electronic medium or format which is capable of—

''(i) being read or scanned by computer; and

''(ii) being reproduced from such electronic medium or format by printing or any other form of reproduction of electronically stored data.

''(2) TREATMENT AS ORIGINAL RECORDS.—Any photographs, microphotographs, or photographic film or copies thereof described in paragraph (1)(A) or reproduction of electronically stored data described in paragraph (1)(B) shall be deemed to be an original record for all purposes, including introduction in evidence in all State and Federal courts or administrative agencies and shall be admissible to prove any act, transaction, occurrence, or event therein recorded.

''(3) AUTHORITY OF THE FEDERAL BANKING AGENCIES.—Any photographs, microphotographs, or photographic film or copies thereof described in paragraph (1)(A) or reproduction of electronically stored data described in paragraph (1)(B) shall be preserved in such manner as the Federal banking agency shall prescribe and the original records, papers, or documents may be destroyed or otherwise disposed of as the Federal banking agency may direct.''.

SEC. 606. CLARIFICATION OF EXTENT OF SUSPENSION, REMOVAL, AND PROHIBITION AUTHORITY OF FEDERAL BANKING AGENCIES IN CASES OF CERTAIN CRIMES BY INSTITUTION-AFFILIATED PARTIES.

(a) INSURED DEPOSITORY INSTITUTION.—

(1) IN GENERAL.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended—

(A) in subparagraph (A), by striking ''the depository'' each place such term appears and inserting ''any depository'';

(B) in subparagraph (B)(i), by inserting ''of which the subject of the order is an institution-affiliated party'' before the period at the end;

(C) in subparagraph (C), by striking ''the depository'' each place such term appears and inserting ''any depository'';

(D) in subparagraph (D)(i), by inserting ''of which the subject of the order is an institution-affiliated party'' after ''upon the depository institution''; and

(E) by adding at the end the following new subparagraph:

''(E) CONTINUATION OF AUTHORITY.—A Federal banking agency may issue an order under this paragraph with respect to an individual who is an institution-affiliated party at a depository institution at the time of an offense described in subparagraph (A) without regard to—

''(i) whether such individual is an institution-affiliated party at any depository institution at the time the order is considered or issued by the agency; or

''(ii) whether the depository institution at which the individual was an institution-affiliated party at the time of the offense remains in existence at the time the order is considered or issued by the agency.''.

(2) CLERICAL AMENDMENT.—Section 8(g) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)) is amended by striking ''(g)'' and inserting the following new subsection heading:

''(g) SUSPENSION, REMOVAL, AND PROHIBITION FROM PARTICIPATION ORDERS IN THE CASE OF CERTAIN CRIMINAL OFFENSES.—''.

(b) INSURED CREDIT UNIONS.—

(1) IN GENERAL.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended—

(A) in subparagraph (A), by striking ''the credit union'' each place such term appears and inserting ''any credit union'';

(B) in subparagraph (B)(i), by inserting ''of which the subject of the order is, or most recently was, an institution-affiliated party'' before the period at the end;

(C) in subparagraph (C), by striking ''the credit union'' each place such term appears and inserting ''any credit union'';

(D) in subparagraph (D)(i), by striking ''upon such credit union'' and inserting ''upon the credit union of which the subject of the order is, or most recently was, an institution-affiliated party''; and

(E) by adding at the end the following new subparagraph:

''(E) CONTINUATION OF AUTHORITY.—The Board may issue an order under this paragraph with respect to an individual who is an institution-affiliated party at a credit union at the time of an offense described in subparagraph (A) without regard to—

''(i) whether such individual is an institution-affiliated party at any credit union at the time the order is considered or issued by the Board; or

''(ii) whether the credit union at which the individual was an institution-affiliated party at the time of the offense remains in existence at the time the order is considered or issued by the Board.''.

(2) CLERICAL AMENDMENT.—Section 206(i) of the Federal Credit Union Act (12 U.S.C. 1786(i)) is amended by striking ''(i)'' at the beginning and inserting the following new subsection heading:

''(i) SUSPENSION, REMOVAL, AND PROHIBITION FROM PARTICIPATION ORDERS IN THE CASE OF CERTAIN CRIMINAL OFFENSES.—''.

SEC. 607. STREAMLINING DEPOSITORY INSTITUTION MERGER APPLICATION REQUIREMENTS.

(a) IN GENERAL.—Paragraph (4) of section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended to read as follows:

''(4) REPORTS ON COMPETITIVE FACTORS.—

''(A) REQUEST FOR REPORT.—In the interests of uniform standards, before acting on any application for approval of a merger transaction, the responsible agency, unless the agency finds that it must act immediately in order to prevent the probable failure of a depository institution involved, shall—

''(i) request a report on the competitive factors involved from the Attorney General; and

''(ii) provide a copy of the request to the Corporation (when the Corporation is not the responsible agency).

''(B) FURNISHING OF REPORT.—The report requested under subparagraph (A) shall be furnished by the Attorney General to the responsible agency—

''(i) not more than 30 calendar days after the date on which the Attorney General received the request; or

''(ii) not more than 10 calendar days after such date, if the requesting agency advises the Attorney General that an emergency exists requiring expeditious action.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The penultimate sentence of section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended to read as follows: ''If the agency has advised the Attorney General under paragraph (4)(B) of the existence of an emergency requiring expeditious action and has requested a report on the competitive factors within 10 days, the transaction may not be consummated before the fifth calendar day after the date of approval by the agency.''.

SEC. 608. INCLUSION OF DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION IN LIST OF BANKING AGENCIES REGARDING INSURANCE CUSTOMER PROTECTION REGULATIONS.

Section 47(g)(2)(B)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1831x(g)(2)(B)(i)) is amended by inserting ''the Director of the Office of Thrift Supervision,'' after ''Comptroller of the Currency,''.

SEC. 609. SHORTENING OF POST-APPROVAL ANTITRUST REVIEW PERIOD WITH THE AGREEMENT OF THE ATTORNEY GENERAL.

(a) ANTITRUST REVIEWS UNDER THE BANK HOLDING COMPANY ACT OF 1956.—The 4th sentence of section 11(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b) is amended by striking ''15 calendar days'' and inserting ''5 calendar days''.

(b) ANTITRUST REVIEWS UNDER THE FEDERAL DEPOSIT INSURANCE ACT.—The last sentence of section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended by striking ''15 calendar days'' and inserting ''5 calendar days''.

SEC. 610. PROTECTION OF CONFIDENTIAL INFORMATION RECEIVED BY FEDERAL BANKING REGULATORS FROM FOREIGN BANKING SUPERVISORS.

Section 15 of the International Banking Act of 1978 (12 U.S.C. 3109) is amended by adding at the end the following new subsection:

''(c) CONFIDENTIAL INFORMATION RECEIVED FROM FOREIGN SUPERVISORS.—

''(1) IN GENERAL.—Except as provided in paragraph (3), a Federal banking agency may not be compelled to disclose information received from a foreign regulatory or supervisory authority if—

''(A) the foreign regulatory or supervisory authority has, in good faith, determined and represented to such Federal banking agency that public disclosure of the information would violate the laws applicable to that foreign regulatory or supervisory authority; and

''(B) the relevant Federal banking agency obtained such information pursuant to—

''(i) such procedures as the Federal banking agency may establish for use in connection with the administration and enforcement of Federal banking laws; or

''(ii) a memorandum of understanding or other similar arrangement between the Federal

banking agency and the foreign regulatory or supervisory authority.

''(2) TREATMENT UNDER TITLE 5, UNITED STATES CODE.—For purposes of section 552 of title 5, United States Code, this subsection shall be treated as a statute described in subsection (b)(3)(B) of such section.

''(3) SAVINGS PROVISION.—No provision of this section shall be construed as—

''(A) authorizing any Federal banking agency to withhold any information from any duly authorized committee of the House of Representatives or the Senate; or

''(B) preventing any Federal banking agency from complying with an order of a court of the United States in an action commenced by the United States or such agency.

''(4) FEDERAL BANKING AGENCY DEFINED.—For purposes of this subsection, the term 'Federal banking agency' means the Board, the Comptroller, the Federal Deposit Insurance Corporation, and the Director of the Office of Thrift Supervision.''.

SEC. 611. PROHIBITION ON PARTICIPATION BY CONVICTED INDIVIDUAL.

Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) is amended by inserting after subsection (c) (as added by section 603 of this title) the following new subsections:

''(d) BANK HOLDING COMPANIES.—Subsections (a) and (b) shall apply to any bank holding company, any subsidiary (other than a bank) of a bank holding company, and any organization organized and operated under section 25A of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act as if such bank holding company, subsidiary, or organization were an insured depository institution, except such subsections shall be applied for purposes of this subsection by substituting 'Board of Governors of the Federal Reserve System' for 'Corporation' each place such term appears in such subsections.

''(e) SAVINGS AND LOAN HOLDING COMPANIES.—Subsections (a) and (b) shall apply to any savings and loan holding company and any subsidiary (other than a savings association) of a savings and loan holding company as if such savings and loan holding company or subsidiary were an insured depository institution, except such subsections shall be applied for purposes of this subsection by substituting 'Director of the Office of Thrift Supervision' for 'Corporation' each place such term appears in such subsections.''.

SEC. 612. CLARIFICATION THAT NOTICE AFTER SEPARATION FROM SERVICE MAY BE MADE BY AN ORDER.

(a) IN GENERAL.—Section 8(i)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(3)) is amended by inserting ''or order'' after ''notice'' each place such term appears.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The heading for section 8(i)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(3)) is amended by inserting ''OR ORDER'' after ''NOTICE''.

SEC. 613. EXAMINERS OF FINANCIAL INSTITUTIONS.

(a) OFFER OF CREDIT TO BANK EXAMINER.—Section 212 of title 18, United States Code, is amended to read as follows:

''§212. Offer of credit to bank examiner

''(a) Subject to section 213(b), whoever being an officer, director or employee of a financial institution extends credit to any examiner which the examiner is prohibited from accepting under section 213 shall be fined under this title or imprisoned not more than one year, or both; and may be fined a further sum equal to the amount of the credit extended.

''(b) For purposes of this section, the following definitions shall apply:

''(1) The term 'financial institution' does not include a credit union, a Federal reserve bank, a Federal home loan bank, or a depository institution holding company.

''(2) The term 'examiner' means any person—

''(A) appointed by a Federal financial institution regulatory agency or pursuant to the laws of any State to examine a financial institution; or

''(B) elected under the law of any State to conduct examinations of any financial institution.

''(3) The term 'Federal financial institution regulatory agency' means—

''(A) the Comptroller of the Currency;

''(B) the Board of Governors of the Federal Reserve System;

''(C) the Director of the Office of Thrift Supervision;

''(D) the Federal Deposit Insurance Corporation;

''(E) the Federal Housing Finance Board;

''(F) the Farm Credit Administration;

''(G) the Farm Credit System Insurance Corporation; and

''(H) the Small Business Administration.''.

(b) ACCEPTANCE OF CREDIT BY A BANK EXAMINER.—Section 213 of title 18, United States Code, is amended to read as follows:

''§213. Acceptance of credit by bank examiner

''(a) Whoever, being an examiner, accepts an extension of credit from any financial institution that the examiner examines or has authority to examine, or from any person connected with any such financial institution, shall be fined under this title or imprisoned not more than one year, or both; and may be fined a further sum equal to the amount of the credit extended, and shall be disqualified from holding office as such examiner.

''(b) Notwithstanding subsection (a) or section 212, a Federal financial institution regulatory agency may, by regulation or by order on a case-by-case basis, permit a financial institution to extend credit to an examiner, and permit an examiner to accept an extension of credit from a financial institution, if the agency determines that the extension of credit would not likely affect the integrity of any examination of a financial institution. Before prescribing regulations or issuing any order under this subsection, a Federal financial institution regulatory agency shall consult with each other Federal financial institution regulatory agency with regard to any such regulation or order. Any regulation prescribed by a Federal financial institution regulatory agency under this subsection, may exempt certain classes or categories of credit from the scope of this section or section 212, and shall provide procedures for examiners and financial institutions to request case-by-case exemption orders under this subsection, subject to subsection (c).

''(c) In considering any request by a financial institution or examiner for a case-by-case exemption order under subsection (b), a Federal financial institution regulatory agency shall consider such factors as the agency determines to be appropriate, including—

''(1) whether the terms and conditions of the credit being offered the examiner are generally comparable to those offered by the financial institution in connection with similar types of credit extended to other customers in similar circumstances;

''(2) the nature and extent of any other relationship the examiner has with the financial institution or any officer, director, or employee of the financial institution;

''(3) the proximity in time between any examination of the financial institution in which the examiner participated, or is scheduled to participate, and the extension, or the offer of an extension, of credit;

''(4) whether there are any other circumstances involving the transaction, or the proposed transaction, that may be perceived as providing the examiner with preferential treatment; and

''(5) any other fact or circumstance the agency may consider to be appropriate under the circumstances.

''(d) Notwithstanding subsection (a) or section 212, an examiner employed by a Federal financial institution regulatory agency may apply for and receive a credit card, or otherwise be approved as a cardholder, under any credit card account under an open end consumer credit plan, to the extent the terms and conditions applicable with respect to such account, and any credit extended under such account, are no more favorable generally to the examiner than the terms and conditions that are generally applicable to credit card accounts offered by the same financial institution to other cardholders under open end consumer credit plans.

''(e) For purposes of this section, the following definitions shall apply:

''(1) The terms 'examiner', 'Federal financial institution regulatory agency', and 'financial institution' have the same meaning as in section 212.

''(2) The term 'credit' means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

''(3) The term 'creditor' refers only to a person who both (A) regularly extends, whether in connection with loans, sales of property or services, or otherwise, consumer credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required, and (B) is the person to whom the debt arising from the consumer credit transaction is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement. Notwithstanding the preceding sentence, in the case of an open-end credit plan involving a credit card, the card issuer and any person who honors the credit card and offers a discount which is a finance charge are creditors.

''(4) The term 'consumer', when used with reference to an open end credit plan, means a credit plan under which the party to whom credit is offered or extended is a natural person, and the money, property, or services which are the subject of any transaction under the plan are primarily for personal, family, or household purposes.

''(5) The term 'open end credit plan' means a plan under which the creditor reasonably contemplates repeated transactions, which prescribes the terms of such transactions, and which provides for a finance charge which may be computed from time to time on the outstanding unpaid balance. A credit plan which is an open end credit plan within the meaning of the preceding sentence is an open end credit plan even if credit information is verified from time to time.

''(6) The term 'credit card' means any card, plate, coupon book or other credit device existing for the purpose of obtaining money, property, labor, or services on credit.

''(7) The term 'cardholder' means any person to whom a credit card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of a credit card to another person.

''(8) The term 'card issuer' means any person who issues a credit card, or the agent of such person with respect to such card.''.

(c) CLERICAL AMENDMENTS.—The table of sections for chapter 11 of title 18, United States Code, is amended by striking the items relating to sections 212 and 213 and inserting the following new items:

''212. Offer of credit to bank examiner.

''213. Acceptance of credit by bank examiner.''.

SEC. 614. PARITY IN STANDARDS FOR INSTITUTION-AFFILIATED PARTIES.

Section 3(u)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)(4)) is amended by striking ''knowingly or recklessly''.

SEC. 615. ENFORCEMENT AGAINST MISREPRESENTATIONS REGARDING FDIC DEPOSIT INSURANCE COVERAGE.

(a) IN GENERAL.—Section 18(a) of the Federal Deposit Insurance Act (12 U.S.C. 1828(a)) is

amended by adding at the end the following new paragraph:

''(4) FALSE ADVERTISING, MISUSE OF FDIC NAMES, AND MISREPRESENTATION TO INDICATE INSURED STATUS.—

''(A) PROHIBITION ON FALSE ADVERTISING AND MISUSE OF FDIC NAMES.—No person may—

''(i) use the terms 'Federal Deposit', 'Federal Deposit Insurance', 'Federal Deposit Insurance Corporation', any combination of such terms, or the abbreviation 'FDIC' as part of the business name or firm name of any person, including any corporation, partnership, business trust, association, or other business entity; or

''(ii) use such terms or any other sign or symbol as part of an advertisement, solicitation, or other document,

to represent, suggest or imply that any deposit liability, obligation, certificate or share is insured or guaranteed by the Federal Deposit Insurance Corporation, if such deposit liability, obligation, certificate, or share is not insured or guaranteed by the Corporation.

''(B) PROHIBITION ON MISREPRESENTATIONS OF INSURED STATUS.—No person may knowingly misrepresent—

''(i) that any deposit liability, obligation, certificate, or share is federally insured, if such deposit liability, obligation, certificate, or share is not insured by the Corporation; or

''(ii) the extent to which or the manner in which any deposit liability, obligation, certificate, or share is insured by the Federal Deposit Insurance Corporation, if such deposit liability, obligation, certificate, or share is not insured by the Corporation to the extent or in the manner represented.

''(C) AUTHORITY OF FDIC.—The Corporation shall have—

''(i) jurisdiction over any person that violates this paragraph, or aids or abets the violation of this paragraph; and

''(ii) for purposes of enforcing the requirements of this paragraph with regard to any person—

''(I) the authority of the Corporation under section 10(c) to conduct investigations; and

''(II) the enforcement authority of the Corporation under subsections (b), (c), (d) and (i) of section 8,

as if such person were a state nonmember insured bank.

''(D) OTHER ACTIONS PRESERVED.—No provision of this paragraph shall be construed as barring any action otherwise available, under the laws of the United States or any State, to any Federal or State law enforcement agency or individual.''.

(b) ENFORCEMENT ORDERS.—Section 8(c) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c)) is amended by adding at the end the following new paragraph:

''(4) FALSE ADVERTISING OR MISUSE OF NAMES TO INDICATE INSURED STATUS.—

''(A) TEMPORARY ORDER.—

''(i) IN GENERAL.—If a notice of charges served under subsection (b)(1) of this section specifies on the basis of particular facts that any person is engaged in conduct described in section 18(a)(4), the Corporation may issue a temporary order requiring—

''(I) the immediate cessation of any activity or practice described, which gave rise to the notice of charges; and

''(II) affirmative action to prevent any further, or to remedy any existing, violation.

''(ii) EFFECT OF ORDER.—Any temporary order issued under this subparagraph shall take effect upon service.

''(B) EFFECTIVE PERIOD OF TEMPORARY ORDER.—A temporary order issued under subparagraph (A) shall remain effective and enforceable, pending the completion of an administrative proceeding pursuant to subsection (b)(1) in connection with the notice of charges—

''(i) until such time as the Corporation shall dismiss the charges specified in such notice; or

''(ii) if a cease-and-desist order is issued against such person, until the effective date of such order.

''(C) CIVIL MONEY PENALTIES.—Violations of section 18(a)(4) shall be subject to civil money penalties as set forth in subsection (i) in an amount not to exceed $1,000,000 for each day during which the violation occurs or continues.''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 18(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1828(a)) is amended—

(A) in the 1st sentence by striking ''of this subsection'' and inserting ''of paragraphs (1) and (2)'';

(B) by striking the 2nd sentence; and

(C) in the 3rd sentence, by striking ''of this subsection'' and inserting ''of paragraphs (1) and (2)''.

(2) The heading for subsection (a) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828(a)) is amended by striking ''INSURANCE LOGO.—'' and inserting ''REPRESENTATIONS OF DEPOSIT INSURANCE.—''.

SEC. 616. COMPENSATION OF FEDERAL HOME LOAN BANK DIRECTORS.

Section 7(i) of the Federal Home Loan Bank Act (12 U.S.C. 1427(i)) is amended to read as follows:

''(i) DIRECTORS' COMPENSATION.—

''(1) IN GENERAL.—Each Federal home loan bank may pay the directors on the board of directors of the bank reasonable compensation for the time required of such directors, and reasonable expenses incurred by the directors, in connection with service on the board of directors, in accordance with resolutions adopted by the board of directors and subject to the approval of the board.

''(2) ANNUAL REPORT BY THE BOARD.—Information regarding compensation and expenses paid by the Federal home loan banks to the directors on the boards of directors of the banks shall be included in the annual report submitted to the Congress by the Board pursuant to section 2B(d).''.

SEC. 617. EXTENSION OF TERMS OF FEDERAL HOME LOAN BANK DIRECTORS.

(a) IN GENERAL.—Section 7(d) of the Federal Home Loan Bank Act (12 U.S.C. 1427(d)) is amended—

(1) in the first sentence, by striking ''3 years'' and inserting ''4 years''; and

(2) in the 2nd sentence—

(A) by striking ''Federal Home Loan Bank System Modernization Act of 1999'' and inserting ''Financial Services Regulatory Relief Act of 2003''; and

(B) by striking ''1/3'' and inserting ''1/4''.

(b) PROSPECTIVE APPLICATION.—The amendment made by subsection (a) shall not apply to the term of office in which any director of a Federal home loan bank is serving as of the date of the enactment of this Act, including any director elected or appointed to fill a vacancy in any such term of office.

SEC. 618. BIENNIAL REPORTS ON THE STATUS OF AGENCY EMPLOYMENT OF MINORITIES AND WOMEN.

(a) IN GENERAL.—Before December 31, 2003, and the end of each 2-year period beginning after such date, each Federal banking agency shall submit a report to the Congress on the status of the employment by the agency of minority individuals and women.

(b) FACTORS TO BE INCLUDED.—The report shall include a detailed assessment of each of the following:

(1) The extent of hiring of minority individuals and women by the agency as of the time the report is prepared.

(2) The successes achieved and challenges faced by the agency in operating minority and women outreach programs.

(3) Challenges the agency may face in finding qualified minority individual and women applicants.

(4) Such other information, findings, and conclusions, and recommendations for legislative or agency action, as the agency may determine to be appropriate to include in the report.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) FEDERAL BANKING AGENCY.—The term ''Federal banking agency''—

(A) has the same meaning as in section 3(z) of the Federal Deposit Insurance Act; and

(B) includes the National Credit Union Administration.

(2) MINORITY.—The term ''minority'' has the same meaning as in section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

SEC. 619. COORDINATION OF STATE EXAMINATION AUTHORITY.

Section 10(h) of the Federal Deposit Insurance Act (12 U.S.C. 1820(h)) is amended to read as follows:

''(h) COORDINATION OF EXAMINATION AUTHORITY.—

''(1) IN GENERAL.—The appropriate State bank supervisor of the home State of an insured State bank has authority to examine and supervise the bank. The State bank supervisor of the home State of an insured State bank shall exercise its authority to supervise and examine the branches of the bank in a host State in accordance with the terms of any applicable cooperative agreement between the home State bank supervisor and the State bank supervisor of the relevant host State. Except as expressly provided in a cooperative agreement between the State bank supervisors of the home State and host State(s) of an insured State bank, only the State bank supervisor of the home State of an insured State bank may levy or charge State supervisory fees on the bank.

''(2) HOST STATE EXAMINATION.—With respect to a branch operated in a host State by an out-of-State insured State bank that resulted from an interstate merger transaction approved under section 44 or that was established in such State pursuant to section 5155(g) of the Revised Statutes, the third undesignated paragraph of section 9 of the Federal Reserve Act or section 18(d)(4) of this Act, the appropriate State bank supervisor of such host State may—

''(A) with written notice to the State bank supervisor of the bank's home State and subject to the terms of any applicable cooperative agreement with the State bank supervisor of such home State, examine such branch for the purpose of determining compliance with host State laws that are applicable pursuant to section 24(j) of this Act, including those that govern community reinvestment, fair lending, and consumer protection; and

''(B) if expressly permitted under and subject to the terms of a cooperative agreement with the State bank supervisor of the bank's home State or if such out-of-State insured State bank has been determined to be in a troubled condition by either the State bank supervisor of the bank's home State or the bank's appropriate Federal banking agency, participate in the examination of the bank by the State bank supervisor of the bank's home State to ascertain that the activities of the branch in such host State are not conducted in an unsafe or unsound manner. The State bank supervisor of the home State of an insured State bank shall notify the State bank supervisor of each host State of the bank if there has been a final determination that the bank is in a troubled condition. The State bank supervisor of the bank's home State shall provide such notice as soon as reasonably possible but in all cases within 15 business days after the State bank supervisor has made such final determination or has received written notification of such final determination.

''(3) HOST STATE ENFORCEMENT.—If the State bank supervisor of a host State determines that a branch of an out-of-State State insured State bank is violating any law of the host State that is applicable to such branch pursuant to section

24(j) of this Act, including a law that governs community reinvestment, fair lending, or consumer protection, the State bank supervisor of the host State or, to the extent authorized by the law of the host State, a host State law enforcement officer may, with written notice to the State bank supervisor of the bank's home State and subject to the terms of any applicable cooperative agreement with the State bank supervisor of the bank's home State, undertake such enforcement actions and proceedings as would be permitted under the law of the host State as if the branch were a bank chartered by that host State.

''(4) COOPERATIVE AGREEMENT.—The State bank supervisors from 2 or more States may enter into cooperative agreements to facilitate State regulatory supervision of State banks, including cooperative agreements relating to the coordination of examinations and joint participation in examinations. For purposes of this subsection (h), the term ''cooperative agreement'' means a written agreement that is signed by the home State bank supervisor and host State bank supervisor to facilitate State regulatory supervision of State banks and includes nationwide or multi-state cooperative agreements and cooperative agreements solely between the home State and host State. Except for State bank supervisors, no provision of this subsection (h) relating to such cooperative agreements shall be construed as limiting in any way the authority of home and host State law enforcement officers, regulatory supervisors, or other officials that have not signed such cooperative agreements to enforce host State laws that are applicable to a branch of an out-of-State insured State bank located in the host State pursuant to section 24(j) of this Act.

''(5) FEDERAL REGULATORY AUTHORITY.—No provision of this subsection shall be construed as limiting in any way the authority of any Federal banking agency.

''(6) STATE TAXATION AUTHORITY NOT AFFECTED.—No provision of this subsection (h) shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any bank, bank holding company, or foreign bank, to the extent such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

''(7) DEFINITIONS.—For purpose of this section, the following definition shall apply:

''(A) The terms 'host State', 'home State', and 'out-of-State bank' have the same meanings as in section 44(g).

''(B) The term 'State supervisory fees' means assessments, examination fees, branch fees, license fees, and all other fees that are levied or charged by a State bank supervisor directly upon an insured State bank or upon branches of an insured State bank.

''(C) Solely for purposes of subparagraph (2)(B) of this subsection (h), an insured State bank has been determined to be in 'troubled condition' if the bank—

''(i) has a composite rating, as determined in its most recent report of examination, of 4 or 5 under the Uniform Financial Institutions Ratings System (UFIRS); or

''(ii) is subject to a proceeding initiated by the Corporation for termination or suspension of deposit insurance; or

''(iii) is subject to a proceeding initiated by the State bank supervisor of the bank's home State to vacate, revoke, or terminate the charter of the bank, or to liquidate the bank, or to appoint a receiver for the bank.

''(D) For the purposes of paragraph (2)(B), the term 'final determination' means the transmittal of a Report of Examination to the bank or transmittal of official notice of proceedings to the bank.''.

TITLE VII—CLERICAL AND TECHNICAL AMENDMENTS

SEC. 701. CLERICAL AMENDMENTS TO THE HOME OWNERS' LOAN ACT.

(a) AMENDMENT TO TABLE OF CONTENTS.—The table of contents in section 1 of the Home Owners' Loan Act (12 U.S.C. 1461) is amended by striking the items relating to sections 5 and 6 and inserting the following new items:

''Sec. 5. Savings associations.
''Sec. 6. [Repealed.]''.

(b) CLERICAL AMENDMENTS TO HEADINGS.—

(1) The heading for section 4(a) of the Home Owners' Loan Act (12 U.S.C. 1463(a)) is amended by striking ''(a) FEDERAL SAVINGS ASSOCIATIONS.—'' and inserting ''(a) GENERAL RESPONSIBILITIES OF THE DIRECTOR.—''.

(2) The section heading for section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended to read as follows:

''SEC. 5. SAVINGS ASSOCIATIONS.''.

SEC. 702. TECHNICAL CORRECTIONS TO THE FEDERAL CREDIT UNION ACT.

The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended as follows:

(1) In section 101(3), strike ''and'' after the semicolon.

(2) In section 101(5), strike the terms ''account account'' and ''account accounts'' each place any such term appears and insert ''account''.

(3) In section 107(a)(5)(E) (as so designated by section 303 of this Act), strike the period at the end and insert a semicolon.

(4) In paragraphs (6) and (7) of section 107(a) (as so designated by section 303 of this Act), strike the period at the end and insert a semicolon.

(5) In section 107(a)(7)(D) (as so designated by section 303 of this Act), strike ''the Federal Savings and Loan Insurance Corporation or''.

(6) In section 107(a)(7)(E) (as so designated by section 303 of this Act), strike ''the Federal Home Loan Bank Board,'' and insert ''the Federal Housing Finance Board,''.

(7) In section 107(a)(9) (as so designated by section 303 of this Act), strike ''subchapter III'' and insert ''title III''.

(8) In section 107(a)(13) (as so designated by section 303 of this Act), strike the ''and'' after the semicolon at the end.

(9) In section 109(c)(2)(A)(i), strike ''(12 U.S.C. 4703(16))''.

(10) In section 120(h), strike ''under the Act approved July 30, 1947 (6 U.S.C., secs. 6–13),'' and insert ''chapter 93 of title 31, United States Code,''.

(11) In section 201(b)(5), strike ''section 116 of''.

(12) In section 202(h)(3), strike ''section 207(c)(1)'' and insert ''section 207(k)(1)''.

(13) In section 204(b), strike ''such others powers'' and insert ''such other powers''.

(14) In section 206(e)(3)(D), strike ''and'' after the semicolon at the end.

(15) In section 206(f)(1), strike ''subsection (e)(3)(B)'' and insert ''subsection (e)(3)''.

(16) In section 206(g)(7)(D), strike ''and subsection (1)''.

(17) In section 206(t)(2)(B), insert ''regulations'' after ''as defined in''.

(18) In section 206(t)(2)(C), strike ''material affect'' and insert ''material effect''.

(19) In section 206(t)(4)(A)(ii)(II), strike ''or'' after the semicolon at the end.

(20) In section 206A(a)(2)(A), strike ''regulator agency'' and insert ''regulatory agency''.

(21) In section 207(c)(5)(B)(i)(I), insert ''and'' after the semicolon at the end.

(22) In section 207(c)(8)(D)(ii)(I), insert a closing parenthesis after ''Act of 1934''.

(23) In the heading for subparagraph (A) of section 207(d)(3), strike ''TO'' and insert ''WITH''.

(24) In section 207(f)(3)(A), strike ''category or claimants'' and insert ''category of claimants''.

(25) In section 209(a)(8), strike the period at the end and insert a semicolon.

(26) In section 216(n), insert ''any action'' before ''that is required''.

(27) In section 304(b)(3), strike ''the affairs or such credit union'' and insert ''the affairs of such credit union''.

(28) In section 310, strike ''section 102(e)'' and insert ''section 102(d)''.

SEC. 703. OTHER TECHNICAL CORRECTIONS.

(a) Section 1306 of title 18, United States Code, is amended by striking ''5136A'' and inserting ''5136B''.

(b) Section 5239 of the Revised Statutes of the United States (12 U.S.C. 93) is amended by redesignating the second of the 2 subsections designated as subsection (d) (as added by section 331(b)(3) of the Riegle Community Development and Regulatory Improvement Act of 1994) as subsection (e).

SEC. 704. REPEAL OF OBSOLETE PROVISIONS OF THE BANK HOLDING COMPANY ACT OF 1956.

(a) IN GENERAL.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended—

(1) in subsection (c)(2), by striking subparagraphs (I) and (J); and

(2) by striking subsection (m) and inserting the following new subsection:

''(m) [Repealed]''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Paragraphs (1) and (2) of section 4(h) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(h)) are each amended by striking ''(G), (H), (I), or (J) of section 2(c)(2)'' and inserting ''(G), or (H) of section 2(c)(2)''.

The CHAIRMAN pro tempore. No amendment to the committee amendment is in order except those printed in House Report 108–439. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 108–439.

AMENDMENT NO. 1 OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. OXLEY:

Page 9, strike line 3 and all that follows through page 10, line 2 (and redesignate subsequent sections and any cross reference to any such section and conform the table of contents accordingly).

Page 31, line 2, strike ''main'' and insert ''home''.

Page 31, strike line 3 and all that follows through page 32, line 13 (and conform the table of contents accordingly).

Page 37, strike lines 16 and 17 and insert the following new heading:

''(b) ADDITIONAL INVESTMENT AUTHORITY.—

Page 37, line 18, strike ''A Federal'' and insert ''In addition to any investments otherwise authorized, a Federal''.

Page 47, after line 5, insert the following new paragraphs (and redesignate the subsequent paragraph accordingly):

(2) INTERSTATE BRANCHING BY SUBSIDIARIES OF COMMERCIAL FIRMS PROHIBITED.—Section 18(d)(3)) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)(3)) is amended by adding at the end the following new subparagraph:

''(C) INTERSTATE BRANCHING BY SUBSIDIARIES OF COMMERCIAL FIRMS PROHIBITED.—

''(i) IN GENERAL.—If the appropriate State bank supervisor of the home State of any industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956, or the appropriate State bank supervisor of any host State with respect to such company, bank, or institution, determines that such company, bank, or institution is controlled, directly or indirectly, by a commercial firm, such company, bank, or institution may not acquire, establish, or operate a branch in such host State.

''(ii) COMMERCIAL FIRM DEFINED.—For purposes of this subsection, the term 'commercial firm' means any entity at least 15 percent of the annual gross revenues of which on a consolidated basis, including all affiliates of the entity, were derived from engaging, on an on-going basis, in activities that are not financial in nature or incidental to a financial activity during at least 3 of the prior 4 calendar quarters.

''(iii) GRANDFATHERED INSTITUTIONS.—Clause (i) shall not apply with respect to any industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956—

''(I) which became an insured depository institution before October 1, 2003 or pursuant to an application for deposit insurance which was approved by the Corporation before such date; and

''(II) with respect to which there is no change in control, directly or indirectly, of the company, bank, or institution after September 30, 2003, that requires an application under subsection (c), section 7(j), section 3 of the Bank Holding Company Act of 1956, or section 10 of the Home Owners' Loan Act.

''(iv) TRANSITION PROVISION.—Any divestiture required under this subparagraph of a branch in a host State shall be completed as quickly as is reasonably possible.

''(v) CORPORATE REORGANIZATIONS PERMITTED.—The acquisition of direct or indirect control of the company, bank, or institution referred to in clause (iii)(II) shall not be treated as a 'change in control' for purposes of such clause if the company acquiring control is itself directly or indirectly controlled by a company that was an affiliate of such company, bank, or institution on the date referred to in clause (iii)(II), and remained an affiliate at all times after such date.''.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—Section 18(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)(4)) is amended—

(A) in subparagraph (A) by striking ''Subject to subparagraph (B)'' and inserting ''Subject to subparagraph (B) and paragraph (3)(C)''; and

(B) in subparagraphs (D) and (E), by striking ''The term'' and inserting ''For purposes of this subsection, the term''.

Page 47, line 21, insert ''or are applicable to an insured State nonmember bank under section 18(d)(3) of the Federal Deposit Insurance Act'' after ''Revised Statutes of the United States''.

Page 51, line 4, insert before the semicolon at the end ''and inserting the following new paragraph''.

Page 51, after line 4, insert the following new paragraph:

''(5) APPLICABILITY TO INDUSTRIAL LOAN COMPANIES.—No provision of this section shall be construed as authorizing the approval of any transaction involving a industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956, or the acquisition, establishment, or operation of a branch by any such company, bank, or institution, that is not allowed under section 18(d)(3).''.

Page 58, line 19, insert ''(i)'' after ''section 38(e)(2)(E)''.

Page 88, strike line 1 and all that follows through the 2 items following line 15 on page 94 (and redesignate subsequent sections and any cross reference to any such section and conform the table of contents accordingly).

The CHAIRMAN pro tempore. Pursuant to House Resolution 566, the gentleman from Ohio (Mr. OXLEY) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

PARLIAMENTARY INQUIRY

Mr. FRANK of Massachusetts. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. FRANK of Massachusetts. I do not see anyone on the floor who is opposed to this amendment. Is it then permissible under the rules for me to request the rest of the time?

The CHAIRMAN pro tempore. The gentleman may request unanimous consent.

Mr. OXLEY. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, my amendment makes certain technical and conforming changes to the bill requested by the Federal financial regulators, deletes sections from the bill reported by the Committee on Financial Services that have been superseded by other legislative or judicial developments, and, most importantly, incorporates compromise language developed by two highly respected members of our committee, the gentleman from Ohio (Mr. GILLMOR) and the gentleman from Massachusetts (Mr. FRANK), limiting the scope of the de novo branching authority provided for in section 401 of the bill.

As reported by the Committee on Financial Services, section 401 eliminates current statutory restrictions on banks' ability to branch across State lines. When the committee marked up H.R. 1375, the gentleman from Ohio (Mr. GILLMOR) and other Members expressed concerns about extending this de novo branching authority to industrial loan companies, or ILCs, that are owned by commercial companies, such as retailers and auto manufacturers. Since the markup, the gentleman from Ohio (Mr. GILLMOR) and the gentleman from Massachusetts (Mr. FRANK) have worked together to develop language that would permit ILCs owned by financial firms to avail themselves of the new de novo branching authority while prohibiting branching by ILCs owned by nonfinancial or commercial firms that did not become insured depositories until after a grandfather date specified in the amendment.

Like any good compromise, the Gillmor-Frank amendment does not embody total consensus. There are those in this body who believe we should place no restrictions on the activities of ILCs that do not also apply to other depository institutions and those on the other hand who feel equally strongly that the ILC charter has been expanded beyond its original purpose and should be scaled back. Indeed, we have heard strong debate on that during general debate. On the whole, I believe that the Gillmor-Frank language strikes a reasonable compromise on a very difficult issue, and I am pleased to include it in this manager's amendment.

Mr. Chairman, I urge all Members to support the manager's amendment.

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

The CHAIRMAN pro tempore. Does any Member claim time in opposition to the amendment?

Mr. FRANK of Massachusetts. Mr. Chairman, if it is appropriate, I will, although I am not in opposition.

The CHAIRMAN pro tempore. If not, without objection, the gentleman from Massachusetts may claim the time otherwise reserved for opposition to the amendment.

There was no objection.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

I just want to address one important issue on this question of the industrial loan companies that the gentleman from Iowa had raised previously. It is clear, as we all agree, that the ILCs are in fact regulated. They are regulated by a Federal bank regulator, the FDIC. The element of unregulation goes with holding companies. Bank holding companies are regulated by the Federal Reserve. Heretofore, these holding companies have not had, in my experience, much independent existence and so the regulation by the FDIC has done it.

I will say to the gentleman from Iowa, while he is not here right now, he has been very conscientious on this bill and is probably following this, that I would be prepared to work with him on the question of whether or not an appropriate form of regulation for the holding companies ought to exist. Perhaps the FDIC or some other entity should have it. I do not think we have a regulatory hole. We have not had one historically. I do not think we are creating one. But I would note the only potential argument is there would not be a regulation of the holding company. All of the bank activities of the ILCs would be regulated by the FDIC.

Having said that, I just would repeat what the gentleman from Ohio essentially said. This is, I think, an effort to fine-tune regulation. I do not believe in any regard it cuts back excessively. I did disagree with the proposal to cut the review time for antitrust to 5 days. We have an amendment that will be coming soon from the gentlewoman from California that will push it back up to 15, not exactly where I would like it. We then will have a couple of other amendments to deal with. But I would note that we are going to correct what I think is one of the flaws in this bill.

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

Mr. OXLEY. Mr. Chairman, I am pleased to yield 3 minutes to the distinguished gentleman from Ohio (Mr. GILLMOR).

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

Mr. GILLMOR. Mr. Chairman, I rise in strong support of the manager's amendment to this bill. I want to thank the gentleman from Ohio (Mr. OXLEY) both for his outstanding work on this bill and also for allowing an essential provision authored by myself and the gentleman from Massachusetts (Mr. FRANK) in the manager's amendment. I want to thank the gentleman from Massachusetts for the very effective and the bipartisan way that he has worked to make this amendment happen. Our compromise language closes a dangerous loophole that would allow large commercial entities to obtain bank charters and to be unregulated at the holding company level in providing banking products and services in all 50 States.

Section 401 expands the authority of banks and industrial loan companies, or ILCs, to branch across State lines on a de novo basis rather than acquiring an existing bank. That means if a large retailer were to acquire an ILC, they could not only enter the banking industry without being subject to the Bank Holding Company Act but branch freely across the country. This would clearly be in defiance of our longstanding tradition of separating banking and commerce, most recently affirmed by Congress in the Gramm-Leach-Bliley Act of 1999. Large retailers have attempted to acquire, and in some cases have acquired, ILCs in several States and continue to express publicly their desire to offer financial services to their customers. While this amendment grandfathers some ILCs which were owned by commercial firms before, it provides that any ILC acquired in the future must play by the same rules in interstate branching as other financial institutions. There are some commercial or industrial companies who oppose the manager's amendment. Some companies want to prospectively create a giant loophole for themselves that would enable them to branch interstate in a way that no one else can. They include companies such as Wal-Mart, John Deere, Target, among others. The manager's amendment closes the loophole and simply requires they be treated the same as anybody else.

The existing business relationships of longstanding ILCs supported by FDIC insurance are protected by our language in the form of a grandfather clause. However, the risks associated with the mixing of banking and commerce are real and the compromise provisions contained in this language such as that allowing corporate reorganizations are not in any way meant to allow circumvention of our overall goal of preventing the acquisition of a grandfathered ILC by a commercial parent.

I urge support of the manager's amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield back the balance of my time.

Mr. OXLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. OXLEY).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 2 printed in House report 108–439.

□ 1230

AMENDMENT NO. 2 OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I offer an amendment.

The Chairman pro tempore (Mr. SIMMONS). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Ms. WATERS:

Page 84, strike line 1 and all that follows through line 13 (and redesignate subsequent sections and any cross reference to any such section and conform the table of contents accordingly).

The CHAIRMAN pro tempore. Pursuant to House Resolution 566, the gentlewoman from California (Ms. WATERS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, I yield myself such time as I may consume.

I would first like to thank the gentleman from Ohio (Mr. OXLEY) and the gentleman from Massachusetts (Mr. FRANK) for the leadership that they have provided in this committee not only on this issue but on all of the issues that we work with on the Committee on Financial Services. I think someone said it earlier, and I agree, I believe it was the gentleman from Alabama (Mr. BACHUS) who said it, we do have a way of working together, and we do have a way of respecting the work that is done on both sides of the aisle; and I am appreciative for the comradery that has developed out of that committee. So with that, I would like to thank also the chairman and the members of the Committee on Rules for making my rule in order.

During the course of a bank merger process, both the Federal financial supervisory agency and the Department of Justice review the merger proposal for competitive concerns. After a Federal banking agency approves a merger, DOJ has 30 days to decide whether to challenge the merger approval on antitrust grounds. At a minimum, the merging banks must now wait 15 days before completing their merger. As proposed, section 609 would reduce the minimum 15-day waiting period to 5 days when the Department of Justice indicates it will not file suit challenging the merger approval order.

This amendment is designed to preserve the existing 15-calendar-day waiting period in which members of the public may challenge a bank merger after the Department of Justice has approved a merger between banks or between bank-holding companies. This mandatory waiting period protects the rights of the public to raise concerns with respect to the propriety of bank mergers once the Department of Justice decides whether to challenge a merger on antitrust grounds. Currently, banking law allows third parties, other than Federal banking agencies or DOJ, to file suit during the post-approval waiting period. Such private enforcement is critical to ensuring that important policy concerns including the adequacy of the banks' Community Reinvestment Act performance, are taken into account when Federal courts evaluate whether an agency's approval of a proposed bank merger should be upheld. Such private suits are the vehicle through which community organizations may gain information about a proposed bank merger to ensure that the merger will not result in disproportionate branch closures in low-income or minority communities.

The existing law strikes the proper balance between the right of third parties to seek judicial review of bank merger approval orders and the rights of parties to the merger to finalize their transaction. Section 609 of the bill as reported would seriously impair the right of community organizations to seek this judicial review of Federal bank merger approval orders. The current 15-day waiting period should be preserved.

So my amendment has been made in order under the proposed rule, and I would ask support for the amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. SWEENEY). Does the gentleman from Ohio (Mr. OXLEY) rise in opposition to the amendment?

Mr. OXLEY. Mr. Chairman, I am not opposed.

The CHAIRMAN pro tempore. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. OXLEY. Mr. Chairman, I yield myself such time as I may consume.

We are prepared to accept the amendment, and I say to the gentlewoman from California, good work on this issue.

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

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from California (Ms. WATERS).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 3 printed in House Report 108–439.

AMENDMENT NO. 3 OFFERED BY MR. BACHUS

Mr. BACHUS. Mr. Chairman, I offer an amendment.

The Chairman pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. BACHUS:

Page 94, strike line 16 and all that follows through line 20 (and redesignate subsequent sections and any cross reference to any such section and conform the table of contents accordingly).

The CHAIRMAN pro tempore. Pursuant to House Resolution 566, the gentleman from Alabama (Mr. BACHUS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, my amendment simply strikes section 614, and what 614 does is, in a read relief bill, it actually shifts a burden to any independent contractor that deals with the banks, and it creates a presumption or a burden of proof on any independent contractor dealing with a bank in an enforcement provision by one of the regulatory agents. It puts a burden of proof on them in an administrative court hearing to basically prove their innocence. And they have no right to a trial by jury. They have no right to an appeal and trial de novo. Their assets can be frozen while these hearings are going on. And I think that that is a tremendous hammer to give to the regulatory bodies, one that we certainly do not need to do in this bill.

What section 614 would do, and I will be brief in this, is it simply equates and says that an independent contractor dealing with a bank will be treated as having the same knowledge or an equivalent knowledge as a bank insider, a director or a board member of that bank. So if they are an attorney, if they are an accountant, if they are an appraiser, if they are a Realtor, or if they are any of these affiliated parties, they are treated as if they have the inside knowledge of a bank insider; and that is simply not the case.

Not only are they equated with that knowledge, but when these charges are brought against them, as I said a minute ago, they have no right to a jury trial, and the administrative judge that makes a determination on whether they are guilty or innocent is appointed by the regulatory agent. And right now the burden of proof is on the regulatory agent to prove that the insider knew, had knowledge, or was reckless. And I think that standard proved to be the right standard during the savings and loan crisis during the mid-1980s. There has been no shortage of enforcement action by the regulators. So I simply say, let us strike section 614. The gentlewoman from Oregon (Ms. HOOLEY), the gentleman from Alabama (Mr. DAVIS), and the gentleman from Virginia (Mr. CANTOR) are supporting me in this amendment, as are the American Bar Association, the appraisers, the accounting organizations, all of which simply are aghast that we would put some provision like this in a bill which would give the regulators such ominous authority.

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

Mr. FRANK of Massachusetts. Mr. Chairman, I rise in opposition. Mr. Chairman, I yield myself 3 minutes.

This is one of the two disagreements here. I should note that the section that is in the bill that the gentleman from Alabama seeks to strike was requested by the Federal Deposit Insurance Corporation. What they said was they want to be able to issue their orders. They do not have criminal procedures here. This does not take away one's right to a jury trial for any criminal trial. The FDIC has administrative powers. They can order one to cease and desist from a certain practice; they can debar one from working.

What they are saying is they do not want to be unable to bar people or to order a stop to people who are being grossly negligent. The language that will be governing the FDIC's regulating authority with regard to lawyers and others who work on banking matters, these are people that are hired by banks as professionals; and let me say there was some argument before that, well, these people should not be held to knowing banking law. We are not talking about the guys who install the drywall. We are not talking about the people who do the valet parking at the big soirees. We are talking about lawyers and other professionals. And, yes, I do believe it is reasonable to hold lawyers to a standard of knowing bank law when they do lawyering for banks. And what the FDIC said is we do not want to have to prove that they were reckless or deliberate. If they are grossly negligent, we want to be able to step in.

It is not a criminal proceeding. It is the FDIC. The FDIC wants to be able to hold professionals who are offering their professional services voluntarily to banks and working on bank matters to a knowledge of banking law to the extent if they are negligent, or even grossly negligent, if this amendment said the standard was gross negligence, it would be less of a problem for me, but this says for the FDIC to be able to discipline an attorney or any other professional servicing a bank, it must be a standard of either knowledge or recklessness of the conduct, and I think that is a mistake.

We know that there is not always a great difference between the people who work full-time for the bank and the people who are working as professionals for the bank. There are people who specialize, lawyers who specialize, in serving banks, other professionals who would specialize in serving banks. It seems to me entirely reasonable for them to be held to that standard.

So I do agree that we want to be deregulatory here, and a few minutes ago some of us were saying it was a good thing we have the FDIC. They are the regulators of the ILCs. They are an important regulator. This is a case where the regulators have asked us to keep a standard for them which they use when they are dealing with the banks themselves, and they want to be able to apply it to the independent contractors. I think it would be a mistake to give the FDIC significantly less power to act in enforcement proceedings against lawyers and other professionals than they now have.

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

PARLIAMENTARY INQUIRY

Mr. FRANK of Massachusetts. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state the inquiry.

Mr. FRANK of Massachusetts. Mr. Chairman, do I have the right to close on this amendment?

The CHAIRMAN pro tempore. Yes, the gentleman will. The manager in opposition has the right to close.

Mr. BACHUS. Mr. Chairman, I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Alabama (Mr. BACHUS).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 4 printed in House Report 108–439.

AMENDMENT NO. 4 OFFERED BY MR. WEINER

Mr. WEINER. Mr. Chairman, I offer an amendment.

The Chairman pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. WEINER:

Page 67, after line 13, insert the following new section (and conform the table of contents accordingly):

SEC. 410. CERTAIN CHECK DISHONORMENT FEES PROHIBITED.

(a) IN GENERAL.—Section 607 of the Expedited Funds Availability Act (12 U.S.C. 4006) (relating to miscellaneous provisions) is amended by adding at the end the following new subsection:

''(f) FEES ON DISHONORED CHECKS.—

''(1) RECEIVING DEPOSITORY INSTITUTION.—In the case of a check drawn on an account at an originating institution which is dishonored by the originating institution due to the lack of sufficient funds in such account to pay the check, a receiving depository institution may not impose any fee on the depositor, in connection with such check, due to such dishonorment.

''(2) RULE OF CONSTRUCTION.—No provision of this section shall be construed as affecting any intervening depository institution or the costs of the services provided by such depository institution.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply after the end of the 180-day period beginning on the date of the enactment of this Act.

The CHAIRMAN pro tempore. Pursuant to House Resolution 566, the gentleman from New York (Mr. WEINER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Chairman, this is a very proconsumer effort. I do think people ought to be penalized when they can control it. But as the gentleman from New York as pointed out, bank practices today blame the victim. If one is a recipient of a bad check and they in good faith deposit it in their bank, they are penalized. Indeed, I would contrast this with the previous amendment. If one is an attorney now under this bill and they behave with gross negligence, the FDIC cannot do anything about it; but if they are the consumer who gets a bad check, they get whacked. I do not think it is anticapitalist to say that people who are the victims of bad checks once should not be victimized by bad checks twice. People have said, well, we should give them an incentive. As the gentleman from New York had said, I do not know many people who say I do not mind getting a bad check as long as my bank does not hurt me. I think there is already every incentive they have got to say no to it. We are not talking about someone who takes eight bad checks from the same person. The first time someone victimizes someone with a check that has insufficient funds, they are victimized.

This amendment is a good amendment.

Mr. WEINER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a very easy-to-understand issue, but a very difficult-to-understand fee. When someone writes someone a check and they do not have the funds in that account, they pay a penalty. They pay a fine. They violated the rules of the transaction. When they receive the check, what have they done wrong? What rule have they violated? What sanctions should be against someone for receiving the bad check? And the gentleman from Massachusetts was absolutely correct. This is a proconsumer measure. But let us remember who the recipients of most bounced checks are. They are small businesses, they are supermarkets, they are liquor stores, they are appliance stores that are not only out the money, they are out the goods. It simply makes no sense.

I have seen some of the arguments against this. They say, well, it is going to increase the cost of banking for consumers. If there is a cost to this transaction, I ask only one question: Why does the victim pay it? All my amendment does is it says they cannot charge the victim of a bad check for that action.

□ 1245

Why should the victim pay? Why should the victim pay?

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

Mr. BACHUS. Mr. Chairman, I rise in opposition to the Weiner amendment, and I yield myself such time as I may consume.

Mr. Chairman, what this amendment does is it says, when a customer accepts a bad check from a third party and deposits that check into his account and the bank takes a hit, and it does take a hit anywhere from, according to the Massachusetts Division of Banks, which is one of the more liberal supervisors, it says that cost can be as much as $15, $14.46. It can be as little as $1 or $2. But this is not a pro-consumer bill; this is, in my mind, a pro-either customer who accepts a bad check, or a pro-person who issues worthless checks. I mean, the only person that is rewarded by this provision is someone who issues a bad check.

As drafted, it is not even clear whether the fee prohibition will apply only to the customer who accepts a bad check but, apparently, the prohibition will also pass through to the person who wrote the bad check.

So we have the perverse situation here where banks cannot charge for worthless checks. This provision is actually going to discourage responsibility by customers. It is going to prohibit the bank from passing that charge on to the customer who writes the check. In fact, what it could do is, if this thing passes, a fraudulent attempt could simply be to write a bunch of bad checks, deposit them in my account or deposit them in a friend's account, and we could swap and we could start inundating the bank with worthless checks.

Who would be saddled with that? Well, according to the gentleman from New York (Mr. WEINER), the bank, because the bank cannot pass it on to the customer, so what would the bank do? It would raise its fees to everyone. The end result would be that those customers, those of us who are diligent in determining who we are dealing with and accepting checks from other parties, would end up with the burden.

This really creates an unfair situation where customers who do not deposit bad checks or high-risk checks subsidize those who do on the cost of handling those items. In my mind, it is just the American system; banks are no different from you and I. When they incur costs, they ought to be able to charge the party responsible for causing that cost. Depository institutions should be allowed to charge those customers who cause the institution to incur the cost. It is just simply the way we have done business in this country since the start. We are simply absolving people of responsibility who are the people in the position to take responsibility. A customer who deposits a bad check has the opportunity, he often has the opportunity to pass any fees that are assessed back to the person who wrote the check.

So even if this is drafted, and I believe it is drafted where it is just a prohibition, it does not say that they can put it on anybody. They cannot put it on their customer. They certainly do not have any connection or relationship with the third party who wrote the bad check, so it is going to be almost very impractical, if not illegal under this provision, for them to charge the person who wrote the bad check.

Right now, I think it works very well. A landlord gets a bad check from a renter, the landlord takes that check down and deposits it to the bank, the bank gets stiffed with a bad check, it passes it back to the landlord, the landlord turns around and charges it to the renter. That is the way it ought to be. The bank, and all of the customers of the bank, should not have to pay for a renter who writes a worthless check to the landlord. That ought to be charged to the landlord, and then they can pass that back to the renter.

Let me simply close by saying this is a regulatory relief bill that we promised to the financial institutions because of all of the costs they were incurring as a result of the PATRIOT Act. It is not a regulatory burden bill. We do not reward someone with more punishment. We have imposed all of these money-laundering requirements on them, and we told them we would come back in this legislation and help them recover some of the costs, and thrifts are going to be stuck with this, credit unions cannot charge. It is going to really hurt a lot of institutions and a lot of customers.

Mr. WEINER. Mr. Chairman, I yield myself such time as I may consume.

I do not know where to start. First, let us start about the mistake that the gentleman made about the bill, line 13, page 1: may not impose a fee on the depositor. Nothing in this bill stops the bank from charging a fee to the person who bounced the check. Let me say it again. Nothing in this bill stops the person who bounced the check from getting a fee. You can charge them $10,000. I think it is too high, but $10,000.

Here is the scenario I would like to explain to the gentleman. The gentleman from Alabama (Mr. BACHUS) knows me. The gentleman and I serve on a committee together. I give the gentleman a check. I have violated the rules. I give the gentleman a check that does not have enough money to back it. Can the gentleman check whether I have enough money in the account? Under the rules of privacy we passed here, he can. He does everything exactly according to Hoyle.

The gentleman is now the victim of a bad check. The gentleman is the victim of a bad check, I say to the gentleman. I leave town. I do not get reelected. I get elected mayor. Stranger things have happened. And the gentleman from Alabama is now out the money for the check, and his bank is charging him a fee.

I want to make sure the gentleman understands this, because he misstated it consistently over 5 minutes. There is nothing stopping the bank from penalizing the person who bounces the check. This is about the person receiving the bad check. And this notion about the landlord and the oppression that we are putting on people, do my

colleagues know who benefits from this bill the most? Those that are represented by the food marketing institute, local supermarkets, local liquor stores, local bodegas, people who receive checks in large numbers, who do everything according to the rules the gentleman from Alabama just described; and they are facing a sanction for the benefit of having a bounced check. The gentleman says, well, we are sticking this to the banks. No. There is no reason that we should stick this to anyone, but especially not the victim.

To oppose this amendment is to say, I believe the person who had the check bounced against them should pay this fee. I would say, Mr. Chairman, there are a lot of reasons why I can see the banks are so jealously guarding this. They all have dollar signs after them. They make a lot of money from this practice. But, frankly, it is patently unfair, unfair to individual consumers, unfair to that landlord. In the gentleman's description, the landlord is out the rent, and he is out the fee. What did that guy do wrong? What is the purpose of a penalty if it is not penalizing anything that he can avoid? He followed every single rule.

And I would ask the gentleman again, you are running a supermarket, you get a check. You say, I want to see your ID; I want to see your driver's license. I want a photograph. I want to know where you live. I want to know the names of your sisters and brothers. And they take the check, following every rule the bank set up, and it bounces. What have you done wrong? How do you avoid that sanction? What kind of a law do we ever pass here where we tell how you avoid the penalty? It is patently unfair.

I want to reiterate this. This is a consumer issue, because consumers get bad checks. Ninety-nine percent of these checks are to businesses, small businesses who use this check as an article of faith, and we should not penalize them for doing that.

The CHAIRMAN pro tempore (Mr. SWEENEY). The gentleman's time has expired. All time has expired.

The question is on the amendment offered by the gentleman from New York (Mr. WEINER).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Mr. WEINER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. WEINER) will be postponed.

It is now in order to consider amendment No. 5 printed in House report 108–439.

AMENDMENT NO. 5 OFFERED BY MS. JACKSON-LEE of texas

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Chairman pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Ms. JACKSON-LEE of Texas:

Page 83, line 4, strike the closing quotation marks and the 2nd period.

Page 83, after line 4, insert the following new subparagraph:

''(C) SENSE OF THE CONGRESS.—It is the sense of the Congress that, when a requesting agency requires expeditious action on an application for a merger transaction, consideration should be made as to the impact the merger transaction will have on corporate and individual customers in an effort to ensure that no harmful effects will result from the merger transaction.''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 566, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Let me, first of all, add my appreciation to the chairman of the full committee and the ranking member of the full committee and of course the subcommittee Chair and ranking member, because I believe that they understand that everyone in every community has experienced the impact which my amendment is attempting to address.

We understand that this is a Nation now of mergers and acquisitions, but the real question on bank mergers is what happens to the friendly bank officer that most of us are familiar with? What happens to the civic spirit? What happens to the decision-making, and what happens to the jobs?

My amendment is simple. It says that when there is an expedited process in a merger transaction, consideration should be made as to the impact the transaction will have on corporate and individual customers in an effort to ensure that no harmful effects will result from the merger transaction.

What does that mean? It means that we know when there are large conglomerates coming together, whether you are in an urban area or whether you are in a rural area, there is going to be some loss. What is that loss? First of all, we may lose something that this body has been discussing over a number of months because of the large percentage of unemployment in our Nation. We will lose jobs in a certain area. But then we will lose something that is very important that many of us do not focus on: the decision-making capacity to lend monies to the community, home loans, bank loans dealing with businesses, maybe even car loans.

I have in my possession information that shows that in rural Texas, 42 percent of those who apply for loans are able to get it; but then the other remaining body does not. So there is a problem. When a conglomerate will merge with smaller banks in rural areas, it takes away that ability to gain the right to a decision to secure monies.

Mr. Chairman, this is again a simple amendment that I would ask my colleagues to support enthusiastically, to not abdicate our responsibilities of oversight when a merger comes about in terms of its impact on our communities.

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

Mr. BACHUS. Mr. Chairman, I rise in opposition to the amendment, and claim that time, and I yield myself such time as I may consume.

Mr. Chairman, I believe that the gentlewoman's concerns are already fully addressed in this legislation. I believe that because the current law requires Federal financial regulators to closely examine the impact of any mergers, not only on the financial system, but also on the communities involved. If my colleagues will look at 12 USC 1842, it says: ''A Federal financial regulator may not approve any merger where the proposed acquisition merger or consolidation may substantially lessen competition, tend to create a monopoly, or restrain trade, unless it finds that the anti-competitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the communities to be served.''

This section of the U.S. Code goes on to state that in every acquisition, merger, or consolidation the regulator shall take into consideration the financial and managerial resources and future prospects of the company or companies and bank concerns and the convenience and needs of the community. Let me stress that: and the convenience and needs of the communities.

All mergers, acquisitions, and consolidations are subject to antitrust review by the Department of Justice to ensure that there is not a negative impact on the financial system or on the communities that the financial institutions serve.

So we have all of these tests, all of these hurdles that must be gone through.

Finally, not only that, but notice must be given that a merger is being considered, and under the Community Reinvestment Act, members of the affected communities have the ability to comment on the impact of the merger to the banking agency. So we have all of this. Nothing in this regulation relief bill changes that.

These same protections and considerations apply when a financial institution is participating in an expedited merger process.

□ 1300

Accordingly, this amendment simply is not necessary. It will add additional cost. And I must urge its defeat on the grounds I have just stated and on the further grounds, as I have said in opposing the last amendment, that we promised the financial institutions, the credit unions, the thrifts, and the small banks, those that have the greatest regulatory burden, the greatest percentage of cost in complying with

these new money laundering provisions, that we would take the burdens off of them, not put more burdens on them.

So I would urge the defeat of this amendment.

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am disappointed in the gentleman's opposition, but I press on in any event, because I press on on behalf of the consumers.

I would, with all due respect, refer to the gentleman from Ohio (Mr. OXLEY), who is on the floor, to look at this amendment. It is simply a sense of Congress that we not abdicate our oversight.

I have heard the gentleman from Alabama (Mr. BACHUS) on the fact that we have all of the oversight. But clearly I think in the expedited process, the indication or instruction, if you will, to the appropriate regulators that we should look keenly at whether or not these mergers impact negatively on corporate and individual consumers in the elements that I have listed, the loss of jobs, the element of decision-making, the question of civic mindedness, if you will, and clearly to note in our communities when headquarters lift up and move from cities that have hosted these banks for years and years and years.

This is not an excessive burden, Mr. Chairman. It is simply the responsibility of Congress to ensure that not only are we, if you will, the protectors of the corporate elite and large banking institutions, but we also respect the responsibilities that we have to the average Joe Consumer, whether that happens to be the small business consumer, the individual family who is seeking a home loan, or in individual accounts.

We know that the new kid on the block in our banking success stories is consumer banking. We know for a fact that we have had the opportunity to see our banks grow and thrive because of the fact that they have been basing their bottom line, their bottom black line, if you will, their success and profits on consumer banking. Why would we suggest that this is a burden to our credit unions or our banking institutions to be keenly sensitive to mergers and to make sure, in fact, that we have the opportunity to review this matter in a way that is appropriate for this body?

Again, it is a sense of Congress. That is all it is, gentlemen. Why in the world would we have a difficulty in a sense of Congress that does not in any way attempt to jeopardize the working relationship? It is not regulatory; it is a sense of Congress. Can we not have a commonality of viewpoints and response? I do not see why we cannot have an agreement on this. Again, it is a sense of Congress.

I want to just make this point, Mr. Chairman, if I can. The idea is that this is not isolated to one area versus another. All of us face mergers in our community. This is the next step of banks. We know that. For some reason they find it to be more accommodating to have these large institutions. This does not in any way undermine having a large institution. What it says is just be diligent to ensure that with respect to the sense of Congress that we ensure that these issues are covered.

I would ask my colleagues to support this amendment on behalf of rural America, urban America, suburban America, and on behalf of preserving the civic mindedness or at least paying attention to the civic mindedness that our banks provide.

Mr. BACHUS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we are concerned about many of the same things the gentlewoman from Texas (Ms. JACKSON-LEE) is concerned about. We simply think that existing law addresses these concerns. And I have reiterated those.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. SWEENEY). The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) will be postponed.

It is now in order to consider Amendment No. 6 printed in House Report 108–439.

AMENDMENT NO. 6 OFFERED BY MRS. KELLY

Mrs. KELLY. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mrs. KELLY:

Page 108, after line 14, insert the following new title (and redesignate the subsequent title and sections and conform the table of contents accordingly):

TITLE VII—BUSINESS CHECKING FREEDOM

SEC. 701. SHORT TITLE.

This title may be cited as the ''Business Checking Freedom Act of 2004''.

SEC. 702. INTEREST-BEARING TRANSACTION ACCOUNTS AUTHORIZED FOR ALL BUSINESSES.

(a) Section 2 of Public Law 93–100 (12 U.S.C. 1832) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

''(b) Notwithstanding any other provision of law, any depository institution may permit the owner of any deposit or account which is a deposit or account on which interest or dividends are paid and is not a deposit or account described in subsection (a)(2) to make up to 24 transfers per month (or such greater number as the Board of Governors of the Federal Reserve System may determine by rule or order), for any purpose, to another account of the owner in the same institution. An account offered pursuant to this subsection shall be considered a transaction account for purposes of section 19 of the Federal Reserve Act unless the Board of Governors of the Federal Reserve System determines otherwise.''.

(b) Effective at the end of the 2-year period beginning on the date of the enactment of this Act, section 2 of Public Law 93–100 (12 U.S.C. 1832) is amended—

(1) in subsection (a)(1), by striking ''but subject to paragraph (2)'';

(2) by striking paragraph (2) of subsection (a) and inserting the following new paragraph:

''(2) No provision of this section may be construed as conferring the authority to offer demand deposit accounts to any institution that is prohibited by law from offering demand deposit accounts.''; and

(3) in subsection (b) (as added by subsection (a) of this section) by striking ''and is not a deposit or account described in subsection (a)(2)''.

SEC. 703. INTEREST-BEARING TRANSACTION ACCOUNTS AUTHORIZED.

(a) REPEAL OF PROHIBITION ON PAYMENT OF INTEREST ON DEMAND DEPOSITS.—

(1) FEDERAL RESERVE ACT.—Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended to read as follows:

''(i) [Repealed]''.

(2) HOME OWNERS' LOAN ACT.—The first sentence of section 5(b)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended by striking ''savings association may not—'' and all that follows through ''(ii) permit any'' and inserting ''savings association may not permit any''.

(3) FEDERAL DEPOSIT INSURANCE ACT.—Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended to read as follows:

''(g) [Repealed]''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 704. PAYMENT OF INTEREST ON RESERVES AT FEDERAL RESERVE BANKS.

(a) IN GENERAL.—Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended by adding at the end the following new paragraph:

''(12) EARNINGS ON RESERVES.—

''(A) IN GENERAL.—Balances maintained at a Federal reserve bank by or on behalf of a depository institution may receive earnings to be paid by the Federal reserve bank at least once each calendar quarter at a rate or rates not to exceed the general level of short-term interest rates.

''(B) REGULATIONS RELATING TO PAYMENTS AND DISTRIBUTION.—The Board may prescribe regulations concerning—

''(i) the payment of earnings in accordance with this paragraph;

''(ii) the distribution of such earnings to the depository institutions which maintain balances at such banks or on whose behalf such balances are maintained; and

''(iii) the responsibilities of depository institutions, Federal home loan banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained, in accordance with subsection (c)(1)(A), in a Federal reserve bank by any such entity on behalf of depository institutions.

''(C) DEPOSITORY INSTITUTIONS DEFINED.—For purposes of this paragraph, the term 'depository institution', in addition to the institutions described in paragraph (1)(A), includes any trust company, corporation organized under section 25A or having an agreement with the Board under section 25, or any branch or agency of a foreign bank (as defined in section 1(b) of the International Banking Act of 1978).''.

(b) AUTHORIZATION FOR PASS THROUGH RESERVES FOR MEMBER BANKS.—Section 19(c)(1)(B) of the Federal Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by striking ''which is not a member bank''.

(c) CONSUMER BANKING COSTS ASSESSMENT.—

(1) IN GENERAL.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(A) by redesignating sections 30 and 31 as sections 31 and 32, respectively; and

(B) by inserting after section 29 the following new section:

''SEC. 30. SURVEY OF BANK FEES AND SERVICES.

''(a) ANNUAL SURVEY REQUIRED.—The Board of Governors of the Federal Reserve System shall obtain annually a sample, which is representative by type and size of the institution (including small institutions) and geographic location, of the following retail banking services and products provided by insured depository institutions and insured credit unions (along with related fees and minimum balances):

''(1) Checking and other transaction accounts.

''(2) Negotiable order of withdrawal and savings accounts.

''(3) Automated teller machine transactions.

''(4) Other electronic transactions.

''(b) MINIMUM SURVEY REQUIREMENT.—The annual survey described in subsection (a) shall meet the following minimum requirements:

''(1) CHECKING AND OTHER TRANSACTION ACCOUNTS.—Data on checking and transaction accounts shall include, at a minimum, the following:

''(A) Monthly and annual fees and minimum balances to avoid such fees.

''(B) Minimum opening balances.

''(C) Check processing fees.

''(D) Check printing fees.

''(E) Balance inquiry fees.

''(F) Fees imposed for using a teller or other institution employee.

''(G) Stop payment order fees.

''(H) Nonsufficient fund fees.

''(I) Overdraft fees.

''(J) Deposit items returned fees.

''(K) Availability of no-cost or low-cost accounts for consumers who maintain low balances.

''(2) NEGOTIABLE ORDER OF WITHDRAWAL ACCOUNTS AND SAVINGS ACCOUNTS.—Data on negotiable order of withdrawal accounts and savings accounts shall include, at a minimum, the following:

''(A) Monthly and annual fees and minimum balances to avoid such fees.

''(B) Minimum opening balances.

''(C) Rate at which interest is paid to consumers.

''(D) Check processing fees for negotiable order of withdrawal accounts.

''(E) Fees imposed for using a teller or other institution employee.

''(F) Availability of no-cost or low-cost accounts for consumers who maintain low balances.

''(3) AUTOMATED TELLER TRANSACTIONS.—Data on automated teller machine transactions shall include, at a minimum, the following:

''(A) Monthly and annual fees.

''(B) Card fees.

''(C) Fees charged to customers for withdrawals, deposits, and balance inquiries through institution-owned machines.

''(D) Fees charged to customers for withdrawals, deposits, and balance inquiries through machines owned by others.

''(E) Fees charged to noncustomers for withdrawals, deposits, and balance inquiries through institution-owned machines.

''(F) Point-of-sale transaction fees.

''(4) OTHER ELECTRONIC TRANSACTIONS.—Data on other electronic transactions shall include, at a minimum, the following:

''(A) Wire transfer fees.

''(B) Fees related to payments made over the Internet or through other electronic means.

''(5) OTHER FEES AND CHARGES.—Data on any other fees and charges that the Board of Governors of the Federal Reserve System determines to be appropriate to meet the purposes of this section.

''(6) FEDERAL RESERVE BOARD AUTHORITY.—The Board of Governors of the Federal Reserve System may cease the collection of information with regard to any particular fee or charge specified in this subsection if the Board makes a determination that, on the basis of changing practices in the financial services industry, the collection of such information is no longer necessary to accomplish the purposes of this section.

''(c) ANNUAL REPORT TO CONGRESS REQUIRED.—

''(1) PREPARATION.—The Board of Governors of the Federal Reserve System shall prepare a report of the results of each survey conducted pursuant to subsections (a) and (b) of this section and section 136(b)(1) of the Consumer Credit Protection Act.

''(2) CONTENTS OF THE REPORT.—In addition to the data required to be collected pursuant to subsections (a) and (b), each report prepared pursuant to paragraph (1) shall include a description of any discernible trend, in the Nation as a whole, in a representative sample of the 50 States (selected with due regard for regional differences), and in each consolidated metropolitan statistical area (as defined by the Director of the Office of Management and Budget), in the cost and availability of the retail banking services, including those described in subsections (a) and (b) (including related fees and minimum balances), that delineates differences between institutions on the basis of the type of institution and the size of the institution, between large and small institutions of the same type, and any engagement of the institution in multistate activity.

''(3) SUBMISSION TO CONGRESS.—The Board of Governors of the Federal Reserve System shall submit an annual report to the Congress not later than June 1, 2005, and not later than June 1 of each subsequent year.

''(d) DEFINITIONS.—For purposes of this section, the term 'insured depository institution' has the meaning given such term in section 3 of the Federal Deposit Insurance Act, and the term 'insured credit union' has the meaning given such term in section 101 of the Federal Credit Union Act.''.

(2) CONFORMING AMENDMENT.—

(A) IN GENERAL.—Paragraph (1) of section 136(b) of the Truth in Lending Act (15 U.S.C. 1646(b)(1)) is amended to read as follows:

''(1) COLLECTION REQUIRED.—The Board shall collect, on a semiannual basis, from a broad sample of financial institutions which offer credit card services, credit card price and availability information including—

''(A) the information required to be disclosed under section 127(c) of this chapter;

''(B) the average total amount of finance charges paid by consumers; and

''(C) the following credit card rates and fees:

''(i) Application fees.

''(ii) Annual percentage rates for cash advances and balance transfers.

''(iii) Maximum annual percentage rate that may be charged when an account is in default.

''(iv) Fees for the use of convenience checks.

''(v) Fees for balance transfers.

''(vi) Fees for foreign currency conversions.''.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect on January 1, 2004.

(3) REPEAL OF OTHER REPORT PROVISIONS.—Section 1002 of Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and section 108 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 are hereby repealed.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 19 of the Federal Reserve Act (12 U.S.C. 461) is amended—

(1) in subsection (b)(4) (12 U.S.C. 461(b)(4)), by striking subparagraph (C) and redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(2) in subsection (c)(1)(A) (12 U.S.C. 461(c)(1)(A)), by striking ''subsection (b)(4)(C)'' and inserting ''subsection (b)''.

SEC. 705. INCREASED FEDERAL RESERVE BOARD FLEXIBILITY IN SETTING RESERVE REQUIREMENTS.

Section 19(b)(2)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(2)(A)) is amended—

(1) in clause (i), by striking ''the ratio of 3 per centum'' and inserting ''a ratio not greater than 3 percent (and which may be zero)''; and

(2) in clause (ii), by striking ''and not less than 8 per centum,'' and inserting ''(and which may be zero),''.

SEC. 706. TRANSFER OF FEDERAL RESERVE SURPLUSES.

(a) IN GENERAL.—Section 7(b) of the Federal Reserve Act (12 U.S.C. 289(b)) is amended by adding at the end the following new paragraph:

''(4) ADDITIONAL TRANSFERS TO COVER INTEREST PAYMENTS FOR FISCAL YEARS 2003 THROUGH 2007.—

''(A) IN GENERAL.—In addition to the amounts required to be transferred from the surplus funds of the Federal reserve banks pursuant to subsection (a)(3), the Federal reserve banks shall transfer from such surplus funds to the Board of Governors of the Federal Reserve System for transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury, such sums as are necessary to equal the net cost of section 19(b)(12) in each of the fiscal years 2003 through 2007.

''(B) ALLOCATION BY FEDERAL RESERVE BOARD.—Of the total amount required to be paid by the Federal reserve banks under subparagraph (A) for fiscal years 2003 through 2007, the Board of Governors of the Federal Reserve System shall determine the amount each such bank shall pay in such fiscal year.

''(C) REPLENISHMENT OF SURPLUS FUND PROHIBITED.—During fiscal years 2003 through 2007, no Federal reserve bank may replenish such bank's surplus fund by the amount of any transfer by such bank under subparagraph (A).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 7(a) of the Federal Reserve Act (12 U.S.C. 289(a)) is amended by adding at the end the following new paragraph:

''(3) PAYMENT TO TREASURY.—During fiscal years 2003 through 2007, any amount in the surplus fund of any Federal reserve bank in excess of the amount equal to 3 percent of the paid-in capital and surplus of the member banks of such bank shall be transferred to the Secretary of the Treasury for deposit in the general fund of the Treasury.''.

SEC. 707. RULE OF CONSTRUCTION.

In the case of an escrow account maintained at a depository institution in connection with a real estate transaction—

(1) the absorption, by the depository institution, of expenses incidental to providing a normal banking service with respect to such escrow account;

(2) the forbearance, by the depository institution, from charging a fee for providing any such banking function; and

(3) any benefit which may accrue to the holder or the beneficiary of such escrow account as a result of an action of the depository institution described in subparagraph (1) or (2) or similar in nature to such action, shall not be treated as the payment or receipt of interest for purposes of this Act and any provision of Public Law 93–100, the Federal Reserve Act, the Home Owners' Loan Act, or the Federal Deposit Insurance Act relating to the payment of interest on accounts or deposits at depository institutions, provided, however, that nothing herein shall be construed so as to require a depository institution that maintains an escrow account in connection with a real estate transaction to pay interest on such escrow account or to prohibit such institution from paying interest on such escrow account. Nor shall anything herein be construed to preempt the provisions of law of any State dealing with the payment of interest on escrow accounts maintained in connection with real estate transactions.

The CHAIRMAN pro tempore. Pursuant to House Resolution 566, the gentlewoman from New York (Mrs. KELLY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I also want to thank the gentleman from Pennsylvania (Mr. TOOMEY) for his collaboration on this proposal and Members of the Committee on Rules for allowing this amendment to be considered today.

Most Americans with checking accounts would be shocked to learn that if they started their own business, any checking account they establish for that business would be prohibited from earning any interest. Yet that is the case today. Checking accounts held by small businesses are banned by Federal law from collecting the interest that money would earn if it were held by an individual.

The amendment I am offering addresses this matter and it has been pending before Congress for some time now. This body has actually passed this measure by voice vote not once, not twice, but actually three times; twice in the last Congress, and once earlier in the earlier year in this Congress.

Unfortunately, the job is not yet done. So I am coming again in the hope that we will finally be able to send this language to the President's desk.

The provisions in this amendment will go a long way in helping our main street banks and small businesses which are essential to growth and communities and our overall economy. The Business Checking Freedom Act contains a number of important provisions. First, it repeals the 70-year-old law prohibiting banks from paying interest on business checking accounts after a transition period. And while I believe it should be repealed entirely, a bipartisan group of Members have agreed that a proper transition period is necessary.

We are also aware of the potential impact of an outright repeal of the law. That is why a transition period is crucial. And we will continue to work to ensure that the needs of our smaller banks are being addressed. As a result, the legislation includes a 2-year transition period contained in the bill.

I would also like to say that I share and recognize the concerns of some Members with regard to the ILCs and will work with my colleagues, including the gentleman from Ohio (Mr. GILLMOR) and the gentleman from Massachusetts (Mr. FRANK) to achieve a remedy to the concerns that have been raised about the ILCs.

The legislation is important. It allows banks to increase money market deposits and savings account sweeps from the current 6 to 24 times a month. This gives banks an increase in their sweep activities, increasing the interest which businesses can make on their accounts.

The final provision gives the Federal Reserve the opportunity to pay interest on the reserves that the banks need to keep within the Federal Reserve system. And Chairman Greenspan has repeatedly testified that he is in favor of this provision.

It also gives the Fed the flexibility to lower reserve requirements, which enables the Fed to have greater control to maintain reserves at specific and consistent levels. This language will help foster healthy receiver balances and reduce the potential for volatility within the bank Federal funds rate protecting the Federal Reserve's ability to conduct monetary policy.

Quite simply, this legislation is about creating a new and broader market option and supporting our small businesses at the same time. The amendment allows banks to pay interest on business checking accounts and increase sweeps activities. The amendment also allows the Fed to pay interest on the sterile reserves that banks are required to keep with them and lower reserve requirements.

The amendment does not require or mandate anything. It allows the market to create change and not the government.

I want to thank the gentleman from Pennsylvania (Mr. TOOMEY) once again for working so closely with me on this proposal. I thank Members for considering, once again, this important legislation. I have been working on it for many years. I really am pleased to be able to bring it to the floor.

I ask my colleagues on both sides of the aisle to join me in strong support for this commonsense amendment that will help banks and small businesses fuel the economy.

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

Mr. FRANK of Massachusetts. Mr. Chairman, in the apparent absence of anyone in opposition, I would ask for the time.

The CHAIRMAN pro tempore. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is, as I think has been made clear, a bill that has already passed the House. Clearly the former reasons for the prohibition on interest on business checking accounts no longer make sense in light of the current economy.

I appreciate the gentlewoman from New York (Mrs. KELLY) alluding to the issue of the ILCs. When we had originally dealt with this, it had been my hope as this bill went forward in the other body, the compromise we had adopted could be considered there. For a variety of reasons this did not go forward in the other body. And the rules prohibit me from commenting on whether or not anyone ought to be surprised by the absence of that progress, so I shall not.

But this, once again, we hope will go forward; because it is, I think, an important thing especially, as has been clear, for the small businesses. Interest on their checking accounts, if you are a smaller business and you have to maintain a large percentage of your funds in checking accounts for a variety of reasons, then the lack of interest could become a significant factor.

So I hope that this will ultimately pass, but I do hope that the ILC issue will get some further attention.

Mr. Chairman, I yield back the balance of my time.

Mrs. KELLY. Mr. Chairman, I yield my remaining minute to the gentleman from Pennsylvania (Mr. TOOMEY.)

Mr. FRANK of Massachusetts. Mr. Chairman, I ask unanimous consent to reclaim my time, and I also yield 1 minute to the gentleman from Pennsylvania (Mr. TOOMEY).

The CHAIRMAN pro tempore. Without objection, the gentleman from Massachusetts may reclaim his time.

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. TOOMEY) is recognized for 2 minutes.

Mr. TOOMEY. Mr. Chairman, I would like to thank my colleague, the gentlewoman from New York (Mrs. KELLY), as well as my colleague, the gentleman from Massachusetts (Mr. FRANK) for kindly yielding time.

Certainly I rise in strong support of this amendment. I want to congratulate the gentlewoman from New York (Mrs. KELLY) for her leadership on this issue for a number of years.

This amendment simply is going to help small businesses. It is going to help small banks. It is going to help promote a rational allocation of resources and a free economy. It makes a lot of sense. In fact, it is hard to believe we ever passed a law that said it

ought to be illegal to pay interest on deposits, any kind of deposits. But that is the fact. It is on the books. And I am hoping that today we take a big step in the direction of repealing this ban.

This amendment itself really reflects the confluence of two separate bills, one that I had introduced, one that the gentlewoman from New York (Mrs. KELLY) had introduced. And together they really simply amount to a commonsense reduction of long-outdated, unnecessary regulations.

Again, the people that are most harmed by the current regulation are the people operating small businesses, the people who have modest accounts, the people who have not got sophisticated Treasury operations to circumvent the regulations, and the people who therefore really need this help.

It will help small businesses do a host of things that they could do with a little more resources, whether it is hiring another employee, whether it is buying some more equipment, defraying other costs, it just makes a lot of sense.

I should observe that the Federal Reserve and the Treasury Department both fully support this legislation for a variety of reasons, not the least of which it will make banking services less expensive, more directly responsive to customers' needs, and basically every industry group that has looked at this legislation supports it as well, from the U.S. Chamber of Commerce, the NFIB, America's Community Bankers, to the Association for Financial Professionals. Pretty much there is a broad consensus that this is just a commonsense thing to do.

So I, again, would like to thank the gentleman from Massachusetts (Mr. FRANK) for his cooperation, the gentlewoman from New York (Mrs. KELLY) for her years of service on this issue. I urge my colleagues to adopt this amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from New York (Mrs. KELLY).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mrs. KELLY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from New York (Mrs. KELLY) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: amendment number 4 offered by the gentleman from New York (Mr. WEINER); amendment number 5 offered by the gentlewoman from Texas (Ms. JACKSON-LEE); and amendment number 6 offered by the gentlewoman from New York (Mrs. KELLY).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 4 OFFERED BY MR. WEINER

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. WEINER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 167, noes 255, not voting 11, as follows:

[Roll No. 66]

AYES—167

Abercrombie
Ackerman
Andrews
Baca
Baird
Baldwin
Ballance
Barton (TX)
Becerra
Bell
Berkley
Berman
Bishop (NY)
Blumenauer
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Chandler
Clay
Clyburn
Conyers
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Jo Ann
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Green (TX)
Greenwood
Grijalva
Gutierrez
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Lampson
Langevin
Lantos
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Mollohan
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Otter
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (PA)
Platts
Price (NC)
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano
Simpson
Slaughter
Smith (NJ)
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—255

Aderholt
Akin
Alexander
Allen
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Bass
Beauprez
Bereuter
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blunt
Boehlert
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (FL)
Davis (TN)
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Inslee
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
McCarthy (MO)
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moore
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Oxley
Paul
Pearce
Pence
Peterson (MN)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shuster
Simmons
Skelton
Smith (MI)
Smith (TX)
Snyder
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Toomey
Turner (OH)
Upton
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—11

Blackburn
Boehner
Harman
John
Kucinich
Shimkus
Smith (WA)
Tauzin
Tiberi
Weldon (PA)
Whitfield

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SIMMONS) (during the vote). Members are notified there are 2 minutes remaining in this vote.

□ 1340

Ms. EDDIE BERNICE JOHNSON of Texas and Messrs. VITTER, BERRY, CANNON, PETRI, POMEROY and ISSA changed their vote from ''aye'' to ''no.''

Mr. OWENS and Mr. PALLONE changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XV, the remainder of votes in this series will be conducted as 5-minute votes.

AMENDMENT NO. 4 OFFERED BY MS. JACKSON-LEE OF TEXAS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 4 offered by the gentlewoman from Texas (Ms. JACKSON-LEE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 194, noes 225, not voting 14, as follows:

[Roll No. 67]

AYES—194

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Ballance
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Boswell
Brady (PA)
Brown (OH)
Brown, Corrine
Camp
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Duncan
Edwards
Ehlers
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Green (TX)
Grijalva
Gutierrez
Hastings (FL)
Hill
Hinchey
Hinojosa
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lynch
Majette
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Pomeroy
Porter
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Wamp
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—225

Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blumenauer
Blunt
Boehlert
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Dunn
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hostettler
Houghton
Hulshof
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney
Manzullo
Markey
Marshall
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Toomey
Turner (OH)
Vitter
Walden (OR)
Walsh
Weldon (FL)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—14

Blackburn
Boehner
Conyers
Harman
Hunter
John
Kucinich
Lewis (CA)
Shimkus
Smith (WA)
Tauzin
Tiberi
Weldon (PA)
Whitfield

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. SWEENEY) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1348

Mr. WAMP and Mr. DUNCAN changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 6 OFFERED BY MRS. KELLY

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentlewoman from New York (Mrs. KELLY) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 418, noes 0, not voting 15, as follows:

[Roll No. 68]

AYES—418

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Blunt
Boehlert
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall

Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—15

Blackburn
Boehner
Carter
Conyers
Goss
Harman
John
Kucinich
Shimkus
Smith (NJ)
Smith (WA)
Tauzin
Tiberi
Weldon (PA)
Whitfield

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1356

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SIMPSON) having assumed the chair, Mr. SWEENEY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1375) to provide regulatory relief and improve productivity for insured depository institutions, and for other purposes, pursuant to House Resolution 566, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment 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; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BACHUS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on final passage will be followed by two 5-minute votes on the motions to suspend the rules that were debated yesterday.

The vote was taken by electronic device, and there were—yeas 392, nays 25, not voting 16, as follows:

[Roll No. 69]

YEAS—392

Ackerman
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Blunt
Boehlert
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Marshall
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Oberstar
Obey
Olver
Ortiz
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sandlin
Saxton
Schakowsky
Schiff
Schrock

Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—25

Bereuter
Bishop (UT)
Boswell
Cooper
DeFazio
Delahunt
Evans
Gilchrest
Hinchey
Kanjorski
King (IA)
Latham
Leach
Lewis (GA)
Markey
Matheson
McDermott
Musgrave
Nussle
Osborne
Royce
Sanders
Slaughter
Taylor (MS)
Terry

NOT VOTING—16

Abercrombie
Aderholt
Blackburn
Boehner
Conyers
Crowley
Dunn
Harman
John
Kucinich
Shimkus
Smith (WA)
Tauzin
Tiberi
Weldon (PA)
Whitfield

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1414

Mr. EVANS changed his vote from ''yea'' to ''nay.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1375, FINANCIAL SERVICES REGULATORY RELIEF ACT OF 2003

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that in the engrossment of H.R. 1375, the Clerk be authorized to correct section numbers, punctuation, and cross-references and to make such other technical and conforming changes as may be necessary to accurately reflect the actions of the House.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, the next votes will be 5-minute votes.

There was no objection.

COUNTER-TERRORIST AND NARCO-TERRORIST REWARDS PROGRAM ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3782, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. HARRIS) that the House suspend the rules and pass the bill, H.R. 3782, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 414, nays 0, not voting 19, as follows:

[Roll No. 70]

YEAS—414

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Blunt
Boehlert
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—19

Blackburn
Boehner
Carson (OK)
Conyers
Cox
Deal (GA)
Fossella
Harman
Hinchey
Hostettler
John
Kucinich
Markey
Shimkus
Smith (WA)
Tauzin
Terry
Tiberi
Whitfield

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1422

So (two thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RECOGNIZING MORE THAN 5 DECADES OF STRATEGIC PARTNERSHIP BETWEEN THE UNITED STATES AND THE MARSHALL ISLANDS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 364.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. HARRIS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 364, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 408, nays 0, not voting 25, as follows:

[Roll No. 71]

YEAS—408

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballance
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Blunt
Boehlert
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (CA)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—25

Blackburn
Boehner
Conyers
Culberson
Davis (AL)
Davis (FL)
Deal (GA)
Harman
Hinchey
Hostettler
Jackson-Lee (TX)
John
Kucinich
Miller, George
Radanovich
Rogers (MI)
Shimkus
Smith (WA)
Stark
Tauzin
Terry
Tiberi
Toomey
Velázquez
Whitfield

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

□ 1428

So (two thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I yield to the gentleman from Texas (Mr. DELAY), the distinguished majority leader, for the purpose of inquiring of the majority leader the schedule for the coming week.

Mr. DELAY. Mr. Speaker, I thank the gentleman from Maryland, the distinguished whip, for yielding to me, and I will try to be brief as I am sure my friend is anxious to get back to watch the end of the Terps game.

Mr. HOYER. He is right.

Mr. DELAY. Mr. Speaker, the House will convene on Tuesday at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will consider several measures under suspension of the rules. A final list of those bills will be sent to Members' offices by the end of this week. Any votes called on these measures will be rolled until 6:30 p.m. on Tuesday.

On Wednesday and Thursday, the House will convene at 10 a.m. We plan to consider the budget resolution for fiscal year 2005. We would hope to complete several hours of general debate on Wednesday before moving into the amendment process on Thursday.

And, finally, I would like to note for all the Members, and they should take note, that we are making a change to the schedule that was sent to offices at the beginning of the year. We do not plan to have votes next Friday, March 26.

I thank the gentleman for yielding and would be happy to answer any questions.

Mr. HOYER. Mr. Speaker, I thank the gentleman for the information. There are, of course, so many things which disappoint us when the majority leader announces them; but that is not one of them, I assure him.

I appreciate the majority leader's advice that Wednesday and Thursday we will be considering the budget, obviously one of the most important policy documents that we consider. And it appears from his announcement that there will be substantial time on Wednesday and substantial time on Thursday, I presume, for a full and fair debate on the underlying proposal that will be reported out of the committee, as well as such substitutes as may be made in order. Is that correct?

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

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

Mr. DELAY. Mr. Speaker, I really anticipate next week's process to resemble years past. I do not want to presuppose what the Committee on Rules would do, but I would think that we would likely have an extended general debate in the neighborhood of 4 or 5 hours.

□ 1430

In addition, the Committee on Rules could and will likely make in order

multiple substitutes, and assuming that they are legitimate budget resolutions, and we will have a very vigorous debate.

Mr. HOYER. Mr. Speaker, I thank the gentleman. I think that is very important for the House and for the American people, and we look forward to that discussion and the substitutes. As the gentleman knows, we will have the gentleman from South Carolina (Mr. SPRATT), our ranking member, who will have a substitute. I expect the Black Caucus to have a substitute, and perhaps there will be some other substitutes as well. Certainly the Blue Dogs will have a substitute, all of which I think, in the gentleman's understanding of it, would be very substantive budget resolution proposals, and we anticipate them being made in order so we can debate each of those as well.

Mr. Speaker, one of the other aspects, as the majority leader knows, there has been a lot of discussion about enforcement mechanisms. We believe on this side of the aisle that enforcement mechanisms are critically important if we are going to get to balance at some time in the future, which is our objective and I think the gentleman's objective as well.

Can the gentleman tell me when and in what form enforcement mechanisms will be brought to the floor? I yield to the gentleman from Texas.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding. Obviously, the Committee on the Budget passed out a budget mechanism that will be considered by the Committee on Rules. I have no idea at this point in time when we could schedule such a thing. There are a lot of Members on our side and the gentleman's side that want to participate in this process that have a lot of good ideas. I think this issue needs to ripen a bit. The Committee on Rules claims some jurisdiction in this regard and they want to look at and mark up their own bill.

This is a process that actually just got started yesterday by the Committee on the Budget marking up a bill and moving it out of their committee, so I really cannot say. I do not know when is the earliest. We have a pretty full schedule next week and the following week and then, as the gentleman knows, we break for the spring district work period. But it is vitally important, everybody wants to bring fiscal discipline to the budget process and show that this House can have fiscal responsibility, and we think that is an important bill and we will bring it to the floor as soon as it is ready.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for his response. I would observe that, clearly, enforcement mechanisms we believe are critically important as we consider the budget in the mid-2005 budget, but also the outyears as well, whether we use a 5-year or 10-year budget analysis.

Without enforcement mechanisms, obviously, we really do not know what we are doing. We can say we are doing something, but without enforcement mechanisms to make sure that, in fact, we are controlling spending, controlling revenues, controlling entitlements, we do not have really a budget that is meaningful and enforceable. So we are hopeful that that will come relatively soon.

We would like to do it contemporaneously, but I understand what the gentleman is saying; the Committee on Rules wants to consider that. The Senate I think considered that contemporaneously and, of course, there are some in this country who have made it very clear that an enforcement mechanism that impacts on both spending and on revenues was the only kind of enforcement that would really be meaningful. I know there is a difference of opinion among people on that issue, but we think that needs to be debated fairly soon and fairly proximate to close the consideration of the budget.

Mr. Leader, my last question would be, if the gentleman knows, and I notice we have a member of the Committee on Rules on the floor, when will substitutes need to be filed, if the gentleman knows; or can the gentleman inform us when substitutes will need to be filed?

Mr. DELAY. As soon as we can get back to the Terps game, I think the gentleman from Washington (Mr. HASTINGS) is going to stand up and announce when they should be filed.

Mr. HOYER. Mr. Speaker, in a world of priorities, the gentleman just got mine.

ANNOUNCEMENT OF AMENDMENT PROCESS FOR CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 2005

(Mr. HASTINGS of Washington asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTINGS of Washington. Mr. Speaker, the Committee on Rules may meet the week of March 22 to grant a rule which would limit the amendment process for the concurrent resolution on the budget for fiscal year 2005.

Any Member who wishes to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the amendment to the Committee on Rules in Room H–312 of the Capitol, no later than 5 p.m. on Tuesday, March 23. As in past years, the Committee on Rules intends to give priority to amendments offered as complete substitutes.

Members are advised that the text of the concurrent resolution, as ordered, reported by the Committee on the Budget, should be available on the Web sites of both the Committee on the Budget and the Committee on Rules on Friday, March 19.

Mr. Speaker, Members should use the Office of Legislative Council and the Congressional Budget Office to make sure that their substitute amendments are properly drafted and scored, and should check with the Office of the Parliamentarian to be certain that their amendments comply with the Rules of the House.

ADJOURNMENT TO MONDAY, MARCH 22, 2004

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourns to meet at noon on Monday, March 22, 2004.

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

There was no objection.

HOUR OF MEETING ON TUESDAY, MARCH 23, 2004

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, March 22, 2004, it adjourn to meet at 12:30 p.m. on Tuesday, March 23, for morning hour debate.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. SIMPSON). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

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

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

ORDER OF BUSINESS

Mr. LANGEVIN. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

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

There was no objection.

THE ROLE OF HOUSING-RELATED GOVERNMENT-SPONSORED ENTITIES IN THE U.S. ECONOMY

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

Mr. LANGEVIN. Mr. Speaker, today I rise in response to Federal Reserve Chairman Alan Greenspan's recent remarks about the role of housing-related government-sponsored entities, otherwise known as GSEs, and our economy.

A day before Chairman Greenspan's controversial testimony regarding Social Security, his comments on a different issue caught my attention. While testifying before the Senate Banking Committee on February 24, he mentioned that the two largest housing GSEs, Fannie Mae and Freddie Mac, have grown so large that they could threaten the foundation of the entire United States economy if risks are not properly managed. I know that Chairman Greenspan is normally reserved in discussing financial markets because he understands the power that his words hold with investors. Therefore, his assessment of the GSE situation alarmed me.

Greenspan's comments brought back painful memories of the 1990 Rhode Island banking crisis when fraud at the private deposit insurer resulted in the temporary closing of 45 financial institutions and the freezing of $1.7 billion in customer deposits. Due to negligence and mismanagement, Rhode Islanders could not touch their assets for up to 36 days before the banks reopened, making it impossible for many families to pay their mortgages or rent, or to even buy food. The thought that more than a decade later, a similar crisis on a much broader scale could occur is cause for great concern.

Greenspan fears that many investors are under the false impression that GSEs are backed up by the full faith and credit of the United States. Well, because of this incorrect assumption, investors believe they can accept higher risks because the government will bail out GSEs if they are insolvent or default, as occurred in the 1980s. As Greenspan noted, GSEs now stand behind more than $4 trillion of mortgages, and the government can ill afford such a bailout in the wake of a housing crisis or corporate mismanagement.

It appears as though the increased risks the GSEs have been taking on is not related to their primary operation of purchasing affordable housing loans in the secondary market. Rather, much of their risk comes from derivative investments in an effort to maximize profits for shareholders. Now, as we learned from Enron, complex derivative schemes may boost profits in the short term, but the long-run risks can be too difficult to manage.

Congress needs to approach this issue very seriously and take appropriate corrective steps before it is too late. It is essential that we ensure that GSEs better manage risks without hampering their mission, which is to expand opportunities for home ownership and affordable rental housing. Among the options being discussed, we should be aware that if Fannie Mae and Freddie Mac are privatized or if debt caps limit the amount of mortgages that can be acquired, affordable housing is likely to be hurt the most because it is the least profitable part of the GSE business. Now, in addition, limited mortgage financing for home buyers could negatively affect the housing market by stunning growth.

In light of past financial problems and Greenspan's comments, I believe Congress should begin by considering oversight from an independent regulator with housing expertise. A strong regulator with a background in housing will ensure that home ownership opportunities continue to grow, while guarding against the potential of an Enron-like collapse that could devastate the United States' economy.

Mr. Speaker, I urge my colleagues in Congress to give this issue their immediate attention. We must act prudently and look at a range of options to ensure the solvency of Fannie Mae and Freddie Mac. We need to guarantee the mission of the GSEs is not compromised but, at the same time, ensure proper oversight and ethical behavior. Fannie Mae and Freddie Mac must continue to bring the American dream to as many people as possible while we strive to reduce the risk of fraud of a GSE derailing the United States economy.

Mr. Speaker, I look forward to working with my colleagues to address this important issue before it is too late.

ANNOUNCEMENT OF MEMBERS AVAILABLE TO SERVE ON INVESTIGATIVE SUBCOMMITTEES OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT FOR THE 108TH CONGRESS

The SPEAKER pro tempore. Pursuant to clause 5(a)(4)(A) of rule X, and the order of the House of December 8, 2003, the Chair announces that the Speaker named the following Members of the House to be available to serve on investigative subcommittees of the Committee on Standards of Official Conduct for the 108th Congress:

Mr. DOOLITTLE, California;
Mr. SAM JOHNSON, Texas;
Mr. LINCOLN DIAZ-BALART, Florida;
Mr. ENGLISH, Pennsylvania;
Mr. SHADEGG, Arizona;
Mr. BRADY, Texas;
Mr. SIMPSON, Idaho;
Mr. TERRY, Nebraska;
Mr. KIRK, Illinois;
Mr. REHBERG, Montana.

COMMUNICATION FROM THE HON. NANCY PELOSI, DEMOCRATIC LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable NANCY PELOSI, Democratic Leader:

U.S. HOUSE OF REPRESENTATIVES,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, DC, March 18, 2004.

Hon. J. DENNIS HASTERT,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to clause 5(a)(4)(A) of rule X of the Rules of the House of Representatives I designate the following Members to be available for service on an investigative subcommittee of the Committee on Standards of Official Conduct:

Mr. Becerra of California; Mr. Cooper of Tennessee; Mr. Delahunt of Massachusetts; Mrs. McCarthy of New York; Mr. McIntyre of North Carolina; Mr. McNulty of New York; Mr. Schiff of California; Mr. Scott of Virginia; Mr. Stupak of Michigan; and Mrs. Tauscher of California.

Sincerely,

NANCY PELOSI,
Democratic Leader.

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.)

ORDER OF BUSINESS

Mr. WILSON of South Carolina. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore (Mr. BRADLEY of New Hampshire). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

□ 1445

DEMOCRATIC LEADER SHOULD APOLOGIZE FOR INSULTING NATIONAL GUARD SERVICE

The SPEAKER pro tempore (Mr. BRADLEY of New Hampshire). Under a previous order of the House, the gentleman from South Carolina (Mr. WILSON) is recognized for 5 minutes.

Mr. WILSON of South Carolina. Mr. Speaker, I am profoundly disappointed in some of the rhetoric from Democrats in this election year debate. As we have all heard a few weeks ago, Terry McAullife, the chairman of the Democratic National Committee, said that President Bush had served in the National Guard but, quote, ''never served in our military and our country,'' end of quote.

This is a double slander of the President and the National Guard. To imply that the National Guard is not a military service, Chairman McAullife dismisses the sacrifices of tens of thousands of National Guardsmen and women presently serving, and is a slap to the face of their service and their families.

As a retired National Guard member myself with 31 years service, with two sons in the Guard, one of whom was deployed to Iraq this week, America deserves an apology and the Democrats should find better leadership.

Terry McAullife's comments were wrong and they were offensive to me, my family, to the thousands of South Carolina National Guard members fighting in the war on terrorism today. Apparently Chairman McAullife is unaware of the distinguished history of the National Guard, which is America's oldest military service.

The South Carolina National Guard dates back over 300 years to 1670 when colonists united to defend their homeland against Spanish invasion. In fact, the valor of those early guardsmen has been enshrined in the South Carolina State flag when they defended the Carolina coast with a fort built of palmetto trees during the Revolutionary War.

Perhaps Mr. McAullife is simply unaware that guardsmen fought on the front lines of World War I, World War II, the Cold War, the war in Vietnam, the Korean War, the Gulf War, and now the war on terrorism. And on the morning of September 11, when we were not sure how many planes had been hijacked or how many sites had been targeted, the President ordered the Air National Guard to fly combat patrols over Washington, D.C. and New York.

Thank you to the Guard's 119th Fighter Wing whose F–16s defended the skies over Washington that morning and to the Air National Guard 102nd Fighter Wing whose F–15s rose to the defense of New York City. At a time of great peril and uncertainty they were America's first line of defense and we will never forget it.

Right now there are more than 193,000 National Guard members and reservists currently serving our country in the war on terror. They are steadfast servants to our country, who have given up their own civilian occupations and left their homes and families to ensure liberty for others. Some of these men and women are on the front lines who serve as the wedge between terrorism and freedom. They are serving our country.

I find Chairman McAuliffe's characterization insulting and demeaning. Terry McAuliffe disgraces himself and insults the National Guard by saying it is not military service. His baseless insinuation diminishes the National Guard as an institution, and he owes an apology to the guardsmen and -women in uniform serving our country and protecting their fellow Americans.

Chairman McAuliffe has a right to speak freely. But it is shameful that in one statement he dishonors some of America's bravest service members.

Chairman McAullife's comments represent the worst of election year politics. President Bush has been talking about the issues that matter to Americans: strong national defense, tax relief to promote job creation, and quality education for our children. Yet the Democratic leader has chosen to engage in personal partisan attacks and reckless comments that insult our men and women in uniform and the families supporting them.

It is a sad day for the Democratic Party whose leader publicly denounces, degrades, and dishonors a fighting force that at that moment is fighting for freedom and democracy and have devoted their lives to fighting terrorists around the world.

It is a time for truth. It is a time to raise the level of public debate in this country. It is a time for accountability. It is a time for honesty. It is past time for an apology, and it is time for the Democratic Party to find new leadership.

Mr. Speaker, as I conclude, I would like to offer, again, God bless our troops. We will never forget September 11.

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

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

ORDER OF BUSINESS

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent to take my Special Order out of order.

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

There was no objection.

THE RAVAGES OF TERRORISM

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

Mr. FRANK of Massachusetts. Mr. Speaker, it is once again the sad duty of a Member of the House, myself in this case, to talk about the ravages of terrorism and the damage it does. I was struck last week, as we all were, by the terrible depth of the tragedy in Spain when hundreds were killed by brutal thugs. But I must say I was also struck at the relative lack of attention to the deaths of 10 people in Israel who were also killed by terrorists.

Taking into account the very small size of Israel's population, the loss of 10 in that country is equivalent to hundreds in many other places, thousands in some others. The sad fact is that Israel has so frequently been the victim of brutal murderist terrorism, aimed wholly at people who are by no stretch of the imagination combatants, that the world has become a little numb to it. And that is a very sad fact.

Obviously victims of terrorism are, in the first instance, those who are killed, those who are maimed, those who love and care for them. And that is where our focus should be. But there is a second victim of terrorism and it makes this a self-perpetuating problem, and that is any serious effort to negotiate peace.

I have been one of those in this House who strongly supported the efforts of former President Clinton and former Israel President Barak to reach peace. It was a terrible, terrible moment in Israel's history when Yitzhak Rabin, a great fighter for peace in the most literal sense of the word, was murdered, in this case by right-wing terrorists within Israel.

And I continue to believe that Israel should be seeking peace based on the two-state solution because, among other reasons, it is very much in Israel's interest. But those of us who hold that position must acknowledge that the continued pattern of terrorism, which the Palestinian authorities do little or nothing to oppose, makes the accomplishment of that goal extremely difficult.

I have been critical of some aspects of what the Israeli Government does. People say you cannot criticize another government. That, of course, is not true. People in this body spend most of our time criticizing other governments. It is perfectly legitimate to express points of view. Indeed, the more closely one feels allied to a nation, it seems to me the more your obligation is to speak out, if there are some differences, in a constructive and helpful way.

But those who are urging Israel to do more have to take due account of the steady, relentless pattern of terrorism of which it is the victim. Look what happened in Spain. Two hundred people were brutally murdered and a government fell, because they think it was an inappropriate reaction in terms of trying to blame people. But would anyone now be pressing the Spanish Government to enter into negotiations with al Qaeda which appears to be the author of this?

When the U.S. was the victim of thousands of murders and, given the population, Israel has seen a comparable number, if not more, murdered by terrorists, none of us here felt that the answer was to go further with negotiations.

I am not opposed to peace negotiations. I think it is very much in Israel's interest. I think the ability to get out of the settlements so that Israel can be a Jewish democratic state, setting an example for the world of how to achieve democratic values in the Middle East, that is very important. So I don't think the peace process ought to be abandoned. But I do believe it is important to take due note of what we are asking a democratic Nation to do: negotiate peace under difficult circumstances with an entity from which murderist terrorists come, and an entity which does too little to deal with it.

There have been some in the Palestinian Authority who want to show that they will make peace. But the role of Yassar Arafat has been so negative, so absent when it comes to any serious effort to preventing the terrorism, that it poisons the atmosphere.

So, Mr. Speaker, as we mourn the victims of terrorism in Spain, we

mourn the victims of terrorism everywhere. We should note that the victims of terrorism in the Middle East are not simply those who were murdered, as terrible as that is, but it is an effort to achieve peace.

I continue to believe that Israel should make every reasonable effort to achieve peace. I don't think we can fairly say to the Israeli Government peace must be achieved, because that is not entirely in their control. I remain, unfortunately, skeptical that they have a true partner for peace on the Palestinian side, although I think they should continue to see if they do.

But no one who understands democracy, no one who has seen the way we have reacted, the way Spain has reacted, the way other democracies have reacted, should feel that you can put pressure on Israel without taking into account the context of repeated murder in which they are asked to operate.

OFFSHORING AND ITS IMPACT ON U.S. JOBS

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

Mr. DREIER. Mr. Speaker, I want to take just a few minutes to talk about the issue of offshoring, which is hotly debated and oft discussed as we focus on the question of jobs. It really comes down to two choices that we have here in the United States: We can try to isolate ourselves from the rest of the world or we can continue, as has been the case throughout recent history, to innovate and create better and better jobs for Americans right here in the United States.

After decades of American global economic leadership successfully competing in the worldwide marketplace and producing cutting-edge technologies and business practices, the economic isolationism option is clearly no option at all because of the success that we have enjoyed.

That leaves us with only one choice, Mr. Speaker, and that is to allow Americans to continue to innovate, grow, and create better jobs right here. In fact, innovation has always been the key to our global economic leadership. Our culture of creativity, independence and free thinking has created what the CEO of an Indian high-tech company recently called a, quote, ''unique crucible for innovation.''

He shared this anecdote in the New York Times recently talking about the very powerful force of innovation here in the United States. He said, ''I was in Europe the other day and they were commiserating about the 400,000 European knowledge workers who have gone to live in the United States because of the innovative environment there. The whole process where people get an idea and put together a team, raise the capital, create a product and mainstream it, that can only be done in the United States of America,'' this Indian high-tech executive said.

Mr. Speaker, our longstanding position as the leading global innovator continues to be very strong. For example, the United States is by far the world's leader in producing new patents. In recent years, an average of 185,000 new patents have been granted here in the United States compared to 120,000 in Japan and only 45,000 in the entire European Union of all those countries combined.

Mr. Speaker, we also lead the world in research and development by a huge margin. The U.S. spends over a quarter of a trillion dollars on research and development every single year, while Britain spends about a tenth of that amount, Germany spends less than a fifth of the U.S. total, and France spent about an eighth.

Our growing investments in research and development have led to steady growth in the number of intervention disclosures and patent applications by academic and nonprofit research organizations as well. In 2002 these grew by 15 percent and they continue to increase.

These same institutions also are increasingly licensing their work in partnering with U.S. companies, primarily small- and medium-sized businesses, to apply their discoveries and innovations to our marketplace and to the global marketplace. This increased research and licensing lead has led to major breakthroughs in fields such as health care, including issues that are near and dear to virtually everyone here, cancer and Alzheimer's treatment, along with electronics with applications like improved cellular voice quality and computer monitors that create less stress on users' eyes, and even a new type of electric generator that can produce electricity with environmental-friendly hydrogen fuel at a fraction of the cost of current power plants.

Mr. Speaker, venture capital, by providing the resources necessary to turn ideas into new goods and services, is also a key component of our ability to innovate. Once again, the U.S. is the global leader. Business and individual investors provided over $21 billion in venture capital in 2002 compared to just $8 billion in European Union. That constitutes a 600 percent increase in U.S. venture capital over the past decade. This environment, Mr. Speaker, is the cornerstone of American prosperity.

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It gives individuals the freedom to develop new ideas and concepts and encourages creativity and risk-taking. It has unparalleled financial markets and a venture capital system that are constantly helping Americans turn their dreams into reality. It has given American companies and individuals the power to invest, grow and create new jobs in cutting-edge fields, and it is our best answer to those who see offshoring as a reason to retreat behind the walls of economic isolationism.

We should not be trying to isolate ourselves from the worldwide market which would actually stifle our innovative environment and cede our position as the global leader. Instead, we should continue to allow our spirit of innovation and entrepreneurship to empower Americans as we lead the world and create better and better jobs right here in the United States.

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

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

ORDER OF BUSINESS

Mr. MCGOVERN. Mr. Speaker, I ask that I may use my 5-minute time at this point.

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

There was no objection.

HUNGER AND POVERTY IN THE UNITED STATES

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

Mr. MCGOVERN. Mr. Speaker, over the past few months I have spoken on this floor on a weekly basis about the scourge of hunger around the world, especially among children. I have talked about the importance of adequately funding the McGovern-Dole Food For Education and Child Nutrition Program, which would provide children around the world with a nutritious school meal.

If we are going to make this world a safer and better place, I strongly believe that we must eradicate hunger. This is something we can do. There are some problems that we cannot solve, but hunger is not one of them.

It is important, however, in any discussion about hunger that we not ignore the problem of hunger that persists right here at home. In the face of world starvation, Americans tend to forget that millions of people in this country continue to go without food every day. Thankfully, we do not have the rampant starvation that affects places like the Horn of Africa, but that does not mean people are not going without food every day right here in the United States.

When we talk about hunger in America, we are really talking about food insecurity. According to the Food Research and Action Center, food insecurity refers to the lack of access to enough food to fully meet basic needs at all times due to lack of financial resources.

According to the United States Department of Agriculture, about 35 million people experienced food insecurity

in 2002. This is an increase of 3.9 million people in just 3 years. Of the 12.1 million households that were food insecure in 2002, 3.8 million suffered from such severe food insecurity that they are classified as hungry.

The root cause of most food insecurity and hunger in America is poverty. It is unconscionable that in 2004 there are people in this country who do not have enough money to buy food. Approximately 35 million Americans live in poverty, about the same number of people who were food insecure and hungry. The correlation is obvious. The poorest people in this country are going hungry. The sad reality is that every day there are parents who sacrifice their own food so that their kids can eat.

I recently read a speech by my friend, the late Senator Paul Wellstone, delivered at Iowa State University in 1998. In that speech, Senator Wellstone recalled how he traveled to the Mississippi Delta after reading the book ''Let Them Eat Promises'' by Nick Kotz, following in the footsteps of Robert Kennedy. Senator Wellstone was so moved by the story about how Robert Kennedy, when touring the country to see firsthand the poverty and hunger that ravaged parts of this Nation, tried to connect with a young boy in the Mississippi Delta. When the boy would not even respond because of his severe malnourishment, Bobby Kennedy just broke down and cried.

Unfortunately, Mr. Speaker, I am afraid that if we left this Capitol building right now and traveled to another part of Washington or another city and town in America, we would find a similar situation. On that July day at Iowa State University, Senator Wellstone asked his audience, ''Can't we do better?'' Well, Mr. Speaker, the answer is, yes, we can.

During the last several decades, Congress has passed landmark legislation providing nutritious meals for low-income children and families. While the programs created over the last century do not adequately address the problem of poverty in America, they help in part to alleviate the food insecurity caused by poverty. These programs are vitally important and have improved the quality of millions of lives since their adoption.

The school lunch program, the school breakfast program, WIC and food stamps are just a few of the landmark programs that make up the core of our antihunger safety net here in the United States. Many of these programs are up for reauthorization this year, and our colleagues on the Committee on Education and the Workforce, led by the gentleman from Ohio (Chairman BOEHNER) and the gentleman from California (Ranking Member GEORGE MILLER), have produced a bipartisan bill that reauthorizes and expands many of these programs.

While I am disappointed that this bill, as currently drafted, does not go farther than it does, it is a good bill considering the circumstances under which it was drafted, and I am looking forward to its consideration in the near future.

Mr. Speaker, while these programs are important and need to be reauthorized and expanded, issues I will talk about at a later date, we cannot continue to ignore the fact that poverty is the root cause of food insecurity and hunger here in the United States.

We have a moral responsibility to end food insecurity and hunger. We have a moral responsibility to end and combat poverty. We can achieve these goals if we have the moral and political courage to do so.

The President recently challenged us to do what is necessary to put a man on Mars. That is a fine goal; but I would submit that a better, more urgent goal is combating hunger and ending poverty. We should begin a new war on poverty.

Let us utilize all that the government and the private sector can do to undertake this challenge. Only then will we end the scourge of food insecurity and hunger.

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

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

EXCHANGE OF SPECIAL ORDER TIME

Mr. KIRK. Mr. Speaker, I ask unanimous consent to take the gentleman from New Hampshire's (Mr. BRADLEY) place at this time.

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

There was no objection.

AUTHORITIES ARE CLOSE TO CAPTURING OSAMA BIN LADEN

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

Mr. KIRK. Mr. Speaker, today we have received tantalizing reports that Pakistani authorities may be close to arresting Osama bin Laden's deputy, Ayman al Zawahiri.

We do not know if this is true, but we do know that hundreds of American men and women in uniform are currently risking their lives as part of Operation Mountain Storm to arrest high-level terrorists in the critical border region of Afghanistan and Pakistan.

This border region was the safe haven for the world's most wanted man. Osama bin Laden lived there for many years since his first visit to the region during the Soviet occupation of Afghanistan.

This January, I conducted a mission to this region to review the operations of the State Department's terrorist rewards program. This program was highly successful in helping the arrest of key international criminals important to the United States. The program led to the arrest, capture, or death of two-thirds of U.N. war criminals in Bosnia. It led to the arrest, prosecution, and execution of Mir Aimal Kasi who killed many Americans outside the CIA gate in Virginia. By the way, Mr. Kasi was arrested in the very region of Pakistan receiving so much attention today. The program also led to the arrest and death of Uday and Qusay Hussein, the two Hussein brothers, sons of Saddam Hussein.

As a congressional staffer, I drafted the bill that lifted the rewards program from 5 to $25 million and allowed its use against U.N. war criminals. Based on my January mission to Afghanistan and Pakistan, we found the need for more reforms. We asked to raise the award for Osama bin Laden's arrest to $50 million and to make the payment of cash rewards more flexible so that in rural communities we could provide trucks or farm implements that could be a much more motivating factor with rural families.

In the frontier autonomous tribal region that we are focusing so heavily on today, we face a population largely illiterate, very poor and speaking the Wasari tribal language. In making these reforms, we need the State Department to do media surveys and use more radio and TV, which is much more appropriate to communicating with large, illiterate communities.

These ideas would all combine with one other idea: Osama bin Laden has slowly been changing his source of financing. He used to depend on Wahabi donations, his personal fortune and donations from Europe, but those sources of funding have largely dried up under a series of United Nations legal orders.

Today, Osama bin Laden stands as one of the world's number one sellers of heroin. Haji Bashir Noorzai of Canada provides him with 2,000 kilograms of heroin every 8 weeks, giving bin Laden from that source alone $28 million a year. In mid-December, the United States Navy arrested three dhows in the Arabian Gulf that contained methamphetamine, hashish, and heroin worth $10 million, an attempt by bin Laden to move from the Pakistani market where he gets $2,000 per kilogram of heroin to the United Arab Emirates where he would get $10,000 per kilogram.

Osama bin Laden has more money access to his fortune than ever before, and these ideas need to be incorporated into our new bill, H.R. 3782, the Counter-Terrorist and Narco-Terrorist Rewards Program Act. That act just passed the House of Representatives an hour ago by a vote of 414 to 0, a monument to bipartisan cooperation on a critical national security issue of the United States. The passage of this bill

was needed, and it is needed more than ever because of the news coming from Operation Mountain Storm.

We need to thank the uniformed men and women of Combined Task Force 180 and the men and women of U.S. embassies in Islamabad and Kabul and other government agencies that are today risking their lives this very hour for the arrest of some of the world's most dangerous terrorists.

I also want to recognize our allies in this battle, the governments of Pakistan and Afghanistan. President Musharraf of Pakistan is riding a tiger tonight, but he has made the bold step to move against al Qaeda, regardless of the political risk. He and his Special Forces team are key, key parts of this allied victory against terrorism.

Mr. Speaker, we may or may not have good news tonight, but we can already thank the hundreds of Americans in uniform and out of uniform who are so far from home today, but are doing our government's most dangerous and important work.

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

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

EXCHANGE OF SPECIAL ORDER TIME

Mr. BAIRD. Mr. Speaker, I ask unanimous consent to accept the gentleman from California's (Mr. FILNER) time.

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

There was no objection.

EXPRESSING CONDOLENCES TO SPAIN

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

Mr. BAIRD. Mr. Speaker, a week ago we all mourned the loss, along with our brothers and sisters and friends in Spain, of so many innocent civilians.

Having had the opportunity to live in Spain for 2 years, I would like to take a few moments, if I may, to express my personal condolences in the hopes that our Congress, in its entirety, will do so before long.

Como estadounidense y miembro del Congreso de los Estados Unidos de América, quiero expresar mis más profundas condolencias al pueblo de España por la trágica pérdida de tantos inocentes en manos del terrorismo. Personalmente, tuve la oportunidad de vivir en España durante dos años, y desde entonces llevo una parte de ese país y de su gente en mi corazón. Hoy mi alma llora las muertes provocadas por la crueldad del terror. Hoy, todos somos españoles.

Nuestras naciones han sido a lo largo de la historia, aliados y amigos, unidos por los mismos valores y por una herencia común. Compartimos libertad, compasión, tolerancia y democracia. También es voluntad común mantenernos juntos y firmes contra aquellos que amenazan esos valores y matan inocentes en nombre del fanatismo político y religioso.

Cuando nuestro país sufrió los atentados del once de septiembre, el pueblo español y el resto del mundo ofreció a esta nación y a su gente, apoyo, comprensión y solidaridad. Ese ofrecimiento sin condiciones supuso más de lo que nunca podremos agradecer.

Ahora, somos nosotros y el resto del mundo los que debemos alargar nuestras manos hacia España y su gente. Permídnos que os abracemos como vosotros lo hicísteis. Permitidnos guardar el luto de vuestras víctimas. Queremos agradeceros vuestra lealtad y mantener el compromiso de llevar a la justicia a los responsables de esta atrocidad.

Los terroristas nunca vencerán. Su brutalidad y sus objetivos son contrarios a la civilización, a la decencia y a las aspiraciones de los seres humanos.

Nunca vencerán, pero hasta que podamos con ellos de una vez por todas, tendrán que pagar un precio muy alto. No hay mayor evidencia de sus errores que este acto atroz de crueldad contra gente inocente que iba a su trabajo o a su centro de estudios. Por ello, debemos mantenernos unidos frente al terror, unidos con nuestros amigos y aliados, unidos con España.

Cuando viví allí y aprendí su bonita lengua con mis grandes amigos, me impresionó el hecho de que la frase ''I'm sorry'' signifique realmente ''lo siento''. Permítanme decir a mis amigos españoles que ''sentimos'' su pérdida. Sabemos lo que es ese dolor, esa tristeza y la indignación e impotencia por unas muertes tan injustas. Hemos sentido en carne propia el drama del terror y lo volvemos a sentir con vosotros.

No hay palabras que puedan consolar tanto dolor, pero debeis saber que en este momento no estáis solos. Juntos, triunfaremos. Llevaremos a los responsables ante la justicia y más importante: les enseñaremos con el ejemplo de nuestros dos grandes países, que existe un camino mejor. Un camino que demuestre nuestra fuerza común y nuestro amor por la libertad.

Fuerza, amigos españoles . . . fuerza, coraje, y ánimo. Estamos con vosotros, hoy y siempre.

(English translation of the above statement is as follows:)

As an American citizen and member of the Congress of the United States of America, I want to express my profound condolences to all of the people of Spain for the tragic loss of so many innocents at the hands of terrorists. Having lived in Spain for 2 years, part of my heart and soul will always remain in Spain and part of Spain will always be within me. Today, my heart and soul are saddened by the losses and outraged by the inhumanity of the attackers. Today, we are all Spanish and we have all lost good people and friends.

Our nations have long been allies and friends, united by shared values and a common heritage. Liberty, compassion, tolerance, and democratic institutions are dear to all of us. So too is our willingness to stand together against those who would threaten those values and who kill innocents in the name of political and religious zealotry. Because of our shared values, we are now also united in suffering and loss.

When our Nation suffered on September 11th, the people of Spain and the rest of the world reached out to offer our own Nation and our people comfort, support and solidarity. That outpouring of kindness and support meant more than we could possibly express at the time.

Now, it is we and the rest of the world who reach out our hands to Spain and to all of the people of Spain. Let us embrace you now as you embraced us. Let us comfort you now as you comforted us. Let us grieve with you for your losses. And let us also pledge our loyalty to you and our commitment to bring those responsible for this atrocity to justice.

In the end, the terrorist will never win because their methods of brutality and their goals are contrary to civilization, contrary to decency, and contrary to the highest aspirations and realizations of human beings. They will never win, but until they are defeated once and for all, they will exact a heavy, heavy toll. Now, tragically, as so often before, they have taken that toll from innocents on their way to work and school. There could be no greater evidence of the fallacy of their aims and beliefs than this heinous act of cruelty. That is why we stand united against them, united with our friends an allies, united with the people of Spain.

When I lived in Spain and was taught this beautiful language by my dear friends, I was struck by the fact that the translation of the English phrase ''I am sorry'' is lo siento, literally, I feel it. Lo siento, I feel it. Let me say to my friends in Spain that we feel your losses. We know something of the feeling, we know the pain, we know the sadness, we know the rage at such pointless, unjust slaughter. We have felt these things ourselves and now we feel it once again with you and for you.

No words can take that pain away, but please know in this dark time that you are not alone. Together, we will prevail. We will bring those responsible to justice and, more importantly still, we will show through the examples of our two great lands and peoples that there is a better path, a better way. Let us never lose sight of that higher vision and let the ways we respond to these tragedies show our true strength and or love for freedom and for one another.

Courage my friends. Courage, strength, and compassion. We are with you and always will be.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

ETHNIC CLASHES IN KOSOVO

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

Mr. ENGEL. Mr. Speaker, I must say a couple of things before I begin. I want to commend my colleague, the gentleman from Washington (Mr. BAIRD) for his meticulous Spanish, and I want to also take note of the fact that the Manhattan College Jaspars, in my district, just won the opening round of the basketball NCAA against Florida. They were the underdogs. So I am very proud of them and the 17th District of New York. Go Jaspars.

I want to address a very serious subject, though, Mr. Speaker, and that is the violence which took place yesterday; ethnic clashes in Kosovo in the

Balkans between ethnic Albanians and ethnic Serbs. I chair the Albanian Issues Caucus in the Congress and have done extensive work in the Balkans and extensive work in Kosovo. I believe that ultimately the situation in Kosovo can only be resolved through self-determination. The people of Kosovo have to have a future and have to understand that they have the right to determine their own future.

The ethnic violence which happened yesterday is a tragic undertaking, a tragic tragedy, and I must call on both sides to stop the violence. Violence is never a solution to anybody's perceived problems or indignities. It must be solved peacefully.

However, having said that, I think that the violence that erupted yesterday was inevitable, and it was inevitable because in 1999, when the United Nations came in, including our troops, and prevented genocide, prevented Slobodon Milosovic from his ethnic cleansing, from cleansing Kosovo of its Albanian population, we stepped in and prevented that from happening. And that was a wonderful thing that we did. However, since that time, very little has been done to move to a resolution of the final status of Kosovo.

When there is no resolution of the final status, the people in a country become restless because they see no future. They see no end point. They only see the status quo. And we have become the status quo in that country. UNMIK, the United Nations, and NATO have to be seen as people who are resolving this issue, who are moving it to final status to give the people of Kosovo hope. Right now there is rampant unemployment. Right now there is very little hope for a future. That has to end.

Self-determination and, ultimately, independence for the people of Kosovo is the only solution. When people do not see a chance for self-determination, tensions fester beneath the surface when you do not move to resolution.

What we have seen with the United Nations, with UNMIK and NATO, is this ridiculous plan called standards before status. To me, it only means status quo. We put forward benchmarks and we tell the people of Kosovo they have to achieve these benchmarks before we can even look at a resolution and at self-determination. And somehow or other, something always intervenes, the benchmarks are never there, so the status is never achieved and we delay, and we delay and we delay, and we push it to the back burner.

I very much regret that our administration has pushed the whole issue of Kosovo to the back burner. It needs to be on the front burner. We need to resolve this problem. We need to give the people of Kosovo hope. We need to have a resolution. Self-determination is what is needed, and we need to push that; not be pushing off the day of reckoning again and again and again and again.

And let me tell my colleagues why self-determination and, ultimately, independence is the only solution. There are only two other solutions, which do not work. One is to have Kosovo go back under Serb control. That will never happen after the ethnic cleansing of 1999. The overwhelming Albanian population will never, rightfully so, accept it. Secondly, the only other alternative would be for Kosovo to continue to be an international protectorate, which is what it is now, with troops of many countries there, United Nations troops and NATO troops. That cannot happen indefinitely. So the only solution is independence, and the only solution is to give the people of Kosovo some hope.

So I would hope that the administration would move to resolve this problem now, to give the people of Kosovo hope for the future. The status quo only aids and abets violence. And while we are at it, we have to resolve the whole situation with privatization. The people there have to know if they invest in property for the future, to help the people there, they must know that it will be secure.

So, again, I want to condemn the violence, I want to show my sympathy for the victims of the violence, but I want to again tell the administration that we need to ratchet it up and come to a resolution of final status for the people of Kosovo.

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

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

IN MEMORY OF THE LATE GOVERNOR MIKE O'CALLAGHAN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Nevada (Ms. BERKLEY) is recognized for 5 minutes.

Ms. BERKLEY. Mr. Speaker, last week, with the passing of Governor Mike O'Callaghan at the age of 74, Nevada lost a giant who helped shape our State's history, Las Vegas lost one of its most compassionate and articulate voices, and I lost a friend and someone who was like a second father to me.

When I first met Mike, I was a 19-year-old college student in Las Vegas. At that time, I was student body president of UNLV, and for whatever reason, Mike O'Callaghan saw something in me that I did not even see in myself. He became my mentor and a trusted friend. Of all the giants in the State of Nevada, he was head and shoulders above them all, and I have never known a finer man in my life.

Born Donal O'Callaghan on September 10, 1929 in La Crosse, Wisconsin, Governor Mike, as he was affectionately known by all that knew him, was a member of the greatest generation. Raised on a farm during the Great Depression, he joined the Marines at 16 and served with the Pacific Fleet as an anti-aircraft gunner from 1946 to 1948. After ending his active duty in 1948, Mike served in the Marine Corps Reserve until 1950. And then he joined the Air Force as an intelligence operator and was assigned to the Aleutian Islands. In 1952, he joined the Army infantry so that he could serve his Nation in Korea. It was during this conflict he earned a Silver Star, a Purple Heart, and a Bronze Star with a V for valor.

According to an official Army account from February 1953, and I quote, ''While his company was being subjected to a barrage of heavy artillery from Chinese Communist forces during a night attack, Sergeant O'Callaghan was informed that men on an outguard post had been cut off by this enemy action. Immediately, he voluntarily exposed himself to enemy fire, located the men, and brought them, together with a wounded member, safely back to the trenches.''

After taking a direct hit in the leg by a mortar round, Mike made a tourniquet out of telephone wire and continued to direct the firefight for the next 3 hours. As a result of these wounds, his left leg was amputated below the knee.

After military service, Mike attended the University of Idaho, and in 1956 he graduated among its top 10 graduates. He then moved to a small community in Nevada by the name of Henderson where he taught high school economics and history and coached boxing. It was as a teacher and a coach that Mike came to know a young man named Harry Reid, who now serves as a distinguished senior Senator from the State of Nevada and that body's assistant minority leader.

Mike also served as Las Vegas' chief probation officer and as director of Nevada's Health and Welfare Department. Later that year, he moved to Washington, D.C. to serve as Job Corps Conservation Centers program management director, a position he held until 1966.

Despite being labeled the underdog, Mike ran for Governor of Nevada in 1970. His hard work and record of service ultimately propelled him to an unexpected victory. Four years later, he earned the respect and admiration of even those who did not give him a chance the first time and he rode a wave of popularity to the polls and was reelected to a second term. He remains to this day the choice of many Nevadans who, when asked, will say he was our Nation's and our State's greatest Governor.

Throughout his 8 years in office, he was a hands-on leader and a relentless champion for those he served. He was known to make surprise visits to prisons, mental hospitals, and other State-run institutions, and could often be seen eating in the cafeteria so he would know firsthand what life was like for those in those facilities.

As Governor, he fought for fair housing, civil rights, disadvantaged children, prison reform, and to protect the unique beauty of Lake Tahoe and aid for workers injured on the job.

After his career in public service, he went on to become executive editor of the Las Vegas Sun, where he used his column to draw attention to a wide array of causes and concerns that he continued to care about long after leaving office.

Mike was a deeply, deeply religious man, who attended church on a daily basis. He was known as much for his works of charity as he was for his political victories. If you were a millionaire or if you were homeless, Mike treated you with the same dignity and respect. He was legendary for his efforts on behalf of those who were down on their luck.

He also shared a deep interest in international affairs. He made countless trips to Israel to support the Israeli defense force. He was called upon to visit Central America to promote democracy and worked for fair elections in the nation of Nicaragua. He repeated his role in northern Iraq in 1992, helping observe free elections for the Kurds in that divided nation.

While he will be remembered for his lasting contributions as Governor and coach and newspaper executive, his greatest legacy was his family: his wife of nearly 50 years, Carolyn; his five children, Michael, Mary, Teresa, Brian, and Timothy; and his 15 grandchildren.

There are literally thousands of Nevadans and people around the world whose lives have been touched by this extraordinary man. He was one of my best friends, one of my closest friends. I will miss him as if he were my father, and I share the loss with his family.

While Mike will long be remembered for his lasting contributions as a Governor, teacher, coach and newspaper executive, perhaps his greatest legacy is the O'Callaghan family, which includes Mike's wife of nearly 50 years Carolyn, his five children Michael, Mary, Teresa, Brian and Timothy and his grandchildren.

There are literally the thousands of people in Nevada and around the world whose lives were touched in different ways by the efforts of Mike O'Callaghan.

As communities across southern Nevada mourned the loss of this great figure last week, endless personal stories about Mike and his many deeds filled memorial services, the airwaves and the pages of the newspaper. So many stories and so many lives, all touched by this humble, hard working, hard-nosed man with a heart of gold.

The State of Nevada is a far better place because of Mike O'Callaghan and he will forever be remembered as a man whose life was defined by his service to our Nation, his devotion to his family and friends, his rock solid religious beliefs, his steady leadership as Governor and his love of the underdog.

As one newspaper columnist put it, "Mike O'Callaghan believed heart and soul in the family of man. He has gone away, but we'll hear his voice for a long time to come."

While another wrote: "Although the word 'hero' is tossed about lightly these days, I can honestly say that Mike O'Callaghan is the only true hero I've ever met, and I count myself fortunate for the honor."

I also count myself among those lucky enough to have known and loved this great man and to have had the honor to call him my friend. Mike, you will be missed, but you will never be forgotten.

□ 1530

The SPEAKER pro tempore (Mr. BRADLEY of New Hampshire). 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.)

EXCHANGE OF SPECIAL ORDER TIME

Mr. KING of Iowa. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from New Jersey (Mr. GARRETT).

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

There was no objection.

TERRORISTS INFLUENCE SPANISH ELECTION

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

Mr. KING of Iowa. Mr. Speaker, I rise today to address a subject matter, and that subject matter has to do with Spain.

First, I would like to thank the Spanish people and the Spanish leadership that they have had over the past several years for their allegiance to the principles that built this great Nation that we have the privilege to live in, their commitment to free enterprise and their commitment to the allies that we have pulled together in Iraq.

I have watched their economy grow in Spain as free markets took hold, and I have seen that Spain has become a competitor with us and made us both be stronger economically. They stood with us in times of toil, and they stood with us in times of terror. They have stood with us in Iraq, and the warm feeling we got when President Aznar was here to speak before this Chamber was a heartfelt appreciation for a nation that shares with us many of the same ideals and principles.

However, there has been a situation which has changed things dramatically in Spain. We also stand together with the Spanish people in their grief for having lost 201 of their citizens and hundreds of them wounded in the cowardly bombing attack on the trains in Madrid just 2 days before the election. There are not many people on this planet that do not believe that the elections were profoundly changed because of those terrorist attacks.

We know not what went on in the minds of the voters in Spain that would bring them to the conclusion that going down the path of appeasement was preferable to going down the path of fighting terror wherever we find it. But that decision was made by the Spanish people, and we respect their decision. However, the challenge to our President that has been issued by Prime Minister-elect Zapatero that they would withdraw their troops from Spain and realign themselves, and presumably realign themselves with some of the nations in Europe that have opposed our policy in Iraq is a regretful situation.

And we have not seen a leader of a foreign country challenge a seated President in the time of an election as we do on this particular circumstance. In fact, the question I think has been answered, the question of the apparent Democrat nominee for President in this Nation has stated that he has the support of foreign leaders. He will not name those foreign leaders, but I believe one of them has come out and made the endorsement to support the Democrat candidate for President of the United States, thus injecting himself into our domestic politics, thus identifying an individual that might have been referenced by our candidate; thus taking them both down the path to appeasement.

This is a regrettable circumstance. The headline I am looking at is from the Salt Lake Tribune and it says, "Spanish socialist supports Democratic-apparent nominee." Spanish socialist, that should tell us something. Spanish socialist appeaser. The legacy of Neville Chamberlain hangs in the atmosphere across all of Europe today, and the message sent to the terrorists is, you have won.

Al Qaeda understands they have won the election in Spain by blowing up innocent civilians and moving the electorate in Spain toward the socialist candidate, the appeasement candidate.

I do not know what goes on in the minds of voters in a time of grief, but I have to believe and I have to pray that American voters, if confronted with the same thing, will react in an entirely differently fashion. For the last 3 weeks, I have been warning the people in my district and across the country that I fear a terrorist attack in this Nation prior to our Presidential election and an effort to change the election results in this country and elect the candidate who has been endorsed by the socialist from Spain.

Well, I believe the character of the American people is different than the response that we have seen by the Spaniards; and I believe that we will stand up, if that tragic time comes to pass, and now they have certainly been encouraged to attack us in this country because of their success in Spain. I believe we will stand up, and I believe we will stand with George W. Bush, our President, the man who understands terror, defines terror, and knows we

have to fight the terrorists wherever they are, the one who said if you are not with us, you are against us; you are either a terrorist, and if you are a terrorist, we are opposed to you. If you harbor terrorists, if you support terrorists, if you fund terrorists, you are a terrorist. Now there is some habitat in Spain that might cause terrorists to settle in there, and that might potentially be a risk for more terror to come out of there. Maybe they will leave the Spanish people alone, but that does not mean the rest of the people are safe.

So we are confronted with appeasement over there. We need to stand together here. We need to stand together with our allies who have come together behind the United States. No other nation out there seems to be willing to crack and go off in that direction.

We have a large job ahead of us, to stand with our military, those who have given their lives and limbs, those who have given years out of their lives to protect us and protect our freedom.

I will continue to defend our President in this country, and let us be ready for any attacks. If we have to do it, let us go to the polls and defend our war on terror.

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

(Mr. EMANUEL 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 Texas (Mr. LAMPSON) is recognized for 5 minutes.

(Mr. LAMPSON 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 gentlewoman from Florida (Ms. CORRINE BROWN) is recognized for 5 minutes.

(Ms. CORRINE BROWN of Florida addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

THREAT FROM MERCURY EMISSIONS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Maine (Mr. ALLEN) is recognized for 60 minutes as the designee of the minority leader.

Mr. ALLEN. Mr. Speaker, I am here today with the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) and later others of my colleagues to tell a story. It is not the most pleasant story, but it is an important story. It is a story of the threat from mercury emissions from coal-fired power plants around the country to the health of the American people, and it is a story of how the Clean Air Act requires that mercury be regulated as a hazardous pollutant, but this administration has chosen not to do that. In fact, this administration has submitted a proposed mercury rule which in major respects was written by the industries it is supposed to regulate. This story is an indication of what needs to be done to change the direction of the environmental policy of this administration.

Let me begin by talking about the Clean Water Act and the threat that mercury emissions pose to people in this country.

Three decades ago, the Clean Water Act promised that America would have water bodies that were fishable, that were swimmable and drinkable. Clean water, that was the goal.

But today, all across this country there are warnings that particularly women and children should not eat the fish from our lakes and streams and rivers because those fish are contaminated with mercury. Mercury pollution has contaminated 12 million acres of lakes, estuaries, wetlands, 30 percent of the national total. Nearly every State has issued warnings about eating mercury-contaminated fish. Seventeen States have mercury warnings for every single inland body of water, and 11 States have issued warnings for mercury in their coastal areas.

This is an extremely serious health issue for people in this country. In February 2004, a new EPA analysis found that about 630,000 children are born in the United States each year with blood mercury levels higher than 5.8 parts per billion, the level at which the risk of poor brain development is doubled. The study found one in every six women of child-bearing age has enough mercury in her bloodstream to threaten the health of her child.

Where does this mercury come from? Well, it comes mostly from the burning of coal in electric generating plants; and the mercury goes up into the air, it travels great distances through the air, and then comes down and it gets into the food chain in our bodies of water. According to the National Research Council, effects from prenatal exposure include mental retardation, cerebral palsy, deafness, and blindness. Adult exposure can produce sensory and motor impairments such as slurred speech, blurred vision, tremors, and memory loss.

Members may remember the expression ''mad as a hatter.'' Well, that expression grew out of 19th century England because hatters then were literally driven mad because there was a compound containing mercury that they used in processing the felt that went into their hats. Mercury can be extraordinarily dangerous in those kinds of concentrated forms. Mercury also threatens our loons, our ducks, our mammals. Recent evidence shows that exposure threatens reproductive success, liver damage, kidney damage, and neuro-behavioral effects.

Like 41 million Americans, I love to go fishing, but it has changed because fresh water fish in so many instances cannot be eaten without risk of mercury contamination, and that is why our States have so many warnings about the risks of mercury.

In Maine, my home State, we have about 26,000 people employed in the fishing industry, and we have thousands and thousands of recreational fishermen. Nationwide, recreational fishing generated more than $35.6 billion in expenditures in the year 2001 and $116 billion of total economic output. It supported more than 1 million jobs.

Now, in December the Bush administration was faced with a court requirement that it submit a proposed rule to regulate mercury emissions from power plants. Unfortunately, the rule that they proposed reinterprets the Clean Air Act, I believe, illegally in order to help polluters. It dramatically delays by how soon and by how much plants will have to clean up their act. Under the Clinton administration, EPA concluded that mercury is a hazardous air pollutant that had to be regulated under the strict section 112 entitled ''Hazardous air pollutants.''

Section 112 requires that EPA issue a maximum achievable control standard which would require every plant, here is one of the key differences, it would require every plant to reduce mercury emissions by 2007 to the maximum achievable level. Instead, the Bush administration proposes to regulate mercury, a hazardous air pollutant under section 111, ''Standards of performance for new stationery permits,'' in order to allow the use of tradeable permits.

Senator George Mitchell of Maine and the gentleman from California (Mr. WAXMAN), and all of the Members of this body who worked together in 1990 to write the Clean Air Act amendments, I know intended for EPA to regulate hazardous air pollutants under the section of the law entitled ''Hazardous air pollutants.'' It is exactly that simple. But the Bush administration proposal delays reductions. EPA agreed in court to regulate mercury emissions by December 15, 2007. This proposal delays any regulation until 2010 and full implementation to 2030. The cap-and-trade system they propose requires only a 29 percent reduction in 2010 and a 69 percent reduction by 2018.

So what we have is a weakening of the Clean Air Act in a way that I believe is absolutely illegal. But the EPA has not come to this with clean hands. Their own modeling shows that the 69 percent cut will not be achieved until 2030 because the trading system encourages many power plant owners to delay making improvements.

Here is a quote from Jeffrey Holmstead, the assistance environmental protection administrator in charge of air. This is what he says today: ''What our models now show is we won't get there as soon as we expected we would.'' That is what he told the New York Times on Sunday, but the truth is the EPA knew very well

that their mercury proposal would take well beyond 2025.

The proposal is designed to mirror the President's Clear Skies initiative. Clear Skies is a classic case of chutzpah, a triumph of marketing over substance, if I have ever heard one.

□ 1545

In July 2003, the gentleman from Massachusetts (Mr. MARKEY), the gentleman from New Jersey (Mr. PALLONE), the gentlewoman from California (Mrs. CAPPS) and I wrote to President Bush asking him to correct the claim made in the State of the Union address that his plan would mandate a 70 percent cut in air pollution from power plants by 2018. It was not true. In fact, the underlying EPA modeling made it clear that the reductions that the President proposed would not be achieved until years after 2018. We simply asked the President to get back to us and study by what date his proposal would actually reach that 69 or 70 percent reduction. Jeffrey Holmstead responded to our letter for the EPA and he wrote, ''The presence of banking will likely result in some undercontrol for a short period of time after the decline.'' If he knew that the goal was not going to be achieved, that the proposal would result in undercontrol, how could he be surprised today by the agency's predictions that 70 percent reductions would not come true when they said they would?

These reductions are really embarrassing. I am going to go on shortly to talk about some of the evidence out there that is absolutely compelling that, in fact, we can clean up, in most cases, 90 percent of the pollution from utilities burning coal with existing technology. We can get very, very close to that standard in a relatively short period of time.

What I would like to do is to stop my remarks for the moment, to which I will come back, and thank the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) for being with me here today to discuss the Bush administration's failure to come up with a reasonable proposal to regulate mercury emissions from power plants.

I yield to the gentlewoman.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I appreciate the opportunity to be here this afternoon and I thank my colleague from Maine for being willing to come to the floor and talk about a very serious issue.

I also applaud my colleagues for their hard work in bringing us together this afternoon, I think there will be others, to talk about a serious public health crisis that our country faces. That crisis is caused by mercury pollution. It is not only a national problem, it is also a very local one as well. The State of Texas leads the Nation in mercury pollution. Mercury emission from power plants is the major culprit. These plants dumped 8,968 pounds in 2001 alone. As a result, the whole gulf coast region has been placed under a consumption advisory. Our major fishing lakes are subject to such advisories.

Mr. Speaker, the citizens of Texas are urging us to take prompt and effective action to clean up mercury pollution from power plants. The Environmental Protection Agency's current proposals on mercury fall far short of what the law requires. The agency's proposals fail to protect the health of our children and our environment. This is especially true for Texas, where mercury emissions would increase, not decrease, under the proposed plan. We ask the EPA to carry out the requirements of the Clean Air Act to protect our Nation from toxic mercury contamination. We urge the agency to impose a 90 percent reduction in the mercury leaching from coal-burning power plants.

Last year, EPA proposed two alternative rules to address mercury emissions. Unfortunately, both of these proposals failed to meet clean air directives under section 112(d) for cleaning up mercury. EPA's proposals permit far more mercury pollution, and for years longer, than the Clean Air Act allows. This is playing games with the health of our Nation. Time and again scientists around the world have proven the toxicity of mercury. The agency's own scientists just released a study finding that approximately 630,000 infants, as my colleague said earlier, that were born in the United States in the dawn of this millennium had blood mercury levels higher than what is considered safe. This is a doubling of previous estimates.

Mercury emissions have also contaminated 10 million acres of lakes and 400,000 miles of streams. Soaring mercury levels have triggered advisories warning America's 41 million recreational fishermen that the fish they catch may not be safe to eat. Furthermore, evidence continues to mount that mercury causes reproductive problems in wildfowl populations such as loon and mallard ducks. Other fish-eating wildlife populations are at risk as well.

Mr. Speaker, we can address this public health and environmental problem if we just would do it. According to many States, industry experts and past EPA analyses, the technology to dramatically clean up these plants is available and affordable. I am concerned that EPA does not fully analyze the range of controls recommended by State utility and environmental and public health members of EPA's advisory group on this rule. I do not know what is holding EPA hostage, but once again they are failing to fulfill its reasonability to adopt standards that protect the public health and environment.

I look forward to working with my colleagues to call on EPA to develop appropriate mercury standards that reduce mercury emissions in the shortest time possible to protect public health and the environment. I thank my colleague for this opportunity to make a statement on this issue.

Mr. ALLEN. I thank my friend from Texas and I appreciate her willingness to engage in this issue and take a leadership role in trying to protect our citizens from the effects of mercury pollution.

I want to go back to the issue that we always hear about whenever we wind up talking about new kinds of environmental controls on a toxic pollutant. Industry always says, ''It's too expensive, we can't do it'' every single time. But the reduction levels that are proposed by the EPA are really embarrassing for our country. In February, the Southern Company, one of the largest mercury emitters in the world, announced that recently installed mercury control technologies at the Ernest Gaston coal plant in Alabama are removing about 80 percent of the mercury right now. Right now. They are very, very close to that 90 percent standard that would be the goal. The company's experts noted that this would barely comply with some draft versions of a MACT standard, a maximum achievable control technology standard, but they are complying. They are there. Furthermore, EPA's own data shows that most modern coal-fired power plants can and do achieve greater than 90 percent control of mercury and other toxic chemicals.

According to both industry and Department of Energy pilot tests and testimony in front of the Committee on Energy and Commerce, 90 percent reductions in mercury emissions are feasible and economical today. We are not suggesting they should be imposed today. There needs to be some time. But this could all be done between now and 2007 or 2008 and be completely feasible.

The data from EPA's interim report on the control of mercury from coal-fired boilers demonstrates that power plants with fabric filters and wet scrubbers are capturing over 90 percent of their mercury when bituminous coal is burned. There are a number of technical ways in which you can actually collect mercury. Carbon injection and a compact hybrid particulate collector baghouse, so-called, is one way of achieving the goal. Other industries like hospitals and city waste incinerators have been required to meet that 90 percent standard for over a decade.

In February of this year, the gentleman from Maine (Mr. MICHAUD) and I both wrote to the Bush administration asking that Maine people be given the opportunity to comment on EPA's proposed mercury emissions rules. There is a reason why those of us in Maine are particularly concerned about it. There is four times as much mercury in the feathers of loons in Maine as there is in the feathers of loons in Oregon. The wind blows west to east. It always has and it always will. Coming particularly out of those coal-fired power plants in the Midwest, mercury emissions are traveling east and northeast and contaminating many of our most scenic areas in the

country. We do not have a single coal-fired power plant in the State of Maine, but our mercury is coming from other parts of the country. We need help.

The gentleman from Maine (Mr. MICHAUD) and I, as I said, wrote to the Bush administration in February asking simply that we have the right to a hearing, that EPA come to Maine and hold a hearing. They refused. The closest they got to us was Philadelphia. If the EPA would not come to Maine, I decided, well, we would have a hearing there, anyway; I would call the mock hearing, I would invite interested members of the public. And they came, they came in force and their testimony was compelling, both as to the health risks of mercury and the inadequacy of the Bush administration proposal.

Mr. Speaker, I would like to submit the testimony given at that hearing in Maine as a part of the record of this proceeding here.

TESTIMONY OF MAINE ATTORNEY GENERAL STEVEN ROWE ON STANDARDS PROPOSED BY THE ENVIRONMENTAL PROTECTION AGENCY FOR MERCURY EMISSIONS FROM POWER PLANTS

Good afternoon. Thank you, Congressman Allen, for the opportunity to present these comments on a matter of great importance for the State of Maine and its citizens: the need for strict federal mercury emission standards for power plants. My office formally requested that EPA hold a public hearing on this proposal in New England, but that request was denied. With that in mind, I especially appreciate your being here today to draw attention to this matter.

Regrettably, EPA's recent regulatory proposals under the Clean Air Act tend to fall into two categories: (1) those that would degrade air quality, and (2) those that would prevent air quality from improving. The agency's New Source Review regulations are a notorious example of the first category. As Attorney General, I have vigorously opposed EPA's efforts to gut New Source Review, a part of the Act that requires the nation's worst polluters to install modern control technology when modifying their plants. These rules would cause Maine's already serious ozone pollution problem to worsen significantly. We sued the agency in federal court to prevent these reforms from going into effect, and won a major victory on Christmas Eve when the court issued a stay until the case is decided on the grounds that the rules appear to violate the Clean Air Act.

EPA's proposed mercury rule falls into the second category: a new program that will prevent us from realizing the reductions in mercury emissions that the law promises. This is not a bold new environmental initiative, but a giveaway to the owners of coal-burning power plants.

Atmospheric mercury deposition is a serious public health and environmental problem. Mercury is a powerful neurotoxin that accumulates in the body. EPA's own studies show that over 600,000 babies born in this country each year may be exposed to levels of mercury in the womb so high that it can affect their brain development. Maine and 44 other states have issued fish consumption advisories because of mercury levels found in our freshwater fish. Mercury is also poisoning the wildlife that feed on those fish. Loons in northern New England, the classic symbol of our wilderness lakes, have the highest levels of mercury in the country.

Mercury emissions from power plants to our south and west are a major source of deposition in Maine, and we desperately need strong federal regulation to address this problem. Despite the need for strict federal mercury emission standards, and the fact that such standards are legally required by the Clean Air Act, EPA fails to deliver in this proposal.

As a matter of policy, this proposed rule is flawed for two basic reasons. First, the levels of reduction in mercury emissions are far too low. The proposed reductions not only are insufficient to protect public health and the environment, but they are considerably less than what can be achieved through available control technology. Second, the proposed ''cap and trade'' program is inappropriate for regulation of a toxic substance like mercury. This approach allows some sources to accumulate large quantities of ''pollution credits'', which in turn allows them to continue to pollute at high levels. The result is ''hotspots'' of deposition in areas downwind. While a cap and trade program may make good sense for regulating a non-toxic pollutant like carbon dioxide, it is unacceptable for a hazardous pollutant like mercury.

As a matter of law, EPA's proposal is defective in several ways. Three years ago EPA formally concluded that mercury is a hazardous air pollutant, and therefore it is ''appropriate and necessary'' to regulate its emissions from power plants under Section 112 of the Act. However, EPA has now tried to reverse course, and has announced that mercury may not be a hazardous air pollutant after all. Instead, the agency suggests that it may be able to regulate mercury under Section 111 of the Act, governing New Source Performance Standards. This idea flies in the face of the plain language of the statute, which requires that EPA conduct a formal ''delisting process'' before it can decline to regulate a substance under Section 112 that it has concluded is a hazardous air pollutant. EPA's proposal to summarily rescind its prior finding that regulation of mercury is ''appropriate and necessary'' under Section 112 has no support in the law.

There are numerous other legal defects with this proposal, and we are describing them in detail in written comments to be submitted to EPA. For our purposes today, it is enough to observe that the Environmental Protection Agency is once again failing to fulfill its responsibility to adopt standards that protect the public health and environment. Instead, the agency seems committed to re-interpreting the laws it administers in an attempt to avoid that responsibility. If this proposal is finalized in its current form, we will likely be forced to file another lawsuit in federal court to force EPA to do its job. I sincerely hope that will not be necessary. Thank you.

TESTIMONY OF SENATE MAJORITY LEADER SHARON TREAT, HEARING ON FEDERAL MERCURY EMISSIONS PROPOSALS

Congressman Allen, I am Sharon Treat, Majority Leader of the Maine Senate. I am a member and former chair of the Mercury Products Advisory Council and an environmental lawyer. I am here today to testify in opposition to proposals by the federal Environmental Protection Agency (EPA) which will significantly undermine the effectiveness of the Clean Air Act with respect to control and reduction of mercury emissions, leading to even dirtier air in Maine and significant, harmful, health and environmental impacts.

Maine has gone to extraordinary lengths to control mercury emissions from sources within our State, and for good reason. It is hard to think of a symbol of the purity and wildness of Maine's north woods more ubiquitous than the loon. Yet despite our efforts at the State level, loons in Maine are threatened with the highest measured mercury levels found anywhere in the United States, due in large part to our unenviable position at the tail end of the Nation's prevailing winds, which sweep mercury and other airborne pollutants from States to the west and south of us. A quarter of Maine's loon population is considered to be at ''high risk'' from the effects of mercury, and studies show that mercury pollution is the decisive factor in the negative loon population growth rate in Maine.

Mercury deposition has contaminated our lakes and rivers, to the extent that Maine's Bureau of Health has issued strict fish consumption advisories for all of Maine's lakes, rivers and streams, as well as for coastal bluefish and striped bass. It is a sad fact, at odds with our pristine image as ''vacationland'' and ''Maine, the way life should be.''

Surveys done both in Maine and nationally, indicate that 10 to 20% of women of childbearing age have blood levels of mercury considered too high for the safety of a developing fetus. The Center for Disease Control and Prevention has found that some four million American women of child-bearing age have blood mercury levels that exceed E.P.A.'s 5.8 parts per billion standard. Exposure to mercury puts the babies born to these women at risk of brain damage, learning disabilities and motor skills deficits.

It is time for the Federal Government to step up to its responsibilities in this area. That means at a minimum enforcing the Clean Air Act to require antiquated coal burning plants to upgrade to modern pollution control technology, and to continue to require state of the art controls on new facilities. It does NOT mean weakening the already weak law we have to be even more ineffective, as EPA proposes.

Section 112(d) of the Act sets forth a ''maximum achievable control technologies'' standard to control emissions from hazardous air pollution sources equivalent to what is achieved by the best-controlled similar source in the industry. When Congress amended the Clean Air Act in 1990, it specifically called for ''maximum achievable'' clean-up of major sources of toxic air pollution, including mercury. It is beyond dispute that EPA has the authority under the Act to adopt a standard requiring a minimum of 90 percent mercury emissions reductions at all of the Nation's power plants. Instead, EPA had proposed two alternatives each of which fail to protect the public health and carry out the requirements of the Clean Air Act—(1) that the Agency has discretion, but is not required, to apply a weak emission standard to existing sources, or alternatively (2) creating a novel ''pooled performance standard'' that is apparently designed to escape the restrictions of the law entirely. Both alternatives fall far short of the clean air standards required and should be rejected.

I think it is important for EPA to recognize the longstanding efforts of this State to make sure that we have done everything we can to reduce and even eliminate sources of mercury pollution here in Maine. We have done so even though our actions have placed practical and cost burdens on our citizens, business and government, because we recognize we must take responsibility for that part of the problem we have ourselves created.

One of my very first bills in 1990, as a freshman State representative, was legislation to ban mercury-containing batteries from garbage incinerators. I subsequently passed a resolve that required the State to identify all sources of mercury within and outside of the State and to develop a strategy to control and reduce that mercury. From that legislation, a comprehensive report was developed which provided scientific

data that established the extent to which mercury deposition comes from sources outside the State, as well as in-state sources such as garbage incinerators. That report has led to a series of laws taking stringent measures to control in-state sources.

In the spring of 2000, the 119th Legislature passed An Act to Reduce the Release of Mercury into the Environment from Consumer Products, (Public Law 1999, c.779). The law defines mercury-added products to include thermostats, thermometers, electrical switches, relays or other electrical devices, scientific and medical devices, and lamps if mercury is added during manufacture of the product. The law established a Mercury Products Advisory Committee (Committee) to advise the Department of Environmental Protection (DEP), the State Planning Office (SPO) and the Legislature on actions needed to prevent and reduce the environmental releases of mercury from consumer products. The law contains several key provisions intended to increase the amount of mercury-added products collected for recycling. These provisions include:

As of July 15th, 2002, businesses and public entities may not knowingly place a mercury-added product in the solid waste stream sent for disposal.

As of January 1, 2005 this disposal ban is extended to all Maine residents.

The development and implementation of an aggressive education and outreach campaign by DEP to inform Maine citizens and businesses about the disposal bans and proper waste management techniques.

State assistance to municipalities and regional associations to develop collection programs.

A commitment by the State, within available resources, to develop and implement a capital investment grant program for public infrastructure development and improvements to enable municipalities to collect and recycle mercury-added products and universal wastes.

Since the passage of P.L. 1999, c. 779, the Legislature has passed additional mercury legislation, including the following:

An Act to Further Reduce Mercury Emissions from Consumer Products, P.L. 2001, c. 373. This bans the sale of mercury fever thermometers and dairy manometers; requires manufacturers to provide written notice to the Department before offering a mercury-added product for sale in Maine; prohibits the purchase of mercury or mercury compounds for use in schools; and requires manufacturers who sell products to hospitals to provide a certificate of mercury content upon hospital request.

An Act To Address The Health Effects of Mercury Fillings was enacted as P.L. 2001, c. 385. It requires the state Department of Human Services, Bureau of Health to prepare a brochure and a poster on alternative dental restorative materials and procedures and their health and environmental impacts, and for dentists who use mercury to display the poster and provide patients with the brochure.

An Act to Prevent Mercury Emissions when Recycling and Disposing of Motor Vehicle was enacted as P.L. 2001, c. 656. It prohibits the sale of mercury switches in automobiles as of January 1, 2003 and establishes a statewide system to collect, consolidate and recycle the switches. A bounty of $1 is provided to people who remove switches and return them for recycling, with the money to be provided by the auto manufacturers. Although challenged in court by the auto manufacturers (who argued in part that such programs are a federal, not state, responsibility), this law was recently upheld by the Federal District Court.

An Act to Phase Out the Availability of Mercury-added Products [P.L. 2001, c. 6201. It prohibits the sale of most mercury thermostats used in non-manufacturer applications (effective January 1, 2006), and requests DEP to submit a comprehensive strategy to further reduce the mercury content of products by January 2003.

An Act to Change the Reporting Requirements for the Mercury Switch Removal Program [P.L. 2003,c. 6] requires the DEP to file its initial status report on this program by January 1. 2004. The program provides for the removal of mercury switches from motor vehicles before they are crushed and shredded for the scrap metals market.

An Act to Reduce Mercury Use in Measuring Devices and Switches [P.L. 2003, c. 221], bans the sale of most mercury switches, relays and measuring devices beginning July 1, 2006. Measuring devices include barometers, gastrointestinal tubes, flow meters, hydrometers, hygrometers, manometers, pyrometers, sphygmomanometers and thermometers. The effective date of the ban coincides with the effective date of a similar law in Connecticut, and gives manufacturers time to phase in non-mercury alternatives or seek an exemption. The law allows the DEP commissioner to grant an exemption from the ban if the manufacturer of the mercury product demonstrates that functional non-mercury alternatives are not available.

An Act to Require the Installation of Dental Amalgam Separator Systems in Dental Offices [P.L. 2003, c. 301], requires the installation of amalgam separator systems in dental offices by December 31, 2004. The separators trap amalgam particles to prevent the discharge of mercury in dental office wastewater. If installed prior to March 20, 2003, the separators must achieve a minimum of a 95%, while separators installed on or after that date must have a minimum of a 98% removal efficiency as determined through testing under ISO 11143.

Maine has also put state dollars into these programs. In addition to paying for DEP staff to administer these programs and funding our defense of the auto switch provisions in court, we have also put funding into municipal mercury collection programs. In 2000, the Legislature allocated $438,000 from the Solid Waste Management Fund to jump start the activities mandated by the legislation. In November 2002, Maine voters approved an environmental bond request, of which $900,000 was slated to fund completion of the shed deployment statewide and the infrastructure/collection needs. We are still struggling with identifying funding sources to assist communities with the ongoing costs associated with these collection and recycling efforts. In the private sector, many Maine businesses have also incurred costs installing pollution control equipment to meet tough in-state mercury emission standards and complying with various mercury product separation and collection mandates.

Needless to say, Maine has done its part, having enacted the most sweeping mercury control laws in the country. While we are more than willing to do whatever we can, our pollution from mercury is in large part a federal responsibility: it comes from outside the state, and there is already a requirement under the Clean Air Act for the federal government to address it. It is time for the EPA to comply with the law, not undermine it. It is time for the EPA to provide assistance to states dealing with this toxic metal which threatens our children and our wildlife, not make our efforts more difficult. Thank you.

STATEMENT OF EVERETT ''BROWNIE'' CARSON, EXECUTIVE DIRECTOR OF THE NATURAL RESOURCES COUNCIL OF MAINE

(On the U.S. Environmental Protection Agency's Proposed Rulemaking on National Standards for Reduction of Mercury Emissions From Coal and Oil-Fired Electric Utility Power Plants and Maximum Achievable Control Technology (MACT), Published in the Federal Register on January 30, 2004 (69 FR 4692), EPA Docket ID Nos. OAR–2002–0056 and A–92–55.)

Presented at Hearing in Augusta, ME March 1, 2004

My name is Brownie Carson. I testify here today on behalf of the Natural Resources Council of Maine, a citizen supported environmental advocacy organization with 8000 members and supporters. Thank you to Congressman Tom Allen for giving us all the opportunity to express our views on the critical environmental issue of proposed national standards for mercury emissions from electric utility power plants. We would like to thank you and the entire Maine Congressional delegation for your efforts on this and related clean air and environmental matters. We commend, for example, Senator Collins strong leadership in introducing legislation that would eliminate and retire mercury.

On the issue at hand, we conclude that both the two alternative proposals put forward by the U.S. Environmental Protection Agency (''EPA'' or ''Agency'') for mercury emissions standards are environmentally unsound and legally deficient. These proposals go in the wrong direction.

These things we know:

(1) Power plants that burn coal and oil release mercury and are the largest source of mercury released to the environment in the United States;

(2) The mercury emitted from these plants is transported downwind where Maine and other Northeast states receive a disproportionate share;

(3) In the environment, mercury from power plant emissions is converted into methylmercury, the dangerous organic form of the element;

(4) Methylmercury builds up and is magnified in the food chain making it a major environmental and public health hazard; methylmercury concentrations in fish are the worst pathway for human exposure;

(5) Exposure to methylmercury, a potent neurotoxin, puts small children, infants and fetuses at risk of brain damage, learning disabilities and motor skills deficits;

(6) An unacceptably high proportion of women in Maine and nationally have blood levels of mercury considered too high for the safety of a developing fetus; and

(7) Mercury also has insidious effects wildlife: Maine's loon population is at ''high risk'' with a negative growth rate attributed to mercury exposure. Maine bald eagles have high mercury body burdens and the lowest reproductive rate of any major bald eagle population in the country;

These facts are undisputed. EPA's own February 1998 report to Congress summarized how mercury emissions from power plants caused toxic exposures and grave threats to public health.

There is a ready solution both technically and legally. The technical solution is simply to retrofit each of the 1,100 coal fired power plants with modern emission control equipment.

Commercially available technologies and techniques in use today achieve up to 91 percent emissions reductions over uncontrolled levels—and do so at a cost of approximately 1/50th of a penny per KWh. Up to 98 percent reductions have been observed in tests of the most modern mercury controls.

These conclusions are supported by EPA's own analysis in 2001 which found that the use of currently available pollution controls at each power plant could reduce total emissions by 90% by 2008. The Northeast States for Coordinated Air Use Management in 2003

reviewed the pollution control technologies and affirmed 90% reductions can be achieved with existing technologies.

Moreover, there are no legal obstacles to achieving these reductions. Section 112 of the Clean Air Act, that regulates hazardous air pollutants, sets forth the ''maximum achievable control technologies'' standard. The Act contemplates control of emissions from hazardous air pollution sources equivalent to what is achieved by the best-controlled similar source in the industry. When Congress amended the Clean Air Act in 1990, it specifically called for ''maximum achievable'' clean-up of major sources of toxic air pollution, including mercury. It is beyond dispute that EPA has the authority under the Act to adopt a standard requiring a minimum of 90% mercury emissions reductions at all of the nation's power plants.

In Maine, a remarkable consensus on mercury pollution has led to positive action.

In 1997, the Maine Legislature called for a report and plan of action to control mercury pollution. The State's goal, set back then, was ''to ensure that, over time, Maine people and wildlife are able to enjoy the full use of the state's waters and fisheries'' and to ''make Maine's fish safe to eat and to protect our wildlife and other resources.''

Over ensuing years Maine took a series of actions on mercury, including the following:

Before 2000, we achieved mercury emission reductions of more than 90% at four municipal waste combustors achieving substantial reductions, meeting or exceeding federal limits, or where inapplicable applying equally stringent state limits;

In 2000, we closed the Holtra-chem, the heavily polluting chlor-alkli plant. In 2002, we made arrangements for safe removal and storage of 185,000 pounds of surplus mercury from the site;

In 2003, we enacted a law that bans the sale of most mercury-added switches, relays, and measuring devices; and

In 2002, we enacted a landmark law to require automobile manufacturers to recover mercury-containing switches from vehicles before they are scrapped.

When Maine's mercury auto switch law was challenged in Court, the State mounted a legal defense. On February 17, federal District Judge John Woodcock turned back the carmaker's challenge and upheld the auto switch law in its entirety.

The decision rejected all of the carmakers' claims, saying that burdens were reasonably ''imposed on manufacturers in recognition of the fact that the need for a mercury switch recovery program existed solely by virtue of the manufacturers' incorporation of these mercury-laden components in their automobiles for roughly ten years after the industry's cognizance of the mercury disposal problem.''

This is important, because it points the way to what the federal government should be doing with mercury pollution from power plants. Utilities should simply be made to clean up. That would be 90 percent reductions at all existing coal-fired power plants by 2008, that would bring total mercury emissions down from the current 48 tons to five tons annually. ''EPA's proposal would still allow be allowing the release of 15 tons of mercury from the power plants in 2018.''

Operators of power plants have been dodging pollution controls for decades. On the verge of achieving what the Clean Air Act was passed for, legal counsel for the Bush Administration and EPA say that they fear that if they require maximum achievable controls, as specified by the law, the utilities will challenge the rules in court. Threat of a court challenge must not deter EPA from doing what is necessary to protect public health and the environment.

We urge EPA to abandon its weak proposals and instead follow the Clean Air Act as written. Genuine maximum achievable control standards are technologically feasible, legally sound and eminently defensible. We urge EPA to recognize the health, environmental and economic importance of this outcome to Maine and the nation. Thank you again for the opportunity to present our views on this important issue.

STATEMENT OF LANI GRAHAM, MD, MPH, FAMILY PRACTICE PHYSICIAN AND FORMER CHIEF HEALTH OFFICER OF THE STATE OF MAINE

(On the U.S. Environmental Protection Agency's Proposed Rulemaking on Standards for Reduction of Mercury Emissions From Coal and Oil-fired Electric Utility Power Plants and the Use of Maximum Achievable Control Technology (MACT), published in the Federal Register on January 30, 2004 (69 FR 4692), EPA Docket ID Nos., OAR–2002–0056 and A–92–55.)

Good afternoon. I come here today to testify on behalf of the people of Maine, and particularly the children of Maine, who cannot speak for themselves. I am a Family Practice physician, but my real love throughout my professional life has been public health. Two alternative proposals have been offered by the U.S. Environmental Protection Agency (EPA) to reduce mercury emissions from electric utility plants. Neither is acceptable and both will condemn the next generation of Maine people to adverse health impacts from toxic levels of mercury in our environment, to say nothing of the terrible impacts on our wildlife and the natural resources.

Rather than repeat a lot of the very good scientific information that you have already heard and will continue to hear, regarding why these proposals must be scrapped, I want to provide a little history lesson. It is said that those who do not learn the lessons of history will be condemned to repeat them. This appears to be the reckless course that will be embarked on if these proposals are not substantially altered.

More than a decade ago, when I was the Chief Health Officer for this state, I received a letter from a Park Official at Acadia National Park. The letter revealed that a fish had been caught in one of the park's lakes and tested for mercury. I could see immediately that the provided results indicated that the fish contained mercury at a level many times what would be considered safe for a child to consume on a frequent basis. The letter queried whether I was going to consider ''posting'' the lake, on the assumption that this particular lake was uniquely contaminated. Needless to say, I was both shocked and frightened. Who in Maine, or even from out of state, might have already been affected by eating fish caught in this lake? It was bad enough that any lake in Maine might be significantly contaminated by a known neurotoxin, but that the particular lake would be in the heart of our widely admired national park was a particular blow. Tragically, that blow was just the beginning of a lengthy investigation that revealed that the lake was not uniquely contaminated, and that it would not be sufficiently protective of public health to post that particular lake or even a dozen such lakes. Based on a study of fish caught from lakes all across Maine, it was clear that a great many lakes were contaminated, and that the contamination could not be accounted for by looking for natural sources of mercury or local pollution. The facts led to a number of conclusions and actions that were among the most discouraging of my tenure as Chief Health Officer in Maine.

In collaboration with four Departments of State Government (Agriculture, Environmental Protection, Human Services, and Inland Fish and Wildlife), we were forced to issue a statewide warning recommending a strict limit on the consumption of fish caught in Maine lakes by women of childbearing age and children under 8. To my knowledge ours was the first such warning in this country, but, sadly Maine is now one of 28 states that have issued statewide advisories, including three new states in 2002, Florida, Illinois and Rhode Island. I also am aware that New Brunswick, Canada has had to follow suit, making this an international problem. Air pollution does not respect state or international boundaries.

It is very sad that in these times when childhood obesity is such a problem and good nutrition is the hope of the future, that any Health Official must issue warnings on the consumption of fish, widely respected as healthy food, because it has become contaminated through our carelessness. But worse, from a public health point of view the warning approach to the protection of human health is highly undesirable. It is not effective. No matter how many lakes are posted or warnings issued, large portions of the population are likely to be adversely impacted despite your best efforts. What about the immigrant populations for whom fish is a basic part of the diet and who may not speak English? What about the Native Americans who similarly depend on locally caught fish? What about people with limited education who may not understand the advisories or those who just don't believe there? There is some parallel to the warnings on cigarette packages. Lead paint is another example. Parents are warned of the hazard, but children get poisoned by the thousands anyway. History has taught us that complicated medical advisories are insufficient to be protective of the public's health. Despite the warnings people, particularly children, get sick, become damaged for life, or die. Yet these proposed rules indicate clearly that another generation is being asked to repeat this history lesson. Unless our federal government takes a different course of action, one designed to move us more rapidly toward reducing air pollution, the advisories are likely to remain and the children of Maine will continue to pay the price of this history lesson not learned.

Another awful lesson that the fish from Acadia National Park taught us is that Maine was not going to be able to solve this problem on its own. The extent and distribution of the mercury contamination indicated to us that local factors could not account for it. The mercury had to be coming from somewhere else. We now know that out beautiful state is the recipient of tons of airborne mercury coming from other states. Nevertheless on the theory that it is best to ''keep your own house clean'' first, Maine people have worked hard over the last decade to reduce all local sources of mercury contamination. But it will never be enough. Without support from outside this state, the advisories are likely to remain in place. More than a decade has gone by since that Acadia National Park fish brought its warning. I urge you not to condemn us and other sites around this country to another twenty years of contamination when real progress can be made now. I urge you to abandon these proposals and return to the Clean Air Act as written.

Thank you for your attention.

MAINE AUDUBON,
Falmouth, ME, March 1, 2004.

Re EPA's proposed National Emission Standards for Hazardous Pollutants; and, in the Alternative, Proposed Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units; Docket ID No. OAR–2002–0056, 69 Fed. Reg. 4652 (January 30, 2004).

Good afternoon, Representative Allen, members of the Legislature, fellow Mainers . . ., my name is Susan Gallo: I represent Maine Audubon and our 11,000 members and supporters.

Representative Allen, we greatly appreciate your continued leadership and good work on behalf of Mainers with regard to the control of mercury pollution. The EPA has put forward several proposals, none of which provides the degree of public health protections mandated by the Clean Air Act. We are here today to share with you our deep concern that the EPA's proposals are not only many times weaker than what is actually required by Clean Air Act, but if accepted will cause irreparable harm to the health of Maine's waters, wildlife and people, particularly women and children, and fall far short of what is urgently needed.

Power plants are ''major emitters'' of hazardous air pollution, which means that each plant emits more than 10 tons per year of one kind of hazardous air pollutant or 25 tons per year of all the 188 hazardous air pollutants listed in the Clean Air Act. Coal-fired plants are the nation's largest source of mercury air emissions, emitting approximately 48 tons of mercury each year. One-third of a gram of mercury per year is enough to contaminate all the fish in a 25-acre lake.

Maine, along with the other New England states, bears the brunt of the nation's airborne mercury pollution. Maine has more than 30,000 miles of rivers, and almost a million acres of lakes—but these waters harbor dangerously high levels of mercury—so dangerous, that in 2002, Maine posted health warnings for all of our lakes and rivers statewide. The EPA and 43 states, including Maine, have posted warnings urging people to avoid or limit consumption of fish. Consuming mercury-laden fish can damage the developing brain and nervous system and can lead to birth defects; such as cerebral palsy, delayed onset of walking and talking, and learning disabilities. Relying on fish consumption advisories will not solve the problem. We must reduce the contamination at its source.

Because Maine is subject to the highest mercury contamination in the U.S., and given the impact already felt by both people and wildlife, it is imperative Maine's concerns be heard.

The accumulation of mercury in Maine's environment has reached epic proportions, with mercury levels in rainfall in parts of Maine up to 23 times higher than the EPA standard for human health. Mercury is also accumulating in Maine lakes at an alarming rate, creating deadly habitat for fish-eating birds and mammals. Moreover, people are at risk when they eat fish containing high levels of mercury. As you know, it is no longer safe for pregnant women, nursing mothers, and young children to eat certain fish from our waters. We must act to reduce children's exposure to mercury as we have done to reduce children's exposure to lead in the environment.

A recent report from the Centers for Disease Control and Prevention found that one in twelve women of childbearing age already has mercury levels above EPA's safe health threshold. Adverse neurological effects of mercury exposure on the young, has lead both the federal and state governments to post advisories against consuming certain fish. The state of Maine along with a majority of other states, advises women who might get pregnant not to eat most types of freshwater fish including rainbow trout and bass.

Mercury contamination is also a threat to recreational fishing—a vital piece of our state economy. Recreational fishing is a multi-billion dollar industry in Maine; anglers in Maine spent more than $250 million in 2001 alone. Studies indicate that mercury contamination has a direct impact on where people choose to fish, how often they go, and for how long they choose to fish.

Wildlife that have no choice but to eat fish high in mercury are at risk from the accumulation of mercury in their systems as well. Maine's loons have the dubious distinction of having higher levels of mercury in their blood than loons in any other state. Nearly 30% of Maine's common loon population is at ''high-risk'' for mercury contamination and is less likely to reproduce as a result. Loons accumulate high levels of' mercury in their blood because their diet consists primarily of freshwater fish, which often harbors high levels of mercury. Some loons exposed to high levels of mercury in Maine's environment do not nest successfully because they do not spend enough time incubating their eggs. Others fail to feed their young once they hatch, leaving chicks to die from starvation. Loons in Maine experience higher levels of mercury in their blood, feathers and eggs than in any other state. Also, because loons are able to eliminate mercury from their system when they lay eggs, loon eggs from Maine also have higher levels of mercury than those from any other state. Other fish-eaters like osprey and kingfisher are subject to similarly high levels of mercury from eating fish from Maine's waters. It is imperative that we do what we can now to reduce the impact of mercury on Maine's loon population and on other fish-eating wildlife. If we wait until wildlife populations have significantly declined, it will be too late.

Maine Audubon has been a leader in working to reduce mercury pollution and protect the health of Maine's people as well as wildlife. Indeed Maine has made substantial progress in developing legislation to curb the use of mercury-added products as well as the collection of household hazardous waste, for example. But these efforts, while valiant and very much needed, do not address the largest source of mercury pollution—emissions from power plants beyond Maine's borders. The current EPA and Bush Administration proposal falls far short of what is needed.

The Clean Air Act requires that power plant mercury emissions be cut by 90 percent by 2008 and ensures that these reductions occur at each and every one of the nation's oil- and coal-fired power plants, the country's largest industrial source of mercury air emissions. In 2000, the EPA listed power plants as a category for which MACT standards must be developed. But one of the new proposals would ''de-list'' power plants, without any of the public health and environmental justifications mandated by the Clean Air Act. Such de-listing is illegal.

The EPA should uphold the law. Instead of setting a far weaker standard—in effect treating power plants' mercury emissions as non-hazardous air pollution—the EPA must abide by its prior decision that power plants must be regulated according to Maximum Achievable Control Technology (MACT) levels.

The EPA should continue to regulate mercury emissions from power plants under the MACT approach required by Clean Air Act for toxic pollutants, instead of issuing ''New Source Performance Standards'' for mercury, which are far less stringent. The EPA's own scientists two years ago concluded that 90 percent reductions are possible using existing technologies.

The EPA must abandon the current proposal allowing the trading of mercury pollution, which lets polluters continue to poison our air and waters. Trading mercury emissions is unacceptable from a public health and public policy perspective, because it creates new local ''hot spots'' of even mercury contamination—leaving some communities at risk more than others.

The EPA should not accept guidance from the Bush Administration which would set rules for power plants that give big energy special treatment—allowing them to put 6 to 7 times more mercury into the air than the law allows, and giving them an extra decade to clean up. The EPA should hold industry to the highest standard, and uphold—not weaken—the provisions of the Clean Air Act.

We respectfully ask that you convey to EPA Administrator Leavitt our testimony, urging the EPA to improve protections of human health and wildlife by strengthening, not weakening rules regulating mercury emissions to the level that we know is technologically feasible and morally imperative.

SIERRA CLUB, MAINE CHAPTER,
Portland, ME, March 1, 2004.

Re Environmental Protection Agency Docket Center, Attention Docket I.D. Number OAR–2002–0056.

Why is the Bush Administration rewarding corporate polluters at the expense of our children's health and safety?

Thank you Congressman Allen, for holding a hearing on this issue in Maine. My name is Maureen Drouin, I live in Hallowell, Maine, and I am here representing the 5,000 Maine members of the Sierra Club.

The Maine Chapter of the Sierra Club calls on Administrator Leavitt to throw out EPA's proposal to regulate mercury emissions and instead craft a serious plan that adequately protects American children from harmful mercury. Specifically, we call on the EPA to require 90% reductions in mercury emissions from ALL coal-fired power plants by 2008.

Coal-fired power plants constitute the largest source of industrial mercury emissions in the United States. This mercury falls to earth through rain and snow and enters lakes, rivers, and estuaries. Once there, it changes into its most toxic form, methylmercury, and accumulates in fish tissue. Americans are exposed to mercury primarily by eating contaminated fish.

Mercury poses a serious threat to Maine's families:

As with many toxic pollutants, children are the most susceptible to harm from mercury.

New estimates by the EPA indicate that one in six U.S. women of child-bearing age have mercury levels in their blood high enough to put their babies at risk.

During December 10–11, 2003, the FDA and the EPA issued a draft joint warning to pregnant women, women who may become pregnant, and nursing mothers against eating certain types of mercury-laden fish.

In 2001, the EPA estimated that if current clean air laws were enforced in conjunction with the use of current technology, mercury pollution would decrease by 90% by 2008.

Why is the Bush Administration rewarding corporate polluters at the expense of our children's health and safety?

Congressman, you and Representative Waxman recently sent a letter to EPA Administrator Leavitt requesting information

regarding a report in The Washington Post that portions of EPA's latest mercury air pollution control proposal may have been ''copied word-for-word from industry lobbying materials.''

You pointed out that ''Specifically, it appears that EPA has proposed a regulatory approach to mercury air pollution that in part is copied word-for-word from memos prepared by the law firm Latham & Watkins, which represents some of the largest polluters in the country.''

Both Jeffrey Holmstead, EPA's Assistant Administrator for Air and Radiation, and William Wehrum, Mr. Holmstead's chief counsel, worked for Latham & Watkins prior to assuming their positions at EPA where they have played key roles in the mercury pollution rule-making process.

According to the Center for Responsive Politics, the Energy Industry, which would be affected by these rules, gave nearly $50 million in campaign contributions to the Republican Party during the 2000 election cycle. Of that amount, $2.9 million went directly to the Bush-Cheney campaign.

Perhaps this is why the Bush Administration is rewarding corporate polluters at the expense of our children's health and safety.

Last spring, I went fly-fishing with a few friends at Little Lyford Pond Camps in T7 R10. In the heart of the 100-mile wilderness of Maine, the ponds there are remote and pristine and constitute the headwaters of the West Branch of the Pleasant River. The brook trout fisheries there date back 10,000 years to the retreat of the last glacier. I thought about how rewarding it would be to catch one of these primeval fish and cook it for dinner. But even far away in T7 R10, the fish are contaminated by upwind pollution, and Mainers, especially women and children, are advised to limit their fish consumption.

Maine is one of 19 states that have issued statewide fish advisories for all of their inland freshwater lakes and rivers.

We have the solutions to reduce mercury pollution now and we should implement them immediately to protect our communities.

Thank you again for holding this hearing and for the work you are doing to protect Maine's children by decreasing mercury pollution.

TESTIMONY OF ANN BREWSTER WEEKS (DELIVERED BY JONATHAN LEWIS), CLEAN AIR TASK FORCE, BOSTON, MA

(Before the U.S. Environmental Protection Agency Regarding Proposed National Emission Standards for Hazardous Air Pollutants; and in the alternative, Proposed Standards of Performance for New and Existing Sources: Electric Utility Steam Generating Units, 69 Fed. Reg. 4652 (January 30, 2004), Docket No. OAR–2003–0056.)

Good afternoon. For the record, my name is Jonathan F. Lewis, and I am an attorney with the Clean Air Task Force. I am appearing today to provide the testimony of Ann Weeks, CATF's Litigation Director. Ms. Weeks was an alternate member of EPA's Electric Steam Generating Units MACT Rulemaking Working Group of stakeholders from industry, environmental organizations, and state governments, which offered the Agency a range of recommendations for the development of a MACT standard for EGUs, in the Fall of 2003.

Now the Agency proposes both a weak MACT standard and a radically different alternative approach to the regulation of power plant hazardous air pollutants. EPA's alternative approach not only is radically different than the approach considered by EPA and the stakeholders in the Working Group, it is radically different than the approach mandated by the Clean Air Act. Martha Keating, the CATF representative to the Working Group, is presenting today in North Carolina oral testimony on the MACT alternative proposed by the Agency in this rulemaking package. I will therefore limit my remarks to the inadequacies, both legal and from a public policy perspective, of the alternative New Source Performance Standards and cap and trade approach contained in the proposal.

EPA first listed mercury as an air toxic in 1971. The public health effects of this toxic are not just coming to light, we have known for over a century about neurological disorders stemming from exposure to high levels of mercury in the environment. Each year, the science improves, and we learn more, for example, about how eating mercury contaminated fish leads to children's delayed language development, impaired memory and vision, problems processing information and impaired fine motor coordination.

The Center for Disease Control and Prevention has recently noted that 1 in 12 women of childbearing years in the United States have unsafe levels of mercury in their blood. EPA's own Federal Advisory Committee on Children's Health Protection has noted its concern that this proposed rule package does not go as far as possible towards reducing emissions of mercury from the electric utility industry.

Existing coal-fired power plants are the largest uncontrolled industrial source of mercury in the United States today. Congress recognized this when it drafted the Clean Air Act Amendments of 1990, when it listed mercury under section 112, and demanded to be kept in the loop as your Agency made its determination whether to regulate hazardous air pollutant emissions from the electric generating industry.

EPA now seeks to administratively rewrite section 112 of the Act in an effort to try to find a way to treat mercury differently from the other 187 air toxics listed in the Act. Rather than regulating the power industry under the ''Maximum Achievable Control Technology'' approach required by the Act, EPA instead proposes to finalize New Source Performance Standards under section 111, for mercury emitted by new coal-fired power plants, and a cap and trade system including caps of 34 tons of mercury by 2010 and 15 tons in 2018.

This aspect of your proposal is completely without merit.

First, an NSPS approach to regulating hazardous air pollutants emitted by the utility industry is simply not authorized by the Clean Air Act. Congress revised section 112 in 1990 in an effort to promote faster regulation of hazardous air toxics, through the identification and the MACT regulation of the industrial categories of most concern. EPA listed coal- and oil-fired power plants under section 112(c) in 2000, which triggered the requirement to issue MACT standards for all hazardous air pollutants emitted by the industry. Congress did not direct the use of section 111 for utility industry HAP air emissions, as it did for solid waste combustors in Clean Air Act section 129. If Congress had meant to grant such authority to the Agency, it clearly knew how. It chose not to do so.

Second, your attempt to ''de-list'' the utility industry in order to advance your section 111 proposal does not meet the express terms of the Clean Air Act, and in any event is unsupportable on the merits. Section 112(c)(9) of the Act requires that a listed industrial category can be deleted from the 112(c) list only if certain specific statutory criteria are met. Your Agency has not even attempted to satisfy these criteria. For toxics that ''may result in cancer in humans,'' as is the case with nickel from oil-fired units as recognized by the Agency in 1998 and 2000, the Administrator must determine that ''no source in the category . . . emits such hazardous air pollutants in quantities which may cause a lifetime risk of cancer greater than one in one million to the individual in the population who is most exposed to emissions of such pollutants from the source.'' For air toxics like mercury, the Administrator must determine ''that emissions from no source in the category or subcategory concerned . . . exceed a level which is adequate to protect public health with an ample margin of safety and no adverse environmental effect will result from emissions from any source.'' Neither of these determinations is supportable on the record before the Agency, as we will point out in our detailed comments.

Finally the proposed cap and trade approach is not supported by the Act and represents very bad public policy. The tonnage caps are transparently based on the legislative targets in the Administrations Clear Skies approach to utility regulation, and do not go near far enough or fast enough—either to adequately protect public health, or to satisfy the requirements set out by Congress to govern the regulation of hazardous air pollutants.

The Agency asserts broad authority under section 111 to establish a cap and trade program for listed hazardous air pollutants, although no such authority is articulated in the statute. Resorting to the tired and long discredited argument that since it is not expressly prohibited, an action must be allowable, the Agency severely overreaches in this proposal.

Furthermore, while the Agency asserts that a 34 ton 2010 target is based on what can and must be achieved to control other conventional pollutants for the IAQR, the Act requires far more than this level of effort for the control of a hazardous air pollutant. Even if EPA attempted to justify this cap based on the results of its MACT approach, the MACT floor emissions levels EPA has conjured up in this proposal to support a 34 ton emissions level are themselves fundamentally flawed, legally and technically, as Ms. Keating is testifying in North Carolina today.

Finally, even if it were authorized by the Act, the Administration's approach in the proposed cap and trade program is just abysmal public policy. Despite the fact that 60% of the mercury emitted by U.S. power plants is deposited locally or regionally, the proposal would do absolutely nothing to avoid the creation of toxic hot spots—geographic areas that will experience even more mercury contamination than at present, because local sources are permitted to trade away the requirement to reduce their emissions levels. The caps are set at ''no action'' levels, furthermore: on the final pages of the proposal, the Agency admits that meeting the mercury caps will require very little (if any) effort beyond controlling for conventional pollutants. ''Look,'' the Administration seems to be saying to the industry—''just control your conventional pollutants a little further, and we will give you a hall pass on mercury.'' This approach is taken despite ample evidence, well-known to the Agency, that much deeper cuts in mercury and other hazardous air pollutants are achievable cost-effectively from the industry in the short term. It is taken despite the clear requirements of the Clean Air Act that a listed industry must be required to make the maximum reductions achievable, and to do so within 3, or at most 4 years of a final rule.

EPA's NSPS cap and trade approach to EGU toxics is simply unacceptable. It is unacceptable legally, and unacceptable from a public health perspective.

TESTIMONY OF CONRAD SCHNEIDER, ADVOCACY DIRECTOR, CLEAN AIR TASK FORCE, HEARING ON EPA'S PROPOSED MERCURY RULE

Good afternoon. My name is Conrad Schneider of Brunswick, Maine. I am the Advocacy Director of the Clean Air Task Force. CATF is a Boston-based, national environmental advocacy organization dedicated to restoring clean air and healthy environments through scientific research, public education, and legal advocacy. Our primary mission involves cleaning up the nation's grandfathered power plants.

You know, school vacation week in Maine was two weeks ago and our family went to Sanibel Island, Florida—our first ''sun and fun'' vacation ever. While down there, I went saltwater fly-fishing for the first time. This June I am going with some buddies to fish Grand Lake stream here in Maine. Although Sanibel was saltwater and Grand Lake stream will be fresh, there is a common denominator here. Both Florida and Maine warn us to limit our consumption of the fish I catch. While I was trying to catch a trophy sport fish in Florida, I managed to catch only a flounder. However, I tossed it back because my wife's sister, who is four months pregnant, and her husband were with us and pregnant women are warned to eat no fish because the mercury contamination threatens their fetuses. In fact, while it was bad enough that she couldn't drink a pina colada in Florida, she couldn't eat any fish either! That'll be true when she visits us in Maine this summer too. Maybe you think this is a small matter. But consider that in Maine, recreational fishing contributes $250 million to the economy here each year.

I would like to thank Rep. Tom Allen for his leadership in holding this hearing; the first of what may be many more such hearings around the country by concerned members of Congress to hear from citizens about the deficiencies of the Bush Administration's power plant mercury proposal. We share Rep. Allen's view that it is outrageous that on an issue of such critical importance to our people, U.S. EPA chose not to schedule one hearing on this rule in New England.

The people of our region have always looked to the sea and our inland water bodies—for commerce, for knowledge, for recreation and, perhaps most importantly, for food. Ocean and freshwater fish have been a staple of the New England diet since the first human settlements here.

But we're here today because that food source is under threat—from mercury pollution. Due to eating mercury in contaminated ocean fish and fresh water fish, one in six women of childbearing age in the United States have mercury levels above what EPA considers safe. That's nearly five million women nationally with elevated mercury levels in their blood. Because mercury travels through the placenta and breast milk that also means more than 600,000 children born each year are at risk for mercury's toxic effects.

And those effects are serious. They include poor attention span and language development, impaired memory and vision, problems processing information, and impaired visual and fine motor coordination. Deborah Rice, formerly with EPA, is a renowned expert on the effects of toxic metals on brain development that Maine DEP was fortunate to hire. Dr. Rice last year warned at a U.S. Senate hearing that the threat posed by mercury is comparable to that of lead. We have too many children today who struggle to keep up in school and who require remedial classes or special education. And those of you who have had even passing involvement with our public schools know that the cost of these types of programs present a major fiscal challenge. Adults, too, are at risk. Elevated mercury levels are linked to fertility issues, high blood pressure, and heart problems.

As a result, children and women of childbearing age not just in Maine and Florida are being advised to restrict their intake of certain fish. Fourty-four states have issued advisories limiting consumption of fish from certain water bodies—17 states for every inland water body. Maine, for example, has an advisory covering every freshwater lake, stream, pond, and river. Species with specific consumption advice include our famous brook trout and landlocked salmon. For our coastal waters, Maine warns about consumption of blue fish and striped bass. Ten states have issued advisories on canned tuna. The FDA has told pregnant women not to eat swordfish, another staple of the North Atlantic fishery. Later this week, FDA is expected to revise its consumption warning for the first time to include tuna. It is ironic that at the very time concerns over the health effects of mercury are growing, EPA is proposing to weaken the requirements for mercury reduction from power plants.

There are many sources of mercury in the environment but most of it comes from human activity such as burning mercury-containing coal for electricity, mining, and improper disposal of mercury-containing products. Through these releases, we've contaminated a large part of our region's and nation's food supply. This is simply unacceptable.

So what's to be done? The answers are not simple or quick, but we've already made a start. About 70% of the world's new annual mercury releases are from coal combustion and waste incineration.

Fortunately, we have the technology to reduce coal plant mercury emissions nationally by 90% within the next decade. The State of Connecticut has adopted this target for its plants. Massachusetts, New Jersey, Wisconsin, and New Hampshire are considering similar targets.

But air pollution travels, so the states can't act alone. We need the federal government to act. We're aggressively controlling waste incineration in the U.S. by requiring incinerators to reduce their mercury emissions by 90%. But the biggest fish to catch—coal-fired power plants—has yet to be caught. Coal plants account for fully one third of U.S. mercury emissions and, amazingly, are completely unregulated.

In its proposed rule, U.S. EPA again proposes to let power plants off the hook. The proposed emissions standards are transparently based on the legislative targets in the Administration's so-called ''Clear Skies'' proposal, which is a broad attempt to rollback the requirements and deadlines of the Clean Air Act—in large part the work of Maine Senators Muskie and Mitchell. The Bush Administration proposal does not go far enough or fast enough—either to adequately protect public health or satisfy the requirements set out by Congress.

Frankly, I should not even dignify what EPA has issued as a proposed rule. It is so blatantly illegal, in the laxity of the emissions standards and deadlines and in the lack of legal authority for its misguided emissions trading scheme that the Bush Administration knows full well that legal challenges by the coal industry will be successful and leave us with no rule at all. Which is just what they want. The environmental community had to sue EPA just to issue a rule. What they've proposed is just ''smoke and mirrors'' to satisfy the court that they've proposed something on time.

This cynical ploy should come as no surprise when you realize that my organization broke a story in the Washington Post recently that the language of the Bush proposal includes over a dozen examples where whole paragraphs from industry memos were lifted verbatim and inserted in the rule. Either that, or industry lawyers themselves were actually writing the rules for EPA.

Back in the Year 2001, in the first year of the Bush Administration, EPA signaled that it would issue a rule resulting in a 90 percent reduction in mercury emissions—from 48 tons a year down to 5 tons—per year by 2008. That is what the Clean Air Act Amendments require. EPA now proposes a rule, which if implemented, would still allow 34 tons of mercury emissions per year in 2008 and 15 tons in 2018—giving us a decade more of delay while leaving three times as much mercury in the environment as what is achievable with today's control technology.

We call on U.S. EPA to return to its original compass bearing, set the hook, and reel in the ''Big One'' by dropping power plant mercury by 90 percent within this decade. That isn't likely to happen. So, ultimately, Rep. Allen, it may be left to you to finish the job Senator Mitchell thought he had done in Clean Air Act Amendments of 1990 (which was signed by the first President Bush)—requiring the U.S. power sector to do its full share to solve the problem of mercury contamination.

TESTIMONY OF DEBRA DAVIDSON, MAINE CHAPTER—IZAAK WALTON LEAGUE OF AMERICA, LIVERMORE FALLS, ME

(Proposed National Emission Standards for Hazardous Pollutants; and, in the Alternative, Proposed Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units; Docket ID No. OAR–2002–0056, 69 Fed. Reg. 4652 (January 30, 2004).)

I would like to thank Tom Allen for giving Maine the opportunity to voice our concerns about hazardous air pollutant emissions from power plants, in particular mercury emissions.

My name is Debi Davidson and I am here today as a representative of the Maine Chapter of the Izaak Walton League of America. We are a national organization of 50,000 anglers, hunters and conservationists committed to responsible environmental stewardship.

I have attached a letter to my testimony, signed by the directors of midwest sportsmen's organizations including the Izaak Walton League of America, and representing over 400,000 people in Minnesota, Wisconsin, Michigan, Iowa, Illinois, Indiana, and Ohio asking the environmental Protection Agency to strengthen their proposed rule.

Mercury contamination threatens Maine's fishing heritage. Residents in Maine share a long tradition of outdoor recreation centering on our lakes, ponds and rivers. We are a region of camp owners, fishermen, hunters, and outdoor enthusiasts whose lakes and woods represent a large part of who we are. Unless we eliminate mercury pollution from our lakes, ponds, streams and rivers, we cannot safely eat our fish if we choose to. Even if catch and release is one way to enjoy fishing, we should not have to limit ourselves to this method. The effects of mercury pollution on an ecosystem very much affects the quality of a total fishing experience. Warnings about eating fish due to mercury contamination very much detracts from this experience.

Mercury contamination threatens Maine's economy. While fishing in Maine is clearly a

long-standing tradition, it is also big business. Figures show that recreational anglers who fish in our state spend more than $250 million dollars annually. This includes everything from fishing lures to special clothing to food, lodging and transportation for the trips we take. Economically, Maine cannot afford a contaminated fishery.

We can do better. Mercury contamination of fish in our lakes and rivers is a serious concern for our members and their families. The current EPA proposal falls far short of what is needed to address this threat. EPA's mercury MACT proposal fails to accomplish what is mandated by the Clean Air Act for mercury reduction. And the alternative New Source Performance Standard proposal is a poor substitute to an adequate mercury MACT standard.

We believe that the proposed mercury MACT rule should require emissions reductions from all coal-fired power plants by 2008 equivalent to the level that can be achieved by the most up-to date pollution controls and resulting in at least a 90 percent reduction in power plant mercury emissions nationwide. The technology to achieve these reductions is being developed and installed in Midwest plants right now.

The EPA should revise the mercury MALT proposal to meet the Clean Air Act's obligation to require the most up-to-date pollution controls on all power plants. The EPA should also reject the alternative New Source Performance Standard proposal and all mercury trading proposals.

The Maine Chapter of the Izaak Walton League asks that the EPA adopt a rule that maximizes the protection of human health and our fisheries by regulating mercury emissions to the level that we know is technologically feasible and to please do so now.

Thank you.

FEBRUARY 25, 2004.

Re proposed National Emission Standards for Hazardous Pollutants; and, in the Alternative, Proposed Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units; Docket ID No. OAR–2002–0056, 69 Fed. Reg. 4652. (January 30, 2004).

Administrator MIKE LEAVITT,

U.S. Environmental Protection Agency, EPA Docket Center (Air Docket), U.S. EPA West (6102T), Washington, DC.

DEAR ADMINISTRATOR LEAVITT: Sporting groups from Indiana, Illinois, Michigan, Minnesota, Ohio, and Wisconsin have worked for years to reduce mercury pollution and protect the health of our families. Today, we write to respectfully express our concerns over the proposed rule by the U.S. Environmental Protection Agency (EPA) to control mercury emissions from coal-fired power plants.

Fishing has been a tradition in the Midwest for generations, and sporting groups have been conserving fish habitat for decades. It has been an important part of family life and a bond between parents and children. Fishing is also important for our businesses, with sport-fishing adding $5 billion to our states' economies annually.

Unfortunately, all of our states are under statewide fish consumption advisories due to widespread mercury contamination. Catch and release is not just a choice anymore, it is a practice we must observe to safeguard the health of our children and grandchildren.

Power plants are one of the largest sources of mercury pollution in the Midwest. Twenty-three percent of the nation's coal-fired power plant mercury emissions come from the six states of Indiana, Illinois, Michigan, Minnesota, Ohio and Wisconsin. In order for anglers to once again catch fish that are safe to eat, it is critical that we significantly reduce emissions from coal plants in these states.

Mercury contamination of fish in our lakes and rivers is a serious concern for our members and their families, but the current proposal falls far short of what is needed to address this threat. We know that existing plants using the best modern technology can achieve mercury reductions of up to 90 percent. The technology to achieve these reductions is being developed and installed in plants right here in the Midwest. We urge the EPA to adequately address our mercury problem by greatly strengthening the proposed mercury rule under section 112 of the Clean Air Act for plants burning all types of coal. We further urge the agency to reject alternative New Source Performance Rule in place of a MACT standard.

MERCURY AND FISH CONSUMPTION ADVISORIES

The entire Midwest is affected by mercury contamination to such a large extent that state health departments have issued fish consumption advisories specifically for mercury. Indiana, Illinois, Minnesota, Michigan, Ohio and Wisconsin all have blanket statewide fish consumption advisories for mercury. In addition, Lake Superior and Lake Michigan have fish consumption advisories because of mercury contamination.

Relying on fish consumption advisories, however, will not solve the problem. We must reduce the contamination at its source. Surveys of anglers in the Northeast, Southeast and Great Lakes have revealed that many anglers may have heard about the advisories, but anglers with lower income levels fish more often, eat more fish they catch as part of their diet, and are generally less aware of advisories than other anglers. In addition, relying only on advisories to address the mercury problem leaves a legacy of contaminated fish our future generations.

SAFE-TO-EAT FISH IS IMPORTANT TO OUR FAMILIES

Women of childbearing age and pregnant women are the most important members of the population in terms of mercury exposure. Methylmercury interferes with the development and function of the nervous system. It poses the greatest hazard to the developing fetus. This is the reason most fish consumption advisories warn pregnant women to limit their fish consumption or avoid fish altogether. However, infants and children are also at high risk. Infants may ingest methyl mercury through nursing and children are exposed through their diet. Children and infants are more sensitive to the effects of mercury because their nervous systems continue to develop until about age 14.

Mercury threatens the health of older fishermen, too. New evidence suggests exposure to methylmercury can adversely impact blood pressure regulation, heart-rate variability, and heart disease.

FISHING IS AN IMPORTANT TRADITION IN THE MIDWEST

Residents in the Midwest share a rich tradition of outdoor recreation centering on our lakes and rivers. We are a region of cabin owners, fishermen, hunters, and outdoor enthusiasts whose lakes and woods are as much a part of who we are as our agriculture, snow and fall foliage. If there is one thing we love as much as catching fish, it is eating fish. The fish fry and shore lunch are beloved traditions in the Midwest.

The ability to pass our traditions on to future generations is threatened by mercury contamination. Unless we eliminate mercury pollution from our lakes, streams and rivers, our children's children may not be able to safely eat fresh bass, walleye, or northern pike—the fish most heavily contaminated.

FISHING IS IMPORTANT TO OUR ECONOMY

Fishing in our states is big business. With the Great Lakes, cold-water streams, and tens of thousands of lakes, it is no wonder fishing is so popular. Sportfish like largemouth bass, smallmouth bass, yellow perch, walleye, northern pike and muskie are just a few of many sought-after species. According to the U.S. Fish and Wildlife Service, more than 7.87 million anglers fish in our states and spend more than $5 billion annually. This includes everything from fishing lures to special clothing to food, lodging and transportation for the trips we take. Our region simply cannot afford a contaminated fishery.

But the value of fishing cannot just be measured in dollars. Although less tangible and difficult to quantify, the effects of mercury pollution on an ecosystem can affect the quality of the fishing experience. A survey of anglers underscores the importance of the social aspects of fishing. Some of the main reasons that people fish are to relax, to spend time with family and friends, and to be close to nature. Warnings about eating fish due to mercury contamination detract from this experience. Reducing environmental contaminants like mercury must be a goal so we can continue to conserve and protect this resource.

WHY IS MERCURY FROM POWER PLANTS A PROBLEM?

Goal-fired electric power plants remain the largest uncontrolled source of mercury in the U.S. Each year, uncontrolled coal-fired power plants in the U.S. emit nearly 50 tons of mercury to the air in addition to an estimated 33 tons disposed of in waste left over after power plants burn coal. EPA estimates that coal-fired power plants alone account for 42 percent of all U.S. mercury air emissions. Municipal, medical and hazardous waste combustors—which are stringently regulated by the EPA—account for about ten percent of U.S. air emissions. Industrial boilers are responsible for ten percent and chlorine manufacturers for six percent. The remaining third is made up of incidental use and products containing mercury.

Existing coal-fired power plants not only remain uncontrolled, but if left virtually unregulated, over time they will account for a larger and larger share of mercury emissions, as other source categories meet their obligations to reduce their mercury releases.

Coal-fired power plants are found throughout the Midwest. According to the EPA's Toxics Release Inventory (TRI), coal-fired power plants in Minnesota, Wisconsin, Michigan, Illinois, Indiana and Ohio together account for 23 percent of mercury emissions from all coal-fired power plants in the U.S. Because mercury does not degrade when released and because the typical coal plant operates for at least 50 years, the accumulation of mercury released by these plants makes them the most widespread, large-scale, long-lived generators of mercury in the U.S.

Mercury is emitted from the stacks of coal-fired power plants, and although it can remain in the atmosphere for up to one year, a great deal of mercury is deposited on land and water bodies within 50 miles of the plant. In addition to being a significant concern in the areas closest to the plants, the deposition and reemission makes mercury pollution a regional and global problem. However, we cannot wait for international cooperation before we start addressing the emission and deposition problems that occur in the United States.

After mercury is deposited from the atmosphere, its greatest adverse impact occurs in the aquatic ecosystem. In a series of chemical reactions, bacteria in the sediments can convert mercury to methylmercury.

Methylmercury is a form of mercury that is especially toxic to humans and wildlife. Fish absorb methylmercury from the water as it passes over their gills and as they feed on other organisms. As larger fish eat smaller fish, methylmercury concentrations increase in the bigger fish, a process known as bioaccumulation. Consequently, larger predator fish usually have higher concentrations of methylmercury from eating smaller contaminated fish. Humans, birds and other wildlife that eat fish are exposed to mercury in this way.

EPA MACT PROPOSAL IS INADEQUATE

EPA's mercury MACT proposal fails to accomplish what is mandated by the Clean Air Act for mercury reduction. Further, the alternative New Source Performance Standard proposal is a poor substitute to an adequate mercury MACT standard.

We contend that the proposed mercury MACT rule should require emissions reductions from all coal-fired power plants by 2008 that are equivalent to the level that can be achieved by the most up-to date pollution controls. Based on data collected by the EPA, that would result in at least a 90 percent reduction in power plant mercury emissions nationwide.

By contrast, as proposed, EPA's MACT rule will only require an overall 30 percent cut in emissions, and that not until 2010 at the earliest. In addition, most of the reductions will come from power plants that burn eastern bituminous coal, while requiring very little emission reductions from power plants that burn western subbituminous coal. As a result, states like Minnesota, Wisconsin, Michigan, and Illinois, whose plants use a significant amount of western coal will see even more limited mercury reductions. Plants in Ohio and Indiana that use mostly eastern bituminous coal would have an incentive to switch to western coal. This could have the perverse effect of potentially increasing local emissions of mercury from plants in Ohio and Indiana. It would also create further strain on the coal industry in the eastern U.S.

The proposed alternative New Source Performance Standard (NSPS) rule would eventually require deeper reductions, but not for more than a decade and not to the levels mandated under a MALT approach. The NSPS alternative also creates different standards for different coal types and allows for some electric utilities to avoid making any mercury reductions, by allowing mercury trading. Treating coal types differently and allowing for trading raises the risk of increasing local emissions, exacerbating the problem of existing mercury hotspots, and creating new mercury hot spots in the Midwest.

The EPA should revise the mercury MACT to meet the Act's obligation to require the most up-to-date pollution controls on all power plants—regardless of the type of coal that they use—and by so doing achieve stringent and rapid reductions in emissions of this toxic pollutant. The EPA should also reject the alternative NSPS and all mercury trading proposals. These alternatives would cause additional mercury related adverse health risks through the promotion of pollution trading, and would allow unacceptable amounts of mercury pollution to continue.

We respectfully urge the EPA to adopt a rule that maximizes the protection of human health and our fisheries by regulating mercury—emissions to the level that we know is technologically feasible and to do so quickly.

Sincerely,

Jim Bahl, President, Minnesota Conservation Federation, St. Paul, Minnesota. 3,000 members.

Danny. J. Blandford, Conservation Director, Indiana BASS Federation, Martinsville, Indiana. 3,000 members.

Jim Doss, President, Ohio BASS Federation, Gallipolis, Ohio. 1,800 members.

Paul Hansen, Exccutive Director, Izaak Walton League of America, St. Paul Minnesota. 13,000 members in Midwest states of MN, WI, MI, IL, IN and OH; 50,000 members nationwide.

Mike Hofmann, President, Wisconsin State BASS Federation, Weston, Wisconsin. 1100 members.

Brad Maurer, President, Ohio Smallmouth Alliance, Bexley, Ohio. 160 members.

Edward L. Michael, Chairman, Illinois Council of Trout Unlimited, Oak Brook, Illinois. 3,000 members.

Larry Mitchell Sr., President, League of Ohio Sportsmen, Columbus, Ohio. LOOS and its member clubs represent about 200,000 Ohio sportsmen and women.

George Meyer, Executive Director, Wisconsin Wildlife Federation, Madison, Wisconsin. Representing 83 Wisconsin hunting, fishing, and trapping organizations.

Kim Olson, New Ulm Area Sport Fishermen, New Ulm, Minnesota. 150 members.

Bill Pielsticker, Chairman, Wisconsin Council of Trout Unlimited, Madison, Wisconsin. 4000 members.

Russ Ruland, DNR Liaison & Past President, Muskellunge Club of Wisconsin, Hales Corners, Wisconsin. 130 members.

Scott Sparlin, Executive Director, Coalition for a Clean Minnesota River, New Ulm, Minnesota. 600 members.

Vern Wagner, Conservation Director, Minnesota BASS Federation, Champlin, Minnesota. 14,000 B.A.S.S. members in Minnesota and 650 enrolled in the Minnesota B.A.S.S. Federation.

Jay Walton, Iowa BASS Federation Conservation Director (4,000 member affiliation), Iowa Conservation Alliance Board (50,000 member affiliation), Ames, Iowa.

Sam Washington, Executive Director, Michigan United Conservation Clubs, East Lansing, Michigan. A network of nearly 100,000 men and women and over 500 affiliated conservation and outdoor recreation clubs.

Paula Yeager, Executive Director, Indiana Wildlife Federation, Carmel, Indiana. 20,000 members.

LITIGATION FORM

Please return to:

IZAAK WALTON LEAGUE OF AMERICA
ATTN: Executive Director
707 Conservation Lane
Gaithersburg, MD 20878-2983

For National Office Use Only

APPROVED: _____

DISAPPROVED: _____

DATE: _____

PLEASE TYPE OR PRINT CLEARLY

1. Name of ALL Plaintiffs:

Izaak Walton League of America, National Wildlife Federation, Natural Resources Council of Maine. National Environmental Trust.

(a) Name of Plaintiff's Attorney (s), (include full address and telephone number):

Ann Brewster Weeks
Counsel and Legal Director
Clean Air Task Force
77 Summer Street, 8th Floor
Boston, MA 02110
(617) 292-0234

Neil S. Kagan
Senior Counsel
National Wildlife Federation
Great Lakes Natural Resource Center
506 East Liberty Street
Ann Arbor, MI 48104
(734) 769-3351

2. Name of ALL Defendants:

Michael Leavitt, Administrator, United States Environmental Protection Agency and United States Environmental Protection Agency

(a) Name of Defendant's Attorney (s), (include full address and telephone number):

Assistant Attorney General, Thomas Sansonetti, will assign an attorney to represent Leavitt and the U.S. EPA. No assignments have been made at this time.

3. Nature of IWLA participation (i.e. plaintiff, intervenor, amicus curiae):

Plaintiff

(a) Name of ALL Intervenors:

The case will not be filed until some time after February 24, 2004. Intervention can occur after the case is filed. Therefore, as yet, the name of all intervenors is not known.

(b) Name of Intervenors Attorney (include full address and telephone number):

See above.

4. Nature of complaint and relief sought (cite facts, figures, dates, hearings, court cases, applicable statues if known):

(a) Where is the specific injury or damage? (e.g. mineral exploration in a Wilderness Area):

Agency's failure to meet the statutory deadline for promulgation of final rules regulating hazardous air pollutants (including mercury) emitted by electric utility steam generating units by the statutory deadline of December 20, 2002. Since electric utilities are the largest domestic source of mercury emissions, failure to regulate these emissions in a timely manner poses serious hazards to public health and the environment.

(b) What are the immediate and long-range goals? (e.g. block exploration; overturn the 1872 Mining Act):

To achieve the District Court's declaration that the agency has failed to meet its mandatory duty to promulgate final Maximum Achievable Control Technology standards from hazardous air pollutant emissions from electric utility units, and that it failed to meet the mandatory deadline for such promulgation, which was December 20, 2002. The long range goal of the litigation is to establish a new enforceable deadline for the promulgation of final MACT standards for electric utility units.

(c) What is the history of the case? Be specific – (e.g. EIS public hearing – 6/1/73, followed by Federal District Court suit initiated 8/15/73...):

Please see attached "Notice of Citizen Suit" letter.

(d) Legal means to be employed to seek relief (e.g. preliminary injunction, temporary restraining order):

Declaratory judgment, court order setting new enforceable for final rules promulgation.

(e) Where will this action be brought?

United States District Court for the District of Columbia.

(f) Under what statues are you bringing the claim for relief?:

42 U.S.C. §7604(b)(2) and 40 C.F.R. Part 54.3

5. Please include copies of all complaints, pleadings, briefs, memos, and related materials such as news clippings, letters, etc. List materials below:

Enclosed, please find the December 23, 2003, "Notice of citizen suit..." letter from Clean Air Task Force to Administrator Leavitt.

(Please continue to keep National informed of all action taken. Provide the attorney with National's address and direct him to forward copies of all relevant documents filed on the League's behalf)

6. (a) Cost estimate. Include attorney's fees, filing fees, witness and investigation fees, court costs, if assessed, and incidentals. Consult your attorney on potential financial exposure and report his opinion:

CATF is funded to do this work but may seek supplemental funding if the case goes to trial. Supplemental funding will most likely be raised by CATF and come from their funder.

(b) How will you raise the needed money?

See above.

7. Is this request for approval only?

Yes.

(a) If assistance beyond approval is desired, please state the probable nature and extent of the assistance required (i.e. money, publicity):

8. Is Board approval needed before the next regularly scheduled meeting? (January, April, July & October):

No.

9. Chapter or Division contact:

(With address and phone number)

* *

January 6, 2004

(Date)

(Signature & address)

William Grant, Associate Executive Director
Izaak Walton League of America, Midwest Office
1619 Dayton Avenue, Suite 202
St. Paul, MN 55104

(651) 649-1446

(Telephone number)

billgrant@iwla.org

(E-Mail)

TESTIMONY: PROF. ELLEN K. SILBERGELD—EPA HEARINGS ON REGULATION OF UTILITY MERCURY EMISSIONS, PHILADELPHIA, FEBRUARY 25, 2004

I am Ellen K. Silbergeld, Professor of Environmental Health Sciences and Epidemiology at the Bloomberg School of Public Health, Johns Hopkins University, in Baltimore, Maryland. I am appearing without compensation as a private citizen, at the invitation of the Sierra Club, and my testimony is based upon my research experience on the toxicology and epidemiology of mercury compounds, as well as my experience in regulatory risk assessment and risk management, including the application of ''cap and trade'' mechanisms to achieve goals in reducing air pollution. My background and training are outlined in the attached documentation; my PhD is in environmental engineering sciences from Johns Hopkins School of Engineering, and I have held research positions with NIH and the University of Maryland Medical School. I have served as a member of EPA's Science Advisory Board as well as an advisor to the Department of Energy, the CDC, the World Health Organization, the World Bank, the Pan American Health Organization, the National Toxicology Program, the National Academy of Sciences, and many other international, national, and state commissions and expert committees. I was a member of EPA and NIH committees evaluating the sources and risks of mercury exposures and I participated by invitation in the deliberations of the NRC Committee on the Toxicology of Methyl Mercury. I am currently directing funded research in my laboratory on mercury compounds, studying exposures and mechanisms of both organomercury compounds (including methylmercury and thimerosal) and inorganic mercury. Last year we published two major research papers: an epidemiological study reporting that adults may be as sensitive as young children to the neurotoxic effects of methylmercury exposure, via fish consumption; and one of the first studies to show that very low doses of mercury can accelerate autoimmune disease, in an animal model of lupus.

In this testimony I want to make three points, relevant to important aspects of your deliberations: (1) mercury compounds must be considered toxic air pollutants; (2) exposures to mercury compounds are a serious and significant health concern for millions of Americans; and (3) it is dangerously inappropriate to propose a ''cap and trade'' policy for controlling the major remaining anthropogenic sources of mercury in the US.

Mercury compounds are toxic air pollutants. Mercury compounds are widely recognized as one of the most serious public health risks world wide, particularly for children (see WHO 1990 report; NRC 2000 report). Mercury compounds can affect many organ systems, including the nervous system, kidney, heart, and immune systems. However, we have not fully appreciated the range and severity of mercury toxicity. Public health policy, including the risk assessments conducted by federal and state agencies, has appropriately focused on the developing nervous system as a very sensitive target for irreversible toxic damage. However, mercury has multiple effects of many organ systems in addition to the developing brain. We recently published an epidemiologic study indicating that adults exposed to methyl mercury via fish are also at risk for neurocognitive deficits, with a dose:response relationship very similar to that found for children exposed prenatally (Yokoo et al 2003):

TABLE 3.—REGRESSION COEFFICIENTS β OF ADULT'S HAIR MERCURY CONCENTRATION AS A PREDICTOR OF NEUROBEHAVIORAL TRUST RESULTS

Test	β*	95% C1	β**	95% C1
Fine Motor Speed	−3.40	−5.80;–1.00	−3.20	−5.40;–1.00
Digit Span	−0.14	−0.29;—0.001	−0.15	−0.29; 0.003
Digit Span backward	−0.09	−0.18;—0.001	−0.09	−0.19;–0.009
Digit Symbol	−1.21	−2.8;–0.33	−0.54	−1.2;0.16
Easy Learning	−0.37	−0.70;–0.04	−0.34	−0.64;–0.04
Difficult Learning	−0.21	−0.42;–0.001	−0.15	−0.34;–0.03
Logical Memory first story	−0.29	−0.51;–0.09	−0.27	−0.49;–0.06
Errors of commission	−1.39	−0.26;–2.5	−1.45	−0.28;–2.6

*—bit adjusted; **—adjustsed by age, gender, and education level.

In addition, recent research in our group and elsewhere has identified the cardiovascular system and the immune system as important targets for mercury toxicity across the lifespan. Because these studies have been published since the 2000 NRC report and risk assessments by FDA and EPA, I will review these data here. In follow up studies in Minimata and in the Faeroes study of children exposed perinatally to methyl mercury via fish consumption, alterations in cardiovascular function have been reported (Oka et a1 2002; Sorensen et al 1999). In 2003, my colleague Dr Eliseo Guallar reported that mercury exposures were associated with cardiovascular disease in adults. In this elegant analysis, Guallar et al (2002) demonstrated that consumption of fish containing mercury resulted in loss of the beneficial effects of fish consumption for cardiovascular function, that is, the methyl mercury ingested by fish consumers abrogated the recognized benefits of consuming omega-3 fatty acids of which fish are an excellent source.

The immunotoxic effects of mercury have long been reported in experimental studies, many conducted by researchers here in Philadelphia (Prof. Shenker, Monestier, and Kono). These researchers and others have shown that administration of mercury compounds to rats and mice can induce autoimmune dysfunction similar to that observed in such autoimmune diseases as lupus and scleroderma. However, there has been little data to suggest that mercury could cause autoimmune disease in humans. We have examined these potential risks of mercury in a different way, to test whether mercury can accelerate autoimmune disease in the context of triggers of these diseases, such as genetic susceptibility, infection, or exposure to antigens. We reported last year that pretreatment of mice with very low doses of mercury can accelerate and exacerbate lupus in an animal model of disease, resulting in premature mortality, more extensive kidney damage, and more rapid dysregulation of the immune system (Via et al 2003).

To put our experiments in perspective, we are exposing our mice to doses equivalent to consuming one can of tuna fish per day with a concentration of 5–10 ppm methyl mercury. In our current research we are examining interactions of low dose mercury with infections, such as Coxsackie B virus, which are major causes of autoimmune cardiomyopathy in humans. Again, we found that mercury accelerates and worsens heart disease in the context of viral ''priming'' (Nyland et al 2004). Autoimmune myocarditis is a leading cause of sudden heart failure in young persons; the possibility that mercury exposures could uncover latent disease, or worsen disease, is very serious.

Based on these studies, and the continued research on mercury worldwide, it is fair to say that we have not yet fully comprehended the range of mercury toxicity and its risks for human health. In many ways, we are still at the point in evaluating mercury as a toxic air pollutant as we were in thinking about lead some 25 years ago. We know that mercury is dangerous, and we know some people may be excessively exposed. However, we do not fully appreciate its toxicity and hence we cannot disregard the range of exposures current in the U.S. population.

Exposures to mercury compounds are a significant threat to millions of Americans. One yardstick by which to judge the need for urgent interventions in a public health problem is to evaluate current levels of exposure to a toxic agent like mercury. Several recent analyses have been undertaken on exposures of the U.S. population to mercury compounds, most recently by Dr. Kathryn Mahaffey and her colleagues at EPA. (Their report is available on line from Environmental Health Perspectives, the scientific journal published by NIEHS). Mercury exposures can be evaluated either by population studies of mercury concentrations in blood or hair, which was done by the CDC in 2003 (Schober et al 2003). Exposures can also be determined by analyzing mercury concentrations in food, which is the major source of exposure for the U.S. population. Mahaffey and colleagues have updated the earlier assessment of U.S. exposures, using information on blood mercury levels and on diet. Their analyses support the urgency of taking comprehensive and effective actions to reduce ongoing inputs of mercury into the environment. For all U.S. women of childbearing age, half have blood mercury levels in excess of 0.94 micrograms/L. Nearly 10% have blood mercury levels greater than 5 micrograms/L, with a range of 2.7 to 25% depending upon ethnicity. The NRC recommendations in 2000 supported a reference dose for mercury in cord blood of 5.8 micrograms/L. Mahaffey et al estimate that more than 300,000 infants may be born each year to women whose blood mercury levels are in excess of this health based guidance. Clearly, this is an environmental health issue demanding rapid intervention.

Mercury comes from many sources, natural and anthropogenic, and each individual is exposed to the sum of all these sources. For most Americans, the proximate source of mercury exposure is through the food supply, primarily through seafood. Finally, the FDA seems ready to adopt the current risk assessment, developed by the National Research Council and adopted by EPA. However, this is the proximate source of mercury, and attempting to reduce exposure by controlling the foods we eat is an inefficient and ultimately uncertain public health policy. Moreover, without controlling the ultimate sources of mercury, we are essentially writing off seafood as a food source.

The ultimate source of mercury is overwhelmingly from energy production using fossil fuels. Prudent and effective public

health policy requires that we examine options for controlling this source, rather than eliminating seafood and some freshwater fish from our diets for now and forever.

''Cap and trade'' policies are not appropriate for mercury. I am proud that I worked for the environmental organization Environmental Defense that has developed innovative strategies for protecting our environment and human health. One of these strategies has been the careful selection and implementation of so-called ''cap and trade'' policies for certain pollutants, notably sulfur oxides. From this experience, there are criteria we can apply in determining what policies are appropriate for controlling specific pollutants. First, trading only works to prevent environmental impacts and harness efficient private sector mechanisms under the following conditions: (1) it doesn't matter where the pollutant is released, so that if one source accumulated ''trading rights'' and emits more pollution than a source that sells these rights, there will be no local impacts around the buyer source. (2) the pollutant should not accumulate in the environment, such that continuing emissions do not build up in ecosystems or food pathways. (3) the current levels of exposure should be acceptable such that it is not necessary to implement a rapid overall reduction in exposures at the local or national level.

None of these conditions are met in the case of mercury. It does matter where mercury is emitted. In an analysis of EPA data conducted by Environmental Defense, it was shown that in many states with mercury problems (evidenced by fish advisories) local sources are the cause of environmental ''hot spots''. If these sources utilize trading rights, then the problem of local ''hot spots'' will continue. This is likely, since the reason for these hot spots is current levels of release, reflecting the fact that it is more convenient, economically and technologically, for these sources to emit mercury rather than control their facilities. Mercury accumulates in the environment and in food pathways affecting wildlife and humans. Mercury is an element and thus never disappears. In addition, in the aquatic environment, inorganic mercury emissions are transformed by bacteria into methyl mercury, which is bioaccumulated by organisms through complex food webs resulting in concentrations of methylmercury in large fish that eat other fish tens of thousands of times higher than the concentrations in water or sediments. Current levels of exposure are unacceptable. For that reason, it is imperative for us to take action to reduce mercury exposures from all sources, but most expeditiously to reduce the largest and least controlled sources. We have the technology to control utility emissions, as has been demonstrated in this country for other combustion sources and in Europe for utility plants. Data below show the dramatic reductions achieved by waste incinerators.

We do not have room for trading, when hundreds of thousands of adults and babies are at risk because of current levels of exposure. We do not have time for trading, when consumers must choose between a healthy diet, incorporating seafood, and avoiding the hazards of mercury for themselves and their children.

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MAINE COUNCIL OF CHURCHES,
ENVIRONMENTAL JUSTICE PROGRAM,
Portland, ME, March 1, 2004.

Re public hearing on mercury emissions ruling.

Congressman TOM ALLEN,
House of Representatives,
Augusta, ME.

DEAR CONGRESSMAN ALLEN: The Maine Council of Churches' Environmental Justice Program asks you, as our representative to the U.S. Congress, to carry a message to the Environmental Protection Agency and the Secretary of Energy. With deep concern for the sustainability of the living web of creation we oppose the proposed rule change on mercury pollution as well as the recently announced plan to build 94 new coal-burning power plants across the nation. Both proposals are appalling in light of our growing scientific knowledge that human activity—primarily burning fossil fuels in power plants and vehicles—is seriously compromising the health of our environment and all of the earth's inhabitants for generations to come. We have the technology available today to reduce mercury pollution by 90%; yet our federal government proposes to introduce a ''cap-and-trade'' program for this toxic pollutant and to build more power plants that will generate mercury emissions.

Living close to the land, most Mainers have experienced firsthand the effects of mercury and air pollution emitted by coal-burning power plants to our south and west. At our rivers and lakes we read the posted fish advisories. We see inhalers in backpacks reminding us that our children suffer from the highest asthma rate in the region. We've learned on hot summer days that the heavy haze that hugs our coastline is ground ozone and is dangerous for our friends and neighbors who have respiratory problems. Stay inside and reduce your level of activity, we are warned.

Concerned about these growing problems in our environment, congregations and their members across Maine have been working together to do something. Together we are conserving energy as we obey the first Commandment and put into practice our covenant with the Creator ''to care for the garden.'' With support from the state Public Utilities Commission's Efficiency Maine, congregations are participating in free energy audits and rebates to install energy-efficient appliances; individuals are replacing incandescent light bulbs with compact fluorescent light bulbs at rebated prices and implementing other technologies that conserve energy in their homes.

We want to learn and participate in state programs that collect items containing hazardous wastes like mercury.

And it is not only the faith community. Businesses and the state have also made commitments, purchasing Maine-produced ''green'' electricity and supporting wind and solar power development through green tag purchases—all as a result of Maine Interfaith Power & Light's successful campaign to bring renewable electricity options to Maine residents.

One by one, community by community, Mainers are making a difference in the amount and kind of energy consumed in the state and cleaning up our own contributions to air and water degradation. But we can't do it alone. We need those who create policy and oversee the protection of our environment and its resources—the EPA, especially—to stand with us and enforce the Clean Air Act and the Clean Water Act, which are vital to the future of all of our neighbors on the earth. These leaders must indeed work with us, not against us, and champion life-sustaining energy and toxic pollution-reduction policies.

Thank you for your continued efforts on behalf of the earth and its living inhabitants.

Respectfully submitted,

ANNE D. (ANDY) BURT,
Director, Environmental Justice Program.

MERCURY RULE HEARING SPONSORED BY TOM ALLEN, MONDAY, MARCH 1, LEGISLATIVE COUNCIL CHAMBER, ROOM 334, MAINE STATE HOUSE, AUGUSTA

Thank you Rep. Tom Allen for holding this shadow hearing to the Environmental Protection Agency's field hearing in Philadelphia. We deserve the right to discuss their proposal to weaken the Clean Air Act's protections against mercury pollution from power plants, as it is Maine that will continue to see the high rates of mercury deposition.

My name is Patricia Philbrook. I am here today as a board member of the Maine People's Alliance (MPA), a statewide citizen action organization with 22,000 members.

Power plants are the largest industrial source of mercury in our environment. Mercury emitted from power plant stacks falls as rain, snow, and even dry deposition here in Maine. Three and one half years ago MPA co-released a report at the HoltraChem site in Orrington indicating our rain and other forms of precipitation, commonly thought to be pure, is tainted with varying levels of mercury, in some instances enough to be a threat to aquatic organisms. Remarkably, power plants are the only major mercury polluters yet to be regulated under federal clean air standards. Thus, in large part, our nation's mercury problem is due to the fact that while other sources must meet strict emission limits, power plants continue to spew unlimited quantities of mercury into our air, where the rain and snow wash it into our rivers, lakes and oceans, and, ultimately, into our food chain. Public health demands that we act on mercury to reduce children's exposure, who are especially vulnerable to this potent toxin, and to protect all members of our population.

Maine also has local mercury problems, which we have been addressing. Currently, the Maine People's Alliance and many others have serious concerns about the proposed cleanup plan at HoltraChem, one of the worst mercury pollution sites in the country. Basically, Mallinckrodt plans to ''cover and run,'' leaving many tons of toxic mercury in close proximity to the Penobscot River. Mallinckrodt chose the best opportunities for cost cutting rather than the right

options for eliminating toxic threats. This cheap solution is neither acceptable to the residents of Orrington, nor to the people living in the Penobscot Valley. Clearly, Mallinckrodt is solely responsible for this mess. It built the plant, and for years it profited while polluting one of Maine's great natural treasures.

As the sole responsible party left among the many that operated the plant at one time, Mallinckrodt should be legally bound to remove all toxic threats to human health and the environment. To date, it has been operating on a voluntary basis with the EPA to implement corrective actions at the site. The government should require Mallinckrodt to sign a consent agreement, legally binding it to follow through with a thorough cleanup. The consent agreement should also obligate Mallinckrodt to address any future problems at the site that may not be apparent today. While the Maine People's Alliance has worked tirelessly over three decades to clean up HoltraChem and has supported the Maine Legislature in efforts to reduce mercury contained in products sold in Maine, we will continue to have some of the highest mercury levels unless power plants are forced to observe strict standards at the federal level.

Unfortunately, the Bush administration has taken several steps in the wrong direction. Instead of protecting mothers and children from exposure to mercury, EPA's proposals would protect electric utilities by setting targets so weak that the industry will be allowed to continue polluting. What the mercury standard should be and what the EPA should be implementing is current law (Section 112 of the Clean Air Act), which requires that industries install maximum achievable control technologies to reduce air toxics such as mercury.

Two years ago, EPA's own scientists said the existing power plants could achieve a 90 percent reduction in mercury emissions using existing control technologies. This means we can reduce mercury emissions from power plants from 48 tons annually to roughly 5 tons per year by 2008. We should accept no less.

MERCURY RULE HEARING: TEACHING THE UNTHINKABLE

Hello, my name is Chris Coleman and I am here as a representative of the Chewonki Foundation. We are a non-profit center for environmental education located in Wiscasset, ME. Personally, I am the Assistant Director of our Travelling Natural History Programs. To put it simply: I am a teacher. In the course of a year I teach thousands of elementary school children throughout the state of Maine about Owls, Hawks, reptiles, amphibians, waste management, global warming, predators, prey, food chains, mammals, trees, etc. If it's going on outside we have a lesson that will teach you about it. In just about every lesson I teach, there is a time when I explain the problems that the particular subject of that lesson faces, whether it be plant or animal. I teach with the understanding that awareness leads to action. To each problem I offer a solution. Since the majority of these problems are related to humans, the solutions deal with things students can do to fix them, i.e., picking up trash on the beach, not throwing apple cores out car windows, buying things in the grocery store that produce less waste, etc. I feel that it is important that children understand they are not helpless in the grand scheme of things just because they are kids.

I pride myself in my ability as an educator to present issues to students in a nonbias, ''middle of the road'' sort of way. They deserve to hear both sides of the issue. I think it is unfair to take advantage of such a malleable mind. Children need to be given the facts, and then, from there it is truly an amazing thing to watch as they go through a very intense deductive process which almost always culminates in the simple but entirely justified question, ''Why?'' Gone are the days when as adults we can get away with the answer, ''Because that's just the way it is.'' They have matured far too much to accept such a thoughtless answer. Even at ten years of age they need some ''hard science'' to reinforce every concept within their own environment.

Now I have a new problem to teach: mercury contamination. I know the problem is not new to most of us here, but upon researching the topic I have decided that the issue now warrants a great deal of awareness among children in order to create the action I spoke of earlier. Afterall, they are the ones that will be forced to deal with this issue as it becomes more and more of a problem. First I give them the ''hard science'':

Mercury is a highly toxic chemical with effects on the central nervous system comparable to those of lead, especially for unborn fetuses, very young children whose brains are still developing, and piscivorous animal.

Forty-five states have issued freshwater fish consumption advisories.

Loons of Maine in high-risk mercury situations have been observed spending far less time sitting on their eggs in the nest, foraging for food, and increased time brooding and resting.

High mercury levels are being passed on to loon chicks.

4.9 million women of childbearing age in the U.S.—that's 8 percent—have mercury levels in their blood that are unsafe. (Center for Disease Control).

Two years ago, EPA scientists concluded that 90 percent reduction in mercury output from coal fired power plants is possible using existing technologies.

The list goes on, and on, and on.

Here is my dilemma though. What do I offer as a solution to kids? What can they do? Maybe it's a problem better left for adults to handle. And then they'll ask, ''What are the adults doing about all of the mercury that goes into our water?'' Now, thankfully I have an answer. Based on recent decisions made by our government, I can honestly say to them, ''Absolutely nothing.''

What I fear the most though are the questions students ask that they have no idea are even related to mercury, like, ''Where are all the loons that used to live on my lake? How come that bald eagle doesn't come back to its nest anymore? I used to hear the shrill cries of an osprey every time my family visited that island. Now everything is so quiet. Where did the osprey go?'' Do I then explain to them that a deadly neurotoxin called methylmercury is slowly killing off these birds and it will only get worse as they grow older.

Don't make me answer those questions. I shouldn't have to answer them. Those answers should come from the people who have created and perpetuate the ill effects of mercury contamination. I always have such high hopes for children, for the things they are capable of now and in the future, but why do we constantly stack the deck against them. It is time to right the wrongs of my generation, your generation, and generations before us so that the children of today will be able to swim in their lakes, eat their fish, and enjoy the wildlife within their forests. I fear we as adults have created so many problems for them to deal with, so why not remedy this situation before it becomes catastrophic. My name is Chris Coleman. I am a teacher. I came here today to speak for the children of Maine.

TESTIMONY BY PHILIPPE GRANDJEAN, MD, PHD, AT THE MERCURY MACT RULE HEARING SPONSORED BY REP. TOM ALLEN

My name is Philippe Grandjean. I am an MD, PhD, and I work as an Adjunct Professor of Environmental Health at Harvard School of Public Health in Boston. I am also a Professor and Chair of Environmental Medicine at the University of Southern Denmark. I apologize for not being able to be present today due to commitments in Europe and my field studies in the Faroe Islands. I am grateful to you for allowing me to present a short summary of the current status of our studies of adverse effects of methylmercury in regard to human health.

I started studying the effects of mercury on human health almost 20 years ago. Together with Dr. Pal Weihe, I collected information on births in the Faroe Islands, a fishing community located in the North Atlantic between Norway and Iceland. In over 1,000 children, we determined the prenatal exposure to methylmercury by analyzing the cord blood for mercury. The mercury originated from the traditional Faroese diet, which includes pilot whale meat in addition to frequent meals of fish and shellfish. The pilot whale is a toothed whale that eats fish and squid, and the mercury concentration in the meat corresponds to the levels in swordfish and shark, or higher.

When we examined the children at age 7 years with sophisticated neurobehavioral methods, we found that increased prenatal mercury exposure was associated with deficits in several brain functions, including attention, language, verbal memory, spatial function and motor speed. These associations could not be explained away by a multitude of other factors that we also recorded. In fact, the Faroese population is relatively uniform, and whale meat is freely shared when available, so that one would not expect that socioeconomic or other factors would play any great role.

In 2000, the National Research Council released its report on the Toxicology of Methylmercury. This report identified our work as critical evidence in regard to identifying an exposure limit for methylmercury. The NRC committee used the so-called benchmark dose for these calculations and agreed with the U.S. EPA that an exposure limit of 0.1 micrograms per kilogram of body weight per day was justified.

Since then, our research has made substantial progress, and I would like to share some of these achievements with you.

One insight comes from efforts in statistical theory by my colleague, Dr. Esben Budtz-Jorgensen, a Danish statistician who now works as a postdoc at Harvard. Esben first calculated the degree of imprecision of the exposure assessments—that is, in this case, how well the cord-blood mercury concentrations reflected the ''true'' exposure. Imprecise exposure assessments result in an underestimation of the true effect of an exposure, in this case methylmercury. We had anticipated that our mercury measurements would not be a precise measure of the dose that the fetus (especially the fetal brain) had received. But Esben documented that the measurement error was much greater than we had thought. In addition, the mercury concentration in the mother's hair was a poor measure of the ''true'' exposure to the fetus.

Such imprecision of course also affects the calculations of benchmark doses. Esben has now calculated the influence on the results that the NRC used in their report. In short, the benchmark dose has been overestimated

by a factor of 2. Accordingly, if we were to calculate an exposure limit today by the same procedure as the one used by the NRC, now using the adjusted benchmark dose, then the exposure limit would be only one-half of the limit used by the U.S.EPA.

Another issue of importance is how you convert mercury concentrations in hair to concentrations in blood and vice versa. The calculation originally presented by the NRC was based on cord blood and needs to be adjusted to the concentration in adult whole blood. The EPA now estimates the annual number of births in the US that exceed the EPA exposure limit to be 630,000. However, the number would have been even larger, had the EPA used the adjusted exposure limit.

Current risk assessments have been based on the assumption that the fetal brain is the most sensitive organ. Brain development also continues after birth, but we have been uncertain how long an increased susceptibility to mercury might last. Accordingly, some states have chosen to warn against mercury exposure from fish only with regard to pregnant women, while others have included children up to various age levels. Our new results, just published in The Journal of Pediatrics in the February issue shed new light on the vulnerability of the brain.

We had recently examined the Faroese children again at age 14 years, and the tests carried out included brainstem auditory evoked potentials. In this test, the child was hearing a sound from a headset, and we then recorded the resulting electrical activity in the brain using surface electrodes placed on the skull. Using standard clinical procedures, we measured the transmission of the electrical signal from the acoustic nerve through a series of ''relay'' stations in the brain. We found that the latency, or transmission time, of the signal from the acoustic nerve to the brainstem was significantly increased at higher prenatal exposure to mercury. This was true both at 7 years and at 14 years, suggesting that this effect of mercury on the developing brain is irreversible.

This mercury-associated delay in transmission appeared to be parallel to the effects on the child's cognitive functions that I mentioned before. The measurement of electrical signals is regarded an objective assessment that is independent of factors, such as age and socioeconomics. It therefore represents an important, independent confirmation of the neurotoxicity of methylmercury from seafood. We are currently working on the neuropsychological test results at age 14 years to see whether they too, as we anticipate, reflect lasting mercury toxicity. So I can't report on these results yet.

An additional finding at age 14 years was that a subsequent component of the signal transmission to the midbrain was delayed at higher current mercury exposures, but in this case it was not affected by prenatal exposure. Postnatal mercury exposure up to adolescence therefore also seems capable of damaging brain functions, although they may not be the same as those that are sensitive to mercury during fetal development. This conclusion is entirely plausible and agrees with experimental animal studies.

It is noteworthy that these children at age 14 had an average exposure that was similar to the exposure limit used by the U.S.EPA, and that 95% of them had exposures below the level which has previously been considered safe by the FDA. Yet, at these exposure levels, we saw a steady slope of increasing delays of the electrical signals, the higher the mercury exposure: The delay in the signals appeared already at mercury doses below the EPA limit.

All of these results regard cognitive effects and other changes of brain functions. The autonomic nervous system performs important, but unconscious functions, such as regulating the heart beat, the blood pressure, etc. We have now found that the mercury associated neurological changes are also linked to decreased nervous system control of the heart function. At higher mercury exposures, the children were less capable of maintaining the normal variability of the heart rate necessary to secure proper oxygen supply to the body and to maintain an appropriate blood pressure.

This finding has wider potential relevance, because other research has suggested that mercury from fish may increase the risk of heart disease and of dying from heart disease. The most recent reports were published in The New England Journal of Medicine in November, 2002. We suspect that part of the reason for these findings is that the mercury affects the autonomic nervous system and its control of the heart function. Such effects are of course highly relevant to Americans in general. These new results therefore suggest that we should not only be concerned about mercury exposures of pregnant women and small children. The EPA report that over 10% of all births every year exceed the exposure limit should therefore also be considered in regard to the population at large.

The importance of brain functions means even a small deficit, whether measured as a decrease in IQ points or otherwise, is likely to impact on an individual's quality-of-life, academic success and economic prospects in life. Even though the children that we examined were all basically normal, we have documented detectable deficits that appear to be permanent. I would consider such changes as adverse health effects that should be prevented. Further, even a small increase in the incidence of heart disease is important, because cardiovascular disease is the major cause of death in this country.

Freshwater fish and seafood are excellent supplies of energy and essential nutrients. If fish is not contaminated with mercury, it will help prevent heart disease. I believe that it is an important effort to support public health to prevent mercury contamination of the environment.

Thank you.

STATEMENT OF REBECCA WEINSTEIN, JD, MSW, EXECUTIVE DIRECTOR, MAINE DEVELOPMENTAL DISABILITIES COUNCIL

(On the U.S. Environmental Protection Agency's Proposed Rulemaking On Standards for Reduction of Mercury Emissions from Coal and Oil-Fired Electric Utility Power Plants and the Use of Maximum Achievable Control Technology (MACT) Published in the Federal Register on January 30, 2004 (69 FR 4692) EPA Docket ID Nos. OAR–2002–0056 & A–92–55.)

Good afternoon, my name is Rebecca Weinstein and I am the Executive Director of the Maine Developmental Disabilities Council. The Council is an independent advocacy organization working toward systems change to assure that individuals with developmental disabilities are fully included, integrated and involved in their communities and the decisions impacting them.

It is not often the case that I have the opportunity to testify on environmental issues; until fairly recently, discussion of disability meant discussion of health and other human services. However, increasing knowledge of the potential role of environmental toxins and other factors in causing developmental disabilities means that a much broader spectrum of issues now must be considered as disability issues.

According to the federal definition, a developmental disability is a condition which occurs before the age of 22, has severe impact in three major life areas and is likely to continue indefinitely. In most cases it is impossible to identify a direct cause of a developmental disability. The most current scientific research indicates that complex interactions between social environment, genetics, and environmental toxins such as lead, PCBs, and mercury play a profound role in the causation of developmental disabilities. While it is extremely difficult to have a measurable impact on social environments and genetic factors legislatively, emissions of these kinds of potent neurotoxins can be substantially reduced and even eliminated through stringent regulation.

Mercury can have a devastating impact on fetal brain development. Large exposures can cause mental retardation, gait and visual disturbances, and even small exposures can cause impairment in language, memory and attention. When fish contaminated with mercury are consumed, women of childbearing age can put their future children at risk for a range of developmental disabilities. Warnings are regularly issued to attempt to protect fetuses and young children from these effects, but even with this warning system in place, the Centers for Disease Control estimate that 1 in 12 women of childbearing age in the U.S. has unsafe levels of mercury in her blood. Women who have become contaminated with enough mercury to cause substantial harm to a developing fetus may not themselves have, or show signs of, mercury poisoning. This is because the developing brain is especially sensitive to the effects of mercury, where its presence can cause significant disruption to a variety of processes including cellular function, protein synthesis, cell division, and cellular migration.

As an additional cause for concern, recent studies have shown that methylmercury in combination with polychlorinated biphenyls (PCBs) act synergistically, raising questions about the impact of mercury in combination with other neurotoxins at very low levels. Many water systems in the US are contaminated with a variety of toxins including PCBs and other neurotoxicants, raising questions about analyses and alerts based solely on a single toxin.

The potential damage that mercury emissions pose to America's children make it imperative that mercury emissions be limited to the greatest extent possible. The more mercury that is prevented from entering the environment, the greater the chances that children will avoid its toxic impacts. Power plants have been allowed to emit these toxic chemicals for years, negatively impacting the health of our environment and the nation's children. It is simply unacceptable not to demand that these polluters meet anything but the most stringent emissions standards, especially when technologies already exist that can remove a large majority of these emissions.

I urge you to push for the most stringent standards possible to help protect America's children.

Thank you for your consideration.

MAINE COUNCIL
OF TROUT UNLIMITED,
March 1, 2004,

Re Proposed National Emission Standards for Hazardous Pollutants; and, in the Alternative, Proposed Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units; Docket ID No. OAR–2002–0056, 69 Fed. Reg. 4652 (January 30, 2004).

Administrator MIKE LEAVITT,
U.S. Environmental Protection Agency, EPA Docket Center (Air Docket), U.S. EPA West, Pennsylvania Avenue, NW, Washington, DC.

DEAR ADMINISTRATOR LEAVITT: EPA's current proposal to regulate hazardous air pollutants emitted by the electric utility industry does not adequately protect public health or our fisheries. It is important to Maine Trout Unlimited members that the electric utility industry takes responsibility for its harmful emissions.

Congress specifically lists mercury as a hazardous air pollutant in section 112 (b) of the Clean Air Act because of its toxic nature and its health effects. Toxic air pollutants must be regulated so as to require the maximum achievable control technology (MACT) at every source. The Maine Council of Trout Unlimited is concerned about EPA's proposal to allow trading of this toxic material.

All of the New England states have Statewide Mercury Advisories and within the State of Maine's Open Water and Ice Fishing Regulations book is a warning about eating freshwater fish: Warning: Mercury in Maine freshwater fish may harm the babies of pregnant and nursing mothers, and young children.

The proposed mercury MACT rule should require emissions reductions from all coal-fired power plants by 2008 that are equivalent to the level that can be achieved by the most up to date pollution controls. We strongly urge the EPA to adopt a rule that will protect human health and our fisheries.

Sincerely,

GREG PONTE,
Council Chair.

My name is Marjorie Monteleon. I live on Mt Desert Island where Acadia National Park is located. I chose to drive between 5–6 hours round trip to protest the EPA's proposed relaxing of the regulatory approach to mercury in air pollution.

Why?

Because: Some tree swallows in Acadia National Park are more mercury-contaminated than birds at a Superfund site in Massachusetts, according to Jerry Longcore, of the U.S. Geological Survey.

Because: ''The mercury in rain falling on Acadia National Park peaked at . . . close to four times the current EPA standard and over 23 times higher than the Great Lakes human-health standard.'' On average, the rain in Maine carries mercury levels more than three times greater than the EPA's updated human-health standard for the Great Lakes.

Because: Seal Cove, Hodgdon Pond, and Aunt Betty Pond, in Acadia National Park are highly contaminated. It may be unsafe for anyone to eat any fish from these ponds.

Because: 20 to 25 percent of ''loons'' in Maine have high mercury levels, high enough, in fact, that they are at risk of neurological and behavioral problems; those loons fledge 40 percent fewer young and we know that mercury levels in loons are a measuring stick for mercury levels in our environment. And we know that mercury in our environment eventually winds up in our bodies.

Because: 3–4 million people come to Acadia each summer. We year-rounders depend on them for our living. They eat tons of our seafood, ride in our boats, buy our boats, rent lodging and campsites, buy souvenirs, gasoline, etc. What happens when our fish is completely inedible? What about the fishermen, my son included? What about the boat builders?

Because: Not just Acadia.

The rain in Bridgeton is contaminated with ''more than twice the generic EPA aquatic life and wildlife standard and over 14 times the new more protective human-health standard developed for the Great Lakes,'' according to studies by the Mercury Deposition Network.

The EPA's motto is Protecting ''Human Health, Safeguarding the Natural Environment. Pray tell what do they propose to tell the populace as it slowly dies from mercuy contamination? What does it take to get them to abide by their motto?

Apparently it takes many lawsuits to require the EPA to do it's job.

1. The goal of one case, by Earthjustice is to force the EPA to require Ohio to tighten the controls on some of the worst air pollution in the country. Oct. 02

2. Another case: The court settlement requires EPA to formally determine, by April 2004, which areas have smog that violates the 1997 national air quality standards for ozone. Once EPA makes those determinations, state and local governments will be called on to prepare smog cleanup plans adequate to meet the standards.

3. Another case: Challenged EPA's authorization of the use of vinclozolin; a dangerous fungicide linked with serious birth defects and other health maladies.

Mercury is one of the most toxic substances in the world, more toxic than lead or arsenic.

So how do we get the EPA to do it's job? Another lawsuit? We demand an end to airborne mercury pollution. We demand that the EPA protect over 630,000 infants born every year with levels of mercury in their blood so high that it can cause brain damage.

Good afternoon. My name is Jon Devine, and I am representing the Natural Resources Defense Council. I am an attorney in NRDC's Health and Environment program. Before coming to NRDC, I defended and implemented the Clean Air Act in a number of policy and legal positions for both state and federal agencies. I am also a parent of two young sons. I am troubled that the agency is shirking its public health mission and its duties under the Clean Air Act while consigning states to a future of contaminated waterways and fish. Beyond that, EPA's mercury proposal offends me as a parent, because the agency is telling my kids to wait until adulthood to see fewer mercury reductions than the law requires to be accomplished before my youngest is in grade school.

EPA has proposed a program that demands no mercury reductions in the near term except those that would otherwise occur, asks power plants to make only modest improvements by 2018, and sets up a trading mechanism that will actually delay pollution controls far beyond 2018. The agency's approach stands in stark contrast to what the Clean Air Act requires—reducing mercury pollution by as much as 90 percent within three years. My testimony focuses first on EPA's grotesquely weak section 112 proposal, then its proposal to revise history and undo the agency's determination that regulating power plant mercury is necessary and appropriate, and finally its proposal to find the authority in section 111 of the Act to do exactly what the administration had failed to accomplish with the so-called ''Clear Skies'' Act. That bill would establish a cap-and-trade system for mercury in two phases, with the first phase cap set at the level expected to occur as a ''co-benefit'' of controlling other pollutants, and the second phase cap requiring a reduction of roughly 70 percent in the far distant future.

Starting with section 112, EPA's mercury emission standards violate the Clean Air Act in several ways. First, EPA used stack tests and coal data from the lowest-emitting facilities, and then, in the name of establishing an ''achievable'' standard, subjected these data to a series of statistical manipulations that resulted in an emission standard far higher than what the plants achieved as a regular matter. EPA took several short-term emission observations from each facility, ranked them from best to worst, and picked the emission level that was worse than 97.5 percent of the data set, resulting in a figure that represented virtually the worst performance the plant experienced. The agency then took this figure for each of its top-performing sources and applied a second 97.5 percent adjustment, thus resulting in a number that, as best we can tell, is meant to represent a prediction of the worst performance any similar source might experience under the worst conditions. As a last step (or perhaps I should say straw), EPA then took this calculation of the worst-of-the-worst short-term emissions and used the result as the basis for an annual emission limit. This statistical manipulation is indefensible—it effectively assumes that the worst conditions that the worst facility in the group briefly experienced will exist throughout the year. EPA goes far beyond ensuring that regulated facilities will be able to meet the standard under ''reasonably foreseeable circumstances,'' and instead makes sure that they will meet them under circumstances statistically certain never to occur. Even if one accepts some of EPA's assumptions, the consequences of the agency's most egregious numbers games are extreme; for example, by using the second 97.5 percent adjustment and by making the emission limit annual, EPA weakened the standard for bituminous coal burning units by more than a factor of four. Had EPA not used these two devices, we calculate that the agency would have to reduce emissions from bituminous, subbituminous, and lignite units to approximately 10.5 tons per year. By contrast, EPA uses these gimmicks to justify allowing power plants to emit approximately 34 tons per year, which is precisely the same level of mercury control that EPA predicts will occur as a co-benefit of controlling other pollutants. What a remarkable coincidence that EPA's technical staff performed these calculations and just happened to find that they required the exact same level of reductions EPA had sought to achieve legislatively and that it now proposes to accomplish with its alternative section 111 proposal.

The second major flaw with EPA's section 112 proposal is its failure to examine basic emission reduction techniques as MACT. EPA discards precombustion controls by suggesting that some sources in the industry might find them difficult to implement, but it does not undertake a MACT analysis to evaluate whether the superior performers in the industry engage in pollution prevention activities that minimize mercury emissions. Moreover, when one compares EPA's proposed 29 percent reduction to analyses by State regulators and others, the agency's characterization of its program as MACT appears laughable. For instance, the Northeast States for Coordinated Air Use Management recently concluded that ''existing control devices designed to reduce other pollutants can

deliver substantial mercury reductions,'' with some bituminous-fired units achieving 95 percent reductions and subbituminous units achieving over 70 percent reductions. NESCAUM also noted that mercury-specific controls, such as activated carbon injection, were successfully deployed in U.S. coal-fired plants and achieve over 90 percent control, and Iowa permitting authorities recently required a new subbituminous plant to achieve 83 percent control.

Third, EPA's proposal does not set emission limits for several hazardous air pollutants the agency admits are released from utility units. Doing so simply flies in the face of prior court decisions interpreting the MALT provisions of the Clean Air Act, and nothing in section 112(n)'s ''necessary and appropriate'' language allows the agency to issue rules only for those pollutants the agency feels are of concern.

Fourth, EPA proposes to allow sources to participate in a pollution trading scheme so that plants in the aggregate will emit 34 tons of mercury annually, but no individual plant would need to meet any particular emission limit. The agency suggests that either section 112(n)(1) or 112(d) of the Clean Air Act might provide it authority to create such a system, but neither section authorizes such a radical approach. Section 112(n)(1) does not provide authority to vary the characteristics of a MACT standard, and section 112(d) does not permit EPA to create a cap-and-trade program encompassing multiple sources. The agency itself acknowledged this several years ago, when it concluded that ''no averaging can be permitted between sources that are not part of the same major source.''

Fifth, EPA's proposal arbitrarily defines subcategories based on coal rank. This choice is flawed because EPA admits that nearly a quarter of the coal-fired units in the Nation currently fire different ranks of coal, and because many more may be capable of doing so. This fact suggests that the purported differences between units that burn different ranks of coal are of little real-world consequence.

Perhaps because of these obvious legal problems with the agency's attempt to shoehorn its desired result into section 112 of the Act, EPA has developed an alternative plan to avoid section 112—it proposes to undo the December 2000 regulatory determination that controlling mercury from power plants under section 112 is necessary and appropriate, and proposes to remove utility units from the list of source categories subject to MACT. EPA cannot lawfully rescind its determination because section 112(c)(9)(B) dictates the specific mechanism that EPA must follow in order to avoid setting emission standards for listed source categories. That provision only allows source categories to be removed from the regulatory list if no individual source is a danger to health or the environment, but EPA does not even attempt to make this showing in its proposal.

Finally, I want to turn to EPA's proposed section 111 two-phase, cap-and-trade, mercury program, which is the administrative twin of the Clear Skies proposal. This element of the agency's preferred approach is remarkable because it is simultaneously audacious and feeble. The proposal is audacious because EPA purports to find the authority in section 111 to do virtually anything it pleases in regulating stationary source emissions. The agency interprets the section's use of the terms ''best,'' ''system,'' and ''standard of performance'' to allow EPA to devise, so long as it considers certain factors in doing so, whatever emission control regime it thinks works best, and to permit the industry to comply at individual units, across whole plant sites, or even by averaging throughout whole industries. This strained interpretation fails because it threatens to swallow the rest of the Clean Air Act whole and because other parts of the Act—such as the MACT provisions—use the same or similar terms and would be rendered absurd if they were read the way EPA now reads section 111. The proposal's reach also exceeds its grasp by concluding that the Clean Air Act can be read to allow EPA to regulate HAPs under section 111, when the law was clearly intended to achieve HAP control under section 112.

Most of all, however, the section 111 proposal is feeble. It concludes that a 29 percent mercury cut by 2010 and a 69 percent reduction by 2018 represents what companies can achieve, even though greater reductions are possible much earlier with existing technology. Moreover, EPA intends to implement this reduction program using a cap-and-trade scheme that would allow polluters to bank emission credits and therefore would permit emissions to remain significantly elevated far into the future. Last summer, EPA performed modeling analyses of the Clear Skies Act and predicted that power plant mercury emissions would be cut by only 43 percent, to approximately 27.8 tons, by 2026, despite the law's 15–ton cap established for 2018. The trading scheme also raises the specter of toxic hotspots around companies that buy credits rather than clean up.

This brings me back to where I began. EPA's proposals deny our children's generation what the Clean Air Act promises. Rather than deliver dramatic mercury reductions by the time my sons are 7 and 3 years old, EPA has proposed a program that will allow emissions to remain at excessive levels at least until they are well into their twenties. To do so, EPA will have to violate numerous provisions of the Act, and will likely provoke litigation that causes additional delay. Rather than choose this ill-conceived course, the agency can and must implement the law and require companies to implement demonstrated technology to reduce toxic mercury pollution immediately. Thank you.

To the Environmental Protection Agency from a Maine physician:

The EPA must be true to it's mission and fight to the bitter end against the ''cash and carry'' proposals the Bush administration has adopted from secret industry memos. We in Northern New England have a huge stake in this since much of the toxic mercury that rains down on us originates in Pennsylvania and a few other big coal States upwind. The Bush administration will enshrine ''Clear Skies'' into law unless government agencies sworn to protect public health dig in to protect the people from these assaults as they did against arsenic in our drinking water!

Mercury is a persistent poison which is concentrated many thousand times as it moves up the food chain into the bodies of ''top predators''—loons, eagles, Florida panthers—and mothers and babies. Your new EPA guidelines, based on the latest research, indicate 600,000 babies yearly are at risk of a wide range of developmental and learning disorders from mercury. The risks continue into early childhood.

Mercury poisons our bodies by interfering with proteins, which are the machinery of all cells. They orchestrate every move of the dance of life. Proteins are long strings of smaller molecules known as amino acids that must fold up like origami after creation, then bind to other proteins or chemicals in our cells. They must maintain their shape perfectly to do their jobs. Mercury deforms the shapes of proteins.

Proteins do an amazing number of different jobs. They transport materials into and throughout our bodies, and convert food into energy. They enfold and protect the DNA double spiral staircase. They form the delicate spindles that pull the chromosomes into the two daughter cells after division. On immune system cell surfaces, they recognize and help engulf invading microbes. They help us perceive our environment and survive through our five special senses.

One of the most amazing things proteins do is control brain development. The brain does not just start out as a single cell and grow ever larger. Brain cells actually move around in the embryonic brain. Some cells are killed off by others. Brain cells send out axons and dendrites that hook up with other very specific neurons which are often many inches away. All these actions must happen at very precise times, measured in single days or even hours. At every step proteins on the surface of cells and their outgrowing axons and dendrites must sense their environment. They react to minute traces of messenger chemicals released by other brain cells that tell them where they are and where to go. Thousands of such events happen during thousands of moments that are ''windows of vulnerability'', during which bad things can happen.

Each gene makes a protein that interacts with many other proteins. Fetal brain development is like a symphony with a hundred thousand instruments. Each must come in at the perfect time and the perfect pitch or you get a damaged child. This damage can often be detected by sophisticated psychological tests such as ''The Boston Naming Test''. These children can often look superficially normal but have problems with hearing or motor skills and later problems with language, attention, and memory. They are often marginalized and end up in special ed, in prison, and on the welfare rolls.

Field research summarized in a recent report by the Biodiversity Research Institute shows multiple adverse effects of mercury on various fish-eating birds, such as our beloved Maine loon. Loon fertility in Maine lakes can be 40 percent reduced because of mercury blown in on the prevailing winds from the Midwest. Stress hormone levels have been shown to increase as mercury increases. No reproduction occurs when mercury levels in fish are over a certain threshold. Loon parents with high mercury levels will spend less time sitting on their eggs and chicks warming and protecting them, less time foraging to feed them, and less time in generally high energy activities needed to support the next generation. They rest more or swim aimlessly in front of the nest. Present mercury levels can even cause abnormal loon feathers. Some fishing birds like the Great Egret have been shown to have problems catching fish. This is felt to be due to difficulty seeing. Some fish species with high mercury levels have been shown to have trouble avoiding predators.

The present administration has a long history of ignoring science in favor of short term profits for friends in industry. The EPA must help them accept the truth!

Sincerely,

Paul Averill Liebow MD FACEP, Bucksport, Maine. Maine Physicians for Social Responsibility, Steering Committee; Natural Resources Council of Maine, Board of Directors; National Wildlife Association, Maine Representative to Annual Meeting March 2004.

MARCH 1, 2004.

Re: proposed National Emission Standards for Hazardous Pollutants; and, in the Alternative, Proposed Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units; Docket ID No. OAR–2002–00.56, 69 Fed. Reg. 4652 (January 30, 2004).

Administrator MIKE LEAVITT,

U.S. Environmental Protection Agency, EPA Docket Center (Air Docket), U.S. EPA West (6102T), Washington, DC.

DEAR ADMINISTRATOR LEAVITT: As chefs from Portland, ME, we are deeply invested in the safety of the seafood we prepare and serve to our patrons. Today, we write to respectfully express our concerns over the proposed rule by the U.S. Environmental Protection Agency (EPA) to control mercury emissions from coal-fired power plants.

Every year, people from all over Maine and the country enjoy the fine seafood offerings of Portland; we pride ourselves on the wide selection of fresh seafood dishes that our many visitors enjoy year after year.

Whether preparing a salmon filet or seared tuna, chefs know that fresh seafood is a critical component of our cuisine, which is why keeping it safe is so important. Unfortunately, the levels of mercury in some species of fish such as swordfish, oysters, tuna, halibut, red fish, pike, sea bass and others make them unsafe for young women and children. Mercury pollution poses a real threat to public health.

Right now, power plants across the country are contributing to a looming mercury crisis, contaminating much of the seafood that Portland is so famous for. Electric power plants are responsible for approximately 30 percent of the country's mercury emissions and are the only major mercury polluters that remain uncontrolled. Smokestacks spew mercury pollution into the air, where it rains and snows down into our waterways and accumulates up the food chain.

The principal way that people are exposed to mercury is by eating fish, a staple of our restaurants. Maine and 43 other States, the EPA and the Food and Drug Administration have issued various advisories warning people, especially women and children, to avoid or limit eating some types of fish. Even with such warnings in place, the Centers for Disease Control and Prevention estimate that 1 out of 6 U.S. women of child-bearing age have unsafe levels of mercury in their blood.

In the interest of our customers, our health and our environment, we are joining together to ask for action to keep the mercury levels from increasing. To make sure that mercury contamination does not affect the popularity of the restaurant industry in Portland, we write to request stronger regulations on power plant emissions of mercury.

Officials can, and should, take immediate action to nearly eliminate the mercury pollution that's spewing into our air from power plants. Two years ago, EPA's own scientists said current technologies could achieve a 90 percent reduction from power plants. The Bush administration should remove as much mercury from power plants as is technologically feasible—90 percent.

We respectfully urge the EPA to adopt a rule that maximizes the protection of human health and our fisheries by regulating mercury emissions to the level that we know is technologically feasible and to do so quickly.

Sincerely,

BECKY LEE SIMMONS,
Chef, Owner,
Katahdin Restaurant.

TESTIMONY OF DR. JIM MAINER REGARDING AIRBORNE MERCURY POLLUTION

Thank you Representative Allen and others for this chance for Mainers to speak out on this issue!

I'm Dr. Jim Maier, a child and family psychiatrist with over 25 years experience living and working in Maine. I'm also the father of two daughters of child bearing age. And since I've spent most of my professional career helping to take care of the behavioral and neurological problems of kids who, for whatever combination of reasons including fetal brain damage, have been handicapped in school and in life, this is not just an academic issue for me.

The glaring fact that this is a ''Shadow'' hearing in the absence of EPA speaks volumes about the moral cowardice and irresponsibility of this administration. The Feds know a lot about the toxicity of mercury emissions of coal-fired plants in the Midwest for New Englanders and others ''at the end of the tailpipe,'' but seem not to care what we think. It's a lot like a Bishop who has learned there's a bad priest in his Diocese sending that individual out of State to some other parish, and just not wanting to hear how many more children have been abused and harmed in the new location.

We know mercury is a bad actor. We've taken many measures here in Maine to clean up our own State. Like 45 other States, we're warning people not to eat much fish. (The administration does deserve credit for promoting ''catch and release,'' but only because it's allowing the fish to become progressively more toxic to mothers of childbearing age!) But to delay implementation of the existing technology to reduce mercury emissions by 90 percent by 2008, and allowing another decade of relaxed standards in return for fat campaign contributions from the polluters, is a devil's bargain Mainers don't accept. This proposed delay, or meaningless shell games allowing some plants to continue to pollute if others clean up, means that perhaps 5 percent or more of women of childbearing age will continue to have unsafe levels of mercury in their bodies, and be putting tens of thousands of their babies at risk of damage to their developing brains or cardiovascular systems. (A long term study sponsored by Dr. Philippe Grandjean of the Harvard School of Public Health in the Faroe Islands has published objective evidence about this in the Journal of Pediatrics.)

Again to use the sex offender analogy, it's as if we are registering all sex offenders and pedophile priests in Maine, notifying neighborhoods and churches about the risks of letting them be in our communities, but then permitting any other States to send convicted child molesters here, and turning a blind eye to what damage and trauma these out-of-state sex criminals may inflict on Maine children.

Like all other medical students, I learned the name Minimata early in my training. Like Chernobyl, Bhopal, and Love Canal—other names that live in environmental infamy—it was the site of an environmental tragedy that taught just how poisonous high dose mercury can be. Death, blindness, cerebral palsy, severe mental retardation, seizures and other severe symptoms occurred in the exposed population around Minimata Bay, Japan where an industrial spill occurred. But we also know that subtle but definite brain and central nervous system effects can happen with exposure to far lower doses that come from eating even moderate amounts of fish contaminated by methyl mercury, an easily absorbed compound that is spread through the body, across the placenta, and is secreted in breast milk. This is insidious, because mothers may not even be symptomatic with levels of mercury that can definitely affect their more vulnerable fetus. Higher mercury exposure on the developing brain has been correlated with decreased attention, fine motor impairment, problems with language and visual-spatial abilities, and memory impairments. It's hard to pin down just what role mercury plays in such impairments because the research is less well developed than with lead, another known bad actor. But as with lead poisoning, as more research is done, we will probably become more concerned, and may be lowering what we think of as ''acceptable'' exposure levels. What's an acceptable level to a loon? The EPA heard testimony from the Natural Resources Council of Maine at a recent hearing in Philadelphia that loons in Maine test 4X higher with respect to mercury levels than loons in Oregon. What levels are o.k. for Bald Eagles, whose reproductive success may be jeopardized by the mercury they concentrate in their bodies. Unfortunately they don't vote, but we'll be voting on their behalf in November!

Perhaps if the Bush administration cared to reduce their blatant hypocrisy about ''No Child left Behind,'' they should just come out and speak plainly about ''No Child Left Unexposed to Toxics.''

Representative Allen, we hope that you will pass on to your colleagues in the Maine Delegation who also care about clean air and water, and to the EPA which apparently doesn't care nearly enough, the angry earful you're hearing today from Maine people!

Respectfully Submitted,

JAMES H. MAIER, M.D.,
A.B.P.N. Certified Child and Adult Psychiatrist.

The rule that I mentioned, the proposed rule that favors polluters, raises serious questions about this administration's commitment to the health of our citizens. Regulating hazardous air pollutants is in fact for many people a life-and-death matter and Congress designed a system under the Clean Air Act to ensure regulations are developed through an objective rulemaking process. Yet the attainment dates and level of reductions exactly match the President's Clear Skies proposal. In other words, the proposal that he and his staff generated for reductions is the proposal that has come out of the EPA. But that is not the way the EPA is supposed to work. The EPA is supposed to do independent, scientific analyses so that its rules are based on sound science, not made up as part of a political document.

The Bush administration allowed industry to write part of the rule. That is profoundly disturbing. The proposal that would allow trading under section 112 appears to have been written word for word by Latham and Watkins, a law firm in Washington representing utilities. EPA's assistant administrator for air and radiation, Mr. Jeffrey Holmstead, used to be a partner at Latham and Watkins. Mr. Holmstead now says, well, the Latham and Watkins contribution to the rule was submitted by the Energy Department. He says it came from the Energy Department. The White House says Jeffrey Holmstead was the brains behind the cap-and-trade proposal. But wherever it came from, the Latham and Watkins language, about three or four paragraphs, submitted to the EPA, is in the finished rule, word for word.

An EPA career professional told the L.A. Times the other day that they, the career professionals, were told not

to undertake the normal scientific and economic studies called for under a standing executive order in preparing the rule. In other words, they take the information straight from the law firms representing the utility industry, they do not do the scientific tests that are required by law, and they come out with a proposed rule and that proposed rule is a bonanza for the coal industry and those utilities that use coal. It is outrageous.

I am very pleased that the gentleman from Washington (Mr. INSLEE), the other end of the continent, his loons do not have as much mercury in their feathers as loons do from Maine but he is here because this is an issue that he cares deeply about. I thank him very much for being here.

I yield to the gentleman from Washington.

Mr. INSLEE. I appreciate the gentleman from Maine bringing this important matter to national attention. I do care about the mercury contamination which this country will be experiencing because of the attempted sellout by this administration to special interests which will result in more mercury in the blood of young children in America. If that sounds like a strong statement it is, and it is true.

But one of my concerns here is this is not just the only instance when this administration has knuckled under to the interests of special interests on K Street rather than the public interest which is supposed to be expressed on Independence Avenue where the U.S. Capitol is located. I just want to say that this is not, unfortunately, an aberration of this administration's sellout to special interests, to ignore science, to ignore clear health implications. It is consistent with their pattern of neglect of science and they are showing great attention to special interests. They need to do it the other way around. We need an administration that will show special sensitivity to health interests and ignore special interests on occasion. They have got it exactly backwards. They show exquisite attention to lobbyists from these industries and ignoring the clear science for health to the American people. I want to list some of the other places where they have done this.

□ 1600

And the oil and gas industry that has attempted to open up these methane drilling wells in a variety of places, the Rocky Mountains, including wilderness areas in Utah and in the Arctic National Wildlife Refuge, they have catered to specialists; and they have ignored the clear import of science.

We are not the only ones who care about this. There have been some investigations in the Department of Interior about a fellow who used to work for the oil and gas industry, then was put as the fox in charge of the hen house, supposedly regulating. What was the first thing he did, like in the first few weeks on the job? And what did the investigators find out? They found out that he hosted a get-together, a little shindig for all the lobbyists to come down and do business with me, boys, I am now in charge of the Department. That is not what we expect from our public officials, and as a result, we have seen some ignoring of good science, which has caused tremendous problems for ranchers in Wyoming of contaminating the water supply because they have shown more interest to K Street than to Main Street.

Second example, we had over a million people testify about whether to preserve old-growth timber in our remaining 10 percent of our national forests that have not been clear-cut, and we went out to ask what the public thought of the President's proposal to open up what we call the roadless areas to clear-cutting, and the public responded. There were over a million people who told the administration to keep their handsaws and their chainsaws from clear-cutting our roadless areas. And they got maybe three letters from the lobbyists on K Street.

So what did this administration do? They are gutting this protection of the most pristine, the most precious crown jewels in our national forest system to allow these 6-foot and 8-foot and 10-foot 600-year-old trees to be cut down in clear-cuts, violating the clear science that that is not what we should be doing with the roadless areas. And why did they do it? They did it because this administration is extremely sensitive to K Street and not sensitive to the health interests and well-being, as they should be, of our constituents.

Let me tell the Members why this is important. A lot of people do not think of forests as a health issue, but we have found out that is where our clean water comes from, from the forests. This is the greatest water purification system the planet has. And this administration ignored 1.2 million people who told this administration to ignore K Street and fall to the wishes of people, which they did not do.

Third issue, and again I think it is important to note, anyone can make a mistake and any administration can make a mistake once in a while, but this is just a long train of abuses, an unbroken chain of following special interests rather than the health of the American people. When we are considering lead poisoning levels in the lead paint industry, which is of some interest to Members of Congress now because we are drinking water with too much lead in it in the Washington, D.C. system, which is an issue we are going to have to address, and maybe that explains some of the bad legislation around here, I am not sure; but in consideration of lead poisoning levels, in 2002, the CDC's Advisory Committee on Childhood Lead Poisoning Prevention was preparing to address the issue, and they had been advising that we need to address this issue. Did the administration address this issue in an aggressive, health-oriented way? No. Did they appoint people to the reflective committees that made their decision? No. They had special interests on their operation, and they failed the health of the American people.

We could go on and on, but we are limited by time. This is a system that has corrupted the democratic process, and some of the best evidence that I know of, and the gentleman may have talked about this already, about a month ago, 20 nonpolitical Nobel laureates, and Nobel laureates usually think about physics and chemistry rather than politics, and they do not pound a lot of yard signs and they are not interested in running for public office, but 20 people who won the Nobel Prize, Americans in various sciences, chemistry, physics, name it, they were so disturbed by what this administration was doing in ignoring science to cater to special interests, they got together and wrote a letter to the President of the United States, and their basic message was start listening to good science rather than bad special interests.

And it is a pretty extraordinary event when scientists will get out of the lab, frankly, where they do tremendous work, and write a letter like that to the President of the United States. These are Democrats and Republicans, probably some Green Party members in there too. So I think it is an indication of how sour and corrupted this system has become. And so we are down here blowing the whistle on it, and I want to thank the gentleman from Maine (Mr. ALLEN) for his efforts.

Mr. ALLEN. Mr. Speaker, I thank the gentleman from Washington (Mr. INSLEE) for his remarks, and I appreciate his leadership on this issue. And he is exactly right. That group of distinguished scientists was saying that this administration over and over again manipulates science to serve the ends of their policy.

I am going to yield to my friend from Maryland in just 1 minute, but just to pursue this question of who is writing the regulations, we have already pointed out that the EP professionals were shut out of the process of doing scientific studies of this proposed mercury rule and that Latham & Watkins, a Washington law firm, wrote part of the rule. There is another group involved. This is West Associates, a research and advocacy group representing 20 power and transmission companies in California and other Western States. The proposed rule contains exact language requested by West Associates, and the West language suggests a standard for determining likely mercury emissions at power plants.

In other words, a provision that was enormously beneficial to the power plants was put in this proposed rule, an EPA rule, word for word. So part of it came from Latham & Watkins here, a law firm here, and part of it came from West Associates in California. How can the public have any faith that their interests, their health interests, are

being protected by an administration which routinely violates the Clean Air Act in developing its regulations, all as a way to try to reduce expenses for the coal industry and the utility industry, both big contributors to Republicans and to the administration?

Mr. INSLEE. Mr. Speaker, just one final note. There is a reason that the Vice President of the United States refuses to let the people who hired him, which is the American people, know what went on in this secret operation that took lobbyist language and put it in our energy bill. There is a reason for that. And that reason is another symptom of the sickness that is on our body politic right now. And I want to thank the gentleman for his efforts

Mr. ALLEN. Mr. Speaker, unfortunately the problem continues. Justice Scalia today issued a statement that he would not recuse himself from a Supreme Court case involving the Cheney documents even though he went on a hunting trip with the Vice President on Air Force 2 to a preserve owned by an oil executive. The beat goes on.

It is my pleasure to yield to the gentleman from Maryland (Mr. VAN HOLLEN), who has taken a real leadership position on these issues. And Maryland is next door, it has got a lot of water, and the last thing they need is contaminated waterways. And I yield to the gentleman.

Mr. VAN HOLLEN. Mr. Speaker, the gentleman is right, and I want to thank the gentleman from Maine (Mr. ALLEN) for his leadership and the gentleman from Washington State (Mr. INSLEE). And I want to tell the gentlemen a little good news/bad news story; and we had some good news this morning, which is that a group of bipartisan Members of Congress from the Chesapeake watershed States got together and established the Chesapeake Bay Watershed Task Force. The Chesapeake Bay is one of the greatest national treasures in the United States, indeed in the world; and so we got together to pledge ourselves to work together to clean up the Chesapeake Bay and take the steps that are necessary. But this Bush administration proposal on mercury that the gentleman has drawn our attention to takes us in exactly the wrong direction. It takes us backwards.

We all know that mercury consumption advisories have been issued throughout the United States; and, in fact, mercury contamination of fish is, of course, is the number one cause for human contamination, human poisoning. In my State of Maryland, we have had statewide advisories. In Pennsylvania and other States in the Chesapeake Bay Watershed, we had a Statewide advisory. And we know that recent studies have shown that Maryland is one of the States with the highest deposition of mercury in the country due to airborne mercury emitted from power plants. And this, as the gentleman has said, is a problem that is not unique to Maryland and to the Chesapeake Bay Watershed. It is a problem up in Maine. It is a problem in Washington State. It is a problem around our country. And currently advisories for mercury are increasing faster than any other pollutant. They now represent 60 percent of all water bodies with fish advisories nationwide. So this is a national problem. It is a problem obviously in the Chesapeake Bay Watershed, which we have a particular interest in locally; but it is a problem throughout the country.

And as my colleague from Maine was pointing out, we have an administration now that when it comes to issues of science, when it comes to issues of the environment, really the White House has become an evidence-free zone. I mean, we can get scientists, we can get Nobel laureates, we can get a consensus of opinion throughout the scientific community coming down on one side of an issue; and yet time after time the administration throws out the facts, buries its head in the sand, and decides to go the other way.

We understand that mercury poisoning is something that affects people throughout this country. Of course, pregnant women and children are particularly vulnerable to mercury poisoning. And so this idea that the EPA now has, the Bush administration EPA, of establishing a cap-in-trade program for mercury, which may be a very acceptable proposal for less poisonous contaminants, but when they have a cap-in-trade program for something as poisonous as mercury, what they are saying to those people who happen to live right next door to the power plant that is emitting mercury is it is okay if they get poison; as long as their power plant buys credits from somewhere else, buys the right to pollute, they can put as much mercury into the air around their plant as they want. That is a health disaster for people in the area. Again, it is one thing to treat less poisonous pollutants that way; but to take a hazardous pollutant like mercury and say go ahead and pollute, go ahead and contaminate the water in a particular area, it is going to mean serious health problems for women and children in that area and throughout the country.

Mr. ALLEN. Mr. Speaker, I thank the gentleman for those comments, and they are worth elaborating on because in the past sometimes people who have lived around large power plants, particularly coal-fired power plants, they may have known that pollution problems were created in those plants in States far away, but they enjoyed the benefit of lower rates.

The difficulty with mercury is just what the gentleman said. Mercury is a substance that does travel some distance, but lots of it comes down in the vicinity of the power plant itself. So along the Ohio River Valley in east Texas, in other parts of the country where we have coal-fired power plants, what the administration's proposal is basically saying is we do not care if the dirtiest plant in the country stays just as it is. We are going to develop a system that was developed for sulfur dioxide that will allow that dirty plant to buy credits from clean plants, and so the dirty plant can simply continue spewing out the mercury and poisoning people in the surrounding area. It is the height of irresponsibility.

That is why I come back to what I said earlier. There is no question that under the Clean Air Act mercury, which has been found to be a hazardous air pollutant, was meant to be regulated under section 112 of the act, entitled ''Hazardous Air Pollutants,'' and all of the work being done by the administration to date with this proposed rule is a way to let coal producers and utility companies off the hook so they will not have to spend the additional money they need to spend to clean up their act. And in doing that, the administration is simply putting the health of the American people at risk.

It is absolutely mind boggling. Unless one is down in the middle of this and seeing this going on over and over again, with this administration, when the choice is between public health or the interests of polluters, polluters win.

I yield back to the gentleman.

Mr. VAN HOLLEN. Mr. Speaker, I thank my colleague for yielding to me, and he is exactly right. The problem with this is we need to make sure that the American people understand what is happening. That is why I am glad that he is doing this. Because we have an administration that goes out and does a lot of photo ops with beautiful landscapes in the background. There is a lot of rhetoric about the importance of preserving our environment, protecting areas like the Chesapeake Bay; but while we have this great public face of environmental protection on the one hand, on the other hand, when it comes to the regulatory process, people are very busy unraveling protections that have existed for years and years and years, and that is what this regulatory assault is about.

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It is one of many that has taken place in recent years, and it is very important that we put a stop to it.

Mr. ALLEN. Mr. Speaker, those are excellent points.

I wanted to mention another point here that has just come up. The administration is starting to feel the heat. The new administrator of the EPA, the Environmental Protection Agency, Mr. Leavitt, has now said that he is going to reexamine this proposed rule. In other words, they did not do the studies; they issued the proposed rule. Now he is saying we need to go back and do the studies. This is the exact opposite of what normally happens.

The gentleman said the administration was an evident-free zone. That seems to be the case. In past administrations, you do the scientific analysis first and then come up with a rule. You would not come up with a rule written

by industry and then, when the heat got too much, say, well, we have to go back and do some studies now. But that is exactly what has happened. I think we need to say to the administration, well, it is about time, thank you for going back and doing the studies. But they have also made it clear that they do not really have much of an intention, as far as I can tell, of producing any results until December, conveniently, after the election.

I wanted to make a couple of points. Over the past year, I guess I would say, I have written on numerous occasions, on February 12 of this year, last October 14, and May 21, 2003, I have written letters to the EPA about this exact problem, about the importance of doing the analysis and coming up with a Mercury MACT standard, as it is called, by the deadline. I never dreamed that they would come up with a proposal but never bother to do the science.

Mr. Speaker, I would like to submit for the RECORD at this time the three letters I sent to the EPA.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, February 12, 2004.

Hon. MICHAEL O. LEAVITT,
Administrator, Environmental Protection Agency, Washington, DC.

DEAR GOVERNOR LEAVITT: We are writing regarding reports that portions of EPA's proposal to address mercury air pollution have been copied word-for-word from industry lobbying materials.

Specifically, it appears that EPA has proposed a regulatory approach to mercury air pollution that in part is copied word-for-word from memos prepared by the law firm Latham & Watkins, which represent some of the largest polluters in the country. This is particularly troubling because two key EPA officials who worked on the proposal were previously employed by Latham & Watkins.

On January 31, 2004, the Washington Post reported that an EPA proposal published on January 30, 2004, ''is similar to recommendations from two memos sent to federal officials by'' Latham & Watkins. The article explains the remarkable connections between EPA's proposal and the Latham & Watkins' memos: ''A side-by-side comparison of one of the three proposed rules and the memorandums prepared by Latham & Watkins—one of Washington's premier corporate environmental law firms—shows that at least a dozen paragraphs were lifted, sometimes verbatim, from the industry suggestions.''

It does not appear to be in dispute that EPA used the Latham & Watkins language to make the substantive proposals that Latham & Watkins advocated. The Washington Post quotes one Latham & Watkins representative who states that it is ''gratifying'' that the law firm's work had been ''cut and paste[d]'' into EPA's rulemaking. Additionally, Jeffrey Holmstead, EPA's Assistant Administrator for Air and Radiation, confirmed that the language had originated from outside of the agency. He stated, ''That's not typically the way we do things, borrowing language from other people.''

However, it is unclear how the Latham & Watkins language entered EPA's rulemaking process. As you know, Mr. Holmstead and his chief counsel, Bill Wehrum, worked for Latham & Watkins before joining the EPA. Both Mr. Holmstead and Mr. Wehrum have had high profile roles in this rulemaking.

The Administration's public statements on this matter appear to be less than completely transparent. In the January 31, 2004, Washington Post article, Mr. Holmstead stated ''it came to us through the interagency process.'' He also stated, ''Neither Bill [Wehrum] nor I had any idea this language came from Latham & Watkins. . . . Our technical folks . . . used it.'' The Post reports: ''According to Holmstead, the law firm's language was part of the public record and was passed along to the EPA by the White House budget office and the Energy Department.''

This appears to be at odds with press accounts of this rulemaking from just over a month ago. On December 30, 2003, the Washington Post reported that a senior White House adviser said: ''If you had to pick one person, it was Jeff Holmstead in EPA's air office who played the key role in development of the cap-and-trade approach to regulation of mercury emissions.''

We are deeply concerned that EPA's rulemaking process has been improperly influenced by industry at the potential cost of the health of future generations of children. Congress and the American people need to know how industry lobbyists came to write a significant portion of an EPA formal rulemaking proposal.

Therefore we request that you provide us with all communications (whether written, electronic, or oral) relating to mercury air pollution between EPA officials and the law firm Latham & Watkins, other industry law firms, electric utilities, and other outside parties since January 1, 2003. Additionally, please provide us with information on any meetings that took place since January 1, 2003, between EPA officials and representatives or employees of Latham & Watkins, including a list of the participants and the nature and purpose of the meeting.

Additionally, please explain if Latham & Watkins memos were docketed in the rulemaking process. If not, please explain why such influential documents that formed the basis for EPA's proposal were not docketed.

Please provide answers to each question and responsive documents no later than February 18, 2003. Thank you for your immediate attention to this issue.

Sincerely,

HENRY A. WAXMAN,
Member of Congress.
TOM ALLEN,
Member of Congress.

CONGRESS OF THE UNITED STATES,
Washington, DC, October 14, 2003.

Hon. MICHAEL O. LEAVITT,
Governor of Utah, Office of the Governor, State Capitol, Salt Lake City, UT.

DEAR GOVERNOR LEAVITT: We are writing regarding our concern that EPA is at risk of violating its legal and public commitment to control emissions of mercury and other hazardous air pollutants from power plants by the end of next year. Given the serious public health and environmental harms from this pollution, any further delay in regulation would be unacceptable.

Under a court-approved settlement agreement, EPA is required to propose a regulation establishing emission standards for hazardous air pollutants from electric generating units (electric utility MACT rule) by December 15, 2003. For a ''significant'' rulemaking, such as this one, EPA must submit a draft of the proposed rule to the Office of Management and Budget (OMB) for interagency review. OMB may, and frequently does, take up to 90 days to complete this review. In numerous public pronouncements, Governor Whitman and other EPA officials have repeatedly promised that EPA will issue the MACT rule proposal by the December 15, 2003, deadline. Yet to our knowledge, EPA has not yet transmitted a draft utility MACT rule proposal to OMB.

We seek your assurance that, if confirmed, you will act to ensure that the drafting and review of the proposed rule are completed on a schedule that will honor the commitments the government has made to propose a rule by December 15, 2003.

We make this request because of the seriousness of this issue. Two major Environmental Protection Agency reports to Congress document how hazardous air pollution from power plants, most notably mercury pollution, contaminates our lakes, streams, and other water bodies, concentrates in fish, and causes serious health risks for pregnant women and children who eat those fish. A Centers for Disease Control and Prevention report in January 2003 found that one in twelve women of childbearing age have mercury levels above EPA's safe health threshold. In adults, exposure to unsafe levels of mercury can adversely affect fertility and blood pressure regulation and can contribute to heart-rate variability and heart disease. The problem is nationwide: across the U.S., mercury pollution alone has contaminated 12 million acres of lakes, estuaries and wetlands (30% of the national total) and 473,000 miles of streams, rivers, and coasts (13% of the national total). As a result, forty-five states and territories have issued fish consumption advisories warning citizens to limit how often they eat certain types of fish, because the fish are contaminated with mercury.

We would appreciate receiving a written response to this letter as soon as possible, given that this is a time-sensitive matter and that the Senate may be considering your nomination in the very near future. Thank you for your attention to this matter.

Sincerely,

HENRY A. WAXMAN,
Member, U.S. House of Representatives.
PATRICK J. LEAHY,
Senator, U.S. Senate.
THOMAS H. ALLEN,
Member, U.S. House of Representatives.
JANICE D. SCHAKOWSKY,
Member, U.S. House of Representatives.

CONGRESS OF THE UNITED STATES,
Washington, DC, May 21, 2003.

Hon. CHRISTINE TODD WHITMAN,
Administrator, Environmental Protection Agency, Washington, DC.

DEAR MS. WHITMAN: We are concerned by recent reports that EPA has cancelled key analytical work intended to support the ongoing rulemaking on mercury and other hazardous air pollutants emitted by the utility sector (''utility MACT rule''). The failure to conduct this analysis threatens to derail this important rulemaking to reduce highly toxic mercury emissions from power plants, as well as impair congressional consideration of pending legislation to reduce air pollution from power plants.

It is particularly disturbing that the Bush Administration may be seeking to delay the release of this information for political reasons. Reports indicate that the analysis may have been cancelled because it could undercut the Administration's Clear Skies Initiative (CSI) by demonstrating that implementation of the existing Clean Air Act toxic air pollution requirements would produce greater reductions in mercury emissions than CSI, sooner, and at an acceptable cost. In the absence of EPA analysis, the Northeast States for Coordinated Air Use Management (NESCAUM) conducted an analysis, which indicates that recommendations from all but one of the stakeholder groups would produce greater reductions of mercury emissions and produce them significantly earlier than would CSI.

EPA should conduct timely analysis of mercury control options identified by the utility MACT rule stakeholder working group established by EPA. Absent such analysis, neither the public, EPA, nor Congress will fully understand the expected environmental benefits from reduced emissions and deposition of mercury, nor the expected costs to install and operate control technologies for the various options under consideration.

I. BACKGROUND

A. Mercury

Mercury is a highly toxic substance. It is a potential neurotoxin, and it is particularly damaging to the development of the fetus. Effects from prenatal exposure can include mental retardation, cerebral palsy, deafness, and blindness. Even low-dose prenatal exposure can cause persistent adverse effects on children's development, such as delayed walking and talking and impaired learning abilities. Adult exposure can produce sensory and motor impairment, such as slurred speech, blurred vision, tremors, and memory loss. In addition, several studies suggest that even small mercury exposures may cause adverse cardiovascular effects. The adverse effects of mercury exposure on birds and mammals include impaired growth and development, behavioral abnormalities, liver damage, kidney damage, and neurobehavioral effects.

Mercury exposure is a serious public health concern in the United States. Forty-two states have issued fish advisories warning against consumption of fish caught from various water-bodies based in whole or in part on mercury contamination. EPA has found that 8 percent of women of child-bearing age in the United States—about 5 million women—have blood mercury levels that would put children born to them at increased risk of adverse health effects.

B. Clean Air Act requirements

Under section 112 of the Clean Air Act, EPA must require sources of hazardous air pollutants to reduce emissions to the maximum degree achievable through application of control technology. These requirements are commonly referred to as ''maximum achievable control technology'' or MACT standards. For coal-fired power plants, the most significant hazardous air pollutant is mercury. Pursuant to a court-approved settlement agreement, EPA must issue a proposed MACT rule for hazardous air pollutants from utilities by December 15, 2003. Furthermore, EPA must finalize the rule by December 15, 2004, and utilities must comply with the rule by December 15, 2007.

This rule will for the first time require controls of mercury emissions from coal-fired power plants, which are the largest source of anthropogenic mercury emissions in the United States and contribute approximately one-third of annual mercury emissions.

C. Stakeholder process

Before beginning the rulemaking process, EPA recognized that promulgating a utility MACT standard would be a significant and potentially controversial rulemaking that would attract substantial public interest. In June 2000, EPA committed to solicit and consider the ideas and comments of the groups affected by this regulatory process. Subsequently, EPA has engaged in an extensive process to develop and use input from states, tribes, local governments, industry representatives, and environmental representatives throughout the development of the rule. This process has been carried out under the auspices of the Working Group on the Utility MACT, formed under the Clean Air Act Advisory Committee Subcommittee for Permits/New Source Reviews/Toxics.

As stated in the charge to the Working Group, the overall goal of the Working Group is to provide input to EPA regarding federal air emissions regulations for coal- and oil-fired electric utility steam-generating units that will maximize environmental and public health benefits in a flexible framework at a reasonable cost of compliance, within the constraints of the Clean Air Act. The Working Group is to ''conduct analyses of the information, identify regulatory alternatives, assess the impacts of the regulatory alternatives, and make preliminary regulatory recommendations for the source category.''

The Working Group has met 14 times to date. While the initial intent was for the Working Group to develop consensus recommendations, that did not prove possible. However, the Working Group has done extensive work identifying technical and policy issues, thoroughly discussing these issues, and clearly identifying the various stakeholder positions on each issue. In October 2002, the Working Group presented a report to EPA laying out eight key issues for the rulemaking and the stakeholder positions on each of these issues, including recommended approaches for settling the MACT standard. Since October, the Working Group has continued to build upon this work, last meeting on March 4, 2003. Although EPA has promised at least one if not more further meetings, none have been scheduled to date.

II. MERCURY CONTROL OPTION ANALYSIS

A. Purpose of IPM analysis of mercury control options

Conducting an Integrated Planning Model (IPM) analysis of the control options identified by the stakeholders is an important step in the rulemaking process for the utility MACT rule. IPM is an electric utility planning model that EPA uses to estimate air emission changes, emission control technology choices, incremental electric power system costs, changes in fuel use and prices, and other impacts of various approaches to air pollution control. IPM simulates how the utility industry would respond to an air pollution control requirement by selecting the least-cost compliance options for a set of model plants representing all of the power plants in the United States. IPM indicates where in the country control technology would be applied, the resulting emissions reductions, the costs of the technology, changes in fuel use, any resulting shifts in generation costs, and other effects.

The results of an IPM run are then fed into EPA's air quality models to project what a specified emissions control requirement will produce in terms of air quality effects and, in this case, the quantities and location of mercury deposition.

Every major EPA analysis of a rule or legislation related to the power sector over the past eight years has relied upon IPM analysis. These include the Ozone Transport Assessment Group, process, the NO_X SIP call, and most recently CSI.

B. Issues regarding IPM model's simulation of mercury controls

The Working Group process has addressed the need for technical adjustments to the IPM model. In May 2002, EPA heard recommendations from various members of the Working Group regarding adjustments to the IPM model. In June 2002, EPA issued a memo indicating how it planned to address such recommendations and the timeframe for such actions. In July 2002, EPA received further feedback from Working Group members on the proposal for addressing the recommendations. For example, the environmental representatives made recommendations for input assumptions on the effectiveness of certain mercury control technologies, particularly when applied to facilities combusting subbituminous and lignite coals. They also urged EPA to update the model to incorporate the latest findings on control technology demonstrations, particularly with respect to activated carbon injection.

C. Cancellation of planned IPM analysis

EPA has indicated that the next step in EPA's intended rulemaking development process is to analyze regulatory alternative control options. The members of the Working Group have expended substantial effort in developing their recommendations for these options.

Initially, EPA planned to conduct this analysis far earlier in the utility MACT rulemaking process. The proposed regulatory development schedule included in the charge to the Working Group stated that EPA would conduct overall economic impacts and benefits analyses of regulatory alternatives from June through August 2002. After a period for the Clean Air Act Advisory Committee to consider the alternatives and provide recommendations to EPA by February 2003, the schedule provided that EPA would select the proposed regulatory alternative or alternatives in March 2003, and EPA would draft and review the proposed rule from April through August 2003. OMB would review the draft proposal through November 2003, allowing the Administrator to sign the proposal by December 15, 2003.

While the initial target date for conducting this analysis slipped substantially, as of earlier this year EPA planned to conduct the analysis in time for the Working Group meeting on March 4, 2003. When EPA failed to complete the analysis by that date, EPA informed the stakeholders that EPA would conduct the analysis prior to a scheduled April 15 meeting of the Working Group. EPA said it would present the results of this analysis at that meeting. EPA also stated that at that meeting it would present to the Working Group the changes EPA had made to the IMP model.

Instead, EPA did not conduct the analysis and cancelled the April 15 meeting. EPA still has not informed the Working Group of how the agency has responded to the recommendations for modifications to the IPM model that stakeholders made during the summer of 2002, or of any other changes that EPA has made to the model. EPA also has not scheduled another meeting of the Working Group.

In addition, there does not appear to be any internal agency deadline for conducting the IPM analysis of utility MACT options. Assistant Administrator Holmstead has reportedly stated that conducting modeling for the CSI is ''higher priority'' than modeling for the utility MACT rule.

EPA's deviation from its announced plan to conduct this important analysis is sudden and inexplicable. It is simply not credible for EPA to point to resource constraints in this instance, as Assistant Administrator Holmstead is reportedly doing. While agency resources are undoubtedly constrained due to the Bush administration's budget cuts, EPA is apparently running the IPM model for CSI. There is no reason why further analysis of CSI should take precedence over the utility MACT rule. EPA has been conducting analyses of the CSI for over two years, and the agency has completed dozens of runs analyzing variations on CSI options. Yet to date, EPA has released no analysis of the identified utility MACT regulatory options, and it is unclear whether EPA has conducted any analysis of these options. Moreover, there is no legal deadline for additional CSI work, in contrast to the utility MACT rules.

Viewed in the larger political context, it appears that the Bush Administration has a

strong incentive to delay release of information on the utility MACT regulatory options. The Administration has been engaged in a public relations battle to publicize and support its assertion that the CSI represents an environmental improvement over, and not a rollback of, the existing Clean Air Act. Most of the utility MACT regulatory options identified by the stakeholders would result in a greater quantity of emissions reductions and all of them would produce these emissions sooner than CSI would, if it is enacted. Information on the costs and benefits of most of the utility MACT options seems unlikely to help the Administration make its case for CSI.

CSI is the Administration's own initiative, with no deadline, while the utility MACT rule was required by Congress under existing law, is already past the statutory deadline, and is now required under a court-sponsored deadline. There is no legal or policy-related justification for deferring the utility MACT modeling in favor of CSI modeling. To the extent that the modeling delay may be in furtherance of the White House's political agenda, the delay is even more troubling.

D. Effect of continued failure to perform analysis

At the point, EPA's continued failure to reconvene the Working Group and to conduct the IPM analysis threatens the timing and substance of the utility MACT rule, as well as the achievement of significant reductions of mercury emissions from power plants. This analysis is not a legal prerequisite to EPA's identification of the minimum level at which it may set the MACT standard (known as the ''MACT floor'') under section 112 of the Clean Air Act, as the MACT floor is a technology-based standard. EPA's failure to perform such analysis would in no way justify delaying issuance of the utility MACT rule proposal beyond the court-enforceable deadline. Nonetheless, if EPA fails to complete this analysis soon and falls further behind schedule in drafting the proposal, EPA may well try to make the bootstrap argument that the analysis is necessary and therefore the agency needs more time for the rulemaking. Moreover, the IPM analysis will provide critical information, both for understanding the effects of the options recommended by the stakeholders and for informing Congress regarding the level of mercury reductions and environmental effects that may be achieved under the utility MACT rule. In addition, EPA likely must complete this or comparable analysis to comply with Executive Order 12866 prior to issuance of the proposal.

Considering practical constraints, it is clear that EPA is already in danger of missing a court-approved deadline. Working backward from the December 15 deadline, EPA must provide the draft rule to OMB by the end of August 2003 to allow OMB its mandated 90 days to review the draft prior to issuance. As you know well, staff drafting and management review commonly take many months, particularly for a technically complex rule such as this one. Assuming a minimum timeframe of several months to draft and review the rule internally, it appears that EPA should begin this process immediately, and certainly no later than June. Before the bulk of the drafting begins. EPA management must select the regulatory alternative to propose. To the extent that EPA believes it would be helpful to have information on technology options, costs, air quality and environmental effects, and other factors, EPA must conduct the analysis now.

III. QUESTIONS

We would appreciate your response to the following questions regarding EPA's planned activities on the utility MACT rule:

1. Is EPA committed to continuing the stakeholder process for the utility MACT rule? If so, when will EPA reconvene the Working Group and present to the Working Group a description and explanation of any changes EPA has made to the IPM model? If not, why is EPA abandoning this process for maximizing public involvement in this controversial and important rulemaking?

2. Will EPA model mercury control levels identified by the environmental and state stakeholders (as specifically recommended in the Working Group report or as subsequently updated by the stakeholders)?

3. If EPA commits to complete this modeling, by what date will EPA complete it and present the results to the stakeholders?

4. Is EPA committed to meeting the court-approved deadline of December 15, 2003, for issuing the proposal regardless of the status of EPA's modeling efforts? Please provide EPA's current schedule (with dates) for completing: all analyses EPA is planning to conduct; management decision on regulatory options; a staff draft of the proposal; intra-agency review of the proposal; and submission to OMB.

5. In making the decision to postpone this analysis, did EPA officials consult with Administration officials outside of EPA, such as officials from the White House (including the Council on Environmental Quality and the Office of Management and Budget), DOJ, and DOE? If so, which entities were consulted and what did they recommend? Did EPA officials consult with any of the stakeholders represented on the utility MACT Working Group? If so, which entities were consulted and what did they recommend?

We would appreciate receiving a response to this letter by June 2, 2003, as this is a time-sensitive and urgent matter.

Sincerely,

HENRY A. WAXMAN,
Member, U.S. House of Representatives.
THOMAS H. ALLEN,
Member, U.S. House of Representatives.
PATRICK J. LEAHY,
Senator, U.S. Senate.
JANICE D. SCHAKOWSKY,
Member, U.S. House of Representatives.

Mr. ALLEN. Mr. Speaker, one of the times that I raised this, the gentleman may be interested to know, was at a hearing before the House Subcommittee on Energy and Air Quality, and Jeffrey Holmstead, the Assistant Administrator For Air, came before the committee. I asked him this question. I said, have you done the modeling to do the MACT standard? In other words, have you done the scientific and technical analysis to come up with a mercury standard that is based on Maximum Achievable Control Technology, not on some idea that is dreamed up by the political people? And here is what he said, and I quote: ''We are doing all the analysis that we need to do to propose a MACT standard, to do a proposal on time by December 15, so we are on track to do everything we need to do, including the evaluation of options, to get the MACT standard out.

Well, guess what? They did not. They did not have a MACT standard by December 15; they just had that old Clear Skies proposal which is, in my opinion, illegal under the Clean Air Act. And on Tuesday, Mr. Leavitt, the new EPA administrator, told the L.A. Times the process is not complete, nor is the analysis. Well, as my kids might say, duh, if you waste the year not doing the analysis, you will not have the analysis when it comes time to do the rule.

Mr. Speaker, I yield to the gentleman from Maryland.

Mr. VAN HOLLEN. Mr. Speaker, the gentleman is exactly right. I mean, the way most people go about planning when they are making major decisions is to take a look at the facts and then figure out what the policy is based on the facts, not to come down with a politically motivated policy and then try and make up the facts to fit that policy, and this administration has gotten in trouble in many ways with respect to that approach.

You really do not want to make a mistake when it comes to something like mercury, because if you make a mistake now, it is something that is going to live with us for many, many years to come.

Let us just take the Chesapeake Bay for an example. When it comes to nitrogen, when you are cleaning up nitrogen in the bay, if more nitrogen is going in today, and we take strong efforts, for example, in the bay watershed to get rid of that nitrogen, we can do it. We have to work hard to do it. Mercury, on the other hand, is something that stays in the ecosystem for a very long time. We cannot get rid of it overnight. And it stays in the ecosystem, it gets into organisms, it gets into fish and then, of course, it gets into the human food chain and gets into the food we eat, and then eventually can get into the brains of developing fetuses and of children.

This is a very, very serious issue, obviously; and it is one where we want to make sure we get the science right, we do our homework before we leap off the cliff. I appreciate again my colleague, the gentleman from Maine (Mr. ALLEN), drawing the attention of this body to this issue. Hopefully, we will pull the administration back from the precipice on this and, more important than saving the administration from a bad decision is saving the American people from what could be a very, very serious health problem in years to come.

Mr. ALLEN. Mr. Speaker, I thank the gentleman. I see we have been joined by my friend and colleague from Maine (Mr. MICHAUD). It is good to have the gentleman here, and I yield to him.

Mr. MICHAUD. Mr. Speaker, I thank the gentleman for yielding, and I too want to thank the gentleman from Maine (Mr. ALLEN) for bringing this to the attention of Congress. He definitely has been a leader in environmental issues and prescription drug issues. I appreciate the gentleman's leadership.

Mr. Speaker, today is March 18; and in my district in Maine, people who enjoy fishing are counting down on the days until they begin the fishing season. Again this year, as in the past,

recreational anglers who fish in Maine's lakes will be unable to feed their catch to their children.

Mercury has made fish unsafe for children and pregnant women. We have known for years that many fish caught in fresh water posed a risk to our health. Now, just recently, we have confirmed that the canned tuna fish that we buy in grocery stores should not be eaten in large amounts either. Due to their position downwind of many of the most offensive mercury polluters, the people in Maine by themselves cannot control the amount of mercury in their communities.

As someone who enjoys fishing, I can say that the fishing in Maine remains some of the best in the country, but there was a time when it was not only about recreation; fresh water fishing also helped feed families.

In my district, the Maine Environmental Health Unit has a responsibility to inform the public of this mercury problem. For children and pregnant women, they have set a consumption advisory of zero for nearly every species of fresh water fish in Maine. They have also issued the following warning to the public: ''It is hard to believe that a fish that looks, smells, and tastes fine may not be safe to eat, but the truth is that fish in Maine's lakes, ponds, and rivers have mercury in them. Mercury in the air settles into the waters. It then builds up in fish. Small amounts of mercury can harm a brain starting to form or grow. That is why unborn and nursing babies and young children are most at risk. Too much mercury can affect behavior and learning. It may cause numbness in hands and feet or change in vision.''

Mr. Speaker, these words are not mine. These words are not political. These words are statements of scientific fact from an agency tasked with protecting our health. Mercury in our environment is dangerous to our health, and it is particularly dangerous to the health of our children. It is the responsibility of EPA and this administration to protect the public from mercury pollution.

Why does the administration not propose real mercury regulations? Contrary to some claims, it is not because of fear of losing jobs. Enforcing the Clean Air Act and limiting mercury pollution will not end the business of generating power in the Midwest. In fact, when the administration eliminated air pollution controls in August, people with high-paying jobs, with good benefits were actually laid off because of pollution control equipment that they installed was no longer needed.

The administration cannot outsource this problem. The responsibility to control mercury pollution is a challenge our country must face together. Recently we have heard reports from the Environmental Protection Agency that in creating its mercury proposal, usual EPA methods were not used. Sound science was not adhered to. Politics became more important than defending our health and our environment.

When EPA policy is taken word for word from the industry letters, there is a credibility problem there. The result of this mismanagement of mercury by the administration is a mercury plan that may violate the Clean Air Act and does little to make real, swift reduction in mercury released in the environment.

Because we have not stopped mercury pollution, the people of Maine continue to see their lakes and rivers polluted by a poison that cannot be controlled. The administration must understand that the American people expect the EPA to introduce a mercury rule that complies with the Clean Air Act and protects the health of our families. The administration must work with Congress to create an environment in which people can have good jobs, a clean environment, and a country where they can feed the fish that they catch to their children.

Mr. ALLEN. Mr. Speaker, I thank the gentleman for his leadership on this particular issue.

Before we close here, it is worth going back to that study I mentioned at the beginning. In February of this year, just last month, a new study came out which showed that of the 4 million babies born in this country every year, some 630,000 have been exposed while they were fetuses to levels of mercury in their mothers' body that are considered unsafe. Instead of dealing with that threat, this administration has written a proposed rule limiting mercury written by the industry lobbyists.

What is happening is, now the EPA is going to go back and say try to do it over again, try to fix it up, but we do not know when they will do it or what they will do. This problem is growing. It is manageable.

I said earlier that the technology is available today so that we could establish a rule to phase in mercury pollution control equipment; we could have that rule take effect in 2007. The industry would have time to make the changes. Ninety percent reductions in mercury emissions today are feasible, they are possible, they can be done. The only resistance is coal-fired power plants do not want to spend the money. So on the one hand, we have the interest of an industry that have been major, major contributors to the majority party here and, on the other hand, the health of our children. It is, or ought to be, a simple choice. And we are here tonight to make sure that people understand that choice and encourage policymakers here to make the right one.

PARENTAL CHOICE IN EDUCATION

The SPEAKER pro tempore (Mr. PORTER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Arizona (Mr. FRANKS) is recognized for 60 minutes as the designee of the majority leader.

Mr. FRANKS of Arizona. Mr. Speaker, today we would like to address the House related to education. I think as all people have contemplated history and the betterment of human kind, most of the greatest leaders have recognized that some of the core hope of humanity lies in the education of its children. That is reflected by some of the words of great leaders of the past. Aristotle said, the longer I study the art of governing mankind, the more I realize that the fate of empires depends upon the education of youth. Teddy Roosevelt said, to educate a child not in line with moral capacity is to educate a menace to society. Thomas Jefferson said, the purpose of education is to create young citizens with knowing heads and loving hearts. And sometimes, Mr. Speaker, that loving hearts part complicates all of our lives, because it seems today in education we focus strictly on the academics of education. We forget that the real heart of education is indeed the education of the heart.

□ 1630

And I have to think sometimes, Mr. Speaker, that as we look across the spectrums of society and we recognize that some of the great tragedies in this world are not so much that our academics are out of kilter, but that sometimes our hearts simply have not been taught to truly respect and care about one another.

And I have had the beautiful privilege of teaching a group of 1 year olds in Sunday school for the past almost 21 years. And I have seen coming generations rise up around our knees. And as I look at how they grow up in the different areas they go into in life, it becomes very obvious to me that in nearly every case if a child is given the proper opportunity, they can grasp a lot of the academics of this world; but what they need to understand is that they are indeed a miracle, that they are part of a miracle of life, and that somehow that they were put here on this earth for a purpose. And I truly believe that that is where the education of the heart comes in.

But unfortunately, oftentimes in the public square in our country today, we run from the idea that parents or guardians should have any input in the foundational moral training of their children. It is left to the schools, and the schools make the decision and that is the way it is.

Mr. Speaker, I believe that we make a great error in doing that. Because if a child understands that they are indeed a miracle, that they are put here on this earth for a purpose, then somehow they are part of a significant enterprise that really begs human description. Once they understand that they have that purpose, then they begin to grasp the academics. They have the motivation to learn science and math and history. They have the

convictions to go out and face the challenges of life without faltering when every wind of something that would distract them in life comes along.

Mr. Speaker, I believe that we really, truly need to begin to consider this entire dynamic in our educational system. As it happens, we have decried socialism across the world. In fact, we have pointed out to almost everyone that the highway of history is littered with the wreckages of Socialist governments, of governments that somehow thought that collectivism and socialism transcended that of liberty and the worth of the individual and that of a rule of law and of a republic.

And if anything has demonstrated that over the last 10 to 20 years, it is the fall of the Soviet Union. It seems that socialism has been discredited across the planet in nearly every way, unfortunately except in our own school systems in America. And we have embraced the notion that government should be the one to make all of those decisions, that government should be the ones to decide the academics, that government policy should be the ones to allow the educational requirements of children and to dictate what those are. And in so doing we leave out the most important single factors in a child's life, and that is simply those people who love them more than anyone else can possibly understand, and that is their parents.

And I know that there is going to be an ongoing debate in this Chamber for many, many years related to parental empowerment in education. But Mr. Speaker, unless we as a people understand that children are not wards of state, that they are the gifts of God to their parents and to the world, unless we understand that parents have more concern and more understanding about their particular children than anyone else in the world, then we will fail the coming generations.

Mr. Speaker, I am reminded of a circumstance recently in Arizona, where I come from, where there was testimony on this very issue before the State legislature. And some of the parents groups were there, advocating that they should have a greater role in their children's education. And as it happened, the debate continued in a more heated manner. One of the bureaucratic members of government got up and said, ''Well, we love your children just as much as you do.'' He said that to one of the parents. And one of the parents very succinctly said to the bureaucrat, he says, ''All right. Tell me what are their names.'' And, of course, the bureaucrat was without an answer of any kind.

And I think that that really illustrates what the bottom line here is, and that is that no public or private group can really ever understand a child's most important needs like mom and dad do. I suppose that is reflected to a large degree by the magnificent success of home schooling in America. These are some of the smartest kids in the entire Nation.

And I am reminded that the Ark was built by amateurs and the Titanic was built by experts. It seems that parents, even many times without teaching degrees, are turning out the smartest children that we could imagine. And we as a society and as a Nation and as policymakers need to understand why that is true. And I, again, believe with all in my heart that it goes to the motivation of the child many times. It goes to the causing that critical curiosity that comes into the life of every child if given that opportunity.

I believe parents are in a better position to know what is best for their children. And that is why one of the things that I advocated in this body for the time that I have been here has been to empower parents in education. I believe that there is probably no greater thing that we could do for our children in terms of the philosophical underpinnings of the Nation and of their ability to face the future with a sense of hope.

The reality is that everywhere we have tried to empower parents, we have seen good results. We have seen it in places where there are vouchers programs. We have seen it in places where there are scholarship tax credit programs. We have seen it in places where there are school choice between the public school systems, where a child's parents can choose to put their child in this public school or the public school down the street. We have seen it anytime we empower parents to make choices, something good happens. We have seen it, as I said, in the home schools.

When we empower parents, we do good things for children. It is that beautifully simple.

Mr. Speaker, as it happens among those groups, among those approaches to educational choice, among those approaches to parental empowerment, the one that I believe has the very most hope in terms of a public policy outside the area of home schooling is this thing called scholarship tax credits.

I was privileged to write Arizona's scholarship tax credit many years ago. And now today we scholarship 21,000 children in Arizona. And the schools they go to are entirely left up to the parents. The mechanism is very simple. The mechanism is such that if an individual on a voluntary basis chooses to contribute to a scholarship fund for children to go to a school of their parents' choice, then the contributor gets a dollar-for-dollar reduction in their income taxes.

And essentially what that does, Mr. Speaker, is it calls upon the individual taxpayer to make a simple choice. Would I rather my money go to the bureaucrats or would I rather it go to children? And I have to say that is not a complicated task for many parents or many scholarship donors. They have a pretty clear perspective of which way that should happen.

One of the challenges, of course, in Arizona is that we really do not have the money to put all the children that we would like to scholarship. But there are a lot of ancillary effects of this program, Mr. Speaker, one of which is that we have seen a definitive response by the government schools, by the public schools, to parental choice. We have seen that all of a sudden the schools there begin to have a much greater interest in what mom and dad have to say about education. Because they know now that mom and dad if they need to, if they choose, that they can move in a different direction, they can take their child to a different school.

When you empower parents like that, you create a dynamic between public schools and parents that is vitally important to the success of both.

As it happens, Mr. Chairman, about 90 percent of the parents in Arizona choose a faith-based school for their children, again being entirely up to them; but as many people would be detractors of such a choice, the reality goes back to the heart issues that we spoke of earlier.

And, Mr. Speaker, we talk about the problems with integration in our schools. And if one looks at some of the private faith-based schools, they are the most integrated schools in the entire Nation. And I have to say to my colleagues that when you give parents the ability to place their children in schools of their choosing, there are such a host of wonderful things that begin to occur. First of all, competition happens for the child. All of a sudden the child that might have been just a little bottom in the chair for the system becomes royalty to everyone in the system.

All of a sudden we begin to focus on the child rather than the system itself. All of a sudden parents matter, their opinions matter. Because if the schools could not respond effectively to the parents, then the parents simply have another option. All of a sudden the schools begin to say, all right, what are the dangers on this campus for children? What are the situations as far as bullying in our schools? All the things that we talk about in terms of public policy problems in the schools begin to be affected almost automatically.

All of a sudden those questions begin to be taken up seriously by the administrators because they recognize that they are competing for the child in a sense.

Mr. Speaker, there are so many other things I would like to add, but I see that a good friend of mine, the gentleman from Michigan (Mr. HOEKSTRA) has come into the room. I would like to yield to Mr. Congressman HOEKSTRA for a moment and perhaps we can come back and discuss the issues a little bit more.

Mr. HOEKSTRA. Mr. Speaker, I thank my colleague for yielding.

To have the opportunity to have this dialogue about empowering parents, empowering parents to give them a bigger role in the education of their children, there are a number of methods

now that States are employing to create a dramatic impact in improving their children's education.

I think my colleague and I agree that the most important thing in a child's education is having a caring and involved adult in their life. And whether it is a parent, whether it is a guardian, whether it is a mentor, whatever, but if a child has a caring adult in their life, who takes an interest in their education, that is a powerful motivator to ensure that that child has the ability to learn and has the ability to move forward.

And States are doing a tremendous amount of innovation and experimenting with how they provide parents with this option of selecting where their children go to school. Fifteen States today have various proposals for public school choice, inner- and intra-district choice programs, allowing students to transfer between public schools.

And then there are other States that provide slightly different versions of public school choice. One of the things, again, another version of public school choice, is charter schools. Today over 40 States and the District of Columbia have charter school laws. Again, giving parents the initiative of saying this is the school that best fits my child's needs. And it does not necessarily mean that the other schools are not good schools, but recognizing that certain schools will have certain strengths, not every school is exactly the same, and provides a better opportunity to tailor the match for the child to the school that they attend.

Six States have enacted voucher laws. My colleague has been very instrumental in another form, a modified form of school choice that opens up enhancing education for all of our kids, not only for those that might go to a private or parochial school, but also a public school, by putting more money into our school systems, public schools, and the private and parochial school systems with a tax credit program that my colleague not only introduced in the State of Arizona, but my colleague was the key move in, I think, a trend that is gaining a lot of interest. Because what it does is it not only empowers parents to select schools, but it also empowers parents to reward the schools or the community groups that they believe are doing a good job.

In the State of Michigan we passed a new education financing system that I think in many ways was positive. But after 10 years we have learned that there have been some unintended consequences. Our school administrators in some respects are now more beggars to the State Capitol than being focused where they should be, which is on the parents and the kids in their community. And there is really no way for a school district that is doing a phenomenal job to go back to the people of that community and say we want to do some special things for our kids and to get that money.

□ 1645

My hometown public schools have a declining enrollment. They cannot take costs down quick enough to reflect a declining enrollment, and so even though our public school system in Holland has always been a competitive advantage for the community, where companies would locate in Holland because they saw that we had a quality school system, it helped to attract, that school district can no longer go to the community and say if you want us to be a differentiater, that when a company is located saying are we going to locate in West Michigan, are we going to locate in Kentucky or somewhere else, one of the reasons that company is going to locate in west Michigan is they are saying they have got a great school district; they have put additional resources into that school, and I know that if I come to this community I will be able to attract the employees that I need because my employees are going to want to have a good school district for their kids.

Maybe you would want to share a little bit about what the impact of tax credits have been in Arizona, not only in improving public schools but enhancing choice for all of the kids in Arizona.

Mr. FRANKS of Arizona. Mr. Speaker, I will have to say that my first response would be that among those 21,000 children who have received scholarships, it is almost impossible to relate the wonderful anecdotal stories that you get. Parents come to me and say, my child was failing in the public situation. They just were not doing well. It was not that the schools were not a good school. It just was not the right fit for them. Sometimes we overlook that. Oftentimes there is this notion that if you are for parental empowerment that somehow you are condemning all public schools, and that is not the case at all.

Mr. HOEKSTRA. If the gentleman would yield, I think that is critical because I think this is what I really want to reinforce because I think it is also a model that I would hope that we would consider here in Washington; and more importantly, I am hoping that it is a model that we will consider in the State of Michigan for putting more money into our public schools.

The tax credit that you designed in Arizona not only empowers scholarship organizations to give scholarships to low-income students to go to private and parochial schools, but it also provides a mechanism of funneling more money into our local public schools in Arizona. Is that correct?

Mr. FRANKS of Arizona. That is correct, and it has the ancillary effect of causing parents to be more involved with that local public school. All of the sudden they have a stake in it personally. They have made a tax credit contribution to the school, and the schools then, of course, there is a dynamic. There is a communication that occurs there; and as you said in your remarks earlier, one of the prime indicators of successful education is an involved adult, in other words, the parental involvement in the education.

In fact, if there was any single greatest factor in a successful child's education, and we talk about all the systemic approaches, but the greatest single involvement is parental involvement, and I think that is recognized in the home schools and private schools and public schools. It really oftentimes does not matter so much which one of those systems the child goes to as much as is the parent fully engaged and involved, and that is why I believe things like the tax credit for the public school and the tax credit for the private school option are so good because they, as a matter of course, as part of the logistics, they involve parents; and parents, when they are involved and have to make a choice, then not only are they more aware of the situation but they have an investment of their time and emotions, and they made a choice and now they have to make it work.

Mr. HOEKSTRA. Mr. Speaker, if the gentleman would yield, maybe you can relate a little bit about the experience in Arizona. You talked a little bit about that there have been, what, 21,000 students in the State of Arizona who have been able to take advantage of a scholarship to attend a school of their choice; but there have also been significant amounts of money that have flowed back into the public schools where parents who are very satisfied with what is going on in their public school, the public school has identified a specific need.

We did a hearing on this I think 4 or 5 years ago as this concept was starting to come out. I think that is what really intrigued me is it did not pit one sector of our education system against another, the privates against the parochials. This actually ended up being a win-win situation for education in general because it became a new way to voluntarily fund the public and private and parochial system, a voluntary way to move more money into educating our kids.

I will yield back to have you explain some of the results that you have seen in Arizona.

Mr. FRANKS of Arizona. Well, the gentleman is exactly correct. As it happens, somewhere around $100 million has been raised for children to go to the private school of their parents' choice.

Mr. HOEKSTRA. This is $100 million voluntarily, correct? This is not $100 million where the legislature in Arizona passed a new tax and said we are upping our sales tax by half a percent or changing the income tax? This is $100 million that people voluntarily in Arizona said we are going to pump this money back into our education system to help educate our kids and provide a higher level and a higher quality of education?

Mr. FRANKS of Arizona. The gentleman is exactly correct. Approximately $100 million has gone to the private scholarship groups and approximately 120 million additional dollars have gone into the public school setting.

Mr. HOEKSTRA. So over $220 million, voluntarily going into education?

Mr. FRANKS of Arizona. That is correct, and of course, that is the voluntary aspect of it, which, as you mentioned, is vitally important; but it also has engaged the parents. One of the things that we are seeing is a decided increase in Arizona among those parents who are highly satisfied with their public school experience, and we are convinced that there is a clear connection between the two because anytime that there is a motivation and incentive for parents and schools to talk, it usually creates a better environment altogether.

Mr. HOEKSTRA. Mr. Speaker, the gentleman may want to just explain for folks exactly how the tax credits work. How is this tax credit different perhaps than a voucher system that is maybe being used in some other States? Then we can talk a little bit about the advantages of the tax credits versus vouchers and that kind of thing.

Mr. FRANKS of Arizona. I will be happy to do that. I thank the gentleman.

The single most important difference between vouchers and tax credits is the fact that with the tax credit, all of the contributions that go into the system are entirely voluntary and they never go through government coffers. Now, you say, well, that is a simple difference; but it creates all kinds of ripple effects, all kinds of ancillary differences.

For instance, those people who are concerned that if they send their child to, say, a faith-based school down the block and that if they send them with a voucher that somehow the scary, insidious hand of government will come in and tell them to take down their cross or Star of David or whatever the case might be. Under the scholarship tax credit approach they would have very little to worry about because there is simply no connection to government in that regard. The moneys go into a private charity, which 90 percent of those moneys then go to the scholarship for the child.

When you consider the expenditures there, there is a significant difference. I mean, about 56, 55 percent of our dollars that come appropriated from this body go into the classroom; but overwhelmingly, when people contribute on the private scholarship tax credit, about 90 percent of those go directly for tuition of the child.

Mr. HOEKSTRA. Mr. Speaker, if the gentleman would yield. I mean, that is one of the frustrating things that we have here, and I think that is an important statistics.

We passed a bill here a couple of years ago that entitled dollars to the classroom because we did a survey of the Education Department. We found that the Education Department and the other Federal agencies had over 760 different specific education programs, not all of them obviously in the Department of Education, not all of them obviously targeted to K through 12 education; but we do not have that many different kinds of education systems that you said, well, it makes sense to have 760 different education programs.

Then what we started doing is we started taking a look at how those dollars flow. We appropriate money into one of these programs, so we send it to a K through 12 school with a list of rules and regulations, or we send it to the State. The State then has to administer it and send it down to a local school district, and again, it gets to a local classroom, perhaps with some rules and restrictions on it. They then have to report back to the State, and the State has to report back to Washington and say we spent the money exactly the way that you told us to and within the restrictions of the program.

Of course, we know that the folks at the local level cheat, so we then send in our auditors. We send in our auditor from Department of Ed down to the State, down to the local school district to audit, and the school district has to justify and keep the records that they spent the money exactly the way that they did. Then we end up with the scary numbers that you said, somewhere between 50 and 60 percent of every dollar actually going into educating a child. Somewhere between 30, 35, 40 percent of every education dollar we spend in Washington goes into bureaucracy by deciding where the money is actually going to go. Somebody's got to divide it up at the Federal level and the State level, and we have got to track and monitor and audit.

What we tried to do a couple of years ago was kind of like what happens with the tax credit program. As we were saying, 90 cents gets into a classroom. What we tried to say here in Washington, would it not be great if every education dollar we spend at a K through 12 level, if we could get 95 cents of every dollar into the classroom educating a child and get rid of the rules and regulations, get rid of the bureaucracy.

It is exactly one of the points that the President had in his No Child Left Behind bill of giving States and local school districts more flexibility, but that part of the bill was left on the cutting room floor. It got cut out of the bill, but I could not help but think of that when you were talking about the effective nature of voluntary tax dollars going into a scholarship fund, and then that scholarship offering it to a student and 90 cents of every dollar gets to that local school versus what we do here in Washington. It is a very efficient way of getting money into a school.

Mr. FRANKS of Arizona. Absolutely. I find it fairly telling that from the Federal Government perspective that we supply about 7 percent of the funding for education that goes to the States. In other words, the total funding that it takes to educate a child in the public school system, about 7 percent of that money comes from the Federal Government; but when you consider that over 55 percent of the paperwork that the school has to do is mandated by the Federal Government and there is something horribly wrong about all that, because it just underscores everything that you said, and if you consider across the country, on the average, private schools cost approximately half, if you just measure them all out and average them all out, about half what the public school systems cost, and yet on the average they will educate a child academically about one to two grade levels higher in the same respective area.

There is something to be learned there. Oftentimes people say that is because the private schools skim. Now, I think there are some other differences. First of all, classroom size; second of all, certainly in Arizona, for every two teachers, we have more than one administrator, but when you look at the private settings, you have about one administrator for every 19 teachers. So there is an entirely different overhead dynamic, and I just think sometimes we need to look at just some of the financial dynamics there.

Mr. HOEKSTRA. Mr. Speaker, if the gentleman would yield, we did a program called Education at a Crossroads, where we went around to schools; and I do not know, 13, 14 different States, and we asked those kinds of questions, what kind of paper do you have at the administration level, and all those kinds of things. The local administrators would be the first ones to say we share the same vision that you have. We want parental empowerment; we want the parents to want to send their kids to our schools; we want to get the dollars into the classroom; we want that to be the focus.

I still remember a press conference we did where we brought out the reams and reams and reams of paperwork that these school districts are required to send to Washington, and obviously if they have got to send all this stuff to Washington there has got to be somebody that fills it all out. The thing that we never did find was when you send all of that paperwork into Washington and we would have a huge stack from just a local school district, who in Washington is the person that reads all of that stuff? I think that we never found that person or that Department, and that is why the flexibility is so important.

So even though in some of our schools the ratio of teacher to administrator is very different than what you may find in another setting, if it is a private or parochial setting, that is not necessarily where the administrators want to be. They would prefer to put as

much money into the classroom because they have got the same focus that we have.

Mr. FRANKS of Arizona. Mr. Speaker, that is pointed out very clearly in the year 2000 where only 52 percent of staff employees in public schools were teachers, about half; and many of them I am convinced that were not teachers would certainly have wanted the money to go towards instruction. If you look at the same year, only 52.4 percent of the nearly $382 billion spent nationwide on education, only about half was spent on instruction.

Mr. HOEKSTRA. What is the number?

Mr. FRANKS of Arizona. 382 billion in the year 1999 through 2000 school year. Only 52 percent was spent on instruction.

□ 1700

Mr. HOEKSTRA. Mr. Speaker, if the gentleman will continue to yield, what this tells us is a very important thing. This is not an issue of money. We are spending a tremendous amount on education, but we are spending a tremendous amount of it in the wrong place, and it is partly because parts of the No Child Left Behind, that never made it into law, was to give local school districts and States relief from the paperwork burden that sucks up valuable education dollars away from the kids and puts it into a bureaucracy either at the State capital or here in Washington.

Like I said, and I think the gentleman agrees with me, the teachers, the principals, the administrators at the local level want to do what we are saying; they want to focus those dollars in the classroom. But they recognize that when they get as many mandates as they get from Washington, D.C., they have to have the piece of paper and the forms filled out; they have to dot the I's and cross the T's or they get in trouble.

Mr. FRANKS of Arizona. Mr. Speaker, the gentleman is exactly right. We have an estimated number of Federal programs, so when we talk about how we create these programs for the States, there are over 700 of them. And I would suggest to my colleagues that these mandates and regulations and ineffective programs make it very difficult for the local schools at the State level to comply with this.

What they do in the meantime, and this is shocking, but $84 million in State education funds were recently returned to the U.S. Treasury because States had not used it for more than 3 years. I am convinced they are just ready to pull their hair out because they could not deal with these complex mandates we put on them from the Federal Government.

I think there is a bigger issue here, and that is sometimes the Federal Government just needs to get out of the way and let the States and parents make the decisions on education. Because it seems like the more we get involved from the Federal level, the more we have a tendency to mess things up.

Mr. HOEKSTRA. The gentleman used the word that we talk about quite often. School districts and principals and teachers at the local level are forced to comply. Compliance means you adhere to the rules, but it also means your focus has changed from where it needs to be, which is educating the child to complying with the rules. And the teachers and principals at the local levels want to focus on our kids.

All these programs and all these rules and regulations move us away from where the gentleman and I started today when we started talking about parental choice. We talked about parental empowerment and recognizing that the tie between the parent and the child and the local school district is absolutely critical, and that when we put in funding schemes like we have in Michigan that say the money is no longer going to come from the local level and the people in the community, but it is going to come from these folks over here in Lansing, we weaken that.

When we send in a bunch of programs and a bunch of mandates from Washington, it weakens the ability of the folks at the local level to take a look at the needs of Johnny and say, What do I need to do for Johnny? They have to say, Wait a minute, I have this form 1081 with this program and I have to fill this out, and that means I have to do this. I have to fill this report out after class today, or I have to fill it out at the end of the semester. Again, it weakens that link between the parent, the teacher, and the child and that local community and it forces these people to look to Washington, which is the last place they should be looking to as to who needs to be educated in their community.

Mr. FRANKS of Arizona. Mr. Speaker, I find it ironic that this body is essentially the school district for the Washington, D.C. schools. Perhaps the nomenclature is a little different, but the reality is we are in charge of trying to make sure that the Washington school districts here in the District of Columbia operate effectively. Now, in Arizona, just to give a comparative, about $6,800 per year in the public school system is what it takes us to educate a child, when you add maintenance and operations along with the cost of facilities. But here in Washington, D.C. it is over $12,000. It is the highest in the Nation.

If we know what we are doing here in terms of educational policy, why is the one school area that we are most in charge of costing the most and have some of the poorest schools in the Nation?

Mr. HOEKSTRA. Mr. Speaker, if the gentleman will once again yield, that is one of the ironies here. The gentleman is right. Many in Washington would say that the Congress functions as their school board, and yet we do spend somewhere upwards of $12,000 per student in the city of Washington, D.C.

I know that for most of the school districts in west Michigan, the area that I represent, the number that they get per child is somewhere in the neighborhood of $6,700 to maybe somewhere around $8,000, maybe a little over $8,000, but in that range, and they would be saying, wow, if I got $12,000, and even for the most or the best funded school district in west Michigan that is another $4,000 per student, that would be a 50 percent increase, what would I do with all that money? And then, of course, they look at the results here, and those are not very good results.

I remember when we did the ''Education at the Crossroads'' hearings, we did a district in Alabama, and it was very interesting. They had one of the lowest per-student funding ratios in the State and they had the highest test scores. So we asked them what they attributed this kind of performance to, because they did not get a lot of money, yet their scores were phenomenally well. The answer was, well, we only get enough money to focus on the basics. We do not do a lot of the peripheral stuff. We cannot do it. We cannot afford it. So all we do is, day in and day out, we focus on the basics.

That is not saying these other things are not worthwhile, but it means that they have to get the foundation and the basics done first. And I do not want to put a number out there, but if you gave that school district $12,000 per student, they would not know what to do with the money because they are doing it with a whole lot less and getting outstanding results.

Mr. FRANKS of Arizona. Mr. Speaker, I think that perhaps one of the greatest dynamics of this debate is the whole cost structure. On the average, and I will speak for Arizona because that is the State I am from, about $6,800 per student when we educate that child in a public school, whether it is an inner city school or rural school. If you average it all together, it is about $6,800. In Arizona, the average private school is approximately half of that, and yet, again, they outperform the public schools on the average. In Arizona, the average home schooler is approximately half of that, and yet they are the most outstanding academic children. They perform academically better than just about any other children in the State.

Consequently, I think that the obvious inference there is it is not just the money. In fact, it seems like we have to pay more for worse results on a regular basis. I am just convinced that rather than trying to argue about which system is better, we need to start looking at home schooling and the private schools and see what are they doing that the public schools are not doing. What are they doing that government can learn from, rather than to compete so much all of the time? Let us find out what they are doing that is making things work for children. I am convinced that that would have a big impact here.

Mr. HOEKSTRA. Well, I have spent a lot of time trying to find a common ground between the various forms of education in Michigan, whether it is home school, private schools, a charter school, or a public school, recognizing that each one of these plays a vital role in our total education system; and, also, very frankly, recognizing that when you are in the State of Michigan and you are talking about education reform, you are going to have to design it as a win-win that says there is something in here that is going to enhance the ability of public schools to compete, to educate our children, as well as enhance the educational opportunities for private and parochial schools.

One system is not inherently better than the other and one system should not be inherently favored over the other. Again, this is why I am very much intrigued by the concept that the gentleman has successfully promoted, which is a tax credit, which is a win-win for all of those. I do not think, as it is written, Arizona allows or provides a benefit for home schoolers, does it?

Mr. FRANKS of Arizona. It does not, unless the home school would have some type of satellite classroom setting, and I would hope and look for the day that it would. Because, again, there is no one that has a higher opinion and a greater respect for the home schoolers of this country than I do. They simply have done such a magnificent job that all of us could learn greatly from them. I hope we do.

Interesting to the gentleman's point, one of the great educational philanthropists in this country, John Walton, recently said in a roundtable that, ''In any system, if you want to increase the attention a group receives, you must increase their power. The best way to empower school children and parents is to let them direct the money.''

Mr. HOEKSTRA. That is exactly the point. What happens when we pass legislation out of Washington that empowers Washington, that gives them more authority, it means that people at the local level have to spend more time focusing on Washington bureaucrats. In Michigan, when we moved the funding from the local level to Lansing, it meant that the local administrators now would have to spend more time focused on Lansing rather than the interest in their community.

That does not mean that what we have done in Michigan is bad, but it is a recognition that that should be counterbalanced. Because where do we want the power and the influence for our local schools? Do we want it in bureaucrats in Washington, in Lansing, or do we want it in my hometown of Holland, with parents? Do I want it around a kitchen table or around a PTA table?

I want it in my local school districts, because in some cases now in my local community, the parents kind of walk away and say, Pete, what can we do? We cannot raise the money.

We had an inner-city school that a lot of people in the community wanted to keep open, but there was nothing that our superintendent could do to go to the community and say, this is not the most efficient way to run our school system by keeping this school open, but I really think it is important to the sense of community and the city of Holland that we leave that school open. He could not go to the community and say, if you agree with me, great, then give me the money to do it. They never had the opportunity to say there is something more important here than just the bottom line on dollars and cents.

There is a sense of community for that part of our town and the belief that using what somebody might describe as being an inefficient way of educating our kids by having that community school right there, that local neighborhood school right there, even if it is a little bit more inefficient, because it gets a better result.

We have to focus and give our people at the local level and the parents and administrators at the local level the opportunity to design a system that works, not necessarily the one that is the most efficient. Because it does not do us any good if it is the most efficient, but we do not get the kind of results that we want.

Mr. FRANKS of Arizona. Mr. Speaker, I think that if we look at the American economy, how it differs from, let us say Socialist countries in the world, and we see that we have placed nearly all of the direction of this economy, this monstrous productive American economy, in the hands of the consumer, in the hands of the everyday purchaser. Now, the reality is that there are always groups that join together and have economies of scale and magnify their purchasing power. But the reality is we have understood in this country that free enterprise and giving this over to private individuals has been a magnificent engine of productivity in this country.

Across the world I have seen that we are the most productive economy in the history of humanity, and it is not because we are so much smarter than anybody else. It is simply because we have a better system. I would suggest that sometimes those that would denigrate trying to pull free enterprise and parental empowerment and choice into education forget the lessons of history.

There were times when someone came along and said about Federal Express, when it came along, that it would destroy the post office. Well, not only did it not destroy the post office, it actually made them far more efficient. We send a letter across the country now in 2 days rather than 5 or 6. We have some of the more efficient efforts in the postal system than we have ever had. The postal system, many times, gives money back to the Treasury now, instead of us having to appropriate billions of dollars more.

The same thing happened with the telephone system when we deregulated it and turned that back into the hands of consumers. When we let people make their choices about what was best for them, we revolutionized communications. All of a sudden people had cell phones everywhere. It has become the bane of our society, I think, to see and hear cell phones ringing everywhere, but people can send pictures using their cell phones, they can call Australia for 10 cents a minute, they can look up their Web site on their cell phone, and almost everyone has one these days. And it is because we knew if we could deregulate those things, that an engine of innovation would occur.

□ 1715

Mr. Speaker, it astonishes me in this country that we have had the insight to increase the efficiency of the mail and the telephony of this country, and yet we do not afford our children the same opportunity to have competitive excellence in education.

Mr. HOEKSTRA. Mr. Speaker, I believe the gentleman is absolutely right. I do not believe we have even begun to tap the full potential to reform K–12 education with the technology that is out there today. How can we really revolutionize K–12 education? Rather than accepting the status quo, what can we do? We have some tremendous needs.

We have a much more diverse society than what we had before, so we need to assimilate children. We need to get them to learn English. I sit on the Permanent Select Committee on Intelligence. The other thing we need to have happen, as we have more kids who need to learn English, we have a tremendous need for children here to learn another language because we are in a global marketplace. How do we explore what they are doing in Europe where many kids speak two, three, four different languages? That is not done here.

I think there is a tremendous opportunity to investigate different means of learning. I think one of the ways that will happen is by allowing educational opportunities and choices to flourish and then empowering parents so they can align their child with the school that they best believe fits their child's needs.

Mr. FRANKS of Arizona. I cannot agree more. Several things occur when we empower parents as essentially the customers of education. We say education should not be a customer-driven thing. I suppose we can say that about anything; but one thing is sure, when we do have a market-driven situation, we get better quality, greater innovation, and a drastic reduction in costs.

I am convinced that those same things would happen for the educational system in this country if we injected parental empowerment and competitive excellence into the system.

But a fourth thing occurs, which is when we empower parents to choose their children's education, those parents with a philosophy of one kind are

able to direct their children in that direction. Those with a philosophy of a different kind can do something else. I am afraid if we do not start looking into some of these hard issues, deeper issues in our educational system, we may grow a generation with great academic skills, but very little concern for their fellow human beings.

It is especially difficult when some, forgive me, some intellectual pigmy masquerading as a Federal judge says that children in the public school system cannot say the words ''under God'' in the Pledge of Allegiance. That essentially vitiates much of the efficiency of the system entirely. I am concerned if we do not begin to realize it is not just academics, that academics are important, but it is not just academics, that we are going to see a new generation that does not know who Abraham Lincoln is, that does not who George Washington is and what they stood for and the things that made this country the greatest Nation in the history of the world.

That is why I am so deeply committed to seeing that education is given a greater sense of parental empowerment and competitive excellence. It will be the salvation of the public school systems, and in my judgment it will be to the betterment of the coming generations.

Mr. HOEKSTRA. Mr. Speaker, it is kind of interesting, the gentleman brings up the judicial pronouncements, and they have been going on since the early 1960s with school prayer, and there has been a very serious unintended consequence. I was at a school in Michigan for a graduation. I looked at the program. It said opening prayer. I kind of looked at the superintendent and nudged him and said, You cannot do that. He kind of looked at me and laughed and said, We can here. Then I looked over at the diploma table and there were a stack of books over there. I said, What book are you handing out? He said, Well, we are handing out the Bible to all of our graduates. I had a smile on my face and said, You cannot do that here. And he kind of laughed and said, We do.

What some of the court pronouncements have done, they have broken the bond between the school and the community because public schools represented local community values, not to an extreme; but when you get a pronouncement from some judge in California about what some school in Arizona or some rural school in Michigan or Illinois or Indiana can do, and that now becomes the law of the land, and the people in Indiana or Michigan or Arizona never had any problem, they look and see what book is being handed out, and for 100 years this school has been handing out a Bible at graduation, and we are not telling people what to believe or whatever. It breaks the bond. Again, it is one of those barriers that comes up between a local public school and their community, and these are the barriers that I think are making it so difficult for our local public schools that have been so successful, but we are creating all sorts of barriers.

We are creating judicial rulings from California and other places that break that bond. We are moving funding away from the local level. We are moving rules and regulations in from Washington that tell them how to do their business, and all of that gets in between a local school, a parent and their child. That is a huge problem.

We ought to talk about what you are planning on doing here in Washington. We have talked about all of the money spent here in Washington on K–12 education, all of the money for the rapid acceleration on Federal spending on K–12 education, and it is all going through programs and mandates. When you start a new program, you send it to a school. That program comes with strings attached.

But the gentleman has another view, a version of a tax credit bill that he would like to see enacted here in Washington that would, rather than empowering bureaucrats, would empower parents. So it says Washington is going to become more balanced, we are going to fund money directly for programs that we think are of high priority, but at the same time we are going to do something to strengthen that bond between a parent and the educational system in their community by going to the same win-win proposal as they have in Arizona, which was tax credits.

Mr. FRANKS of Arizona. We have introduced the Children's Hope Act, and the gentleman is a cosponsor. All of us are very appreciative of that. The Children's Hope Act is essentially a bill in Congress designed to create an incentive for other States to create their own scholarship tax credit such as the ones in Arizona, Florida and Pennsylvania. The idea, of course, is to empower the States, the local governments, and the parents exactly in the opposite order: the parents, the local governments, then the States, and then lastly have the Federal involvement.

Instead of trying to create a monolithic program here that we control, and as has been demonstrated, we do not control things very well from this body, if we can empower the parents in the greatest way possible, we can do the States the greatest favor possible in my judgment. The Children's Hope Act will create a Federal tax credit. It would simply allow people to pay less Federal income taxes if they contributed to educational efforts in their own State. This is especially focused on the scholarship tax credit programs for tuition organizations that give tuition to children to go to the schools of their parents' choice.

Mr. HOEKSTRA. And it is intended to help public schools as well?

Mr. FRANKS of Arizona. It lets the States make that decision. We tried to create the broadest possible latitude for the States and the local governments there to do that. Certainly if we look at, and there is a lot of criticism that Washington no longer cares about education, and they measure our concern for education in funding, but the reality is our funding for education in Washington has gone up precipitously, and in my judgment that is in the wrong direction.

Mr. HOEKSTRA. The funding from Washington may not necessarily be all that bad if there was balance. But what we have done is we have funded bureaucracy, bureaucracy which has written more rules and more regulations for local school districts. We have talked about the impact that has had. It is smothering our local public schools with overhead and administrative costs and taking dollars out of the classroom. A tax credit would begin to bring a little bit of balance that says rather than putting more money into empowering bureaucrats, we are going to put some money into empowering parents and rebridging that gap between parents and local schools and their children.

That is the important thing, to give at least some of this money the opportunity to be driven by the parents in their local community, rather than by a bureaucrat here in Washington.

Mr. FRANKS of Arizona. There are two ways the Federal Government can return money to the States. They can appropriate money with all of these bureaucratic mandates; or they can simply say to the States, here is an idea, if you do it yourself, you will have to send less money to the Federal Government in the first place. That is what the Children's Hope Act is predicated upon. It creates an incentive for States to take care of their own efforts by empowering parents and sending less money to the Federal Government.

I am convinced that this solves a lot of the problems across the board.

Mr. Speaker, I am convinced we can accomplish so much if the Children's Hope Act is passed. It puts the scholarship tax credit on the radar of the States in general. It looks at what is happening in Arizona, Pennsylvania, and Florida. If we can empower parents and create a new movement toward competitive education, towards competition, towards competitive excellence in education, I think we can do more for this coming generation than anything else.

And I would suggest to the gentleman from Michigan (Mr. HOEKSTRA) that the implications are pretty significant. Abraham Lincoln said the philosophy of today's classroom is the philosophy of tomorrow's government, and how our children grow up and the days that exist now will certainly dictate the kinds of philosophies that fill these seats across this room. I would appropriate the words of one of our predecessors of a long time ago, Daniel Webster. Daniel Webster said it this way. He said if we work on marble, it will perish. And there is a lot of marble around here. If we work on brass, time will efface it. There is a lot of brass in

this place. If we rear up temples, they will crumble in the dust. But if we work upon immortal minds and imbue them with principles with the just fear of God and the love for our fellow men, we engrave on those tablets something that will brighten to all eternity.

That is what it is really all about here. This is more than just a bureaucratic struggle over who has control over what happens. It is about trying to make sure that the foundations and the underpinnings of America and the great principles that have made us the greatest Nation in the history of the world remain in the hearts of the coming generations. That is certainly my belief, and I yield to the gentleman to express his perspective.

Mr. HOEKSTRA. Mr. Speaker, there is not much I can add to Daniel Webster or the gentleman's rendition of Daniel Webster.

On occasion I have an opportunity to give a tour of the Capitol at night. One of the places I go to is the other body. I go to the desk that was Daniel Webster's desk and tell the stories about him. He was a great orator, a very wise man, as the gentleman has quoted him. I think his quotes would be a very appropriate place to end this Special Order.

□ 1730

A LOOK BACK ON THE ONE-YEAR ANNIVERSARY OF OPERATION IRAQI FREEDOM

The SPEAKER pro tempore (Mr. PORTER). Under the Speaker's announced policy of January 7, 2003, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 60 minutes.

GENERAL LEAVE

Mr. CUMMINGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the subject of my special order.

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

There was no objection.

Mr. CUMMINGS. Mr. Speaker, I rise tonight along with fellow members of the Congressional Black Caucus to discuss the ongoing war in Iraq. As you well know, tomorrow will mark the 1-year anniversary of Operation Iraqi Freedom. I am sure you would agree, Mr. Speaker, that this is one anniversary that will not be commemorated with a joyous celebration. Instead, this anniversary will be met with somber reflection upon those lives, both military and civilian, that were lost or forever changed as a result of this tragic war.

Just last year, Mr. Speaker, President Bush told the American people, and I quote, ''I want Americans and all the world to know that coalition forces will make every effort to spare innocent civilians from harm.'' Yet just 1 year later, the New York Times is reporting that somewhere between 3,000 and 5,000 innocent Iraqis have been killed as a result of this war. In fact, as of yesterday, there have been 566 Americans, 59 Britains, 5 Bulgarians, 1 Dane, 1 Estonian, 17 Italians, 2 Poles, 10 Spaniards, 2 Thai and 3 Ukrainians that have died in Iraq. And according to the Pentagon, there have been over 3,000 U.S. troops wounded. Those troops are some of the same people that I see in Walter Reed when I visit.

I was just at Walter Reed 2 weeks ago. When I see the young men and women who have gone off into war, many of them coming back missing a leg, an arm, two legs, many of them feeling a bit disoriented, many of them feeling confused, many of them just simply trying to get, as one soldier said, from one day to another, again, this commemoration will not be a joyous one.

Mr. Speaker, we in the Congressional Black Caucus wholeheartedly believe in the principles of peace. We also believe in the principles of freedom as well as a necessity for America to provide security for all of her citizens. But we also wholeheartedly believe in protecting the sanctity of human life.

Mr. Speaker, just last year, President Bush convinced the Nation that Iraq possessed weapons of mass destruction and thereby posed an imminent threat to our national security. And while there have been questions as to whether our data from the CIA and other organizations was accurate, the fact still remains to this day that no weapons of mass destruction have been found. I think, Mr. Speaker, that that is one of the things that makes it so painful for so many of the families. We see them on network television and we see them on the cable shows, those families who say that they believe in this country, that they raised their boys and girls as little children to put their hands up to their hearts and to say the Pledge of Allegiance to the flag. They taught them to be patriotic. They taught them to stand up for what they believe in. They taught them to stand up for the Office of the President, but, more significantly, to stand up for one of the greatest countries in the world. And so from little children they stood up and they said, ''I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one Nation under God, indivisible with liberty and justice for all.''

Those parents who now see their sons and daughters in many instances sadly coming back in sealed caskets, coming back with limbs missing, some of them have begun to ask the question, Why is it that we went to war? For when we went to war, Mr. Speaker, they did not hear the term ''regime change.'' That is not what they thought. They thought that there was imminent danger. They thought our country was in deep trouble. I am sure that as they stood at the air bases and as they stood at the train stations and as they waved good-bye to their sons, to their husbands, their wives, to their sisters, their brothers, their friends, they said they are going off because of these weapons of mass destruction that the President had told them about.

Mr. Speaker, I am not here to beat up on the President because that is not appropriate. But I am here to remind us of why we went to war. I think that so often what happens is that we get so caught up in the political fray that is going on that we forget that when those parents stood at those various departing stations that they thought they were going for one reason, and then once the war got started and moved forward and as weapons of mass destruction were not found, we then began to hear new reasons.

And so it is when the President said that we were going to destroy these weapons, and although I must say that the Congressional Black Caucus begged on this floor the President to think very carefully before going to war, this Congressional Black Caucus begged, because we said that the number one thing that we must always protect is the lives of human beings, be they American soldiers, be they American civilians, or be they the Iraqi innocent people, we must always look at life as the number one priority. But then we went to war.

But before we went to war, we asked the President, Are American lives in imminent danger? We asked the question over and over and over again. Sadly, back then, we could not get an answer. But the implication was that we had major, major problems and that these weapons of mass destruction could be released at any time and could do so much harm.

We asked other questions, too. One of those questions was as we proceed with this war, how is it going to be paid for? Who is going to pay for it? The President was very generous in an answer when he talked about the war.

I shall never forget sitting in one of these seats as I listened to him. One of the things that he said was that this war had come to us, we did not go to it. He went on to say that we had to act now and we had to act so that our children and our grandchildren and their offspring would not have to deal with this issue and would not have to pay for this. And so again our soldiers went off to war, believing that as they marched onto the soil of Iraq that they were making sure that the weapons of mass destruction, when found, would be done away with so that no harm would not only come to the Iraqi people but to the world.

But, Mr. Speaker, I cannot help but ask, if the ultimate goal of this preemptive war was to disarm Saddam Hussein, was our mission really accomplished? Could we have reached the same end by utilizing a different means? Day after day as I listen to my colleagues come upon this floor and talk about how it is that we now have Saddam Hussein in custody and how we have gotten rid of this tyrant and we have locked up this person who was

just a person that did so much harm to so many people, I ask myself the question, Was that the reason that we went into war from the beginning? After all, we still have not yet found, by the way, the weapons of mass destruction that were supposed to have caused this preemptive war.

By the way, that is another issue that we brought up, the whole issue of preemption. The Congressional Black Caucus, before this war came about, said that one of our major concerns was that we were committing a preemptive strike; that is, that we were going into a war of more or less prevention and certainly one, if one goes away from what we normally would do, and this preemptive strike is a major thing because that is something that the United States does not do; but the fact is that going into a preemptive strike caused us a lot of concern because we began to ask the question, Well, what are we trying to prevent?

That is where the question of imminent danger came in. Again, that question was never answered. And to be frank, when we look back at it, I do not think this country was in imminent danger. In essence, we have traded over 600 coalition lives and that of countless civilians for that one brutal dictator. One year later, we must ask, was it worth it? Was it worth it to the young man in my district, one of the first casualties of the war?

I shall never forget, Mr. Speaker, as his father heard about his death and cried out, Why is it that my son has died? He wanted to know, that is, Sergeant Walters-Bey's father wanted to know why his son had died. I shall never forget going to the funeral and standing there as he begged me for an answer to the question with tears rolling down his face, Why has my son died? His father was very clear. He had read the papers, he had watched the newscasts. He said to me, Mr. Speaker, ''I am all for doing whatever is necessary to support this country. My son was for whatever was necessary to support this country. But I question what this war was all about.''

And so, Mr. Speaker, I have asked time and time again if we had enough intelligence to determine that Saddam Hussein was hiding chemical and biological weapons then, why has the Intelligence Community not been able to lead us to those weapons? It is no wonder that the world leaders are now challenging our credibility.

Mr. Speaker, I know that the truth hurts, but the President need not blame others for the predicament that he has caused. It is no secret that our standing around the world has plummeted as a result of President Bush's foreign policy. Spain, a country that stood with President Bush just 1 year ago and supported this preemptive war, is now calling the United States occupation a fiasco.

Just today, Poland, a country which has about 2,400 troops in Iraq and was a strong supporter of the invasion, is saying that it was misled about the threat from Saddam Hussein's weapons of mass destruction.

□ 1745

Unfortunately, the tide seems to be beginning to turn against the United States. Mr. Speaker, I contend that in a multicultural society bolstered by a global economy, there is absolutely no room for a unilateralist foreign policy.

Following President Bush's pronouncement of war last year, the Vatican offered this response: ''Whoever decides that peaceful means under international law'' that was put at our disposition ''have been exhausted assumes a serious responsibility before God, his own conscience, and his country.''

I have often said, Mr. Speaker, a hundred years ago none of us were here and a hundred years from now, none of us will be here. The question is what do we do to make our time on this Earth the best that it can be? And perhaps the greater question is, how do we make the lives of others the best that they can be?

Let us seize upon this moment to begin working with international leaders to correct our current course in order that history would reflect kindly upon us as a Nation. One year later, Mr. Speaker, we must reclaim the moral high ground for the sake of our children and those generations yet unborn. I have often said that our children are the living messages we send to a future we will never see. Our children are the living messages we send to a future we will never see. We cannot allow our children, through our actions today, to send a message of war, arrogance, and bloodshed to that future.

Martin Luther King, Jr. once said, ''The chain reaction of evil, hate begetting hate, wars producing more wars, must be broken; or we shall be plunged into the dark abyss of annihilation.''

On this 1-year anniversary, let us not only contemplate how to better secure our homeland, but let us also contemplate how to secure the peace. One of the things that is so fascinating in an article that I recently read where a young man who was a medic in this war and is now home and he wished to remain anonymous, he was stationed at the Baghdad airport as a medic, and he talked about how he had served in previous wars, and he talked about how it was interesting how different it was because the young people that come back, the soldiers that come back today, a lot of times the public never has an opportunity to see our fallen. And he went on to say that ''from what I gather, it used to be that the President would go out to the area to meet the deceased soldiers coming in. They would drape caskets and they would actually watch and give a moment of silence as the coffins came in.'' He went on to say, and this is a soldier, ''The Bush administration felt that this was too much for Americans to handle. So they secured that part of the ceremony'' and he said that ''no one knows when that fallen soldier comes home.

He went on to say, ''It is an injustice to the military because you gave your life to the country and the country should give something back to you. Even just a moment of silence. Every day that someone dies, the flag should be lowered to half staff, not just because a politician dies.'' He went on to say, ''Those guys are good people. They work hard. They do anything and everything that is asked of them, and they gave the ultimate sacrifice. It should not be that you have to go to a Web site to find out who died.''

So on this 1-year anniversary, although we do not see their faces, in towns and communities all over our country, people are experiencing the pain of war. Many of them are going to funerals, and our prayers go out with them. Many of them finding themselves in hospitals, and our prayers go out to them. Our prayers go out to all the families who have suffered losses. Our prayers also go out to all of our military who have gone forth to do what they had been called upon to do by our Commander in Chief. We pause on this 1-year anniversary to simply say to them, we thank them. We thank them for putting their lives in harm's way. We thank them for standing up. We thank them for being counted.

And as Swindoll, the great theologian, has often said, It is the things that you do when you are unknown, unseen, unappreciated, and unapplauded that truly matter.

So we in the Congressional Black Caucus refuse, as we did before the war, to be silent. We must raise our voices as we said then, as we begged the President not to go to war, and now that so many of our soldiers have gone on, our civilians have gone on, innocent Iraqi people have gone on, so many have been injured, we again raise our voices. Only this time we raise our voices to recognize those whose names will appear in a local paper or may appear in one or two paragraphs of some article talking about casualties in Iraq. We raise them and say to all of them, to those who have gone on, to those who have been injured, to those who are still in Iraq, to those who have come home for the 2-week leave and are about to go back, to those who believe so strongly in our country, they are no longer unseen, unnoticed, unappreciated, and unapplauded. We pause to say to them ''thank you.''

And so, hopefully, Mr. Speaker, as America goes to bed tonight, perhaps all of us need fall on our knees and ask God or at least whisper a prayer or have a moment of silence to recognize all of those who I have just mentioned who have given so much to make sure this country stays strong.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. HARMAN (at the request of Ms. PELOSI) for today on account of personal business.

Mrs. BLACKBURN (at the request of Mr. DELAY) for today on account of attending official ceremonies in her district commemorating America's 1-year anniversary of Iraq involvement at Fort Campbell with President Bush and Major General Petraeus.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCGOVERN) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. LANGEVIN, for 5 minutes, today.

Mr. FRANK of Massachusetts, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Ms. BERKLEY, for 5 minutes, today.

Mr. MCGOVERN, for 5 minutes, today.

Mr. ENGEL, for 5 minutes, today.

Mr. LAMPSON, for 5 minutes, today.

Mr. BAIRD, for 5 minutes, today.

Ms. CORRINE BROWN of Florida, for 5 minutes, today.

(The following Members (at the request of Mr. WILSON of South Carolina) to revise and extend their remarks and include extraneous material:)

Mr. WILSON of South Carolina, for 5 minutes, today.

Mr. GARRETT of New Jersey, for 5 minutes, today.

Mr. BILIRAKIS, for 5 minutes, March 25.

Mr. KIRK, for 5 minutes, today.

ADJOURNMENT

Mr. CUMMINGS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 54 minutes p.m.), under its previous order, the House adjourned until Monday, March 22, 2004, at noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the fourth quarter of 2003 and the first quarter of 2004, pursuant to Public Law 95–384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, HON. JOHN V. SULLIVAN, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 13 AND JAN 17, 2004

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. John V. Sullivan	1/13	1/17	U.K.		1,748.00		5,872.53				7,620.53
Committee total											7,620.53

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN V. SULLIVAN, Mar. 4, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. KEVIN FROMER, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 4 AND JAN. 9, 2004

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Kevin Fromer	1/4	1/6	Jordan		467.00						467.00
	1/6	1/9	Israel		724.00						724.00
Committee total					1,191.00						1,191.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

J. DENNIS HASTERT, Speaker of the House.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. ROBERT W. VAN WICKLIN, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB.15 AND FEB. 18, 2004

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Robert W. Van Wicklin	2/15	2/18	France	E1073	1,374.00		5,961.09			E1073	7,335.09
Committee total					1,374.00		5,961.09				7,335.09

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. RYAN TATE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB. 15 AND FEB. 22, 2004

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Ryan Tate	2/15	2/22	China		1,123,000		5,631.00				6,754.00
Committee total					1,123.00		5,631.00				6,754.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

J. DENNIS HASTERT, Speaker of the House, Mar. 2, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. DEANNA FUNDERBURK, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB. 15 AND FEB. 22, 2004

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Deana Funderburk	2/15	2/22	China		1,123,000		5,631.00				6,754.00
Committee total					1,123.00		5,631.00				6,754.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

J. DENNIS HASTERT, Speaker of the House, Mar. 2, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. ANNE LENAY, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB. 16 AND FEB. 20, 2004

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Travel to Qatar, Pakistan, Afghanistan and Kuwait February 16–20, 2004: Anne R. LeMay.	2/16	2/17	Qatar		130.00						130.00
	2/17	2/19	Pakistan		526.00						526.00
	2/17	2/18	Afghanistan (day trips)								
	2/19	2/20	Kuwait		402.00						402.00
Commercial airfare							7,385.75				7,385.75
Committee total					1,058.00		7,385.75				8,443.75

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

ANNE R. LeMAY, Feb. 24, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE PEOPLE'S REPUBLIC OF CHINA AND HONG KONG, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 10 AND JAN. 17, 2004

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Amo Houghton	1/10	1/16	China	Y12,843.81	1,554.00	n/a		n/a		Y12,843.81	1,554.00
	1/16	1/17	Hong Kong	HK2,942.00	379.00	n/a		n/a		HK2,942.00	379.00
Hon. Earl Pomeroy	1/10	1/16	China	Y12,843.81	1,554.00	n/a		n/a		Y12,843.81	1,554.00
	1/16	1/17	Hong Kong	HK2,942.00	379.00	n/a		n/a		HK2,942.00	379.00
Hon. Nick Smith	1/10	1/16	China	Y12,843.81	1,554.00	n/a		n/a		Y12,843.81	1,554.00
	1/16	1/17	Hong Kong	HK2,942.00	379.00	n/a		n/a		HK2,942.00	379.00
Hon. Phil English	1/10	1/16	China	Y12,843.81	1,554.00	n/a		n/a		Y12,843.81	1,554.00
	1/16	1/17	Hong Kong	HK2,942.00	379.00	n/a		n/a		HK2,942.00	379.00
Robert W. Van Wicklin	1/10	1/16	China	Y12,843.81	1,554.00	n/a		n/a		Y12,843.81	1,554.00
	1/16	1/17	Hong Kong	HK2,942.00	379.00	n/a		n/a		HK2,942.00	379.00
Committee total					9,665.00						9,665.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT PERMANENT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Robert E. (Bud) Cramer	10/23	10/28	Asia		1,518.00						
Commercial airfare							5,338.22				6,856.22
Hon. Robert E. (Bud) Cramer	11/29	12/07	Asia		2,106						
Commercial airfare							6,252.90				8,358.90
Michael Kostiw, Staff	11/24	11/28	Middle East		952.00		(3)				952.00
Patrick Kelly, Staff	11/24	11/28	Middle East		952.00		(3)				952.00
Robert Myhill, Staff	11/24	11/28	Middle East		952.00		(3)				952.00
William McFarland, Staff	11/24	11/28	Middle East		952.00		(3)				952.00
Hon. Mac Collins	11/24	11/28	Middle East		952.00		(3)				952.00
Kathleen Reilly, Staff	11/30	12/6	Central America		412.50						
Commercial airfare							1,232.14				1,644.64
Kevin Schmidt, Staff	11/30	12/6	Central America		412.50						
Commercial airfare							1,232.14				1,644.64
John Stopher, Staff	11/30	12/2	Southeast Asia		802.18						
Commercial airfare							5,815.90				6,618.08
Michael Kostiw, Staff	12/10	12/14	Europe		686.00						
	12/14	12/18	Europe		728.00						
	12/18	12/21	Europe		994.00						
Commercial airfare							8,042.33				10,450.33
Patrick Kelly, Staff	12/10	12/14	Europe		686.00						
	12/14	12/18	Europe		728.00						
	12/18	12/20	Europe		696.00						
Commercial airfare							7,992.48				10,102.48
Barbara Bennett, Staff	12/1	12/14	Asia		1,101.00						
	12/4	12/6	Asia		564.00						
Commercial airfare							7,597.35				9,262.35
Michael Ennis, Staff	12/5	12/10	Asia		1,108.00						
	12/10	12/12	Asia		656.00						
Commercial airfare							7,150.00				8,586.00
Marcel Lettre, Staff	12/5	12/10	Asia		1,108.00						
	12/10	12/11	Asia		328.00						
	12/11	12/14	Asia		1,101.00						
Commercial airfare							7,074.67				9,611.67
Wyndee Parker, Staff	12/5	12/10	Asia		1,108.00						
	12/10	12/11	Asia		328.00						
	12/11	12/14	Asia		1,101.00						

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, SELECT PERMANENT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 2003—Continued

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Commercial airfare							7,074.67				9,611.67
Suzanne Spaulding, Staff	12/15	12/18	Middle East		767.00		(3)				
	12/18	12/19	North Africa		255.00		(3)				
											1,022.00
Hon. Jane Harman	12/14	12/18	Middle East		767.00		(3)				
	12/18	12/19	North Africa		255.00		(3)				
											1,022.00
Kathleen Reilly, Staff	12/18	12/19	Europe		293.00						
	12/14	12/17	Europe		716.00						
Commercial airfare							5,020.09				6,029.09
Hon. Collin Peterson	12/18	12/21	Europe		879.00						
	12/14	12/17	Europe		716.00						
Commercial airfare							5,373.51				6,968.51
Barbara Bennett, Staff	12/11	12/14	Europe		1,263.00						
	12/14	12/17	Europe		1,620.00						
	12/17	12/19	Europe		586.00						
Commercial airfare							6,203.33				9,672.33
Michael Fogarty, Staff	12/11	12/14	Europe		1,263.00						
	12/14	12/17	Europe		1,620.00						
	12/17	12/19	Europe		586.00						
Commercial airfare							6,203.33				9,672.33
Committee total											121,893.24

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

PORTER GOSS, Chairman, Feb. 23, 2004.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7190. A letter from the Director, Department of Health and Human Services, transmitting as required by Section 902(g) of the Healthcare Research and Quality Act of 1999 (Pub. L. 106–129), a report entitled ''The National Healthcare Disparities Report (NHDR)''; to the Committee on Energy and Commerce.

7191. A letter from the Secretary, Department of the Treasury, transmitting a 6-month periodic report on the national emergency with respect to Iran that was declared in Executive Order 12957 of March 15, 1995, pursuant to 22 U.S.C. 2349aa-9(c); to the Committee on International Relations.

7192. A letter from the Secretary, Department of The Treasury, transmitting the semiannual report detailing payments made to Cuba as a result of the provision of telecommunications services pursuant to Department of the Treasury specific licenses, pursuant to 22 U.S.C. 6004(e)(6); to the Committee on International Relations.

7193. A letter from the Under Secretary for Industry and Security, Department of Commerce, transmitting the Department's report entitled, ''Imposition of Foreign Policy Controls on Items Previously Controlled For National Security Reasons''; to the Committee on International Relations.

7194. A letter from the Secretary, Department of Commerce, transmitting the annual report for FY 2003 of the Department's Bureau of Industry and Security; to the Committee on International Relations.

7195. A letter from the Administrator, Small Business Administration, transmitting the Administration's inventories of Commercial and Inherently Governmental Activities for Year 2003 as pursuant to the Federal Activities Inventory Reform Act, pursuant to Public Law 105–270 section 2(c)(1)(A); to the Committee on Government Reform.

7196. A letter from the Architect of the Capitol, transmitting a report discussing the Congressional Office recycling programs for traditional and electronic equipment waste (E-waste) for the first quarter of FY 2004, pursuant to the directions issued in House Report 107-576; to the Committee on House Administration.

7197. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Certain Cost-Sharing Payments (Rev. Rul. 2004-08) received March 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7198. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Weighted Average Interest Rate Update [Notice 2004-24] received March 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

7199. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability (Rev. Proc. 2004-17) received 5, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BARTON: Committee on Energy and Commerce. House Resolution 522. Resolution expressing the sense of the House of Representatives that there is a critical need to increase awareness and education about heart disease and the risk factors of heart disease among women (Rept. 108–440). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mrs. BONO (for herself and Ms. HOOLEY of Oregon):

H.R. 3993. A bill to amend the Agricultural Marketing Act of 1946, as recently amended by the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2004, to expedite the implementation of the country of origin labeling requirements of such Act, to impose certain recordkeeping requirements on retailers subject to such Act, to clarify the authority to impose civil penalties under such Act, and for other purposes; to the Committee on Agriculture.

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. LIPINSKI):

H.R. 3994. A bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. HILL (for himself, Mr. SCHIFF, Mrs. TAUSCHER, Mr. JOHN, Mr. BISHOP of Georgia, Mr. STENHOLM, Mr. COOPER, Ms. HARMAN, Mr. CARDOZA, Mr. BERRY, Mr. BOYD, Mr. POMEROY, Mr. MATHESON, Mr. BOSWELL, Mr. HOLDEN, Ms. LORETTA SANCHEZ of California, Mr. CASE, Mr. TANNER, Mr. THOMPSON of California, Mr. MOORE, Mr. TAYLOR of Mississippi, Mr. MICHAUD, Mr. TURNER of Texas, and Mr. SANDLIN):

H.R. 3995. A bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 and the Congressional Budget Act of 1974 to extend the discretionary spending caps and the pay-as-you-go requirement, and for other purposes; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCHIFF (for himself, Mr. SHAYS, Mr. FROST, Mr. BLUMENAUER, Ms. JACKSON-LEE of Texas, Mr. CASE, and Ms. MCCARTHY of Missouri):

H.R. 3996. A bill to build operational readiness in civilian agencies, and for other purposes; to the Committee on International Relations.

By Mr. BOOZMAN:

H.R. 3997. A bill to direct the Secretary of Agriculture to convey to the New Hope Cemetery Association a small parcel of National Forest System land in the State of Arkansas for use as a cemetery; to the Committee on Agriculture.

By Mr. COOPER (for himself and Mr. FOLEY):

H.R. 3998. A bill to expand au pair exchange visitor programs to include the provision of in-home independent living services for

adults with disabilities, and for other purposes; to the Committee on International Relations.

By Mr. GREENWOOD (for himself, Mr. GREEN of Texas, Mr. BILIRAKIS, and Mr. BROWN of Ohio):

H.R. 3999. A bill to amend the Public Health Service Act with respect to trauma care, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HOBSON (for himself and Ms. NORTON):

H.R. 4000. A bill to amend title 10, United States Code, to establish a program of financial assistance to enable more members of the National Guard of the District of Columbia to attend institutions of higher education; to the Committee on Armed Services.

By Mr. LATHAM (for himself, Mr. NETHERCUTT, Mr. BROWN of Ohio, Mr. MCDERMOTT, and Mr. LEACH):

H.R. 4001. A bill to authorize the Secretary of Agriculture to use the Agricultural Research Service to conduct research regarding the likelihood and risks of the transfer between animal species of the proteinaceous infectious particles, known as prions, that cause transmissible spongiform encephalopathies, and for other purposes; to the Committee on Agriculture.

By Mr. MATHESON:

H.R. 4002. A bill to amend the Elementary and Secondary Education Act of 1965 with respect to teacher qualifications, and for other purposes; to the Committee on Education and the Workforce.

By Mr. GEORGE MILLER of California (for himself, Mr. DAVIS of Illinois, Ms. CARSON of Indiana, Mr. RYAN of Ohio, Mr. VAN HOLLEN, Mr. OWENS, Mr. BISHOP of New York, Mr. HOLT, Mr. KUCINICH, Mr. ANDREWS, Mr. STARK, and Mr. KILDEE):

H.R. 4003. A bill to amend the Higher Education Act of 1965 to improve the ability of foster care youths to attend and succeed in higher education; to the Committee on Education and the Workforce.

By Mr. PAUL:

H.R. 4004. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish a system independent of the Food and Drug Administration for the review of health claims, to define health claims, and for other purposes; to the Committee on Energy and Commerce.

By Mr. PETERSON of Minnesota (for himself, Mr. REHBERG, Mr. TOM DAVIS of Virginia, and Mr. KANJORSKI):

H.R. 4005. A bill to exempt certain animal identification information from disclosure under the Freedom of Information Act; to the Committee on Government Reform, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. POMEROY (for himself and Mrs. CUBIN):

H.R. 4006. A bill to amend the Packers and Stockyards Act, 1921, to prohibit the use of certain anti-competitive forward contracts; to the Committee on Agriculture.

By Mr. ROYCE (for himself, Mr. DREIER, Mr. PAUL, and Mr. ROHRABACHER):

H.R. 4007. A bill to amend the Internal Revenue Code of 1986 to allow amounts in a health flexible spending arrangement that are unused during a plan year to be carried over to subsequent plan years or deposited into certain health or retirement plans; to the Committee on Ways and Means.

By Mr. SHAYS (for himself and Mr. RUPPERSBERGER):

H.R. 4008. A bill to increase the penalties for terrorism against mass transportation and railroads and provide law enforcement with the tools to combat and prevent attacks on mass transportation and railroads; to the Committee on the Judiciary.

By Mr. ACKERMAN (for himself, Ms. ROS-LEHTINEN, Mr. LANTOS, Mr. WAXMAN, Mr. BERMAN, Mr. ENGEL, Mr. MATSUI, and Ms. BERKLEY):

H. Con. Res. 390. Concurrent resolution condemning the adoption of United Nations General Assembly Resolution ES-10/14 (December 8, 2003) which requests the International Court of Justice (ICJ) to render an advisory opinion concerning the international legal consequences arising from Israel's construction of a security fence in parts of the West Bank, and for other purposes; to the Committee on International Relations.

By Mr. MEEHAN (for himself, Mr. SIMMONS, Mrs. TAUSCHER, Mr. BRADY of Pennsylvania, Mr. COOPER, Mr. TURNER of Texas, Mr. SMITH of Washington, and Mr. ALEXANDER):

H. Con. Res. 391. Concurrent resolution expressing the sense of Congress concerning the well-being of members of the Armed Forces and calling on the Department of Defense to do its utmost to see that deployed military personnel have the best force protection equipment the Nation can make available, and for other purposes; to the Committee on Armed Services.

By Ms. WOOLSEY (for herself, Mr. CONYERS, Mr. EMANUEL, Mr. FARR, Mr. GRIJALVA, Mr. HINCHEY, Mr. HOEFFEL, Ms. JACKSON-LEE of Texas, Ms. KILPATRICK, Ms. LEE, Mr. MARKEY, Mr. MCDERMOTT, Mr. OWENS, Ms. BALDWIN, Mr. SANDERS, Ms. SOLIS, Mr. PAYNE, Mr. OLVER, Ms. CARSON of Indiana, Ms. MCCARTHY of Missouri, and Ms. MCCOLLUM):

H. Con. Res. 392. Concurrent resolution calling for the adoption of a Sensible, Multilateral American Response to Terrorism (''SMART'') Security Platform for the 21st Century; to the Committee on International Relations.

By Mr. FROST:

H. Res. 571. A resolution expressing the sense of the House of Representatives that an Aviation Maintenance Technician Day should be established and expressing appreciation for Charles Edward Taylor's invaluable contributions to aviation; to the Committee on Transportation and Infrastructure.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. NORWOOD introduced A bill (H.R. 4009) for the relief of Thomas W. Sikes and Wellington Trade, Inc., doing business as Containerhouse; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 111: Mr. SHAYS.
H.R. 119: Mr. SMITH of Washington.
H.R. 173: Mr. KUCINICH.
H.R. 284: Mr. SULLIVAN and Mr. LEWIS of California.
H.R. 375: Ms. KAPTUR and Mr. CUMMINGS.
H.R. 391: Mr. STENHOLM.
H.R. 583: Mr. NEUGEBAUER and Mr. GOSS.
H.R. 584: Mr. LAHOOD.
H.R. 727: Mr. SHAYS, Mr. ALLEN, Ms. DELAURO, and Mr. PALLONE.
H.R. 745: Ms. KAPTUR and Ms. ROYBAL-ALLARD.
H.R. 814: Mrs. CAPITO.
H.R. 962: Mr. CAPUANO.
H.R. 965: Mr. DICKS.
H.R. 1002: Mr. INSLEE.
H.R. 1117: Mr. GOSS.
H.R. 1205: Mr. SHERMAN.
H.R. 1251: Mr. FILNER.
H.R. 1258: Mr. CROWLEY.
H.R. 1264: Mr. PETERSON of Minnesota.
H.R. 1266: Mr. SHAYS.
H.R. 1340: Mr. GORDON.
H.R. 1470: Mr. LYNCH, Mr. HOEFFEL, Mr. FILNER, and Mr. ROTHMAN.
H.R. 1480: Mr. BOUCHER and Mr. GRIJALVA.
H.R. 1608: Mr. TOM DAVIS of Virginia.
H.R. 1615: Mr. PLATTS.
H.R. 1653: Mr. LAHOOD.
H.R. 1735: Mr. CROWLEY.
H.R. 1886: Mr. BELL, Mr. DEFAZIO, and Mr. WAMP.
H.R. 1919: Mr. PLATTS.
H.R. 2032: Mr. HYDE.
H.R. 2060: Mr. STUPAK.
H.R. 2151: Mr. LEACH, Mr. INSLEE, and Mrs. MALONEY.
H.R. 2157: Mr. ACEVEDO-VILA and Mr. FORD.
H.R. 2197: Mr. LYNCH.
H.R. 2256: Mr. TIERNEY.
H.R. 2442: Ms. ROYBAL-ALLARD, Ms. CORRINE BROWN of Florida, Mr. PAYNE, Mr. WU, Mr. HALL, Ms. CARSON of Indiana, and Mr. ETHERIDGE.
H.R. 2612: Mr. HOLDEN and Mr. GRIJALVA.
H.R. 2625: Mr. DEUTSCH and Mr. MORAN of Virginia.
H.R. 2885: Mr. FORD.
H.R. 2890: Mr. VITTER.
H.R. 2900: Mr. ISAKSON.
H.R. 2967: Mrs. NORTHUP.
H.R. 2968: Mr. HERGER and Mr. JENKINS.
H.R. 2978: Mr. PETERSON of Minnesota.
H.R. 3015: Mr. BASS.
H.R. 3063: Ms. CARSON of Indiana.
H.R. 3069: Mr. ROGERS of Alabama, Mr. PETERSON of Minnesota, and Mr. HALL.
H.R. 3103: Mr. ANDREWS.
H.R. 3104: Mr. HAYES and Mrs. MILLER of Michigan.
H.R. 3109: Mr. MORAN of Virginia, Ms. WATSON, Mr. WATT, Mr. BEREUTER, Mr. ADERHOLT, Mr. FATTAH, Mr. FROST, and Mr. GREEN of Texas.
H.R. 3113: Mr. DEMINT.
H.R. 3213: Mr. GUTKNECHT.
H.R. 3215: Mr. FORBES, Mr. KNOLLENBERG, Mr. JONES of North Carolina, Ms. GRANGER, Mr. COX, Mr. WICKER, Mr. TANCREDO, Mr. LEWIS of Kentucky, Mr. SHADEGG, Mr. SULLIVAN, Mr. COLE, Mr. HOSTETTLER, Mr. MANZULLO, Mr. ADERHOLT, Mr. SOUDER, Mr. PENCE, and Mr. SHUSTER.
H.R. 3243: Mr. MCHUGH and Ms. MCCOLLUM.
H.R. 3329: Mr. CULBERSON.
H.R. 3344: Mr. WEXLER.
H.R. 3416: Mr. SCHIFF.
H.R. 3436: Mr. FROST and Mr. LIPINSKI.
H.R. 3438: Mr. LANGEVIN and Mr. LEACH.
H.R. 3441: Mr. SMITH of Washington, Mr. KUCINICH, Mr. PORTER, Mr. GREEN of Texas, Mrs. JONES of Ohio, Mrs. BIGGERT, Mr. BERMAN, Mr. GEORGE MILLER of California, Mr. SCHIFF, and Ms. KAPTUR.
H.R. 3444: Mr. GEORGE MILLER of California.
H.R. 3447: Ms. LEE, Mrs. CHRISTENSEN, Mr. ENGEL, Ms. CORRINE BROWN of Florida, Mr. FROST, and Mr. HINCHEY.
H.R. 3482: Mr. RAMSTAD.
H.R. 3550: Mr. KUCINICH.
H.R. 3593: Ms. SLAUGHTER, Mrs. DAVIS of California, Mr. MCDERMOTT, Mr. FATTAH, Mr. KUCINICH, Ms. WOOLSEY, and Mr. CLAY.
H.R. 3598: Mr. QUINN, Mr. HOEKSTRA, Mr. DINGELL, Mr. OBERSTAR, Mr. MICHAUD, Mr. LATOURETTE, Mr. MANZULLO, Mr. LIPINSKI, and Mr. KNOLLENBERG.

H.R. 3643: Mrs. LOWEY.
H.R. 3678: Mrs. JOHNSON of Connecticut.
H.R. 3704: Ms. GINNY BROWN-WAITE of Florida.
H.R. 3716: Mr. LIPINSKI, Mrs. MYRICK, and Mr. REGULA.
H.R. 3719: Mr. ROTHMAN, Mr. DELAHUNT, and Mr. GONZALEZ.
H.R. 3729: Mr. MCDERMOTT, Mr. GRIJALVA, Mr. BROWN of Ohio, Mr. CARDOZA, and Mr. WEXLER.
H.R. 3736: Mr. ENGLISH and Mr. GREEN of Wisconsin.
H.R. 3763: Mr. CANNON, Mr. POMEROY, Ms. MCCARTHY of Missouri, Mr. TOOMEY, and Mr. GARRETT of New Jersey.
H.R. 3771: Mr. PALLONE.
H.R. 3773: Mr. WILSON of South Carolina, Mr. HAYWORTH, and Mr. TIBERI.
H.R. 3777: Mr. BEAUPREZ.
H.R. 3778: Mr. MURPHY, Mr. GERLACH, Mr. KANJORSKI, Mr. GREENWOOD, Mr. DOYLE, Mr. BRADY of Pennsylvania, Mr. FATTAH, Mr. MURTHA, Mr. PITTS, Mr. PLATTS, and Mr. HOEFFEL.
H.R. 3784: Mr. TERRY, Mr. DEMINT, Mrs. JO ANN DAVIS of Virginia, and Mr. WILSON of South Carolina.
H.R. 3799: Mr. PEARCE and Mr. DEAL of Georgia.
H.R. 3801: Mr. LINDER and Mr. WELLER.
H.R. 3803: Mr. FROST and Mr. ACEVEDO-VILA.
H.R. 3810: Mr. MCNULTY.
H.R. 3818: Mr. FROST, Mr. WOLF, Mr. CARSON of Oklahoma, Mr. EVANS, and Mr. LEACH.
H.R. 3854: Ms. GINNY BROWN-WAITE of Florida.
H.R. 3858: Mr. BLUMENAUER, Mr. SABO, Mr. WELLER, Ms. SOLIS, Mr. GOODE, Mr. KIRK, Mr. TERRY, Mr. BOYD, Mr. KUCINICH, Mrs. BLACKBURN, Mr. TANCREDO, Mr. BACA, Mr. WEXLER, Mr. GORDON, Mr. SPRATT, Mr. COLE, Mr. HOEKSTRA, Mr. MCNULTY, Mr. SHUSTER, Mr. CULBERSON, Mr. FARR, Ms. MAJETTE, Mr. LARSEN of Washington, and Mr. NEUGEBAUER.
H.R. 3866: Mr. COBLE and Mr. STUPAK.
H.R. 3873: Mr. OSBORNE, Ms. MAJETTE, Mr. HASTINGS of Washington, Mr. WEXLER, Ms. WOOLSEY, Mr. FILNER, and Mr. GREENWOOD.
H.R. 3881: Ms. LOFGREN, Mr. MEEHAN, Mr. FRANK of Massachusetts, Mr. BROWN of Ohio, Mr. BLUMENAUER, Mr. MICHAUD, and Mr. CROWLEY.
H.R. 3889: Mr. COBLE.
H.R. 3901: Mr. RENZI, Mr. LAHOOD, and Mr. CASE.
H.R. 3920: Mr. SAM JOHNSON of Texas, Mr. FEENEY, Mr. PENCE, Mr. SMITH of Michigan, Mr. HERGER, Mr. DUNCAN, Mr. MANZULLO, and Mr. JONES of North Carolina.
H.R. 3925: Mr. MILLER of Florida and Mrs. BLACKBURN.
H.R. 3974: Mr. FRANK of Massachusetts.
H.R. 3978: Mr. LANTOS and Mr. ROHRABACHER.
H. Con. Res. 218: Mr. RYAN of Wisconsin.
H. Con. Res. 301: Mr. MCDERMOTT, Mr. SNYDER, and Mr. BAIRD.
H. Con. Res. 332: Mr. POMEROY, Mr. PRICE of North Carolina, Mr. BROWN of South Carolina, Mr. HASTINGS of Florida, Mr. VAN HOLLEN, Mr. KING of Iowa, and Ms. LINDA T. SANCHEZ of California.
H. Con. Res. 363: Mr. EVANS and Mr. BAIRD.
H. Con. Res. 366: Mr. COSTELLO, Mr. ROSS, Mr. SANDERS, Mr. BOSWELL, Mr. ANDREWS, and Mr. MARSHALL.
H. Con. Res. 369: Mr. DEFAZIO, Mr. BROWN of Ohio, Mr. WATT, Mr. FILNER, Mr. STARK, Ms. SOLIS, Mr. SHERMAN, Mr. STRICKLAND, Mr. OWENS, Mr. ANDREWS, Mr. HINCHEY, and Ms. SCHAKOWSKY.
H. Con. Res. 371: Mr. FOSSELLA, Mr. SULLIVAN, Mr. PALLONE, Mr. BURGESS, Mr. SHAYS, Mr. SWEENEY, Ms. ROS-LEHTINEN, and Mr. ROGERS of Kentucky.
H. Con. Res. 374: Mr. MEEK of Florida, Mrs. MILLER of Michigan, Mr. MCHUGH, and Mr. MCKEON.
H. Con. Res. 378: Mrs. JO ANN DAVIS of Virginia.
H. Con. Res. 380: Mr. SCOTT of Georgia, Mr. GRIJALVA, Mr. RANGEL, Ms. MCCARTHY of Missouri, Mrs. CHRISTENSEN, Mr. FORD, Mr. SANDERS, Mr. NEAL of Massachusetts, Mr. GORDON, Ms. WATSON, Ms. MILLENDER-MCDONALD, Mr. KUCINICH, Mrs. JONES of Ohio, and Mr. LANGEVIN.
H. Con. Res. 387: Mr. ALEXANDER, Mr. BOOZMAN, and Mr. ROSS.
H. Res. 402: Mr. ROGERS of Kentucky.
H. Res. 541: Mr. WOLF and Mr. MCNULTY.
H. Res. 565: Mr. WEXLER.
H. Res. 569: Mr. HOLT and Mr. BAIRD.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3800: Mr. LINDER.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 5 by Mr. HILL on House Resolution 534: Max Sandlin, Mike Thompson, Peter Deutsch, Tom Udall, David Scott, Allen Boyd, George Miller, Jim Davis, Elijah E. Cummings, Earl Pomeroy, Corrine Brown, Diana DeGette, Ike Skelton, Nydia M. Velaquez, Maurice D. Hinchey, Chris Bell, Harold E. Ford, Jr., Sheila Jackson-Lee, Stephanie Tubbs Jones, Frank Pallone, Jr., Ciro D. Rodriguez, Sam Farr, Lucille Roybal-Allard, Neil Abercrombie, Mark Udall, Anthony D. Weiner, James P. Moran, Howard L. Berman, Chaka Fattah, Kendrick B. Meek, Bart Gordon, Edolphus Towns, Xavier Becerra, Luis V. Gutierrez, Gene Taylor, and Robert E. (Bud) Cramer, Jr.

Petition 6 by Mr. TURNER of Texas on House Resolution 532: Max Sandlin, Mike Thompson, Peter Deutsch, Tom Udall, Brad Carson, Elijah E. Cummings, Corrine Brown, Diana DeGette, Maurice D. Hinchey, Chris Bell, Harold E. Ford, Jr., Sheila Jackson-Lee, Ciro D. Rodriguez, Anthony D. Weiner, Kendrick B. Meek, Luis V. Gutierrez, Ed Case, Thomas E. Allen, Joseph M. Hoeffel, Baron P. Hill, Lincoln Davis, Robert E. (Bud) Cramer, Jr., Juanita Millender-McDonald, and Albert Russell Wynn.

The following Member's name was withdrawn from the following discharge petition:

Petition 6 by Mr. TURNER of Texas on House Resolution 532: Lucille Roybal-Allard.