HOUSE OF REPRESENTATIVES—*Tuesday, September 12, 1995*

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore [Mr. SHAYS].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 12, 1995.

I hereby designate the Honorable CHRISTOPHER SHAYS to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Guam [Mr. UNDERWOOD] for 5 minutes.

RESTITUTION FOR GUAM

Mr. UNDERWOOD. Mr. Speaker, I had the privilege of attending ceremonies in Honolulu about 10 days ago marking V–J Day and the end of the war in the Pacific.

I was moved by the expressions of gratitude to our veterans who fought in the war in the Pacific, many of whom did not return home, and countless many who were injured and who bear the scars of war today. We certainly owe them a debt of gratitude.

I want to take this opportunity to call attention to the story of an American community occupied by the enemy during this war, and the brutality visited upon these Aemricans. Guam was attacked simultaneously with the attack on Pearl Harbor, and Guam was subsequently occupied by the enemy, an occupation that lasted 32 months, from December 10, 1941, to July 21, 1944. Guam was the only American community occupied—some may note that the Aleutian Islands were also occupied, but the Native Alaskans and the military evacuated these islands prior to the start of hostilities. Not since the War of 1812 have American civilians been subjected to an enemy occupation.

The occupation of Guam was made more brutal because of the loyalty of the people of Guam to the United States. This was a time of severe hardship and scarcity of food. This was a time when our people were placed into forced labor to work in rice paddies, to build fortifications for the enemy, and to clear a field by hand for a future airfield. This was a time when many suffered the brutality of beatings, and some were executed by beheading. This was a time when our people, in the closing weeks before liberation, were forced to march to internment camps in southern Guam to await their fate. And this was a time of atrocities, of villagers being rounded up into caves where they were killed by grenades and machinegun fire.

With this kind of war experience, it is not likely that the people of Guam will ever forget the occupation. But it seems that this Nation has forgotten the people of Guam. It certainly seemed that way after World War II when the Treaty of Peace with Japan was signed by the United States, absolving Japan of any war reparations. It certainly seemed that Guam was forgotten by the United States Congress in 1948 and again in 1962 when legislation was passed to allow for some compensation to the victims of World War II, but not the victims who were on Guam.

Mr. Speaker, I have introduced legislation, H.R. 2041, the Guam War Restitution Act, to address the claims of the people of Guam for the wartime atrocities that we endured. My bill would allow compensation for forced march, forced labor, internment, injury, and death for those who suffered during the occupation.

The amounts authorized for these injuries are modest, and are in line with amounts paid in 1948 to other Americans who were authorized to receive compensation.

It is important, 51 years after the liberation of Guam and 50 years after the end of the war, to bring closure to this issue. This issue is not going to fade away. Federal amnesia about Guam's occupation and the injustice of the way compensation was handled is not going to work. We remember, and we will not forget.

To those who may question why we are coming to Congress for compensation, let me point out two things. First, the Treaty of Peace with Japan takes away our recourse to seek compensation directly from Japan. Second, war claims were paid to other Americans by successive acts of Congress beginning in 1943, and as I mentioned earlier, in corrective legislation in 1948 and 1962 that did not include Guam.

To those who may argue that it should be Japan, not the American taxpayer that pays this bill, let me assure you that we agree. The Federal Government had every opportunity to seize Japanese assets after the war in payment of claims. Furthermore, my bill includes a funding mechanism that would not cost the American taxpayer a dime—Congress may choose to impose a fee on the sale of United States military equipment to Japan. After all, the national security and our security arrangements with Japan in Asia were often cited as the reasons to forgive Japan of any war reparations.

I hope that my colleagues would support H.R. 2041, the Guam War Restitution Act. I hope that we can put closure to this issue. I noted that much publicity was given to the Japanese apology for World War II. Who will apologize for the mishandling of Guam war reparations? Who in Congress will take responsibility for the Treaty with Japan signing away Guam's rights, and who in Congress will apologize for the oversight in not including Guam in war claims legislation in the past? Who now will stand up for what is right and do what is right for the American citizens of Guam who endured a brutal occupation?

MEDICAL SAVINGS ACCOUNTS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Nebraska [Mr. CHRISTENSEN] is recognized during morning business for 5 minutes.

Mr. CHRISTENSEN. Mr. Speaker, despite liberal attempts to hide the truth, the word is out.

The American people have learned that our precious Medicare system is going broke.

It is clear that unless important actions are taken, Medicare will be belly-up in the year 2002.

We are not going to let that happen.

We are going to save Medicare and strengthen it—giving our seniors more options and more choices.

One option we should give seniors is a Medical Savings Account.

A Medicare MSA would allow seniors to join a private heath plan that would pay all expenses above a set level, and allow seniors to deposit their Medicare

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dollars in a personal medical savings account to be used to pay expenses below that level.

At the end of the year, seniors choosing this option could withdraw any unspent money left in the MSA or buy insurance coverage for prescription drugs or allow the money to grow with interest to pay future medical bills. It is their choice.

Let us hope the liberals choose to abandon their Medi-scare tactics and join us in saving Medicare by giving seniors more choices like Medical Savings Accounts.

NUCLEAR BOMBING IN THE SOUTH PACIFIC ISLANDS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized during morning business for 5 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, about 150 years ago, by show of military force with guns, bullets and cannons, the Government of France incorporated into a colony a group of Polynesian islands currently known as French Polynesia, with its current capital in the town of Papeete and the main island called the island of Tahiti.

Mr. Speaker, these Polynesian islands were popularized by the famous historical novel that was written by Mr. Hall and Mr. Nordoff in the early 1930's, and later, a couple of very famous films were based on this novel. They are currently known as the Mutiny on the Bounty. As you well know, it was a historical fact that a British Naval captain by the name of Captain Bly was assigned to go to these islands in the South Pacific to bring back a certain fruit called the bread fruit so that it could be transferred to the Caribbean to feed the slaves, as it was part of the British empire at that time.

Mr. Speaker, these islands are currently in tremendous turmoil, as has been witnessed by the American people and throughout the world, of what has happened in the eve of the recent decision made by President Chirac in June that the Government of France was going to resume nuclear testing in the South Pacific. And the proposed plan by President Chirac was that for the 8-month period, once each month the Government of France was going to explode one nuclear bomb each up to the equivalent of 10 times the power of the bomb that we dropped in Hiroshima 50 years ago.

Mr. Speaker, I am sad to say that this new testing program began a couple of days ago and as a result of that, riots broke out in the city of Papeete. The main airport was closed and the island of Tahiti was at a standstill.

Now the tremendous uproar, Mr. Speaker. Everybody is pointing fingers at everybody. President Chirac recently, by the media, is pointing fingers at Australia and New Zealand and other countries for causing all these riots to occur. New Zealand and Australia are saying, no, Mr. Chirac, you are to blame for this thing that has happened now to the people of Papeete and the French Polynesians.

Mr. Speaker, I don't know if the American people are aware of the fact that this is the same situation that occurred in the early 1960's when our Government also exploded some of the most powerful nuclear bombs the world has ever witnessed in the islands of Micronesia.

I recall in 1954 we exploded what was known as the bravo shot, in which we exploded the first hydrogen bomb that was 50 megatons, and let me explain this to the American people and to my colleagues. The power of this bomb that we exploded on the island of Bikini was 1,000 times more powerful than the bomb that we dropped in Hiroshima. As a result of that bomb, 300 men, women and children on the islands of Rongelap and Utirik just playing on the ocean floor, not even knowing exactly what was happening, and the sad part of this legacy and the story in our own country, Mr. Speaker, our officials knew that the winds had shifted but they did not stop the detonation of that bomb. And as a result of that, as a result of that, these people were directly impacted by nuclear contamination because of what we did to them.

Mr. Speaker, to this day, these people are still suffering, still suffering from radioactive contamination, having the highest rates of cancer, leukemia. You can call it what you may, but these people are still suffering and no amount of money our Government could ever give these people will bring them back to normal health.

Mr. Speaker, this is the same problem the people of the Pacific have been fighting for years, and by our own admission, by our own admission, in 1963 we said, hey, we better not do this any more, it is hurting the environment. We conducted some serious atmospheric tests in Micronesia, underground, on the ground, under the reefs. We have done it and we found out that ecologically it was not suitable, and this is the reason why we did these tests now underground in the State of Nevada.

Mr. Speaker, we advised our friends from France, you cannot do this in the atolls of these islands in the Pacific Ocean. The Pacific Ocean is not a stagnant pool. It is an ocean that constantly moves, like what we call the Humboldt Current, and by doing this, our good friend, President DeGaulle, said, no, we are going to do it.

So for the past 20 years, the Government of France has exploded over 240 nuclear bombs on these islands in French Polynesia, mainly on these two atolls known as the Moruroa and the Fangataufa atolls.

Mr. Speaker, on Moruroa atoll, the Government of France has exploded over 163 nuclear bombs; and 8 more nuclear bombs, Mr. Speaker, that atoll is going to collapse, and when that contamination comes out of that atoll, it is not just the 200,000 French Polynesians that are going to be affected by it, but the whole Pacific Ocean.

Mr. Speaker, somehow we have taken a very passive view of the seriousness of the situation, and Mr. Speaker, I ask my colleagues and the American people, something has got to be done. President Chirac has got to get the message. What he is doing is wrong. It is morally wrong and it is time that we stop this madness.

RECESS

The SPEAKER pro tempore. There being no further requests for morning business, pursuant to clause 12, rule I, the House will stand in recess until 12 noon.

Accordingly (at 10 o'clock and 44 minutes a.m.) the House stood in recess until 12 noon.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SHAYS) at 12 noon.

□ 1200

PRAYER

The SPEAKER pro tempore. The Reverend Dr. Ronald F. Christian, Office of the Bishop, Evangelical Lutheran Church in America, Washington, DC, offered the following prayer:

The eyes of all look to You, O Lord, and You give them meat in due season. You open Your hand and satisfy the desire of every living thing.

Almighty God, the psalmist's recognition of his dependence upon You reminds us all of our constant need for Your grace and mercy.

So, we pray to You, O God, for daily bread and that all our needs will be met by Your gracious care.

We pray to You, O God, for health of body and strength of mind, so that all our efforts will serve Your will and thereby give aid to our neighbor who is in want.

We pray to You, O God, that the work of our hands and the decisions we render will make life better for those around us and for whom we must take some responsibility.

We pray to You, O God, that we will allow our souls to be fed by Your grace, so that we will always be more caring toward another's misfortune than accepting of glory for our own accomplishments.

And, we pray, that we may always live and demonstrate Your mercy in

our family, in our workplace, and in our community, and in our Nation.

Indeed, the eyes of us all look to You, O Lord. Give us, we pray, our food in due season. Open Your hand, and satisfy our needs. Amen.

THE JOURNAL

The SPEAKER pro tempore. (Mr. SHAYS). 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 pro tempore. Will the gentlewoman from Connecticut [Mrs. KENNELLY] come forward and lead the House in the Pledge of Allegiance.

Mrs. KENNELLY 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.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment, in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2126. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2126) "An Act making appropriations for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. GRAMM, Mr. BOND, Mr. MCCONNELL, Mr. MACK, Mr. SHELBY, Mr. HATFIELD, Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BYRD, Mr. LEAHY, Mr. BUMPERS, Mr. LAUTENBERG, and Mr. HARKIN, to be the conferees on the part of the Senate.

The message also announced that pursuant to section 1295(b) of title 46, United States Code, as amended by Public Law 101-595, the Chair, on behalf of the Vice President, appoints Mr. BREAUX, from the Committee on Commerce, Science, and Transportation, and Mr. INOUYE, at large, to the Board of Visitors of the United States Merchant Marine Academy.

DEATH OF FORMER CONGRESSMAN JAMIE WHITTEN

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

Mr. BEVILL. Mr. Speaker, on behalf of the Democratic leadership and the Mississippi congressional delegation, it is my sad duty to report the death of our former colleague, Jamie Whitten, on Saturday in Oxford, Mississippi.

As you know, Jamie was the dean of the House of Representatives until his retirement last year, after 53 years in the House. He had the longest record of service of any Member in the history of our country.

Jamie served as chairman of the House Appropriations Committee for 13 years and as chairman of the Agriculture Appropriations Subcommittee for more than 40 years. He had a tremendous influence on the Nation's agricultural policy and was known as the Permanent Secretary of Agriculture.

He was sitting in this Chamber when President Franklin D. Roosevelt gave his "Day of Infamy" speech following the bombing of Pearl Harbor in 1941. For more than half a century, Jamie faithfully and effectively served his Mississippi constituents and his country. His record was a remarkable achievement which will probably never be broken.

Jamie and his wife Rebecca were totally dedicated to public service and especially devoted to their beloved home State of Mississippi. Our Nation has lost one of its most loyal and effective leaders, but Jamie's contributions will always be remembered.

IN HONOR OF FORMER CONGRESSMAN JAMIE WHITTEN

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

Mr. BOEHNER. Mr. Speaker, I too join with our colleagues on the Democrat side of the aisle on behalf of Republicans in the House to mourn the death of our good friend, Jamie Whitten.

Mr. Speaker, Jamie did serve in the House for some 53 years and was an example to all of the Members of this House on both sides of the aisle about how to be a statesman. His influence in agricultural policy over those 53 years was, without question, substantial. And without question, for 53 years, Mr. Whitten had the most influence over agricultural policy in this country. Today, we mourn his death and say prayers for him and his family.

SUPPORT STUDENT AID, SUPPORT OUR FUTURE

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

Mrs. KENNELLY. Mr. Speaker, education of our young people of America is the best chance for a bright future for our great Nation. However, in these tough economic times many families cannot afford to send their children to postsecondary school. The rising cost of education and proposals to cut funding for students loans will only close the doors of colleges and universities to many fine young people indeed.

The current proposal to eliminate the in-school interest subsidy for Stafford Loans is a dramatic turn in education policy. Last year alone over four million students benefited from in-school interest subsidies. This interest subsidy is essential to ensuring choice and access for higher education. The main goal of the Higher Education Act of 1965 was to reduce financial barriers to access and choice in postsecondary education. Subsidized loans have always had a role in achieving this goal.

Money should not be the determining factor for who attends colleges and universities. Let's support student aid, let's support our future.

JUDGE ITO: MOST OUT OF TOUCH JUDICIAL BUREAUCRAT

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

Mr. COBLE. Mr. Speaker, much has been said about the O.J. Simpson trial, but little has been said about the manner in which Judge Ito has presided. It has reminded many observers of a circus rather than a courtroom. This is inexcusable.

Mr. Speaker, this presents yet another example of a judge oblivious to the significance of taxpayers' resources. The Simpson trial has been extremely costly to the taxpayers and should have been concluded months ago.

I am not suggesting that the rights of all parties should not be protected and preserved. I am not suggesting that parties to litigation should be forced to compromise. I am suggesting, however, that a trial should proceed in a timely fashion, and it is the judge's duty to assure this conclusion.

Judge Ito deserves no high marks for his performance and I nominate him as 1995's most out of touch judicial bureaucrat who obviously has no appreciation for cost effectiveness at the courthouse.

FBI MUST ANSWER FOR RUBY RIDGE

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

Mr. TRAFICANT. Mr. Speaker, this ordeal at Ruby Ridge continues to amaze me. FBI sniper Lon Horiuchi, who shot and killed Vicki Weaver, unarmed holding her infant child, now

says he will not testify at congressional hearings because the lawyers for Lon Horiuchi say they do not like the questions that will be answered.

Mr. Speaker, what is going on here? No American should be deprived life, liberty, and pursuit of property. Where was the Miranda? Where was the due process? Where were the arraignments?

Now the FBI is saying these are great mistakes. These are not just great mistakes. I say there was murder on Ruby Ridge. The FBI has to answer for those murders and for the power and arrogance of the Federal Government that trampled over citizens, then called them mistakes and will not testify because they do not like the questions.

Shame Congress. Take the Government back.

SUPPORT H.R. 1594 AND RESTORE SECURITY TO OUR PENSION SYSTEM

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

Mr. DELAY. Mr. Speaker, today, we take up legislation on the floor to protect the pensions of millions of Americans.

President Clinton has directed that all government pension plans invest in fiscally risky but politically correct investments.

He has done so for the obvious reason for helping his misguided left-wing agenda.

But let me ask a very direct question: What is more important, political correctness or pension security?

In my mind, we need to insure that the Pension Benefit Guaranty Corporation invests with only one interest: keeping the pension system secure.

If some Americans want to risk their money in politically correct investments, that is their decision. But it should not be by direction of the President, and it should not be done with the pensions of Americans who rely on them for their livelihoods.

Mr. Speaker, the President should keep his hands off these pensions. I urge my colleagues to support H.R. 1594, which will reverse the Clinton Executive order, and restore security to our pension system.

WE MUST INVEST IN OUR YOUNG PEOPLE

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

Mr. UNDERWOOD. Mr. Speaker, while the cost of a college education is rapidly increasing, some Members on the other side of the aisle would like to cut student loan funding. The majority's plans would significantly raise the cost of student loans by changing the way loan interest is calculated, capping Pell Grants, and eliminating the Direct Student Loan Program.

Mr. Speaker, many American families will find that they have been priced out of a college education by these changes and many students will find that the assistance they were depending on is simply not going to be there.

The new leadership once championed giving every student a PC. I will do one better. How about giving every student an opportunity for a college degree so that they can use that PC, rather than just play solitaire? We invest in roads, bridges, and infrastructure. We must also invest in our young people.

CONGRESS MUST STOP THE RAIDING OF AMERICA'S PENSION FUNDS

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

Mr. BALLENGER, Mr. Speaker, while the Republican-led Congress continues on the path to becoming the most successful Congress in history, the Clinton administration continues to come up with new and interesting ways of robbing Peter to pay for liberal social programs for Paul. The latest effort by the administration has come in the form of ETI's.

Mr. Speaker, ETI stands for "economically targeted investment" and is designed to promote the investment of private pension funds into liberal social projects. ETI's are a disaster for working men and women who want their retirement savings to be invested wisely. Once again, the liberals believe that they know what is best for the American people and they intend to force that belief on us all in any way they can.

Today, the House will debate legislation to combat this destructive and intrusive plan. The working people of America are counting on our help to stop this senseless raiding of their pensions.

CHIRAC, CHIRAC, WHAT HAVE YOU DONE?

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

Mr. FALEOMAVAEGA. Mr. Speaker, as I said earlier to my colleagues and to the American people, the French Government has already exploded 164 nuclear bombs in the atmosphere and under the Mururoa Atoll in French Polynesia, in the South Pacific.

Mr. Speaker, first French officials said the tremendous amount of nuclear contamination contained in this atoll should be contained for 1,000 years. Now, these same French officials are saying it may be 100 years.

Mr. Speaker, the consensus now among the scientists is that Mururoa Atoll will collapse within 10 to 50 years. Mr. Speaker, the contamination contained in this atoll is equivalent to several Chernobyls in the Ukraine.

Mr. Speaker, I was arrested for 16 hours on the Greenpeace ship the *Rainbow Warrior II*, and I wrote these verses to describe the crisis in the South Pacific:

You appear in a cloud, like a flash from the West that blinds our vision. From Tahiti Nui, from the Tuamotus, Mangareva, Tubuai, Bora-Bora, Raiatea, Huahine, Tahaa, NukuHiva, Tureia, Mururoa and Fangataufa.

Like poisoned fish that float aimlessly from fissured reefs, death moves slowly toward the people from the sun until it is too late.

Chirac, Chirac, what have you done?

STOP THE CLINTON PENSION GRAB

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

Mr. JONES. Mr. Speaker, investment of pension funds into economically targeted investments, or ETI's, is another questionable plan advocated by the Clinton administration to get its hands on more of the citizens' hard-earned money. This policy would divert pension funds away from financially sound investments into politically correct investments.

The Democrats have absolutely no plan to save Medicare from bankruptcy and now the administration wants to jeopardize the hard-earned pensions of millions of American seniors and at the American people's financial expense, $1 million for the clearinghouse to promote these risky, low-return investments.

Mr. Speaker, it seems the administration is more interested in putting high-priced programs first and the welfare of America's retirees second. We must stop the Clinton pension grab by passing the Pension Protection Act of 1995.

REPUBLICAN CUTS IN EDUCATION

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

Mr. HILLIARD. Mr. Speaker, Republicans in Congress seem to enjoy destruction more than they do creation. They have attacked our Nation's children and young adults.

Republicans in Congress have slashed education more than $36 billion. And why? To pay for the monstrous tax breaks that they have proposed for their wealthiest supporters. By slashing our education budgets, our kids will have more overcrowded classrooms, fewer computers, and fewer teachers.

The Republican plans will cut Head Start by 45,000 kids by 1996. They will cut $23 million from the Safe and Drug-Free Schools Program and, ultimately, deny many millions of students access to college education by cutting back on direct student loans and the Pell Grant Program.

Mr. Speaker, we know the Republicans do not care about the Nation's children and we also know they do not care about public education. After all, most of their kids are in private schools anyway.

NEW MAJORITY BRINGING RESPONSIBLE GOVERNMENT TO WASHINGTON

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

Mr. CHAMBLISS. Mr. Speaker, my children are in public schools and my wife teaches public school.

Mr. Speaker, this week the new majority of this body will unveil its plan for reforming the Medicare system—a plan that is long overdue for a system that will soon pay out more than it takes in.

Meanwhile the President and Members of the other side of the aisle crisscross the country with their deficit spending, big government message. Over the years they failed the American people by not giving them a responsible Government that operates within its means.

Now that the new majority is about the business of bringing to Washington responsible Government, the other side has resorted to generational warfare, scaring seniors into believing they are the targets of our balanced budget when in fact they are not.

Our message is simple: We are committed to Medicare's continued viability for the future of seniors and our children. We are committed to positive changes that will balance our budget and encourage individual responsibility—the same goals of any American family.

CONGRESS MUST CLOSE THE BILLIONAIRE'S TAX LOOPHOLE

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

Mr. WARD. Mr. Speaker, I rise today once again to address an issue that this Congress has yet to face, that is the issue of billionaire expatriates.

Mr. Speaker, on numerous occasions the majority has refused permanently to close a tax loophole which enables billionaires to renounce their U.S. citizenship in order to avoid paying taxes.

To add insult to injury, the Washington Post reported yesterday that the State Department, has received an application from the country of Belize to open a diplomatic post in Sarasota, FL, exclusively for the convenience of billionaire expatriate Kenneth Dart, whose family happens to live in Sarasota. The arrangement would allow Mr. Dart to continue to avoid paying U.S. taxes, while living with his family in the United States.

Mr. Speaker, I have sent a letter to Secretary Christopher urging him to deny the permission to open this office. Mr. Speaker, we must close this loophole.

ATTACKS VERSUS IDEAS

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

Mrs. SEASTRAND. Mr. Speaker, we, the new majority, understand what some pro-big government groups do not: A smaller Federal Government is a better Federal Government.

In the words of Barry Goldwater, "A government big enough to give you everything is big enough to take it all away."

Mr. Speaker, I discovered while traveling in my district the past month that when liberals run out of ideas of their own to offer the American people, they panic with baseless attacks. But while big labor bosses were running attack ads on television against me, I was meeting with many of their rank and file to let them know about how working families will benefit by balancing the budget, by cutting Government spending, and giving working people tax relief.

While the so-called national environmental groups were polluting the environment on the airwaves with fear, I was speaking to my constituents about the common sense we are putting in environmental law that will give us local control.

While the AARP mailed misinformation regarding Medicare, I was discussing with seniors and my other constituents how we intend to protect and preserve Medicare.

Well, Mr. Speaker, if big government special interests were not attacking us, I might be worried we were not doing our job.

□ 1220

WHERE IS THE REPUBLICAN PLAN ON MEDICARE?

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

Mr. PALLONE. Mr. Speaker, yesterday myself and the gentleman from New Jersey [Mr. TORRICELLI] held a second forum in New Jersey on the issue of Medicare, and many senior citizens were seriously concerned about how the severe Republican cuts to Medicare will affect them. Unfortunately, it is difficult to answer that question definitively since we only know what the press has leaked on the subject.

I would like to know where the Republican plan is. It is after Labor Day. We still do not have it. Are we going to have any time to review it even before we vote in a few weeks?

How can the Members of Congress be expected to vote on the largest Medicare reduction in history and fully represent their constituent interests when the Republicans still have no plan?

When the Republicans finally release their Medicare plans, they should allow a significant period of time to analyze the specifics. I do not think that is too much to ask on such an important issue.

The Republicans have been reluctant to release their plan because they fear the wrath of senior citizens. They seem to be opting for the stealth approach by cutting $270 billion, the largest cut in the history of Medicare without letting the public know the details.

CUTS IN EDUCATION ENDANGER OUR FUTURE

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

Mrs. CLAYTON. Mr. Speaker, this Saturday, September 16, in Rocky Mount, NC, I am hosting a youth summit.

More than 800 young people have already confirmed that they will attend. They care about the future.

These young people are encouraged by past success stories and support for their positive and productive attitudes.

Unfortunately, this Congress has given these young people little to be hopeful for.

Thousands of Pell grants will be eliminated, the cost of student loans will skyrocket, there will be less funding for Head Start and Healthy start, Goals 2000 will be eliminated, title I will be cut, the Safe and Drug Free Schools Program will be cut and summer jobs are eliminated.

The young people who will join me on Saturday are not those who images dominate our perceptions. They are not violent. They are not involved in drug sales. They are the majority.

What will I say to these young people? Instead of a bright future, Congress now offers you a bleak future.

This blind march to a balanced budget has taken us down the wrong path. I wonder where it is taking our youth?

Mr. Speaker, I ask you, what should we say to our youth? What is their future?

Mr. Speaker, this is no way to encourage our future.

THE ASSAULT ON IMPORTANT EDUCATIONAL PROGRAMS

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

Mr. BROWN of Ohio. Mr. Speaker, today I rise to voice my dismay at the ongoing assault taking place on some of the most important educational programs in this country. Student loans are under attack by Republican budget cutters who want to give the wealthy a huge tax break.

The Republican plan cuts $10 billion in the Stafford Loan Program over the next 7 years. These cuts will add an additional $3,100 to undergraduate costs and $9,400 to graduate students.

The Republicans want to knock 157,000 students out of the Perkins Loan Program, denying these low- and middle-income students these loans; 280,000 students will lose Pell grants. Prevention programs such as the Safe and Drug Free Schools Program, will be cut by 60 percent. Even programs like Head Start will not be safe from the Republican budget ax.

Why these cuts, Mr. Speaker? The simple answer to that is Republicans are making these cuts to give tax breaks to the wealthiest people in this country. Giving tax breaks to $200,000 incomes is wrong, Mr. Speaker, while cutting education.

BALANCING THE BUDGET ON THE BACKS OF OUR YOUTH

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

Mrs. LOWEY. Mr. Speaker, the Republican leadership says it is cutting student aid by more than $10 billion in order to shrink the deficit. What are the priorities of this Congress? Education is an investment that we must protect.

Yesterday, I talked to students from Purchase College and Manhattanville College. Michael Henry is a 22-year-old Purchase College student from Forest Hills, NY. He works two jobs while in school. He drives a truck during the graveyard shift so he can attend classes during the day. I do not know when Michael sleeps. He is studying economics and hopes to start his own business. Without Federal financial aid, Michael said that he would not be able to attend college. What does this budget do? It threatens to rob us of the contribution of a bright, talented young person like Michael. It jeopardizes the dreams of a future entrepreneur who could contribute enormously to society.

We need to shrink the deficit. We can not keep paying billions in interest payments on the debt. But we can lower the deficit without cutting education and robbing deserving young people of the chance to earn a decent living.

A college education is an economic necessity. Let us not balance the budget on the backs of our Nation's deserving youth.

LEGISLATIVE ASSAULT ON OUR CITIES

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

Miss COLLINS of Michigan. Mr. Speaker, I rise this morning to express my deep felt concern for the future of our cities. The U.S. Conference of Mayors recently surveyed 145 of their member officials and found that 80 to 96 percent reported proposed congressional cuts in appropriations will have a negative impact on their cities and residents, their economies, economic development activities, human investment efforts, youth development, basic transportation needs, job creation and efforts to reduce homelessness. And of course, we all realize that at least some of the moneys saved through these planned cuts is intended to be used to finance a tax break for the wealthy.

To make matters, worse, these same city officials say they do not believe the business community, nonprofit organizations, charities, religious institutions, foundations or State governments will be able to make up the difference.

If you feel it is more important to give an unneeded tax break to the wealthy at the expense of the economies of our cities, city economic development activities, city human investment efforts, youth development, basic transportation needs, job creation efforts, and reducing homelessness, then I ask that you re-examine your priorities; that you forget about this ill-conceived tax break for the wealthy; and that you recommit to supporting these important needs of our cities and those who live in our cities.

THE DEVASTATING EFFECTS OF HUGE MEDICARE CUTS

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, throughout the month of August, senior citizens, working families, and health care providers told me the majority's huge Medicare cuts would have devastating effects on them.

Local hospitals in my district, which are already the most efficient in the Nation, said they would be forced to cut back crucial services or possibly close. In fact, one hospital administrator said, "They would just mail the keys in." And, outraged seniors, looking at $3,600 more in out-of-pocket expenses under the Gingrich Medicare plan, told me that they just could not afford any additional medical expenses.

Why? They repeatedly asked me would the majority make these huge cuts in Medicare?

And, I told them, over and over again, that the majority was taking an axe to Medicare, instead of a scalpel, for one reason, and for one reason only; to pay for one of the most outrageous, counterproductive, and unfair tax giveaways in American history.

THE VALUE OF STUDENT AID PROGRAMS

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

Mr. POSHARD. Mr. Speaker, when I graduated from high school in 1962, I grew up on a small family farm, and my folks did not have the money to send me to college. I went in the U.S. Army, and I spent 3 years, and when I got out, I enrolled in Southern Illinois University, and my Government really enrolled with me.

I was able to go there on the GI Bill. I was able to get a job on campus working in the physical plant through the student work and financial aid program. The National Student Defense loans at that time helped my young striving family to get by.

These were all really important programs for working-class families' children who needed a college education, and we need to keep those programs alive today.

It is not a matter in this country of whether we need to balance the budget and bring down the deficit. We brought down the deficit from $291 to $160 billion this year. In 3 years, under the President's budget, we are going to continue to bring down the deficit.

The question is whether we need to finance a huge tax cut and offset these programs more than what we have to, and that is the debate in this House.

MEDICARE: UNSPECIFIED FUTURE CUTS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, Republicans are cooking the books on their Medicare plan, but it is America's seniors who are getting burned.

On Sunday, Speaker GINGRICH stated that the Republican Medicare cuts would mean only $7 in increased monthly premiums for Medicare recipients. But, the Republican-controlled Congressional Budget Office disagrees with the Speaker's new math. In fact, the CBO says that seniors will pay $56.50 more each month, not the $7 the Speaker claims.

But, my colleagues on the other side of the aisle have developed a new accounting device called unspecified future cuts. Unspecified future cuts means that Republicans can claim $80 billion in savings, without telling the American people where that money is coming from.

It is time for the Republican leadership to stop playing games and to come clean with the American people about its plan to cut $270 billion from Medicare to pay for a tax cut to the wealthy.

COMMUNICATION FROM THE CHAIRMAN OF THE DEMOCRATIC CAUCUS

The SPEAKER pro tempore (Mr. SHAYS) laid before the House the following communication from the Honorable VIC FAZIO, chairman of the Democratic Caucus:

DEMOCRATIC CAUCUS,
HOUSE OF REPRESENTATIVES,
September 5, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to inform you that Representative W.J. (BILLY) TAUZIN is no longer a member of the Democratic Caucus.

Sincerely,

VIC FAZIO,
Chairman.

COMMUNICATION FROM THE SPEAKER OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Speaker of the House of Representatives:

THE SPEAKER'S ROOMS,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 6, 1995.

Hon. THOMAS J. BLILEY, Jr.,
Chairman, Committee on Commerce, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: This is to advise you that Representative W.J. (BILLY) TAUZIN's election to the Committee on Commerce has been automatically vacated pursuant to clause 6(b) of rule X, effective today.

Sincerely,

NEWT GINGRICH.

COMMUNICATION FROM THE SPEAKER OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Speaker of the House of Representatives:

THE SPEAKER'S ROOMS,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 6, 1995.

Hon. DON YOUNG,
Chairman, Committee on Resources, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: This is to advise you that Representative W.J. (BILLY) TAUZIN's election to the Committee on Resources has been automatically vacated pursuant to clause 6(b) of rule X, effective today.

Sincerely,

NEWT GINGRICH.

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ELECTION OF MEMBER TO COMMITTEE ON COMMERCE AND COMMITTEE ON RESOURCES

Mr. BOEHNER. Mr. Speaker, pursuant to direction of the Republican Conference, I call up a privileged resolution (H. Res. 217) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 217

Resolved, That the following named Member be, and he is hereby, elected to the following standing committees of the House of Representatives:

Committee on Commerce: Mr. Tauzin of Louisiana, to rank following Mr. Moorhead of California.

Committee on Resources: Mr. Tauzin of Louisiana, to rank following Mr. Young of Alaska.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 12, 1995.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House on Friday, September 8, 1995 at 4:05 p.m. and said to contain a message from the President whereby he transmits a revised deferral of budgetary resources for the International Security Assistance program.

With warm regards,

ROBIN H. CARLE,
Clerk,
U.S. House of Representatives.

REVISED DEFERRAL OF BUDGETARY RESOURCES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–114)

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

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one revised deferral of budgetary resources, totaling $1.2 billion.

The deferral affects the International Security Assistance program.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 8, 1995.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on the motion to suspend the rules under which a recorded vote or the yeas and nays are ordered or on which a vote is objected to under clause 4 of rule XV.

Such rollcall vote, if postponed, will be taken later in the day.

PERMISSION FOR CERTAIN COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING 5-MINUTE RULE

Mrs. MEYERS of Kansas. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule:

The Committee on Commerce, the Committee on Government Reform and Oversight, the Committee on the Judiciary, the Committee on Resources, the Committee on Science, and the Permanent Select Committee on Intelligence.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Kansas?

There was no objection.

SMALL BUSINESS CREDIT EFFICIENCY ACT OF 1995

Mrs. MEYERS of Kansas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2150) to amend the Small Business Act and the Small Business Investment Act of 1958 to reduce the cost to the Federal Government of guaranteeing certain loans and debentures, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2150

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Credit Efficiency Act of 1995".

SEC. 2. FEE FOR LOAN GUARANTEES SOLD ON SECONDARY MARKET.

Section 5(g)(4)(A) of the Small Business Act (15 U.S.C. 634(g)(4)(A)) is amended by striking "$^{4}/_{10}$ of one percent" and inserting "one-half of 1 percent".

SEC. 3. GENERAL BUSINESS LOANS.

(a) REDUCED LEVEL OF PARTICIPATION IN GUARANTEED LOANS.—Section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) is amended to read as follows:

"(2) LEVEL OF PARTICIPATION IN GUARANTEED LOANS.—

"(A) IN GENERAL.—In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration shall be—

"(i) equal to 80 percent of the balance of the financing outstanding at the time of disbursement if such financing is less than or equal to $100,000; and

"(ii) equal to 75 percent of the balance of the financing outstanding at the time of disbursement if such financing is greater than $100,000.

"(B) REDUCED PARTICIPATION.—The guarantee percentage specified by subparagraph (A) for any loan may be reduced upon the request of the participating lender. The Administration shall not use the percent of guarantee requested as a criterion for establishing priorities in approving guarantee requests.

"(C) INTEREST RATE UNDER PREFERRED LENDERS PROGRAM.—The maximum interest rate for a loan guaranteed under the Preferred Lenders Program shall not exceed the maximum interest rate, as determined by the Administration, which is made applicable to other loan guarantees under this subsection.

"(D) PREFERRED LENDERS PROGRAM DEFINED.—In this paragraph, the term 'Preferred Lenders Program' means a program under which a written agreement between the lender and the Administration delegates to the lender—

"(i) complete authority to make and close loans with a guarantee from the Administration without obtaining the prior specific approval of the Administration; and

"(ii) authority to service and liquidate such loans.".

"(b) GUARANTEE FEES.—Section 7(a)(18) of the Small Business Act (15 U.S.C. 636(a)(18) is amended to read as follows:

"(18) GUARANTEE FEES.—

"(A) GENERAL FEE.—For any loan or financing made under this subsection other than a loan repayable in a period of one year or less, the Administration shall collect a guarantee fee equal to—

"(i) 2 percent of the gross amount of any loan guaranteed under this subsection of an amount less than $250,000;

"(ii) 2.5 percent of the gross amount of any loan guaranteed under this subsection of an amount equal to or greater than $250,000 and less than $500,000; or

"(iii) 3 percent of the gross amount of any loan guaranteed under this subsection of an amount equal to or greater than $500,000.

Such fee shall be payable by the participating lending institution and may be charged to the borrower.

"(B) ADDITIONAL FEE TO OFFSET COST.—

"(i) IN GENERAL.—In addition to the guarantee fee to be collected under subparagraph (A), the Administration shall collect a fee for loans guaranteed under this subsection (other than loans for which a guarantee fee may be collected under section 5(g)(4)(A)) in an amount equal to not more than fourtenths of 1 percent per year of the outstanding principal portion of such loan guaranteed by the Administration.

"(ii) USE.—Fees collected under clause (i) shall be used solely to offset the cost (as defined by section 502(5) of the Congressional Budget Act of 1974) of guaranteeing loans under this subsection.

"(iii) PAYMENT.—Fees collected under clause (i) shall be payable by the participating lending institution and shall not be charged to the borrower.".

(c) REPEAL OF PROVISIONS ALLOWING RETENTION OF GUARANTEE FEES BY LENDERS.—Section 7(a)(19) of the Small Business Act (15 U.S.C. 636(a)(19)) is amended—

(1) in subparagraph (B)—

(A) by striking "shall (i) develop" and inserting "shall develop"; and

(B) by striking ", and (ii)" and all that follows before the period at the end; and

(2) by striking subparagraph (C).

SEC. 4. MODIFICATION TO DEVELOPMENT COMPANY DEBENTURE PROGRAM.

(A) MAXIMUM LOAN AMOUNT.—Section 502(2) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)) is amended to read as follows:

"(2) Loans made by the Administration under this section shall be limited to $1,250,000 for each such identifiable small business concern.".

(b) FEE TO OFFSET COST.—Section 503(b)(3) of the Small Business Investment Act of 1958 (15 U.S.C. 697(b)(3)) is amended by inserting before the semicolon the following: "and includes a one-eighth of 1 percent fee which shall be paid to the Administration and which shall be used solely to offset the cost (as defined by section 502(5) of the Congressional Budget Act of 1974) of guaranteeing the debenture.".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Kansas [Mrs. MEYERS] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. POSHARD] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2150, the Small Business Credit Efficiency Act of 1995. H.R. 2150 is a simple piece of legislation. The purpose of the bill is to adjust the fees and guarantee levels of the loan programs found in section 7(a) of the Small Business Act and section 503 of the Small Business Investment Act of 1958 thereby lowering the credit subsidy rate and the cost of both programs.

H.R. 2150 accomplishes this through a few basic changes:

For the section 7(a) program it increases the annual fee charged to the lenders who sell the guaranteed portion of their 7(a) loans on the secondary market from 0.4 percent of the outstanding principal balance of the guaranteed portion to 0.5 percent. The bill also establishes a 0.4 percent annual fee on the outstanding principal of all 7(a) guaranteed loans that are not sold into the secondary market.

H.R. 2150 will also reduce and simplify the amount of guarantee offered through the 7(a) program. The guarantee percentage will now be no more than 80 percent of any loan up to $100,000 and no more than 75 percent of any loan above $100,000.

This will significantly simplify the current system where loans under $155,000 are guaranteed up to 90 percent; loans over $155,000 are guaranteed up to 85 percent; and loans from preferred lenders are guaranteed at 70 percent.

Finally, H.R. 2150 increases the guarantee fees charged on guaranteed loans. The current fee is 2 percent of the guaranteed portion of all loans. The fees will now increase to 2 percent of the gross amount of any loan below $250,000; 2.5 percent of any loan between $250,000 and $500,000; and 3 percent of any loan above $500,000. H.R. 2150 also ends the practice of allowing lenders to keep one-half of the guarantee fees on certain loans.

In the section 504 development company program H.R. 2150 will increase the total loan amount available from $750,000 to $1,250,000 and add a one-eighth of 1 percent fee to the cost of all loans made by a Certified Development Company under this program. This fee is to be passed on directly to the Small Business Administration to eliminate the subsidy rate.

Mr. Speaker, the changes proposed in H.R. 2150 are estimated to lower the credit subsidy rate for the 7(a) program to 1.06 percent. CBO estimates that these changes will result in only $327 million in outlays over the next 5 years, instead of $582 million a decrease of $255 million. Those figures are based on appropriations that would fully fund these programs, and in fact, the actual outlays will probably be less.

Let me give my colleagues some more concrete figures—at the House-passed 1996 appropriations level of $104.5 million the Small Business Administration will be able to guarantee $9.8 billion in 7(a) loans. This is an additional $2 billion in loan guarantees for $110.6 million fewer than fiscal year 1995, and $85.2 million below the President's budget request.

The changes also lower the subsidy rate on the 504 development company program to zero. This means this program will operate without the need for any appropriated funds. The 504 program already functions in a nearly privatized state and the committee has decided to go the final distance. This change represents an $8 million savings over the 1995 appropriation. So in fiscal year 1996 the 504 program will be able to offer $2.6 billion in loan guarantees for zero appropriated dollars.

In sum, H.R. 2150 will allow us to provide $12.5 billion in loan guarantees for small business in fiscal year 1996; $3.3 billion more in total assistance for $118.6 million less in appropriations.

Mr. Speaker, these changes come in the face of growing demand for small business credit assistance through the SBA's section 7(a) and section 504 loan programs.

As the number of persons who enter our Nation's economy as small business owners increases, the availability of credit continues to fall short. Our committee's hearings have regularly pinpointed overregulation of the banking industry as one of the root causes of this shortage. However, despite the administration's attempts at reducing and easing banking regulation the demand for the services of the SBA's loan programs continue to rise.

Over the years there have been numerous supplemental appropriations

for the 7(a) and 504 business loan programs. The most recent occurred in 1993 when the SBA received a $175 million appropriation that nearly doubled the 1993 appropriation for the 7(a) loan program.

However, the committee recognizes that supplemental appropriations and liberal use of the taxpayer's dollars are things of the past. Fiscal responsibility dictates that we reduce the credit subsidy rate of the section 7(a) program and the section 504 program in order to enable the Small Business Administration to meet the needs of our Nation's small businesses and operate at a minimal cost to the taxpayer.

Mr. Speaker, H.R. 2150 meets both those goals. I urge my colleagues to support this bill, the small business men and women it will help, and the fiscally responsible fashion in which it helps them.

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

Mr. Speaker, I rise today in support of H.R. 2150, the Small Business Credit Efficiency Act, because I believe it will allow the Small Business Administration to better meet the loan demands of our country's growing small business community. This bill passed the Small Business Committee by voice vote last month, because the committee recognizes the importance of providing small business owners and entrepreneurs the opportunity to create jobs and spur economic growth in many areas of America which are facing challenging and often difficult economic times.

The SBA's 7(a) and 504 loan programs demonstrate the importance of the SBA in providing financial assistance to our small business community. In my congressional district, located in central and southern Illinois, the multitude of successes these two loan programs have had can be seen throughout many of our rural towns and local business districts. From the construction company in Marion, IL to the Greenhouse Nursery in Sullivan, the SBA has provided important opportunities to hundreds of my constituents through its loan program services.

As Congress works to balance the Federal budget, it is important we make Government work better and smarter for the people it serves, and that is what I believe we are doing here today. By adjusting the guarantee levels and fees for 7 (a) and 504 loans, we make these SBA programs available to a greater number of potential borrowers. In addition, we reduce the amount of appropriations needed to fund SBA loan guarantees by a total of $255 million over 2 years, while still maintaining the attractiveness of the SBA's many loan programs to the small business and financial communities.

In closing, I want to thank the gentlewoman from Kansas [Mrs. MEYERS] for her leadership in bringing this important legislation before the Small Business Committee. Thanks should also go to the ranking Democrat member, the gentleman from New York [Mr. LAFALCE] for his work on this bill. I strongly believe the changes we are making in these two important loan programs will allow Congress and the SBA to meet the needs of our small business owners more effectively and responsibly.

Mr. Speaker, I yield 4 minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Speaker, I rise, with some reluctance, in support of this bill. My reluctance grows out of the fact that, because this measure is on the Suspension Calendar, the ranking minority member, Mr. LAFALCE, will not be able to offer a perfecting amendment. His amendment was cooperatively withdrawn to allow time for a hearing on it, so that the markup of the bill could proceed. Just before the recess, the full committee marked up H.R. 2150, the Small Business Credit Efficiency Act of 1995.

At that time, Mr. LAFALCE introduced an amendment that would restore to 90 percent the amount of a guarantee on financing for 1 year or less under the Small Business Administration's Export Working Capital Guarantee Program. The SBA 7(a) Program is designed to provide greater access to capital for the small business. It is the startup and expansion for primary loan guarantee program for those small businesses seeking commercial loans of $750,000 or less. Without the SBA loans many smaller businesses would not have an opportunity. Minorities and women are prime b eneficiaries of this loan guarantee program, as well as small exporters. The program has grown over the last 5 years. For fiscal year 1995, the SBA is expected to handle some 56,000 loans, totaling $7.8 billion. the SBA serves as a facilitator and guarantees a percentage of a loan a small business might arrange with a commercial lending insitution.

The bill, H.R. 2150, is designed to increase the leverage of Government dollars against private dollars and to reduce the subsidy rate for the 7(a) program to approximately 1 percent. This is accomplished in several ways, by increasing the fees for loans sold; by reducing the guarantee on loans; by changing the guarantee fee on loans; by repealing the provision that allows lenders to retain half the fee on small and rural loans; and by other methods. This bill is important, and I support it. But, I also supported the LaFalce amendment because I believe it was consistent with the thrust and spirit of H.R. 2150, while at the same time insuring that the goals of the 7(a) program are met. The LaFalce amendment was about a policy with which financial institutions, the Government and participants alike have become familiar and support.

Considerable resources have been committed over the past year by both SBA and the Ex-Im Bank in an effort to make the program work. Much of that effort will be lost with an abrupt, unnecessary change at this point. The Export Working Capital Guarantee Program is vital to women, minorities including small exporters. We should keep it working. Nonetheless, Mr. Speaker, I urge my colleagues to support this bill.

Mr. POSHARD. Mr. Speaker, I yield 4 minutes to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Speaker, I rise in strong support of this bill, and I want to thank Chairman MEYERS and ranking member LAFALCE for their work in drafting this legislation. This bill will help meet the growing demand for small business capital, while reducing the cost to the taxpayers.

Since 1992, the demand for the Small Business Administrations 7(a) and 504 Loan Guaranty Programs has increased considerably, and the SBA has experienced difficulty in meeting this demand. The SBA requested that legislation be enacted to decrease the credit subsidy rate of the 7(a) Loan Guaranty Program, and the 504 Equipment Lease Program. The Small Business Committee has responded quickly by drafting the bill we have before us today.

The legislation will reduce the taxpayer subsidy necessary to fund the loan loss reserve by $253 million in both fiscal years 1996 and 1997. Rather than rely on annual appropriations, the 7(a) and the 504 Loan Guaranty Programs will generate income from lender and borrower fees similar to the private market.

This will eliminate the chronic quarterly funding shortfalls that have plagued the programs in recent years, particularly the 7(a) program. This bill adjusts the guaranty levels and fees of the 7(a) and 504 Loan Programs in order to reduce the SBA's loan subsidy rate.

This is an important first step in restructuring the SBA Loan Guaranty Program to increase the pool of capital available for small business. By ultimately eliminating the taxpayer subsidy and making these programs self-sufficient, we should also be able to increase that pool and thus capital infusion into America's small businesses. This legislation will result in an increase in the amount guaranty, and thus capital.

I urge the committee to raise and eventually lift the loan guaranty cap once it can be determined that the programs are truly self financing and creditworthy.

This transformation would result in a fannie-mae-like small business guaranty entity resulting in an increased secondary market, and thus greater

capital, allowing more businesses to grow and create new jobs.

What the 7(a) and 504 programs are about is not the lending of capital, but the lending of credit in order to raise capital for those companies which cannot otherwise obtain such credit or afford the cost due to size. This is a good program because it provides for a hand up, not a hand out.

By removing the taxpayer subsidy, providing for self generating loan loss reserve with strong creditworthiness, and lifting the cap, we can safely expand the pool of capital. I pledge to work with my chair, Mrs. MEYERS, and ranking member, Mr. LAFALCE, to further address this issue in the SBA reauthorization bill and put us on the path toward a privatized, secondary market corporation to raise capital to fund the growth of America's small businesses.

Mrs. MEYERS of Kansas. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. TORKILDSEN], who is chairman of the Subcommittee on Government Programs of the Committee on Small Business.

Mr. TORKILDSEN. Mr. Speaker, I thank the gentlewoman from Kansas [Mrs. MEYERS] for yielding this time to me. I want to applaud the effort of the gentlewoman from Kansas, the chairman of the full committee, for the great work she has done in getting this bill to the floor today.

Mr. Speaker, we are looking at reauthorizing the 7(a) program, and many people will understand the importance of it, but, just to reiterate, the 7(a) program is the principal, certainly not the only, but the principal, lending program, or guarantee program, of the Small Business Administration. This year, because we are looking at the very important objective of balancing the budget, we have to look at all areas for reducing spending. Under the leadership of the gentlewoman from Kansas [Mrs. MEYERS], we are going to see the subsidy rate reduced from 2.73 percent to 1.06, a very substantial reduction, and, because of that, we are going to see an additional $2 billion being lent, although the amount that taxpayers are going to contribute to this is going to be less than half what it is right now. That is a very substantial savings for the taxpayers. It is also a very substantial increase in loans that are going to be made.

Because of this revised 7(a) program, another issue that was brought up was the nature of whether or not to change the guaranteed percentage for the Exim, for foreign assistance or export loans. Currently that is 90 percent. Under this bill that will be reduced to 75 percent and the reason for loans over $100,000. And the reason for that is we wanted some consistency. Under the old program, depending on what one used their loan program for, they might have a different guarantee percentage than over a different loan. We thought that was unfair. We thought that individuals who are seeking to create jobs in the United States should be able to see a consistent guarantee percentage whether they use that loan for exports or for other purposes that are going to create jobs in the United States. Because of that consistency, and also because of that slight reduction in the amount of loan being guaranteed through, we are able to offer more loans to more people and, again, at less cost to the taxpayers.

So, Mr. Speaker, this bill, I think, is a win-win situation. It is a win for Americans as taxpayers. It is a win for Americans as people who want to work and create jobs. So, I hope the bill is suspended, the rules are suspended, and the bill is passed. It is a terrific bill, and it deserves the support of Members.

Mr. POSHARD. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. LAFALCE], the ranking Democrat member of the Committee on Small Business.

Mr. LAFALCE. Mr. Speaker, I rise in support of this legislation, the Small Business Credit Efficiency Act of 1995, and I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, this legislation addresses a very important need—to stretch very few Federal dollars being provided to the Small Business Administration, or SBA, to carry out the loan guarantee programs it administers.

SBA's budget in the current fiscal year apparently will be sufficient to permit the Agency to meet loan requests for both 7(a) loan guarantees and for development company financings during the remainder of this month. Previously, we thought the programs would run out of funding before the end of the year, however, the Agency has administratively reduced 7(a) loan eligibility by capping the maximum amount of a loan which the Agency will guarantee by less than one-half of the statutory amount and, more recently, by prohibiting the use of loan proceeds to repay existing indebtedness. These actions have reduced demand substantially.

This bill would stretch the reduced amount of funding for the 7(a) program beginning in fiscal year 1996 by reducing the cost of delivering the financial assistance. This would be done by reducing the percentage of loss which the SBA would agree to pay in the event of default on a 7(a) loan, and also by charging more fees to the borrower and to the lender.

I do not favor either of these changes. I believe that these changes will result in some small firms being unable to obtain financing. I also believe that the added cost of debt service on new borrowers may cause some of them to default and lose their businesses and their savings.

But, under the budget levels Congress has adopted, we do not have any choice.

The bill also slightly stretches funding for the 504 or development company loan program by slightly increasing the fees. These increases are minimal, however, and most importantly will make the program self supporting.

We cannot assert this about the changes being proposed for 7(a) loans. We have a very difficult decision to make. Either we can increase fees and decrease Federal reimbursements, or we can continue the current program and only be able to approve some 30 percent of the loan applications we receive.

Thus, with reluctance, I support this bill, including its provisions which substantially increase fees under the 7(a) program, while at the same time reducing the Government guarantee.

I must point out, however, one change which I believe is a serious mistake. The bill reduces the maximum Government guarantee to between 75 and 80 percent, depending upon the size of the loan. I accept the necessity to do this except as to working capital loans for export purposes. I believe these loans need a 90 percent guarantee, and we could provide it at minimal cost.

SBA has historically offered loan programs to finance exports, but the programs have been little used. Several years ago, SBA and the Export-Import Bank decided to rework their loan programs to make them more useful.

They did so and only last year Congress approved this agreement and statutorily authorized SBA to issue guarantees for 90 percent of the loan amount, whereas other loans would be made at slightly lower rates. I would note that there was no dissent to this proposal. In fact, the Members applauded it as it would encourage exports.

As a result, beginning with the start of this fiscal year, SBA began guaranteeing up to $750,000 at 90 percent and Eximbank began providing 90 percent guarantees on larger amounts.

The results have been promising. Even though the year is not over, SBA has already approved 132 export working capital loans worth $44.3 million, an amount double last year's level.

I believe that it is a bad mistake to remove the Federal incentive, that is, the existing higher guarantee rate, for companies needing to finance export contracts.

Last week the Small Business Committee held a hearing on this precise question. The witnesses were unanimous in stressing the benefits and advisability of continuing these export loans at the 90 percent rate.

But the bill takes the opposite approach and provides no exception for export loans. I believe this is a serious mistake and we will come to realize this when program usage seriously declines, along with a concomitant decline in exporting by small business.

Nonetheless, I support this bill as being the best we can do under the circumstances. I hope that we will soon recognize that we can and must do more to support small business, and that this anticipated recognition will result in a change in our legislative priorities.

□ 1300

Mrs. MEYERS of Kansas. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would just like to say in response to the gentleman from New York [Mr. LAFALCE] that I have appreciated very much the cooperation of the minority on this bill, and particularly of the gentleman from New York [Mr. LAFALCE] and the gentleman from Illinois [Mr. POSHARD].

Mr. Speaker, I philosophically do not think the Government should guarantee small business loans as high as 90 percent, but I did not want to make that determination in committee. We did have a hearing on this, with two of our subcommittees meeting together, and there was not a consensus in there that we should depart from the 80 percent and 75 percent that we have in the bill. So I am very, very pleased. I am sorry about the concern the gentleman expressed, but I am very pleased for his support for the bill.

GENERAL LEAVE

Mrs. MEYERS of Kansas. 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. 2150, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Kansas?

There was no objection.

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

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

The SPEAKER pro tempore (Mr. SHAYS). The question is on the motion offered by the gentlewoman from Kansas [Mrs. MEYERS] that the House suspend the rules and pass the bill, H.R. 2150, as amended.

The question was taken.

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

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

PROVIDING FOR CONSIDERATION OF H.R. 1594, RESTRICTIONS ON PROMOTION BY GOVERNMENT OF USE OF EMPLOYEE BENEFIT PLANS OF ECONOMICALLY TARGETED INVESTMENTS

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 215 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 215

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 1594) to place restrictions on the promotion by the Department of Labor and other Federal agencies and instrumentalities of economically targeted investments in connection with employee benefit plans. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed two hours equally divided and controlled by the chairman and ranking minority member of the Committee on Economic and Educational Opportunities. 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 Economic and Educational Opportunities now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. 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. The gentleman from Georgia [Mr. LINDER] is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. HALL], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 215 is a completely open rule providing for the consideration of H.R. 1594, the Pension Protection Act. This rule provides for 2 hours of general debate divided equally between the chairman and ranking minority member of the Committee on Economic and Educational Opportunities, after which any Member will have the opportunity to offer an amendment to the bill under the 5-minute rule.

It shall be in order to consider as an original bill for amendment under the 5-minute rule the amendment in the nature of a substitute recommended by the Committee on Economic and Educational Opportunities, and each section shall be considered as read. The rule also provides one motion to recommit, with or without instructions, as is the right of the minority.

I am pleased this bill will be considered under an open rule, and I believe that 2 hours of general debate and an open amending process will assure that the legislation in question undergoes thorough deliberation in the House. The rule makes every effort to engender open debate and assures all Members the opportunity to modify this legislation on the House floor.

House Resolution 215 allows for the consideration of H.R. 1594, legislation that will prohibit Federal agencies from encouraging private pension plans to invest in economically targeted investments. This bill also benefits the American taxpayers by saving over $½ million by appropriately abolishing the clearinghouse hired by the Labor Department to encourage investments in ETI ventures.

While ERISA requirements state that a fiduciary must manage funds solely for the benefit of the plan's participants, Interpretive Bulletin 94–1 sanctions the administration's gambling of trillions of dollars in pension assets in exchange for incidental social welfare benefits. The promotion of these political investments is truly government irresponsibility at its worst.

As a cosponsor of this legislation, I have long believed that the ETI plan is among the worst ideas to come out of the Clinton administration. Studies done on targeted social investments demonstrate that they are extremely risky and yield much lower returns than conventional pension investments. We guarded seniors from socialized health care last year; we will work to save Medicare in the coming months; and I look forward today to safeguarding their pensions with the passage of H.R. 1594.

Mr. Speaker, this legislation will assure that the pensions of millions of Americans will be managed solely for the exclusive purpose of providing benefits to pension participants. H.R. 1594 was favorably reported out of the Committee on Economic and Educational Opportunities, as was the open rule by the Rules Committee. I urge my colleagues to support this open rule, so that we may proceed with consideration of this important legislation.

Mr. Speaker, for the RECORD I include the following material:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of September 8, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	43	73
Modified Closed [3]	49	47	14	24
Closed [4]	9	9	2	3
Totals:	104	100	59	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of September 8, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95)
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95)
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95)
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95)
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95)
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps.	A: 242–190 (3/15/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95)
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95)
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95)
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95)
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95)
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95)
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95)
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95)
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95)
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95)
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95)
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95)
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95)
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95)
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95)
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95)
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95)
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95)
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95)
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95)
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95)
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps.	PQ: 236–194 A: 234–192 (6/29/95)
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95)
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95)
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95)
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95)
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95)
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95)
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95)
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95)
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95)
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95)
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95)
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 225–156 (8/2/95)
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95)
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

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

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend my colleague from Georgia, Mr. LINDER, as well as my colleagues on the other side of the aisle for bringing this resolution to the floor.

House Resolution 215 is an open rule which will allow full and fair debate on H.R. 1594, a resolution placing restrictions on economically targeted investments in connection with employee benefit plans.

As my colleague from Georgia has ably described, this rule provides 2 hours of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Economic and Educational Opportunities.

Under this rule, germane amendments will be allowed under the 5-minute rule, the normal amending process in the House. All Members, on both sides of the aisle, will have the opportunity to offer amendments. I am pleased that the Rules Committee was

able to report this rule without opposition in a voice vote and I plan to support it.

Though I support the rule, I want to express opposition to the bill.

This bill is a solution to a problem which does not exist.

This bill overturns the Labor Department's Interpretive Bulletin 94-1, which restates laws and policies regarding economically targeted investments for private pension plans. These kinds of investments might result in creating jobs, increasing housing, or encouraging small businesses.

The policies contained in this bulletin were developed under the previous Republican administrations and were continued by the current Democratic administration.

This bulletin does not in any way affect existing legal requirements for placing priority on an investment's risk and rate of return. It does, however, say, that given comparable investments, pension managers can consider other benefits. I think that is common sense.

In testimony on this bill before the Economic and Educational Opportunities Committee in June, a witness representing the pension community stated this legislation is not necessary.

This legislation could make pension managers overly cautious about investments that produce collateral benefits. If this happens, we will undoubtedly see fewer pension investments creating American jobs. Some fear this could make worse the dangerous trend of pension funds being invested overseas instead of creating benefits here in the United States.

A number of Democratic amendments were offered in committee to improve this bill but they were defeated.

Mr. Speaker, I urge adoption of this open rule which will permit full debate on this bill and allow Members to make additional attempts to amend it.

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Speaker, I rise in support of this open rule, although I will argue against the bill. I certainly appreciate that fact that this rule allows for a more extensive debate of the issues which have been brought out as this bill has progress through this House over the past several months. I believe the debate is important to those who feel that there is an inherent danger in economically targeted investments, and will put forth arguments to prove that with information that I believe is skewed. Their arguments seem to be based on assumptions that are questionable at best. Mr. SAXTON declared that investments in ETI's would cost each American pensioner $43,298 over 30 years.

Well, I have had those numbers analyzed and found that they are based on economic assumptions that would mean that every pensioner in the country would amass $2,075,000 in their pension plan under such an assumption, that a loss of $43,298 would represent a loss of 2 percent over that time, or less than the amount those same pensioners will be charged for their Medicare premiums under some of the current Republican proposals being floated.

Of course, I also learned that the rate of return on regular, approved investments would have to be 12 percent over the same 30 years—which is the rosiest forecast I have ever seen from an economist. One of the economists cited in the JEC report has written to Mr. SAXTON and stated, and I quote:

I applaud your focusing of attention on U.S. pension plan management—we simply cannot afford to do otherwise, as a Nation of rapidly aging Americans. But I disagree with your proposal to prohibit the U.S. Labor Department pension experts from thinking about or discussing so-called economically targeted investments.

Mr. Speaker, I enter into the RECORD the letter from economist Olivia S. Mitchell, of the Wharton School of the University of Pennsylvania, as well as a response to the JEC report.

THE WARTON SCHOOL OF THE UNIVERSITY OF PENNSYLVANIA,
Philadelphia, PA, September 11, 1995.

Congressman JIM SAXTON,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN SAXTON: I am the author of one of the three studies cited in a Joint Economic Committee discussion regarding your bill before the U.S. House tomorrow, in which you propose to curtail discussion and analysis of so-called "economically targeted investments" by the U.S. Department of Labor.

I applaud your focusing of attention on U.S. pension plan management—we simply cannot afford to do otherwise, as a nation of rapidly aging Americans. But I disagree with your proposal to prohibit the U.S. Labor Department pension experts from thinking about or discussing so-called economically targeted investments.

If two investment options are equivalent in terms of risk and return, and a manager must select one, a variety of other assessments will necessarily enter the decision. As researchers and policymakers, we need more analysis of how these other factors influence decision-making, and what their downstream implications are. In order to remain competitive domestically and internationally, we simply cannot prohibit discussion of, and research on, a vitally important question in the pension arena.

Thank you for your kind consideration.

Sincerely yours,

OLIVIA S. MITCHELL.

RESPONSE TO THE "SUBSTANTIVE REPORT" OF THE JEC ON ECONOMICALLY TARGETED INVESTMENTS

("Through the Looking Glass with Representative Saxton")

In an irresponsible attempt to unnecessarily frighten current and future pensioners, the "economists" at the Joint Economic Committee have concocted an incredible scenario about the potential impact of pension fund investment in Economically Targeted Investments (ETIs). The JBC report concludes that a hypothetical, across the board, investment by pension funds of 5% of their assets in ETIs, would sacrifice nearly $45,000 per participant over 30 years, and would leave the pension system $2.3 trillion underfunded. The assumptions underlying these conclusions are severely flawed.

If pension funds did what the JEC assumes, that is, year after year select investments that did not produce competitive, market rates of return, they would be violating the fiduciary requirements of ERISA, as delineated in the Interpretive Bulletin on ETIs that is at issue.

Even if one assumes that pension funds ignored the Interpretive Bulletin and the law and did as Representative Saxton suggests, the JEC report demonstrates how radically inflated the numbers have to get to show any "harm." According to Representative Saxton's arithmetic, the total asset pool of pension funds in 30 years will be $107.7 trillion. Approximately 50 million participants holding assets of $107.7 trillion works out to approximately $2,075,000 per participant for retirement. And the 2% shortfall he predicts for funds invested in ETIs will result in the average pensioner having to scrape by on a mere $2,031,000.

The analysis assumes that pension funds will, on average, earn 12.1% on their investments over the next thirty years and that ETI investments will, on a risk adjusted basis, underperform these by about 2%, or earn about 10%. There are many problems with these assumptions:

A 12% return annually for 30 years on all of the assets of pension funds is not only beyond the wildest fantasies of any investment manager, but any investment manager claiming such returns, or even the 10% suggested for ETIs, over 30 years, would be laughed out of the business. Assuming such returns for funding purposes, in fact, would be in violation of the recently passed Retirement Protection Act of 1993.

It is possible that we could see sustained yields of up to 12% in the capital markets for thirty years. However, at the real rates of investment returns of the last thirty years, this implies about 8% inflation over the same period. If this occurs, a few dollars in ETIs will be the least of pensioners worries. Perhaps Mr. Saxton knows something we don't about the consequences of the Republican Party's economic policies.

In the absence of such inflation, if pension funds' assets were to grow by 12% annually over 30 years, they would own virtually all financial assets in the economy. This may come as a surprise to investors like Warren Buffett.

The assumed 200 basis point underperformances of funds invested in ETIs (a 10% return as versus a 12% return on investments) is based on studies that are either misapplied or have severve flaws, such as inadequate controls and time frames, marginal results, and obsolete or limited data.

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

Mr. LINDER. 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.

□ 1315

POSTPONING VOTES ON AMENDMENTS DURING CONSIDERATION OF H.R. 1594, RESTRICTIONS ON PROMOTION BY GOVERNMENT OF USE OF EMPLOYEE BENEFIT PLANS OF ECONOMICALLY TARGETED INVESTMENTS

Mr. FAWELL. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 1594 pursuant to House Resolution 215 the Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment, and that the Chairman of the Committee of the Whole may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall be not less than 15 minutes.

The SPEAKER pro tempore (Mr. SHAYS). Is there any objection to the request of the gentleman from Illinois [Mr. FAWELL]?

There was no objection.

RESTRICTIONS ON PROMOTION BY GOVERNMENT OF USE OF EMPLOYEE BENEFIT PLANS OF ECONOMICALLY TARGETED INVESTMENTS

The SPEAKER pro tempore. Pursuant to House Resolution 215 and rule XXIII, the Chair declares the House in the Committee of the Whole on the State of the Union for the consideration of the bill, H.R. 1594.

□ 1316

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. 1594) to place restrictions on the promotion by the Department of Labor and other Federal agencies and instrumentalities of economically targeted investments in connection with employee benefit plans, with Mr. EMERSON 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 Illinois [Mr. FAWELL] and the gentleman from California [Mr. MARTINEZ] will each be recognized for 1 hour.

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

Mr. FAWELL. Mr. Chairman, I yield 5 minutes to the gentleman from Pennsylvania [Mr. GOODLING], chairman of the Committee on Economic and Educational Opportunities.

Mr. GOODLING. Mr. Chairman, I thank the subcommittee chairman for yielding time to me. The gentleman from Illinois [Mr. FAWELL] probably has forgotten more about ERISA than the rest of us in the Chamber know collectively about it.

Mr. Chairman, as we open the debate on H.R. 1594, which was ordered reported in a bipartisan vote by the Committee on Economic and Educational Opportunities on July 20, let me make very clear what is at stake and what the bill does and does not do.

At stake is whether the Department of Labor will continue to act as the Nation's pension watchdog, to ensure the safety of the $3.5 trillion backing the pensions and employee benefits of America's workers and private pensioners. Or, will the Department's role as guardian of those pension assets be undermined by this administration's actions to promote particular investments—investments that may be both risky and tainted by conflict of interest.

Economically targeted investments, or ETI's, is the euphemism used to describe these investments in Interpretative Bulletin 91–1 issued by the Department last June. The interpretive bulletin is but one element of the administration's many-pronged approach to promote particular investments within this ETI classification.

This bill is an attempt to protect workers and their pensions from the overzealous and misguided promotion of ETI's. First, the bill renders the interpretive bulletin null and void and declares that the landmark Federal pension law known as ERISA is to be interpreted and enforced without regard to it. The Secretary of Labor is also prohibited from issuing any other rule, regulation, or interpretive bulletin which promotes or otherwise encourages ETI's as a specified class of investments.

Second, the Department of Labor is directed to terminate the $1.2 million taxpayer financed clearinghouse through which the Department intends to promote particular ETI's. Further, the bill prohibits any agency from abusing the powers by establishing a future clearinghouse or database which lists particular ETI's.

Third, the bill states that it is the sense of the Congress that it is inappropriate for the Department of Labor, as the principal enforcer of ERISA's fiduciary standards, to take any action to promote or otherwise encourage economically targeted investments.

The bill takes us back to where we stood before the Clinton administration issued the bulletin and maintains the fiduciary standards under ERISA which have stood the test of time over the 21 years since its enactment, and which are not in need of repair.

By issuing the bulletin, the Department calls into question the framework within which employee benefit plan fiduciaries make their investment decisions. While the interpretive bulletin includes the gratuitous statement that "the fiduciary standards applicable to ETI's are no different than the standards applicable to plan investments generally", the real purpose of the bulletin is the promotion of investments that "may require a longer time to generate significant investment returns, may be less liquid and may not have as much readily available information on their risks and returns as other asset categories."

Could a better definition of a relatively risk investment be constructed? It is precisely this more risky type of investment that the Department cloaks in its broader and ambiguous definition of an ETI. In fact, it is unclear exactly what an ETI is under the Department's own interpretation. For example, in response to committee questions, the Assistant Secretary for Pension and Welfare Benefits stated that "the bulletin defines ETI's in terms of the process by which an investment is chosen * * * [even though] there is no specific process * * * necessary to trigger the 'selection criteria'." In addition, the Assistant Secretary stated that "ETIs are defined in terms of the reasons for which they are chosen," even though fiduciaries "may not articulate that collateral benefits were a reason for selecting" such investments. These contradictory and confusing statements are reason enough for rendering the interpretive bulletin null and void.

The bulletin's definition that ETIs are "investments selected for the economic benefits they create * * *" raises another question as to the intended scope of this new rule. Arguably, every investment can be asserted to create an economic benefit, since that is the very nature of investment capital. Indeed, if ETI's do not include all investments then which ones?

Clearly, they include the less liquid and more risky ones mentioned in the bulletin. Incredibly, it is these more risky investments that the Department now considers worthy of special promotion.

Furthermore, the public expression by Department officials that certain ETI's need to be encouraged seems to be based on the premise, disputed by the Congressional Budget Office, that the market does not work. Apparently, the administration believes pension managers are not investing an optimal amount of pensioners' money in ETI's. Those who are retired and those who will retire. But what is optimal, or enough? The various actions taken by the administration in this area has created confusion within the investment community and the general public. The Department has even had to deny that the Clinton administration intends to mandate that private pensions invest a certain percentage of their assets in ETI's. The millions of pension investors and

private pensioners deserve better from the Nation's pension watchdog. By voiding the interpretive bulletin, the bill removes a serious element of confusion and reinforces the preeminence of the time-tested fiduciary standards under ERISA.

If the interpretive bulletin is a somewhat subtle means to promote ETI's, the Department of Labor's creation of a so-called ETI clearinghouse is much more direct. The Department, as Secretary of Labor Robert Reich has testified, fully intends to showcase ETI's for both public and private plan investment purposes. Here the Department has clearly deviated from its role as the chief enforcers of ERISA's prudence, exclusive benefit, and other fiduciary standards to become the chief promoter and apologist for social investments selected by a securities firm handpicked by the Department's chief ERISA enforcement officer. What are pensioners and the public supposed to conclude about such conduct by the administration?

Would it not be safe to assume that the Department would run into at least the appearance of conflict by instigating and funding a clearinghouse listing specific ETI transactions? Is it not also foreseeable that a plan which invested in an ETI listed by the clearinghouse might raise as a defense the argument that the Department had endorsed the investment notwithstanding any disclaimer to the contrary by the clearinghouse? Finally, might not the clearinghouse operators be influenced to list particular investments based on the fees paid by a participating financial intermediary? Of course, the answer in each case is "yes". The most troubling aspect, however, is that Department officials were aware of these red flags, which were raised by the ERISA Advisory Council before the beginning of the promotion campaign, yet they ignored them in their desire to showcase and promote ETI's.

Will the ETI's listed by the clearinghouse be prudent and appropriate investments for particular plans? The Department has responded to our committee that the clearinghouse is not intended to function as a guarantor of the fiduciary suitability of an investment, even though it is the responsibility of the clearinghouse to develop criteria and methods for evaluating particular investments. We have asked the administration for their criteria, but both the Congress and pension investors remain in the dark. What is the criteria and what special interests will benefit?

Understandably the investing public remains confused. As a result, departmental officials have already been forced to take steps to inform the public that investments listed by the clearinghouse will not have prior approval by the Department.

The bill before us is the perfect antidote to this source of public confusion and scandal in-the-making. The bill terminates the clearinghouse and prevents this or any future administration from resurrecting any similarly imprudent device. According to CBO, the taxpayer also comes out ahead by over one-half of a million dollars.

Clearly, the Department's actions involving ETI's are not a model for reinventing government. Taxpayer funds can be better spent on protecting pensioners' assets by enforcing ERISA, rather than on ETI speechmaking, promotion tours, and clearinghouses.

When the time comes, I urge my colleagues to vote for the passage of the bill unamended. By voting "yes", you will be saying that the ERISA fiduciary standards which have served to well protect our Nation's pensioners for over 20 years should continue without the interference of misguided interpretive bulletins, clearinghouses, and other promotions of ETI's.

On the other hand, if you vote "no", let it be understood that in the name of "Big Government Knows Best" you will allow the Clinton administration and future administrations to transform the "Nation's Pension Watchdog" into a lapdog and huckster for special interests and the latest politically targeted investment. In this case, pensioners will suffer, the capital markets will be undermined, and the entire voluntary private pension system will be put at risk.

I urge you to vote "yes" on the passage of H.R. 1594 to ensure the continuance of a sound private pension system which is free from political interference.

I would ask Members to vote for this legislation unamended.

Mr. MARTINEZ. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri [Mr. CLAY], the ranking member of the Committee on Economic and Educational Opportunities.

Mr. CLAY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to this so-called Pension Protection Act. It has nothing to do with retirement protection, but rather attempts to address a nonexistent problem.

If this bill were a movie, the committee substitute, the original Saxton bill, and the hysteria generated by the Republican leadership about economically targeted investments, would be a comedy, featuring dumb, dumber, and dumb-agoguery—cousins of the famous three stooges.

This whole effort to eliminate ETI's is driven by pure, unadulterated demagoguery. It is a solution in search of a problem. More than that, if a problem did exist, it would be the worst possible solution. This bill would create enormous and completely unnecessary havoc in Federal pension policy.

By now you may have read the "Dear Colleague" circulated by my committee colleagues, Representatives BILL GOODLING and HARRIS FAWELL. It reminded me of what communicating must have been like in the Tower of Babel. Many of their groundless, incoherent charges will be repeated here today.

I am sure you had no idea that the Nation's pensions were in such grave jeopardy!

Without offering any shred of evidence, they accuse the Clinton administration of all sorts of dishonest, deceitful behavior, including trying to use private pensions to fund "its liberal social agenda."

My colleagues throw around terms like "social investing" and "politically targeted investments" without ever saying that they are or offering a single example of either involving private pension plan investments.

Their Dear Colleague letter reflects a lack of knowledge of what ETI's are and what the Labor Department policy has been for 15 years.

In addition, the bill's sponsor presents a study showing, with breathtaking precision, that the administration's ETI policy will cost the typical pensioner $43,298—not $43,297 and not $43,299, but $43,298. Fantastic. And you would have thought that "the finest CPA's money can buy" would have gotten the figure to an even $44,000.

Mr. Chairman, clearly, there is more to this bill than Republican concerns about ETI's. Labor Department policy prohibits the wild-eyed, irresponsible so-called social investing that has our Republican colleagues hyperventilating. If they are really concerned about the safety of the Nation's pensions, why have they just voted to slash the budget of the Nation's pension watchdog, the Labor Department's Pension and Welfare Benefits Administration.

Mr. Chairman, all the Labor Department has ruled is to permit private pension funds to make investments that produce benefits to American communities as long as the interests of the pension beneficiaries come first and risk and return are not sacrificed.

The Labor Department's only sin was in interpreting the pension law consistent with past Republican administrations.

H.R. 1594 is dangerous public policy. The chilling effect created by this bill could effectively stop pension funds from considering the collateral benefits of investments.

This bill is a complete waste of the House's time.

It's dumb. Passage by this body would be dumber. Vote "No" on H.R. 1594.

Mr. FAWELL. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, for the past 20 years, the Employment Retirement Income Security Act, known, as ERISA, has protected the financial security of America's retirees, and during that time the Department of Labor has served as a guardian of ERISA's private pension investment standards, and that is known as the prudent man rule. Now, however, the Department has, in my view, threatened to abdicate its role as the Nation's pension watchdog by promoting and, indeed, hyping a peculiar and particular class of investments called economically targeted investments, or ETI's.

ETI's are investments in an array of socially beneficial projects, such as low-income housing construction, for instance, rather than those selected exclusively to provide a financially sound return for pensioners, as required under the prudent man rule.

□ 1330

In June 1994, as has been indicated, the Department issued what was called

an interpretive bulletin which just plain promotes pension plan investment in these ETI's. Under this new policy, and it is that in my view, advanced by this bulletin, private pension plans may seek out an investment specifically for the benefits it creates for persons other than the plan's participants and beneficiaries.

Current pension law, on the other hand, mandates that private pension plans should invest and manage their assets for the exclusive benefit of the participants, the pensioners and their beneficiaries.

Thus, the Department, by contrast, would emphasize and promote and hype social programs and projects instead of protecting the best interests of the pensioners, as we see it.

In addition, in September 1994, the Department awarded the contract to Hamilton Security Advisory Services to come up with a clearinghouse. This clearinghouse obviously, because it will collect information and also promote ETI's, will become and can become an instrument for promoting and pressuring plans to invest in certain investments that are promoted and, of course, favored by the department. No mandates here, but the message is pretty clear from the regulator.

Moreover, the list of approved investment that the clearinghouse will produce will include imprudent investments, since the department has imposed no requirement that a project be a prudent investment under the ERISA law before it is placed upon the list.

At the Employer-Employee Relations Subcommittee's June 15 hearing, David Ball, Assistant Secretary of Labor for Pension and Welfare Benefits Administration under President Bush, testified, and I quote:

> It has been the Department's longstanding position that nonfinancial factors or incidental benefits cannot be allowed to take precedence, and I want to emphasize that word, precedence over providing retirement income to participants and beneficiaries.

That is not to say that there are not incidental benefits, obviously, in any particular investment. "The department, however, has strayed from this position, and by means of the Interpretive Bulletin and the clearinghouse is putting," and these are Mr. Ball's words, "inappropriate pressure on investment managers and subjecting them to political and social demands to invest in economically targeted investments."

H.R. 1594, as amended and reported by the committee, basically says three things:

First, it is inappropriate for the department, as the principal enforcer of private pension investment standards, to promote and hawk and hype special classes of investments. That is not your business.

Second, the bulletin is made null and void, not other bulletins, not other regs, but that bulletin.

Third, the legislation specifically prohibits the department from operating a special clearinghouse for ETI's. Thus, this bill, the Saxton bill, simply states that private pension investment law under ERISA should return to what it was before the ill-advised bulletin of June 1994 and the clearinghouse were foisted upon the employee benefits community. It is based, I believe, upon the obvious, if there is an economically targeted investment and it can be just as sound an investment as other private pension investments, which the department contends, then special promoting of ETI's by the department is not necessary, since the market will obviously direct investment capital to the ETI's without governmental cheerleading if they meet the standards of ERISA. You do not have to go out there and hype it up.

> The department concedes in the bulletin that investments in ETI's require a longer time to generate significant investment returns, are less liquid, and require more expertise to evaluate. In short, ETI's are a more risky investment.

Others will speak to that.

Why, then, is the department straying so from its proper role as an investment watchdog and regulator and instead becoming a promoter? Because, like Willy Sutton, they know private pension funds are where the money is, and having the regulators promote ETI's is one way for politicians to get their hands on private pension funds to support social programs. But they overlook the fact that the $3.5 trillion of private pension funds in America is not the Government's money. It is retirement money of American's workers. It is marked in trust for their golden years. They are not tax funds, nor are we dealing with Social Security contributions of employers and employees, which, unfortunately, have long ago been hog-tied by Congress to be invested only in Government bonds.

It is not like Social Security, where we have to invest everything in Government bonds, which is lunacy. No, private pension funds are voluntarily contributed across America by employers and employees in various sums under many different pension plans out of a lifetime of hard-earned wages, and the last thing America's private pension funds need is social tinkering by the bureaucrats at the Department of Labor. Government should be told in no uncertain terms, "Keep your hands off private pensions," and that is precisely what the Saxton bill does.

Mr. MARTINEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in total opposition to this unnecessary bill—which is both an intrusion into the duty of the Department of Labor to provide guidance under the Employee Retirement Income Security Act and a blatant attempt to manage the investment policies of America's pension plans.

The level of paranoia evidenced by the flurry of "Dear Colleagues" and so-called economic updates issued by the bill's author is unprecedented. The Secretary of Labor sent out an interpretive bulletin because the Advisory Committee appointed by President Bush advised him to do so. Presidents Reagan and Bush supported economically targeted investments, both in public statements and in administrative actions that relaxed rules that were barriers to pension programs taking advantage of these investments.

Yet, the leadership has attacked this issue on the basis that agencies should not advocate.

Every agency should advocate for the policies set by the President and the Congress, and for what they believe to be in the best interests of the public.

Just as the Surgeon General should champion the ideas of safe sex and prevention of drug abuse, the Department of Labor is supposed to advocate for jobs and job creation. This is their responsibility and their duty.

Nobody objected when agency secretaries of Presidents Bush and Reagan advocated the interests of their agencies.

Maybe because those agency secretaries advocated for one segment of society, political insiders, that it was deemed appropriate.

But, now that President Clinton's appointees are advocating for the other segment of society, some of our friends on the other side of the aisle do not like it.

Whether good or bad, some in this House are seeking to derail any proposals advocated by the administration—even those that have been advocated by the Republicans who served during the 1980's. This is politics, pure and simple, and spiteful politics at that.

This does nothing to advance the interests of those we were elected to serve—rather it gets in the way of what is best for our people, and economically targeted investments can be if the prudent-made rule governs. And the bulletin makes that abundantly clear.

Economically targeted investments are good investments, if they are made in strict accord with the interpretive bulletin issued by Secretary Reich.

Because the investment manager must first find that the risk and return of the E.T.I. are at least equal to that of an alternative investment, the interests of the beneficiaries of the pension plan, are fully protected.

The prudent-man rule still governs—all that is addressed by this bulletin, is an acknowledgment of the law that the Labor Department has consistently held since the enactment of ERISA in 1974.

The investment manager can, if she or he so chooses, invest in a vehicle that will help the community—through better infrastructure, more housing, or more jobs.

What kinds of investments are we talking about?

Well, the definition of economically targeted investments, as found in this bill, "Is an investment that is selected for the economic benefit it creates, in addition to the investment return to the employee benefit plan investors." I want to reiterate that the economic benefit is in addition to the investment return to the employee benefit plan.

Clearly, the Labor Department is confirming something that is has always held—from the administration of Gerald Ford, when the ERISA law was signed, to the present day. There is a two-step process involved here.

First, the investment risk and return must be assessed.

Once it has been determined that the risk and probable return are equal to that probable for alternative investments, investment managers may consider the economic benefits of one investment as well as the other.

The proponents of this bill say that ETI's are inherently bad investments. If that is so, then they would not fulfill the primary requirement of the interpretive bulletin—that the risk return be at least equal to an alternative investment, and no investment manager would select an investment that clearly violated the prudent-man rule embodied in the law.

I believe, as my fried from Illinois has said, that we should let the market roar and stay out of the way of investment managers.

If they act prudently under the law, they will not choose bad investments. But, if their analysis is that two alternatives carry the same risk and would reap an equal return, then they should be the ones who determine whether or not to consider the collateral benefits offered by a particular strategy. That is not the province of the Congress.

But, under this bill, that is exactly what the proponents would have us do—interfere in the market and in the investment strategies of people who know what they are doing. Let me give you an example.

In California, a public pension plan has consistently earned its beneficiaries an investment return of 19 percent or more, and has been responsible for the creation of over 3,000 new housing units since 1992. A major international union has, for more than 30 years, operated a public-private partnership creating over 5,500 construction trades jobs and over 15,000 jobs in all industries, while financing the construction of 35,000 residential units and 3.2 million square feet of commercial real estate.

Over the next 5 years, it is expected that this pension trust, working with the Federal Government and local partners, will create an additional 12,000 housing units in 30 cities across the country.

In all of this activity, the rate of return to the beneficiaries has been at least equal to the general performance of the market.

A northeastern State's public retirement system, investing through a semi-public venture, has provided over $17.7 million in investment in 55 companies, creating over 5,000 jobs, receiving an average rate of return of 16 percent.

All of this while generating nearly $10 million in additional tax revenues for the State.

Now, I don't know about you, but these sound like good investments to me—the kind that we should be encouraging—yet, some of our friends in this Congress are proposing interference with this process, simply because they believe there will be some mad rush by pension investors to gamble pension funds; untrue. Prudence will still govern. That doesn't change with the bulletin.

This bill would counteract and interfere with the decisions of the knowledgeable and conservative—let me repeat—the knowledgeable and conservative—investment advisors who run these pension plans and who made the investment decisions that gave those excellent results that I just cited.

I have contended since its introduction that this legislation is a solution looking for a problem. I see no reason why anyone should support it, except as lemmings they would follow their leader.

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

Mr. FAWELL. Mr. Chairman, I yield 6 minutes to the gentleman from New Jersey, Mr. JIM SAXTON, who has been a real tiger and who has seen the problems which are before us.

Mr. SAXTON. Mr. Chairman, let me first commend the gentleman for his tireless efforts in bringing this bill to the floor. It is certainly something worthy of debate today. Let me say at the outset that while I certainly acknowledge and respect the differences we have in terms of the differences with our Democrat friends on this issue, this debate is certainly one that is worthy of taking place, and certainly is not, as one of the previous speakers mentioned, a waste of time.

This debate is about workers' savings, workers' savings for their retirement years. It is about $3.5 trillion in savings that more than 36 million American workers put aside each day in the hope that it will be there, in the belief it will be there when they retire. That 36 million, I might remind the gentleman from the other side of the aisle, there are 80,000 of those 36 million in each of our districts, and they are counting on us to do the right thing. It is about factory workers, factory workers who sit in the lunchroom each day and talk about their plans for retirement and their retirement fund.

□ 1345

It is about a clerk in a department store who goes home and talks with his or her spouse in the evening about what they are going to do when they retire and about their retirement fund. It is about the parcel delivery person who works hard all day and hustles around town in that little brown truck, and goes home at night to think about what he or she is going to do with his or her retirement fund when the time comes.

And it is about the Clinton administration's plans to enter into an investment scheme which will severely erode the pension funds of these people. They are our friends and our constituents, and we have a duty here today to vote to protect their pension funds.

A waste of time? I do not think so. As a matter of fact, I think it would be a good use of time for Secretary Reich to write each of my 80,000 worker constituents a letter and say, "We have put into place policy that could cost your pension fund as much as, yes, $43,200-some-odd dollars," whatever the number is. I think that would be a good use of time for Secretary Reich to do that.

They call it, here in Washington, DC, ETI's. That is a fancy beltway term. It means the use of Americans' retirement savings to make some risky social investments, causing pension funds to fail or earn less. We do not claim they earn less. Your Secretary of the Treasury claims they earn less.

As a matter of fact, Alicia Munnell from the Department of the Treasury says that pension funds that invest in ETI's historically earned 2 percent less than pension funds that have not invested in these risky social investments. That means, according to our calculations, based on her assumptions and her figures, that over 10 years these pension funds would lose $90 billion and over 20 years $520 billion, and over 30 years $2.2 trillion in losses. Tell the factory worker, tell the clerk in the department store, tell the folks that hustle around delivering parcels that this is what it means to their pension funds.

On an individual basis, look what it means to the individual as we project into the out years. We see a real gap, a difference between what they would have earned on their returns if they had been invested correctly and what they will if they are invested under Secretary Reich's plan.

Yes, at the end of 30 years the worker who is now 35 years old and retires when he is 65 years old would have $43,000-plus less, a loss, in his pension fund or her pension fund because of this foolishness that is being carried out by the Clinton administration and the Secretary of the Treasury. Experience proves that the Clinton administration is on the wrong track, and I believe that we should stand together to look at some of those experiences as to why this is wrong.

For example, the Kansas Public Employees Retirement System, known as

KPERS, has lost over $390 million in that State due to social investing. KPERS lost $65 million in one investment alone, the Home Savings Association. When that company went bankrupt, due to political pressure KPERS went further and invested an additional $8 million in a local company, Christopher Steel. That company is now abandoned and the investment is a complete loss.

Similar disasters have been seen all over the country, including in States like Connecticut, Alaska, Missouri, and Minnesota, and others that we could go on and name. In Arkansas in 1985 President Clinton signed into law language which said this: "The State of Arkansas shall seek to invest not less than 5 percent nor more than 10 percent of their portfolio in socially related investments."

This was a target that was intended to mandate the investment of these funds, not to permit it. As I say to my friends on the other side of the aisle, ERISA clearly states that pension funds must be invested solely and exclusively for the exclusive purpose of providing benefits to the participants and the beneficiaries. It says nothing about social investments.

This is precisely why ERISA does not say fiduciaries must make decisions primarily. It does not say primarily in the interest or almost entirely to provide benefits for participants and beneficiaries. It says solely and exclusively. I am at a loss to know what parts of the words "solely and exclusively" the Clinton Labor Department does not understand.

Mr. MARTINEZ. Mr. Chairman, I yield 3 minutes to the gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Chairman, I thank my colleague on the committee for yielding me some time.

Mr. Chairman, I rise in opposition to H.R. 1594. I would like to ask the gentleman from New Jersey [Mr. SAXTON] some questions.

This bill comes at a time whose time has not come. The bill attacks something that is not existent. It is a straw man—or a straw person in inside-the-Beltway language—that is created by the Joint Economic Committee and talks about force. In fact, I just got this report today that in its conclusion it says by forcing pension fund managers.

Nowhere in the Department of Labor do they force pension fund managers to do anything. This bill was created to create a political issue and nothing else. H.R. 1594 repeals an Interpretive Bulletin that pension managers consider collateral benefits where the risk and return otherwise meet the prudent standard.

Last year the Department of Labor issued Interpretive Bulletin 94-1 stating that it was permissible for a pension fund to invest in economically targeted investments under limited conditions. This bulletin made it clear that a pension fund may consider ETI's only if the risk adjusted return was comparable to alternative investments. The pension fund could not invest in ETI's if the return were less or the risk greater than comparable alternatives. There is absolutely no force and no mandates in ETI's. That is what makes this committee report from the Joint Economic Committee not worth the paper it is printed on. If an investment meets the prudent standard, what is wrong with using American pension fund assets to invest in America and in American jobs?

This bulletin goes back to the Reagan administration. It is not something that President Clinton has created. The Department of Labor's position on ETI's is not new. Interpretive Bulletin 94-1 simply restates the Department's position for over 20 years spanning both Republican and Democratic administrations. In fact, the recommendation to issue the interpretive bulletin on ETI's was originally proposed by the ERISA Advisory Council, appointed by President Bush's administration.

In a letter to Congressman SAXTON, Ronald D. Watson, a member and later chairman of the ERISA Advisory Council, states:

> The conclusion that ETI's can have a place in pension portfolios was reached by a cautious and instinctively conservative group of advisers under a Republican administration. It is being promoted by a Democratic administration which happens to agree with the conclusions.

The effects of H.R. 1594 would be devastating on pension managers. It clearly discourages and may effectively forbid consideration of collateral benefits by U.S. pension managers. To avoid potential liability, pension plans would be reluctant to invest in American investments that have collateral benefits, even though they may have competitive risk adjusted returns and otherwise meet the standards of ERISA. The result would be increased pension plan investments in foreign investments that is already increasing.

In addition, this bill is one-sided, saying the Department of Labor must not encourage or promote ETI's. The bill is obviously an attempt to silence the Department of Labor. We need to make if they are going to be silenced on everything instead of just one thing.

Let us put partisan politics aside. It is irresponsible for Congress to discourage investment in America. I would rather them build housing in the United States than build housing overseas at the comparable investment.

Mr. FAWELL. Mr. Chairman, I yield 4 minutes to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, I rise in support of H.R. 1594, and I hope we pass this legislation today. We need to protect our American workers' pension funds, and that is exactly what this bill does.

Right now American workers have more than $3.5 trillion in private pension funds, and some view these savings as one way to fund various Government-favored programs. This kind of thinking led to disaster for a number of pension plans in the 1980's.

In my State of Kansas, the Kansas Public Employees Retirement System, known as KPERS, suffered gigantic losses resulting from an ill-fated program launched in the name of economic development in 1985. Back then some Kansas officials thought pension fund assets would be an ideal source of funds for stimulating economic development—the same notion currently being promoted by the administration and the Department of Labor. The idea caught on, and as a result, KPERS loaned $467 million to more than 100 companies from its cash assets in a direct placement loan program aimed at stimulating the Kansas economy.

The investments made in the 1980's by KPERS would now be labeled as "economically targeted" and would probably get on the Labor Department's new clearinghouse list. This is why I believe we must stop the administration's efforts to impose a socially motivated criteria in deciding where to invest pension funds.

The loans made by KPERS to stimulate economic development have resulted in losses of more than $138 million, which has been written off, and total losses could reach $260 million, the estimated loss in 1991 when the Kansas Legislature began an investigation of these investments. KPERS is still involved in lawsuits as a result of the huge losses suffered by the pension funds in their attempt to direct investment to economic development. I do not want to see this happen across the country, and we must pass this bill to ensure that pension fund managers will continue their prudent investment practices.

The irony here is that under current law, pension fund investment managers can already invest in anything which they believe will provide a good return to beneficiaries. Referred to as the "prudent man rule," current law requires that pension fund managers act with "the care, skill, prudence, and diligence * * * that a prudent man acting in a like capacity and familiar with such matters would use * * *".

If a good investment opportunity presents itself, a pension fund manager can commit funds to it. If it is a prudent investment which is likely to produce a good return for pension beneficiaries, a fund manager can invest in it now—without any direction by the Department of Labor or the White House.

Based on our Kansas experience, the action by the Clinton administration

to direct pension funds to "economically targeted investments" is unwise at best. This legislation simply erases the administration's ability to direct pension fund investments. It does not discourage pension fund manager's from making investments in housing, infrastructure, or any other entity which is likely to benefit plan participants. But it does not encourage them either.

Current law has served us well in this area. History has shown that we begin to lose pension dollars, or experience diminished returns, when we try to make "politically correct" investments with our American worker's money. Support 1594.

Let us protect our Nation's pension funds. Support this legislation.

□ 1400

Mr. MARTINEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to take this minute to read something to the Members here and for the public's general consumption. I want to read something that was said by the President at a public meeting.

One of the values we are tying hardest to save in this country is self-reliance, taking care of our own. And what better example could there be than 15 building and construction trade unions taking one-half billion dollars of their hard-earned pension funds and investing that money to create more jobs for workers? This country will owe you all a debt of gratitude, and with initiatives like yours, we can rebuild America.

That was President Reagan before the Building Trades Association.

Mr. MARTINEZ. Mr. Chairman, I yield 3 minutes to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEROY. Mr. Chairman, as a Member of this body, all too often, I have seen debates involve pressing problems and yet no real solutions, no meaningful answers. I am dumbfounded at this debate today, because we are dealing with no meaningful problem, and certainly just a sham of a solution.

Mr. Chairman, I have 3 minutes left, and I would yield to any Member of the majority side in support of this bill that can show me in the interpretive bulletin where the language is that would diminish in any way, in any way, once scintilla, one little bit, the standards of risk or standards of return that would jeopardize the pension funds in the way that have been outlined.

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

Mr. POMEROY. I yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Chairman, now that the gentleman has asked, the definition of ETI's, which is the first time to my knowledge that ETI's have ever been legally defined in any of the regulations or in the law, states: Are defined as investments selected for economic benefits they create, in addition to investment return to the employee benefit investor.

Now, what my colleagues are doing here is hyping something that is not a part of the prudent man rule at all. That is, investments returns aside from those that will come to the participants and to the beneficiaries of the trust.

I do not mean to say that there cannot be incidental benefits to any investment, but you do not spend millions of dollars, as the DOL is concerned, coming up with a new definition and going out and hyping and promoting it and hawking it.

Mr. POMEROY. Reclaiming my time, I want to respond to the gentleman before my time lapses. I respect you and your work in ERISA, but I believe your answer is dead wrong.

First, the standards of risk and return; the prudent person standards must be met before any other collateral considerations can be considered. And far from being a new standard, the interpretive bulletin is merely an attempt to codify what had been individually granted advisory opinions over the past 15 years tracking administrations of both parties.

Mr. Chairman, the gentleman from Illinois [Mr. FAWELL] cannot show where in the text of the interpretive bulletin the standards have been relaxed. I used to serve on an investment board for the State of North Dakota. This is material I have worked with and that is why I resent so strongly the misinterpretations and mischaracterizations of the investment bulletin.

I will vote with my colleagues on the other side of the aisle this afternoon, as I sit here and listen to the debate, if they can show me where in the text we are doing anything relative to the prudent person standards, the guardians of risk and return, that has been pointed out. It cannot be done. This is nothing but legislation regarding a made-up problem.

Mr. FAWELL. Mr. Chairman, yield myself 30 seconds.

Mr. Chairman, referring to the interpretive bulletin, which to my knowledge was the very first time that there was an official interpretation of the prudent man rule, they take sections 403 and 404 and they say: Here, we are going to interpret that. And they interpret the ETI to mean that the very first thing that an investor ought to do is to look for the socially correct or politically correct investments.

Mr. Chairman, that is a new and novel policy; and then to spend millions of dollars to go out and hawk and hype that. That is not a watchdog, that is a courier.

Mr. MARTINEZ. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, out of the approximate 4.6 trillion dollars' worth of U.S. pension funds to be invested, a maximum, they stretch at $30 billion, has been placed toward these ETI's; less than 1 percent.

The current law states that pension plans cannot invest in these ETI's if, No. 1, the return is less, or No. 2, the risk is greater than other investment alternatives. So the law is clear.

Second of all, Ronald Reagan made a statement. He said, "It is time to get Government back to the old-fashioned way." He said, "Let private money rebuild America; not the taxpayers."

Ronald Reagan is further quoted as having stated exactly that Government money need not be invested in areas where private money can find a home and make a profit. And pension plan investment, where it can return profit to those in that pension, should be encouraged.

Mr. Chairman, I have listened to the debate and I think I have looked at many of the conservative issues that come out of this Congress. I have an amendment for this bill. The amendment is right to the point. America needs at least 4 million housing units to satisfy the needs of America's housing. All investment plans in housing are averaging anywhere from 15 to 30 percent greater than the yield of their expectations.

The Traficant amendment says: Nothing in this act shall be construed as prohibiting the Department of Labor from issuing advisory opinions regarding the legality of investments in the construction or renovation of affordable housing units.

I think we are going too far here if we, in fact, send out a signal that someone could be in violation of ERISA if they call and someone in the Department of Labor gives them information about housing. This makes no sense to me.

The Traficant amendment ensures there will be first-time home buyer homes available. I am not talking about financing the mortgages, taking a risk on the finance side of it. I am talking about making the investment in housing opportunities for American people.

What are we basically saying to this major marketplace in America, construction jobs? Hey, go ahead and build the condominium in Mexico. There is a real shot for you. Go over to Europe and the new European economy and make investments over there.

The California Public Employee Retirement System funneled $375 million into the construction of over 3,000 homes. Their return is 20 percent. New York City Employees Retirement System invested in the construction of 15,000 affordable housing units; return, 30 percent. AFL-CIO's Housing Investment Trust pools the funds of more than $1.1 billion from 380 pension plans. The trust would rank first or second in America in its return if it were a publicly traded fixed-income fund.

Employees all over America, their money helping not only their employees and the pensioners, but also those who still pay into those pension funds from the active work force.

I do not understand the hype, but let me say this: I think I know where the leadership is coming from on the other side and it makes sense to ensure that private pension plans are not endangered by social service types of agendas.

But when you have a legitimate American need and private money can serve that need, on the same risk factor that is existing now, let me say this to the other side. Ronald Reagan made sense on this issue. If the smart application of pension money in America can be used to rebuild America, while stabilizing pension plans, any Congress that challenges that concept, in my opinion, is not progressive but takes us a step back.

Mr. Chairman, I am not going to argue all of these issues. The Traficant amendment will be very straightforward. If someone calls the Department of Labor, they will be able to give an advisory opinion on housing.

Mr. FAWELL. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. COX].

Mr. COX of California. Mr. Chairman, I want quickly to agree with the gentleman from Ohio [Mr. TRAFICANT] on the other side of the aisle. It is true. Ronald Reagan did make sense on this issue. I worked for Ronald Reagan in the White House and I know very well that no one believed more passionately in the free enterprise system and the private sector than did Ronald Reagan.

Ronald Reagan, unlike Robert Reich, understood the difference between government and free enterprise. Ronald Reagan did not have much difficulty answering the question, "Should the Government direct private pension funds in their investments?" The answer, of course, is no.

Private pension funds represent at least $3.5 trillion in assets in America today. That is more than double the entire Federal budget. A lot of people would like to get their hands on this money for political purposes.

In 1988, Jesse Jackson put it in his Presidential campaign platform. He wanted to have the Federal Government help with the investment of private pension funds by helping to steer them into politically correct investments.

Mr. Chairman, at a time when we are trying to reduce the size and scope of Federal Government, the liberal big spenders are obviously beside themselves. Where are they going to get the money they need to control life in America? What better place than private pension funds? There is so much money there, after all. It is double the amount than we have got in the whole Federal budget.

The whole idea behind ETI's, [Economically Targeted Investments] is that investments can be made with social goals, not economic goals in mind. That is the purpose of Robert Reich's infamous Bulletin 94–1 issued last year carrying out the campaign platform of Jesse Jackson in 1988.

It affects pension plans of all kinds, union pension funds, company pension plans, any private pension plan.

What it does is stand the law on its head. Let me quote from ERISA, the existing law that protects our private pension investments.

ERISA says pension fund managers must act, "solely in the interest of participants and beneficiaries." That is what the law says. "Solely in the interest of participants and beneficiaries."

"The exclusive purpose of providing benefits to participants and their beneficiaries." That is how pension fund managers must invest. "With the exclusive purpose of providing benefits to participants and their beneficiaries."

If one is trying to channel money to politically correct causes, is that not violating the law, the taking into account of another criterion? What Robert Reich has said in his bulletin is we can take something else into account.

All else being equal, he says fallaciously, you can take into account the social utility of the investments. Who determines this? Not the marketplace any longer. That is what Ronald Reagan thought should happen. The marketplace would determine what is a socially useful investment.

No, instead Robert Reich will help you determine this by putting together a list. And the Labor Department, at taxpayer expense, is going to have a list of Economically Targeted Investments. That is where we are going to encourage private pension money to go.

There is no element of coercion in this when the Federal Government investments your taxpayer money in a whole system of putting together a list of politically correct investments, and then puts out an order directing people to pay more attention to this issue, as Investors Business Daily told us Robert Reich did 1 month after issuing Bulletin 94–1? Of course not.

Stealing the hard-earned after-tax savings of working Americans for social experiments is taxation. Unfair and unwarranted taxation to be sure, but another tax grab.

Mr. Chairman, ETI stands for an "Extra Tax on Individuals." Let us not permit it.

Mr. MARTINEZ. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. SAWYER], my colleague on the committee.

Mr. SAWYER. Mr. Chairman, I appreciate the opportunity to rise today in strong opposition to this measure. Quite literally, as the gentleman from North Dakota [Mr. POMEROY] mentioned, this bill is a solution desperately thrashing about in search of a problem.

Mr. Chairman, there are problems we face with retirements. As a Nation we face a tremendous challenge, that of planning for the retirement of the postwar generation that has come to be known as the Baby Boomers. Ensuring the soundness of pension funds is a critical component of that effort.

Mr. Chairman, I am among the very first, at the leading edge of that population cohort and I recognize that a fundamental problem is that the boom generation is one that can broadly be characterized as one that has simply not learned to save.

As an age cohort, many have instead spent much of their disposal income elevating a notion of a minimal standard of living through current consumption, while simultaneously limiting their ability to secure it into the future.

We agree, all of us, that it has been important to encourage working Americans to save for their retirement and to encourage employers to set up sound and reliable retirement systems that will be liquid when they are needed, that include matching employer contributions.

□ 1415

Unfortunately, this bill does absolutely nothing to elevate that goal or either goal. In fact, this bill potentially puts into question a wide range of existing pension plan benefits. This bill would repeal a Department of Labor interpretive bulletin, ordered by the Bush administration Labor Department in response to private sector inquiry. The bulletin simply clarifies past interpretations of the ERISA Act with respect to many kinds of investments, including those which may add ancillary benefits to the broader economy.

In essence, the bulletin does not make any new rulings nor does it advocate for pension plan investment in ETI's or any other kind of specific investment. However, by repealing the bulletin, we leave the potential vacuum of ambiguity and potential confusion regarding pension plan investments and past rulings which may risk unnecessary litigation. All this uncertainty undermines the ability of pension plan managers to make the best investments for future retiress.

More importantly, what we really should be doing is debating realistic strategies for ensuring the stability of and encouraging participation in sound pension plans. I am eager to work toward that goal.

Unfortunately, the bill does nothing along those lines. I would ask my colleagues on the other side if they would find it important to encourage that the fiduciary standards applicable to the ETI's be no different than the standards applicable to plan investments

generally. If they, in fact, would agree with that, then they cannot disagree with the fundamental content of this ruling, which, in fact, calls upon investors to do precisely that. It is the same standards only with greater clarity that we have been working with for a long time, and I urge my colleagues to vote against it so that we can more on to the addressing real challenges of preparing for the next century.

Mr. FAWELL. Mr. Chairman, I yield 3½ minutes to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. Mr. Chairman, I rise in strong support of H.R. 1594, the Pension Protection Act of 1995. Let me start out by commending the gentleman from New Jersey [Mr. SAXTON] for his work on this important bill.

The reason we are here today is because President Clinton's Department of Labor has abdicated its responsibility as the Nation's pension watchdog. Last June, Secretary Reich issued an interpretative bulletin that allows pension managers to invest private pension funds in risky social ventures. He likes to call them ETI's, or economically targeted investments. I prefer to call them PTI's—politically targeted investments.

ETI's are chosen for the social benefits they generate to third parties instead of their safety and financial return to pensioners. Simply put, ETI's are nothing more than a code word for pork barrel projects in urban areas.

Secretary Reich has argued that his interpretative bulletin was needed to clarify the intent of ERISA because of confusion in the pension investment community. In reality, the intent of ERISA's investment standards have been understood by pension managers for over 20 years. They are very simple and very clear: When investing private pension funds, a pension manager's sole responsibility is to focus on the interest of his plan's participants and beneficiaries. Pension managers have avoided ETI's, it is because they are bad investments—not because they were confused by ERISA.

If ETI's were sound, pension managers would invest in them regardless of their so-called social benefits. It's that simple. Secretary Reich's promotion of ETI's leads me to the conclusion that either the Clinton administration doesn't believe in the free market, or it understands that these investments are too risky and ERISA's standards must be altered. If these investments were prudent investments, the free market, the pension managers, would already be there.

The President's advisors know that ETI's are risky. In fact, Alicia Munnel, a current Assistant Secretary of the Treasury in the Clinton administration, their economist at Federal Reserve Bank, Boston, stated in 1983 that ETI's earn between 2 and 5 percent less than traditional pension fund investments. Now that may not sound like a big difference, but the numbers add up over time. For example, if just 5 percent of the Nation's private pension funds are invested in ETI's, pensioners would lose $90 billion in retirement income over 10 years, $520 billion in 20 years, and $2.3 trillion in 30 years. This translates into over $43,000 in direct losses to the average pensioner. I don't know about you, but I sure would be upset if the manager of my private pension decided to follow the lead of President Clinton.

Given the track record of ETI's, an interesting question comes to mind, why is the Clinton administration promoting these high-risk social investments? The answer is simple. Finding revenue for the President's social agenda is obviously more important to the Department of Labor than protecting the retirement income of millions of Americans. This is outrageous.

The Clinton administration's pension grab reminds me of the story of Willy Sutton. Willy Sutton, a famous bank robber when asked why do you rob banks, responded, "because that's where the money is." Faced with a Republican Congress committed to balancing the budget, President Clinton knows that he can't get money for his pie-in-the-sky-liberal programs, so he is going where the money is—private pension funds. Promoting ETIs may be good politics for a President who needs the support of big labor and inner city mayors to win reelection, but it's bad public policy.

This scheme has been tried before and the results have been devastating. Confronted with the need to cut spending and balance their budgets, several States have tapped into the pension funds of State employees to finance development projects. For example, the State of Connecticut invested $25 million worth of State pension funds in Colt Manufacturing. Just 3 years later, Colt filed for bankruptcy and the State's pensioners saw their hopes of profit vanish. It is unlikely that they will ever see their money again. This is not the government's money at stake, it is the retirement funds of American workers.

H.R. 1594 stops the Clinton administration's stealth attack on private pensions. Under this bill, fiduciaries will still be able to invest in ETIs, as long as these investments are safe and generate good returns. BUt they won't have legal cover for bad investments that were made at the bequest of labor bosses and inner city politicians.

The promotion of ETIs is nothing less than embodying political correctness as public policy. It is simply wrong for the Congress to do anything other than reaffirm the commitment of pension managers to seek the highest possible return on the investment of the retirement income of American workers and pensioners. To do any less would seriously undermine the confidence in pension investors. We cannot and should not give a green light to the irresponsible allocation of the finances of retirees. To do so would be a breach of our fiduciary responsibility to the American people.

Mr. Chairman, I urge my colleagues to support H.R. 1594 and stop the Clinton administration's pension grab before it is too late.

Do not compare pension assets with entrepreneurial capital.

Mr. MARTINEZ. Mr. Chairman, I yield 6 minutes to my colleague, the gentleman from New York [Mr. OWENS], a member of the Committee on Economic and Educational Opportunities.

Mr. OWENS. Mr. Chairman, I thank the gentleman for yielding time to me.

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

Mr. OWENS. I yield to the gentleman from California.

Mr. MARTINEZ. Mr. Chairman, in response to the last speaker, the President is not going to make a decision on that investment. The Department of Labor is not going to make a decision on that investment. The investors will make the decision on that investment. The managers, the fiduciary managers, will make that decision, and they will do it based on the prudent man rule.

This is just a smokescreen, trying to make out that there is some big plot by the President to capture somebody's money and invest it in a foolish scheme. That is the farthest thing from the truth.

The interpretive bulletin makes that very clear.

Mr. OWENS. Mr. Chairman, I rise in strong opposition to this legislation.

There is a lesson in democracy which the taxpayers and the voters should look closely at here. Democracy is a deliberative, long-term process. You start with a great communicator like Ronald Reagan. Nobody is confused about what Ronald Reagan meant when he said pension funds should be invested in America to make jobs for people in America. He was talking particularly about the construction industry people, but there are numerous other situations where pension funds invested in America make jobs for Americans. They also create other benefits for Americans. At the same time, they are subject to the same standards as any other investments.

Over and over again, every document produced by the Federal Government, by Secretary Reich, everything says assuming everything else is equal, you must make certain first of all the standards are met. We have on the one hand Ronald Reagan initiating the idea, picked up by a number of other people, including Jesse Jackson. That does not make it any more radical if Ronald Reagan said it first. Certainly, it is respectable and acceptable. George

Bush goes further and creates a clearinghouse. He institutionalizes it a few steps further. Secretary Reich is only carrying it further and putting out a booklet that helps clarify a few things.

We have this deliberative process on the one hand, and on the other hand you have hysteria and panic being generated by a wolfpack that needs a rabbit to chase, and they have invented this one for reasons I am not quite certain of. But I suspect those reasons are to create an investment environment which is safe for some truly risky investments, for some overseas investments which are more risky and do not bear benefits for Americans.

What happened in the savings-and-loan situation? Americans are out of at least $250 billion. The taxpayers have had to cough up at least $250 billion, and that is a conservative estimate, as a result of investments made by the savings-and-loan industry. Where were these people who are now generating this hysteria? Were any of these investments made by the savings-and-loans associations which resulted in $250 billion worth of losses to the American people? Where they ETI's?

If you find 1 percent for ETI's, I assure you you will have to do a lot of miraculous searching. Most of them were usual marketplace investments, applying the usual standards, no economically targeted investments. There is a target for the wolfpack to go chase.

You know, the hysteria of their argument sort of rises up from the page. You know, you can feel the sweat and saliva. Goebbels would be very proud of the kind of hysteria generated by the written statements made about this menace to America of economically targeted investments. Where were they when the real menace was there via the savings-and-loans' waste that has led to $250 billion in losses of American taxpayer's money? Where were they when that was happening?

In an effort to create an issue where none exists, these Republican supporters of this measure are stretching the truth, to say the least.

One particularly bad example of this is a letter the gentleman from New Jersey [Mr. SAXTON] sent in May to a number of corporate chief executives. The letter is fully of inflammatory language and baseless allegations. The full letter appears in the minority views. I urge that all my colleagues take a look at *that letter. The letter says more about what is going on here than most of what we will hear on the floor today.*

The Council of Institutional Investors wrote the rhetoric in the letter of the gentleman from New Jersey [Mr. SAXTON], "Smacks of the pension equivalent of McCarthy era scare tactics." I agree. The letter, of course, repeats the big lie ETI's are unduly risky or pose a threat to fiscal safety, never mind ERISA has always provided that, in order to be permissible under the law, ETI's must be prudent investments in terms of risk and return.

IB–94 reaffirms the Department of Labor's longstanding position that ETI's are only permissible if they provide the plan with a competitive risk-adjusted rate of return.

In his letter, the gentleman from New Jersey [Mr. SAXTON] also claims, without any support, "A number of companies and pension investors have felt subtle pressure from the Administration," to invest in ETI's.

In addition, the letter includes specious charges the Department of Labor engaged in "coercive behavior, intimidation and other nefarious schemes." The letter even refers to a Clinton quota roof. One of the most egregious falsehoods is the alleged plan of the Clinton administration to establish "compulsory ETI quotas." It is important to reiterate that IB–94–1 does not mandate ETI's nor does it in any way authorize investments in ETI's at a concessionary rate.

In fact, the Clinton administration is on record in opposition to mandated ETI's, including testimony before this committee and testimony before Vice Chairman SAXTON's Joint Economic Committee.

More recently, in another irresponsible attempt to unnecessarily frighten the current and future pensioners, the so-called economists at the Joint Economic Committee have concocted an incredible scenario about the potential impact of pension funds on ETI's. They issued a report claiming the Labor Department ETI investments possibly will cost pensioners $43,000 over 30 years. No self-respecting mathematician, sophomore with arithmetic, would accept those assumptions made in that report.

Mr. FAWELL. Mr. Chairman, I yield 4 minutes to the gentleman from Rockford, IL [Mr. MANZULLO].

Mr. MANZULLO. Mr. Chairman, I thank my good friend, and he is my good friend, the vice chairman of the Joint Economic Committee, the gentleman from New Jersey [Mr. SAXTON], for his tremendous work on this timely and important legislation.

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

Mr. MANZULLO. I yield to the gentleman from New Jersey.

Mr. SAXTON. I just want to state for the record the previous speaker was in error in stating that George Bush, when he was President, created a clearinghouse for the purposes of promoting economically targeted investments. The fact of the matter is he did not. It was created pursuant to the election of Bill Clinton and the appointment of Robert Reich, and never under the Bush administration.

Mr. MANZULLO. Mr. Chairman, the Clinton administration is trying to allow $3.7 trillion in pension money to be used for risky investments as opposed to sound investments. This means the hard-earned pension money deposited by present and future pensioners is going to be used by politicians to fund pet projects that are very risky.

The Clinton administration wants American workers to bankroll its liberal social agenda. It is risky social investing by any other name, and whenever it has been tried before, it has delivered consistently substandard returns.

The American workers are being asked to exchange investments in blue chips for poker chips and thus jeopardize their entire retirement.

□ 1430

Just take a look at the ETI track record in the public pension system. In 1993 the State of Connecticut lost $25 million from pension funds in risky investments. The Kansas public employees retirement system tried to use its funds for ETI's. It lost hundreds of millions of dollars so far. In Pennsylvania $70 million in public school employees' and State employees' retirement funds were sunk into an instate Volkswagen plant which lost 57 percent of its value in 14 years. In Missouri an ETI adventure, and it is an adventure, lost $5 million in retirement savings, and in the State of Arkansas, where President Clinton in 1985 signed a bill with a quota that between 5 and 10 percent of all pension funds must go on to ETI's, the Arkansas State auditor, Julia Hughes Jones, openly defied the Governor and said these are risky ventures, risky ventures indeed, building a sorority house on a campus with money that belongs to the teachers and the public workers of the State of Arkansas.

Mr. Chairman, the investment opportunities in this country are guided by something called sound and prudent investment, not a Federal crap game, and that is exactly what the President is trying to do. He is trying to find all kinds of moneys, wherever they are, and put our American workers' pensions, our future pensions, at risk.

Now, if we are not trying to change the standard by our bill, if we are simply saying, "Use the prudent-man rule," then the Democrats, our colleagues, should agree with this bill, they should vote yes for it, because this bill simply says under all circumstances whatsoever the prudent-man rule of investing will be done, and, therefore, we need a clear and definitive statement, we need legislation that protects the American workers in this country, that says once and for all our dollars will be invested only in sound, prudent investments and not in gambling investments.

Mr. MARTINEZ. Mr. Chairman, I yield for 4 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, I rise in strong opposition to this unnecessary and ill-conceived bill. We face serious issues regarding national retirement policy. But today, we are not considering ways to strengthen private pensions or how to ensure a secure retirement for our Nation's seniors. Instead, we are wasting time and energy on a bill to address a problem that does not exist.

Investment by pension fund managers in Economically Targeted Investments, or ETI's, is not the problem. This bill is a smokescreen. It is simply a way for Republican Members, quite frankly, to divert attention away from the real issues facing seniors, like Republican plans to make $270 billion in cuts to Medicare, and it is not going to work.

Much attention has been focused on the Labor Department's interpretive bulletin issued in June 1994. This bulletin sought to answer a question asked for over 15 years by many pension fund managers.

These fund managers asked if they could consider factors in addition, I repeat in addition to the return to the plan when choosing among alternative investments. The Labor Department answered as it always has: pension fund investments must be based on the return to the plan. Only if the returns of different investments are comparable can fund managers give weight to other factors. So that investment, first, must pass muster; risk and return characteristics are first and foremost. The Labor Department's interpretive bulletin simply clarifies this policy in response to questions from pension fund managers. It does not, I repeat it does not, require investment in ETI's.

The bill before us today is a needless attack on ETIs. But that is not all. It is much worse. It would prohibit the Labor Department from even providing information about ETIs. It is a gag rule. The Department would not even be permitted to answer questions from well-intentioned pension fund managers seeking to comply with the law.

What will a fund manager do if he or she might be subject to a lawsuit for considering an investment's additional economic benefits and cannot consult the Labor Department in any way? That fund manager will steer funds away from many of the investments our country most needs to make—investments in our infrastructure, in our cities, and to provide badly-needed jobs.

Worse, this bill encourages pension plan managers to invest in foreign countries instead of the United States. It defies common sense to advocate policies that make it easier for pension plans to invest in Europe over America. Already, American pension funds are seeking to increase foreign investments.

Mr. Chairman, this bill amounts to a full employment plan for pension lawyers, that is what it is about. This Congress should be encouraging small business start ups, and investments in infrastructure and considering ways to make our senior's retirements more secure. This bill will do none of those things and amounts to a diversionary tactic to distract the American people from the hundreds of billions of dollars in Medicare cuts proposed by the Republicans, I urge its defeat.

Mr. FAWELL. Mr. Chairman, I yield 3 minutes to the gentleman from Delaware [Mr. CASTLE], the former Governor of the State of Delaware.

Mr. CASTLE. Mr. Chairman, I thank the gentleman from Illinois [Mr. FAWELL], whose knowledge about ERISA is indeed encyclopedic, for yielding this time to me, and the gentleman from New Jersey, who sponsored this piece of legislation, and my feelings may not be as strong as some in this room, but I have a real-life experience that I would just like to relate to my colleagues.

I rise in very strong support of H.R. 1594 because our Nation's retirees' and our senior citizens' hard-earned pensions must not and cannot be jeopardized by the Department of Labor's promotion of riskier, politically targeted investments that do not take into account our Nation's laws governing the safety of our retirees' pension investments.

Now I probably did not know a lot about this issue, and, when I became Governor in 1985 of the State of Delaware, I received a call from Mr. Ernst Danneman, who had heard word that I was sort of interested in economically targeted investments, and I was. I had it in my mind that we could help with mortgages to the poor, that we could help keep jobs in the State of Delaware, that there were a number of things that we could perhaps do if we were able to use some of that money, and clearly it was a source of money at a time when we did not have a lot, and he came into my office, and he said, "MIKE, I'm not a politician," and it turns out he is a registered declined, does not give to political campaigns, never been involved in politics at all. He has run a business, and he ran our pension board. He was the man who was the head of the Board of Pension Trustees in the State of Delaware. And he said:

> I've heard what you are thinking about in economically targeted investments, and I want to tell you it is absolutely wrong. It is the most difficult job in the world to manage pension funds correctly, to compete with other managed funds out there, to be able to return the top dollar to the individuals who should benefit from the top dollar, which is the retirees and the employees that will one day be the retirees.

He said, "You should not consider this under any circumstance," and he proved to me by showing examples that there are States and there are corporations which have tried to do this and it has not worked particularly well.

I took that to task, and for 8 years we never thought about it at all. We let our Board of Pension Trustees run our pension plan. We had, I think, two of those years the highest return of any public pension plan in the entire United States of America, all because we allowed these individuals to do it, and that money did regenerate into our economy because of course our retirees and eventually those who were to retire were able to receive funds.

So, it worked extraordinarily well. It was a lesson well learned.

I called Mr. Danneman yesterday—I had not spoken to him in probably over a year or two—to talk to him about this saying I would like to present this story on the floor, and he said, "MIKE, absolutely," and he said a couple of things. He said, "One, the Board of Pension Trustees—and it doesn't make any difference if it is private or public, I might add—has a fiduciary duty to return as much money as possible." Then he said, "Investing dollars is a single-minded effort. You can't cure the world's problems on the side." I think that is a very weighty statement. He pointed out the social investing does not do as well, and I realize that this has it in some protection such as a prudent-man rule, and we are supported to be able to return an investment, but even in the private sector there can be pressure from a chairman who has a wrong concept, pressure from a board that has a wrong concept, perhaps somebody will read about what the Department of Labor is doing, and I really honestly believe that we should do everything in our power to keep the Department of Labor and Government out of our pension plans and let them run it correctly.

Mr. MARTINEZ. Mr. Chairman, I yield 5 minutes, 30 seconds to the gentleman from Montana [Mr. WILLIAMS], a member of the Committee on Economic and Educational Opportunities, and I ask him to yield to the gentleman from North Dakota [Mr. POMEROY] for 30 seconds.

Mr. WILLIAMS. Mr. Chairman, I yield to the gentleman from North Dakota [Mr. POMEROY].

Mr. POMEREOY. Mr. Chairman, ever so briefly, from the I.B. issue let me read to my colleagues:

The fiduciary standards applicable to ETI's are no different than the standards applicable to planned investments generally.

I agree with everything the gentleman from Delaware just said about the importance, the critical nature, of fiduciary standards. It is just absolutely incorrect to characterize the I.B. as changing this fiduciary standard. It is not there.

Mr. WILLIAMS. Mr. Chairman, my colleagues, I was chairman of this subcommittee for a number of years in the House, so I recall with some precision the history of ETI's, economically targeted investments.

I remember that former President Ronald Reagan advocated the changes. He, in fact, actually advocated regulations that facilitated the use of ETI's, and I believe the entirety of the former President's statement has been made by someone who preceded me, so I do not want to restate the former President's entire position, but let me just remind my colleagues of this: Former President Reagan, in advocating regulations to create these ETI's, said this:

> We have over in the Labor Department made some good definite changes in regulations. Those changes are going to free up billions of dollars in pension funds that can now be invested in home mortgages.

President Reagan's Labor Secretary back then, a fellow named Raymond Donovan, said, and I am quoting,

> I tried to emphasize the importance of increased investments in home mortgages. More mortgage money and thus more construction, more jobs, a healthier economy; those are the goals of this administration that will benefit this country greatly in the months ahead.

And then later, following President Reagan, came good former President George Bush, and George Bush's Labor Secretary, as my colleagues will recall, was Elizabeth Dole, Secretary Dole, and she wrote to then Housing Secretary Jack Kemp that the Labor Department has worked with the building and construction trade unions to structure a program that allowed investment in housing construction, and under the Bush administration those investments with pension funds were encouraged.

Now along comes our next President, and he has suggested economically targeted investments through his Labor Secretary, Robert Reich. But now we have a new Congress, and a new Congress, if I may say, with an ideological bent to the far right, and so they are noticing that Labor Secretary Reich in a fairly recent speech said we are not only going to have these ETI's, as we have had them in the past, but we really ought to be trying to do some economic good in inner cities, Indian reservations, other places in this country that are not only economically in trouble, but, because they have economic despair, they are socially in trouble.

□ 1445

It was that hint from Secretary Reich that perhaps we ought to worry about people who have social difficulties that seems to have triggered this new Congress with their ideological bent to try to stop these ETI's, because now they say oh, they are not economically targeted investments, they are socially targeted investments.

Nothing, since I have been in this House this year, so unmasks the new ideological fervor of the new majority than this bill. This bill is making a mountain out of a molehill. This bill is really a gnat buzzing around a nonproblem. But, when you are so definitely ideological as to rise up on your hind legs and resist any indication whatsoever that money might be used in a way that might help society take care of some of its social ills as well as its economic ills, then this type of a bill is the result. It is either that, or this new Congress is trying to embarrass the Clinton administration, a Democratic administration that is simply following the policies that were put in place, correctly, by two previous Republican administrations. Or, maybe the new majority is just trying to change the subject, which seems lately to have fallen on Medicare and the cuts that come in Medicare.

So, Mr. Chairman, we are spending an entire day in this busy time of the year on a bill discussing whether or not the Clinton administration is trying to invest money in a way that will improve not only the economic climate in America, but the social climate as well.

Mr. FAWELL. Mr. Chairman, I yield 30 seconds to the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, I would just point out very quickly that as the last speaker indicated, ETI's have been around for quite some time in the context of an investor, a pension fund manager coming to the Department of Labor during the Bush or Clinton administration and requesting an advisory opinion on an ETI. What is different in this administration is that $1 million has been spent to create a group to promote ETI's; people have traveled around the country making speeches promoting ETI's, and in fact, people who are here to regulate pension funds and pension fund managers have knocked on people's doors and said gee, we think as regulators it would be a great idea for you to do ETI's. That, Mr. Chairman, is very, very different.

Mr. FAWELL. Mr. Chairman, I yield 3 minutes to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, I would just like to respond also to my friend from Montana [Mr. WILLIAMS] for just a moment. The gentleman acted like with the advent of the new Congress that ideology just was born in this House of Representatives. I might point out to him that the previous Congress was run by the ideological left, and I might say the ideological far left. So I am sure that any change that has occurred in this Congress must make him feel like we have moved to the far right.

I hope we have moved to the right. I hope we are not where we were a year ago. I do not think maybe we are as far out of step with the American public as his statements would seem to indicate.

Mr. Chairman, I have listened to the debate so far, and I have heard the numbers and the studies used, but I think the real issue here is this: The Clinton administration is not getting the money they want for their social welfare agenda. so they are attempting to force investors, in this case pension fund investors, to do the job. The American people are tired of writing checks for big government programs and projects that do not work.

The desire of the Republican-controlled 104th Congress to give the American people a balanced budget has significantly cut and will significantly cut, I hope, the funding for many of the Clinton administration's welfare state programs. This bill simply prohibits the Department of Labor or any other Federal agency from encouraging private pension funds from investing their recipients' hard-earned retirement moneys into investments that produce benefits for the larger community as the goal, even if it might be unwise investment policy. Who decides what the community benefits are? The taxpayers, or some bureaucrat down at the Labor Department?

Mr. Chairman, this is Socialism 101. This whole concept flies in the face of the mandate set by the American people last November that they do not want big government interfering in decisions that are none of big government's business. If this legislation is not enacted, we are essentially missing the point. We want pension fund investors to make money for their funds. This is the first criteria. I urge a yes vote on H.R. 1594.

Mr. MARTINEZ. Mr. Chairman, I yield 6 minutes to the gentleman from New York [Mr. ENGEL], my colleague from the committee.

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

Mr. ENGEL. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I just want to respond to my friends and colleagues on the other side. If you have any doubt about the ideological fervor that is driving this legislation, listen to the words: Welfare state, and: The last Congress was the ideological left. I mean, come on. This is laughable. Only the ideological right would think that the last Congress, which could not pass Endangered Species, could not pass Clean Water, and passed the Clinton budget by one mere vote, was on the ideological left. It is clearly the far right that is driving a bill like this. This bill is utter, absolute nonsense, and is propelled by the far right.

Mr. ENGEL. Mr. Chairman, reclaiming my time, let me just say that our colleague from the other side of the aisle referred to those of us who oppose this legislation as being in favor of Socialism 101. Let me say that I think what we are hearing from much of the other side of the aisle, frankly, is Mean Spiritedness 101.

Mr. Chairman, we have been hearing this all Congress and I am sorry to say

that this just seems to be part of the pattern on the Committee on Economic and Educational Opportunities. We have seen an anti-working people, anti-labor agenda from day one, from the start of this new Congress, from eliminating the word "Labor" from the old Committee on Education and Labor to refusing to consider a hike in the minimum wage, talking in fact about eliminating the minimum wage, talking about eliminating Davis-Bacon to protect working people, giving them a prevailing wage that has been in effect 60 years, was put in by Republicans 60 years ago, and now this new Congress wants to eliminate it.

They want to eliminate OSHA protections for working people in this country to make sure that American workers have safety in the workplace. They want to eliminate those regulations. We just passed legislation slashing the National Labor Relations Board, which monitors unfair labor practices. They want to eliminate that. So this does not surprise me. This is a pattern on the Republican side of being against working men and women of America, quite frankly.

While I have a lot of affection for some of the individuals who are sincerely pushing this bill, I think they are dead wrong on this bill. This so-called Pension protection Act is a contradiction in terms. It certainly does not protect pensions and it is bad legislation, and it would wreak havoc in Federal pension policy.

H.R. 1594 is a partisan bill. It is in search of a problem, and I think it should be soundly defeated. I do not know what it is. Perhaps it is an effort by our friends on the other side of the aisle to provide cover for their efforts to slash Medicare, but they have seized an opportunity to accuse the Clinton administration of an alleged pension grab. As far as I am concerned, they are baseless efforts. It is sad, and it is an upsetting departure from the bipartisanship that has traditionally prevailed on pension issues.

The collateral benefits of ETI's play a key role in stimulating local economic growth and stability and help to strengthen communities. Through ETI's, jobs are created, affordable housing is built for low and moderate income families, and infrastructure is modernized. ETI's benefit society without adversely affecting the rates of risk and return of private pension plans.

Now this policy, as has been mentioned by many of our colleagues, has enjoyed nearly unanimous support since the Reagan administration. The Labor Department under the Bush administration stated that ETI's, which target the local economy, are beneficial and should be preserved. So you have the Reagan administration supporting this, the Bush administration supporting this, and now that the Clinton administration supports it, some of our friends on the other side of the aisle see a golden opportunity to bash the President.

This is a continuation of policies that have prevailed on both Democratic and Republican administrations. So as far as I am concerned, it is a continuation, an it ought to be continued, because it is beneficial. Now, some of my friends want to turn back this progress and instead create chaos in the pension community.

This bill would only lead to confusion in the law and excess money spent on needless litigation rather than benefits. Responsible pension fund managers who make sound investments with apparently forbidden collateral benefits could now be liable if this bill passes.

The fear of litigation would also make it safer for a pension manager to select investments in foreign countries rather than in the United States. The percentage of foreign investments by U.S. pension funds has steadily increased over the last 6 years. If this trend continues, more American jobs will be lost. This bill will result in pension fund managers choosing foreign investments instead of domestic investments. Domestic investments create American jobs, and we would avoid any implication that the collateral benefits of the investment were even considered.

At a time when we should be creating jobs and improving the standards of the American workers, our Republican friends have decided to engage in pure politics in the consideration of this bill. Accusing the administration of stealing pension funds from workers is not only false, it is downright irresponsible.

It is obvious from the introduction of this that our friends on the other side of the aisle are far more concerned with bashing Democrats and the President than promoting policy that is beneficial. The Secretary of Labor has stated that this bill would have a significant adverse effect on America's private sector funds, investments that are critical to the retirement income security of workers and retirees. So I do not think we ought to threaten private pension funds.

Instead of focusing on the security, health and welfare of working Americans, our friends have decided to eliminate ETI's, cut Medicare, cut education and training programs in order to play politics.

Mr. Chairman, I urge defeat of the so-called Pension Protection Act so that we can truly help the American worker.

Mr. FAWELL. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. STOCKMAN].

Mr. STOCKMAN. Mr. Chairman, in "Alice in Wonderland" they say it is curiouser and curiouser. Our friends on the other side are saying $3.5 trillion is a gnat. Yes, I confess, I am a conservative. I think $3 trillion is a lot of money.

Somehow, I think stealing it from working people is wrong. That is what it is. They stole everything out of the Social Security, and now they are wanting to steal it out of another big pie. They see this $3.5 trillion. We have a social agenda, and we are going to use this money for our purposes. That is exactly what it is; it is stealing people's money. Nothing, nothing else matters in this Congress but to steal money.

This is people's pension money. Keep your hands off of people's retirement, keep your hands off the pension.

□ 1500

Mr. MARTINEZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, nobody is stealing anybody's money. Like I said before, the investment managers are going to make those decisions. They are going to make them in consultation with other people that have the expertise to know what they are doing. They have been doing it all along. This is rhetoric being tossed around on the floor here to create the illusion that Clinton is doing something wrong. The administration is doing what they should do, and the Department of Labor is doing what they should do.

Mr. Chairman, I yield 4 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Chairman, H.R. 1594 is a totally unnecessary bill.

Can someone tell me how does this bill protect pensions? Not by providing funds for the Department of Labor's pension and welfare benefits administration, that's for sure. In fact, this bill cuts funds for this office, which does protect workers' pensions against underfunding and fraud.

You may hear that this bill protects pensions by prohibiting the Department of Labor from promoting economically targeted investments, or ETI's. But how do ETI's place pensions at risk?

After all, we already have a law on the books, the Employment Retirement Income Security Act, better known as ERISA, that requires pension plan investors to act solely in the interest of their beneficiaries when making investment decisions. So if a pension fund does choose to invest in an ETI, it must put the financial interests of the pension beneficiaries first.

And, I ask, what's wrong with investing American workers' money in America's infrastructure; America's jobs; and America's economy. Since when is America a bad investment?

If this bill passes something very real will happen. Pension funds that have invested in local economic growth and

in our communities will begin investing overseas. Because H.R. 1594 prohibits the Department of Labor from providing information on ETI's, and rescinds the bulletin which provides guidelines on ETI investments, it will be safer for pension funds to invest overseas, where there will be absolutely no confusion about the legality of the investment.

Every day, Mr. Chairman, American workers invest their time and skills for a better America. ETI's give them another opportunity to invest in this Nation. ETI's are safe American investments. Let's not pass H.R. 1594 and send American workers' pension funds overseas.

Mr. FAWELL. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona [Mr. SALMON].

Mr. SALMON. Mr. Chairman, today we will be voting on the future of $3½ trillion in private pension money that will finance the retirement of millions of working Americans.

Pension funds have been protected from politics and pet projects since 1974 when fund managers were bound by law to look only at the economic return on their clients' investments. However, Secretary Reich and the Clinton administration now have other plans for this money.

The Clinton administration believes that it has found a way to divert a chunk of pension money into social projects that the American people would not support or fund with taxpayer dollars. They are doing this by allowing and encouraging fund managers to put their investor dollars into economically targeted investments—investments that are targeted solely for their social agenda.

Aside from being liberal social engineering, this scheme might sound reasonable, right? Well, what Secretary Reich is not telling the American people who depend on pensions, is that these ETI's are far riskier than traditional investments, and that the administration policy is a clear violation of the spirit of the laws set up to protect America's private pension system.

Pork-barrel spending on liberal social projects is bad enough in today's tough budgetary times. But, to do it behind the backs of the American people, with the money they have saved for their own future is just plain wrong.

We have an opportunity today to stop this raid of private pension funds, and to protect the retirement future of our Nation's workers.

I commend the gentleman from New Jersey [Mr. SAXTON] for his leadership on this issue, I strongly support H.R. 1594, and urge passage of this important bill.

Mr. MARTINEZ. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. GUTIERREZ].

Mr. GUTIERREZ. Mr. Chairman, I rise today in strong opposition to this bill.

But, this bill does one good thing.

This one piece of legislation shows bluntly and blatantly where this country is heading under the Gingrich Republicans.

Some people say that there is no difference between the Republicans and Democrats. Well, these pages of legislation show that there is a huge gulf between the two parties.

And, the Republicans wish to create an even bigger gulf between Americans of different economic means.

Look at this bill.

They talk about targeted investments—and cite examples like public housing.

They define these as "investments that are selected for the economic benefits they create" and—these are their words—"may be more accurately described as politically targeted investments."

You want to talk about targeted investments?

Fine. But, let me ask you:

What do you think happened last week during debate on the B–2 bomber?

The vote on the B–2 had as much to do with local jobs and economies as it did with national defense.

I even received a letter from something called the B–2 Industrial Base Team. They weren't concerned with just the defense-related merits of the B–2. They talked about the economic benefits. They wrote that the "conclusion of the (B–2) will have a severe impact on our industry in (your district)", it would mean "the loss of high technology jobs."

Now, there are many decent Members on both sides of the aisle who voted for the B–2, and may have done so for these kinds of economic reasons. And that's their right.

But, if you voted to continue the B–2, and if you are planning to vote to cancel ETI's, please realize that the economic benefits of the B–2 are the same kind of collateral effects that you think is so terrible when it occurs in the form of public housing or public infrastructure.

Let's not forget the fact that today we are talking about private pension plans—not public money.

And a time when public money is clearly drying up—isn't this all the more reason to give average Americans the chance to fight crime, to educate our children, to house and feed our families if they so choose? I believe it is.

Furthermore, I am deeply upset by the tone of the rhetoric surrounding this bill, and the suggestion that every time the Federal Government sends a dollar outside of D.C., it ends up on the streets of our inner-cities.

I've seen lots of streets in my community in Chicago. And they aren't exactly paved with gold. In some cases, they aren't even paved.

So, where does the money go?

Let's pick—oh, completely at random—Cobb County, GA for instance.

Now, part of Cobb County lies in the 6th District of Georgia, a district that is represented by Congressman NEWT GINGRICH.

And while the Speaker and his troops rally against these kinds of targeted investments, guess how many dollars are targeted to flow into Cobb County—already one of the Nation's wealthiest counties?

Well, in one recent fiscal year, close to $3½ billion in federally funded projects.

So if you want to talk about targeted investments, the Speaker better draw a big bull's-eye around his district as well.

Finally, I am glad we are debating this bill because it shows that the Republicans never had a Contract With America. Nope. They had a contract with some of America.

They had a contract with the part of America that can afford to dole out the campaign contributions to make sure Government works for them, while other Americans confront gangs and drug dealers in the lobbies of their public housing complexes.

As this bill proves, the Gingrich Republicans not only take the pork and the perks for their districts, they send the pain and poverty somewhere else.

That is what this bill is all about.

Mr. FAWELL. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, I thank Mr. FAWELL, chairman of the subcommittee of jurisdiction, for yielding time to me and would also like to express to him my appreciation and that of my constituents for all of his hard work on pension issues.

In my opinion, this issue is fairly simple. The Federal Government should not engage in the business of encouraging a specific type of investment which jeopardizes pensions of Americans. Economically targeted investments, or ETI's are social investments in which the social good or benefit of the investment is considered more important than the financial benefit created for the pension participant. In other words, the Clinton administration wants to risk the retirement funds of workers to promote its own liberal social agenda. H.R. 1594 would void this practice. If one is concerned about the security of America's retirees, this investment principle is unacceptable.

As we know, the Employee Retirement Income Security Act [ERISA] is the statute which protects the investment interests of retirees. Under the act, the Department of Labor is to act as the guardian of pensions. ERISA requires that private pension funds be invested for the sole financial benefit of plan participants and beneficiaries. The Department, through its promotion of ETI's, strays from the fiduciary standards mandated through

ERISA and abdicates its role as the entity charged with private pension guardianship.

This debate is not about the worth of social investing; it's about the failure of the Clinton administration to execute its duty and responsibility under the law to protect the retirement funds of millions of Americans. Investments are never a sure thing; however, social investing offers, traditionally, a higher risk with lower returns.

It's already a well-known fact that Americans do not save adequately for retirement. This fact has been confirmed by recent articles in several well-respected financial journals. Why, then, should we permit the Clinton administration to compound the problem by undermining the investments of those Americans who have put money away for retirement? There is $3.5 trillion invested in private pension plans in the United States. When Americans set money aside for retirement, the least they should be able to expect is that the pension managers will follow ERISA fiduciary standards and make wise investments with financial performance as the sole criterion. We must ensure that this trust is not misplaced.

I urge all of my colleagues to support H.R. 1594, legislation aimed at protecting America's private pensions by prohibiting the Department of Labor from promoting economically targeted investments. Join me in rescuing the retirement fund of all Americans from the politically correct, but financially destructive designs of Bill Clinton and Robert Reich. After all, can you claim to stand for the American worker and at the same time advocate a risky investment strategy that undermines his or her retirement funds?

Mr. FAWELL. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. WELDON], a Congressman and also a doctor.

Mr. WELDON of Florida. Mr. Chairman, I thank the subcommittee Chair for recognizing me, and I thank him for the opportunity to speak out on this issue.

Mr. Chairman, I went home to my district in August, like most of us did, and, hopefully like most of us, I very much enjoyed going back home. I not only enjoyed going back home to enjoy the beautiful beaches and weather of the space coast area of Florida, as well as the environment there, but I also very much enjoyed going back so I could hear from my constituents as to what I need to be doing up here in Washington. Indeed, I frequently find that I get some very, very good advice and very good input when I go back home, and this time was no exception.

I went up to Kennedy Space Center to speak to the employees up there who have concerns about what is going to be happening in the future with NASA and what are the job prospects there. But I had a very, very pleasant surprise when I was up there at Kennedy. I was at the Orbital Processing Facility, the place where they take those shuttles and get them ready for the next flight.

There are a lot of union employees there at the OFF, and I got some questions about the NASA budget and what is going to be happening in the future. But I also got a lot of questions from those union guys about Economically Targeted Investments, how they did not want their union pension funds being exploited for political purposes by the Clinton administration. They had a lot of concern about their hard-earned dollars being protected.

I was very much pleased to be able to say that the gentleman from Illinois [Mr. FAWELL], the subcommittee Chair, has a piece of legislation that will protect their hard-earned dollars, to make sure that when they are ready to retire, that the money is there for them, and that those funds have not been siphoned off for political purposes; that their hard-earned money has not been invested by the quiche-Chardonnay liberal crowd into what they think is the best thing to be done with their money, but that their money has been invested in the place where it should be, a place where their hard-earned dollars will be protected for the future of themselves and their families.

Therefore, I rise in very, very strong support of this piece of legislation.

□ 1515

Mr. MARTINEZ. Mr. Chairman, I yield myself such time as I may consume.

I keep hearing over and over again, the words force, forced use of this money. I keep hearing that these pension plans that one of my colleagues from the other side related to have had such a dismal failure. But the instances he was citing were all State pension plans that are not covered or subject to ERISA, which are null and void as far as this debate is concerned, but he used it anyway.

It seems to me that over and over again they are convincing themselves and have convinced themselves of something that just is not so. If we look at the interpretive bulletin, and as I related to it in the committee meeting when this bill was being heard in committee, and read portions of the bill over and over again or the interpretive bulletin that is, where the fiduciary responsibility is not deleted, where the prudent man rule is consistent in the interpretive bulletin about that fiduciary relationship. I guess the hangup comes when some people read something and interpret it so literally, that they do not understand the realities of life.

An example, Mr. Chairman: Shall discharge his duty with respect to the plan solely in the interest of participants and beneficiaries. That is all well and good for the person that is managing. That has not changed at all. That person managing will still have to do that. But the thing that is overlooked here is the fact there is no investment made by anybody that does not have beneficial return to both parties, the person receiving and the person investing.

There is no investment that has ever been made by any of these pension funds that has not materialized a benefit to the person that used that pension fund, whether to create jobs or to bring a return or to lower a bond rating of a particular factory, which was done in one instance, and collateral investments have been made and have proved to be very successful as long as the managers are allowed to do their job.

This bill will not. What it will give rise to is anybody that wants to disagree with any investment made by those particular managers, it will give rise to a suit brought about by somebody disgruntled about the kind of investment they will make. The encouraging of investments is a wonderful thing to be done because some people that are making these investments maybe have not thought of some types of investments that would return them even a greater return than what they have been used to investing in, and that should be a great boon to the people depending on this money for their pensions and the return on the money that is invested for their pensions. I think if Social Security had done this a long time ago, we would give a better return to the beneficiaries of Social Security, but it has not.

Mr. GENE GREEN of Texas. Mr. Chairman, will the gentleman yield?

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

Mr. GENE GREEN of Texas. Mr. Chairman, I just heard the earlier speaker talk about the quiche and chardonnay crowd. Mr. Chairman, and my colleague from California, I represent the beer and barbecue crowd, and they are concerned about their pensions.

I want to get this straight because I have heard today about how they are concerned about the pensions of those working folks. These are the same folks that are cutting job training, they want to abolish the minimum wage, they want to cut education funding, and now they are going to encourage pension plans to invest overseas so they will transfer those jobs overseas; is that correct?

Mr. MARTINEZ. Mr. Chairman, I would say that is correct.

Mr. GENE GREEN of Texas. Lord help us, I hope they do not get to privatize the space program; they will be building it in Taiwan.

Mr. MARTINEZ. Mr. Chairman, reclaiming my time, that is exactly what has happened. The pension fund money is being invested overseas rather than

creating jobs here. Somebody on the other side of the water is getting the benefit of those jobs where we and our people, in such dire circumstances, should be getting the benefit of it.

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

Mr. FAWELL. Mr. Chairman, I yield myself such time as I may consume to attempt to, perhaps, reply to some of the, I think, rather outlandish comments that are now being made.

This legislation has in no way altered the basic ERISA law. And it certainly, insofar as domestic investments are concerned or foreign investments are concerned, absolutely no change has been made whatsoever. I think that is so very important to point out.

Mr. Chairman, I would also like to point out that the Committee on Investment of Employee Benefit Assets, and these are the professionals who are out there in the field, in fact, the entities that are a part of this particular committee represent 164 corporate pension plan sponsors totaling close to $1 trillion. They support his legislation.

Why do responsible people, and I think we are basically responsible people, why are we supporting this? It does not take a rocket scientist to understand this legislation. It simply is saying to the Clinton administration that you should stop, because you have an obligation of trust as the watchdog for proper investments, you should stop hyping and promoting building clearinghouses, which has never been done before, at a cost of millions of dollars, and doing everything possible short of mandating. Of course, they are not about to do that, they are smart enough not to; but, obviously, that is down the line. The President did it in Arkansas, put a quota. He will not put a quota here. But, look, why should we have all this hyping, all this promoting for a certain class of investments?

Now, Mr. Chairman, it has been mentioned many times with ETI's that they have not been called that in the past. They were never defined until the Clinton administration came along and defined them. Obviously, individuals, whether it is Mr. Reagan who was talking about a specific housing mode of investment, or others will make those kinds of queries. But never before has the Department of Labor gone out and said we are going to take a special class of investments and we are going to push them. We will try to convince the people who make these decisions, the fiduciaries and the managers of these plans.

We are the regulators. We walk into their office and say, how many ETI's do you have? Now, that is the fox guarding the chicken coop. They are supposed to be the watchdog, they are not supposed to be out there hyping.

Mr. Chairman, I suppose one could say we could have a clearinghouse showing junk bonds that could really sell. That is a nice special class of investment. One can make a lot of money in junk bonds, but most managers of pension plans do not invest in junk bonds. Why? Because there is the prudent man rule that has made it very, very clear that it is a sound conservative determination that they must make, and their sole purpose is to protect. And it goes back to common law, English law, that you protect the trust. The trustee's job is to protect the beneficiaries of the trust, whoever they may be, the worker, the pensioner or their children. And nobody is going to come in there and try to fiddle and tinker with it, and we have social tinkering now at a mass scale. That is the difference.

Mr. Reagan never suggested that. Mr. Kemp never suggested that. Mr. Reich suggested that, he is from Harvard and his elite views. And he was smart enough to know you cannot just push it across with a mandate. But, as I said in my opening comments, this is like Willie Sutton; they know where the money is. There is $3.5 trillion. Most public pensions are not in very good condition. Look at all your States, your teacher pension funds and so forth and so on. Thank goodness we were smart enough in Congress to have a thrift pension that basically is under the same kinds of requirements as in ERISA.

Now, maybe we should volunteer to have our pensions utilized for socially correct or politically correct investments, but that is what we are talking about here. We are simply suggesting that we should go back to the status quo. We do not need a clearinghouse run by some private entity that is in the securities business, basically, to try to peddle the concept of economically targeted investments. It just is not necessary. That is going way out.

When the interpretive bulletin came out in June of last year, people looked at it and gulped. For the first time, at least as far as I know, legally speaking, it was written what an economically targeted investment actually is. And I have read that definition, and right away it says investments selected for economic benefits they create in addition to what goes to the beneficiaries. Hey, what are we centering on? What are we interested in? We are interested in those economic benefits that we can get for third parties.

Now, Mr. Chairman, I agree with the gentleman from California that there is not an investment ever made that there are not incidental benefits. But we do not make an investment for the incidental benefits, and that is what the Department of Labor is doing. And I do not think we would want to let them do that when we think of our trust. If that is some right wing conservative nutty idea, then I plead guilty. But I think we should look long and hard at what has been done here and hopefully not spend too much time criticizing on ideologies. I think it is a good sound provision.

I think what the gentleman from New Jersey [Mr. SAXTON] has done, has nipped in the bud the concepts that Mr. Reich wants to inflict upon the laboring people of this country. I know that Government's record is lousy, lousy, lousy when we look at the Social Security fund. And the rule is what, from Congress on high. We say we can only invest for instance in Government bonds. What type of a pension plan is that? What type of a fiduciary would say that? Only Congress would say that. How we are going to let Congress start monkeying around.

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

Mr. MARTINEZ. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let me try to sum up here.

If we read the interpretive bulletin, it says those requirements of the prudent man rule shall prevail. The interpretive bulletin has not changed in law, contrary to what the gentleman from Illinois [Mr. FAWELL] says. What he just reiterated a minute ago about ridiculous statements, there is nothing more ridiculous than saying that all the pension investors agree with this bill. The Pension Rights Center is a group representing millions of pension beneficiaries with over $1 trillion in assets, and they oppose H.R. 1594. More than that, Mr. SAXTON was written a letter by the Council of Institutional Investors in which the first paragraph, describing $800 billion on behalf of beneficiaries, was a very polite paragraph. But they get down to the nitty-gritty of it in the important paragraph, and it says, unfortunately, we believe H.R. 1594 may unwittingly create precisely the kind of encroachments on ERISA's critical investment standards it is thought to prevent by creating exactly the kind of political pressure you indicate is inappropriate.

The legislation imposes special constraints on some types of investments not politically favored by supporters of the bill.

□ 1530

Mr. FAWELL. Mr. Chairman, yield 4½ minutes to the esteemed gentleman from New Jersey [Mr. SAXTON], the basic creator of this legislation.

Mr. SAXTON. Mr. Chairman, I thank the gentleman for yielding time to me.

First let me say that the gentleman from Texas, Mr. STEVE STOCKMAN, has been a tremendous help on this bill. His name should have appeared as a cosponsor, and did not through some oversight. But I want to thank him and make known that he has been a tremendous help on the bill.

Let me just say, Mr. Chairman, that this bill does three things: It negates the interpretive bulletin that has been

talked about so much here today; it does away with the clearinghouse that was created by the Clinton-Reich effort; and it stops other Federal spending on efforts to move forward with this flawed concept. In other words, it returns the situation to the status that it enjoyed exactly during the Bush and Reagan administrations. Nothing has been changed with the law, nothing has been changed with the administration. It just rolls back what was done by Secretary Reich and President Clinton.

We have heard a lot about issues that have very little to do with this bill today. We have heard about the flow of capital to foreign countries, which we will talk a little bit more about later. We have heard about political motives. We have heard about cutting job training and other programs. My goodness, we even heard about the B–2. These issues have little, if anything, to do with the substance of what this administration has done.

There are two issues that are of importance in this entire debate. One is, what does it do to the rate of return on investments made with private pension moneys, the moneys of America's workers? The rate of return is something we all need to pay a great deal of attention to. It is our responsibility, if the overwhelming weight of evidence shows clearly that the rate of return significantly diminished in those pension funds that engage in ETI's.

Alicia Munnell, who is with the Department of Labor and has been nominated to be a member of the Council of Economic Advisers in the administration, concludes that a 2-percentage point difference will be felt by pension funds that invest in ETI's. Olivia Mitchell of the Wharton School concludes exactly the same thing. Some academics that dealt in the world of finance, Mar & Nofziger-Lowe, conclude that as much as 210 basis points or 2.1 percent less in returns can be expected in ETI's, so there is no debate, in my opinion at least, about the effect in investing in these socially risk investments.

The other issue is whether or not this increases risk. I think it was best summed up in a recent article in Business Week by Alina Burgh, President Clinton's top pension regulator, when she admitted "The ambitious nature of this project is difficult because it is a radical notion."

It is a radical notion, as it is pursued by this administration. That is why I think, without exception, Members of this House should vote to say, "Stop and look at this situation, roll back the interpretive bulletin." The pension community backs our bill. The Committee of Investment and Employee Benefits Assets, people who know and deal in these issues every day, and which represents 164 corporate pension plan sponsors who are responsible for investing and management of $900 million in ERISA-governed pension assets on behalf of 12 million participants, back this bill.

The Association of Private Pension Funds and Welfare Plans, the APPWP, say, "We share Representative SAXTON's opinion and yours"—this is addressed to Mr. FAWELL—"that ERISA's fiduciary standards will not be interpreted in a manner that will allow the value of benefits of plan participants and beneficiaries to be jeopardized."

We do not want to jeopardize other people's money. They have saved it for their retirement: The factory worker, the clerk in the department store, the person that delivers parcels. All these folks are concerned, and we should be as well. Vote to support this bill.

Mr. STARK. Mr. Chairman, I believe most people on both sides of the aisle know why we are spending the time of the House on this issue. This is nothing more than a cynical maneuver by the Republicans to give themselves some cover with the elderly for the massive cuts they are planning to make in Medicare and Medicaid.

We have heard the Republicans charge that the Clinton administration is raiding private pensions to fund the liberal social welfare programs that were rejected by the voters last November. And we have heard how the valiant Republicans are going to come charging in on their white horses to slay this misty Clinton dragon by passing H.R. 1594 and rescue the fair elderly from this dreadful attack on their pensions.

But we all know what is really going on. The Republicans are, as we speak, making plans for massive cuts in Medicare and Medicaid that will cause extensive harm to millions of senior citizens, both in their pocketbooks and in the quality of their health care.

Let me tell you a little bit about what the Republicans have in store for the elderly. The House Republicans' budget resolution would require us to cut $270 billion out of the Medicare program over the next 7 years. This is a huge cut—the program would be 25 percent smaller in 2002 under this plan than it would be under current law.

What this means for the elderly is that Medicare premiums and deductibles will go up, while benefits will go down. The Republican cuts will reduce seniors' access to health care and require new co-payments for services such as lab tests, home health care, and skilled nursing facilities.

On average, Social Security recipients will pay $3,500 more out of their own pockets for medical care over the next 7 years if the Republican Medicare proposals are passed. In the year 2002 alone, average costs for each senior will rise by $1,060. Seniors in my area of California would pay $1,466 more on average for health care by 2002—or a total increase of $4,783 over the next 7 years.

Seniors on Medicare have an average income of about $18,000 apiece—how can they possible pay more than $1,000 more per person for their medical care? About 83 percent of Medicare benefits go to seniors with income below $25,000. Medicare cuts of the size proposed represent a massive tax hike on middle and lower income seniors.

Lower-income seniors, especially those fortunate enough to need extended nursing home care, will be hit again by the additional huge cuts proposed in the Medicaid program. Almost two-thirds of Medicaid spending goes to senior citizens, largely for seniors in nursing homes who have already used up their own resources to pay for medical care. Turning Medicaid into a block grant program, as some Republicans have proposed, and cutting it by as much as $182 billion over the next 7 years will make it impossible to continue current levels of support for low-income seniors—at a time when needs will be rising dramatically because of Medicare cuts. A costly extended illness can happen to anyone—and these cuts would remove the Medicaid safety net for seniors who need extended nursing care.

We still don't have the full details of the Republicans' plans to cut Medicaid and Medicare. The proposals we've seen so far don't generate enough savings to meet their budget targets, but they are bad enough. For example, in the Supplementary Medical Insurance (Part B) part of Medicare—which is financially sound and does not require cuts to maintain its solvency—the Republicans may be planning to double the deductible that Medicare patients have to pay before Medicare reimburses them for their doctors' bills. And then after doubling the deductible, they plan to index it—just to make sure it goes up every year thereafter. At the same time, the Republicans plan to increase the premiums that Medicare enrollees must pay. And if that isn't enough, they may also want to make patients pay a higher share of costs of laboratory services, home health care services, and skilled nursing facilities.

And so the bottom line is, Medicare patients will be paying more up front for their coverage, and when they get sick and actually use medical services they'll pay more for that too. And if they use up all their resources and still need nursing home care, the Medicaid program will no longer be there to provide a safety net.

Now you understand why the Republicans need some protection, some way of conjuring seniors into believing that the Republicans are protecting their retirements, even as they eviscerate the Medicare and Medicaid programs. Today's charade is part of that effort.

The Republican bill under consideration focuses on a minor Labor Department regulation which lets pension fund managers consider ancillary benefits when making investment decisions. These are known as Economically Targeted Investments, or ETI's.

For decades, there has been strong bi-partisan support for requiring pension funds to seek the best possible financial returns for the sake of their beneficiaries. The Employee Retirement Income Security Act [ERISA] imposes that fiduciary duty on managers on the Nation's private pension plan assets of $4.5 trillion.

Early on, however, pension managers raised the question whether, in choosing between two investments with equally promising financial prospects, they could favor the investment with collateral benefits to their group or community, such as whether an investment creates jobs in the local community or stimulates small business development or even whether to pass up an investment because

the money would go abroad. In a series of letters to pension funds seeking clarification on this issue, the Department of Labor made two points. First, investments failing to make competitive returns could not be chosen. But, second, among investments with competitive returns, pension managers would not violate their fiduciary responsibility by giving consideration to collateral benefits.

This interpretation of ERISA is nonpartisan. It originated more than 20 years ago and has been endorsed by the Carter, Reagan, Bush and Clinton administrations. However, it was not widely known, even among pension professionals, since it only existed in a series of individual letters. Following a recommendation by the Bush administration's outside advisors on ERISA, the Labor Department put out an interpretive bulletin last year which restated the guidelines issued not only by Democratic administrations but also by the Reagan and Bush administrations.

In response, the Republicans began accusing the Clinton administration of plotting to hijack America's pension assets to fund its liberal social agenda. As time has passed, their claims have grown wilder. Last week, Congressman SAXTON, the chief sponsor of H.R. 1594, issued a preposterous study. First, it claims that the interpretive bulletins issued June 23, 1994 was a stealthy response to the Republican takeover of Congress in January 1995.

No less absurdly, it claims that ETI's would reduce pension assets by an average of $43,000 per beneficiary over a 30-year span. That phony calculation comes from, first, assuming the pension funds consistently sacrifice 2 percent a year in financial returns on ETI's, blatantly against the law; and second, that pension funds will grown 12 percent per year for 30 years reaching $2,075,000 per recipient. Because of ETI's, there would be only $2,032,000 apiece.

In fact, just as in health care and Social Security, the Clinton administration is working to defend the elderly:

The policy to permit economically targeted investments does not cost the elderly one red cent in pension benefits, since the rules require that the risks and returns of ETI's must be the same as for other investments.

The current interpretation of the law is identical to the policy adopted under previous Presidents, including both President Reagan and President Bush.

The ERISA rules require that all investments have competitive rates of return and risk but only permit the additional consideration of collateral benefits.

The legislation proposed by Vice Chairman SAXTON is not just a solution in search of a nonproblem, it is pernicious. It would create a thought police for pension fund managers. In effect, the Saxton bill says to fund managers: "Don't let us catch you considering anything in your investment decision that may benefit your country or your fellow citizens. If we catch you thinking about anything but the fund's bottom line, you're in trouble."

What else does the vice chairman's bill say to pension managers?

It says you can protect yourself by putting your funds in Wall Street but don't even think about putting them in a small business in your own community.

It says you can invest in a multinational firm that plans to close factories and ship jobs abroad, but don't even think about investing in an American company to help create jobs here.

It says you can invest in a foreign company that will compete with the United States but don't even think about using your funds to help an American company compete.

It is ironic that Representative SAXTON would sponsor a bill to eviscerate the ETI regulations when his own State of New Jersey has two very effective ETI programs.

In New Jersey, the State Investment Council directs the investment of about $34 billion of assets for the State public employees pension funds. The following is a statement of the council's policy:

The Council has determined that investing for the benefit of fund beneficiaries need not exclude investments in New Jersey or those which advance other social goals. In 1984 the Council codified a list of Social Investment rules for the State Division of Investment that includes reviewing all reasonable investment proposals presented by New Jersey corporations and giving preference to New Jersey investments if other terms are equal.

Is the vice chairman going to go back to New Jersey this weekend and demand that the State pension funds be prohibited from giving preference to New Jersey investments if other terms are equal?

There is another program the council initiated in 1986:

Under the program, the Division determines a market rate for mortgages once a month and creates an open window to buy identical New Jersey mortgages from banks at this rate. In fiscal year 1992, one million dollars of New Jersey mortgages were purchased. The open window can prevent temporary capital gaps from developing if New Jersey suffers a temporary shortage of secondary mortgage funds.

Is the vice chairman going to go home this weekend and demand that the State pension funds stop buying New Jersey mortgages and only purchase mortgages from other States?

Mr. Speaker, in summary, there is no truth, not even a kernel, to the Republican charges—the ERISA rules are very clear that ETI's are permissible only when they do not involve any sacrifice of return to plan beneficiaries. The interpretive bulletin on ETI's is no threat to private pension funds—Ronald Reagan didn't think so when he was President and nonpartisan experts do not think so today.

But the Republicans, who are desperate for any cover to protect themselves from the growing wrath of the seniors, have latched on to this bulletin and have shamelessly invented whatever distortion necessary to create an imaginary threat to private pension plans—a wispy dragon which they will slay by passing H.R. 1594.

Responsible Members of Congress should have no part of this charade. If the Republicans want to make billions of dollars in cuts in Medicare and Medicaid, they should do it in the open without diversions or smokescreens and they should accept the responsibility. I urge you to vote against H.R. 1594.

Mr. PETRI. Mr. Chairman, I rise in support of this legislation to defend our Nation's pension plans from the liberal social agenda of the Clinton administration.

With the Republicans in control of the Congress, the Clinton administration has had a difficult time funding its liberal programs.

As a way around this, the President's Department of Labor has been encouraging pension fund managers to invest in politically correct projects.

In effect, the President is using America's savings as his own piggy bank, and in doing so, he is putting his political goals ahead of protecting our Nation's pensioners.

This policy puts $3.8 trillion of private pension plan assets at risk.

Should we have Government bureaucrats picking which investments are better than others?

I don't think so.

This bill is intended to put an end to this backdoor money grab.

However, there is a related but equally important issue.

Pension plans now contain more than half of our economy's investment capital.

Since fund managers have a responsibility to invest their holdings prudently, they tend to be extremely risk-adverse and invest only in large, well established companies.

With their fiduciary responsibilities in mind, fund managers are understandably reluctant to invest in growth companies and venture markets.

These markets are comprised to small companies, whose success is vital to our Nation's economy.

While these markets are riskier, their rate of return generally out performs other investments.

However, as a result of risk-averse fund management, I doubt that there will be enough capital channeled to these economically important investments.

We have to try to enable fund managers with fiduciary responsibilities to invest a portion of their assets in these riskier ventures.

There should be ways to do this while safeguarding our Nation's pension plans.

Of course, this is different than investing in ETI's.

Investments in venture markets are focused on economic benefits, while ETI's are focused on social and political goals.

Mr. PACKARD. Mr. Chairman, today we take up economically targeted investments [ETI's]. Those who support ETI's represent they are safe, prudent ways to encourage investments in low-income housing, infrastructure, and business.

However, nothing could be further from the truth. ETI's are simply a backdoor for the Clinton administration to finance liberal social programs, and for the Department of Labor to sneak around laws that direct pension fund managers to invest solely for the financial benefit of plan participants.

This pursuit of ETI's is frightening. It is dangerous to the security of private pension savings. The overriding concern for pension investors must be fiscal soundness not liberal, social programs that could cost a 35-year-old worker $43,298 in pension income by the time he or she retires at the age of 65.

Mr. Speaker, as a cosponsor of H.R. 1594, I strongly urge all of my colleagues to support this measure, restoring law and fiscal responsibility within the Department of Labor.

The CHAIRMAN. All time for general debate has expired.

The committee amendment in the nature of a substitute printed in the bill shall be considered under the 5-minute rule by sections, and pursuant to the rule, each section shall be considered as having been read.

Pursuant to the order of the House of today, the Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment made in order by the resolution. The Chairman of the Committee of the Whole may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall not be less than 15 minutes.

The Clerk will designate section 1.

The text of section 1 is as follows:

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

SECTION 1. SENSE OF THE CONGRESS.

It is the sense of the Congress that it is inappropriate for the Department of Labor, as the principal enforcer of fiduciary standards in connection with employee pension benefit plans and employee welfare benefit plans (as defined in paragraphs (1) and (2) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002 (1), (2))), to take any action to promote or otherwise encourage economically targeted investments.

Mr. FAWELL. Mr. Chairman, I ask unanimous consent that the remainder of the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

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

SEC. 2. PROHIBITIONS ON DEPARTMENT OF LABOR REGARDING ECONOMICALLY TARGETED INVESTMENTS.

(a) IN GENERAL.—Interpretive Bulletin 94–1, issued by the Secretary of Labor on June 23, 1994 (59 Fed. Reg. 32606; 29 C.F.R. 2509.94–1), is null and void and shall have no force or effect. The provisions of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) shall be interpreted and enforced without regard to such Interpretive Bulletin.

(b) RESTRICTIONS ON DEPARTMENT OF LABOR REGULATIONS.—The Secretary of Labor may not issue any rule, regulation, or interpretive bulletin which promotes or otherwise encourages economically targeted investments as a specified class of investments.

(c) RESTRICTIONS OF ACTIVITIES OF THE DEPARTMENT OF LABOR.—No officer or employee of the Department of Labor may travel, lecture, or otherwise expend resources available to such Department for the purpose of promoting, directly or indirectly, economically targeted investments.

(d) ECONOMICALLY TARGETED INVESTMENT DEFINED.—For purposes of this section, the term "economically targeted investment" has the meaning given such term in Interpretive Bulletin 94–1, as issued by the Secretary of Labor on June 23, 1994 (59 Fed. Reg. 32606; 29 C.F.R. 2509.94–1).

SEC. 3. PROHIBITION ON FEDERAL AGENCIES AGAINST ESTABLISHING OR MAINTAINING ANY CLEARINGHOUSE OR OTHER DATABASE RELATING TO ECONOMICALLY TARGETED INVESTMENTS.

(a) IN GENERAL.—Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131 et seq.) is amended by adding at the end the following new section:

"PROHIBITION ON FEDERAL AGENCIES AGAINST ESTABLISHING OR MAINTAINING ANY CLEARINGHOUSE OR OTHER DATABASE RELATING TO ECONOMICALLY TARGETED INVESTMENTS

"SEC. 516. (a) IN GENERAL.—No agency or instrumentality of the Federal Government may establish or maintain, or contract with (or otherwise provide assistance to) any other party to establish or maintain, any clearinghouse, database, or other listing—

"(1) for the purpose of making available to employee benefit plans information on economically targeted investments,

"(2) for the purpose of encouraging, or providing assistance to, employee benefit plans or any other party related to an employee benefit plan to undertake or evaluate economically targeted investments, or

"(3) for the purpose of identifying economically targeted investments with respect to which such agency or instrumentality will withhold from undertaking enforcement actions relating to employee benefit plans under any otherwise applicable authority of such agency or instrumentality.

"(b) ECONOMICALLY TARGETED INVESTMENT DEFINED.—For purposes of this section, the term 'economically targeted investment' has the meaning given such term in Interpretive Bulletin 94–1, as issued by the Secretary on June 23, 1994 (59 Fed. Reg. 32606; 29 C.F.R. 2509.94–1).".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by inserting at the end of the items relating to part 5 of subtitle B of title I the following new item:

"Sec. 516. Prohibition on Federal agencies against establishing or maintaining any clearinghouse or other database relating to economically targeted investments.".

SEC. 4. TERMINATION OF CONTRACTS.

The head of each agency and instrumentality of the Government of the United States shall immediately take such actions as are necessary and appropriate to terminate any contract or other arrangement entered into by such agency or instrumentality which is in violation of the requirements of the provisions of this Act or the amendments made thereby.

SEC. 5. EFFECTIVE DATE.

The preceding provisions of this Act (and the amendments made thereby) shall take effect on the date of the enactment of this Act.

The CHAIRMAN. Are there amendments to the bill?

AMENDMENT OFFERED BY MR. GENE GREEN OF TEXAS

Mr. GENE GREEN of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GENE GREEN of Texas: Insert after section 4 the following new section (redesignating section 5 as section 6):

SEC. 5. PROTECTION OF DOMESTIC INVESTMENTS.

Nothing in this Act shall be construed as prohibiting the investment by an employee benefit plan (within the meaning of paragraph (3) of section 3 of the Employee Retirement Income Security Act of 1974) in domestic investments, as distinguished from foreign investments.

Mr. GENE GREEN of Texas. Mr. Chairman, as we heard earlier in the debate on H.R. 1594, this is a bill that is unneeded, because there have been no mandates, but this amendment, if we are going to pass an unneeded bill, would make sure for those investment managers that it is clarified.

The amendment that we are considering seeks to accomplish one simple action. This amendment ensures that domestic investments are not prohibited under H.R. 1594. It ensures that American pension managers will not be afraid to invest in America and in American jobs. The amendment was read and it is in the RECORD, so all we are saying is that nothing in this amendment shall be construed as prohibiting the investment by an employee benefit plan in domestic investments, as distinguished from foreign investments.

Mr. Chairman, I am vested in a private pension plan. I am sure when I am 65 it is not going to provide as much as I would like, but I am one of those people who invested in it. And I do not want them to take chances with my money. I want to make sure they maximize the investment so I have as much as I can when I am 65.

However, I also want to make sure and I want them to have the encouragement to invest in the United States, instead of going overseas. My concern in this bill, if given a choice with the same risk, if this bill passes, someone who is a prudent investment manager may say, "I can get 15 percent in building houses somewhere overseas and maybe 15 percent in the city of Houston," they will go overseas because of the restrictions of this bill. I want to make sure that that is not the question. I want them to build those houses in Houston, TX, or Cleveland, OH, or anywhere else if the risk is the same as going overseas. That is why we need to adopt this amendment.

H.R. 1594 repeals an interpretive bulletin that says that pension managers may consider collateral benefits where the risk and return otherwise meet the prudent standard. In doing so, H.R. 1594 clearly discourages and may effectively forbid the consideration of collateral benefits by U.S. fund managers.

In fact, this bill, if read the way it could be interpreted, could ban pension fund investments in mortgage pools, such as those guaranteed by the Federal National Mortgage Association, holding the trustees legally liable if they authorize such investments, so we would hope they would encourage investments in mortgages in the United States.

To avoid that potential liability, pension plans may be reluctant to invest in these American investments that have collateral benefits. Everything has a collateral benefit, Mr. Chairman. When the State of Connecticut, and I notice the other side did not mention that, invested in a firearms industry, because that is a major job producer in Connecticut, I am glad they did; but I notice in their talking and discussing about it, they did not talk about that investment. They talked about some other investments that did not pan out.

I wish I could say that every investment all of us individually or as fund managers invested in was good. Some pay a higher percentage because they have a higher risk. That is what we want, is to take a little higher risk, but for higher benefits for those of us who are the ones who are going to benefit from it.

For 20 years pension fund managers have been building up solid portfolios in these economically targeted investments that diversify their holdings and provide a competitive rate of return. They create those jobs locally and incur no unusual investment risk. My amendment provides once and for all that nothing in H.R. 1594 prohibits that employee benefit plan from investing domestically.

As it is, pension plans have been increasingly investing overseas, and as Members will see from this chart, U.S. pension funds are increasing from 3.7 percent in 1989 to 8 percent in 1994. It is projected to go to 12 percent foreign investment in 1999.

What I do not want us to do is to encourage that by passing this bill. That is roughly $800 billion of our money that is being invested overseas when it could be invested here at the same rate of return. Let us make it clear, if this bill is enacted, a pension fund manager, faced with two choices of equivalent investment, one in the United States and one abroad, the safe course would be to invest abroad, because of 1594. Let us correct that by passing this amendment.

The failure of this amendment today would only encourage litigation, cost more for those of us who are vested in these pension plans, and call into question whether we are going to invest in creating American jobs in our country. This bill would throw a legal shadow over a decision to invest in a hometown or State, but would not affect a pension fund if it is doing the same thing in foreign securities or foreign countries. It is irresponsible for this Congress to talk about Social Security when Social Security cannot invest in anything but Government bonds.

If we want to do it, let the majority come up and say "We are going to do that," but let us invest our pension fund in our country at a competitive rate. Let us keep American investment here at home. Let us vote yes to create more jobs, and vote for the Green amendment.

Mr. FAWELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I feel like President Reagan when he said, "Now, there you go again." There is absolutely nothing in this legislation that proscribes collateral benefits one bit. There is nothing in this bill that prevents pension plans from investing domestically or in foreign investments, nothing whatsoever. ETI's are still left standing, assuming, of course, as the folks on the other side of the aisle have consistently said, that the prudent man rule lives. Certainly the prudent man rule does live.

There is only one question that is ever asked of an investment under the prudent man rule and under the ERISA laws. That is, is that something that is a solid investment for the people who are the beneficiaries of that trust fund? A lot of housing, for instance, programs are quite acceptable, obviously, under ERISA. The whole concept of this fantastically successful program, which has raised $3.5 trillion for the workers of America, is that the Federal Government is not micromanaging and dictating where the investments have to go.

This legislation obviously, coming along somehow heralding and trumpeting the fact that collateral benefits are something that are in some way proscribed, says "Well, we are going to have to amend the prudent man rule. We are going to have to start now having Congress mandate where the investments will go."

There is not a person here who is not, of course, deeply in favor of investments from pension plans all over America going into domestic investments, and obviously, that is occurring. That is where most of them go, obviously. However, is there any one of us who is going to say, "You cannot invest globally?" Do we want to start saying, "We are going to direct you," the fiduciaries, "where you are going to invest?" If we just give a little bit of thought about that, I do not think any one of us wants to believe that that is what we would want to do.

□ 1545

Remember, this bill simply is putting us back to where we have always been in America, but without that clearinghouse and without the interpretive bulletin of June 1994. Otherwise, it is exactly the same with the proscription in this bill that says to the Department of Labor, do not go out hyping and promoting in regard to a special class of investments called ETI's. It makes it very, very clear that you can have advisory opinions about specific investments. If someone wants to write to the Department of Labor and ask in their opinion is this a good investment, the Department of Labor can give that opinion.

But this is an absolutely unnecessary amendment and it can only do harm, because here it comes, folks, the avalanche of people in Congress who know how best to direct the fiduciaries of America as to where their funds shall go. We will unfurl the flag that we are doing it for domestic purposes because of the fact that I suppose some evil people sneak out a global investment. Heavens, how terrible that would be.

This amendment is an absolutely terrible one. We just have not given the thought to it that we should. In effect, you are amending the prudent man rule.

Obviously that should not be done.

Mr. TRAFICANT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we are talking about perception here. Does the Congress of the United States want the perception to exist that we want to make sure, if you look at the words, that nothing in this bill shall be construed to prohibit pension plans from investing in domestic as opposed to foreign investments? That is the substance of the Green amendment. It makes no significant change in the ultimate goals of the legislative initiative.

But do we want the American investment community thinking, my God, if we are going to make a call to the Department of Labor, we could be in some way violating the law, and we better be careful about trying to develop some understanding about the legal consequences of, in fact, investing these pension funds in America?

We are talking about perception. To me, this is unbelievable. ERISA, as consistently interpreted by Department of Labor and the courts, allows pension plans to consider the collateral economic benefits of a potential investment, provided that potential investment has a comparable risk-adjusted return to other potential investments and is otherwise consistent.

This bill, then, would call into question the ability of pension plans to consider collateral benefits. As a result, pension plans may be reluctant to invest in domestic investments that have collateral domestic economic benefits, even though they may have competitive risk-adjusted returns that otherwise meet standards of ERISA.

In any regard, the result because of perception could be increased pension plan investment in foreign investments. Is that the goal we are after here?

I am not an attorney. All I know is this: U.S. pension plan funds increased from 3.7 percent in 1989 overseas to 8 percent in 1994. They are projected to hit over 12 percent in 1999. What is the goal of America's private pension plan money here?

Is the Congress of the United States saying we do not want the perception that you can invest in domestic activities even though the risk is no greater?

The Green amendment does not in fact turn back the clock on your legislation.

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

Mr. TRAFICANT. I am not going to yield at this point.

I have listened to this entire debate. I do not take offense with the sponsor of the legislation. I think anybody that is trying to ensure that we do not have a social program agenda with private pension plans, that makes sense to me, but we are beginning to debate perceptions and we are going to start chasing the American pension plan dollars overseas. It has increased fourfold over the last 5 years.

My God, here we are cutting money in this country. We are saying we cannot be the parent for all, we cannot provide all the money in America, and I am agreeing with some of that conservative logic. But what I do not agree with is where the private sector should be incentivized to invest in markets in America where their chances of success are fair and reasonable. That leveraged incentivized sort of government programming makes sense to me.

To oppose this Green amendment is simply like saying, "Look, we take a tarnished look at what the Democrats are trying to do to this bill." The Democrats are going to oppose your bill. Democrats believe if it is not broke, do not fix it.

Now, maybe there are some people in the Department of Labor who are going too far, and maybe there will be some social agenda over there that does not meet what the approval of decent investments, but let me tell you something. When you look at the savings and loan debacle, you were not looking at economically targeted investment types of abuse, you were looking at the money abuse of those pension funds. They were putting them in their friends' accounts. They were swinging with the money.

Now what do I know? I am just a sheriff, in my former public life here, and all I am saying is, look, any perception that will lend to more offshore investment of America's pension funds to me is a no-brainer here. You should be accepting the Green amendment and should not be arguing it.

The CHAIRMAN pro tempore (Mr. McINNIS). The time of the gentleman from Ohio [Mr. TRAFICANT] has expired.

(By unanimous consent, Mr. TRAFICANT was allowed to proceed for 1 additional minute.)

Mr. TRAFICANT. Mr. Chairman, I am glad to yield to the gentleman from Illinois [Mr. FAWELL], the distinguished subcommittee chair whom I respect very much, if he still wants to engage me in some debate here.

Mr. FAWELL. Mr. Chairman, I only wanted to point out that all of those industrial figures to which the gentleman made reference to, of course, that all has occurred and it has got nothing to do with this legislation.

Second, I want to emphasize the fact that there is no prohibition in our legislation as to collateral benefits. That is to say, an investment is not deemed to be violative of the prudent man rule just because there are some incidental benefits that come from an investment. Indeed, every investment does have that. All that the prudent man rule says is that you shall concentrate upon the very first order of business.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio [Mr. TRAFICANT] has again expired.

(By unanimous consent, Mr. TRAFICANT was allowed to proceed for 2 additional minutes.)

Mr. TRAFICANT. Mr. Chairman, I would like to respond to that.

Mr. FAWELL. If the gentleman would yield further, all we are trying to do is change that emphasis. We are not changing the substantive law. And once we start getting into the point of suggesting that, for instance, investments in infrastructure, nothing herein contained should be deemed to make that illegal, then the implication is, the negative implication is that others, for instance, do not rate as high and the implication also is that you do not even have to follow the prudent man rule in order to be able to have a domestic——

Mr. TRAFICANT. Reclaiming my time so I can respond a little bit. I have great admiration and respect for the gentleman from Illinois [Mr. FAWELL].

I do not think you on the House floor want to in any way promote pension funds going overseas. I know you do not want to do that. I am concerned about the perception that is what is coming out of the Congress of the United States of America. Unless you disagree with this, and unless I need a shrink on this legislation, I want to just ask a question: Is in fact the sponsor, the gentleman from Texas, Mr. GENE GREEN, saying that all he wants to do is ensure that this bill does prohibit pension plans from investing in domestic as opposed to foreign? That is the substance of this amendment. We are making it into something other than what it really is.

I do not want anybody to frivolously and flippantly mess around with my pension account or my constituents'. But, by God, when there is a reasonable investment with the same collateral risk and rewards in America, I do want the U.S. pension plans to find the domestic market, period. I will say that on the floor.

Here is what I am saying to the gentleman. We are projecting in the next 5 years to exactly triple U.S. pension plan investment overseas. Is that what the Members of the Congress of the United States want? I am beginning to believe it is, because I cannot see jobs, I cannot see investment, I see 4 million housing units, rental units needed, people trying to find first-time homes, and we are going to give the perception, stay away from domestic investment. And if you call Department of Labor, watch you do not get in trouble. Beam me up.

Mr. SAXTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would say to the subcommittee chairman, the gentleman from Illinois [Mr. FAWELL], do not be so distraught over this amendment because whether it passes or not, it has no effect, because the bill does not do what the proponents claim that the perception is.

I would just like to make the observation that the opponents of this bill are very clearly anxious to avoid the key issue, the underperformance of ETI's. That is what this bill is all about, and this amendment has nothing whatsoever to do with the issues that are of concern to those of us who have worked so hard for a year to get this bill in the place that it is today.

All of the amendments from the other side, those to come, seem destined to distract attention away from the fact that ETI assets offer lower yields and more risk. That is what this is all about. The bill has nothing whatsoever to do with foreign investment or domestic investment.

Would anybody who is watching this debate think that those of us on this side of the aisle would be foolish enough to restrict domestic investment? Do they think that you would be foolish enough to read the language and really think that is true? It is fallacious, and your amendment is fallacious, as well, and you know it.

Frankly, I am a little bit surprised that we are having this debate here today. Let me talk a little bit about how fallacious your amendment is. The amendment starts with the assumption that an ETI investment and alternative investments offer exactly, that is your words, the same risk-adjusted return.

I would suspect that you would agree with me that at some point you cannot determine what is exactly the same rate of return and exactly the same risk. The Nobel laureate James M. Buchanan, in his book "Cost and Choices," makes that very point. There is no such thing in the world of economics as exactly the same rate of return and exactly the same risk, so this amendment on its face begins with an assumption that is not possible, according to the learned James Buchanan.

I would also point out that your argument is fallacious for another reason, and that is that the charts we have before us talk about the outflow of capital beginning in 1989 and continuing into years beyond 1995. Why,

this bill was not even thought of until 1994. Yet beginning in 1989, 5 full years earlier than the bill was conceived, you claim that somehow the perception was created 5 years before the bill was conceived that made all this happen.

Mr. Chairman, it is an attempt to confuse. This amendment has nothing to do whatsoever with the main issues that we are talking about here today, the protection of the rate of return and the minimization of risk in private pension plans.

□ 1600

I would make one other point, and that is that as I look at these charts, 1989 and 1990 were certainly watershed years. We had the largest tax increase that year in the history of our country. Then we had another one that trumped it in 1993, making it more difficult to do business in this country, making it more difficult, with the votes of all of my colleagues over there, to make a profit in this country.

My, it is not strange that pension fund managers would invest off shore. Is it not strange? So I say to the gentleman on the other side of the aisle, he is not fooling anyone. This has nothing to do with the substance of the bill. The bill does not speak to this in any way. The bill does not restrict domestic investment in any way. No one would be foolish enough to advance such a notion, except perhaps the author of this amendment.

So I guess I would plead with the gentleman from the other side of the aisle, please, let us get on with the business of the day. If the gentleman wants to talk about whether or not the rate of return in ETI's is less, it is 2 percent less or 3 percent less or whatever it is, or how much it hurts private pension plans, that is fine. We can talk about that. That is what this bill is about.

Or if the gentleman wants to talk about how much additional risk is created by virtue of investing in socially motivated risky investments, we can talk about that.

Mr. Chairman, this amendment has nothing to do with the substance of this bill whatsoever. It is an attempt, and I think a poorly disguised attempt, to cloud the issue.

Ms. VELÁZQUEZ. Mr. Chairman, I move to strike the requisite number of words.

I rise in strong support of the Green amendment to H.R. 1594.

This amendment simply states that nothing in this bill will prevent pension plan funds from investing in domestic ventures. Frankly, I can't see why anyone would oppose an amendment that simply reaffirms our commitment to job creation in this country.

Our country is quickly becoming a two-class society, and the No. 1 cause of this, is the lack of job creation. As companies in our communities close down and relocate in search of lower wages, what will take their place? At best we are replacing these good-paying blue collar jobs with minimum-wage, part-time positions. We are just not creating enough good-paying jobs in the United States. Every effort must be made to encourage economic growth in our struggling communities across this country. Mr. GREEN's amendment simply wants to make sure that we continue this commitment.

How can my colleagues expect districts like mine, which are in desperate need of a viable economic base, to develop good paying jobs if we are not willing to make a minimal commitment to domestic investment. If we continue to favor investment abroad over investment in our country because of cheap labor and lower costs, communities like mine will slide further down the list of priorities, receiving less and less. As domestic investment dwindles, pension funds will use their limited resources more and more in the suburbs, and will continue to shortchange our cities.

In my own district there is potential for growth through a variety of business opportunities. But if we are not willing to encourage domestic investments, we may be sacrificing the next Microsoft or Motorola, before it even gets started.

I call on my colleagues to support this amendment. What type of message would we be sending to investors across this country if we are not willing to adopt a simple amendment that encourages domestic investment. I yield back the balance of my time.

Mr. GENE GREEN of Texas. Mr. Chairman, will the gentlewoman yield?

Ms. VELÁZQUEZ. I yield to the gentleman from Texas.

Mr. GENE GREEN of Texas. Mr. Chairman, let me address some of the concerns that the gentlewoman from New York [Ms. VELÁZQUEZ] has raised and the other side has raised.

Mr. Chairman, they talk about the amendment, but let me read it for the Members of the House who may not be on the floor who are watching this.

> Nothing in this Act shall be construed as prohibiting the investment by an employee benefit plan, within the meaning of paragraph 3 of the ERISA, in domestic investments as distinguished for foreign investments.

I do not understand why they are so worked up in opposing it, unless that is their concern. Granted, they are stretching to pass this bill. They are stretching to say that people invested foreign because of the 1990 tax bill. I did not read their lips in 1990, and I hope I did not this year. But by stretching to oppose this amendment, by using that, all we are saying is that when you are comparing apples to apples, let us do it domestically. That is all this amendment asks for.

Mr. Chairman, my colleagues can come up with any other interpretation. Frankly, I do not understand why they are opposing the amendment, but I appreciate the support of the gentlewoman from New York [Ms. VELÁZQUEZ].

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, now we are seeing one of those tragedies unveiled on the floor of the House that happens so many times. If my colleagues want to hoodwink the American public, if they want to confuse the American public, if they want to confuse their fellow colleagues, just say that we are going to send money overseas or we are going to invest overseas or we are going to send business overseas, and everybody and their brother in the country will rise up in righteous indignation.

Mr. Chairman, the fact is that this bill has nothing to do whatsoever with whether any more investment is sent overseas is or is not sent overseas. It has nothing to do with that whatsoever.

A socially poor investment overseas is just as bad as a socially risky investment in the United States, and particularly when we are talking about somebody else's money. We are not talking about our money. We are talking about Federal Government money. We are talking about a retiree's money. We are talking about the money of someone who is going to retire.

Mr. Chairman, let us not confuse the issue with somehow or other believing that this legislation will increase or decrease any investment overseas. It has nothing to do with that.

Mr. CLAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the sponsor of the bill indicated that the purpose of this legislation is concerned with underperformance of ETIs. The majority cited in their report that they were concerned about higher risk and lower return from social investing by public pension funds.

The GAO has said that the risk for social investment, if that is what we want to refer to it as, for ETI's, is no greater than the risk for other investments. We have got to keep in mind, it is very important for us to note, that the public pension funds that they are referring to are not required to take the substantial protections that we require of the private pension funds under ERISA. So that is no argument as to why we should do anything with ETI, and especially to encourage investments in overseas places.

Mr. Chairman, I support this very important clarifying amendment that is offered by the gentleman from Texas, Mr. GENE GREEN. This amendment will ensure that the bill will not further the already startling trend of overseas investments of our U.S. pension funds.

Why are we affirmatively discouraging investments in America? ERISA, as consistently interpreted by the Department of Labor and the courts, allows pension plan managers to consider the collateral economic benefits of a potential investment, provided, first, that the potential investment has a comparable risk-adjusted return to other potential investments, and second, that it is otherwise consistent with the standards of ERISA.

This is all that the Labor Department's interpretative bulletin says. Nonetheless, the original version of H.R. 1594 effectively forbids any consideration of collateral benefits. The Fawell substitutes before us now only modestly improves its predecessor and it calls into serious question the ability of pension to consider collateral benefits. The partisan hysteria surrendering the bill only adds to its chilling effect.

Mr. Chairman, as a result of this bill, pension plan managers would be very reluctant to make investments that bear collateral domestic benefits. To placate the underlying spirit of this cynical and partisan bill, the so-called prudent man likely will avoid otherwise attractive and lawful domestic investments like the plague. Any prudent man reading this legislation knows that pension managers will direct greater investment overseas, in turn, endangering more American jobs.

Mr. Chairman, I urge my colleagues to support the Green amendment.

Mr. KNOLLENBERG. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. KNOLLENBERG. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Chairman, I would like to address this matter of the GAO report that the previous speaker alluded to. As everyone knows, there are dozens of examples of ETI's that can be studied and reported on. The GAO happened to select the seven best ETI's that were available for them to report on.

Even given the dismal record of ETI's, it is conceivable that in a few cases that there can be five cases which can be expected to match market returns, and that was the case with the seven examples that were studied.

When the remainder of ETI's are studied, the performance of ETI's is not so rosy, and the pattern we have been talking about all afternoon comes right back. Returns are down and risk is up. Because of the limited data set, the GAO report even acknowledges and they say this in their report: "These results cannot be generalized to other pension plans."

Mr. Chairman, I thank the gentleman for yielding.

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

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Green amendment and in strong support of American jobs. Let me understand this bill the way that it is written now. Pension funds collected from American workers are often invested in American corporations doing business abroad or foreign corporations in other countries.

These pension dollars, these pension fund dollars, are attracted to low wages in other countries, are attracted oftentimes to weak environmental laws in other countries and nonexistent worker safety laws in those countries.

These dollars taken from American workers are invested in these companies, American or foreign companies, doing business abroad because they see great profits in these businesses doing business in Mexico, or doing business in Taiwan, or doing business in low-wage countries.

Mr. Chairman, the problem with that is that the end of that, the complete circle, is that those companies, often American companies doing business in other countries, manufacturing in other countries, those businesses then taken those same jobs from American workers.

I have money taken out of my wages into a pension; that money is invested in another country, often an American business or foreign business; that comes back and takes my job away.

Some pension fund managers, as the gentleman from Texas [Mr. GENE GREEN] asserts, would like to consider that issue; that if we are going to invest in pension funds around the world, that that money not come back and steal American jobs. I do not know how in this Chamber my friends on the other side of the aisle can explain to American workers that we sent their money overseas so that it could come back and take our jobs.

The interesting thing, I have heard my friends on the other side of the aisle, many of them, not so much the ones in this debate, rail about the evils of NAFTA, which I agreed with them on; the evils of GATT, the evils of extending NAFTA to Chile; the evils of the Mexican bail out. They were right about that.

Now they want to allow these pension dollars to go abroad and be invested in companies doing business in countries where they do not pay very much, where they have weakened environmental laws and nonexistent labor laws and it comes back and steals Americans jobs.

You cannot have it both ways. If you think those trade agreements are bad, as most of them have been, they you do not want our pension dollars subsidizing jobs in other countries so they can come back and take our jobs as American workers.

I say to my colleagues to go back to their district this weekend and explain to them, if they vote "no" on the Green amendment, and explain to them how they said go ahead and invest my pension dollars in enterprises in other lands that turned around and took my job.

Mr. Chairman, I do not think that my colleagues want do to that. I ask for a "yes" vote on the Green amendment.

Mr. GENE GREEN of Texas. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Texas.

Mr. GENE GREEN of Texas. Mr. Chairman, we talked about the concern about investing overseas and the opposition to the amendment. I have a hard time figuring out why they will not just accept it.

□ 1615

But granted, investment overseas would cause, in this amendment, if we do not take this amendment, it may increase it.

Let me talk about, in the National Journal in June of this year, they talked about the challenge to pension fund trustees, and let me just quote, "The congressional Republicans, by turning ETI's into an ideological issue, are casting a chill over pension fund investments that could strengthen the homegrown economies of the States, cities and towns the pensioners grew up in and, indeed, that they continue to depend on for their broader, long-term security".

Mr. BROWN of Ohio. Pensions, under the gentleman's amendment, pension fund managers are going to be able to have leeway to make these decisions? Correct?

Mr. GENE GREEN of Texas. We are not changing that by this amendment. I am concerned the whole bill may cause pension fund managers to say, "We do not want to invest in riskier investment in inner-city Cleveland or inner-city Houston, but we can invest in inner-city Lebanon. Maybe we ought to build housing in Lebanon, not inner-city Houston, because we can get a greater return over there." I do not want to scare those pension fund managers off from U.S. investments by this bill. I am concerned by seeing some of the letters that raise concerns about this bill.

Again, the article was in the National Journal saying just what the gentleman's argument was. We have workers here who pay into a pension. We do not want any mandates on ETI's, and I would be up here like a lot of Members opposing it if they said, "No, we want you to put it back into the inner-city investments that are shaky." If those investments pay a decent rate of return for their risk, then why should they not?

Mr. MARTINEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I guess what it really boils down to is some of my friends on the other side of the aisle prefer foreign investments with these pension funds rather than investments here in America.

I heard earlier the idea hoodwink, and social.

I guess they have a problem with social. It must translate to them as communism anytime you try to do some social good in our country. But as far as hoodwinking, they are the ones trying to hoodwink the American people.

The fact is the investments have been going overseas and abroad in recent years simply because people are afraid to make those kinds of decisions of investments here because of some run-in with the Federal Government and the ERISA, but let me tell you the other side has taken a twist on an old song that used to go something like this, for those of you that are old enough to remember it, "Eliminate the negative, accentuate the positive." What they have done is elaborate he negative as to not accentuate the positive.

Let me give you an example of the collateral kind of investment that was made in a company that you all are very well aware of here in the United States. A pension plan purchased a block of stock in a corporation, thereby increased its cash flow and its cash position, and the equity in that company, and that allowed the company to borrow funds at a lower rate so they could expand the factory and create more jobs. You wonder who that company was? That was General Motors, and what is good enough for General Motors is good enough for America, I have always said, and good enough for me.

When you talk about, and continue to be talked about on the other side, about investing in underperforming investments, let me tell you now, even with the interpretive bulletin, even with the law as it is now, that would be breaking the law if they did it knowingly. The trouble with any investment you make, you never know how it is going to turn out. You investigate it and hope it will do the best it possibly can for the beneficiaries. Something can always go wrong.

Wake up and open your eyes. We are living in a depressed economy in this country. There are places in this country right now that are living in depression-like conditions. These places need relief. They need investment here in the United States that will return profit here in the United States, not send it abroad.

Mr. GENE GREEN of Texas. Mr. Chairman, will the gentleman yield?

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

Mr. GENE GREEN of Texas. Mr. Chairman, I thank my colleague, the gentleman from California, not only for his leadership on this bill, but also for yielding to me, and again for the benefit of the Members, let me again read the amendment for the Members who have not had a chance to look at it: "Nothing in this act shall be construed as prohibiting the investment by employee benefit plans within the meaning of paragraph 3 of section 3 of the ERISA in domestic investments as distinguished from foreign investments."

Let me also go to read the infamous, I guess, 94.1 interpretive bulletin: The fiduciary standards applicable to ETI's are no different than the applicable to plan investments generally. "Therefore, if the above requirements are met, the selection of the ETI or the engaging in an investment course of action intended to result in the selection of an ETI will not violate it." We are talking about the same investment standards, and again, for the people, who are trying to pass this bill, Mr. Chairman, to say that they are not encouraging overseas investments, again, why should they not accept the amendment if they are more concerned about investing again in Lebanon, PA, than in Lebanon, the country?

Mr. DORNAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and my colleagues, this argument that overseas pension investment is going to drain capital from the United States reflects, I believe, a fundamental lack of understanding about economics. In fact, in 1994, the last year for which we have pension data, the net flow of capital into the United States amounted to about $150 billion.

It is very misleading to argue that the international investments of pension funds drain capital from the United States when the facts show a large capital inflow to our U.S. economy. The pension data cited creates the impression that capital is being drained from the United States when the official data clearly shows the big picture is one of a net investment in the United States.

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

Mr. DORNAN. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Chairman, I would like to thank the gentleman from California for bringing up this very important point. As a matter of fact, as the gentleman from California well knows, this publication, called "Economic Indicators," which is put out by the Council of Economic Advisors, who, incidentally, are appointed by the President, and prepared for the Joint Economic Committee, verifies that exact fact. As a matter of fact, it is kind of interesting to look at the history, and these charts give just the opposite impression.

This year, as the gentleman pointed out, $151 billion more in capital flowed into this country from pension funds and other sources than flowed out, $150 billion net income to us.

Let me just go back and give you some perspective on this. In 1990, it was $92 billion more flowed into the country than out; in 1991, it was down to $7 billion more flowed in than flowed out; and then we began to rebuild the next year, it was $61 billion; the next year, $99 billion; and this year, $150 billion more came across our borders, coming in, than went out.

Again, the proponents of these charts for this amendment are once again trying to confuse this situation by saying more capital, and these charts certainly give the impression that you are saying more capital is flowing out than flowing in; quite the opposite is, in fact, the case.

Mrs. MINK of Hawaii. Mr. Chairman, I move to strike the requisite number of words.

Mr. GENE GREEN of Texas. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK of Hawaii. I yield to the gentleman from Texas.

Mr. GENE GREEN of Texas. To my colleague from Hawaii, I thank the gentlewoman for yielding.

The issue just came up, and I am glad it was brought up, concerning the amount of investment in our country as compared to the amount of outflow in investment. I share the concern.

The United States is the greatest country in the world to invest in, and that is why people will come here. But why should we discourage our own investment managers or pension managers to go overseas?

We might want to consider, it was announced today or yesterday, the investment in the Rockefeller Center by some foreign nationals who are now deciding it was not such a great investment, but I agree, we have a great investment climate here. Why should we not have American workers creating their own American jobs instead of encouraging, by not adopting this amendment, what may be happening in this bill?

Again, I urge an "aye" vote on the Green amendment.

Mrs. MINK of Hawaii. Mr. Chairman, reclaiming my time, I would like to say that there is such a disparity in the arguments that have been made on the legislation that is pending, and for that reason I rise in strong support of the Green amendment, with the hope that it will clarify some of the arguments that have been made with respect to this bill. I rise in strong opposition to H.R. 1594, because I think it erroneously interprets the bulletin that is referred to as 94–1.

The supporters of this legislation contend that the bulletin IB–94–1 that the Labor Department issued promotes these economically targeted investments at the expense of the pension beneficiaries, and as the gentleman

from Texas [Mr. GENE GREEN] said, with the possible interpretation that the moneys could go to foreign investments rather than investing in the future of our own country. The interpretive bulletin issued by the Labor Department says nothing of the kind. It does not change the fiduciary responsibility one iota, and therefore it seems to me that this legislation is entirely unwarranted and unnecessary. The interpretive bulletin put out by the Labor Department does not change the primary fiduciary responsibility, which is to assure the safety of the investments of these pension funds.

What it does say is that in looking toward the investments that are permitted, that the trustees and so forth who are making these decisions ought to consider the additional benefit that could be accrued to communities if investments were placed in the communities with reference to housing projects and projects of that kind.

Further, contrary to what has been said on the floor this afternoon by the supporters of this legislation, the Labor Department bulletin 94–1 does not supplant ERISA at all. The bulletin does not put the goal of promoting and encouraging the application of ERISA to these economically targeted investments above the fiduciary's first commitment to the participants and the beneficiaries of the benefit plan.

So it seems to me that the bulletin has to be looked at in the context in which it exists over previous administrations and over this administration, and I believe you will see that it fully complies with the intent and the spirit an the letter of the law as expressed in ERISA. Fundamentally, what this disagreement seems to be between the Republicans and the Democrats on our side is whether these pension funds should be invested at all in projects that are located in our communities that could upgrade the infrastructure, meet some of the pressing needs of various aspects of our communities, and in that context, the Green amendment is vital, and it should be adopted, because what it says is that in the investments that are made of our pension funds, we ought to pay attention to the needs of this country, of the domestic needs of this country, and in doing so I believe it also goes to the heart of our objection to this pending legislation, and that is to negate the importance of economically targeted investments which have an ancillary social benefit to our communities.

These investments that are being made in our communities are economically targeted and without any jeopardy whatsoever to the employees, to the pension plans, to their annuities, and afford no additional risk. So it seems to me we are debating a piece of legislation here that makes an egregious accusation against this administration, nullifies the policies of two previous administrations and does tremendous social harm and disadvantage to our local communities.

For that reason, I support the Green amendment and urge that H.R. 1594 be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas, Mr. GENE GREEN.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GENE GREEN of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 192, noes 217, not voting 25, as follows:

[Roll No. 649]

AYES—192

Abercrombie	Gephardt	Orton
Andrews	Geren	Owens
Baesler	Gibbons	Pallone
Baldacci	Gonzalez	Pastor
Barcia	Gordon	Payne (NJ)
Barrett (WI)	Green	Payne (VA)
Becerra	Gutierrez	Pelosi
Beilenson	Hamilton	Peterson (FL)
Bentsen	Harman	Peterson (MN)
Berman	Hastings (FL)	Pickett
Bevill	Hayes	Pomeroy
Bishop	Hefner	Poshard
Bonior	Hilliard	Rahall
Borski	Hinchey	Rangel
Boucher	Holden	Reed
Brewster	Hoyer	Richardson
Browder	Jackson-Lee	Riggs
Brown (CA)	Jacobs	Rivers
Brown (FL)	Johnson (SD)	Roemer
Brown (OH)	Johnson, E. B.	Ros-Lehtinen
Bryant (TX)	Johnston	Rose
Cardin	Kanjorski	Roybal-Allard
Chapman	Kaptur	Sabo
Clay	Kennedy (MA)	Sanders
Clayton	Kennedy (RI)	Sawyer
Clement	Kennelly	Schroeder
Clyburn	Kildee	Schumer
Coleman	Kingston	Scott
Collins (IL)	Kleczka	Serrano
Collins (MI)	Klink	Skaggs
Condit	LaFalce	Skelton
Conyers	Levin	Slaughter
Costello	Lewis (GA)	Smith (NJ)
Coyne	Lincoln	Spratt
Cramer	Lofgren	Stark
Danner	Lowey	Stenholm
DeFazio	Luther	Stokes
DeLauro	Maloney	Studds
Dellums	Manton	Stupak
Deutsch	Markey	Tanner
Diaz-Balart	Martinez	Tauzin
Dicks	Mascara	Taylor (MS)
Dingell	Matsui	Tejeda
Dixon	McCarthy	Thompson
Doggett	McHale	Thornton
Dooley	McKinney	Thurman
Doyle	McNulty	Torres
Duncan	Meehan	Towns
Edwards	Meek	Traficant
Engel	Mfume	Velazquez
Ensign	Miller (CA)	Vento
Eshoo	Mineta	Visclosky
Evans	Minge	Volkmer
Farr	Mink	Ward
Fattah	Montgomery	Waters
Fazio	Murtha	Watt (NC)
Filner	Nadler	Waxman
Flake	Neal	Weldon (PA)
Foglietta	Neumann	Wilson
Forbes	Ney	Wise
Fox	Oberstar	Woolsey
Frank (MA)	Obey	Wyden
Frost	Olver	Wynn
Gejdenson	Ortiz	Yates

NOES—217

Allard	Gallegly	Moorhead
Archer	Ganske	Moran
Armey	Gekas	Morella
Bachus	Gilchrest	Myers
Baker (CA)	Gillmor	Myrick
Baker (LA)	Gilman	Nethercutt
Ballenger	Goodlatte	Norwood
Barr	Goodling	Nussle
Barrett (NE)	Goss	Oxley
Bartlett	Graham	Packard
Barton	Greenwood	Paxon
Bass	Gunderson	Petri
Bateman	Gutknecht	Pombo
Bereuter	Hall (TX)	Porter
Bilbray	Hancock	Portman
Bilirakis	Hansen	Pryce
Bliley	Hastert	Quillen
Blute	Hastings (WA)	Quinn
Boehlert	Hayworth	Radanovich
Boehner	Hefley	Ramstad
Bonilla	Heineman	Regula
Bono	Herger	Roberts
Brownback	Hilleary	Rogers
Bryant (TN)	Hobson	Rohrabacher
Bunn	Hoekstra	Roth
Bunning	Hoke	Roukema
Burr	Horn	Royce
Burton	Hostettler	Salmon
Callahan	Houghton	Sanford
Calvert	Hunter	Saxton
Camp	Hutchinson	Scarborough
Canady	Hyde	Schaefer
Castle	Inglis	Schiff
Chabot	Istook	Seastrand
Chambliss	Johnson (CT)	Sensenbrenner
Chenoweth	Johnson, Sam	Shadegg
Christensen	Jones	Shaw
Chrysler	Kasich	Shays
Clinger	Kelly	Shuster
Coble	Kim	Skeen
Collins (GA)	King	Smith (MI)
Combest	Klug	Smith (TX)
Cooley	Knollenberg	Smith (WA)
Cox	Kolbe	Solomon
Crane	LaHood	Souder
Crapo	Largent	Spence
Cremeans	Latham	Stearns
Cubin	LaTourette	Stockman
Cunningham	Laughlin	Stump
Davis	Lazio	Talent
Deal	Leach	Tate
DeLay	Lewis (CA)	Taylor (NC)
Dickey	Lewis (KY)	Thomas
Doolittle	Lightfoot	Thornberry
Dornan	Linder	Tiahrt
Dreier	Livingston	Torkildsen
Dunn	LoBiondo	Upton
Ehlers	Longley	Vucanovich
Ehrlich	Lucas	Walker
Emerson	Manzullo	Walsh
English	Martini	Wamp
Everett	McCollum	Watts (OK)
Ewing	McCrery	Weldon (FL)
Fawell	McDade	Weller
Fields (TX)	McHugh	White
Flanagan	McInnis	Whitfield
Foley	McIntosh	Wicker
Fowler	McKeon	Young (AK)
Franks (CT)	Metcalf	Young (FL)
Franks (NJ)	Meyers	Zeliff
Frelinghuysen	Mica	Zimmer
Frisa	Miller (FL)	
Funderburk	Molinari	

NOT VOTING—25

Ackerman	Jefferson	Rush
Buyer	Lantos	Sisisky
Coburn	Lipinski	Torricelli
de la Garza	McDermott	Tucker
Durbin	Menendez	Waldholtz
Fields (LA)	Moakley	Williams
Ford	Mollohan	Wolf
Furse	Parker	
Hall (OH)	Reynolds	

□ 1651

Mr. STOCKMAN and Mr. MANZULLO changed their vote from "aye" to "no."

Mr. KINGSTON and Mr. MURTHA changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. PAYNE OF NEW JERSEY

Mr. PAYNE of New Jersey. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PAYNE of New Jersey: Insert after section 4 the following new section (redesignating section 5 as section 6):

SEC. 5. PROTECTION OF INVESTMENTS IN INFRASTRUCTURE IMPROVEMENTS

Nothing in this Act shall be construed as prohibiting the investment by an employee benefit plan (within the meaning of paragraph (3) of section 3 of the Employee Retirement Income Security Act of 1974) in infrastructure improvements.

Mr. PAYNE of New Jersey. Mr. Chairman, I have an amendment at the desk. Mr. Chairman, today we are here to target the working people in this country again, this time in the ability of the pension funds to make investments that take collateral benefits into consideration when plan fiduciaries are making investment decisions with pension contributions.

Economically targeted investments are any investments or assets that earn competitive risk-adjusted rates of return while also producing collateral benefits such as infrastructure revitalization, economic development, and job creation. To be sure, these components are integrally linked, because when there are jobs available, more money circulates back into the economy and stimulates economic growth.

My amendment simply states that employee benefit plans cannot be prohibited from considering infrastructure improvement and revitalization as part of their investment decisions.

I have sat here on many occasions this session listening to many of my colleagues talk about getting Government out of the lives of the people and today we are sitting here considering a bill that would immobilize the investment decisions of many pension plans. We also hear on one hand proclamations from the majority that individuals must be more personally responsible, but then on the other hand we remove the incentives that promote personal responsibility like job creation, and that's what 1594 does.

My amendment today would free the hands of plan fiduciaries because they would be allowed to consider infrastructure improvement as part of their decisionmaking process.

By providing billions of dollars for investment in American companies and infrastructure, ETI's serves as an economic catalyst while still offering competitive investment returns to pension plan participants and retirees.

Since I know everyone here is interested in the long-term economic health of our Nation and its retirement system, I urge my colleagues to support my amendment.

□ 1700

Mr. SAXTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would just like once again to make the observation that the opponents of this bill seem to be very anxious to avoid the key issue, and that issue is the underperformance of economically targeted investments. All of the amendments from the other side seem designed to distract attention away from the fact that ETI assets offer lower yields and more risk than normal investments. Thus, ETI's are especially inappropriate for pension investment.

Once again, I believe the amendment of my friend from New Jersey [Mr. PAYNE] is totally unnecessary. There is nothing whatsoever in the bill that prohibits or in any way inhibits pension fund managers from investing their funds for the purposes stated in the gentleman's amendment. Therefore, I think the amendment is unnecessary and I believe intended to cloud the issue.

To the issue of ETI's and their underperformance, I would point once again to four studies done to demonstrate this quite conclusively. The first one was done by Alicia Munnell, an employee of the Department of Labor nominated to the Council of Economic Advisors by the President, who concludes in a study and report that she has done that there is a differential of about a negative two points, 2 percentage points in the rate of return, on ETI's. Olivia Mitchell of the Wharton School comes to exactly the same conclusion, that ETI's underperform by about 2 percentage points. Marr, Nofsinger, and Low has a study showing it is worse than that, that ETI's underperform by 2.1 percent.

So in the interest of moving this process forward, and in the interest of protecting the rates of return for private pension participants and in the interest of keeping risk low, I would suggest that this amendment is unnecessary and that all Members should vote no.

Mr. MARTINEZ. Mr. Chairman, I rise in support of the Payne amendment.

Mr. Chairman, I will not take 5 minutes. I will try to be very brief because it is the same old thing. Collateral benefits, if you took the strictest interpretation of the fiduciary relationship, a pension manager would not be able to invest in collateral investments.

Under this law, it puts even a greater cloud to that kind of investment, not necessarily abroad, but here. The fact is that these are good investments. I cited earlier the case of GM. That was a collateral investment that returned not only to the company itself, but benefit to the employees of that company and especially those that it created jobs for, and it created certainly a great benefit to the beneficiaries of the pension fund.

That had to be approved by the Department of Labor and was approved by the Department of Labor, and not under Clinton's administration. But you keep bringing up this idea that somehow or another the Clinton administration is doing something different than what previous administrations have done, and therefore a need for this.

I think there are two things that have the other side hung up. The word "social," social programs, that somehow some of them equate to something nefarious or something that is not good, because it equates to socialism or something else, because it benefits somebody in a depressed neighborhood or such. That is the farthest thing from the truth.

The other thing is this idea of the fiduciary relationship or fiduciary responsibility that says the funds must be invested only for the benefit of the pension fund or the beneficiaries of that pension fund. If you really think about that for an instance, that is just taking it a little bit too literally. The fact is there is no investment made anywhere, anyplace, that somebody who is receiving the benefit of that investment does not receive a benefit, sometimes very great benefits, as in the case of GM.

I think the Payne amendment, trying to protect those kinds of collateral economic investments, is a very good one that is necessary to continue the kinds of work that have been successful, not the examples of the ones that have been unsuccessful. So many of the instances where they have been unsuccessful, the people actually violated the law in doing it, and still the law was there to try to protect against it and it did not. There is nothing in life that is so guaranteed that there is not going to be something that goes wrong once in a while. But you take a few instances and elaborate that to the greatest extent you possibly can to make the case you wanted to make for something totally unjustified, and in this case this is the case with this bill. I recommend the acceptance of the Payne amendment. At least it makes the bill a little more practical in regard to collateral investments.

Mr. PAYNE of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. MARTINEZ. I yield to the gentleman from New Jersey.

Mr. PAYNE of New Jersey. Mr. Chairman, the gentleman is absolutely right. The plan fiduciaries cannot even consider the investment also unless all things are equal. That is what makes this so scary. 1594 leaves a lot of ambiguity about the ability of plan fiduciaries to make these kinds of investments. I only seek to clarify, so that infrastructure improvements can be considered. ETIs are still subject to the prudent man standard as they have always been. So I would urge once again

that my colleagues support this amendment.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all I want to emphasize again the bill does not prohibit pension plans investment in ETIs of any kind. So it does not matter what it is. The bill does not prevent you from investing in those ETIs.

However, if you accept this amendment, then you create a negative implication for all other ETIs that we do not mention in the law. So every other ETI not mentioned in the law then becomes suspect. So if we are going to effectively prohibit any promotion of ETIs, either directly or by inference, then the bill cannot include specific reference to any particular type of plan investment.

The bill does not change the legal status of ETIs, so pension plans can continue to invest in infrastructure improvements if they want to, but it surely is inappropriate for Congress to be passing judgment on any particular type of pension plan investment. ERISA clearly and properly leaves it to the plan manager and the fiduciaries to determine whether an investment is prudent for that plan.

So let us not have a negative impact on ETIs simply because we single one out. Let us make very sure that we do not get in the business of determining as a Congress what are good or what are bad investments. That is up to the manager, as I indicated, and the fiduciaries, to determine, not us.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. PAYNE].

The amendment was rejected.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 6, insert after line 2 the following (and redesignate section 5 as section 6 accordingly):

SEC. 5. AUTHORITY OF DEPARTMENT OF LABOR WITH RESPECT TO INVESTMENTS IN THE CONSTRUCTION OR RENOVATION OF AFFORDABLE HOUSING UNITS.

Nothing in this Act (or the amendments made thereby) shall be construed as prohibiting the Department of Labor from issuing advisory opinions regarding the legality of investments in the construction or renovation of affordable housing units.

Mr. TRAFICANT. Mr. Chairman, I am not standing on the floor today saying the Republicans want to ship pension plan investment overseas, nor am I standing on the floor today saying that the Republicans want to send jobs overseas. These previous amendments talked about specific activities, such as nothing in the bill shall be construed as prohibiting pension plans from investment in infrastructure improvements.

The Traficant amendment does not in fact deal with a provision of the bill that would prohibit pension plan investment in housing. But I would like to have the attention of the other side of the aisle. My amendment deals with an advisory opinion on housing being given to someone who may invest or want to invest in the housing in the United States of America.

Let me say this: We need 4 million rental units minimum just to meet demand. I am not talking simply about low income housing here. I am talking about affordable housing, first-time home buyers. And the Traficant amendment says nothing in this act shall be construed as prohibiting the Department of Labor from issuing advisory opinions.

It does not say that investors have to invest in American housing or not. But it says nothing in the bill shall be construed as prohibiting the Department of Labor from interacting with a reasonable concern from some pension account who may want to invest in American housing.

Now, look, that is a significant difference here. I voted to roll back regulations in this country that have overburdened our economy and shipped jobs overseas. I think we have gone too far when a dog urinates in a parking lot and that it is deemed a wetland. But mine does not deal with the issue of investing in housing; it does deal with who has more information than the Department of Labor on, in fact, American domestic housing needs?

If a pension plan out there wants to make an investment in housing, in a development in Dallas, in a condominium for senior citizens in Colorado, and they want information, nothing in this bill should be construed as in fact prohibiting the Department of Labor from giving them an opinion relative to that concern.

This is a reasonable amendment here, unless the Congress of the United States is saying look, do not worry about housing, the Congress of the United States and taxpayers are going to take care of housing. I am talking about a specific need. I am talking about an advisory opinion. I am not talking about a limitation that the bill speaks to on housing.

My amendment is not ill-intended. I do not think that we can afford to have fiduciaries guessing if they will get sued each time they are interested in investing in constructing housing in this country.

This is a reasonable amendment, and let me say this: The California Public Employees Retirement System funneled $375 million into construction of 32 first-time home buyer homes. The yields have already exceeded 20 percent return more than originally anticipated. The New York City Employees Retirement System invested in the construction of 15,000 affordable housing units. It is enjoying a return nearly 30 percent higher than its fixed income portfolio.

Housing investment trusts of AFL-CIO, $1.1 billion from 380 pension plans. If this trust was in fact publicly traded as a fixed income fund, it would rank as either No. 1 or No. 2 in the United States of America.

Folks, the taxpayer cannot afford all this housing. Mine deals with an advisory opinion to take some of the nebulous gray area out of some investment planner who would in fact call the Department of Labor seeking information.

Now, I think this is a reasonable amendment. It does not require a whole lot of animosity here or fanfare.

Mr. Chairman, I would ask for this reasonable amendment to be approved.

Mr. SAXTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would just make the observation that the opponents of the bill seem to be very anxious to avoid the key issue, the underperformance of ETIs. All of the amendments from the other side seem to be destined to distract attention away from the fact that ETI assets offer lower yields and more risk than normal investments; thus, ETIs are especially inappropriate for pension fund investments.

The bill as it stands does not in any way prohibit the Department of Labor from issuing advisory opinions.

□ 1715

Nor does it prohibit the Department of Labor, nor did it discourage domestic investment, nor did it encourage foreign investment, nor does it do any of the other things that these amendments purport that it does. This is just an attempt to divert attention away from the key issues. Those are the underperformance of ETIs and the additional risks posed by ETIs. I ask all Members to vote against this amendment.

Mr. FAWELL. Mr. Chairman, I move to strike the last word in opposition to the amendment.

If I can have the attention of my good friend from Ohio, I know that there is no better man in this Congress when he jumps on an issue to articulate his views. I think it is important that we make it clear that in the report language there is a statement that I think addresses precisely the point that the gentleman is understandably bringing forth. That is, and I quote: Nothing in the bill is intended to affect the ability of the DOL to issue advisory opinions, information letters, typical releases, prohibited transaction exemptions, or other pronouncements interpreting and applying ERISA fiduciary responsibility rules—and this is the important part—to particular factual situations or exempting specific transactions from the prohibited transaction provisions.

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We did not want it understood that when we were objecting to a specification of a broad class of investments, which is what ETI's are, that this did not mean that when someone, as for instance Jack Kemp, when he made the request to Secretary Dole for a specific advisory opinion, that is quite possible. We have made it, I think, very, very clear in the report language that it is possible. I would hope on that basis the gentleman would withdraw his amendment, because I think you can rest assured that in a circumstance where a specific investor wants to find out where his particular investment stands in the viewpoint of the DOL, he can get that advisory opinion.

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

Mr. FAWELL. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, the gentleman is not opposed to advisory opinions, but the legislative debate here today dealt with offshore investment of pension plan money, dealt with infrastructure; and the legislative history can be construed in many, many different ways.

I think ETI's applied to housing at times can be a little bit partisan here. Housing may not necessarily be an economically targeted investment in this country. I believe that it should be not in the report language but it should be part and parcel to the bill itself that treats such investment with such return on its merit.

Mr. FAWELL. Mr. Chairman, reclaiming my time, I would hope the gentleman would not do that, because, again, now he has in statutory form all the negative implications to others who might be seeking letters of opinion.

We want to make it very clear that any time someone has an economically targeted investment, and they believe that the adjusted returns are sufficient to justify that, and if there is any question, and a lot of your fiduciaries will have those questions, that they feel free that they can propound these requests for advisory opinions.

I think the amendment has the unfortunate consequence of putting in jeopardy all of those others unless we start specifying for every one. It has always been a power of the Department of Labor to issue specific advisory opinions. In fact, when President Reagan first spoke on the subject, it was on housing. It was a request for a specific opinion from the Department of Labor, which he was able to get. And we have made it clear that that is not being altered, should not be altered at all.

So I think there could be unintended consequences here, when it is, let us say, in other areas, in infrastructure or whatever, because they do not have specific statutory language, then you raise that negative implication.

Mr. TRAFICANT. Mr. Chairman, if the gentleman will continue to yield, taking that argument, if I were to accept that argument, why do we not just have, and I could rework my amendment to say that on the advisory opinion listed on a broad base in the report language that it shall be in fact incorporated in the text of the bill and take away such dubious nature and vagueness that would be involved and leave it not with just housing then but to satisfy some of the concerns people may have on this side? Take your report language that you say speaks to that intent and take that report language on the basis of our dialog here and incorporate it into the form of an amendment that in fact puts it into the text of the bill, not just the report language. If the gentleman will do that, I will withdraw my amendment, resubmit it in its general form, which would in fact incorporate the gentleman's report language into the text of the bill.

Mr. FAWELL. Well, all I can say is that the report language is one thing. It is full and complete, and the gentleman is talking about a major lifting of language and inserting it in the bill.

I do not think I could agree to that, but I can assure that what the gentleman are thinking about, individual factual opinions on a specific investment that is what we are talking about.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. FAWELL] has expired.

(By unanimous consent, Mr. FAWELL was allowed to proceed for 1 additional minute.)

Mr. FAWELL. Mr. Chairman, we do not want this construed to mean that there can be just generalized opinions. So I think it is something that ought to remain in the report language. And I repeat, I think if what the gentleman has is centered only upon housing, then all other ETI's would, I think, have a negative intention.

Mr. TRAFICANT. Mr. Chairman, if the gentleman will continue to yield, what I was saying is it would incorporate his language in the report language, not with its specificity towards housing but its general nature into the text of the bill. See, this side of the aisle is believing that if what the gentleman is saying cannot be affirmed by putting into the bill, then how strong is the intent of it listed in the report language?

So if in fact the bill itself would clarify that which is in the report language, what would be the major hurdle for us to handle? I can understand the gentleman saying housing would give the negative impact on something else or vice versa. But if we are saying the general intention of his report language being incorporated into the bill, how would it affect the gentleman's intentions?

Mr. MARTINEZ. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Well, there is the crux of the whole thing, and no one said it better than the distinguished gentleman from Illinois. He said report language is one thing, law is another. Report language has no force in law but law does prevail. If we go to section 2, paragraphs B and C, we will see where those two paragraphs actually preclude the Department of Labor from doing its job, of giving a definition on a particular project. They combine the two, and especially paragraph C, no officer or employee of the Department of Labor may travel, lecture or otherwise expend resources available to the Department for the purposes of promoting—and get this, because this is the key—directly or indirectly economically targeted investments.

So if a person writes in or calls or wants to find out about a targeted investment or something that might be considered a targeted investment, if they were to give an interpretation, somebody in the Department could take this language and make the definition: Well, I am directly and indirectly advising this person on it, so somebody could construe it is promoting that targeted investment.

The bill is badly written. Now, they may have wanted in that paragraph C to restrict them from traveling and lecturing and otherwise expending resources, but I doubt very much that they really wanted to handcuff them from being able to give an opinion on a particular project, but that is what they do, in effect. That has been the crux of the whole thing.

Mr. Chairman, the legislative bulletin did nothing like that except make it clear to people what they would be getting into and what were the definitions of the law. I would support it for all the reasons that the gentleman from Ohio has stated: the tremendous need for housing in this country. The fact is that most real estate investments wisely done, wisely built are great money makers.

I know a lot of people in this Congress itself that have made investments towards retirement in real estate. I certainly have because I know it is a serious return on your money. Regardless, under this legislation the way it is written now, they will not be allowed to make those kinds of investments or at least interpret for an individual whether that investment would be a legitimate investment or not.

That is why I think it is paramount we adopt at least the amendment of the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent to withdraw the pending amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. FAWELL. Reserving the right to object, Mr. Chairman, I am not quite sure what is happening here.

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

Mr. FAWELL. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, I plan to offer an amendment in its general form that would say nothing in the act shall be construed as prohibiting the Department of Labor from issuing advisory opinions regarding the legality of investments, period. That would in fact incorporate the intent of the report language into the text of the bill showing that we are concerned about one specific aspect which may, in fact, limit another. I am prepared to withdraw on the strength of the gentleman's intent and would simply reinforce his report language into the bill in general terms.

Mr. FAWELL. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

PARLIAMENTARY INQUIRY

Mr. TRAFICANT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. Mr. Chairman, is this an open rule or is it not?

The CHAIRMAN. It is.

Mr. TRAFICANT. Mr. Chairman, after this vote is evidently taken, I can reoffer another amendment, or is that precluded by some aspect of the rule?

The CHAIRMAN. An amendment otherwise in order may be offered.

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent, again, to withdraw the pending amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

□ 1730

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 6, insert after line 2 the following (and redesignate section 5 as section 6 accordingly);

SEC. 5. AUTHORITY OF DEPARTMENT OF LABOR WITH RESPECT TO INVESTMENTS.

Nothing in this Act (or the amendments made thereby) shall be construed as prohibiting the Department of Labor from issuing advisory opinions regarding the legality of investments.

Mr. TRAFICANT. I would like to explain this, Mr. Chairman, because I believe the gentleman only has a partial draft.

Mr. Chairman, there are two discussions here on the House floor occurring simultaneously. The Democrats are saying that we do not trust the intent of the legislative initiative. The Democrats are saying that the bill is not needed if we look at the law. The Republicans are saying, "We have handled your intentions. We have no intent to screw anybody, give anybody the shaft, but we are taking care of that in the report language."

We agree that we do not want to ship money overseas, we agree that we do not want to prohibit investments in infrastructure, we agree that we do not want to, in fact, stop with at least giving advisory opinions on some of these things. But if we, in fact, highlight one, then the myriad of others brings an evil connotation, that Darth Vader is going to come in and take away our freedom.

What this amendment says is this takes the intent of the legislation that is listed in some report language and puts that general intent right into the text of the bill and clarifies it. It says,

Authority of the Department of Labor with respect to investments: Nothing in this act shall be construed as prohibiting the Department of Labor from issuing advisory opinions regarding the legality of investments.

If that is what I have heard the gentleman state, then this basically reinforces the intent of the report language.

I would like to have the attention of the majority side here, because I think I am talking to Peoria, IL. I think we can come to some understanding on this. If what the gentleman from Illinois was saying is: Look, we have no problem with your amendment, TRAFICANT, the only thing is it is already listed, because you are dealing with advisory opinions, and we are not trying to kill advisory opinions; but we do not want to highlight housing, because if we say yes to housing it will give the connotation that all these other things are in fact prohibited or they cannot give opinions on them, because they are not listed.

Therefore, what we do is, in general terms, take the intent of your report language, put it in the bill, so if somebody wants to call the Department of Labor about infrastructure investments, they are going to get an advisory opinion. If they want to call about American versus foreign investment or want some materials, they can get an opinion.

My amendment deals with the advisory opinion of the Department of Labor. My amendment attempts to, in fact, incorporate the text of the bill. My amendment clarifies, rather than leaves open a vague or nebulous connotation on either side, depending on what partisan flag people are flying here.

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

Mr. TRAFICANT. I yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Chairman, this is a good example, I think, of people trying to, in good faith, have an understanding. The ERISA law is very arcane. It is important to understand that the DOL does issue advisory opinions, but they do not issue advisory opinions that can tell a fiduciary that the particular transaction is or is not legal. They do not give an opinion on the legality. The fiduciary will have personal liability, if indeed it turns out that a particular investment did not meet the various standards of the prudent man rule and all the case law that goes with it. So that what the gentleman is setting forth here is not what is in the report language.

The report language was very carefully drawn to be able to continue the opinions which over the years the Department of Labor does give in reference to prohibited transactions, in matters such as that. However, I repeat, it is not so easy that they can just simply say, "Mr. TRAFICANT, in regard to your particular private pension plan and your desired investment over here, we can tell you it is legal or it is not legal."

Therefore, I cannot agree to this amendment. I wish we could have gotten together sooner.

Mr. TRAFICANT. Reclaiming my time, I think what is bothering the gentleman is the words, "the legality of investments." Is that the gentleman's concern?

Mr. FAWELL. Certainly in regard to the word "legality."

The CHAIRMAN. The time of the gentleman from Ohio [Mr. TRAFICANT] has expired.

(By unanimous consent, Mr. TRAFICANT was allowed to proceed for 2 additional minutes.)

Mr. TRAFICANT. Mr. Chairman, nothing in this act shall be construed as prohibiting the Department of Labor from issuing advisory opinions regarding investments.

Mr. FAWELL. Unfortunately, and I do not mean to be troublesome here, if the gentleman will continue to yield.

Mr. TRAFICANT. Reclaiming my time, I am going to ask a direct question: What would the intent of the Traficant amendment be that is germane, that would be so much different from the intent of the gentleman's report language? Could the gentleman specify?

Mr. FAWELL. The report language is very careful to refer to those kinds of activities by the Department of Labor in regard to technical releases, prohibited transactions, exemptions, in any number of areas. I cannot say that I am such an expert on the subject that I can fully give an explanation.

Mr. TRAFICANT. Reclaiming my time, though, with the gentleman's report language in its specificity, would not, in fact, the specificity of the report language completely delineate the intent of incorporating this general amendment into the text of the bill, to establish the gentleman's intent? How in God's name, after the report language is listed in the bill, could this

general type of an amendment dealing with intent be so impacted?

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

Mr. TRAFICANT. I yield to the gentleman from California.

Mr. MARTINEZ. Mr. Chairman, it would seem to me that the intent here is not to have that part of the report language play any effect on what the Department of Labor does, because I know the gentleman from Illinois [Mr. FAWELL] has been here long enough to understand that the report language does not carry any force in law, but that the law prevails over what is written in the report language.

That being the case, we have opened Pandora's box to the Department of Labor being able to issue these opinions and legislative bulletins to individuals who request them on what the status of an investment is that they would make, whether it would be in keeping with the fiduciary relationship that they have or not, and that is what they are trying to prohibit in this whole piece of legislation. What the gentleman has done is asked them to put their money where their mouth is, and they will not do it.

Mr. TRAFICANT. Yes.

Mr. MARTINEZ. Mr. Chairman, I move to strike the requisite number of words.

As I was saying, the gentleman has asked them to put their money where their mouth is and they have refused to do it, which shows the clear intent of this legislation and why this legislation is not necessary. They are going to do it because they have the votes, but it is not necessarily going to be right.

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

Mr. MARTINEZ. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, to our distinguished ranking member, if, in fact, the Traficant amendment removes the legality of, and leaving it general, would not the general aspect of the Traficant amendment in the bill be further clarified and fortified by the support language of the report?

Mr. MARTINEZ. What the gentleman has done in essence in his amendment is negated the need for my neutrality amendment which I was going to offer later, and my amendment would allow the Department of Labor to offer these interpretations and opinions, which is their duty and responsibility.

What the gentleman actually has done is summed it up in a more clear way so it would be more universal to all of the problems that arise when people are trying to make these kinds of decisions, but do not want to be in violation of any law or in violation of ERISA. What the gentleman has done, what they have tried to do in their legislation, created the inability of the Department of Labor to promote or to actually go out and try to push, as they say they would do, which I do not believe, but the gentleman has prevented them from doing that in this legislation. But he has still allowed them to carry out their duties, their functions, and their responsibilities.

Mr. TRAFICANT. If the gentleman will continue to yield, the managers of the bill said "Look, we are not against this advisory opinion on housing, but if we specify housing, bang, you are going to give a connotation to this everything else." Now you come back and say "Look, you are changing the tone of this by the inclusion of the words 'advisory opinion on the legality of.'" If, in fact, "the legality of" is removed, would it not, in fact, give the general focus and intent of the bill's report language clarified in the text of the bill and then fortified by the support language of the report? In other words, what I am saying is I can understand the gentleman's position on "the legality of," and it does deal now with the specific set of legal parameters. That I can understand.

However, with that removed, even though that is not the pending amendment, I cannot in any form or fashion understand a continued debate on this issue.

Mr. MARTINEZ. Taking back my time, Mr. Chairman, what I think the gentleman has done is accomplished a great deal in his amendment. I am not sure that they will accept it, but the fact is that if we do this, without that specific legality language in there, we eliminate a whole lot of problems for a whole lot of people, including them. The thing is that I still believe that this legislation is erroneous in its concept, in its assumptions, and they have taken in a few isolated instances where there have been pension funds invested improperly and tried to run that into a whole new concept and find problems with the interpretive bulletin.

If they find problems with that, this is something that allows the Department of Labor to do what they intended to do with the interpretive bulletin but still allows them do it in a way that makes them happy, with the department remaining neutral in its promotion of ETI's.

Mr. FAWELL. Mr. Chairman, I rise to oppose the amendment. I am not sure just what it is now.

Mr. Chairman, as it is right now, I gather we are saying that nothing in the act shall be construed as prohibiting the Department of Labor from issuing advisory opinions. That is obviously so wide open, or advisory opinions regarding the legality of investments, and I am not sure which one it is, but I gather it is the latter regarding the legality of investments. That is a power that the DOL does not have right now.

I would not want to accept it at this point. It may be that down the road we could work out some language. If the gentleman took that off, then we just open it up to any advisory opinion that might be involved. I think that I cannot accept what is before me right now. I would regretfully have to oppose the amendment. I would hope we could have a meeting of the minds. I do not think that it is necessary when we have specific factual situations. There is a pretty well-recognized route whereby the DOL has this ability to get informational letters, technical releases, prohibited transactions, exemptions. But I am not going to wade around in that law at this hour of the day here on the floor, when I say to the gentleman from Ohio, who is a good friend of mine, I just would not want to try to do it right now.

I will say to him, I will do everything I can to see that his concerns are taken care of if he feels that that report language is not sufficient, if and when it does come into a conference committee, but this is not the right time. I do not feel, based on my knowledge of all of the aspects of that terribly arcane statute known as ERISA, that I would want to just say at this point that I could accept this amendment.

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

Mr. FAWELL. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, I ask unanimous consent that the amendment be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Nothing in this act is intended to affect the ability of the Department of Labor to issue advisory opinions, information letters, technical releases, prohibited transactions, exemptions, or other pronouncements interpreting and applying ERISA's fiduciary responsibility rules to particular factual situations, or exempting specific transactions from the prohibited transaction provisions of ERISA (pursuant to 29 U.S.C. §§ 1106, 1108).

Mr. TRAFICANT. Mr. Chairman, I have a report, together with minority and additional views. I want to read the language.

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

Mr. TRAFICANT. I yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Chairman, I gather this is a direct copy of the language to which I made reference.

Mr. TRAFICANT. Word for word. It would be incorporated into the text of the bill.

Mr. FAWELL. We can accept that, Mr. Chairman.

Mr. TRAFICANT. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

□ 1745

AMENDMENT OFFERED BY MR. HINCHEY

Mr. HINCHEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HINCHEY: Insert after section 4 the following new section (redesignating section 5 as section 6):

SECTION 5. PROTECTION OF DOMESTIC INVESTMENTS.

Nothing in this Act shall be construed as prohibiting the investment by an employee benefit plan (within the meaning of paragraph (3) of section 3 of the Employee Retirement Income Security Act of 1974) in domestic investments, as distinguished from foreign investments. The Secretary of Labor shall take such actions as are necessary to encourage domestic investments by pension plans to the extent that such investments are in conformity with the requirements of the Employee Retirement Income Security Act of 1974.

Mr. FAWELL. Mr. Chairman, I reserve a point of order. We have no copy of this amendment and I have no knowledge of what the contents are.

The CHAIRMAN. The gentleman reserves a point of order.

Mr. HINCHEY. Mr. Chairman, this country has a major problem. It has a major domestic investment deficit. The domestic investment deficit has been established to be as high as $1 trillion a year. That is the primary reason why we are seeing a decline in the standard of living of the American people, why we are seeing a decline in job opportunities, and why we are seeing a decline in the purchasing power of American working men and women. The investment deficit needs to be corrected. Unfortunately this Congress is going to the opposite direction. The majority party in the House of Representatives, not content with slashing and burning every domestic investment program that this country has, exacerbating the economic difficulties of the Nation, they are not content with that, now what they want to do by this bill is to place in jeopardy every investment trustee who would consider making an investment in a domestic program that has some positive social consequences.

Already the problem of investment in these pension plans is causing us difficulty in that it is siphoning funds that ought to be invested here in the United States to be invested outside of our country overseas.

We have heard some talk about ETI's. The ETI's, targeted investment, amount to only about $30 billion. Juxtaposed against that is the fact we have $150 billion out of pension funds invested overseas now. If the bill in chief passes without the proper amendments, that problem is going to be made immeasurably worse. We will see pension trustees fearful of being challenged on their investments here in this country, domestic investments that have positive social consequences. I am talking about things like housing, first home mortgage buyers, medical clinics, basic infrastructure. They will be cowed by the language in the bill in chief from making those kinds of investments and they will find it much easier to target those investments overseas where they are not so constrained by the language in this bill.

What I am seeking to do here basically is to take the language in the amendment that was offered by the gentleman from Texas, Mr. GENE GREEN, some time ago and modify that amendment to say as follows:

The Secretary of Labor shall take such actions as are necessary to encourage domestic investments by pension plans to the extent that such investments are in conformity with the requirements of the Employee Retirement Income Security Act of 1974.

The language in this amendment is perfectly consistent with the provisions of ERISA, perfectly in tune with the protections that are enshrined in the law currently with ERISA.

We have been told that there is nothing in the bill that prevents these kind of ETI investments currently being made, that the bill does not prevent that. I am skeptical about that and I think that that skepticism was reflected by a large number of the Members of this House by a vote that was had here earlier this afternoon.

Nevertheless, whether or not that is the intention, unquestionably that is the effect. The effect of this bill, if it passes, the bill in chief, will be to send a message to every pension trustee, telling them that if they want to invest in their home community, if they want to put money into housing in their town, if they want to put money into improving the water supply distribution system in their community, if they want to improve the sewage treatment plant and clean up the water supplies in their area, if they want to provide medical facilities for the people in their towns, in their communities, they had better think twice about doing it because those investments are socially sound and they have positive social value. This bill, the bill in chief, would impinge upon their ability to do that and it would have the effect of taking that money and investing it overseas.

If it is true, as the sponsors of the bill have told us, that they have no intention of siphoning money that ought to be invested domestically and having that money invested overseas, if it is true that what they have said, that they have no intention of taking money from these targeted investments in needed domestic improvements, if that is true, if they do not want to make it difficult to do that, then what I am trying to do is make it easier for them. All they have to do is accept this language, and the language here in the amendment is perfectly consistent with all the safety provisions in ERISA and I think consistent with what I have heard from some of the people on the other side of the aisle.

Mr. SAXTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would once again make the observation that the opponents of the bill are extremely anxious to avoid the real issues here and, of course, those issues are the underperformance of ETI's. ETI's simply do not have the kind of return that pension plans that invest in non-ETI's have. This administration has people residing in it who are in responsible places who know these issues, who claim that, as we do, that the ETI-type investments generally promote or have associated with them rates of return that are approximately 2 percent less than non-ETI types of pension fund investments. So all of the amendments from the other side to date have been designed to detract attention away from the fact that ETI assets offer lower yields and more risk than normal investments. Thus ETI's are especially inappropriate for pension fund investments.

I hesitate, but I guess somebody ought to point out here that in addition to that, the major thrust of our bill is to take away from the Department of Labor the authority, or the position that they are currently in, to advocate for any type of investment. That is what the clearinghouse is all about. It is set up to advocate for a special class of investments. This amendment would advocate for another special class of investments.

Let me just point out that I think any responsible pension fund manager in the United States of America, given two investments that look like they are approximately of equal caliber, one being domestic and one being foreign, I would certainly hope that any responsible person finding themselves in that position, with American workers' money entrusted to them, would make the domestic investment. But we are certainly not going to accept an investment that once again puts in the lap of the Department of Labor the responsibility of advocating for this new special type of investment.

Let me point out also that it is also the responsibility of the pension fund manager, pursuant to the ERISA law, to act solely and completely in the best interest of the participants in the pension plan. Most pension fund investors, as you have seen by your own charts and by your own data that you have brought out, from time to time find it necessary to diversify and on some occasions they make investments in foreign types of investments that happen to have a rate of return that they believe is in the best interest of the participants in the plan.

So it is not in the purview of the Department of Labor to intervene in these instances. It is in the purview of

the responsibility of the pension fund manager to make those kinds of decisions. That is part of the free enterprise system and it is not for Secretary Reich or his employees or anybody else to meddle in those types of decisions. Your amendment, sir, gives Secretary Reich not only the right but the responsibility to carry out those kinds of incentives.

The second point I would like to make with regard to the position that you present has to do with the net flow of capital into and out of the United States. I pointed this out before. This publication which is put out by Council of Economic Advisors called Economic Indicators points out very clearly that there is a net flow of $151 billion in the most recent year reported, 1994, into the United States of America. It has been so increasingly over the last 5 or 6 years, bottoming out with only $7 billion in 1991 and once again we are back up to $151 billion.

So the fact of the matter is that the net flow of assets, of capital assets, is into the United States, not out of the United States as the gentleman would try to confuse some members of the public by bringing forth this amendment.

I think that once again these amendments are a series of amendments which are designed to divert attention away from the real issues here. The real issues are in keeping with the intent and the literal language of the ERISA law which requires pension fund managers to act solely and completely for the best benefit of the participants in the pension plan. The underperformance of ETI's by virtue of a full 2 percent and the additional risk posed by ETI's and the decisions thereby made by pension fund managers with regard to ETI's are certainly not in keeping with the spirit or the letter of the law.

Mr. MARTINEZ. Mr. Chairman, I rise in support of the amendment.

The gentleman who just spoke would like Members to believe that all ETI's are bad investments. That is not true. We have illustrated and we have given examples of ETI's that are very successful and very profitable for the pension beneficiaries.

The gentleman is saying over and over again that that is the issue. That is not the issue, because the real issue is whether or not those that were bad investments were advisable under the law or permissible under the law. They were neither permissible nor advisable under the law, and that has not changed in anything done by the interpretive bulletin, but he chooses to ignore that and keep coming back to the same rhetoric.

The fact is that the majority here wants to mismanage the Department of Labor. In fact in this new Congress they want to mismanage every part of the Government, including the administrative branch, and we will probably next get into the judicial branch. I do not think that is the answer.

The gentleman from New York [Mr. HINCHEY] is to be commended for his amendment, and I will tell why. I would have offered a stronger amendment. I would have offered an amendment that says that no American worker's pension fund that he earned here in the United States could be invested in any foreign investment because, as earlier was said by the gentleman from Ohio [Mr. BROWN], those dollars go abroad in investments there that create products that come back to steal our markets, and to create jobs and economy over there to rob people of jobs here.

I would have said the gentleman's amendment is a very weak amendment really, because my amendment would have said no American pension dollars from American workers could be expended anywhere else, in any foreign country; it had to be expended here for investment here, to realize our economic benefit rather than that of someone abroad.

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

Mr. MARTINEZ. I yield to the gentleman from New York.

Mr. HINCHEY. Mr. Chairman, I would just like to point out to the ranking minority member something that he knows, and that of course is that we knew that a stronger amendment would not stand any chance of passage or being accepted by the other side of the aisle. It was our hope that this amendment, as moderate as it is, and as in keeping with ERISA as it is and all the protections and provisions of ERISA as it is, would be accepted. But they are apparently so zealous in their desire to prevent pension funds from being invested in domestic programs, so desirous of seeing that money, if it has to go overseas rather than being invested here in this country, that they are even opposing this very moderate amendment.

□ 1800

Mr. MARTINEZ. Reclaiming my time, I agree with the gentleman that this is a reasonable amendment as it is offered, but there have been several reasonable amendments that have been offered; none of them accepted. The intent of this legislation should be clear to everyone.

Mr. KNOLLENBERG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been sitting here, obviously, as many of us have, listening to the debate and there seems to be a recurring theme that comes from the other side of the aisle.

I do not challenge their honesty and integrity about bringing forth the argument. I have heard the words used over there "hung up" or "ambiguous." There is an ambiguity about what we are saying. There is a misunderstanding.

Mr. Chairman, I have misunderstood some of the direction over here as well, but there is one thing that we have to keep coming back to. This is repetitious. You have heard it before. Nothing like singing the same thing over and over. But the Saxton bill does not prohibit investing in ETI's. There is no prohibition or language or sentence or phrase that refers to that.

The only thing that I can tell my colleagues, though, is that the DOL, the Department of Labor interpretive bulletin does promote investments in ETI's and that is where I think the hangup or the problem is.

If my colleagues want some proof of the fact that they are promoting it, think about this for just a little bit. They are spending, the administration is spending $1 million to establish a clearinghouse to produce, I heard, a variety of things. I heard a list, which is probably is. But it is a somewhat sanctioned grouping of names of investments that are satisfactory, all of which happen to be ETI's. That is No. 1.

No. 2, they are sending the Assistant Secretary around who is actively promoting and I understand spending 10 percent of her time promoting ETI's. That is proactive.

No. 3, there has been talk, and not just talk, but indications of inappropriate pressure that have been put on the pension managers.

Let me tell my colleagues something about pension managers. They are not blocks of wood. They do assess, they analyze, they scrutinize, they weigh, and look at what is best for their pension beneficiaries. It might be an investment in Lebanon, IN, or Lebanon, PA, or it may be overseas, but it may be in the heart of their own hometown. They look at all sides of the equation; not just one.

Mr. Chairman, I remind my colleagues that one of the reasons that ETI's do have to be scrutinized more closely is because the Department of Labor itself has acknowledged, my friends on the other side of the aisle want to call them social investments. Fine, but these ETI's, I will call them ETI's, I have called them PTI's, politically targeted investments, but the ETI's are less liquid. They require more expertise to evaluate. They require a longer period of time to generate significant investment returns.

Mr. Chairman, I am not a pension investment manager. I think I am average in terms of those kinds of things. But if those were the words that I read, it would have a great deal of impact on what I would do in terms of investing, even as an individual. And pension mangers, as I say, are not blocks of wood. They do weigh all of this.

The problem of this bill is that it addresses the promotion of ETI's. And,

frankly, that is something that is very contrary to its charge as the Nation's pension watchdog. So, I am just suggesting that if there is some confusion or misunderstanding, it has to be, I believe, over that very issue. That the Saxton bill does not preclude investment in any of those arenas, any of those areas.

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

Mr. KNOLLENBERG. I yield to the gentleman from New York.

Mr. HINCHEY. Mr. Chairman, I am glad that the gentleman from Michigan [Mr. KNOLLENBERG] is attempting to clear that up for us, because that is exactly what we are trying to do here.

It has been said, for example, that these ETI's are bad investments. As a matter of fact, ETI's in California and New York are actually performing better than the market. So, they can be very, very profitable investments indeed.

But we are not trying to force anyone into anything. We are not trying to say that anyone should go into an ETI or anything of that nature. All this amendment says is to the extent that it is possible, the Secretary of Labor shall take whatever action he deems necessary, consistent with the protections and provisions of ERISA, to try to ensure that these funds are invested domestically; that they are invested here in this country and the needs of this country, so that we can create jobs for our people and increase their standards of living and increase their buying power, which has been shrinking for the better part of 20 years. That is all this amendment says. Just invest the money here in this country domestically.

Mr. KNOLLENBERG. Mr. Chairman, reclaiming my time, those are good, solid suggestions about what you want to do, but here is what bothers me a great deal.

The CHAIRMAN (Mr. EMERSON). The time of the gentleman from Michigan [Mr. KNOLLENBERG] has expired.

(By unanimous consent, Mr. KNOLLENBERG was allowed to proceed for 2 additional minutes.)

Mr. KNOLLENBERG. Mr. Chairman, I want to look at this aspect of it since, in the judgment of the gentleman from New York [Mr. HINCHEY], the Department of Labor's directive does not preclude investment in ETI's, and since the bill of the gentleman from New Jersey [Mr. SAXTON] does not preclude or prohibit or in any way challenge the investment in ETI's, why is there any need for an amendment?

Mr. HINCHEY. Mr. Chairman, if the gentleman would continue to yield, I think it is very clear. We want the investment trustees to have as much latitude as possible to act in the context of their lights in the best interests of the people they represent in their pension system.

We want them to do it insofar as it is consistent with all the protections and provisions in the law in a way that is going to promote economic growth and development in this country, because that too is in the best interest of the pensioners, potential pensioners, the investors in that pension system.

To the extent that we can grow this economy and marshal our investment in ways that produce growth and create income, we are benefiting everyone in the economy. That is what we are trying to do with this amendment, because it is not clear in the bill that that would be allowed.

Contrarily, if I may, the bill indicates that the trustees, if they do that in a way that is socially just, they will be imperiled.

Mr. KNOLLENBERG. Mr. Chairman, reclaiming my time, we do not need the amendment, because we have not precluded investment in any domestic activity.

The CHAIRMAN. Does the gentleman from Illinois [Mr. FAWELL] insist upon his point of order? He had reserved a point of order.

Mr. FAWELL. Mr. Chairman, I withdraw my reservation of a point of order on the amendment.

Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise, briefly, in opposition to the amendment. There is just one point that I think I can add that might be of help. It seems to me that we have come full circle now. We have legislation which was introduced which basically was aimed at proscribing the Department of Labor from being able to go out and promote and hype, spend millions of dollars toward being able to have a clearinghouse, et cetera, et cetera, to encourage ETI's.

We did not outlaw ETI's, but we simply said that they are a part of the investment area, but nobody has to do it, especially the entity which is the regulator and is supposed to be the watchdog for proper investments. That is not appropriate for the Department of Labor to be doing that.

Mr. Chairman, now what do we get here? We now say that the Secretary of Labor shall take such actions as are necessary, anything in his discretion, to encourage domestic investments, which means obviously of course ETI's, which may have the main emphasis of social investments. And he can, if it is in his discretion, it could be with affirmative action, it could be goals, timetables, it could be quotas, the whole shooting match.

Well, I will give the gentleman from New York [Mr. HINCHEY] credit. I do not want to take up a whole lot of time, but to me, the gentleman has surpassed the basic problem that this bill is here to try to rectify. Mr. Chairman, I think that it is not a very good amendment and should be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. HINCHEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. HINCHEY. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to the order of the House of today, further proceedings on the amendment offered by the gentleman from New York [Mr. HINCHEY] will be postponed.

The point of no quorum is considered withdrawn.

The CHAIRMAN. Are there further amendments?

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

Mr. MARTINEZ. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. MARTINEZ: Strike all after the enacting clause and insert the following:

SECTION 1. SENSE OF THE CONGRESS.

It is the sense of the Congress that the Department of Labor, as the principal enforcer of fiduciary standards in connection with employee pension benefit plans and employee welfare benefit plans (as defined in paragraphs (1) and (2) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1), (2))), should remain neutral regarding economically targeted investments.

SEC. 2. PROHIBITIONS ON DEPARTMENT OF LABOR REGARDING ECONOMICALLY TARGETED INVESTMENTS.

(a) IN GENERAL.—Interpretive Bulletin 94–1, issued by the Secretary of Labor on June 23, 1994 (59 Fed. Reg. 32606; 29 C.F.R. 2509.94–1), shall be interpreted so as to neither advocate nor discourage economically targeted investments.

(b) RESTRICTIONS ON DEPARTMENT OF LABOR REGULATIONS.—The Secretary of Labor may not issue any rule, regulation, or interpretive bulletin which promotes or otherwise encourages, or which discourages, economically targeted investments as a specified class of investments.

(c) RESTRICTIONS ON ACTIVITIES OF THE DEPARTMENT OF LABOR.—No officer or employee of the Department of Labor may travel, lecture, or otherwise expend resources available to such Department for the purpose of promoting or discouraging, directly or indirectly, economically targeted investments.

(d) CONTINUED AUTHORITY OF SECRETARY.—Nothing in this section shall be construed to preclude the Secretary of Labor from offering advice in response to requests as to the appropriateness under the Employee Retirement Income Security Act of 1974 of particular investments or investment strategies.

(e) ECONOMICALLY TARGETED INVESTMENT DEFINED.—For purposes of this section, the term "economically targeted investment" has the meaning given such term in Interpretive Bulletin 94–1, as issued by the Secretary of Labor on June 23, 1994 (59 Fed. Reg. 32606; 29 C.F.R. 2509.94–1).

SEC. 3. EFFECTIVE DATE.

The preceding provisions of this Act shall take effect on the date of the enactment of this Act.

Mr. MARTINEZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MARTINEZ. Mr. Chairman, my amendment is an amendment in the nature of a substitute to the bill and is designed to achieve complete neutrality on the part of the Department of Labor, much as the bill that we are considering now says it claims to do or claims that it wants to do.

Mr. Chairman, my bill clearly states that the interpretive bulletin is not to be interpreted as either encouraging or discouraging investments in ETI's. Further, it prevents the Department from taking a position either in favor of ETI's or against them as a matter of investment strategy.

It does preserve the requirement that the Department of Labor respond to specific inquiries from investment managers and employee benefit plans with respect to any investment strategy, solely in order to ensure that the opinions of legality under ERISA may continue to be rendered as they have been since ERISA was first implemented a generation ago.

Finally, my amendment in the nature of a substitute prohibits expenditures by the Department of Labor which are made with the purpose of either discouraging or encouraging investments in ETI's.

Mr. Chairman, I urge the adoption of this amendment, because it truly is a neutrality amendment; one that answers any of the reasons given for the bill in the first place. Yet, my amendment has the benefit of ensuring that the investment community is able to take whatever action it deems necessary with respect to investment strategies.

Under the bill as brought to the floor today, I am advised that this is not the case. The bill we are presented with will result in litigation by any party disgruntled with any investment for the sole reason that the investment can have a collateral benefit.

My amendment ensures that the investment manager is the one who considers the investment, not an outsider, and that the investment manager is not subject to "Monday morning quarterbacking" with respect to those decisions.

Mr. Chairman, I offer this amendment in the hopes that it would be accepted. I do not fool myself. I am fully prepared for what will ensue.

Mr. SAXON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, once again we have another in a series of amendments that is intended to divert attention from the underlying issue under consideration here, and that is the underperformance of ETI.

Mr. Chairman, ETI's historically have been shown to produce rates of return that are approximately 2 percent less than other good pension fund investments, and that is at a substantially higher risk.

I further oppose this amendment because in my opinion the substitute amendment's attempt to ensure DOL neutrality is unnecessary, since the bill simply makes clear that the law is as it was before the Department of Labor's decision to promote ETI's took place.

Under the bill as it currently stands, we negate the interpretive bulletin that Secretary Reich issued more than a year ago, which is the subject of a great deal of debate and has been ever since. We do away with the clearinghouse that was set up to promote economically targeted investments, because we believe that for the most part they are investments that should be viewed with a great deal of skepticism.

Third, we stop the sending of any Federal moneys to encourage ETI's through the Department of Labor or any other Federal department.

Mr. Chairman, this amendment is totally unnecessary, and I believe is intended to divert attention away from the real issues, which are the economics of how pension funds are invested.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. MARTINEZ].

The amendment in the nature of a substitute was rejected.

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

Mr. ANDREWS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. ANDREWS: Strike all after the enacting clause and insert the following:

SECTION 1. SENATE OF THE CONGRESS.

It is the sense of the Congress that the Department of Labor should apply the same fiduciary standards to economically targeted investments (as defined in Interpretive Bulletin 94-1, issued by the Secretary of Labor on June 23, 1994 (59 Fed. Reg. 32606, 29 C.F.R. 2509.94-1)) as are applicable to investments by pension plans generally under the Employee Retirement Income Security Act of 1974.

SEC. 2. EFFECT OF INTERPRETIVE BULLETIN 94-1.

Interpretive Bulletin 94-1 (referred to in section 1) shall be null and void to the extend it is construed to authorize investments which are in violation of the Employee Retirement Income Security Act of 1974.

SEC. 3. PROHIBITION ON FEDERAL AGENCIES AGAINST ESTABLISHING OR MAINTAINING ANY CLEARINGHOUSE OR OTHER DATABASE RELATING TO ECONOMICALLY TARGETED INVESTMENTS.

(a) IN GENERAL.—Part 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131 et seq.) is amended by adding at the end the following new section:

"PROHIBITION ON FEDERAL AGENCIES AGAINST ESTABLISHING OR MAINTAINING ANY CLEARINGHOUSE OR OTHER DATABASE RELATING TO ECONOMICALLY TARGETED INVESTMENTS

"SEC. 516. (a) IN GENERAL.—No agency or instrumentality of the Federal Government may establish or maintain, or contract with (or otherwise provide assistance to) any other party to establish or maintain, any clearinghouse, database, or other listing—

"(1) for the purpose of making available to employee benefit plans information on economically targeted investments,

"(2) for the purpose of encouraging, or providing assistance to, employee benefit plans or any other party related to an employee benefit plan to undertake or evaluate economically targeted investments, or

"(3) for the purpose of identifying economically targeted investments with respect to which such agency or instrumentality will withhold from undertaking enforcement actions relating to employee benefit plans under any otherwise applicable authority of such agency or instrumentality.

"(b) ECONOMICALLY TARGETED INVESTMENT DEFINED.—For purposes of this section, the term 'economically targeted investment' has the meaning given such term in Interpretive Bulletin 94-1, as issued by the Secretary on June 23, 1994 (59 Fed. Reg. 32606; 29 C.F.R. 2509.94-01).".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by inserting at the end of the items relating to part 5 of subtitle B of title I the following new item.

"Sec. 516. Prohibition on Federal agencies against establishing or maintaining any clearinghouse or other database relating to economically targeted investments.".

SEC. 4. TERMINATION OF CONTRACTS.

The head of each agency and instrumentality of the Government of the United States shall immediately take such actions as are necessary and appropriate to terminate any contract or other arrangement entered into by such agency or instrumentality which is in violation of the requirements of the provisions of this Act or the amendments made thereby.

SEC. 5. EFFECTIVE DATE.

The preceding provisions of this Act (and the amendments made thereby) shall take effect on the date of the enactment of this Act.

Mr. ANDREWS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FAWELL. Mr. Chairman, I reserve a point of order on the amendment. I am not aware of just what this amendment is all about.

The CHAIRMAN. The gentleman from Illinois [Mr. FAWELL] reserves a point of order on the amendment.

The gentleman from New Jersey [Mr. ANDREWS] is recognized for 5 minutes.

□ 1815

Mr. ANDREWS. Mr. Chairman, there are some severe problems with America's pension system as we meet here

tonight. There are employees of private companies and pensioners of private companies who are legitimately worried that they may not have a pension someday because of the failure of many American businesses and the extent to which the Private Pension Guarantee Benefit Corporation is thinly capitalized. There is a very real risk if we do not do something about that problem that many Americans may not have the pension check on which they depended. There are Americans who used to work for governments or school districts or who work for government or school districts today who are legitimately worried about their pensions because it has become the practice of some governments at the State and local level around America to borrow from that pension fund or not put enough in in order to meet short-term budgetary or political objectives. That is a real problem that deserves our attention.

Tonight as we consider this legislation, however, neither of those problems receives any attention, and instead I rather think that we are looking at a bill that in good faith presents a solution in search of a problem by talking about economically targeted investments. Nevertheless, my friends on the majority side have raised some real and viable questions about economically targeted investments or ETI's. My substitute amendment attempts to address each of those legitimate points and place the Secretary of Labor exactly where he belongs, with respect to economically targeted investments or any kind of decision by pension fund managers. It places the Secretary of Labor out of the picture because the Secretary of Labor, absent his regulatory duties under ERISA, has no business, none, meddling in the decisions of pension managers across the country.

We have heard that people are concerned about spending a million dollars of taxpayer money on a clearinghouse to deal with the ETI's. So I am concerned about that. So my substitute abolishes the clearinghouse and permits the expenditure of nothing on it.

We have heard that people are concerned about this bill or the pronouncements of the Secretary of Labor creating a standard of review other than the traditional prudent man standard for ETI's. I am concerned about that, too. So my amendment expressly provides that the prudent man rule will remain the only measure under which investments will be evaluated under the ERISA law. It says the prudent man standard and only the prudent man standard.

Here is the difference between my substitute and the bill that is before us: My substitute says that the Secretary of Labor shall not promote ETI's, but neither shall detract from ETI's. My amendment says the Secretary of Labor shall not promote investments in U.S. savings bonds nor shall be detract from investments in U.S. savings bonds or the stock of IBM or any other potential investment. My amendment says that the Secretary of Labor has no rightful place meddling in the investment decisions of our pension funds.

My amendment, I would think, in many ways is a quintessential conservative amendment in that it says the Federal Government simply has on place injecting itself in the decisions of investment managers of the pension funds of our country.

So to summarize, Mr. Chairman, wish that we had brought to the floor tonight legislation that would address the underfunding of the Private Benefit Guarantee Corporation, the Pension Benefit Guarantee Corporation that put the pensions of many Americans at risk. I wish we had brought to the floor tonight an amendment I offered in committee that would have provided public employees with the right of review if their Governor and the State legislature decides to play budget fiscal politics with their pension and make it subject to some review under ERISA.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

(By unanimous consent, Mr. ANDREWS was allowed to proceed for 2 additional minutes.)

Mr. ANDREWS. We have not addressed either of those issues. Instead we brought forward this proposal, and I read its intent as a wholesome and good-faith one that says that the Secretary of Labor has no business meddling in the investment decisions of investment managers. I agree. So what we simply say is that he should be neutral with respect to all such investments and stay out.

We hear the proponents of this bill saying that we should not spend $1 million of taxpayers' money on a clearinghouse. I agree. So my substitute strikes the authority to do that.

The difference between my amendment and the pending bill is simply this: I say that we should not take a position at all on ETI's, that the position of the Secretary of Labor ought to be that is a decision that the investment fund managers ought to make under the prudent man and only under the prudent man rule.

The CHAIRMAN. The gentleman from Illinois reserved a point of order. Does he insist on it?

Mr. FAWELL. No; I do not reserve the point of order.

Mr. SAXTON. Mr. Chairman, I move to strike the last word. I would like to thank my colleague from New Jersey for a very clear statement as to say how he feels about the current situation.

As I was saying, Mr. Chairman, I would like to commend the gentleman from New Jersey for his very articulate recognition of the situation, and I might say that although we cannot accept his amendment, he does move in the right direction, and we appreciate the fact that for the first time we have an amendment that at least recognizes that there is a problem with the way the Department of Labor is doing business.

I wish that we could accept the gentleman's amendment. However, he simply does not go far enough. What we are trying to do with the bill as it stands is to go back to the situation that existed during the Carter years and the Reagan years and the Bush years, where essentially what the gentleman has suggested occurred, and that was that the Department of Labor did not take a position relative to the ETI's unless they were requested to do so by somebody, some pension fund manager who wanted the Department of Labor's interpretation as to the appropriateness of an investment. So we negate the interpretive bulletin. We do away with the clearinghouse, and we stop the expenditure of any Federal moneys to in any way promote ETI's.

The gentleman's amendment, while it is certainly well thought out, according to the information I have here, expresses the sense of Congress that it is inappropriate for the Department of Labor to promote ETI's and that is nice. However, we prefer to have this carry the effect of law, and that is what the bill, as it currently stands, does.

In addition to that, the gentleman's amendment also renders the interpretive bulletin null and void, but he weakens that statement by saying only to the extent that is construed to violate ERISA. I am not quite sure at this hour how to interpret exactly what that does or what it is intended to do, so I think the bill, as it currently stands, is absolutely clear. It goes to the points that the gentleman made in his very articulate explanation of his amendment. It negates the interpretive bulletin. It does away with the clearinghouse, as it currently stands, and it stops the expenditures of money to advocate for a particular class of investment.

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

Mr. SAXTON. I yield to the gentleman from Pennsylvania, the chairman of the full committee.

Mr. GOODLING. Mr. Chairman, my major concern with this substitute is the point the gentleman mentioned. 94-1 shall be null and void to the extent it is construed in violation of ERISA. My fear is that, and I have many, many wonderful attorney friends but they are all very busy at the present time, my fear is that we are going to give them much more business than they can ever handle, and it may be a long, long time until we go through the

court process to find out what is construed in violation of ERISA means, and that would be my major concern with the substitute.

Mr. CLAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment.

Mr. Chairman, I support this amendment.

This is the amendment that my Republican colleagues should have reported out of the committee had the leadership not been determined to placate the sponsor of the bill, and to satisfy their own desire to demagog on this issue.

Democrats and Republicans who want to continue the tradition of bipartisan pension policy should support this amendment.

From the moment that the sponsor of the bill surfaced with his legislation, the Republican leadership of the Opportunities Committee knew full well that the original Saxton bill would have been an absolute disaster. It basically dropped a nuclear bomb on 15 years of bipartisan pension policy.

Unfortunately, Representative FAWELL was allowed to make only modest improvements in the original bill. If the Saxton bill is a hydrogen bomb, obliterating everything in its path, the Fawell bill is a neutron bomb. It leaves standing all past Labor Department administrative opinions on ETI's, but obliterates every other mention of the term. It keeps intact the vague, overbroad GAG order on Labor Department personnel. It repeals interpretive bulletin 94–1, even though everyone agrees that bulletin simply restates 15 years of bipartisan interpretation of ERISA.

The purpose of the Andrews amendment is to take the committee Republicans at their word that their overriding objective is to require the Labor Department to acknowledge the prudent man rule and to remain neutral on ETI's. This bears repeating: Mr. ANDREWS has taken our colleagues at their word about their intended goal.

The Andrews amendment gives them neutrality. As long as ERISA is satisfied, ETI's are to rise or fall on their own merits. No help from the Labor Department. No promotion of ETI's. No clearinghouse.

The Andrews amendment establishes as the overarching policy that the Labor Department is to apply ERISA's strict fiduciary standards to ETI's in the same manner that they are applied to plan investment generally. ERISA comes first. Beneficiaries come first. The application of the prudent man rules comes first.

If you support the fiduciary standards of ERISA.

If you support the prudent man rule.

If you support giving private sector pension managers the maximum flexibility allowed under ERISA to consider investments, free of any political pressure, then support the Andrews amendment.

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

Mr. CLAY. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Chairman, I would like to respond, if I could, to the two points raised about concern about the substitute.

First of all, with respect to whether or not the substitute prohibits the Secretary of Labor from promoting ETI's or simply declares that to be the sense of the Congress, in fact, the amendment does prohibit, in section 3, specifically prohibits the Secretary of Labor from entering into any contract or taking any step which does so. So it is simply not a sense of Congress.

Second, with respect to the chairman's concern about creating employment for attorneys, which is a truly valid concern, I would suggest that that really is something, with all due respect, it is a red herring for this reason: My amendment says that if the bulletin is construed to be null and void because it violates ERISA, my understanding is that an investment which runs afoul of the prudent man standard is, in fact, a violation of ERISA as ERISA has been interpreted. So, therefore, this incorporates by reference the prudent man standard that is applied, for years, since 1974, the year ERISA was first enacted. I believe, should litigation be brought to interpret this section, it would be quickly resolved, and it would be very clearly resolved that to the extent that this interpretive bulletin authorizes or permits an investment decision outside the scope of the prudent man rule, it is illegal and not permitted.

Mr. CLAY. Mr. Chairman, this amendment establishes the over- arching policy that the Labor Department is to apply ERISA's strict fiduciary standards to ETI's in the same manner they are applied to plan investments generally.

ERISA comes first. Beneficiaries come first. The application of the prudent man rule comes first. If you support the fiduciary standards of ERISA, if you support the prudent man rule, if you support giving private sector pension managers maximum flexibility allowed under ERISA, free of any political pressure, then you have to support the Andrews amendment, and I urge my colleagues to do just that.

Mr. FAWELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to oppose the amendment. I think it is a move in the right direction, I believe, in the short chance I have had to review it. It is woefully weak in regard to a very important element, and that is proscribing the right of the Department of Labor to continue to promote and hype in regard to ETI's.

What we had in section 1 were where we clearly said this is inappropriate, that language is gone, and as I read even insofar as section 3 and section 2 of the amendment. The prohibitions against promotion, et cetera, are gone.

The amendment certainly renders this very confusing interpretive bulletin null and void, but as has been indicated by several, only to the extent it is construed to violate ERISA. Our bill really did not live or die on that basis or even make that claim. What we said is the interpretive bulletin is a very outlandish effort to start promoting what the Department of Labor set forth as a definition of ETI's, and it was that to which we made, of course, major objection. To introduce this language about whether it does or does not violate ERISA, I agree with the statement made by Chairman GOODLING, we will have a lot of lawyers arguing how many angels can dance on the end of a pin as a result of that.

I think that although this is a movement in the right direction, we have a very clear bill that has to go through an awful lot of rigorous examination, and for that reason, with the utmost respect for the gentleman who has proffered this amendment, I certainly must oppose it.

□ 1830

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

Mr. FAWELL. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Chairman, I hear that my friend, the gentleman from Illinois [Mr. FAWELL], is making two objections. I would like to try to meet them.

With respect to the effect of Interpretive Bulletin 94–1, in the appropriate procedural manner, Mr. Chairman, I would offer to change that section to say the following:

Interpretive Bulletin 94–1 referred to in section 1 shall be null and void, period, because that is the intent of this section.

Second, with respect to the gentleman's concern about the——

Mr. FAWELL. Reclaiming my time, if I may say, "Except to the extent——"

Mr. ANDREWS. Well, why do we not strike that? I would offer to strike it.

Second, let me say this to the gentleman, that to the extent that he is concerned about a prohibition against the promotion of ETI's by the Government, let me just read to him section 3. It will be section 516(a).

No agency or instrumentality of the Federal Government may establish, or maintain, or contract with or otherwise provide assistance to any other party to establish or maintain any clearinghouse data base or any other listing, sub 2, for the purpose of encouraging or providing assistance to employee benefit plans or any other part relating to an employee benefit plan to undertake or evaluate economically targeted investments.

That seems pretty clear to me is a prohibition against promotion. I would be curious if the gentleman can explain to me why it is not.

Mr. FAWELL. As I have indicated, first of all in section 1 the gentleman has entirely removed the very clear statement that any promotion is inappropriate on behalf of the Department of Labor.

In reference to the other sections of the bill, frankly the gentleman had here a complete new bill of seven or, eight pages, and I have not had the chance to go fully through it, but I have noted that at least statements where we have said that we had proscriptions in regard to promotion, it seemed to me the gentleman had left those out. In fact in section 2 I am informed that those proscriptions have been pretty well deleted.

Mr. ANDREWS. If the gentleman would yield, that is certainly not our intent, not my understanding. I do not know of any broader proscription we could include.

Mr. FAWELL. It does appear in section 2 that is the case. I am not absolutely sure in regard to section 3, but we have an excellent bill. It is too bad something like this was not introduced in committee. The gentleman is a member of the committee, and we certainly would have considered it, but nevertheless I have a great deal of respect for the gentleman, and I know he put some work into it. I appreciate that.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from New Jersey [Mr. ANDREWS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ANDREWS. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the order of the House of today, further proceedings on the amendment in the nature of a substitute offered by the gentleman from New Jersey [Mr. ANDREWS] will be postponed.

The point of no quorum is considered withdrawn.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to the order of the House of today, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: the amendment offered by the gentleman from New York [Mr. HINCHEY]; the amendment in the nature of a substitute offered by [Mr. ANDREWS].

AMENDMENT OFFERED BY MR. HINCHEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York [Mr. HINCHEY] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 15-minute vote followed by a possible 5-minute vote.

The vote was taken by electronic device, and there were—ayes 179, noes 234, now voting 21, as follows:

[Roll No. 650]

AYES—179

Andrews	Furse	Obey
Baesler	Gejdenson	Olver
Baldacci	Gephardt	Ortiz
Barcia	Gibbons	Orton
Barrett (WI)	Gonzalez	Owens
Becerra	Gordon	Pallone
Beilenson	Green	Pastor
Bentsen	Gutierrez	Payne (NJ)
Berman	Hall (OH)	Payne (VA)
Bevill	Hamilton	Peterson (FL)
Bishop	Harman	Peterson (MN)
Bonior	Hastings (FL)	Pomeroy
Borski	Hefner	Poshard
Boucher	Hinchey	Rahall
Browder	Holden	Rangel
Brown (CA)	Hoyer	Reed
Brown (FL)	Jackson-Lee	Richardson
Brown (OH)	Jacobs	Rivers
Bryant (TX)	Johnson (SD)	Roemer
Cardin	Johnson, E. B.	Ros-Lehtinen
Chapman	Johnston	Rose
Clay	Kanjorski	Roybal-Allard
Clayton	Kaptur	Rush
Clement	Kennedy (MA)	Sabo
Clyburn	Kennedy (RI)	Sanders
Coleman	Kennelly	Sawyer
Collins (IL)	Kildee	Schroeder
Collins (MI)	Kleczka	Schumer
Condit	Klink	Scott
Conyers	LaFalce	Serrano
Costello	Levin	Skaggs
Coyne	Lewis (GA)	Skelton
Cramer	Lincoln	Slaughter
Danner	Lipinski	Spratt
de la Garza	Lofgren	Stark
DeFazio	Lowey	Stokes
DeLauro	Luther	Studds
Dellums	Maloney	Stupak
Deutsch	Manton	Tanner
Diaz-Balart	Markey	Tejeda
Dicks	Martinez	Thompson
Dingell	Mascara	Thornton
Dixon	Matsui	Thurman
Doggett	McCarthy	Torres
Dooley	McDermott	Towns
Doyle	McHale	Traficant
Edwards	McKinney	Velazquez
Engel	McNulty	Vento
Eshoo	Meehan	Visclosky
Evans	Meek	Volkmer
Farr	Mfume	Ward
Fields (LA)	Miller (CA)	Waters
Filner	Mineta	Watt (NC)
Flake	Minge	Waxman
Foglietta	Mink	Wise
Forbes	Moran	Woolsey
Ford	Murtha	Wyden
Fox	Nadler	Wynn
Frank (MA)	Neal	Yates
Frost	Oberstar	

NOES—234

Allard	Bateman	Bunn
Archer	Bereuter	Bunning
Armey	Bilbray	Burr
Bachus	Bilirakis	Burton
Baker (CA)	Bliley	Buyer
Baker (LA)	Blute	Callahan
Ballenger	Boehlert	Calvert
Barr	Bonilla	Camp
Barrett (NE)	Bono	Canady
Bartlett	Brewster	Castle
Barton	Brownback	Chabot
Bass	Bryant (TN)	Chambliss
Chenoweth	Hobson	Pombo
Christensen	Hoekstra	Porter
Chrysler	Hoke	Portman
Clinger	Horn	Pryce
Coble	Hostettler	Quillen
Coburn	Houghton	Quinn
Collins (GA)	Hunter	Radanovich
Combest	Hutchinson	Ramstad
Cooley	Hyde	Regula
Cox	Inglis	Riggs
Crane	Istook	Roberts
Crapo	Johnson (CT)	Rogers
Cremeans	Johnson, Sam	Rohrabacher
Cubin	Jones	Roth
Cunningham	Kasich	Roukema
Davis	Kelly	Royce
Deal	Kim	Salmon
DeLay	King	Sanford
Dickey	Kingston	Saxton
Doolittle	Klug	Scarborough
Dornan	Knollenberg	Schaefer
Dreier	Kolbe	Schiff
Duncan	LaHood	Seastrand
Dunn	Largent	Sensenbrenner
Ehlers	Latham	Shadegg
Ehrlich	LaTourette	Shaw
Emerson	Laughlin	Shays
English	Lazio	Shuster
Ensign	Leach	Skeen
Everett	Lewis (CA)	Smith (MI)
Ewing	Lewis (KY)	Smith (NJ)
Fawell	Lightfoot	Smith (TX)
Fields (TX)	Linder	Smith (WA)
Flanagan	Livingston	Solomon
Foley	LoBiondo	Souder
Fowler	Longley	Spence
Franks (CT)	Lucas	Stearns
Franks (NJ)	Manzullo	Stenholm
Frelinghuysen	Martini	Stockman
Frisa	McCollum	Stump
Funderburk	McCrery	Talent
Gallegly	McDade	Tate
Ganske	McHugh	Tauzin
Gekas	McInnis	Taylor (MS)
Geren	McIntosh	Taylor (NC)
Gilchrest	McKeon	Thomas
Gillmor	Metcalf	Thornberry
Gilman	Meyers	Tiahrt
Goodlatte	Mica	Torkildsen
Goodling	Miller (FL)	Upton
Goss	Molinari	Vucanovich
Graham	Montgomery	Walker
Greenwood	Moorhead	Walsh
Gunderson	Morella	Wamp
Gutknecht	Myers	Watts (OK)
Hall (TX)	Myrick	Weldon (FL)
Hancock	Nethercutt	Weller
Hansen	Neumann	White
Hastert	Ney	Whitfield
Hastings (WA)	Norwood	Wicker
Hayes	Nussle	Wilson
Hayworth	Oxley	Wolf
Hefley	Packard	Young (AK)
Heineman	Paxon	Young (FL)
Herger	Petri	Zeliff
Hilleary	Pickett	Zimmer

NOT VOTING—21

Abercrombie	Jefferson	Reynolds
Ackerman	Lantos	Sisisky
Boehner	Menendez	Torricelli
Durbin	Moakley	Tucker
Fattah	Mollohan	Waldholtz
Fazio	Parker	Weldon (PA)
Hilliard	Pelosi	Williams

□ 1855

So the amendment was rejected.

The result of the vote was announced as above recorded.

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

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment in the nature of a substitute offered by the gentleman from New Jersey [Mr. ANDREWS] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment in the nature of a substitute.

The Clerk designated the amendment in the nature of a substitute.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 178, noes 232, not voting 24, as follows:

[Roll No. 651]

AYES—178

Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kingston
Kleczka
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Montgomery
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rangel
Reed
Richardson
Rivers
Roemer
Ros-Lehtinen
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Stark
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—232

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Bonilla
Bono
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Mink
Molinari
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Velazquez
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—24

Abercrombie
Ackerman
Bateman
Boehner
Bunn
Clinger
Durbin
Fattah
Herger
Hilliard
Jefferson
Lantos
Menendez
Moakley
Mollohan
Parker
Pelosi
Reynolds
Sisisky
Torricelli
Tucker
Waldholtz
Weldon (PA)
Williams

□ 1904

Mr. WISE changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. ABERCROMBIE. Mr. Chairman, during rollcall vote Nos. 650, 651 on H.R. 1594 I was unavoidably detained. Had I been present I would have voted "aye" on both.

The CHAIRMAN. 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. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. DICKEY) having assumed the Chair, Mr. EMERSON, Chairman 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. 1594) to place restrictions on the promotion by the Department of Labor and other Federal agencies and instrumentalities of economically targeted investments in connection with employee benefit plans, pursuant to House Resolution 215, 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 the amendment to the committee amendment in the nature of a substitute? If not, the question is on the committee amendment in the nature of a substitute.

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

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

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

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

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FAWELL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—yeas 239, nays 179, not voting 16, as follows:

[Roll No. 652]

AYES—239

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood

Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Riggs
Roberts
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—179

Abercrombie
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Moran
Murtha
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Rahall
Rangel
Richardson
Rivers
Roemer
Ros-Lehtinen
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Velázquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—16

Ackerman
Durbin
Fattah
Jefferson
Lantos
Menendez
Moakley
Mollohan
Nadler
Parker
Reynolds
Sisisky
Torricelli
Tucker
Waldholtz
Williams

□ 1925

Mr. DOOLEY changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SMALL BUSINESS CREDIT EFFICIENCY ACT OF 1995

The SPEAKER pro tempore (Mr. DICKEY). The pending business is the question of suspending the rules and passing the bill, H.R. 2150, 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 Kansas [Mrs. MEYERS] that the House suspend the rules and pass the bill, H.R. 2150, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. POSHARD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 405, nays 0, not voting 29, as follows:

[Roll No. 653]

YEAS—405

Abercrombie
Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Metcalf
Meyers
Mfume
Mica
Miller (FL)
Mineta
Minge
Mink
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Rose
Roth
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin

Taylor (MS)	Velazquez	Weller
Taylor (NC)	Vento	White
Tejeda	Visclosky	Whitfield
Thomas	Vucanovich	Wicker
Thompson	Walker	Wilson
Thornberry	Walsh	Wise
Thornton	Wamp	Wolf
Thurman	Ward	Woolsey
Tiahrt	Waters	Wyden
Torkildsen	Watt (NC)	Wynn
Torres	Watts (OK)	Young (AK)
Towns	Waxman	Young (FL)
Traficant	Weldon (FL)	Zeliff
Upton	Weldon (PA)	Zimmer

NOT VOTING—29

Ackerman	McDade	Ros-Lehtinen
Baesler	Menendez	Roukema
Collins (GA)	Miller (CA)	Sisisky
Durbin	Moakley	Torricelli
Edwards	Mollohan	Tucker
Fattah	Murtha	Volkmer
Furse	Nadler	Waldholtz
Jefferson	Parker	Williams
Lantos	Radanovich	Yates
Livingston	Reynolds	

□ 1945

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.

GENERAL LEAVE

Mrs. MEYERS of Kansas. Mr. Speaker, on behalf of the gentleman from Illinois [Mr. FAWELL], I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1594, to place restrictions on the promotion by the Department of Labor and other Federal agencies and instrumentalities of economically targeted investments in connection with employee benefit plans.

The SPEAKER pro tempore (Mr. DICKEY). Is there objection to the request of the gentlewoman from Kansas?

There was no objection.

SMALL BUSINESS LENDING ENHANCEMENT ACT OF 1995

Mrs. MEYERS of Kansas. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 895) to amend the Small Business Act to reduce the level of participation by the Small Business Administration in certain loans guaranteed by the administration, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Kansas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 895

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Lending Enhancement Act of 1995".

SEC. 2. REDUCED LEVEL OF PARTICIPATION IN GUARANTEED LOANS.

Section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) is amended to read as follows:

"(2) LEVEL OF PARTICIPATION IN GUARANTEED LOANS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in an agreement to participate in a loan on a deferred basis under this subsection (including a loan made under the Preferred Lenders Program), such participation by the Administration shall be equal to—

"(i) 75 percent of the balance of the financing outstanding at the time of disbursement of the loan, if such balance exceeds $100,000; or

"(ii) 80 percent of the balance of the financing outstanding at the time of disbursement of the loan, if such balance is less than or equal to $100,000.

"(B) REDUCED PARTICIPATION UPON REQUEST.—

"(i) IN GENERAL.—The guarantee percentage specified by subparagraph (A) for any loan under this subsection may be reduced upon the request of the participating lender.

"(ii) PROHIBITION.—The Administration shall not use the guarantee percentage requested by a participating lender under clause (i) as a criterion for establishing priorities in approving loan guarantee requests under this subsection.

"(C) INTEREST RATE UNDER PREFERRED LENDERS PROGRAM.—

"(i) IN GENERAL.—The maximum interest rate for a loan guaranteed under the Preferred Lenders Program shall not exceed the maximum interest rate, as determined by the Administration, applicable to other loans guaranteed under this subsection.

"(ii) PREFERRED LENDERS PROGRAM DEFINED.—For purposes of this subparagraph, the term 'Preferred Lenders Program' means any program established by the Administrator, as authorized under the proviso in section 5(b)(7), under which a written agreement between the lender and the Administration delegates to the lender—

"(I) complete authority to make and close loans with a guarantee from the Administration without obtaining the prior specific approval of the Administration; and

"(II) authority to service and liquidate such loans.".

SEC. 3. GUARANTEE FEES.

(a) AMOUNT OF FEES.—Section 7(a)(18) of the Small Business Act (15 U.S.C. 636(a)(18)) is amended to read as follows:

"(18) GUARANTEE FEES.—

"(A) IN GENERAL.—With respect to each loan guaranteed under this subsection (other than a loan that is repayable in 1 year or less), the Administration shall collect a guarantee fee, which shall be payable by the participating lender and may be charged to the borrower, in an amount equal to the sum of—

"(i) 2.5 percent of the amount of the deferred participation share of the loan that is less than or equal to $250,000;

"(ii) if the deferred participation share of the loan exceeds $250,000, 3 percent of the difference between—

"(I) $500,000 or the total deferred participation share of the loan, whichever is less; and

"(II) $250,000; and

"(iii) if the deferred participation share of the loan exceeds $500,000, 3.5 percent of the difference between—

"(I) $750,000 or the total deferred participation share of the loan, whichever is less; and

"(II) $500,000.

"(B) EXCEPTION FOR CERTAIN LOANS.—Notwithstanding subparagraph (A), if the total deferred participation share of a loan guaranteed under this subsection is less than or equal to $80,000, the guarantee fee collected under subparagraph (A) shall be in an amount equal to 2 percent of the total deferred participation share of the loan.

"(C) DISCRETIONARY INCREASE.—Notwithstanding subparagraphs (A) and (B), during the 90-day period beginning on the first day of any fiscal year, the Administration may increase the guarantee fee collected under this paragraph by an amount not to exceed 0.375 percent of the total deferred participation share of the loan, if the Administration—

"(i) determines that such action is necessary to meet projected borrower demand for loans under this subsection during that fiscal year, based on the subsidy cost of the loan program under this subsection and amounts provided in advance for such program in appropriations Acts; and

"(ii) not less than 15 days prior to imposing any such increase, notifies the Committees on Small Business of the Senate and the House of Representatives of the determination made under clause (i).".

(b) REPEAL OF PROVISIONS ALLOWING RETENTION OF FEES BY LENDERS.—Section 7(a)(19) of the Small business Act (15 U.S.C. 636(a)(19)) is amended—

(1) in subparagraph (B)—

(A) by striking "shall (i) develop" and inserting "shall develop"; and

(B) by striking ", and (ii)" and all that follows through the end of the subparagraph and inserting a period; and

(2) by striking subparagraph (C).

SEC. 4. ESTABLISHMENT OF ANNUAL FEE.

(a) IN GENERAL.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following new paragraph:

"(23) ANNUAL FEE.—

"(A) IN GENERAL.—With respect to each loan guaranteed under this subsection, the Administration shall, in accordance with such terms and procedures as the Administration shall establish by regulation, assess and collect an annual fee in an amount equal to 0.5 percent of the outstanding balance of the deferred participation share of the loan.

"(B) PAYER.—The annual fee assessed under subparagraph (A) shall be payable by the participating lender and shall not be charged to the borrower.".

(b) CONFORMING AMENDMENT.—Section 5(g)(4)(A) of the Small Business Act (15 U.S.C. 634(g)(4)(A)) is amended—

(1) by striking the first sentence and inserting the following: "The Administration may collect a fee for any loan guarantee sold into the secondary market under subsection (f) in an amount equal to not more than 50 percent of the portion of the sale price that exceeds 110 percent of the outstanding principal amount of the portion of the loan guaranteed by the Administration."; and

(2) by striking "fees" each place such term appears and inserting "fee".

SEC. 5. NOTIFICATION REQUIREMENT.

(a) IN GENERAL.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following new paragraph:

"(24) NOTIFICATION REQUIREMENT.—The Administration shall notify the Committees on Small Business of the Senate and the House of Representatives not later than 15 days before making any significant policy or administrative change affecting the operation of the loan program under this subsection.".

SEC. 6. DEVELOPMENT COMPANY DEBENTURES.

Section 503(b) of the Small Business Investment Act of 1958 (15 U.S.C. 697(b)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period at the end and inserting "; and"; and

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

"(7) with respect to each loan made from the proceeds of such debenture, the Administration—

"(A) assess and collects a fee, which shall be payable by the borrower, in an amount equal to 0.0625 percent per year of the outstanding balance of the loan; and

"(B) uses the proceeds of such fee to offset the cost (as such term is defined in section 502 of the Federal Credit Reform Act of 1990) to the Administration of making guarantees under subsection (a).".

SEC. 7. PILOT PREFERRED SURETY BOND GUARANTEE PROGRAM EXTENSION.

Section 207 of the Small Business Administration Reauthorization and Amendment Act of 1988 (15 U.S.C. 694b note) is amended by striking "September 30, 1995" and inserting "September 30, 1997".

MOTION OFFERED BY MRS. MEYERS OF KANSAS

Mrs. MEYERS of Kansas. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mrs. MEYERS of Kansas moves to strike out all after the enacting clause of the Senate bill, S. 895, and insert the text of H.R. 2150 as passed the House.

The motion was agreed to.

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

The title of the Senate bill was amended so as to read: "A bill to amend the Small Business Act and the Small Business Investment Act of 1958 to reduce the cost to the Federal Government of guaranteeing certain loans and debentures, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2150) was laid on the table.

APPOINTMENT OF CONFEREES

Mrs. MEYERS of Kansas. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mrs. MEYERS of Kansas moves that the House insist on its amendment to the Senate bill, S. 895, and request a conference with the Senate thereon.

The motion was agreed to.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

Mrs. MEYERS of Kansas; and Messrs. TORKILDSEN, LONGLEY, LAFALCE, and POSHARD.

There was no objection.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TOMORROW, WEDNESDAY, SEPTEMBER 13, 1995, DURING THE 5-MINUTE RULE

Mr. GOSS. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule: The Committee on Commerce, the Committee on International Relations, the Committee on the Judiciary, the Committee on Resources, and the Committee on Small Business.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

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

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1162, DEFICIT REDUCTION LOCK BOX ACT OF 1995

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–243) on the resolution (H. Res. 218) providing for consideration of the bill (H.R. 1162) to establish a deficit reduction trust fund and provide for the downward adjustment of discretionary spending limits in appropriation bills, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1670, FEDERAL ACQUISITION REFORM ACT OF 1995

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–244) on the resolution (H. Res. 219) providing for the consideration of the bill (H.R. 1670) to revise and streamline the acquisition laws of the Federal Government, to reorganize the mechanisms for resolving Federal procurement disputes, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 1655, INTELLIGENCE AUTHORIZATION ACT, 1996

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 216 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 216

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1655) to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 302(f), 308(a), or 401(b) of the Congressional Budget Act of 1974 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 Permanent Select Committee on Intelligence. 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 Permanent Select Committee on Intelligence now printed in the bill, modified by the amendment recommended by the Committee on Government Reform and Oversight now printed in the bill and by an amendment striking title VII. The committee amendment in the nature of a substitute, as modified, shall be considered by title rather than by section. The first section and each title shall be considered as read. Points of order against the committee amendment in the nature of a substitute, as modified, for failure to comply with clause 7 of rule XVI, clause 5(a) of rule XXI, or section 302(f) or section 401(b) of the Congressional Budget Act of 1974 are waived. No amendment to the committee amendment in the nature of a substitute, as modified, shall be in order unless printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. 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, as modified. The previous question shall be considered as ordered on the bill and amendments thereto to final passage wihtout intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida [Mr. GOSS] is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the distinguished gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 216 provides for the consideration of H.R. 1655, the Intelligence Authorization Act for Fiscal Year 1996. The Rules Committee met last week to grant this rule, which was requested jointly by the chairman of the committee, Mr. COMBEST, and the ranking member, Mr. DICKS. As has been customary in the Intelligence Committee, of which I am proud to be a new member, bipartisan cooperation was apparent in the rule request. I am pleased that our Rules Committee was able to grant the committee's reasonable request by providing an open amendment process while injecting a small point of caution for the sensitivity of the subject matter by including a preprinting requirement.

Mr. Speaker, this rule provides 1 hour of general debate equally divided and controlled by the chairman and ranking member of the Permanent Select Committee on Intelligence. The rule waives sections 302(f), 308(a) and 401(b) of the Budget Act against consideration of the bill, waivers that are all related to the issue of new entitlement authority. Our committee is most appreciative of the detailed and comprehensive explanation the Intelligence Committee provided to us in support of these waiver requests. Section 305 of the bill allows a spouse who fully cooperates in a Federal investigation of his wife or her husband to receive spousal benefits upon a determination by the Attorney General that the spouse has fully cooperated with the Government's investigation and prosecution of national security offenses. Section 601 makes a technical correction to clarify that a retired military officer who is appointed as Director or Deputy Director of Central Intelligence can receive pay at the appropriate level of the Executive schedule. Although we technically have new entitlements, in both cases we are talking about very small amounts of money. In fact, the Budget Committee, which generally plays "budget cop" in instances where Budget Act waivers are requested, has reviewed these requests without complaint.

This rule makes in order as an original bill for the purpose of amendment the Intelligence Committee's amendment in the nature of a substitute now printed in the bill, as modified by the Government Reform and Oversight Committee amendment striking section 505 now printed in the bill and by an amendment striking title VII.

Although we generally try to avoid self-executing amendments such as this, this change in the reported bill reflected a compromise agreement worked out among the committees of jurisdiction. There was legitimate concern in the Government Reform and Oversight Committee about the provision the Intelligence Committee had included in section 505, waiving the 2 percent retirement annuity reduction that NSA employees normally incur when expecting early retirement. This is a pilot program at NSA that raised concerns among our colleagues on the Government Reform Committee and we respect their conclusion that it should not be included in this bill. The second matter deleted from the bill by this rule is title VII, which addressed a consolidation issue within the State Department. This provision had raised some red flags with the Committee on International Relations, and hence agreement was reached to remove it. All in all, I am proud of the level of communication and cooperation among all the committees in agreeing to this consensus product.

Mr. Speaker, this rule provides that the committee amendment in the nature of a substitute, as modified, shall be considered by title with the first section and each title considered as read. The rule also waives clause 7 of rule 17 prohibiting nongermane amendments against the committee substitute as modified. In addition, the rule waives clause 5(a) of rule 21 prohibiting appropriations in a legislative bill against the committee substitute as modified. And, as I discussed earlier, the rule waives section 302(f) and section 401(b) against the committee substitute as modified for the same reasons that made the waivers necessary for consideration of the bill.

In addition, the rule requires that all amendments be preprinted in the CONGRESSIONAL RECORD, an important provision to assist the committee in protecting the security of classified matters contained within this bill, while protecting the rights of Members by guaranteeing an open amendment process. Finally, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, I know my friend from California, Mr. BEILENSON, who served his country admirably as chairman of the Intelligence Committee, understands the important of this subject matter. The paradox of the intelligence business is that successes, by their very nature, go unremarked and often unknown to most people. That is because intelligence success stories generally prevent bad things from happening. So the public picture presented of intelligence is generally skewed toward the negative, the problems, the times when things go wrong and the sensational.

Clearly, the Ames case and the recent flareup over Guatemala provide two examples of this phenomenon. It is the duty of the members of the select committee, and today of all Members of this House, to see the whole picture and ensure that our intelligence community has the necessary resources and oversight to fulfill its mission. As Members know, there are currently several comprehensive reviews being undertaken to assess the roles and capabilities of our intelligence services. I am privileged to be working on two of those efforts: IC 21, led by Chairman COMBEST, and the Aspin Commission, now led by Harold Brown. It is necessary to reassess where we are and where we want to be in world events, and then to determine what type of information is needed and how to best ensure that such information is available. In the meantime, I believe H.R. 1655 offers a responsible level of funding for intelligence activities, while setting appropriate priorities for how that money should be spent. As I have grown fond of saying to those who believe the end of the cold war provides a good time to slash funding for intelligence, it hardly makes sense to turn off the radar just as you are sailing the ship of State into the fog, in unfamiliar waters, without a reliable chart. I urge my colleagues to support this rule and the bill.

The Speaker, I include material from the Committee on Rules for the RECORD, as follows:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of September 12, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	43	73
Modified Closed[3]	49	47	14	24
Closed[4]	9	9	2	3
Total	104	100	59	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of September 12, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95)
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95)
		H.J. Res. 1	Balanced Budget Amdt	

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of September 12, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95)
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95)
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95)
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95)
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95)
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95)
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95)
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95)
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95)
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95)
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95)
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95)
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95)
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95)
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95)
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95)
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95)
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95)
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95)
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95)
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95)
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps.	A: 242–190 (3/15/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95)
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95)
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95)
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95)
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95)
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95)
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95)
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95)
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95)
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95)
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95)
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95)
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95)
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95)
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95)
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95)
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95)
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95)
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95)
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	A: voice vote (7/12/95)
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	PQ: 258–170 A: 271–152 (6/28/95)
H. Res. 176 (6/28/95)	MC	H.R. 1944	Emer. Supp. Approps.	PQ: 236–194 A: 234–192 (6/29/95)
H. Res. 185 (7/11/95)	O	H.R. 1977	Interior Approps. FY 1996	PQ: 235–193 D: 192–238 (7/12/95)
H. Res. 187 (7/12/95)	O	H.R. 1977	Interior Approps. FY 1996 #2	PQ: 230–194 A: 229–195 (7/13/95)
H. Res. 188 (7/12/95)	O	H.R. 1976	Agriculture Approps. FY 1996	PQ: 242–185 A: voice vote (7/18/95)
H. Res. 190 (7/17/95)	O	H.R. 2020	Treasury/Postal Approps. FY 1996	PQ: 232–192 A: voice vote (7/18/95)
H. Res. 193 (7/19/95)	C	H.J. Res. 96	Disapproval of MFN to China	A: voice vote (7/20/95)
H. Res. 194 (7/19/95)	O	H.R. 2002	Transportation Approps. FY 1996	PQ: 217–202 (7/21/95)
H. Res. 197 (7/21/95)	O	H.R. 70	Exports of Alaskan Crude Oil	A: voice vote (7/24/95)
H. Res. 198 (7/21/95)	O	H.R. 2076	Commerce, State Approps. FY 1996	A: voice vote (7/25/95)
H. Res. 201 (7/25/95)	O	H.R. 2099	VA/HUD Approps. FY 1996	A: 230–189 (7/25/95)
H. Res. 204 (7/28/95)	MC	S. 21	Terminating U.S. Arms Embargo on Bosnia	A: voice vote (8/1/95)
H. Res. 205 (7/28/95)	O	H.R. 2126	Defense Approps. FY 1996	A: 409–1 (7/31/95)
H. Res. 207 (8/1/95)	MC	H.R. 1555	Communications Act of 1995	A: 255–156 (8/2/95)
H. Res. 208 (8/1/95)	O	H.R. 2127	Labor, HHS Approps. FY 1996	A: 323–104 (8/2/95)
H. Res. 215 (9/7/95)	O	H.R. 1594	Economically Targeted Investments	A: voice vote (9/12/95)
H. Res. 216 (9/7/95)	MO	H.R. 1655	Intelligence Authorization FY 1996	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; D-defeated; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

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

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

Mr. Speaker, I would like to take a moment to commend our friend the gentleman from Florida for his good work on the Permanent Select Committee on Intelligence and on intelligence legislation, and to point out to our colleagues that we should feel fortunate in having him on the Permanent Select Committee on Intelligence because of his wide experience in the intelligence community before he became a Member of the Congress.

Mr. Speaker, we support this modified open rule for the consideration of the Intelligence Authorization Act for fiscal year 1996. Our only concern about the rule is the preprinting requirement which the gentleman from Florida [Mr. GOSS] just recently outlined, which we are not convinced is necessary in this instance.

The chairman of the Permanent Select Committee on intelligence, the distinguished and most able gentleman from Texas [Mr. COMBEST], testified that having the opportunity to review amendments, some of which might involve sensitive matters, would be helpful to the committee in avoiding the disclosure of classified information.

I hasten to add that those of us who were in the majority in recent past years are aware of the fact that we granted the same type of request for the consideration of the last year's intelligence authorization bill, although not for any earlier ones. Nonetheless, evidently none of the anticipated amendments this year are sensitive, and in fact the two that were filed do not deal with any classified or sensitive matter.

Since the intelligence authorization bill is not particularly controversial this year, we argued in the Committee on Rules that, especially given the fact that objections of other committees to several provisions in the bill had been resolved before our committee met, the preprinting requirement was not needed this year. Nonetheless, it is in there and it is certainly okay and we can certainly live with it.

We felt that while perhaps easing the work of the Permanent Select Committee on Intelligence, it could end up being a hindrance to other Members, shutting them out of the debate when they discovered, too late, that amendments they would like to offer were not permitted.

The gentleman from Florida [Mr. GOSS] has explained several waivers the rule provides. There was no objection to those waivers from the minority on the Permanent Select Committee on Intelligence and we do not oppose them. They are perfectly reasonable waivers.

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Mr. Speaker, we are also concerned about several provisions of the bill itself, which obviously will be debated and voted on tomorrow.

The minority on the Permanent Select Committee on Intelligence outlined its views on them in Minority and Additional Views, which we commend to our colleagues for their attention.

Those views point out the controversy about the way the committee handles certain National Reconnaissance Office, NRO, activities. Because of their classified status, those problems cannot be discussed in detail, but Members should be aware that the chairman described those changes as the only major departure in the bill from the administration's request for the National Foreign Intelligence Program.

The minority on the Permanent Select Committee on Intelligence expressed the hope that the reservations about the NRO will be addressed in the conference on this legislation with the Senate.

We are also concerned about the limit the committee placed on spending for the prospect of carrying out the President's Executive order of April 17 of this year that prescribes a uniform system for classifying and declassifying national security information.

The President has properly recognized the need to ensure that Americans know more about the activities of their Government when it is possible to make that information public. As the minority wrote, and I quote them, "* * * we believe that a carefully prescribed system for declassifying those documents which remain classified for no other reason than inertia is long overdue."

The debate in the Permanent Select Committee on Intelligence over the cost of compliance with the Executive order will not, we hope, delay the implementation of that Executive order.

Lastly, the committee agreed to continuation of the Environmental Task Force, which has been successful in making environmental information derived from intelligence more accessible to the general public and to the scientific community.

We are, however, concerned about the level of funding for the task force; the $5 million in the bill is disappointing. We would have preferred something closer to the $17.6 million requested by the President.

The work of the task force, which was established in 1993, has been very impressive. I commend to my colleagues the information in the Minority Views that describe some of the outstanding accomplishments associated with it.

This initiative is another way to bring the information that is collected by intelligence assets, and that is proper to share, to policymakers and to scientists. It promises to help us better understand the consequences of long-term environmental change, and to help us better manage crisis situations involving natural and ecological disasters.

There is no doubt that the information will benefit science and the environment for the well-being of all of our citizens, and we hope that the committee will be able to provide the task force with more funding in the future.

Mr. Speaker, this is an important bill that recognizes the significant challenges that the U.S. intelligence community continues to face in adapting to the new post-cold-war world.

We have a new Director of Central Intelligence who, we hope, will be able to reinforce the intelligence community's proficiencies and continue the reexamination of the overall roles of the intelligence agencies. Obviously, the intelligence community has been struggling in the past few years and needs to define its mission carefully, and properly size itself for the future.

The Permanent Select Committee on Intelligence has recommended a modest increase in the intelligence budget, which some Members will welcome and others decry. Obviously, there are different perspectives on what the level of spending should be; especially now, with the cuts in domestic spending, we will hear strong arguments that this is not the time for increases in the intelligence budget.

But, we all want to ensure that the United States maintains the ability to provide timely and reliable intelligence to its policymakers and military commanders, and we commend the new chairman of the Permanent Select Committee on Intelligence, the gentleman from Texas [Mr. COMBEST], and the ranking member, the gentleman from Washington [Mr. DICKS], for their cooperation and excellent work in developing this year's intelligence budget.

Despite the demise of the Soviet Union, the world remains an unpredictable and dangerous place; we have only to pick up our morning newspapers or listen to a newscast to be aware of that. There is a need for effective intelligence, especially in light of the worldwide reduction of U.S. military spending and personnel.

The intelligence community should continue to be encouraged to review their operations, discarding those that are no longer necessary and strengthening those that remain important. We except that we shall hear arguments over whether the intelligence community had been adequately realigned to deal with new international realities. The appropriate missions of an intelligence agency will always be a controversial and most appropriate subject in a nation founded on democratic principles.

The debate on these issues will continue, and we appreciate the majority's recognition of the importance of the discussions of those controversial issues by providing for this modified open rule.

In closing, I again congratulate the gentleman from Texas [Mr. COMBEST], the chairman of the committee, and the gentleman from Washington [Mr. DICKS], ranking minority member, for bringing this bill to the floor today and their excellent work in general in leading this important committee.

Mr. Speaker, to repeat, we support this rule. We urge its adoption, so that we may proceed first thing tomorrow with consideration of the intelligence authorization bill.

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

Mr. GOSS. Mr. Speaker, I thank the gentleman from California for his personally kind remarks and I assure him he has won my admiration, and the admiration of all colleagues, for his steady hand at the helm of oversight and intelligence for so many years.

And it is my honor to yield such time as he may consume to the gentleman from Texas [Mr. COMBEST], the distinguished chairman of the Permament Select Committee on Intelligence.

Mr. COMBEST. Mr. Speaker, I rise to thank the gentleman from Florida [Mr. GOSS], my friend and very able colleague on the Permanent Select Committee on Intelligence, and the gentleman from California [Mr. BEILENSON], the continuing very able and former member and chairman of the Permanent Select Committee on Intelligence, for their support of the rule.

Mr. Speaker, we think it is a good rule. We think it is one which will give us the opportunity to have full and open debate, and yet protect any classified material problems that we might have in open debate on the floor of the House. I would certainly commend it to my colleagues and urge its passage and thank the committee very much for its assistance in crafting a rule that was so strongly supported by the Permanent Select Committee on Intelligence.

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

Mr. GOSS. 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 SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid upon the table.

CONSEQUENCES OF THE REPUBLICAN'S FUNDING CUTS ON EDUCATION

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. Mr. Speaker, I am here tonight because I think it is imperative that the American public in general and the people of New Jersey specifically, understand the details and consequences of the Republican's plan to slash funding for Federal student assistance programs. Indeed, while I support efforts to balance the Federal budget, I believe attempting to do so by restricting the average citizen's access to institutions of higher education

is unequivocally a step in the wrong direction.

I have to day, Mr. Speaker, that I am perplexed at the logic behind the cuts the Republicans have already approved. Like so many of my colleagues on both sides of the aisle, I benefited from student assistance programs when I was in college. But unlike my Republican colleagues, I think it is grossly unfair for my generation to call for an end to student assistance programs after we used them to get to where we are today.

Mr. Speaker, I would like to use Rutgers University as an example of the negative impact of the Republican proposals. As a former student of Rutgers Law School who now represents the main campus of Rutgers University in Congress, I am deeply troubled about the impact these cuts will have on the 6,500 plus low-income and middle-class New Jersey students who used them to secure a Rutgers education.

As part of the 1996 Education appropriations bill, Republicans have eliminated all capital contributions for Perkins loans, which are designed to specifically assist low-income students and received $158 million in fiscal year 1995. If finalized, such a cut would have a dramatic impact on the more than 3,100 low-income Rutgers students who are provided with nearly $5 million in Perkins loans this year.

The bill also attacks Pell grants, limiting the maximum award to $2,400 and eliminating assistance to students who qualify for grants of less than $600. This cut would prevent some 7,000 students at Rutgers, and some 360,000 of their cohorts at universities across the Nation, from receiving Federal education assistance.

The Republican assault on education, moreover, is hardly contained entirely within the fiscal year 1996 appropriations bill. Looming on the horizon is an attack on the interest subsidy on Federal direct subsidized Stafford loans as part of the reconciliation bill. One scenario is a complete elimination of the interest subsidy for graduate students. But with a targeted student loan reduction of a staggering $10.2 billion over 7 years, it seems likely the Republicans will not reach their goal without raiding undergraduate Stafford loans as well.

Elimination of this Federal subsidy could increase the average undergraduate student's indebtedness by as much as 20 or even 30 percent. For those who wish to go on to graduate schools, the increase could be as much as 40 percent with monthly payments on a 10-year plan rising to a whopping $753 per graduate student.

With the Department of Education projecting that 89 percent of the jobs being created in the United States will require post-secondary training, the Republican inclusion of student assistance programs in the fiscal year 1996 budget belies their claim that the legislation is what's best for the American economy. Attempting to foster economic growth by limiting the very means which serves as its engine is, pure and simple, bad public policy.

Mr. Speaker, the Federal Government recently began experimenting with a direct university loan program instead of the traditional bank loan subsidized with Federal dollars.

In addition to the upcoming dissection of Federal interest subsidies, there is also likely to be a Republican attempt to terminate the direct loan program where the university is substituted for a bank lender. This approach to dispersing student loans not only saves the taxpayers billions of dollars, but cuts through redtape at a much more rapid pace than the old bank system, thereby allowing schools to process more applications in a shorter time period. In its first year of implementation at Rutgers, the direct loan program enabled the schools' financial aid office to process loans for 15,295 students with term bills being credited to their accounts immediately by the week those term bills were due. The year before the implementation of direct funding, the schools' financial aid office processed only 3,283 loans during the same period.

This expedited process made excess funds available earlier for over 12,000 Rutgers students, and thousands on campuses across the country, facilitating their ability to buy books, pay rent, and keep on top of other school related expenses.

Thus, as the issues I outlined illustrate, the Republican attack on education moves higher education closer to being yet another Republican designed luxury for the wealthy. I think I speak for all of us when I say that our presence here tonight should be mistaken for nothing less than our determination to prevent access to higher education from moving out of the realm of Government priorities and into the realm of privileges for the few.

Mr. Speaker, those of us who benefited from student loan programs, those of us who were able to get an education, undergraduate, graduate, or professional school, realize how important it is to have these Government programs. It is very unfair for those of us who are now in Congress to be advocating these student loan programs or grant assistance programs should be terminated or cut back, particularly at a time when this country faces such competition from abroad and we know that higher education is a very valuable tool for those who want to go out and be successful and get a job in this very competitive world.

THE FUTURE OF AMERICAN EDUCATION

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 60 minutes as the designee of the minority leader.

Ms. DELAURO. Mr. Speaker, I am really very proud to join with several of my colleagues tonight to engage in a discussion, in a dialogue, about an issue that really is near and dear to the hearts of, I think just about all Americans, and that is the whole issue of education and the education of children and what the future of this country is all about.

□ 2015

I am the daughter of immigrant parents who, quite frankly, could only dare to dream that someday their daughter would sit in the House of Representatives. My father came to this country as an immigrant, and my mom worked in a dress shop in the old sweatshops, if you will, for most of her life in order to provide me the opportunity to be able to go to school.

I can remember going to that dress shop to meet her every day after school, and I would complain because, as all kids, I wanted to be outside. I did not want to be in a noisy place, and it was dirty. I remember those women, though. I remember them with their backs bent over their sewing machines just trying to pump out the dresses as quickly as they could so that they could provide for their family.

My mother would say to me when I would complain, "Take the opportunity for an education so you don't have to do this." Now, that is my mother's story, which is multiplied thousand and thousands of times around this country and this body that we all serve in here.

The fact is that that is what the American dream is about. It is being able to provide your kids with the future and have them have opportunities that you may not have had or to have the same opportunities.

What we are looking at in the House and what myself and my colleagues want to talk about a little bit tonight is, as this House of Representatives embarks on a process over the next few weeks, we are going to urge people to really pay very careful attention to the Republican proposals that are, in fact, going to slash education funding, slash that opportunity that so many of us were given to be able to go to school, to get an education, to expand our horizon, and they are going to slash that education funding by making incredibly devastating cuts in Federal student aid, education and training programs and the total elimination of the very cost-effective direct lending program. These are very shortsighted cuts. They are going to shut that door. It is going to close the educational opportunities for working families in this country.

So many of us have this opportunity through the use of student loans. These

cuts not only jeopardize our Nation's economic competitiveness but they destroy the hopes and the dreams of working families who struggle to build a better future for their families, for their kids, and, quite frankly, what is most disturbing about the cuts in education is that they are going to finance, I mean, this is the worst of all possible reasons, to make cuts in such a vital part of what our lives are all about, they are going to cut these education programs in order to finance a tax cut, a tax break for this country's wealthiest individuals, folks who have the opportunity.

This is the United States of America. Part of that American dream is to do well, to be able to have the wherewithal to have the good life. That we all understand. But folks at that upper end of the spectrum have the wherewithal to send their kids to school; they can do it, and they do not need help that working, middle-class families do in order to be able to make sure that their kids can get those interest-deferred student loans.

The whole budget debate is about priorities, about the deep cuts in education programs. These cuts, I will tell you, speak volumes about misplaced priorities; more than priorities, misplaced values.

We are trying to once again instill values in people in this country and in our youngsters to understand the value of education and of respect and of working hard and responsibility. Those are all the values that people like my colleagues have been taught, that I have been taught, that we often lament that maybe are not there in today's society.

But if we are going to look at what kinds of things we are doing here and where we place our values, how can we not place our values on education and making sure that our kids' futures are secure? So that the cuts speak volumes about misplaced values and priorities of the Gingrich revolution.

Let me just tell you about Connecticut. The Republican cuts translate into a loss of approximately $325 billion in education and training funds over the next 10 years. Cuts in student aid and specifically reductions or the elimination of the in-school interest subsidy could mean 43,000 students from Connecticut would pay more for a college education, and by eliminating the interest-deferred Stafford loans, Republicans will add $5,200 to the cost of an education for the average college student in Connecticut.

I have got to say $5,200 may not be very much to the gentleman from Georgia [Mr. GINGRICH], but I will tell you that it is a heck of a lot of money, and it is plenty to the 15,000 working families that rely on this subsidy in my district.

According to the Department of Education, my district alone, the Third Congressional District in Connecticut, will lose $9 billion in student support provided through the in-school interest subsidy.

That increase will devastate families like the Baxter family of West Haven, CT, a family that is struggling to put their children through college. This is the Baxter family right here in this photograph. I met Gail Baxter this spring at a student loan forum that I organized, and Gail told me that she was very, very worried about what cuts in the student loan program would mean for her and for her kids. It is no wonder she is worried. Gail is a single mother who has, this fall, four children in college. That means four college tuitions to pay.

The Republican plan would cost Gail Baxter and her family approximately $20,000 more this year, and it is all to pay for a tax cut for the wealthy.

So if you want to take a look at what that bottom line is, the Baxters will pay $20,000 more so that the wealthiest 1 percent of Americans can pay $20,000 less. Where is the equity in that? Where is it? It is not. You cannot find it. It defies logic.

It is not just parents who are worried. Students understand that the GOP cuts will be devastating to their futures.

Let me tell you about one more individual in my district, and then I want to invite my colleagues to join this debate.

Recently I met with students from Quinnipiac College in Hamden, CT. They organized a letter writing campaign expressing their opposition to cuts in Federal student aid.

Let me just give one example from Laurel Drum of Quinnipiac College. She writes, "Recently reports suggest you are considering the biggest cuts in the history of student aid," and, in fact, that is right, "the biggest cuts in the history of student aid, and while I applaud congressional efforts for responsible deficit reduction, cuts in student aid just do not make sense. Student aid actually saves taxpayers money by stimulating economic growth, expanding the tax base and increasing productivity. That is why every major opinion poll shows strong support for student aid programs."

Let me just say that I am so proud of the efforts and the determination of my constituents in their ardent opposition to the cuts in education spending. They want Congress to continue vital Federal support for higher education, because they understand, quite frankly, they probably should understand as well as, and Members of Congress should understand this as well as every working family in this country, that education is the cornerstone of economic security. They get it, and what they are saying to us is, "We elected you," and we have to get it, if we truly want to be people here who represent the interests of those good, hard-working, responsible people who send us here on their behalf.

I would like to now really get my colleagues involved in this, and I yield to the gentlewoman from North Carolina [Mrs. CLAYTON] to talk about her perspective on this issue.

Mrs. CLAYTON. I thank the gentlewoman from Connecticut and thank her for the opportunity to participate in this special discussion about education.

I want to share parts of a letter with the Members of the House that I received in August from 22 young people from the town of Edenton, NC, in my congressional district. These young people are either in high school or are recent graduates who at the time were participating in the summer jobs program.

They write, "Congresswoman CLAYTON: During the school year we all thought how dreadful the summer would be without a job, to do nothing, nothing to do, nowhere to go. Then we received a letter that told us that we would be able to have a summer job this summer. For many for us," they wrote, "this meant an opportunity to gain money to spend on school clothes and shoes that would not have been without this job. However, as the time went on, we began to see that the jobs we held were not only for some money but an opportunity gain some valuable work experience, job skills to help career choices and develop our self-esteem, responsibility and maturity."

As I read, I thought, clearly, they are demonstrating the maturity they gained. I continue to read, "This program," they wrote, "is a good thing for society to have because with the limited number of jobs for young people in this area, we all would have been on streets this summer with nothing to do." Then they asked the compelling question: "We understand that it must take a great deal of money and manpower to keep a program like this going, but if it benefits young people, is not it worth it even if it costs some money?" They concluded, "If this program closed down, there would be no hope for society today. We would like to think you are not giving up on us before you give us an opportunity to have a fair chance."

Mr. Speaker, I am inserting at this point in the RECORD the entire letter from these young people.

The letter referred to follows:

AUGUST 3, 1995.

To our Honorable Congressional Leaders:

We are the twenty-two participants in Chowan county with the Job Training and Partnership Act's Summer Youth Employment and Training Program (SYETP). We chose to write to our North Carolina and United States Congress men and women to let you know how beneficial this program has been in all our lives. We chose to write as a collective group rather than as individuals to show you that we are in agreement with our ideas,

and with hopes that our voices in a collective harmony will ring louder than one voice in the wind. We hope that you will consider our words with the sincerity with which they were written, and magnitude of our problem.

We are all students or recent graduates of John A. Holmes High School in Edenton, NC which is the county seat of Chowan county. During the school year we all thought of how dreadful the summer would be with no job, nothing to do, and no where to go. Then we received a letter from the Albemarle Commission that told us we would be able to have a job this summer. For many of us this meant an opportunity to gain money to spend on school clothes and shoes for the next year that we wouldn't have had without this job. However, as the time went on, and with the help of our counselor and supervisors we began to see that the jobs we held were not only sources of money but an opportunity to gain valuable work experience, job skills, help with career choices, and develop higher self-esteem, responsibility, and maturity. This program is a good thing for society to have today, because with the limited number of jobs for young people in this area we all would have just been out on the street this summer. During our six weeks in SYETP we have gained valuable lessons that help us at home and at school.

Our group is composed of a lot of different people with different personalities and dreams, but we all share the fact that this summer the SYETP has helped us all a great deal. We understand that it must take a great deal of money and manpower to keep a program like this going, but if it benefits the young people isn't it worth it? Please remember that we are the future! Programs like the Summer Youth Employment and Training Program help give us the skills to begin to prepare ourselves for the future that we will one day control. If you all are looking for the answer to a lot of the problems concerning young people, it lies in programs like this one. If this program closes down, we believe that there is no hope for society today. It would be like giving up on us before we have even been given a fair chance. If you want to help the small town of Edenton, or the other counties in North Carolina, or even the entire United States of America then do us youth a favor. . . Keep the program open for other people to experience. For many of us this has been our second or even third year, and we want it to be available for our brothers and sisters. However, for most of us this was just our first year in the program and our first work experience, please do not let it be our last. We need the JTPA Summer Youth Employment and Training Program.

Sincerely,

CHOWAN COUNTY SYETP PARTICIPANTS,
TOMEKA L. WARD,
Counselor.

I could be no more eloquent and forceful than these 22 students who wrote this letter to me from Edenton, NC, in my district, the irrationality of these cuts and how it will impact young people in the opportunity for education. It makes no sense, Mr. Speaker.

The Labor-Education bill which passed just recently demonstrates this senselessness. Rather than promoting education, that bill is, indeed, an obstruction to education. Half of the cuts, some $4.5 billion, come from education; 60,000 disadvantaged children who need a little help at the beginning of their lives really will not get that help at all. They will get no help.

Head Start is now being cut $137 million, abandoning some 180,000 children nationwide and some more than 4,000 young children in my congressional district in North Carolina.

Healthy Start will be cut by 52 percent, exposing infants and children at the very dawn of their lives to the perils of infant mortality and other threats. Thousands of needy schoolchildren during their most important education and formative years will go without this vital support.

Title I will be cut $1.1 billion, denying critical basic and advanced skill training for more than 1.1 million children nationwide and some 20,400 students just in North Carolina.

Drug-Free Schools is cut by 59 percent. This program is currently serving 129 school districts; in other words, they are serving 100 percent of all the schoolchildren. This program is designed to fight what, to fight crime, fight violence, fight drugs, keep drugs away from students in our schools.

What did we do? What does the Republican majority want to do? To gut this program. Yet they say they believe in young people.

Goals 2000 is completely eliminated—381 school districts in North Carolina will be denied this program and the advantages of it.

Vocational education, cut by some 27 percent, thousands of those schoolchildren willing to work who have found hope, now a mountain of hopelessness, will not be able to work. Why? Because the school-to-work program is cut by 22 percent.

□ 2030

And, the summer jobs program is eliminated altogether. Some 9,000 young people in North Carolina will be put out of work for 1996 and some 61,000 will be out of work in our State by the year 2002. And, sadly, Mr. Speaker, that includes the 22 young people who wrote me who rejoice in thanking us for the opportunity to mature and provide for the educational opportunities this year. They, too, will be out of those jobs.

See, the privilege of an education belongs to all in America. But, the Labor-HHS-Education bill, with the stroke of a pen, takes that privilege away for thousands of people.

This Saturday, in Rocky Mount, NC, I am hosting a youth summit. More than 800 young people have already confirmed that they will attend. What will I say to these young people?

This blind march to a balanced budget, without considering the merits of programs, is taking us down the wrong path. I wonder where it is taking our young people?

More important, Mr. Speaker, I think we ought to be about supporting education for our young people rather than a big tax break for the wealthy. America needs a future, and young people are our future.

I thank the gentlewoman from Connecticut [Ms. DELAURO] for allowing me to participate in this very important discussion on education.

Ms. DELAURO. Mr. Speaker, I thank the gentlewoman from North Carolina [Mrs. CLAYTON], who I think has really touched on what we need to be centered on, and that is what is happening overall to our children. I think that there is terrible great fear in our society today about what is overall, whether it is education or whether it is health, what is going to be the future of our kids, and I think that there is a lot of insecurity amongst parents and families today about that whole issue and that this—only these cuts reinforce the fact that we are fearful that our kids do not have a future. I thank the gentlewoman for her comments, and what I would like to do is ask the gentleman from Maine [Mr. BALDACCI] to give us a little bit of some of his thoughts on this area.

Mr. BALDACCI. I thank the gentlewoman from Connecticut [Ms. DELAURO].

I spent some time this afternoon in my office talking with a young man from my State of Maine. His name is Patrick, and he is a sophomore at Georgetown. He is studying international economics. He is very bright, articulate, and thoughtful. He happens to also come from a working-class family and is able to attend Georgetown with the help of federally funded student financial aid. I know that without that financial aid Patrick, and indeed a majority of Maine students, would not be able to afford higher education.

We all know how expensive college education is. Public and private schools have been forced to raise their tuition to meet expenses, putting a college education even further out of reach for many students. Topping that, by cutting financial aid, it is a recipe for disaster.

Mr. Speaker, what is critical about student financial aid, that it provides access to higher education. It does not make anybody smarter or more skilled, but it does give people the ability to go on to school to broaden their minds and learn new and necessary skills.

In my State a few years ago they had a conference on aspirations because we had so many dropouts and that it was not good for our society and our heritage to have those kinds of situations throughout Maine, and we wanted to raise young people's aspirations to go on to higher education, because it was better for them, it was better for the community, the State, and the country. We really worked hard to turn that dropout rate around.

In our State there are 33,000 young people who need to involve themselves

with a guaranteed student loan. Before I came to Congress, we only had enough resources in our State for 18,000 of those young people; 15,000 young people had to get higher-interest loans in order to go to school. So, not only did we have a dropout-rate problem, not only did we want them to go on, but we did not even have the resources to assist in making sure that they had those opportunities.

Now, coming to Washington and seeing that the rug is going to be pulled from underneath them, it is going to turn that situation in reverse, and every single study that has ever been done on aspirations, any study that has been done on defense jobs that have been displaced, any study that has ever been done on laid-off shipyard workers or mill workers, it is education is the key, and, if you remove this opportunity and this bridge for students to reach out and gain their dreams in their future, it not only hurts them, but I submit it hurts the State and also the country.

Ms. DELAURO. The gentleman's comments are about hopes, and dreams, and aspirations, which is really what it is all about, and, you know, just in one other areas I have just got to mention we have had a program for the last 2 or 3 years called a school to work, school to career. These are youngsters who are not going to go on to a 4-year liberal arts college, and that is probably the majority of our kids today, that is the circumstance they find themselves in, and we have not, as a nation, focused in on what to say to them that we really do value, that you want to go from school to work. We want to help you do that. And what we are turning around and saying is forget it, you know. Your hopes, and dreams, and aspirations really do not mean very much in the scheme of things, and we have got other fish to fry. We have got other folks to take care of, and it is a heck of a letdown to kids, and I think that you just capture what, you know, people's feelings are.

Mr. BALDACCI. I appreciate your comments because, when you talk about your family and coming over, I had seven brothers and sisters, and we were very much engaged into going to school and going to higher education because that was the key to our futures and our success, and I appreciate what you are doing also.

Ms. DELAURO. I thank the gentleman very much, and let us get the gentlewoman from California [Ms. WOOLSEY] engaged in this conversation and get some of her thoughts and comments on what has been said in some other areas.

Ms. WOOLSEY. Well, first of all, I thank my colleague from Connecticut for organizing this special order and giving us the opportunity to speak about the most important priority this country should have, and that is education.

Mr. Speaker, it is really hard for me to believe that it was just last year when I convinced this body to approve a landmark resolution which put us on our way to making our schools the best in the world.

Yes, it's true.

Last year, the House approved my resolution which called on Congress to increase our investment in education by 1 percent a year, until the education budget accounts for 10 percent of the budget in 2002.

At the time, I said that the resolution would send a clear message to those who decide how our Federal dollars are spent, the appropriators, that this Congress was serious about improving education.

Well, guess what, folks? Times have changed. We've got a new majority in Congress, and, instead of going forward, we're going backwards. Fast.

The new Republican majority in the House blatantly ignored the pledge we made last year to our children's education, and passed one of the worst bills I have ever seen—the Labor, HHS, and Education appropriations bill.

This bill cuts: Head Start, Chapter One, Safe and Drug-Free Schools, Goals 2000, School-to-Work, vocational and adult education, and college aid.

In all, this bill cuts education by 13 percent in 1 year alone. Thirteen percent.

I repeat, that is the wrong direction, and that's not the way we are supposed to be taking care of our children.

You see, I believe, as do my colleagues here tonight, that our Nation's greatest, greatest responsibility is to provide a quality education for everybody in this country.

I believe this because education is absolutely central to solving the problems facing our Nation.

When we strengthen education, we prepare our children and workers for jobs that pay a livable wage.

When we strengthen education, we get people off welfare and, for heaven's sake, we prevent people from having to go on welfare in the first place.

When we strengthen education, we actually prevent crime and violence in our communities.

And, when we strengthen education, we increase respect for our health, our environment, and for each other.

Speaking of welfare, Mr. Speaker, having been a single working mother on welfare 28 years ago, I am absolutely certain that, if it had not been for the fact that I was educated—I had 2 years of college—I would not have been able to work myself off welfare to the degree that I did, and have the successes that came to me, nor would I be a Member of the House of Representatives today. That is why, for the life of me, I cannot understand why the new majority wants to cut and gut our education system. In fact, if they do not stop, there is going to be a triple feature playing down at our theaters in the very near future, and that is going to be called, "Dumb and Dumber, Sick and Sicker, and Poor and Poorer," and let me tell you it is not going to be a bargain matinee.

Mr. Speaker, it is time to stop this assault on education. It is time to make our Nation's No. 1 special interest our children and not the fat cats and lobbyists in Washington.

Ms. DELAURO. Amen. Thank you very, very much, and what we need to do is one more time introduce that 1 percent until the education is 10 percent of what our budget is about. That is when we really will be doing the job we were sent here to do, to make sure there is a future for our kids.

I would like to ask my colleague now from Texas, Mr. GENE GREEN, to talk about, I think, a recent experience he had with kids and to let us hear his story.

Mr. GENE GREEN of Texas. Mr. Speaker, I thank my colleague from Connecticut for requesting this hour this evening for us and to share her time with us.

Yesterday I had the opportunity in Houston, because I am proud to serve on what is now called the Economic and Educational Opportunities Committee, Education and Labor Committee last session, because, no matter what problems we deal with in our country, education is the answer, and yesterday I had the opportunity to visit an elementary school in Houston, Franklin Elementary, and the sixth-grade class provided me appropriately the front page in green, a booklet, and I will go into that in a few minutes, but yesterday the kids are back in school around the country. After Labor Day they go back, but in Texas we had our children back in school for about 3 weeks, and every year young people across the country venture out to buy new notebooks, pencils, backpacks and the same excitement about going back to school mounts inside of them again. But, Mr. Speaker, this year is a little different. Yes, school has started again, but Congress is welcoming students back with less funding for this year than they did last year. Programs hit hardest include basic math and reading services, efforts to promote safe and drug-free schools, resources for State and local officials to implement higher standards, and education technology. Cuts in these vital programs will cause irreparable harm to students in my community and particularly across the country.

It may shock some of you that the lion's share of cuts in Federal aid to education are in elementary and secondary education, but it is true. We will be spending $4.5 billion less in 1996—almost 20 percent of the total Federal aid to schools—than we did in

1995! At the very same time, local, State, and nationwide enrollment trends are up. In fact, the Houston Independent School District, where Franklin Elementary is reports a 2.2-percent enrollment increase or 4,462 more students in 1995 than in 1994. And, the Aldine Independent School District where my wife teaches reports a 3.2-percent enrollment increase or 1,375 more student in 1995 than in 1994. We are having more students, but they are having less money in each of these school districts.

On top of these steep cuts, my home State of Texas stands to lose all the money we won last year under the Elementary and Secondary Education Reauthorization Act. I supported the package last year through Congress largely because we changed the funding formula, and I know Connecticut was kind of caught in the middle on that, but for high-growth States like Texas, and Arizona, and New Mexico, and Florida, the reauthorization of chapter 1 funding actually provided additional funds for our students.

□ 2045

In the updated formula, it took into account these population increases in Texas and high growth States. But in order to gain the support of the Northeastern States, what we did was in conference committee we agreed and said the new funding formula would go into effect for new money, and the spending levels, only the amount above the 1995 spending level, would go in under the new formula.

Unfortunately, for every child in these United States, the 1996 appropriation is not increasing. In fact, it is decreasing. In Texas we are going to lose in chapter I alone $97 million. Texas has about 10.5 percent of the Nation's poor children, but about we receive only 4.5 percent of the chapter I money. This inequity for Texas children can only worsen in the future unless we change it and the U.S. Senate changes it.

These education cuts are not what we are hearing as shared sacrifice. Education will suffer a staggering 18 percent cut. By comparison, agriculture spending is cut by 9 percent, transportation by 7 percent, and the Department of Defense by .3 percent. Cuts in Federal Aid to Education will adversely affect every working family and further diminish the quality of life of thousands of American communities. State and local governments will not be able to make up that difference without raising taxes or short-changing our children's future.

I know the value of good education. I as a youngster growing up in Northside Houston, in the district I am honored to represent, our hope for a better life was better education. That is even more important today in 1995 than it was in 1965 when I was a student in Jeff Davis High School in Houston and we received our first Federal funding.

Yesterday I participated in a press conference with the Department of Education in which Franklin Elementary was recognized by the Department of Education for their vast improvement in our Texas achievement scores, the test that is required around the country. Different States have different achievement tests.

Franklin Elementary moved from the 35 to the 59 percentile to the 75 to the 89 percentile, and that is in a school that 98 percent of those children are qualified for school reduced or free lunch. The reason Franklin Elementary improved was because of renewed commitment by the students, by the teachers, and by the faculty.

A representative from the Department of Education and I had the opportunity to tour an innovative fourth grade team teaching classroom, and we actually sat down and read to a classroom. I do that often times. I have already done it three times this year. We sit down and read a great book and talk with the children in the lunchroom about their school and their pride in their school that a year or two years ago they did not have.

Federal funding is used in that school for computers, for additional counselors, for chapter I, and yet they are not going to have that because of the cuts. The students and teachers were willing to make that commitment by staying late during the week and coming in on Saturdays. Teachers came in without extra pay on Saturday because they knew the commitment from the community. They participated in workshops that would not be there if the Federal Government did not continue that commitment.

Let me share with you some of the letters that I received yesterday from some of the students. Let me share a letter from a young man, Michael Gonzalez. His statement is:

> Thank you for the free and reduced lunch program. It helped us a lot because my mom has a lot of bills to pay.

Again, this is a school that 90 percent of those children qualify for it.

Another letter, from Mario Silva. Mario says:

> Thank you for giving us free lunches and for making the school look better every year. You have done a good job on fixing the school. You have brought our school from bad to good. We hope to do even better this year.

They hope to do even better than the 89 percentile, yet we are cutting the funding for Franklin Elementary.

Mr. Speaker, I hope we can find common ground on education, because I am committed that education is a key to the stronger future for America. I hope our colleagues on both sides of the aisle will stop balancing the budget on the backs of these children, particularly the ones that I was with at Franklin Elementary School in Houston yesterday.

Ms. DELAURO. I thank my colleague. It is I guess actually true, out of the mouths of babes, all of us have had that wonderful experience of reading to youngsters in classrooms, and I think the gentleman shares the same feeling. You walk out of the classroom and you feel you really have accomplished something, that you are not just taking up space, that in fact you really have tried to give something back when you watch those youngsters with their eyes so high and just absorbing all of that. And to think some of that could really be gone. A point you have made, which I think is a very important one and I think people are going to understand this very quickly, is that if Federal dollars are taken away, you have one or two things happening: Either the State has to pick them up in some way, which deals with increases in taxes, or the services go. In both instances, it is a hardship. Certainly if the services go and some of the programs go, it is more than a hardship. It is really, if you will, eating our young.

I love that booklet. I think that is terrific. Those kinds of things you keep right by your desk in your office to remind you why you are here. That is terrific.

Mr. GENE GREEN of Texas. It reminds us why we are actually here working for the students that are actually working. As we talk this evening, they are working to make sure they do better. They are the ones going to be standing on this floor 10 to 15 years from now.

Ms. DELAURO. If we give them that opportunity, and that youngster said "we want to do better next year," that is what this body has got to do, is to do better on this issue.

I would like to ask my colleague from New Jersey, Mr. ANDREWS, to give us your views, but also how can these kinds of cuts in this area, in your view, be justified? How do we justify this?

Mr. ANDREWS. I would like to thank my friend from Connecticut, Congresswoman DELAURO, for giving us this chance to talk about this. Let me say for the RECORD, because I know we hear all the political rhetoric from the other side, let me say for the record, we understand you cannot solve problems simply by throwing money at them in public education. We are not saying that.

Many of us would disagree as to how to do it, but many of us understand the imperative of getting our Government's fiscal house in order and balancing our budget. But in all the numbers and the political rhetoric thrown around, what you have given us tonight is an opportunity to talk about people.

I want to talk, Mr. Speaker, tonight about some of the people who are affected by the issues we are talking about. Many of us sense in all of our

districts a tremendous sense of frustration that people have about government. They go to work 50, 60, 70 hours a week. if they are fortunate enough to have two adults in the family, the two adults barely see each other, five minutes in the morning before they leave for work, 15 minutes in the evening after the chores are done, after the children are put to bed, before they go to sleep. All the things that they would do during the week they do on Saturday, if they do not work on Saturday at their third job, and they see their children for 3 hours a week at a soccer game or 2 hours a week to take them to Girl Scouts or something like that.

People wake up in the middle of the night and look at their husband or wife, if they are fortunate enough to have one, and say what are we doing this for? And we are handing over 30, 40, sometimes 50 percent of our income in taxes to government at all levels, when you add up the State, Federal and local.

Now, many of those individuals I talk about, Mr. Speaker, are saying what do we get from the Federal Government for 30 or 40 or 45 percent of our income? What are we getting in return for that?

Well, Mr. Speaker, the programs we are talking about tonight are programs where middle-class people get something in return for their tax dollar. Let me offer you a couple specific examples.

The daughter of a family where the mother is a paralegal and the father is a real estate salesman, if that little girl has a reading problem, whether she goes to public school or Catholic school or in many cases Christian or private schools, she gets help with her remedial reading teacher, someone who comes in and tutors her on how to read from the Federal Government. That is being cut, the reading teacher for the little girl from that family.

The teenager of a mom who is a single woman who works as a nurse, and her son wants to get special training to be an auto mechanic when he graduates from high school, so in addition to his regular high school curriculum of history and math and English and physical education, he gets special vocational education on how to fix a car or truck engine through Federal vocational money. That is being cut and taken away.

The daughter of a family where the father is a public employee and the mother is a paralegal, who wants to go to a private university in a State like mine, a Princeton or Rider or Drew University, $25,000 a year to go there, the way she goes to school is this way: First of all, she works in the summer and on weekends and at night. Well, work-study money that would help her get a job when she is in school is being cut.

Her parents take a home equity loan on what little equity they may have in their house. They better hope they have a lot more, because the student loan she would get to make up the difference is being cut in the following ways: First of all, it is not clear what we are saying to her, because our Republican friends have not been explicit yet. See, they want to keep this under wraps as long as possible, because, Mr. Speaker, when middle-class America finds out what is hidden under this shell they are not going to like it very much. But here is what we think is hidden under the shell.

They are going to say to that young woman, once you graduate and you have got $50,000 in debt and you get your first job, if you are lucky enough to get a first job, that pays $18,000 a year right out of college, you got to start to pay your loan back right away. No deferment until you get a job. The first week after you get your diploma you have got to start to pay your loan back, whether you have a job or not. Forget about your car payment, your auto insurance, your rent, your grocery bills, your health insurance. You got to pay your loan back right away. That is being cut.

Or better yet, let us say the young women wants to go to graduate school because many of our people are finding out today a Bachelor's Degree is not enough, you have to have a MBA, a Master's in social work, some advanced degree. Apparently one of the proposals is that she will have to pay interest while she is in school.

Now, think about this, Mr. Speaker: She graduates from undergraduate, a $50,000 debt, and now she has got to go to graduate school and it costs $25,000 a year to go to that in many places, and she is working as a teaching assistant or a waitress or doing whatever she can to make ends meet. Now we say you have to pay interest while you are in school too. Or you can defer it, a great gift from Uncle Sam, meaning your debt will go up by 25 percent, and instead of owing $100,000 at the end of your years in school, you will owe $125,000. That is being cut.

Finally, the father in that family, say he is one of those unfortunate shipyard workers that our friend from Maine talked about or he is one of the workers at a Federal military installation, gets laid off in the latest round of base closures. They are happening from California to Maine, all over the country. And what that family decides is that one of them would like to go back to school and learn how to be a computer repair person or a person who works a blood testing machine at a hospital, and it takes money to do that, $5,000, $6,000, $7,000 to go back in the middle of your life, when you are 45, 47, 51 years old, and try to learn a new skill in a job market that says you are too old to start all over again, but not old enough to retire.

That is being cut. So if you want to talk about where the cuts are in this bill, they go almost from cradle to grave. The reading teacher for the kid in the first grade, cut. The auto mechanic class for the 16-year-old, cut. The student loan for the person who is smart enough to go to the finest school, cut, because she has to start to pay her loan back the first day when she graduates. We did not have to do that, as my friend, the gentleman from New Jersey [Mr. PALLONE], pointed out, but she will.

The graduate school student who wants to go on and do something has to pay interest in school. Finally the dad or mom in that family, the latest person to get a pink slip in the unending hemorrhage of pink slips in this economy today, tries to go to school to learn a skill, that gets cut.

Mr. Speaker, I know there have to be cuts in the budget and specifically cuts in education, I understand that. But imagine how angry our constituents were when they picked up the newspaper last week and read the following story. The Secretary of Interior of this country, under duress and protest, signed a deed conveying $1 billion worth of mineral rights owned by the people of the United States of America, signed a legal document giving those 1 billion dollars' worth of public assets to a Danish mining company for the sum of $265, under a law passed here in 1872.

Mr. Speaker, I want to balance the Federal budget. I understand there are ways education could be cut to balance the Federal budget. I may disagree with some of my Democratic colleagues as to how to do that. But all of us ought to understand that in an environment where we are saying to that kid, no reading teacher, no shop teacher to teach auto mechanics, got to pay your loan back the day after you graduate from school, too bad you have to let the interest accumulate, and dad, you lost your job, you need retraining, too bad, look in the want ads, that is what we are saying in this budget. And we are giving away 1 billion dollars' worth of public assets to a foreign company because the majority would not change a law that was passed in 1872?

□ 2100

That is the priorities we have in this body today. It is wrong. And you have given us a chance tonight to talk about that. Let us do more than talk about it, though. Let us vote this way. Let us convey this message to the American people, and let us hope they remember in November 1996, what is going on.

Ms. DELAURO. I thank you. You really have said it all. In addition to reading the paper about giving away our land and at what price and what we are cutting, there are numerous other examples.

When you take a look at just repealing the alternate minimum tax, which was not requested, was not asked for,

put in by Ronald Reagan so the richest corporations in this country could pay the 20 percent rate, repealing that, giving the biggest, giving the richest corporations in this Nation, and we want to have them have a tax break so that they can invest and do this, but taking away all tax obligation to the richest corporations in this country. And then you say to folks who are every day playing by the rules, who are doing three or four jobs, parents, my parents, Congressman WARD's parents, MAJOR OWENS' parents, all of the folks who are here today, they are willing to work those three or four jobs to give their kids the opportunity. But when they are working three or four jobs and then you deny them the opportunity, that is why they are angry.

Mr. ANDREWS. Let me just say one more thing. My mother did not graduate from college. My father did not graduate from high school. But they sure were smart enough to know that something is amiss in a country's priorities when we cannot afford to help pay for reading teachers for children in schools across this country we can afford to guarantee $30 billion of debt of the Government of Mexico. There is something very wrong with what is going on here.

Ms. DELAURO. There is another issue which I hope my friend from Kentucky will mention, is to provide an exclusion from taxes for billionaires, an issue on which he has really been a leading fighter to close that loophole so that those folks who are billionaires can pay their fair share of taxes. Let me have my colleague from Kentucky [Mr. WARD] share his own life experience with us on this issue of education and student loans.

Mr. WARD. I thank the gentlewoman from Connecticut very much. I appreciate this opportunity to participate in her discussion on this very, very important issue.

I am a fellow who would not be here but for student loans. It was a situation when I was in college that I worked full time. My parents were able to help but just some. In order to get the tuition paid, I had to take out loans.

If I had to face some of the challenges that we have heard about tonight, if I had to face immediate repayment, I would not have been able, I would not have been able to succeed and to get through the University of Louisville.

What we have here is a situation where maybe some who did have those opportunities, as we have heard from the gentleman from New Jersey, many, many of us here in this Chamber had the opportunity to get some help with student loans and grants and other kinds of assistance. But it seems that there are some of us who want to pull the ladder up behind them.

Of course this goes across the whole range of things, whether it is a GI loan that got people their first house or the GI bill that got them through school or other sorts of small government assistance, small assistance that made the difference, because none of us tonight is talking about the Government paying the whole way. None of us is talking about throwing money at a problem. Each of us is talking about government helping to bridge the gap, to make the difference, to do that little bit extra that can help, that can mean the difference between success and failure.

There is no question when you look at the barometers of success and the indicators of what opportunities someone will have in our society, the one thing on which there is total agreement is that important part of the makeup of a person who succeeds is education.

What really surprises me and grates on me is that the very issue that we have talked about, people taking care of themselves, people taking responsibility for themselves, is left out of this discussion. It is these very people who have gotten themselves into a position of getting into college, of going through college, of making that commitment of work and sacrifice who are going to be affected by this.

So as one who had the opportunity, who spent 10 years paying back his loans, I can only say I cannot be part, I cannot imagine being part of an institution that says to everyone else, we are pulling up the ladders because we have got ours.

With that I thank the gentlewoman for allowing me this opportunity to participate in this special order.

Ms. DELAURO. I thank my colleague very, very much. I just want to, before I introduce my colleague from New York, MAJOR OWENS, just mention a couple of things.

One of the things that is going to be eliminated here is something called the direct loan program. And really by targeting the extinction of that initiative, what we are seeing is the Republican leadership in this House throwing away about $6.8 million in taxpayer savings.

We ought to be trying to take a look at expanding a new streamlined approach to processing student loans. What we have tried to do here, and the program is working, is to take the bank out of this equation and, with the institution and the family working together, thereby making it more affordable to deal with the loan, what we should not be doing is limiting the growth of such a direct loan program or totally eliminating it after 1 year.

There is just one other program that I want to mention, and that is the national service program, AmeriCorps. We often fault young people today when we say to them, you have got advantages, you do not give anything back, that you are taking only, that it is the me generation, you are focused, self-centered on yourself, give something back to your communities.

My God, the national service program is exactly what was tailor made to say to young people, you commit to doing things in your community, helping in your community, providing a real service, not make-work, not a no-show, but providing a real service and taking an interest in your community. We will provide you and your family with some assistance in order for you to have an education.

The Republicans want to totally eliminate AmeriCorps, national service, and the 4 million new service opportunities in the next 4 years alone.

I would like to bring into the conversation someone who has spent a long time warring about a number of these issues and trying to expand opportunity for young people. That is my colleague from New York, Mr. OWENS.

Mr. OWENS. Mr. Speaker, I thank the gentlewoman from Connecticut for this special order.

I associate myself with the remarks of my previous colleagues and will try not to be repetitive. I have served on the education committee for the whole 13 years that I have been in Congress. H.G. Wells said that civilization is a race between education and catastrophe. That may not be the exact quote but that is the gist of it. Catastrophe has stared us in the face as we go forward with these reckless cuts that have been proposed by the Republican majority in this House.

Speaker GINGRICH says his objective is to remake America. And in this process of remaking, this behavior has become very reckless. Education, which is the cement, the glue, the adhesive which helps to hold our society together, is being destroyed. We have proceeded step by step, starting with Ronald Reagan who offered the report or commissioned the report called "A Nation at Risk" and moving from that to George Bush, "America 2000," and moving from that to President Clinton's "Goals 2000," all of which had some continuity. We were moving in the right direction.

Suddenly the Republican majority proposes to wreck all of that. Instead of remaking America, we are going to destroy America because we do not recognize the critical role of education. These cuts are very mean, they are very extreme. They are very dangerous.

The Republican majority in the House of course proposes to wipe out the Department of Education totally. Only the Senate prevailed and has slowed the process down, but they are still moving with legislation to wipe out the Department of Education; a modern society in this complex world of ours would not have some central direction from a Department of Education.

A Department of Education at the Federal level plays a small role compared to the role played by centralized departments of education in other industrialized societies, but that is a very key role. It is a critical catalytic role. Only about 7 percent of the total budget spent for education is Federal money. But it is key in terms of stimulating, in terms of pushing for reform, and it is all very well packaged in "Goals 2000," in title I and Head Start. It is all very well packaged, but they have taken a sledge hammer to it all, and they are destroying it all in the process. In the process they will destroy the country.

We cannot have a society able to compete in this very complex and competitive industrialized world of ours, a global economy, without having great emphasis on education. I applaud President Clinton's proposal to make education a priority. When he laid out his 10-year budget proposal, education receives increases in that budget of $47 billion over the 10-year period. Similar to the Congressional Black Caucus before where we increased over a 7-year period the education budget by 25 percent. Education deserves the priority. it has to have a priority. Not only should we not have these cuts, we should be moving forward with increases.

The civilization of New York City once boasted of having free universities. The city universities were free without tuition when I moved there in 1958. We do not have that any longer. But we are instead going rapidly backwards where not only do we have free universities but even with all of the aid that is offered by the State and the city and the aid available from the Federal Government, with it being cut so drastically and forcing tuition costs up, large numbers of people in New York City who want to go to college will not be able to go to college in New York City.

These same city universities compete with Ivy League schools in terms of the number of Nobel Prize winners. Nobel Prize winners have come out of these city universities. The numbers of Ph.D.s that have come out of our city universities are as great as the Ivy League schools when you take a look at it and add it all up. So all of this is being wrecked when they say they are going to remake America. What they are doing is destroying America.

Unfortunately, the powerful juggernaut approach that is being taken here will wreck education right across the country. it is most unfortunate. American voters, taxpayers should rally to stop the destruction of our civilization, and the first place that we should focus on is to stop the cuts in education.

Ms. DELAURO. I thank my colleague, Mr. Speaker. My colleague has spent a lifetime and his professional lifetime in this body focused in on this area of being part of the education committee.

It is truly hard to believe sometimes that we would wreck education, which is, as we know, the key to the future, to the success of this Nation, to the success of individuals. Each succeeding generation has wanted to pass on increased opportunities in this area. We are finding ourselves in the position, I think, parents are finding themselves in the position today where they are saying that their kids are not going to have the same kinds of opportunities that they had.

Chief among those opportunities are the opportunities to increase their ability through education, whether it is higher education or whether it is vocational education, but a route in which we allow people to aspire and to dream, if you will.

I am really proud to stand with my colleagues here tonight in staunch opposition to the Republican leadership's plan to shut the door on educational opportunity to America's working families. Speaker GINGRICH likes to portray the Republican budget as part of a revolution. There is nothing new here. This is, it is not the least bit revolutionary. It is nothing new, and it is not revolutionary. It is, quite honestly, the same old trickle down economics of old, which is that you provide a tax break for the wealthiest in our Nation, and that is paid for by limiting the opportunities of working middle-class families in this country.

□ 2115

I started this hour by telling my own story, which is about my folks and their beginnings. My dad is an immigrant; my mother working in the old sweatshops and her admonition to me which was: Take the opportunity for an education, so that you will not have to do this.

That is essentially what we are denying to parents today; their ability to help and provide their kids with a future. That is wrong. That is something all of us here tonight are going to oppose and we hope that the American public will join us in that opposition.

Mr. Speaker, let me thank my colleagues for participating in this conversation tonight.

ISSUES OF IMPORT TO AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Idaho [Mrs. CHENOWETH] is recognized for 60 minutes as the designee of the majority leader.

Mrs. CHENOWETH. Mr. Speaker, I have three items that I wish to speak with you on and address tonight.

The first item that I very briefly would like to address are comments on the Endangered Species Act reform. I do want to say that I did attend all 12 of the task force hearings on the Endangered Species Act Task Force, from one end of this country to another, and what I heard from the American people was very, very clear.

No. 1, I heard that the current Endangered Species Act is not working for people or for wildlife.

No. 2, I heard that we need reform that does not trample on States' rights.

No. 3, I heard from the American people, thousands of them, that we need reform that offers incentives to landowners, not punitive measures by a government that has grown too large and too prosperous at the expense of private property owners.

We heard that we need a bill that does not increase our regulation, but decreases it in the Endangered Species Act. We also heard that we need a bill that compensates landowners immediately for any taking under any authority designated by Congress under the Endangered Species Act.

Mr. Speaker, for the record, I will work toward these goals. I will work very hard toward these goals, as we debate the Endangered Species Act reform. It is critical that people are put in this equation of the endangered species, because truly, the American producer, if the trend continues, will be the endangered species.

I want to thank you, Mr. Speaker, for this time, because I want to speak on my second issue. I want to speak about the nature of power and the threat posed to our freedoms when those in power act against the law.

Nearly 70 years ago Justice Louis Brandeis, in the U.S. Supreme Court in his opinion in a case involving Olmstead, observed that decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are the commands to the citizens. He said that if the government becomes a lawbreaker, it breeds contempt for the law.

Mr. Speaker, I am saddened tonight to say that I am convinced at this time that our Government finds itself in the dangerous position about which Justice Brandelis warned us back in 1928. Tonight in the two issues that I will be discussing, two very, very different issues, it will show a set of circumstances that brings the Justice's warning to mind.

Although the individual cases could not be more different, they both indicate a shared contempt at this time among some of our highest ranking public officials in our land for the very laws of our land.

Mr. Speaker, one of my highest priorities when I was elected to the U.S. Congress was to pass legislation to salvage the dead, dying, burned, diseased, infected, and windblown timber that is now rotting on our forest floors, in Idaho and throughout the Northwest.

Yet I and my colleagues have been thwarted at nearly every turn by the Clinton administration as we have tried to enact tough legislation that will salvage the burned timber and put our loggers back to work, as we restore our forests to a healthy condition.

Let me share some history with you on why timber salvage legislation is so important for our Western States and how our efforts in the House to pass legislation has been turned on their head by President Clinton and his administration.

Last year, in the Northwest alone, we had 67,000 fires, which devastated millions of acres of Federal forested lands. The fires burned 8 billion board feet of timber and that is enough to construct 542,000 homes and provide 1½ million jobs.

Nearly 9 years of drought in the West, along with insect infestation, disease, and irresponsible Federal management of our western forests, culminated in catastrophic wildfires last summer in the Western States of Idaho, Oregon, Washington, Montana, and northern California.

Thirty-five human lives were lost in the fires. Countless animals were savagely burned and destroyed and more than 4 million acres of Federal forest land burned with over $1 billion being spent to fight the fires.

When President Theodore Roosevelt established the National Forest System, he made it very clear in his writings that the uses for these lands would be very careful utilization, which was essential for our Nation.

The President stated that the forests are for the use of the people under proper restrictions; grazing privileges, timber cutting, haying, and other similar privileges. In addition, the mission of the Federal land management agencies, as directed by Congress, is to meet the diverse needs of the people, not the grizzly bear, not the wolf, not the marmot, but the people, by advocating a conservation ethic in promoting the health, productivity, diversity, and the beauty of the forests and associated lands, listening to people and responding to their diverse needs in making decisions and protecting and managing the National Forests and grasslands to best demonstrate the sustainability of the multiple use management concept. Theodore Roosevelt, the father of the concept of the Forest Service.

The wildfires in the Western States were sparked by nature, but the intensity of these fires could have been prevented with good stewardship in our forests, good fire suppression techniques by the Forest Service and the Bureau of Land Management, and good overall management by these agencies.

After the fires of last summer, Members of Congress from the Western States requested swift action of the administration to log the burned timber. Time was of the essence as burned timber loses its value rapidly and can cause environmental damage to riparian areas, watersheds, erosion control, streams and spawning habitats in our rivers and streams.

The administration shuffled its feet while we lost these valuable national resources, but there was no action from the administration. I came to Congress ready to pass legislation to move that timber into mills, put loggers back to work, and restore economic health along with my other colleagues from the West, to these devastated communities.

When I arrived in Washington, I was pleased to find that other like-minded colleagues who believe that immediate removal of this salvage timer, as required in the Multiple Use-Sustained Use Act, the Resource Planning Act, and the National Forest Management Planning Act, which is already required and we were not making new law, and the return to well-established forest health practices, was a priority.

The situation was so extreme that hearings on the emergency salvage situation were held within a month of the start of the new Congress, in spite of the heavy load that we had with the Contract With America.

Together, many of us in the House with heavily forested districts forged the basis for legislation which was included in the fiscal year 1995 Emergency Supplemental Appropriations and Rescissions bill.

This language set very clear goals for the administration to remove dead and dying timber. However, the administration snubbed our goals of renewing our forests and putting money back into our local economies and the Treasury, and the President vetoed our rescission bill, H.R. 1159 on June 7, 1995.

In his veto message the President expressed his opposition to the timber salvage proposition of the bill, and I quote the President's words that said that, "They would override existing environmental laws in an effort to increase timber salvage." He said, "I urge the Congress to delete this language and separately to work with my administration on an initiative to increase timber salvage and improve forest health."

When is this man going to learn what a real contradiction is? That is it.

I find it interesting that the President, Mr. Clinton, paid lip service to forest health, when his land management agencies have essentially abdicated their responsibilities toward managing our forests for multiple use. The fires could have been prevented if the agencies were managing the forests properly.

During the post-veto negotiations with the White House, several changes were made to accede to administration demands. These changes prompted a June 29, 1995, letter from President Clinton to Speaker GINGRICH on reinforcing and reenacting the timber salvage provision. The President stated, in his own letter signed in his hand, that said to Speaker GINGRICH, "I want to make it clear that my administration will carry out the program of timber salvage with its full resources and a strong commitment to achieving the goals of the program."

I would like to enter this letter for the RECORD, and I will do that, Mr. Speaker, at the conclusion of my remarks.

The President's words remain a mystery to me, because, Mr. Speaker, they have not shown in any instance to be carrying out the very legislative goals that he agreed to.

After passage of the rescission bill, the President then issued, after he got everything or much of what he wanted from this Congress, then the President reversed himself. After signing this into law, he issued a memo to the land management agencies on August 1 in which he stated, "I do not support every provision of the rescission bill, and most particularly the provisions concerning timber salvage."

Mr. Speaker, I would like to enter this into the RECORD also.

I find this statement to be incredibly egregious, after the President held up our legislative process on timber salvage through his veto. Days, weeks, and months were lost trying to negotiate this bill with him and the value of the burned timber declined.

But this is only the beginning of the administration's outrageous actions on this issue. Shortly after the August 1 memo, the Secretaries of Agriculture, Interior, Commerce, and the Administrator of the EPA, under the President's direction, entered into a memorandum of agreement. I will enter this memorandum of agreement into the RECORD, Mr. Speaker.

This memorandum of agreement outlines a bureaucratic process that is nothing more than a smoke screen to prevent the agencies from harvesting timber. It is a heartbreaker for those of us who wanted to break through the administrative paralysis that has encompassed this country for the last number of years.

Mr. Speaker, let me make it very clear, the rescissions bill did not tell the administration to create a new bureaucracy. We did not tell the administration that they could take their time to get the timber out.

□ 2130

Let me tell you what this lawmaking body, the U.S. Congress, did say very clearly. We said expedite salvage timber immediately, that this was an emergency. The President of the United States is sworn to enforce the law. In fact, in article 2, section 3, as the President puts his hand on the Bible and swears an oath to his new duties

and his new office, in article 2, section 3, he stated that he will faithfully take care that all of the laws of the land are faithfully executed. That is what the President of the United States pledged to when he became President.

Our Constitution does not give the President the choice of determining which laws he wants to faithfully execute. In fact, I remind you, Mr. Speaker, that he signed this law into law with his own hand.

I would like to take just a few moments to highlight some of the language from the rescission bill and show just how the President is knowingly circumventing law. The rescissions bill states that upon completion of timber salvage sales, the preparation, advertisement, offering and award of such contracts shall be performed notwithstanding any other provisions of law, including a law under the authority of which any judicial order may be outstanding on or after the date of the enactment of this act. This is what the President signed into law.

The language of the memorandum of understanding states that the parties will agree to comply with previously existing environmental laws except where expressly prohibited by Public Law 104–19, notably in the area of administrative appeals and judicial review. This is a blatant disregard of the law. Clearly, the legislation says to undertake additional salvage notwithstanding any other provision of law. The administration has created arbitrary requirements that do not exist in an effort to slow this process down.

Second example: The law that we passed that was signed into law by the President states that there shall be expedited procedures for emergency salvage timber sales and lays out very clearly the sales documentation. Yet the language in the memorandum of understanding is contrary once again. It states that the parties agree, and now this is the Government agencies agreeing among themselves; this never came to the Congress, but the parties agree, the agencies of the Federal Government agree to adhere to the standards and guidelines of applicable forest plans and land use plans and their amendments and related conservation strategies, including but not limited to, the western forest health initiative and those standards and guidelines adopted as part of the President's forest plan for the Pacific Northwest, PACFISH, INFISH and the red-cockaded woodpecker, long-term strategy, as well as the goals, objectives and guidelines contained in the Marine Fisheries Service biological opinion on the Snake River Basin land resource management plans through the interagency team approach agreed to in the May 31, 1995, agreement on streamlining consultation procedures.

Mr. Speaker, that is not emergency salvage procedures. That is not streamlining procedures.

The President's forest practice, PACFISH, INFISH and the National Marine Fisheries Services' biological opinion are nothing more than staff opinion. Yet the agencies have put these initiatives above the law passed by this Congress, signed by the President of the United States, and I tell you, Mr. Speaker, that is outrageous.

The memorandum of understanding or agreement expands the authority of the Environmental Protection Agency, the Fish and Wildlife Service and the National Marine Fisheries Service far beyond their congressionally mandated current authority. It is time we held the administration accountable for violations we have seen as it relates to timber salvage and the blatant abuse of a President who, without care, discharges the oath of office that he took. This President is doing everything in his power to tear down the rural economies that have been built in this great Nation and in the West.

Mr. Speaker, lest anyone cast any doubt, there is a war on the West. This is only one of the battles that we will fight, but we will fight. I can tell you, Mr. Speaker, the West was not settled by wimps and faint-hearted people, and we will not give it up easily.

This Representative from Idaho will not back down until I am secure in knowing that my President and my Government are upholding the Constitution of the United States.

Mr. Speaker, I now would like to turn to another example of how some agencies of the Federal Government have become law breakers. The consequences of this incident have been not merely economic but actually resulted in three deaths. There has been another casualty as well in the tragic incidents at Ruby Ridge: public confidence in several of our Federal agencies we depend on to enforce laws and administer justice. I am speaking, of course, Mr. Speaker, of the ongoing investigation into the Government's ill-fated siege directed against the Weaver family at Ruby Ridge, ID, in my district, which is the first district in Idaho, which I represent.

I am encouraged that the Senate and this Congress is finally beginning to review this matter. However, it is unfortunate that it has now taken 3 years for us to get to this point. I am saddened that we will never be able to restore a mother and her son who were unjustly ripped away from a family. Moreover, we will never be able to ignore the fact that the Weavers were unfairly and tragically targeted because of their religious beliefs, and we will never be able to end the grief and the lack of justice the Weavers have experienced in the 3 years since their tragic loss. But I believe that some good can result from this, and as out of the ashes, we will always have hope that the Phoenix will rise. We must be able to hope that this tragedy will yield a courage and a will from this Congress to take a hard stand by recommending that there be severe punishment for those who have wronged not only the Weaver family but this country and our confidence in our law enforcement agencies.

We as a Congress must have the courage and the will to set down a hard-line rule so that this never again happens to another family in the United States of America, the land of the free, the home of the brave, and it used to be the hope and the light of the world. We want to see America there again.

Since the beginning of the siege on the home of Randy and Vicki Weaver, I have closely followed the developments that have occurred in the 3 years after that. I have spent a considerable time studying the details of the events surrounding Ruby Ridge, including spending time at the trial and speaking with people who were there and who were directly involved. Some have said that what happened at Ruby Ridge was merely the result of minor oversights made by a few Federal officials in one incident involving an individual whose religious beliefs are generally misunderstood and spurned by society.

Some have even suggested that this was merely a case of using venom against venom and should not be receiving the attention it is getting and are questioning the wisdom of even holding the hearings. Nothing could be further from the truth.

I commend my senior Senator, Senator LARRY CRAIG, and Senator SPECTER for their participation, for their study and the time that they have given to this incident in the Senate hearings. I am very proud of the search for truth by the Senate and also by the Congress.

What I have observed, though, as I have kept track of the developments of Ruby Ridge and this incident, has deeply concerned me even to the point that what has been uncovered is, in part, what motivated me to run for Congress. In fact, the issues that have arisen because of Ruby Ridge involve basic principles that govern this Nation.

I believe that the result of the congressional investigations into Ruby Ridge will have significant ramifications on how our people view our Government and how Federal law enforcements will respond to the constitutional rights of citizens in the future, because this incident involved several law enforcement agencies ranging all the way from BATF, the U.S. marshals office, the Federal Bureau of Investigation, the Army, the National Guard, the U.S. district attorney's office, and on and on, and includes actions from the most basic field agents to heads of departments in the administration. It allows us to take a close look at the principles and rules our law enforcement agencies are governing themselves by.

In essence, Ruby Ridge is not only the seminal incident that created citizen distrust and citizen questioning of our law enforcement agencies, but it has become the litmus test on the Government, on how it will treat the most basic rights of individuals.

I do think that there are many, many wonderful and hardworking individuals in law enforcement who are doing a fine job keeping the peace and of pursuing real criminals. However, I also believe that lately there are some rogues in law enforcement as well who are dictating policy.

I have attended the hearings that are ongoing in the Senate, the other body, and I believe that so far these hearings have revealed very interesting facts, and the Senators are doing an excellent job of getting to the heart of the matter.

Last week, I, along with a lot of the American public, viewed the Randy Weaver testimony and Mr. Weaver's description of how agents from the U.S. Federal Marshals Service for 16 months had executed an intensive reconnoitering surveillance, as they call it, of his home, that included hundreds of hours of filming the everyday proceedings of his family with the satellite-powered cameras, which included plans to kidnap his daughter Sarah, which included plans and the execution of setting up command centers in the homes of neighbors and sending many undercover agents posing as supporters to the Weavers' home, enjoying their openness, their friendliness and their hospitality.

The committee listened to Mr. Weaver as he explained how never once not once did a U.S. marshal come to his home and identify himself as a Federal agent desiring for Mr. Weaver to come down from the mountain and appear in court. Never once did any agent discuss complying with the simple terms that Mr. Weaver requested before surrendering: that his home and his family be protected and that certain officials that had offended him apologize. What a small thing to ask for to keep the peace.

It is our responsibility as Federal elected officials and the responsibility of Federal agents to maintain the peace and tranquility of this country. This kind of action did not further the peace and tranquility of this country, Mr. Speaker.

In fact, the only terms the agents would allow him, offered in messages that were given through neighbors instead of directly by the agents, was that Mr. Weaver admit his guilt, without any trial or due process. Instead of negotiating, the U.S. Marshal's Service initiated military like reconnaissance missions to determine what would be the best way to invade the Weaver home. U.S. marshals on one of these missions excited the family dog by throwing rocks at it, drawing the attention of the family who thought that the dog might be responding to one of the many wild animals in the area.

The committee listened, rivited, to Mr. Weaver's agonizing depiction of how he made the most regrettable decision of his life when he sent his 14-year-old son Sammy down the road with a rifle to see what the dog was barking at, and how those agents shot a young boy's dog at his feet, and how a Federal marshal, dressed in a terrifying paramilitary uniform, jumped out of the bushes and yelled to Sammy, halt, and how these events led to a gun battle that ended with the tragic death of the young boy, Sammy, barely 14 years old, barely weighing 80 pounds, shot first in the arm and then twice in the back. The last words his father heard him say were, "I am coming home, Dad."

Mr. Weaver and his wife, Vicki, no longer caring if they were fired at, went down the hill to retrieve the small body of their son.

We listened as Mr. Weaver narrated the events of the following day: of how, in the dead silence of late afternoon, and without any warning or even an announcement of the presence of the FBI, as he was attempting to enter the shed where the body of his slain son lay, he was shot in the back without warning by a trained sniper from the FBI hostage rescue team, a group that is trained by the military for crises that involve international terrorists.

□ 2145

Mr. Speaker, I hardly think that Randy Weaver was an international terrorist. We were mortified, as we listened, to hear how the FBI sniper fired again, this time into the Weavers' home, striking Vicki, the wife, in the head. This mother was holding nothing more dangerous than her 10-month-old baby. The bullet struck her face. The human shrapnel struck Sara in the face. The mother was killed instantly, and Sara was wounded, and the Pershing bullet entered into a family friend, Kevin Harris, severely wounding him.

Mr. Weaver recounted how he and what was left of his family—in their home and not some military compound—were surrounded for almost 2 weeks by an army of over 400, complete with tanks, and helicopters, personnel, armored personnel carriers, et cetera. They had to keep clear of the windows and stay low to the ground for fear of being shot. In the meantime, the Government made little or no attempt to negotiate with the Weavers. The agents did, however, torment the family by broadcasting morbid messages over loud speakers to Vicki Weaver, who lay dead under the family's kitchen table.

The Federal agents tunnelled under Mr. Weaver's house and his home, and they sent a tank-like robot up to the house with a phone placed on one arm, and a shotgun mounted on the other with commands to Mr. Weaver to come out, pick up the phone, and negotiate with him. When Mr. Weaver saw the shotgun mounted on the robot, of course, as any American would or anyone in their right mind would do, he declined to pick up the phone.

Mr. Weaver found out later that the FBI was considering measures to inject CS gas into the home, or placing explosives to blow out the walls of the home.

These are all the documents that are now in the court documents.

This vast array of Government force was brought to bear against a small, but loving, Idaho family, the Randy Weaver family, and, although the family owned several legal firearms, they were owned legally, as were the rounds that Randy Weaver had stored there. They were legal.

After the initial exchange of shots with U.S. Marshals, the Weavers never even aimed or fired their guns at anyone. Those initial shots were those shots that were fired at the Y when Sammy Weaver was shot in the back. Kevin Harris responded not knowing who was shooting the small boy who went down right in front of him. That was all the shots that were fired by anyone who lived in the Weaver home.

However, the U.S. Marshals' office and the U.S. Marshals called the Federal Bureau of Investigation stating that they were taking hundreds and hundreds of rounds of ammunition from the Weavers. I hardly think so. A grieving mother and father who went down to the Y, picked up the dead body of their 80-pound son was not firing hundreds of rounds at the marshals.

We grieve at the death of Vicki and Sammy Weaver, and we grieve at the death of Marshal Deacon, but, as I listened to these frightening details of the Government siege on the Weaver home which began well before the shootout, it became very clear to me that one of the elemental freedoms of this country that it is founded upon had been violated in the very worst way. It is a tenant basic to our democracy, characterized well by patriots in the 1760's that simply states "a man's house is his castle; and while he is quiet, he is well guarded as a prince in castle." This is an idea that has its roots as early as the Magna Carta of 1215. William Pitt eloquently expressed this concept in stating: "The poorest man may in his cottage bid defiance to all the forces of the Crown. It may be frail, its roof may shake, the wind may blow through it, the storm may enter, but the King of England cannot enter, all his force dares not cross the threshold of the ruined tenement."

Can anyone find a better metaphor to describe what happened at Ruby Ridge than that statement?

And also, at a Boston Town Hall meeting in 1772, it was stated that

without the Bill of Rights "officers may under the colour of law and cloak of general warrant break through the sacred rights of the domicil, ransack men's houses, destroy their securities, carry of their property, and with little danger to themselves commit the most horrid murders."

This was 1772 that this quote came out of a Boston town meeting.

Ladies and gentlemen, our Founding Fathers understood that, unless we respect what is in the Bill of Rights and the protections afforded to us in the U.S. Constitution, that someday we will be living through what we are having to live through today.

In fact, revolutionaries such as Patrick Henry and others, used the Crown's regular practice of aggressive search and seizures as a battle cry for the addition of our Bill of Rights. It was Patrick Henry who said that without those rights added to the Constitution "the officer of Congress may come upon you now, fortified with all the terrors of paramount federal authority. Excisemen may come in multitudes; for the limitations of their numbers no man knows."

Ladies and gentlemen, these words were spoken by Patrick Henry. Again I challenge anyone to come up with a more accurate description of the gross excessive force used on Ruby Ridge than that.

For several hours the committee listened to the testimony of Randy Weaver, and the blatant infringements on his and his family's rights, the tragic loss of life that occurred as a result, and the year and half of imprisonment—all because he had been inaccurately characterized as a terrible threat to society on a web of fabricated charges, some stemming out of the mere fact that he had a newly purchased pickup sitting in his front yard, that he had a TV dish, and that, surely because of all these things, maybe he could have been involved in some bank robberies when all Randy Weaver and his family wanted was to be left alone, and, for refusing to come down from his home because he was afraid, because he had been told by a Federal judge that he would lose everything he possessed, including his property and his children, over his children he chose to stay with his family.

But what I found amazing and even admirable about Randy Weaver, even though I do not agree with his political views, is that despite all the unjust actions directed toward his family, he sat before the Senate Committee and the country and admitted his mistakes.

"If I could do it over again," he stated, "I would never have sold those sawed-off shotguns, and I would have come down that mountain and gone to court." He even apologized for any actions or words that have harmed anyone. He said this despite the fact that a jury of his peers had found conclusive evidence that he was deemed to be innocent of selling those weapons because that jury of his peers determined that he had been entrapped by the Bureau of Alcohol, Tobacco and Firearms.

I believe that anyone could understand why he would not want to come down from the mountain to face law enforcement officers when the first time he was arrested, he was bushwacked by several BATF agents posing as stranded motorists, and his wife, who was not even charged with anything, was thrown face first into the snow and hand-cuffed.

Moreover, the judge incorrectly threatened—the Federal judge, the Federal magistrate, incorrectly threatened Mr. Weaver that, if he lost his case, he would have to pay the court's cost, and that would mean losing everything that he owned.

What was even more astounding about Mr. Weaver's testimony, was that this man, who was deemed by the Government to have a "propensity for violence," and considered "dangerous to society," in his final words before the committee expressed his respect and affection to those Senators for allowing him to tell them his story. He even left with them his hope and trust that justice would occur for the wrongful deaths of his wife and son.

I ask you, Mr. Speaker, does this sound like a man who is an enemy to society? Mr. Weaver faced the court of public opinion. Some of the informants used by the BATF were shielded, and their voices were disguised. Mr. Weaver's 19-year-old daughter and Mr. Weaver himself faced the hard truth of having to recount what happened to them. They were not shielded; they were not protected. They stood before the Senate and the American people and told their story.

The truth of the matter is that whatever acts Randy Weaver has committed against society, he has paid for them. I say "acts," because in this country, we are judged by how we act, not how we think. Mr. Weaver has more than paid his debt to society—our attention must now be turned to the actions of Government officials.

I do want to say that many of us would have stood beside the rights that Mr. Weaver and all Americans have. I disagree politically. We even disagree in our religious foundations. Two people could not have disagreed more than Gerry Spence and this Congressman, and yet in spite of our political and religious differences, we both stand up, as did many people in this Nation, for the protection of everybody's rights of life, liberty, and the pursuit of happiness.

What I have seen so far of the response of Federal officials to their actions before, during, and since the Ruby Ridge incident has been in stark contrast to the humble admission by Randy Weaver. In fact, it has been disturbing.

The first duty of any public institution is to maintain the public trust. In a situation in which the public trust was betrayed, the leaders of these institutions responded by attempting to protect themselves and their colleagues rather than acting to protect the public trust.

Instead of conducting a thorough investigation of the abuses that were committed by agents, and immediately disciplining them for their subpar performance, the Justice Department went about finding ways to whitewash the situation.

The FBI is now on their third investigation.

Officials seemed more determined than ever to portray Mr. Weaver as a religious zealot who belonged in the company of real criminals that had committed repulsive crimes, and when a jury found no basis whatsoever for all of the charges against Randy Weaver with the exception of failure to appear in court, the Justice Department decided to spin the story another way, by initiating another still un-released report admitting to a few sloppy "oversights," and even some violations of the Constitution, but resulted in the mere censuring of a few agents.

What was even more a "slap in the face" of justice was the promotion of Larry Potts to the second highest position in the FBI; this man who was in part responsible for issuing the unconstitutional "shoot on sight" rules of engagement. Those rules of engagement translated as death warrants for Vicki Weaver.

Only now, after 3 long years, and public outcry, is the Justice Department beginning to investigate possible criminal actions of Federal agents.

The Justice Department has even settled monetarily with the Weavers—emphasizing that by doing so, the Department was not admitting any injustice. As far as I know, the Government has not even publicly apologized to the Weaver family.

Last Thursday and Friday, as the Committee began to hear the BATF's version of the story, I was outraged again to see BATF officials in a complete show of arrogance.

They refuse to acknowledge any error or wrongdoing by any of their agents who carried out the original investigation and fabrication of charges against Randy Weaver.

□ 2200

The Director of the BATF, John Magaw in his testimony stated that he was "convinced that the BATF's agents conduct was lawful and proper in every respect." He said this despite the fact that the Committee had before them numerous pieces of evidence that prove that the Weaver investigation was poorly conducted and unfairly maligned Mr. Weaver.

The purpose of the BATF's investigation of Mr. Weaver was not to stop a

suspected law-breaker at all. The purpose of the investigation was to try to trick Mr. Weaver into breaking the law so that the agency could then force Mr. Weaver to become a spy for the agency.

This scenario is like some sort of paranoid movie script. Unfortunately, it really happened.

All of the information about supposed criminal intentions by Randy Weaver originated solely from an undercover informant whose real name we still do not know. This man pretended to be Mr. Weaver's friend for 3 years as he worked to set this elaborate trap on a law-abiding man.

This mysterious informant had testified at the trial that he assumed his pay would be based on whether or not there would be a conviction. In other words, he would be paid on how well he would be able to coerce someone into committing a crime. That is called "entrapment," and is against the law.

After the BATF succeeded in getting Mr. Weaver to illegally saw off two shotguns, the agency needed to convince the U.S. Attorney to press charges.

In letters to the Federal prosecutor, BATF agent Byerly communicated several untruth's, pure hearsay, and clear embellishments of real events about Mr. Weaver.

Without substantiating evidence, Agent Byerly portrayed a dangerous criminal, a kind of Nazi "Rambo" monster that made U.S. Marshals and the FBI believe that it was necessary to unleash a massive show of force on Ruby Ridge.

My question is, How can the Director of BATF "review" these details of the investigation, and determine that the actions of his agents were "lawful" and "proper in every respect?"

I am reminded of the war crimes cases that followed World War II, and which helped establish certain important legal principals.

One case involved Japanese Gen. Tomayuki Yamashita. He was tried and sentenced to death for failing to properly discharge his duty by permitting the members of his command to commit atrocities against Americans and Filipinos during the final year of the war.

Fifty years ago, Yamashita's direct command and control over the individual actions of his soldiers was far less than what leaders have now—in this age of satellite communications, fax machines and jet airplanes.

Writing of the incident in the Harvard Law Review, Leonard Boudin observed that "The serious question confronting all citizens, however, is whether the ultimate responsibility lies * * * with the highest civilian authorities. * * * While presumably horrified at the details of such individual atrocities * * * they certainly are aware of creating a general environment in which those atrocities become inevitable."

I am concerned that the leadership of these agencies may be responsible for creating a general environment in which an incident such as this became inevitable.

What I found equally troubling was Director Magaw rejecting the verdict of a Jury of Citizens who had found Mr. Weaver innocent of weapons charges because he was entrapped.

Mr. Magaw instead chose to disregard most of the arguments presented in a court of law, and create a new version of the details to suggest that the Jury was incorrect in its verdict.

It was Thomas Jefferson who said "I consider trial by jury as the only anchor ever yet imagined by man by which a government can be held to the principles of its Constitution."

With that statement in mind, what happens when the Government ignores the decision of jury?

This is the type of arrogant and unchecked behavior by Government agencies that concerns Americans, and contributes greatly to the sense of fear and distrust that many Americans have of their Government.

Moreover, it portrays a bad image for those who work in our Government whose service is exemplary and upstanding. I strongly believe words by Attorney Gerry Spence in his book about Ruby Ridge, "From Freedom to Slavery," in which he attests that "the ultimate enemy of any people is not the angry hate groups that fester within, but a government itself that has lost its respect for the individual."

Mr, Weaver has quoted his father, who said that the Government and society is like a garden—sometimes a garden grows some weeds, and those weeds need to be plucked, or they will choke the garden. With that in mind, I stand on the floor of this House of Representatives and strongly urge our government to put their courage in the sticking place and pluck some of those weeds.

I call for the firing of Agent Herb Byerly. His deceitful tactics created the ideal atmosphere for a deadly and unnecessary conflict. I call for the complete firing of Larry Potts, and any others who contributed to the development of death warrants for the Weaver family.

I think FBI Director Freeh should, himself seriously consider stepping down as director. His decision to promote Larry Potts to the 2nd highest position in the FBI calls his judgment into question.

What is even more deplorable was his willingness to protect and defend Mr. Potts and his indefensible actions, simply because Mr. Potts was his close friend.

I call for the firing and prosecution of HRT sniper Lon Horiuchi—for firing a weapon into a man's home knowing that children were in that home. Some may say that he was simply following orders.

Have we not learned from the past war crimes trials that unlawful orders from superiors do not act as a shield for unlawful actions by those following those orders?

I call for a thorough investigation into the actions of all the Government agents involved in Ruby Ridge—from top to bottom—to see what prosecutions need to occur. Many of these agents are still entrusted with the enforcement of our laws today.

Some will call these stern recommendations "overreacting," but I believe they are not. What happened at Ruby Ridge is far reaching in scope. It exposes some very ugly attitudes that are currently inherent in law enforcement. These elements must be quickly and forcefully expelled to prevent them from growing more abusive, and to also return the faith of a somewhat agitated people to its Government. In my opinion, the best way to prevent future Government abuses is to make those who have committed such abuses accountable for their actions.

In closing, I would invoke the words of Justice Brandeis in their entirety * * *

> The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding. Decency, security and liberty alike demand that Government officials shall be subject to the same rules of conduct that are commands to the citizen.
>
> In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the government becomes a law-breaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means—to declare that the government may commit crimes in order to secure the conviction of a private criminal—would bring terrible retribution.

The Ruby Ridge tragedy is worth our attention. Our form of Government is the greatest on earth. I believe that, if we as a Congress act decisively in this matter, this will be a golden opportunity for the people of this country to witness once again that the system our founding father established works—and that no one, including a government official, can live and act above the law and expect to get away with it.

Mr. Speaker, I include for the RECORD the items referred to earlier.

DEPARTMENT OF AGRICULTURE, FOREST SERVICE, DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF COMMERCE, NATIONAL MARINE FISHERIES SERVICE, DEPARTMENT OF THE INTERIOR, FISH AND WILDLIFE SERVICE, ENVIRONMENTAL PROTECTION AGENCY.

Date: August 18, 1995.

Subject: Salvage Sale Provisions of P.L. 104–19

To: Regional Foresters, USDA Forest Service,

State Directors, USDI Bureau of Land Management,

Regional Directors, USDI Fish and Wildlife Service,

Regional Directors, USDC National Marine Fisheries Service,

Regional Administrators, Environmental Protection Agency.

On July 27, 1995 the President signed the Rescission Act (Public Law 104–19, Enclosure 1) which contains provisions for an emergency salvage timber sale program as well as for "Option 9" and "318" sales. The salvage provisions of the Act, which are the subject of this letter, are intended to expedite salvage timber sales in order to achieve, to the maximum extent feasible, a salvage sale volume above the programmed level to reduce the backlogged volume of salvage timber. The authorities provided by P.L. 104–19 are in effect until December 31, 1996.

President Clinton has directed the Secretaries of Agriculture, the Interior, and Commerce, the Administrator of the Environmental Protection Agency, and the heads of other appropriate agencies to move forward to implement the timber salvage provisions of P.L. 104–19 in an expeditious and environmentally-sound manner, in accordance with the President's Pacific Northwest Forest Plan, other existing forest and land management policies and plans, and existing environmental laws, except those procedural actions expressly prohibited by Public Law 104–19 (Enclosure 2). Consistent with the President's direction, an interagency Memorandum of Agreement (MOA) on timber salvage has been developed (Enclosure 3). The undersigned Agency heads attest that they understand the direction in the MOA and will fully comply with that direction.

The purpose of the MOA is to reaffirm the commitment of the signatory parties to continue their compliance with the requirements of existing environmental law while carrying out the objectives of the timber salvage related activities authorized by P.L. 104–19. In fulfilling this commitment, the parties intend to build upon on-going efforts to streamline procedures for environmental analysis and interagency consultation and cooperation. Interagency collaboration is vital to achieving this purpose. Working together, we have an opportunity to show our professionalism and meet the challenge before us. We expect you to work cooperatively to give this high priority program your very best effort.

Enclosure 4 provides clarification and direction for those portions of the MOA that are not self-explanatory or that require follow-up actions. Additionally, Forest Service/Bureau of land Management monitoring guidance, which includes involvement of other agencies, is provided for your use (Enclosure 5).

Separate guidance will be provided for other items not covered by the MOA and items needing additional detailed explanation. Separate direction also will be sent regarding the Option 9 and "318" sales provisions of P.L. 104–19.

(Signed) Jack Ward Thomas
for JACK WARD THOMAS,
Chief, Forest Service, Department of Agriculture.

(Signed) John G. Rogers
for MOLLIE BEATTIE,
Director, Fish and Wildlife Service, Department of the Interior.

(Signed) Richard E. Sanderson
for STEVEN A. HERMAN,
Assistant Administrator for Enforcement and Compliance Assurance, Environmental Protection Agency.

(Signed) Nancy K. Hayes
for MIKE DOMBECK,
Director, Bureau of Land Management, Department of the Interior.

(Signed) Gary Matlock
for ROLLAND SCHMITTEN,
Director, National Marine Fisheries Service, Department of Commerce.

ENCLOSURE 1

EMERGENCY SALVAGE TIMBER SALE PROGRAM

(Text of Section 2001 of Public Law 104–19)

SEC. 2001.

(a) DEFINITIONS.—For purposes of this section:

(1) The term "appropriate committees of Congress" means the Committee on Resources, the Committee on Agriculture, and the Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources, the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Appropriations of the Senate.

(2) The term "emergency period" means the period beginning on the date of the enactment of this section and ending on September 30, 1997.

(3) The term "salvage timber sale" means a timber sale for which an important reason for entry includes the removal of disease—or insect-infested trees, dead, damaged, or down trees, or trees affected by fire or imminently susceptible to fire or insect attack. Such term also includes the removal of associated trees or trees lacking the characteristics of a healthy and viable ecosystem for the purpose of ecosystem improvement or rehabilitation, except that any such sale must include an identifiable salvage component of trees described in the first sentence.

(4) The term "Secretary concerned" means—

(A) the Secretary of Agriculture, with respect to lands within the National Forest System; and

(B) the Secretary of the Interior, with respect to Federal lands under the jurisdiction of the Bureau of Land Management.

(b) COMPLETION OF SALVAGE TIMBER SALES.—

(1) SALVAGE TIMBER SALES.—Using the expedited procedures provided in subsection (c), the Secretary concerned shall prepare, advertise, offer, and award contracts during the emergency period for salvage timber sales from Federal lands described in subsection (1)(4). During the emergency period, the Secretary concerned is to achieve, to the maximum extent feasible, a salvage timber sale volume level above the programmed level to reduce the backlogged volume of salvage timber. The preparation, advertisement, offering, and awarding of such contracts shall be performed utilizing subsection (c) and notwithstanding any other provision of law, including a law under the authority of which any judicial order may be outstanding on or after the date of the enactment of this Act.

(2) USE OF SALVAGE SALE FUNDS.—To conduct salvage timber sales under this subsection, the Secretary concerned may use salvage sale funds otherwise available to the Secretary concerned.

(3) SALES IN PREPARATION.—Any salvage timber sale in preparation on the date of the enactment of this Act shall be subject to the provisions of this section.

(c) EXPEDITED PROCEDURES FOR EMERGENCY SALVAGE TIMBER SALES.—

(1) SALE DOCUMENTATION.—

(A) PREPARATION.—For each salvage timber sale conducted under subsection (b), the Secretary concerned shall prepare a document that combines an environmental assessment under section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) (including regulations implementing such section) and a biological evaluation under section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2)) and other applicable Federal law and implementing regulations. A document embodying decisions relating to salvage timber sales proposed under authority of this section shall, at the sole discretion of the Secretary concerned and to the extent the Secretary concerned considers appropriate and feasible, consider the environmental effects of the salvage timber sale and the effect, if any, on threatened or endangered species, and to the extent the Secretary concerned, at his sole discretion, considers appropriate and feasible, be consistent with any standards and guidelines from the management plans applicable to the National Forest or Bureau of Land Management District on which the salvage timber sale occurs.

(B) USE OF EXISTING MATERIALS.—In lieu of preparing a new document under this paragraph, the Secretary concerned may use a document prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) before the date of the enactment of this Act, a biological evaluation written before such date, or information collected for such a document or evaluation if the document, evaluation, or information applies to the Federal lands covered by the proposed sale.

(C) SCOPE AND CONTENT.—The scope and content of the documentation and information prepared, considered, and relied on under this paragraph is at the sole discretion of the Secretary concerned.

(2) REPORTING REQUIREMENTS.—Not later than August 30, 1995, the Secretary concerned shall submit a report to the appropriate committees of Congress on the implementation of this section. The report shall be updated and resubmitted to the appropriate committees of Congress every six months thereafter until the completion of all salvage timber sales conducted under subsection (b). Each report shall contain the following:

(A) The volume of salvage timber sales sold and harvested, as of the date of the report, for each National Forest and each district of the Bureau of Land Management.

(B) The available salvage volume contained in each National Forest and each district of the Bureau of Land Management.

(C) A plan and schedule for an enhanced salvage timber sale program for fiscal years 1995, 1996, and 1997 using the authority provided by this section for salvage timber sales.

(D) A description of any needed resources and personnel, including personnel reassignments, required to conduct an enhanced salvage timber sale program through fiscal year 1997.

(E) A statement of the intentions of the Secretary concerned with respect to the salvage timber sale volume levels specified in the joint explanatory statement of managers accompanying the conference report on H.R. 1158, House Report 104-124.

(3) ADVANCEMENT OF SALES AUTHORIZED.—The Secretary concerned may begin salvage timber sales under subsection (b) intended for a subsequent fiscal year before the start of such fiscal year if the Secretary concerned determines that performance of such salvage timber sales will not interfere with salvage timber sales intended for a preceding fiscal year.

(4) DECISIONS.—The Secretary concerned shall design and select the specific salvage timber sales to be offered under subsection (b) on the basis of the analysis contained in the document or documents prepared pursuant to paragraph (1) to achieve, to the maximum extent feasible, a salvage timber sale volume level above the program level.

(5) SALE PREPARATION.—

(A) USE OF AVAILABLE AUTHORITIES.—The Secretary concerned shall make use of all available authority, including the employment of private contractors and the use of expedited fire contracting procedures, to prepare and advertise salvage timber sales under subsection (b).

(B) EXEMPTIONS.—The preparation, solicitation, and award of salvage timber sales under subsection (b) shall be exempt from—

(i) the requirements of the Competition in Contracting Act (41 U.S.C. 253 et seq.) and the implementing regulations in the Federal Acquisition Regulation issued pursuant to section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) and any departmental acquisition regulations; and

(ii) the notice and publication requirements in section 18 of such Act (41 U.S.C. 416) and 8(e) of the Small Business Act (15 U.S.C. 637(e)) and the implementing regulations in the Federal Acquisition Regulations and any departmental acquisition regulations.

(C) INCENTIVE PAYMENT RECIPIENTS; REPORT.—The provisions of section 3(d)(1) of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226; 5 U.S.C. 5597 note) shall not apply to any former employee of the Secretary concerned who received a voluntary separation incentive payment authorized by such Act and accepts employment pursuant to this paragraph. The Director of the Office of Personnel Management and the Secretary concerned shall provide a summary report to the appropriate committee of Congress, the Committee on Government Reform and Oversight of the House of Representatives, and the Committee on Governmental Affairs of the Senate regarding the number of incentive payment recipients who were rehired, their terms of reemployment, their job classifications, and an explanation, in the judgment of the agencies involved of how such reemployment without repayment of the incentive payments received is consistent with the original waiver provisions of such Act. This report shall not be conducted in a manner that would delay the rehiring of any former employees under this paragraph, or affect the normal confidentiality of Federal employees.

(6) COST CONSIDERATIONS.—Salvage timber sales undertaken pursuant to this section shall not be precluded because the costs of such activities are likely to exceed the revenues derived from such activities.

(7) EFFECT OF SALVAGE SALES.—The Secretary concerned shall not substitute salvage timber sales conducted under subsection (b) for planned non-salvage timber sales.

(8) REFORESTATION OF SALVAGE TIMBER SALE PARCELS.—The Secretary concerned shall plan and implement reforestation of each parcel of land harvested under a salvage timber sale conducted under subsection (b) as expeditiously as possible after completion of the harvest on the parcel, but in no case later than any applicable restocking period required by law or regulation.

(9) EFFECT ON JUDICIAL DECISIONS.—The Secretary concerned may conduct salvage timber sales under subsection (b) notwithstanding any decision, restraining order, or injunction issued by a United States court before the date of the enactment of this section.

(d) DIRECTION TO COMPLETE TIMBER SALES ON LANDS COVERED BY OPTION 9.—Notwithstanding any other law (including a law under the authority of which any judicial order may be outstanding on or after the date of enactment of this Act), the Secretary concerned shall expeditiously prepare, offer, and award timber sale contracts on Federal lands described in the "Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl", signed by the Secretary of the Interior and the Secretary of Agriculture on April 13, 1994. The Secretary concerned may conduct timber sales under this subsection notwithstanding any decision, restraining order, or injunction issued by a United States court before the date of the enactment of this section. The issuance of any regulation pursuant to section 4(d) of the Endangered Species Act of 1973 (16 U.S.C. 1533(d)) to ease or reduce restrictions on non-Federal lands within the range of the northern spotted owl shall be deemed to satisfy the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), given the analysis included in the Final Supplemental Impact Statement on the Management of the Habitat for Late Successional and Old Growth Forest Related Species Within the Range of the Northern Spotted Owl, prepared by the Secretary of Agriculture and the Secretary of the Interior in 1994, which is, or may be, incorporated by reference in the administrative record of any such regulation. The issuance of any such regulation pursuant to section 4(d) of the Endangered Species Act of 1973 (16 U.S.C. 1533(d)) shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(e) ADMINISTRATIVE REVIEW.—Salvage timber sales conducted under subsection (b), timber sales conducted under subsection (d), and any decision of the Secretary concerned in connection with such sales, shall not be subject to administrative review.

(f) JUDICIAL REVIEW.—

(1) PLACE AND TIME OF FILING.—A salvage timber sale to be conducted under subsection (b), and a timber sale to be conducted under subsection (d), shall be subject to judicial review only in the United States district court for the district in which the affected Federal lands are located. Any challenge to such sale must be filed in such district court within 15 days after the date of initial advertisement of the challenged sale. The Secretary concerned may not agree to, and a court may not grant, a waiver of the requirements of this paragraph.

(2) EFFECT OF FILING ON AGENCY ACTION.—For 45 days after the date of the filing of a challenge to a salvage timber sale to be conducted under subsection (b) or a timber sale to be conducted under subsection (d), the Secretary concerned shall take no action to award the challenged sale.

(3) PROHIBITION ON RESTRAINING ORDERS, PRELIMINARY INJUNCTIONS, AND RELIEF PENDING REVIEW.—No restraining order, preliminary injunction, or injunction pending appeal shall be issued by any court of the United States with respect to any decision to prepare, advertise, offer, award, or operate a salvage timber sale pursuant to subsection (b) or any decision to prepare, advertise, offer, award, or operate a timber sale pursuant to subsection (d). Section 705 of title 5, United States Code, shall not apply to any challenge to such a sale.

(4) STANDARD OF REVIEW.—The courts shall have authority to enjoin permanently, order modification of, or void an individual salvage timber sale if it is determined by a review of the record that the decision to prepare, advertise, offer, award, or operate such sale was arbitrary and capricious or otherwise not in accordance with applicable law (other than those laws specified in subsection (i)).

(5) TIME FOR DECISION.—Civil actions filed under this subsection shall be assigned for hearing at the earliest possible date. The court shall render its final decision relative to any challenge within 45 days from the date such challenge is brought, unless the court determines that a longer period of time is required to satisfy the requirement of the Untied States Constitution. In order to reach a decision within 45 days, the district court may assign all or part of any such case or cases to one or more Special Masters, for prompt review and recommendations to the court.

(6) PROCEDURES.—Notwithstanding any other provision of law, the court may set rules governing the procedures of any proceeding brought under this subsection which set page limits on briefs and time limits on filing briefs and motions and other actions which are shorter than the limits specified in the Federal rules of civil or appellate procedure.

(7) APPEAL.—Any appeal from the final decision of a district court in an action brought pursuant to this subsection shall be filed not later than 30 days after the date of decision.

(g) EXCLUSION OF CERTAIN FEDERAL LANDS.—

(1) EXCLUSION.—The Secretary concerned may not select, authorize, or undertake any salvage timber sale under subsection (b) with respect to lands described in paragraph (2).

(2) DESCRIPTION OF EXCLUDED LANDS.—The lands referred to in paragraph (1) are as follows:

(A) Any area on Federal lands included in the National Wilderness Preservation System.

(B) Any roadless area on Federal lands designated by Congress for wilderness study in Colorado or Montana.

(C) Any roadless area on Federal lands recommended by the Forest Service or Bureau

of Land Management for wilderness designation in its most recent land management plan in effect as of the date of the enactment of this Act.

(D) Any area on Federal lands on which timber harvesting for any purpose is prohibited by statute.

(h) RULEMAKING.—The Secretary concerned is not required to issue formal rules under section 553 of title 5, United States Code, to implement this section or carry out the authorities provided by this section.

(i) EFFECT ON OTHER LAWS.—The documents and procedures required by this section for the preparation, advertisement, offering, awarding, and operation of any salvage timber sale subject to subsection (b) and any timber sale under subsection (d) shall be deemed to satisfy the requirements of the following applicable Federal laws (and regulations implementing such laws):

(1) The Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.).

(2) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(3) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(4) The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(5) The National Forest Management Act of 1976 (16 U.S.C. 472a et seq.).

(6) The Multiple-Use Sustained-Yield Act of 1960 (16 U.S.C. 528 et seq.).

(7) Any compact, executive agreement, convention, treaty, and international agreement, and implementing legislation related thereto.

(8) All other applicable Federal environmental and natural resource laws.

(j) EXPIRATION DATE.—The authority provided by subsections (b) and (d) shall expire on December 31, 1996. The terms and conditions of this section shall continue in effect with respect to salvage timber sale contracts offered under subsection (b) and timber sale contracts offered under subsection (d) until the completion of performance of the contracts.

(k) AWARD AND RELEASE OF PREVIOUSLY OFFERED AND UNAWARDED TIMBER SALE CONTRACTS.—

(1) AWARD AND RELEASE REQUIRED.—Notwithstanding any other provision of law, within 45 days after the date of the enactment of this Act, the Secretary concerned shall act to award, release, and permit to be completed in fiscal years 1995 and 1996, with no change in originally advertised terms, volumes, and bid prices, all timber sale contracts offered or awarded before that date in any unit of the National Forest System or district of the Bureau of Land Management subject to section 318 of Public Law 101–121 (103 Stat. 745). The return of the bid bond of the high bidder shall not alter the responsibility of the Secretary concerned to comply with this paragraph.

(2) THREATENED OR ENDANGERED BIRD SPECIES.—No sale unit shall be released or completed under this subsection if any threatened or endangered bird species is known to be nesting within the acreage that is the subject of the sale unit.

(3) ALTERNATIVE OFFER IN CASE OF DELAY.—If for any reason a sale cannot be released and completed under the terms of this subsection within 45 days after the date of the enactment of this Act, the Secretary concerned shall provide the purchaser an equal volume of timber, of like kind and value, which shall be subject to the terms of the original contract and shall not count against current allowable sale quantities.

(l) EFFECT ON PLANS, POLICIES, AND ACTIVITIES.—Compliance with this section shall not require or permit any administrative action, including revisions, amendment, consultation, supplementation, or other action, in or for any land management plan, standard, guideline, policy, regional guide, or multiforest plan because of implementation or impacts, site-specific or cumulative, or activities authorized or required by this section, except that any such administrative action with respect to salvage timber sales is permitted to the extent necessary, at the sole discretion of the Secretary concerned, to meet the salvage timber sale goal specified in subsection (b)(1) of this section or to reflect the effects of the salvage program. The Secretary concerned shall not rely on salvage timber sales as the basis for administrative action limiting other multiple use activities nor be required to offer a particular salvage timber sale. No project decision shall be required to be halted or delayed by such documents or guidance, implementation, or impacts.

Now, therefore, the parties agree to:

1. Comply with previously existing environmental laws except where expressly prohibited by Public Law 104–19, notably in the areas of administrative appeals and judicial review. In particular, the parties agree to implement salvage sales under Public Law 104–19 with the same substantive environmental protection as provided by otherwise applicable environmental laws and in accordance with the provisions of this MOA.

2. Achieve to the maximum extent feasible a salvage timber sale volume level above the programmed level in accordance with Public Law 104–19 within a framework of maintaining forest health and ecosystem management. Adhere to the standards and guidelines in applicable Forest Plans and Land Use Plans and their amendments and related conservation strategies including, but not limited to, the Western Forest Health Initiative and those standards and guidelines adopted as part of the President's Forest Plan for the Pacific Northeast, PACFISH, INFISH, Red Cockaded Woodpecker Long-Term Strategy, as well as the goals, objectives, and guidelines contained in the NMFS biological opinion on Snake River Basin Land Resource Management Plans (LRMPs), through the interagency team approach agreed to in the May 31, 1995 agreement on streamlining consultation procedures. The agencies will direct their level one and two teams to apply to goals, objectives, and guidelines contained in the NMFS biological opinion on the Snake River Basin LRMPs as the teams deem appropriate to protect the anadromous fish habitat resource.

3. Involve the public early in the process so that there is opportunity to provide input into the development of salvage sales, particularly in recognition of the importance of public involvement given the prohibition to administrative appeals contained in Public Law 104–19. Maintain and promote collaboration with other Federal, Tribal, State and local partners.

4. Reiterate their commitments to work together from the beginning of the process, particularly in salvage sale design, building on existing joint memoranda that streamline consultation procedures under Section 7 of ESA including the following two agreements, other applicable agreements, and improvements thereon:

The May 31, 1995, agreement on streamlining consultation procedures under section 7 of the ESA, between Forest Service Regional Foresters of Regions 1, 4, 5, and 6; Bureau of Land Management State Directors for Oregon/Washington, Idaho, and California; Fish and Wildlife Service Regional Director; and National Marine Fisheries Service Regional Directors.

The March 8, 1995, agreement on consultation time lines and process streamlining for Forest Health Projects, between the Chief of the Forest Service, Director of the Bureau of Land Management, Director of the National Marine Fisheries Service, and Director of the Fish and Wildlife Service.

The March 8, 1995, agreement as it applies to consultation time lines and processes streamlining will be revised to apply nationwide.

5. Ensure that personnel from their respective agencies work cooperatively and professionally to implement faithfully the objectives of Public Law 104–19 and Executive Branch direction in a timely manner. In the event that disagreements cannot be resolved at the regional level (Level 3) of the process, a panel consisting of appropriate representatives of the Forest Service, Bureau of Land Management, National Marine Fisheries Service, Fish and Wildlife Service, and EPA, will review the evidence and make a binding decision within 14 days of notice of the disagreement.

6. Agree to conduct project analyses and interagency coordination consistent with NEPA and ESA (as set forth in paragraph 4 of this MOA) in a combined joint environmental assessment (EA) and biological evaluation (BE) called for in Public Law 104–19, except where it is more timely to use existing documents. There will be a scoping period, as described in agency guidelines, during the preparation of all salvage projects. Sales that would currently fall within a categorical exclusion promulgated by the Forest Service or Bureau of Land Management in their NEPA procedures will require no documentation absent extraordinary circumstances. For sales that the Secretary determines, in his discretion, ordinarily should require an EA under the land management agencies' NEPA procedures, agencies will prepare the combined EA/BE, including a determination of affect under ESA and circulate the analysis for 20 days of public review and comment. For sales that the Secretary determines, in his discretion, ordinarily should require an EIS under the land management agencies' NEPA procedures, the combined EA/BE will include analysis consistent with section 102(2)(c) of NEPA and will be circulated for 30 days of public review and comment. The decision maker will respond to substantive comments on the EA/BE, but will not be required to recirculate a final EA/BE.

7. Develop and use a process which will facilitate interagency review of proposed salvage sale programs on a regional scale, thus allowing other agencies to identify broad-scale issues and help set priorities for allocation of their resources.

8. Include mitigation needs identified in the environmental assessment in timber sales design to the extent possible within existing authority. As appropriate, funds will be used for mitigation work not included in the timber area.

9. Measure performance of all parties' and individuals' efforts involved in the development and implementation of timber prepared pursuant to this MOA based upon the combined achievement of the goals set forth in this MOA.

10. Monitor and evaluate timber sale objectives and mitigation requirements as an integral part of salvage sales and the salvage

program as prescribed in Forest Plans, Land Use Plans and agency direction. Public and stakeholder involvement in monitoring and evaluation will be encouraged. There will be a national salvage program review involving regions and States with significant activity under this Act.

11. Recognize and use the definition of salvage timber sale as contained in Public Law 104–19, which is a timber sale "for which an important reason for entry includes the removal of disease or insect-infested trees, dead, damaged, or down trees, or trees affected by fire or imminently susceptible to fire or insect attack." This definition allows for treating associated trees or trees lacking the characteristics of a healthy and viable ecosystems for the purpose of ecosystem improvement or rehabilitation as long as a viable salvage component exists. While this definition provides necessary flexibility to meet salvage objectives, care must be taken to avoid abuse by including trees or areas not consistent with current environmental laws and existing standards and guidelines as set forth in this MOA.

This Memorandum of Agreement is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

The undersigned Agency heads attest that they understand the direction in this Memorandum of Agreement and will fully comply with that direction.

James R. Lyons, Under Secretary, Natural Resources and Environment, Department of Agriculture.

Robert P. Davison for George T. Frampton, Jr., Assistant Secretary, Fish and Wildlife and Parks, Department of the Interior.

Katherine W. Kimball for Douglas K. Hall, Assistant Secretary for Oceans and Atmosphere, Department of Commerce.

Robert L. Armstrong, Assistant Secretary for Land and Minerals Management, Department of the Interior.

Steven A. Herman, Assistant Administrator for Enforcement and Compliance Assurance, Environmental Protection Agency.

Jack Ward Thomas, Chief, Forest Service, Department of Agriculture.

John G. Rogers for Mollie Beattie, Director, Fish and Wildlife Service, Department of the Interior.

Rolland Schmitten, Director, National Marine Fisheries Service, Department of Commerce.

Mike Dombeck, Director, Bureau of Land Management, Department of the Interior.

GUIDANCE CONCERNING ITEMS IN THE MEMORANDUM OF AGREEMENT ON TIMBER SALVAGE RELATED ACTIVITIES UNDER PUBLIC LAW 104–19

Item 1. Comply with previously existing environmental laws, except where expressly prohibited by P.L. 104–19. The Act expressly prohibits administrative appeals (Section 2001(e), and it limits judicial review (Section 2001(f)).

Item 2. P.L. 104–19 does not include specific volume targets for salvage timber sales. However, it does contain the following direction:

"During the emergency period, the Secretary concerned is to achieve, to the maximum extent feasible, a salvage timber sale volume level above the programmed level to reduce the backlogged volume of salvage timber." (Section 2001(b))

Section 2001(c)(2) of P.L. 104–19 is a reporting requirement. No later than August 30, 1995, the Secretary concerned is required to report to the appropriate committees of Congress on implementation of the salvage provisions of the Act, and to update and resubmit the report every six months thereafter until completion of all salvage timber sales covered by the Act. As required by Section 2001(c)(2), these reports will include a plan and schedule for an enhanced salvage timber sale program by National Forest and BLM District for fiscal years 1995, 1996, and 1997 using the authority provided by the Act.

The teams referred to in Item 2 of the MOA are the interagency teams established to implement the streamlined Section 7 consultation process in northwestern states under the Endangered Species Act, pursuant to the interagency agreements referenced in Item 4 of the MOA. The explanation of Item 4, below, describes the team process and its expansion nationwide.

The reference in Item 2 to the National Marine Fisheries Service (NMFS) biological opinion of March 1, 1995, on the Snake River Basin Land and Resource Management Plans is made specifically to clarify that the interagency consultation teams in the Snake River Basin will deal with implementation of the goals, objectives and guidelines contained in that biological opinion as related to the anadromous fish habitat resource.

Item 3. Due to the abbreviated time frames it is important to have public involvement early in the process and continuing through the review of the document developed. You should also promote collaboration with other federal, Tribal, State and local partners as appropriate. An interagency communication plan is being finalized and will be sent separately.

Item 4. Consistent with the President's direction and Items 1 and 2 of the MOA, agencies will work together to design salvage sales so as to avoid or minimize adverse effects to threatened or endangered species, and no salvage sale will be offered if it would be likely to jeopardize the continued existence of a listed or proposed species, or if it would be likely to result in the destruction or adverse modification of designated or proposed critical habitat. The March 8, 1995 interagency agreement signed by the heads of the FS, BLM, FWS and NMFS provides direction for streamlining interagency consultations under the Endangered Species Act for forest health and salvage timber projects on National Forest System and BLM lands in several western states. Key elements of this streamlined process are:

Use an interagency team approach to facilitate early input to the NEPA process concerning species proposed or listed as threatened or endangered, as well as proposed or designated critical habitat, under the Endangered Species Act.

Informal or formal consultation/conferencing, if needed, will occur concurrently with project development so that consultation is completed within the NEPA timeframes.

The MOA states that the consultation/conferencing timelines and processes described in the March 8 agreement will be expanded to apply nationwide. Regional and State Office agency leaders who are not covered by the agreements mentioned below should meet on a regional basis as soon as possible to implement this direction. A copy of the March 8 agreement, plus an interagency letter explaining the streamlined process in more detail, will be sent under separate cover to each Regional/State office not already covered by that agreement.

The MOA provides that the agencies will build upon existing joint memoranda, applicable agreements, and improvements thereon that streamline the consultation/conferencing process. This means:

The interagency agreement of April 6, 1995, between the FS and FWS for implementing the streamlined consultation process on National Forest System lands in Montana will continue to apply.

The interagency agreement of May 31, 1995, among the FS, BLM, FWS and NMFS for consultation/conferencing on actions involving National Forest System and BLM administrative units in Washington, Oregon, California, and portions of Idaho and Montana, as identified in that agreement, will continue to apply.

The April 6 and May 31 agreements can be used as examples, but need not be duplicated by other Regions/States if a different approach will accomplish the timelines and streamlined process called for in the March 8 agreement. You are expected to establish and use an interagency team process to facilitate information flow, emphasize early input into project design to avoid or minimize adverse effects to listed or proposed species and designated or proposed critical habitat, and ensure timely resolution of any disagreements that may arise. See the descriptions for Items 5 and 6, below, for additional clarification.

Item 5. It is imperative that the agencies work cooperatively to implement the objectives of P.L. 104–19 and the MOA in a timely manner. This includes promptly resolving any disagreements that may arise.

Interagency coordination, especially early in project planning, will be crucial to avoiding or minimizing disagreements. It is expected that most disagreements will be resolved by technical specialists at the field level. Any issues which cannot be resolved will be promptly elevated to the next appropriate level for resolution. An interagency, tiered process will be used for resolving disagreements, beginning at the field level and moving up through decision-makers until the issue is resolved. The MOA specifies that in the event that an issue cannot be resolved at the region/state level, a national issue resolution panel consisting of appropriate representatives from the FS, BLM, FWS, NMFS, and EPA, will review information provided and make a binding decision within 14 days of a request by the interagency regional/state level.

For example, it is expected that EPA specialists will work with the National Forest or BLM interdisciplinary planning team for a project to quickly identify and resolve any issues that might arise concerning compliance with the Clean Water Act, NEPA, or other environmental laws involving EPA input. If an issue cannot be resolved at this level, it will be promptly elevated to the Forest Supervisor or District Manager and the appropriate EPA counterpart for joint resolution. If they are unable to agree, they would jointly elevate the issue to the Regional Forester or State Director and the EPA Regional Administrator for resolution. In the effort to reach agreement, it is expected that the "line officers" will seek input from regional/state technical specialists concerning the particular issue. The national issue resolution panel will address an issue if it cannot be resolved at the regional/state level.

The April 6 and May 31, 1995, interagency agreements on streamling consultations for

Forest Service and BLM projects in northwest states establish tiers of interagnecy teams to coordinate on projects and resolve issues involving the Endangered Species Act. These existing teams and the issue resolution process will continue to apply. If a regional/state team cannot resolve an issue, the team will elevate it to the national issue resolution panel. Although the existing team process in the northwestern states was formed to deal with consultation issues, it is expected that the "Level 2" and higher teams established through the April 6 and May 31, 1995 agreements will work with EPA to resolve issues that do not involve Endangered Species Act implementation and cannot be resolved at the Interdisciplinary team level.

Item 6. The action agency is responsible for completing the combined environmental assessment (EA) and biological evaluation (BE) for each salvage timber sale, as required by Section 2001(c)(1) of P.L. 104–19. The combined EA/BE will indicate that the project is being carried out under a different authority than a normal salvage sale. The only exception to preparing a combined EA/BE will be for those situations in which using existing documents will be more timely (e.g. an EIS is almost final).

The MOA provides clarification regarding scoping and other public involvement. Public and agency comments received on the combined EA/Be will be evaluated and a response to substantive comments will be provided in an appendix to the EA/BE. The decision document will reflect the public and agency input as appropriate.

The normal agency procedure for documenting a decision (e.g. preparation of a Decision Notice by the Forest Service and a Record of Decision for the Bureau of Land Management) will be used and the public will be informed of the decision following normal agency procedures. The decision document will include:

A statement explaining that pursuant to Subsection 2001(e), the salvage sale is not subject to administrative review.

A statement indicating that under the provisions of Subsection 2001(i) of P.L. 104–19, the documents and procedures required for preparation, advertisement, offering, awarding, and operation of the salvage timber sale are deemed to satisfy the requirements of applicable environmental laws as listed in 2001(i).

An explanation of the expedited judicial review process provided for in Subsection 2001(f) of P.L. 104–19.

All anticipated environmental effects and mitigation and monitoring requirements will be disclosed in the EA. This includes an analysis of effects on listed, proposed and sensitive species, and proposed or designated critical habitat, for all alternatives analyzed. The EA/BE should be no longer than necessary to adequately address the issues. A Finding of No Significant Impact (FONSI) will not be required.

To implement the MOA direction for interagency coordination and compliance with the Endangered Species Act, all of the required elements of a biological assessment (BA), as described in 50 CFR Part 402, must be included in the appropriate section of the combined EA/BE for the preferred or selected alternative. These elements can be included in appropriate sections of the EA/BE or can be attached as a separate section. For the purposes of Public Law 104–14, the BE shall meet the requirements of a BA. The action agency and the consulting agency will mutually agree on the BE prior to the EA/BE being issued for public comment.

If the project is determined to have no effect on listed or proposed species or designated or proposed critical habitat, consultation or conferencing is not required and the EA/BE should so indicate.

If the interagency consultation team agrees with the determination that the project may affect but is not likely to adversely affect listed species, or is not likely to result in destruction or adverse modification of designated or proposed critical habitat, informal consultation will occur using the streamlined process per Item 4 of the MOA. The letter of concurrence from the consulting agency will be discussed and incorporated by reference in the decision document for the project.

If the project is determined to be likely to adversely affect listed species, or likely to jeopardize a species proposed for listing, or likely to result in destruction or adverse modification of designated or proposed critical habitat, the consulting agency will provide a biological opinion or conference report using the streamlined consultation process. The results of the biological opinion or conference report will be discussed and incorporated by reference in the decision document.

To summarize the process:

1. Scoping and interdisciplinary and interagency teams will determine the issues to be addressed in the combined EA/BE.

2. The completed EA/BE will be sent to the public for review. The action agency and the consulting agency will mutually agree on the BE prior to the EA/BE being issued for public comment.

3. Public comment received will be analyzed and the response documented in an appendix to the EA/BE prior to completion of the decision document.

4. The decision document will reflect public input as appropriate. In those instances when a letter of concurrence, a biological opinion, or a conference report is needed from a consulting agency, it will be discussed and incorporated by reference in the decision document.

Item 7. Region/State agency heads will work together to develop a process to facilitate interagency review of the proposed salvage sale program on a regional or state scale, as appropriate. This process will provide an opportunity for identification of broad issues. It should include an understanding of priorities in relation to projects other than salvage timber sales (e.g. grazing permits, green timber sales) which involve interagency action. This is intended to allow interagency coordination to occur on highest priorities first and to facilitate allocations of staff and time accordingly.

Item 8. Self-explanatory

Item 9. Self-explanatory

Item 10. In addition to the requirements of the Act, it is important for us to monitor our actions to ensure ourselves and the public that we are carrying out the salvage program in an environentally sound manner and that the requirements identified in the decision document are being met. Monitoring guidance has been developed for your use (see Enclosure 5).

Item 11. Self-explanatory

MONITORING

In addition to the requirements of P.L. 104–19, it is important for us to monitor our actions to assure ourselves and the public that we are doing the right things for the right reasons, that we are doing what we said we would do, and that the effects are what we predicted. Below are some thoughts and actions that each Forest Service Region/BLM State should consider in developing a monitoring plan that is responsive to your sales and situation.

Public Trust and Involvement

There will be lots of scrutiny and interest;

We need to build trust and credibility;

Do the right thing for the right reason;

If we say we will do it, do it;

Involve other Agencies, states, Tribes, the public and interest groups.

Key Agency Messages

Monitoring and Evaluation are key and vital aspects in implementing a successful stewardship salvage program.

Monitoring and Evaluation are central to an adaptive management approach which is a cornerstone for ecosystem management.

Existing Direction

There is existing direction on monitoring in the agencies directive system which identify and explain the three types of monitoring and requirements for monitoring.

Follow Standards and Guidelines in existing Forest Plans and Resource Management Plans, as amended, and including any biological opinions issued on such plans or amendments.

Other Considerations

A key for success is monitoring what is appropriate and feasible, not the world. Monitoring programs must be designed to address specific questions, and clearly identify who is responsible for implementation.

Monitoring should be hierarchical: every project will have implementation monitoring;

Forests and BLM Districts will develop a well designed sampling scheme for effectiveness monitoring;

Observation and documentation by anyone in the sale area is helpful for implementing the monitoring. A key person will be the Sale Administrator who will likely be the first to observe problems.

Any problems should be immediately documented, activities suspended (if needed) and appropriate changes made to the sale contract.

Monitor and document successes as well as problems and areas needing improvement.

There must be a clear focus on oversight and accountability.

Line Officers will be held accountable.

Regions/BLM States and Forests/BLM Districts should schedule project reviews to sample the activities of salvage sales and their effects; encourage public involvement.

The WO will conduct salvage program reviews of every Region/BLM State having significant activity under P.L. 104–19.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 30, 1995.

Hon. DAN GLICKMAN,
Secretary, Department of Agriculture,
Washington, DC.

DEAR DAN: We are gratified that leaders in the House of Representatives and Administration representatives worked out the remaining concerns regarding HR 1944 and are pleased with the bill's solid passage by the House. We are writing to follow up on the letter you sent the Speaker last night regarding the Forest Service salvage sale program.

Both of us spoke with Assistant Secretary Jim Lyons and received the commitment of your Department and the Forest Service to offer a minimum of 4.5 billion board feet of salvage timber during the emergency period, which begins on the date of enactment and expires December 31, 1996. Any personnel resources needed to get the added volume are provided in Section 2001 by granting the Forest Service additional contracting authority

and lifting restrictions that could impede the Service's ability to hire adequate personnel. As opportunities arise for more salvage volume, you can utilize the expanded authority to increase expectations.

If you move quickly to implement this new salvage timber policy, there is no reason the 4.5 billion board foot target could not be met. The President has stated that the Administration will carry out this program with its full resources and a strong commitment to achieving the goals of the program. We urge you to utilize the flexibility we have provided to produce the maximum feasible salvage timber volume available in our national forests.

As you know, included in the emergency timber sale program is a requirement for you to report on the Department's progress in implementing the new policy. We look forward to your first progress report and working together to achieve the timber salvage objectives of the program set forth under HR 1944.

Sincerely,

CHARLES H. TAYLOR,
Member of Congress.
NORM D. DICKS,
Member of Congress.

U.S. DEPARTMENT OF AGRICULTURE,
NATURAL RESOURCES & ENVIRONMENT
U.S. DEPARTMENT OF THE INTERIOR,
LAND AND MINERALS MANAGEMENT
August 22, 1995.

[Memorandum]

To: Jack Ward Thomas, Chief, Forest Service; and Elaine Zielinski, Oregon State Director, Bureau of Land Management.

From: — —. for James R. Lyons, Under Secretary of Agriculture, Natural Resources and Environment; and — —. for Mike Dornbeck, Director, Bureau of Land Management.

Subject: Section 2001(k) of the 1995 Rescission Act.

Section 2001(k) of the 1995 Rescissions Act (Public Law 101-121) directs the Secretaries to award, release, and permit to be completed the remaining section 318 timber sales. Several parties have urged us to interpret section 2001(k) as applying to all timber contracts offered in the geographic area described in section 318 of the Fiscal Year 1990 Interior and Related Agencies Appropriations Act, in addition to the few remaining timber sales that were offered subject to section 318. The language of section 2001(k) is clear on its face, and applies only to the remaining section 318 timber sales.

The section 318 sales have a turbulent history, having been fiercely debated by Congress, by the press, by public advisory boards, and before the Supreme Court. It is this well-known and discrete set of sales, the sales offered in Fiscal Year 1990 under the procedures establishes in section 318(b)-(j) of Public Law 101-121, which Congress refers to in section 2001(k) of the 1995 Rescissions Act as "subject to section 318."

We have been involved in the debate over the federal forests in the Pacific Northwest for a long time, as have members of Congress. Our understanding of the section 2001(k) release of timber sales "subject to section 318" is informed by that experience. Unlike timber sales before or after, the section 318 sales were developed based on specific ecological criteria developed by Congress and were provided limited judicial review. The Supreme Court approved section 318's limitation of judicial review, and about 4 billion board feet of timber was sold subject to section 318. The award or release of the few remaining 318 sales, totaling approximately 300 million board feet, has been delayed due to litigation, consultation based on the listing of the marbled murreiet, and other events. Congress used section 318 as its model in drafting section 2001 of the 1995 Rescission Act, and included the provisions of section 2001(k) to require resolution of the few remaining section 318 sales.

The Executive Branch, particularly the Forest Service, was involved in all stages of the development of section 2001, providing technical information and, later, in the negotiation of changes to provisions that concerned the Administration. It was the remaining section 318 sales that the Administration viewed as being affected by section 2001(k) at the time the bill was signed by the President. It was the remaining section 318 sales that were the basis of the April 27, 1995, Forest Service effects statement on the proposed legislation that was transmitted to Congress and was then used by members of Congress in their floor statements and debates. The specific sale contracts that section 201(k) addresses are only the sales offered under the unique procedures of section 318(b)-(j). The interpretation of section 2001(k) as applying to timber sales throughout Washington and Oregon, and to timber sales that were not developed subject to the ecological and procedural criteria provided in section 318(b)-(j), is wholly inconsistent with the history of the section 318 sales issue.

In the 1995 Rescission Act, Congress seeks to end the delays in the remaining section 318 sales and to expedite implementation of the President's Northwest Forest Plan which was designed with the section 318 sale program in mind. We must read the law in a manner that makes sense of the entire Act, including direction to expeditiously implement the President's Northwest Forest Plan, and in a manner that avoids reading section 2001(k) so expansively as to generate windfall profits at the expense of the public and the environment. We must faithfully implement the law as enacted by Congress while acting with full consideration for the environmental significance of the remaining section 318 timber sales and the fact that section 2001 reduces the usual public policy protections that would otherwise guide our implementation. For these reasons, any ambiguities in the language of section 2001(k) is intended to apply only to those remaining timber sales developed and offered subject to section 318(b)-(j) of the Fiscal Year 1990 Interior and Related Agencies Appropriations Act, as directly addressed in section 2001(k)(1).

U.S. DEPARTMENT OF AGRICULTURE,
NATURAL RESOURCES & ENVIRONMENT
U.S. DEPARTMENT OF THE INTERIOR,
LAND AND MINERALS MANAGEMENT
August 23, 1995.

[Memorandum]

To: Jack Ward Thomas, Chief, Forest Service; and Elaine Zielinski, Oregon State Director, Bureau of Land Management.

From: — —. for James R. Lyons, Under Secretary of Agriculture, Natural Resources and Environment; and — —. for Mike Dombeck, Acting Director, Bureau of Land Management.

Subject: Additional Direction on Section 2001(k) of the 1995 Rescission Act.

Yesterday we issued direction relating to section 318 sales which are affected by section 2001(k)(1) of the 1995 Rescission Act (P.L. 104-19). The purpose of this memorandum is to set forth the administration's interpretation of the other subsections of 2001(k).

As we stated yesterday, "We must read the law in a manner that makes sense of the entire Act, including direction to expeditiously implement the President's Northwest Forest Plan, and in a manner that avoids reading section 2001(k) so expansively as to generate windfall profits at the expense of the public and the environment." In support of these principles, we will act to award, release, and permit to be completed, subject to the exclusionary provisions of 2001(k), all remaining section 318 timber sale contracts which are currently being delayed. Those sales are:

1. Sales for which apparent high bidders have been identified, but the sales have not yet been awarded to the high bidder, except that these sales will contain all previously mutually agreed upon changes to the original terms;

2. Sales for which apparent high bidders have been identified and the sale awarded, but where the contract has not yet been executed by the high bidder, except that these sales will contain all previously mutually agreed upon changes to the original terms;

3. Sales for which the apparent high bidder has been identified, but the bid bond was returned before award of the contract.

Sales which have been awarded and executed will not be modified or altered to the originally advertised terms, volumes, and bid prices.

Section 2001(k)(2) provides that sales subject to section 2001(k)(1) shall not be released or completed "if any threatened or endangered bird species is known to be nesting" within the sale unit. Although the phrase "threatened or endangered bird species" certainly includes northern spotted owls, Congress' primary attention was focused on the impact of the remaining Section 318 sales on the marbled murrelet. This direction will outline the criteria used to determine whether any marbled murrelets are "known to be nesting" within the remaining section 318 sale units that are subject to section 2001(k).

Congress did not define the phrase "any threatened or endangered bird species is known to be nesting." Therefore, the implementing agencies must interpret this phrase in accordance with general principles of law. In interpreting this phrase, we choose to be guided by the best scientific information available. We have consulted with agency experts and they have provided us with the following information. The marbled murrelet is a rapidly-disappearing sea bird that uses old-growth forest areas only for nesting and breeding, or for activities that are in support of nesting and breeding. The remainder of its life is spent on the ocean. Murrelets are believed to have a high nesting site fidelity, that is, adult murrelets return to the same tree stands year after year to nest. Therefore, if a stand of forest that murrelets use for nesting is cut, they probably will not continue to reproduce. Murrelets do not construct typical bird nests (they lay their eggs on broad branches of older trees or in trees with deformations) and they hide from predators during nesting, which makes detection of nesting activity difficult. Indeed, the first marbled murrelet nest was not discovered until 1974, and there are very few identified nests to this day.

The consequence of adopting an interpretation of "known to be nesting" that requires "physical" detection of nesting activity is potentially quite dire for the entire marbled murrelet population and for related conservation efforts, including the President's Forest Plan. The remaining Forest Service Section 318 sales encompass ten to twenty percent of the known nesting sites for the marbled murrelet.

We believe that there is a more rational interpretation of the phrase "known to be nesting" that is based upon the best scientific information available about the murrelets. Because of its highly secretive behavior and lack of typical nesting behavior, our agency experts inform us that actual detection of a nest is not the only, or the exclusive, reliable indicator of nesting. The Pacific Seabird Group—a group composed of federal, state, private and academic biologists—developed a reliable scientific protocol for determining the existence of murrelet nesting activities. This protocol is designed to determine more than mere "presence" of murrelets. Surveys based on this protocol provide the best scientifically valid information, available within the 45 days provided by Congress, on whether murrelets are known to be nesting in these units. Based on the protocol's scientific analysis, we conclude that the protocol's criteria should be utilized in evaluating whether Section 318 sales are subject to section 2001(k)(2).

Application of the protocol's criteria to determine whether murrelets are "known to be nesting" in a particular area is the way to provide for meaningful implementation of subsection 2001(k)(2) given the needs of this species. Again, agency experts inform us that murrelets do not "nest" or "reside," that is, nest or breed, in a way that permits of typical nest detection, yet their nesting and breeding behavior is just as critically dependent on availability of nesting habitat as any other species. In order to comply with the directive to withhold sales where the murrelet is nesting, the scientifically valid approach is to utilize the criteria in the protocol. There simply is no other practical or biologically justifiable method for identifying murrelet nesting, or for insuring that our actions will not be likely to jeopardize the continued existence of the murrelet.

We are informed that within the 45 days allowed by Congress, the Forest Service is completing a second year of surveys for murrelets. Sale purchasers are being provided with the survey data sheets and asked for their comments. As an example of how the process has been used on a particular forest, purchasers questioned the validity of 12 of the units in the Siuslaw National Forest. Forest Services biologists reviewed all applicant comments, conducted additional surveys of 4 of the sales and determined that the data was sufficient for another 4 sales. A purchaser hired a surveyor for the remaining 4 sales, which confirmed the Forest Service's findings. Additionally, government agencies are reviewing all surveys data, verifying all "questionable" determinations and continue to confirm the strength of all survey determinations.

In subsection 2001(k)(3), Congress included a provision for alternative timber for the remaining Section 318 sales that are not released within the 45-day timeframe specified in Subsection (k)(1). This provision applies to any sale which "for any reason" cannot be released within the 45-day period. This provision is therefore applicable to sales or units of sales that are not released under Subsection (k)(2).

In accordance with the standards and guidelines for the President's Northwest Plan, and within the limits of available personnel and appropriated funds, we will assess the availability of alternative volume.

Sincerely,

Clinton.

Washington, DC, June 29, 1995.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I am pleased to be able to address myself to the question of the Emergency Salvage Timber Sale Program in H.R. 1944. I want to make it clear that my Administration will carry out this program with its full resources and a strong commitment to achieving the goals of the program.

I do appreciate the changes that the Congress has made to provide the Administration with the flexibility and authority to carry this program out in a manner that conforms to our existing environmental laws and standards. These changes are also important to preserve our ability to implement the current forest plans and their standards and to protect other natural resources.

The agencies responsible for this program will, under my direction, carry the program out to achieve the timber sales volume goals in the legislation to the fullest possible extent. The financial resources to do that are already available through the timber salvage sale fund.

I would hope that by working together we could achieve a full array of forest health, timber salvage and environmental objectives appropriate for such a program.

Sincerely,

Clinton.

THE WHITE HOUSE,
Washington, DC, August 1, 1995.

[Memorandum]

For: The Secretary of Interior, The Secretary of Agriculture, The Secretary of Commerce, and The Administrator, Environmental Protection Agency.

Subject: Implementing Timber-Related Provisions to Public Law 104–19.

On July 27th, I signed the rescission bill (Public Law 104–19), which provides much-needed supplemental funds for disaster relief and other programs. It also makes necessary cuts in spending, important to the overall budget plan, while protecting key investments in education and training, the environment, and other priorities.

While I am pleased that we were able to work with the Congress to produce this piece of legislation, I do not support every provision, most particularly the provision concerning timber salvage. In fact, I am concerned that the timber salvage provisions may even lead to litigation that could slow down our forest management program. Nonetheless, changes made prior to enactment of Public Law 104–19 preserve our ability to implement the current forest plans' standards and guidelines, and provides sufficient discretion for the Administration to protect other resources such as clean water and fisheries.

With these changes, I intend to carry out the objectives of the relevant timber-related activities authorized by Public Law 104–19. I am also firmly committed to doing so in ways that, to the maximum extent allowed, follow our current environmental laws and programs. Public Law 104–19 gives us the discretion to apply current environmental standards to the timber salvage program, and we will do so. With this in mind, I am directing each of you, and the heads of other appropriate agencies, to move forward expeditiously to implement these timber-related provisions in an environmentally sound manner, in accordance with my Pacific Northwest Forest Plan, other existing forest and land management policies and plans, and existing environmental laws, except those procedural actions expressly prohibited by Public Law 104–19.

I am optimistic that our actions will be effective, in large part, due to the progress the agencies have already made to accelerate dramatically the process for complying with our existing legal responsibilities to protect the environment. To ensure this effective coordination, I am directing that you enter into a Memorandum of Agreement by August 7, 1995, to make explicit the new streamlining procedures, coordination, and consultation actions that I have previously directed you to develop and that you have implemented under existing environmental laws. I expect that you will continue to adhere to these procedures and actions as we fulfill the objectives of Public Law 104–19.

WILLIAM J. CLINTON.

The SPEAKER pro tempore (Mr. METCALF). The Chair would like to thank the gentlewoman from Idaho [Mrs. CHENOWETH] for one of the great speeches from the House of Representatives.

INJUSTICES IN REDISTRICTING

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Georgia [Ms. MCKINNEY] is recognized for 60 minutes as the designee of the minority leader.

Ms. MCKINNEY. Mr. Speaker, I want to express my concerns about the words of the gentlewoman from Idaho, and to say to her and to the American people that I share her love for the institutions of this country, and I wish that tonight I had a better story to tell than the story that she just told. But, unfortunately, I think we are going to have to endure another 60 minutes of another tragedy. Let us hope that it does not become a tragedy.

On my way back from Atlanta today, I thought about what an honor it is for me to represent the good people of the 11th Congressional District of Georgia, and what I am going through right now I sincerely hope no other Member of Congress has to endure. Unfortunately, I fear that others will.

So tomorrow I have requested that other Members of Congress who are impacted come and, at about this hour, also tell their stories of what it is like to fight the fiercest political fight there is, and that is the battle for redistricting.

The first question that I pose this evening is, is redistricting about shape or shade? I have got some maps here. This is a map of Illinois' Sixth District, which has gone unchallenged despite its irregular shape. It is a district that has a supermajority of white constituents at 95 percent. This district has gone unchallenged.

I have another map of Texas' Sixth District, which is of irregular shape, which also has a supermajority of white constituents at 91 percent. This district has gone through a similar court battle as has been experienced by the 11th Congressional District, and this district has been declared constitutional.

Finally, there is Georgia's 11th Congressional District, not of grossly irregular shape, not the monstrosity that it has been called, consisting of a

supermajority that is 64 percent black. However, this district was both challenged and, unfortunately, found unconstitutional.

□ 2215

I am forced to conclude that the redistricting battle that the Supreme Court has embarked this Nation upon is one about shade and not shape.

The battle in Georgia, as of today, has just been landed in the courts. That is because the Georgia Legislature was caught in an impasse.

One of the questions I pose is, was the redistricting impasse in the Georgia Legislature about Democrats and Republicans?

Now, I have a newspaper article here from the Metro Courier, which is published in the city of Atlanta, GA. The headline reads, "Committee Okays One Black District. Plan Offers Little Representation for Blacks."

In this article, it reads,

Political analysts project that as black voters are shifted from Georgia's other two solidly black districts to simply black-influenced districts, Georgia's political landscape becomes more favorable to white Democratic candidates. Chairman of the legislative black caucus, reapportionment task force, Senator David Scott of Atlanta, said the map was a long way from being acceptable and suggested that Democrats could be due for some bad press in the black community.

He goes on to say, "I do not think white Democrats want this label around their neck that they are dismantling black congressional seats," Scott told reporters.

The head of the Democratic Party in the State of Georgia, our Democratic Governor, was reported in the Atlanta newspaper: Miller staying out of redistricting fray.

Sensing that something bad might, indeed, be coming down the pike, I thought I would write a note to the Democratic leadership of the State of Georgia. We do have a Democratic Governor, a Democratic Lieutenant Governor, and a Democratic speaker of the house. And the title of my statement is, "Ain't I a Democrat, too?" And I am going to read this statement.

It says:

In this 75th year of the passage of the 19th Amendment giving America's women the right to vote, it is important to note the important role that women played in the abolitionist movement to free black people and the deep impression that so Sojourner Truth made on her audience when she spoke before men and women who had gathered at a suffrage convention. When Sojourner rose to speak, there was tension in the air. Nobody knew what she was going to say. And for a brief moment some in the audience began to boo and hiss. But determined to be heard, Sojourner raised her voice and began:

"What is all this talk about women need to be helped into carriages and lifted over ditches and have the best place everywhere? Nobody ever helped me into carriages or over puddles or gives me the best place, and ain't I a woman?"

When she concluded, she left amid a standing ovation. So Sojourner Truth had impressed upon them that, though she was black and never really was able to share the niceties of life, she was still a woman.

I entered office in 1989. When I ran I had a D behind my name. All I knew growing up was a Democratic Party. In the legislature, I worked alongside other Democrats who led our State. I thought we shared important values. I took my constituents seriously. I took my party seriously. And I have been in the trenches of the Democratic Party ever since, organizing, registering, and sounding the message of Democratic values.

One day I was asked by Jesse Jackson, when was the last time you registered anyone to vote? And since then, I have been busy registering; everywhere I go I try to register people to vote, knowing that every person I register, black or white, will vote for the Democratic Party.

I have argued with the Democratic Party, State and national, about maintaining its commitment to grassroots organizing. I have asked the party to look at its unified campaign strategy. And most important of all, I have delivered votes to the Democratic Party. I have delivered votes in the State of Georgia that have benefited members of the State Democratic Party.

And when I do my job in Washington and cooperate with the Democratic leadership of the U.S. Congress and with the Democratic values and work to further Democratic interests. I do not make a distinction between black Democratic interests and white Democratic interests. I speak on behalf of poor people both black and white who want to work in a decent work place, receive a decent wage, come home to decent housing, and enjoy a protected environment.

I speak on behalf of working people who want opportunities to advance, who want quality education for their kids and who expect Government services that work. I speak on behalf of senior citizens both black and white who have given to this country and entered into their own Contract With America. And I speak on behalf of America's women who, despite 75 years of the vote, have only just begun to take their seats at the table where policy is made.

When I cast my vote in Washington in the U.S. House of Representatives, my vote counts the same as everyone else's. I did not change parties. I did not visit with the Republican National Committee. I never considered switching parties. I just continue to sweat for the Democratic Party.

I tried to recruit candidates to run in 1994 and in 1996. I have taken Leon Panetta to Georgia so that the chair of our State Democratic Party could have a personal meeting. I have made recommendations to the State party. I have committed to help raise money for the State party. I have met with the new executive director of our State party and even recently visited the party's office. And the last time I looked, the Governor of the State of Georgia is a Democrat. The Lieutenant Governor of the State of Georgia is a Democrat. The Speaker of the House is a Democrat. Well, ain't I a Democrat, too?

I must conclude that the redistricting impasse cannot possibly be about Democrats and Republicans. What kind of Representative have I been since I have been in Congress? I have tried to the best of my ability to be a voice for my constituents, not just one group of my constituents but all of my constituents.

I was elected as the people's candidate and sometimes I joke about it. I used to say, and sometimes I still say, I was a candidate that nobody wanted. I did not have big name people behind me. I did not have big money people behind me. All I had were the people of the 11th Congressional District.

The theme of my campaign was warriors do not wear medals, they wear scars. The people who supported me in my campaign where our State's warriors. The people who wake up early every morning, the people who go to bed late at night, the people who give and give and give and give and give and continue to give even more, and all that they ask in return is that they have a better community. And all that they ask is that their Government treat them right.

I do not have a fancy background. My mother is a nurse. My father is a policeman. He later became a member of the Georgia Legislature. But I am just an ordinary person. I come from common stock. And so it is not often that people like me can grace the halls of the U.S. Congress. The politics that I have learned to practice are not go along to get along but to come to Washington to take care of serious business and to speak on behalf of people who have been left out.

I have done my job. I am doing my job. I am giving hope to people in the 11th Congressional District in Georgia. Hope, though, in a listless people is sometimes viewed as a dangerous thing.

I have made a difference in the lives of my constituents, and somehow I cannot help but believe that that difference contributes to the problems that some Georgians may have with me.

What could have been the intent of the Democratic leadership of the State of Georgia? Was it to dilute black voting strength?

I have a document here entitled "General Assembly Held Hostage:" Just at the beginning of the special session that was called for the purpose of redrawing congressional districts, 17 State House districts were targeted by the plaintiffs who had successfully

challenged the 11th Congressional District. Five State Senate districts were targeted. Some of the targeted representatives, State Representative Tyrone Brooks, State Representative Henry Howard, State Representative Carl Von Epps, State Representative Eugene Tillman, targeted Senators, State Senator Dianne Harvey Johnson, State Senator Robert Brown, State Senator Nadine Thomas, State Senator Steve Henson, State Senator Charles Walker.

□ 2230

What could have been the purpose of targeting black State legislative districts that had not been challenged in the courts? What could have been the purpose of targeting black State legislative districts that had not been found unconstitutional?

State Senator Donzella James gathered her thoughts, and she composed a piece called the Redistricting Hoax. I will read some excerpts:

Georgia legislators convened a special session of the General Assembly to take up the issue of reconfiguring Georgia's congressional and State district lines. This effort is a result of what many have come to view as Supreme Court double talk. Specifically, Supreme Court Justice Clarence Thomas from Pinpoint, Georgia, in a five to four vote cast the pivotal vote mandating the congressional districting question is unconstitutional.

□ 2230

The decision not only results in new interpretations for defining redistricting, but also prohibits consideration of race as a predominant factor in formulating district lines.

Although the Court's decision is seen by many as a major set back, these current events do not necessarily affect the integrity of Sections 2 and 5 of the Voting Rights Act. By Governor Miller signing a proclamation for State legislators to reconvene in August to readdress political boundaries in Georgia's court-challenged Eleventh District, the Georgia legislative leadership seized the opportunity to have both legislative House and Senate seats included in the redistricting cauldron. This undertaking forced us to shelve the Constitution for a short-term quick-fix remedy.

The zeal to dilute African-American voting strength appears to be motivated by the need to bring about racial polarization. The pending outcome of these efforts may indeed result in the establishment of case law, hereby, congressional seats currently occupied by African-American in Louisiana, North Carolina, Florida and Texas, will be greatly impacted by the deliberations of the Georgia State Legislature.

She goes on to say,

In this episode of political gamesmanship, Republicans attempted to play the white Democrats against the black Democrats by promising both sides their support in addressing their redistricting concerns.

Further, the struggle within the Democratic Party between competing political interests was transformed into one involving race. The eagerness on the part of the white Democrats to "Republican proof" their districts blinded them to their overall goal. That is, to foster equal and inclusive representation for all of the people of Georgia.

Self-serving individuals on all sides of the debate practiced deceitful game playing and clever trickery and have made a mockery of the reapportionment mandate. The Georgia General Assembly may come to regret this entire ordeal. A number of questions will have been answered concerning our legislative process. For example, was the court order legislative undertaking a hoax? And if so, could this be a needless waste of the taxpayers' money and will the lawyers laugh all the way to the bank?

My fear is that when it is all over and done, will the redistricting issue be remembered as racial rights versus civil wrongs?

Well, feeling that something unsavory was happening, certain members of the Georgia legislative Black Caucus decided to compose a letter and send it to Deval Patrick, Assistant Attorney General, Civil Rights Division, U.S. Department of Justice. I am going to read the letter.

DEAR MR. PATRICK, I am submitting this comment urging you to object to the reapportionment plans passed by the Georgia General Assembly in its special session in 1995. These plans were enacted by the State of Georgia with a racially discriminatory purpose and will have a retrogressive effect on black voters throughout the State.

The plans for the State Senate and State House also violate section 2 of the Voting Rights Act, because those plans dilute black voting strength. In carrying out these redistrictings, the State legislature specifically aimed their sights at legislative districts with majority black voting populations. The decision by the legislature, therefore, was targeted at black voters with the intent to reduce the black voting strength throughout the State.

The legislature undertook this action even though there had been no court decision invalidating our existing plans, nor had there even been a lawsuit challenging any of the districts.

The context in which these new plans were drawn is also important to understand. The special session in which these new reapportionment plans were enacted was called to address also the reapportionment of the congressional districts pursuant to the decision in Johnson v. Miller.

The white leadership in our legislature forced the assembly to address legislative reapportionment first and then proceed to congressional reapportionment.

In exchange for cooperation in legislative reapportionment, the leadership promised to work with the black Members of the legislature on congressional reapportionment. The leadership, therefore, used legislative reapportionment as a stick and forced legislators to make concessions they would otherwise not have made.

The enclosed statistics show the degree of retrogression and discrimination. For all of these reasons, we urge you to object.

Please call us so that we can provide further details.

Sincerely,

It was signed by several Members of the Georgia legislative Black Caucus.

I have information that was compiled by Representative George Brown of Augusta that was circulated by Representative LaNett Stanley, which cites the district number, the black population of those districts in 1992, and how those districts were dismantled in 1995.

All told, the Georgia legislative Black Caucus voted to dismantle, along with the rest of the Democratic leadership, voted to dismantle nine majority black districts in the House and two in the Senate.

I also have a list of all of the districts that were changed in the course of this. Out of 56 Senate seats, 46 were changed. Out of 180 House seats, 69 were changed.

And I have the story of one incumbent black State representative whose district I helped to draw in 1992, Reverend Tillman. His district was 60 percent black as drawn in 1992. It was reduced in this special session from 60 percent to 30 percent, roughly.

He says that they told him that if he voted for this plan that dismantled all of these districts, that they would increase his percentage. They would not kick him out of office. They would at least give him a fighting chance up to 40 percent. So, he voted for the plan and his district was increased to 40 percent. But what was lost? What was lost?

Reverend Tillman used to represent three counties in Georgia: Liberty County, McIntosh County, and Glynn County. And I will never forget the day that the reapportionment committee held its hearing down in Savannah, GA, back in 1991 or so. A gentleman from Liberty County rose to speak to his elected government from the State of Georgia and he said, "I come from a county named Liberty, but they still treat us like slaves."

That gentleman got his district in 1992. That gentleman got representation in 1992. That gentleman might loose his representation in 1996. That gentleman might loose his representation in 1996. And furthermore, if Reverend Tillman wins in the district that the legislature drew, that gentleman would not have Representative Tillman as his representative.

What else could have driven this process? Was it protecting big business? Well, in a news release that State Senator Donzella James released September 6, she implicates kaolin interests in driving a redistricting.

Kaolin is a white clay in Georgia. In fact, there is so much of it in Georgia, that seven counties in Georgia have most of the world's reserves. And those seven counties in Georgia just happen to be in the 11th Congressional District of Georgia.

State Senator Donzella James expressed concern today that Georgia's kaolin companies are exerting undue influence on the State's redistricting process. As legislators slowly hammer out a new congressional map, Senator James is increasingly convinced that kaolin interests in Washington, Jefferson, and Glascock Counties have issued a veto threat over any congressional map which puts them in the Eleventh District represented by Democratic Congresswoman Cynthia McKinney.

Ms. McKinney first drew the ire of the kaolin companies when she questioned industry practices which exploit poor landowners and force them off their property.

She goes on to elaborate.

And then, of course, it became clear to me, and so I issued my own press release after hearing so many rumors in the State capitol under the gold dome.

REPRESENTATIVE MCKINNEY SAYS: KAOLIN LOBBYISTS RESPONSIBLE FOR REDISTRICTING IMPASSE AT STATE CAPITOL

Kaolin industry lobbyists are preventing State legislators from reaching agreement on a new congressional map, according to Eleventh District Congresswoman Cynthia McKinney.

House and Senate conferees are apparently deadlocked over the desire to protect two majority black districts, while at the same time keeping the kaolin counties of Washington, Jefferson, and Glascock out of McKinney's Eleventh District. Some legislators are suggesting that the kaolin industry has served notice to key State officials that the kaolin belt is not to be included in the Eleventh.

At present, conferees are looking for ways to move black voters from Fulton county, the City of Atlanta, into the newly reconfigured Eleventh District, in order to maintain its black majority. However, McKinney and others are pointing out that there is no need to go into Fulton County, if the new Eleventh District includes Washington, Jefferson and Glascock Counties.

Now, I have some maps here. I have a map of the State of Georgia and this is one of the plans that was put on the table. There were so many plans. People were drawing plans left and right. But this is Washington, Glascock, and Jefferson Counties. This is the Eleventh Congressional District and it has got a little finger that goes into Fulton.

I have got a blowup of that finger. That is the finger that goes into Fulton. Now, you do not have to go into Fulton County to get the finger; just put the counties in the district.

And then another map surfaced which had everything just about right. It had the Second Congressional District close to where it needed to be to protect the Democratic incumbent in the Second Congressional District. It had the necessary attributes that the Congressperson there thought were necessary in order to protect that incumbency; had the Eleventh Congressional District where the Georgia Legislative Black Caucus had said they wanted that number, which was 50 percent, which is neither a majority black nor majority white, just fair.

But, with that finger into Fulton, something happens. Washington County, which is the headquarters of the Kaolin industry, is omitted from the map.

□ 2245

Because you have got that finger into Fulton, what you end up doing is gutting the Fifth District. Now, we cannot do that. There is enough population in the State of Georgia to get the numbers right to protect the Democratic incumbents without encroaching upon other districts. There was no need to encroach upon the Fifth District.

I have got a couple of newspaper articles here, Atlanta Journal Constitution, September 7, 1993, "Bring in the Feds to Probe Kaolin." Atlanta Journal Constitution, October 1, 1993,

McKinney takes on Kaolin Industry. Her nosing around has infuriated the industry. One Kaolin executive in Sandersville, home to several Kaolin plants,

that is Washington County,

suggested in a letter to a local newspaper that McKinney's district be dismantled.

"King Kaolin's political prisoner?" This is from the Atlanta Constitution, Wednesday, June 22, 1994.

At first glance, U.S. Representative Cynthia McKinney's suggestion that a Warner Robbins resident has been turned into a political prisoner seems rash. "This is the American guiag, and Robert Watkins is one of its victims," she said, comparing the handling of the case to the infamous justice of the prison system of the former Soviet Union. Surely, McKinney was exaggerating. But a close look at the Watkins case suggests he may well be imprisoned for political reasons. McKinney is right to ask the Justice Department to investigate. Given the financial and political power of the Kaolin Industry in her district, McKinney is brave to look into the strange case of Robert Watkins. The Justice Department should immediately investigate the prison sentence of the man who dared to challenge King Kaolin in middle Georgia."

Finally, in the Atlanta Journal Constitution, October 22, 1993,

This should not be Cynthia McKinney's fight, but Georgia's politicians are so afraid of the Kaolin Companies, they don't dare raise a peep.

The title of this story is "Taking on King Kaolin."

The conclusion of the article is,

So McKinney now is trying to get the U.S. Justice Department to look into the problems. Politically, that may not be a very smart move on her part because Kaolin money will try to unseat her. But then again, who knows, maybe McKinney will prove that a woman with a backbone can succeed in a State run by men with weak knees.

Could the redistricting impasse have just been caught up in opportunities, political opportunities for favorite sons? Well, there was a plan called the DeLoach plan. That was one of the first plans on the map, on the board, and it just so happened to have been drawn by my former Democratic opponent, the gentleman who organized the lawsuit. His plan was renamed and revised a little bit and passed the Georgia State Senate. In that plan, the Second Congressional District is down from 52 percent to 35 percent, Fifth Congressional District down from 59 percent to 52 percent, the 11th Congressional District down from 60 percent to 39 percent; in other words, goodbye, CYNTHIA MCKINNEY.

Women can get hurt in this redistricting fight. Women win more seats that are opened up by redistricting, and we have got women who are affected by the current redistricting fights across this country: CYNTHIA MCKINNEY, the gentlewoman from Florida, Ms. BROWN, the gentlewoman from Texas, Ms. EDDIE BERNICE JOHNSON, the gentlewoman from Texas, Ms. JACKSON-LEE, the gentlewoman from New York, Ms. VELÁZQUEZ. Those districts have been targeted. Other women in delegations are affected, the North Carolina delegation, Florida delegation, New York delegation, Illinois delegation. Bottom line on this redistricting is not just a racial issue.

What is the predicament in which blacks find themselves in Georgia? My father has been in the Georgia legislature for 23 years, a long time. He put out a paper entitled "Billy's Dream." He says,

"I had a dream last night. I saw very clearly a group of white men gathered around a table, and they were plotting the future of black people in the South for the next century. I was surprised that I recognized all of them. They were all involved in the attempt to overturn the Voting Rights Act. This distinguished group had been stunned by the Georgia legislative Black Caucus at hearings before the Georgia reapportionment committee. The Caucus had shown unusual preparedness in its opposition to dismantling of majority black districts. In stinging testimony, the assertions of plaintiffs' attorney were proven to be untrue. The Caucus brought down from the University of Virginia a constitutional and civil rights law expert in Dr. Pamela Carlin, attorney Robert McDuff from Mississippi, Selwyn Carter of the Southern regional council, who serves as the Georgia legislative technical assistant on the Voting Rights Act. This emergency meeting was called because what was thought to be a routine turning back of the clock had gone awry. The blacks would not march back to slavery with their hats in their hands. Like their forefathers before them, after such discussion, it was decided that the State would issue an unheard of order demanding that the State appear before the court and present maps and testimony with only 1 week's notice, 1 week of having been in the special session, and the threat of having the judges, the same judges who found the 11th District unconstitutional, draw the district was supposed to scare the members of the Georgia legislative Black Caucus. That is why you have those State legislative districts held hostage, a brilliant threat to throw panic into the Caucus, because the Caucus isn't really a player in this chess game. Black citizens are only pawns to be sacrificed in a fight between the major parties. The Democrats have three Members serving in Congress, but they do not count, because they are black. So the plan is to banish the black congressmen and spread the black citizens, who vote 95-percent Democratic, among other districts, a devious plan that can only work if the Republicans remain aloof and allow it to happen.

He goes on to say,

Conisder winning a judicial case when the prosecution and the defense are all of one accord. The poor defendant is left up a creek, and that is where black citizens find themselves at this time. The Black Caucus, although not a player at the table, must turn to the tactics of Dr. Martin Luther King, and that is to play the moral card, appeal to the decency of the American people, not to turn

back the clock and expel black elected officials from policymaking positions.

That was just a dream.

I know that there are people around this country, indeed, people around the world, who are looking at what happens to Georgia's 11th Congressional District, and I also know that as the Representative for the 11th Congressional District I do not stand alone. We have many supporters.

Our supporters that have filed friendly briefs in the court are the Congressional Black Caucus, the Democratic National Committee, the Democratic Congressional Campaign Committee, which has been of invaluable assistance to us, the State of Texas, the National voting Rights Institute, Mexican-American Legal Defense Educational Fund, National Asian Pacific American Legal Consortium, the NAACP, National Organization for Women, National Organization for Women Legal Defense Fund, National Urban League, People for the American Way, Women's Legal Defense Fund.

Other Members of Congress, I hope they do not have to go through what we are experiencing in Georgia, but we have quite a few who might be affected by the Georgia decision and the Georgia result: The gentleman from North Carolina [Mr. WATT], the gentleman from Louisiana [Mr. FIELDS], the gentlewoman from Florida [Ms. BROWN], the gentleman from Illinois [Mr. GUTIERREZ], the gentleman from Mississippi [Mr. THOMPSON], the gentlewoman from New York [Ms. VELÁZQUEZ], the gentlewoman from Texas [Ms. JACKSON-LEE] and the gentlewoman from Texas [Ms. EDDIE BERNICE JOHNSON].

I received an e-mail from a woman to a friend of mine, forwarded to me on my computer. The date of the e-mail is Friday, June 30, and the subject is, "Wow, I would hate to be in Cynthia's shoes. Simma, I am back from South Africa 10 days earlier than expected." This is not from a black American woman. "How ironic that my return from a country where black citizens are finding new strength in the legislative process, I walk into a country where the intent of creating a colorblind society is to eliminate any possible chance for equal representation. Adding to my confusion is the battle over affirmative action. I hope other countries are not looking to us for civil rights leadership."

This is not the first time this has happened in America's history. It has not happened yet. I am going to fight like the dickens to make sure it does not happen.

I have here the CONGRESSIONAL RECORD, and this is a CONGRESSIONAL RECORD from 1901. The Speaker is Representative George White, who was the last African-American Member of Congress to serve. He served from the State of North Carolina. North Carolina ended it; North Carolina is beginning it.

Upon his exit from Congress, he spoke, "Now, Mr. Chairman, before concluding my remarks, I want to submit a brief recipe for the solution of the so-called American Negro problem." He asks no special favors but simply demands that he be given the same chance for existence, for earning livelihood, for raising himself on the scales of manhood and womanhood that are accorded to kindred nationalities. Treat him as a man. Go into his home, learn of his social conditions, learn of cares, his troubles, his hopes for the future. Gain his confidence and open the doors of industry to him. This, Mr. Chairman, is perhaps the Negro's temporary farewell to the American Congress, but let me say, Phoenix-like, he will rise up someday and come again. These parting words are in behalf of an outraged, heart-broken, bruised and bleeding, but God-fearing people, faithful, industrious, loyal people, rising people full of potential force. Sir, I am pleading for the life of a human being. The only apology that I have to make for the earnestness with which I have spoken is that I am pleading for the life, the liberty, the future happiness and manhood, suffrage for one-eighth of the entire population of the United States.

I do not want to have to give that farewell speech and lead what might be an unending procession of African-Americans, women and people of color out of the U.S. Congress.

I want to take the opportunity to commend the Members of the Georgia legislative Black Caucus, State Senator Diane Harvey Johnson, chairwoman of the Georgia legislative Black Caucus, State Senator David Scott, who was the task force Chair, the reapportionment task force Chair, fought untiringly to protect the three Democratic incumbents of the Georgia congressional delegation, representative Calvin Smyre, served as House negotiator, State Representative David Lucas, served on the House Conference Committee, State Senator Charles Walker, served on the Senate Conference Committee.

Finally, I have a poem. State Senator Donzella James has distributed this poem in the days when time was winding down and people's hearts were very heavy because the fight was about to leave the legislature and proceed to another level, another level of uncertainty.

□ 2300

Mr. Speaker, the title of the poem is "Don't Quit." It goes:

When things go wrong, as they sometimes will
When the road you're trudging seems all uphill
When funds are low and debts are high
And you want to smile, but you have to sigh
When care is pressing you down a bit
Rest if you must, but don't you quit.

Life is queer with its twists and turns
As every one of us sometimes learns
And many a person turns about
When he might have won had they stuck it out
Don't give up though the pace seems slow
You may succeed with another blow.

Often the struggler has given up
When he might have captured the victor's cup
and she learned too late
when the night came down
How close was the crown.

Success is failure turned inside out
So stick to the fight when you're hardest hit,
It's when things seem worst that you must not quit.

I know that the good people of the State of Georgia are not going to quit in this fight for representation. I also know that the eyes of America are watching as Georgia goes through this process, and I have faith and hope that at the end of this process everyone in the State of Georgia will have been accorded what we only all ask, and that is a fair shake.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. MCKINNEY (at the request of Mr. GEPHARDT), for Friday, September 8, on account of business in the district.

Mr. SISISKY (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of medical reasons.

Mr. TUCKER (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of official business.

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. GENE GREEN of Texas) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mrs. COLLINS of Illinois, for 5 minutes, today.

(The following Members (at the request of Mr. COMBEST) to revise and extend their remarks and include extraneous material:)

Mr. GOODLING, for 5 minutes, on September 13.

Mr. MCKEON, for 5 minutes, today.

Mr. RIGGS, for 5 minutes, today.

Mr. HUTCHINSON, for 5 minutes, today.

Mr. HOEKSTRA, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GENE GREEN of Texas) and to include extraneous matter:)

Mr. FOGLIETTA.

Mr. DELLUMS in two instances.

Mrs. COLLINS of Illinois in two instances.

Mr. WAXMAN.

Mr. STARK in two instances.

Mrs. MALONEY.

Mr. UNDERWOOD.

Mr. MURTHA.

Mr. MANTON.

Mr. BONIOR.

Mr. BORSKI.

(The following Members (at the request of Mr. COMBEST) and to include extraneous matter:)

Mr. FORBES.

Mr. BAKER of California.

Mr. LAZIO of New York.

Mr. HYDE.

Mr. GALLEGLY.

Mrs. SEASTRAND.

Mr. SMITH of New Jersey.

Mr. NUSSLE.

Mr. HOUGHTON.

Mr. HANSEN.

Mr. GILMAN in two instances.

Mr. BROWNBACK.

(The following Members (at the request of Ms. MCKINNEY) and to include extraneous matter:)

Mr. MORAN.

Mr. MICA.

Mrs. MINK of Hawaii.

Mrs. MORELLA.

Mr. PASTOR.

Mr. PETERSON of Florida.

SENATE BILLS REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 790. An act to provide for the modification or elimination of Federal reporting requirements; to the Committee on Government Reform and Oversight.

ADJOURNMENT

Ms. MCKINNEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 2 minutes p.m.), the House adjourned until tomorrow, Wednesday, September 13, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1418. A letter from the Auditor, District of Columbia, transmitting a copy of the report entitled: "Audit of the District of Columbia Lottery and Charitable Games Control Board for Fiscal Year 1994," pursuant to D.C. Code, section 47–119(c); to the Committee on Government Reform and Oversight.

1419. A letter from the Secretary, Department of Health and Human Services, transmitting the eighth annual report of the Department's Council on Alzheimer's Disease delineating revisions to previous research plans and progress made in research sponsored by the Federal Government, pursuant to Public Law 99–660, section 912(2) (100 Stat. 3805); to the Committee on Commerce.

1420. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning a project arrangement [PA] with Australia (Transmittal No. 11–95), pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

1421. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

1422. A letter from the Senior Deputy Assistant Administrator (Bureau for Legislative and Public Affairs) Agency for International Development, transmitting a report on economic conditions prevailing in Turkey that may affect its ability to meet its international debt obligations and to stabilize its economy, pursuant to 22 U.S.C. 2346 note; to the Committee on International Relations.

1423. A letter from the Administrator, General Services Administration, transmitting a copy of a report of building project survey for Oklahoma City, OK, and executive summary of the Oklahoma City security assessment, pursuant to 40 U.S.C. 606(a); to the Committee on Transportation and Infrastructure.

1424. A letter from the Chairman, National Transportation Safety Board, transmitting a copy of the Board's budget request for fiscal year 1997, pursuant to 49 U.S.C. app. 1903(b)(7); jointly, to the Committee on Appropriations and Transportation and Infrastructure.

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. GOSS: Committee on Rules. House Resolution 218. Resolution providing for consideration of the bill (H.R. 1162) to establish a deficit reduction trust fund and provide for the downward adjustment of discretionary spending limits in appropriation bills (Rept. 104–243). Referred to the House Calendar.

Mr. MCINNIS: Committee on Rules. House Resolution 219. Resolution providing for the consideration of the bill (H.R. 1670) to revise and streamline the acquisition laws of the Federal Government, to reorganize the mechanisms for resolving Federal procurement disputes, and for other purposes (Rept. 104–244). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

H.R. 1670. Referred to the Committee on Small Business for a period ending not later than September 12, 1995, for consideration of such portions of sections 101(d) and 102(b) of the bill as fall within the jurisdiction of that committee pursuant to clause 1(o), rule X.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 1670. The Committee on Small Business discharged.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HYDE:

H.R. 2297. A bill to codify without substantive change laws related to transportation and to improve the United States Code; to the Committee on the Judiciary.

By Mr. BEREUTER:

H.R. 2298. A bill to amend the Agricultural Act of 1949 to clarify the prevented planting rule for the calculation of crop acreage bases; to the Committee on Agriculture.

H.R. 2299. A bill to amend the Clean Air Act to require that motorcycles be defined as having a curb mass less than or equal to 1,749 pounds; to the Committee on Commerce.

By Mr. BEREUTER (for himself, Mrs. JOHNSON of Connecticut, and Mr. KOLBE):

H.R. 2300. A bill to improve the efficiency and coordination of the Federal Government's export promotion activities; to the Committee on International Relations, and in addition to the Committee on Banking and Financial Services, 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. DUNCAN:

H.R. 2301. A bill to designate an enclosed area of the Oak Ridge National Laboratory in Oak Ridge, TN as the "Marilyn Lloyd Environmental, Life, and Social Sciences Complex"; to the Committee on Science.

By Mr. GALLEGLY:

H.R. 2302. A bill to amend the Federal Power Act to provide for the delegation of dam safety authority to State government; to the Committee on Commerce.

By Mrs. LOWEY:

H.R. 2303. A bill to amend title XIX of the Social Security Act to require as a condition of receiving payments under such title for the costs of administering its Medicaid plan that each State include on the enrollment card provided to beneficiaries under the plan a photograph of the beneficiary, and for other purposes; to the Committee on Commerce.

By Mrs. MINK of Hawaii:

H.R. 2304. A bill to amend section 105 of the Housing and Community Development Act of 1974 to extend the authority for communities to use community development block grant assistance for direct homeownership assistance; to the Committee on Banking and Financial Services.

By Mr. MORAN;

H.R. 2305. A bill to designate the U.S. Courthouse for the Eastern District of Virginia in Alexandria, VA, as the "Albert V. Bryan United States Courthouse"; to the Committee on Transportation and Infrastructure.

By Mrs. MORELLA (for herself, Mr. MORAN, Mr. DAVIS, Mr. WOLF, Mr. FROST, Mr. ACKERMAN, Mr. WELDON of Pennsylvania, Mr. PETRI, Ms. NORTON, and Mr. MCCRERY):

H.R. 2306. A bill to amend title 5, United States Code, to provide additional investment funds for the Thrift Savings Plan, and to make the percentage limitations on individual contributions to such plan more consistent with the dollar amount limitation on elective deferrals; to the Committee on Government Reform and Oversight.

By Mr. ROBERTS:

H.R. 2307. A bill to amend the Federal Election Campaign Act of 1971 to further restrict contributions to candidates by multicandidate political committees, limit and require full disclosure of attempts to influence Federal elections through soft money and independent expenditures, correct inequities resulting from personal financing of campaigns, strengthen the role of political parties, and contain the cost of political campaigns; to the Committee on House Oversight.

H.R. 2308. A bill to abolish the franking privilege for the House of Representatives and to provide for use of approved forms of postage and postage meters for official mail of the House of Representatives; to the Committee on House Oversight, and in addition to the Committee on Government Reform and Oversight, 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. ROYCE:

H.R. 2309. A bill to define the circumstances under which earthquake insurance requirements may be imposed by the Federal Home Loan Mortgage Corporation on a specifically targeted State or area; to the Committee on Banking and Financial Services.

By Mr. SERRANO (for himself, and Mr. FRAZER):

H.R. 2310. A bill to award a congressional gold medal to Francis Albert Sinatra; to the Committee on Banking and Financial Services.

By Mr. SERRANO:

H.R. 2311. A bill to waive certain prohibitions with respect to nationals of Cuba coming to the United States to play organized professional baseball; to the Committee on International Relations, and in addition to the Committee on the Judiciary, 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 Ms. SLAUGHTER (for herself, and Mr. RANGEL):

H.R. 2312. A bill to amend the Social Security Act to provide for annual distribution of Social Security account statements to all beneficiaries and to improve the information made available in such statements; to the Committee on Ways and Means, and in addition to the Committee on Commerce, 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. SMITH of New Jersey:

H.R. 2313. A bill to authorize the Secretary of Veterans Affairs to expand the scope of services provided to veterans in Vet Centers; to the Committee on Veterans' Affairs.

By Mr. SPRATT:

H.R. 2314. A bill to facilitate the conducting of a demonstration project to improve the personnel management policies and practices affecting the acquisition work force of the Department of Defense; to the Committee on National Security, and in addition to the Committee on Government Reform and Oversight, 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. STARK:

H.R. 2315. A bill to amend the Internal Revenue Code of 1986 to repeal certain tax subsidies related to energy and natural resources; to the Committee on Ways and Means.

By Mr. STARK (for himself and Mr. HOUGHTON):

H.R. 2316. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on amounts of private excess benefits from certain charitable organizations, and for other purposes; to the Committee on Ways and Means.

By Ms. WATERS:

H.R. 2317. A bill to define the circumstances under which earthquake insurance requirements may be imposed by the Federal Home Loan Mortgage Corporation on a specifically targeted State or area; to the Committee on Banking and Financial Services.

By Mr. BOEHNER:

H. Res. 217. Resolution electing Representative TAUZIN of Louisiana to the Committees on Commerce and Resources; considered and agreed to.

By Ms. WOOLSEY (for herself, Mr. YATES, Mr. MCDERMOTT, Mr. FROST, Ms. PELOSI, Mr. FRANK of Massachusetts, Mr. FILNER, Mr. WARD, Mr. BEILENSON, Mr. UNDERWOOD, Mr. CLYBURN, Mr. HILLIARD, Ms. VELAZQUEZ, Mr. SCHUMER, Mr. PORTER, Mrs. MORELLA, Mr. DELLUMS, Ms. FURSE, Mr. FLAKE, Mr. NADLER, Mr. GENE GREEN of Texas, Mr. ACKERMAN, Ms. ESHOO, Ms. JACKSON-LEE, Mr. TORRES, Ms. HARMAN, Ms. DELAURO, and Ms. WATERS):

H. Res. 220. Resolution expressing the sense of the House of Representatives that the Senate should ratify the Convention on the Elimination of All Forms of Discrimination Against Women; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. PETRI, Mr. MILLER of Florida, and Mr. KLECZKA.

H.R. 60: Mr. BLILEY.

H.R. 325: Mr. WAXMAN.

H.R. 357: Ms. NORTON.

H.R. 390: Mr. THORNBERRY.

H.R. 436: Mr. ENGLISH of Pennsylvania and Mr. LEWIS of Kentucky.

H.R. 444: Mr. THOMPSON.

H.R. 463: Mr. LUTHER.

H.R. 528: Mr. PARKER, Mr. GORDON, Mr. KANJORSKI, and Mr. ACKERMAN.

H.R. 615: Mr. ROGERS.

H.R. 739: Mr. DORNAN, Mr. BLUTE, and Mr. BLILEY.

H.R. 743: Ms. PRYCE, Mr. BACHUS, Mr. BARR, Mr. SPENCE, Mr. LAHOOD, and Mr. MANZULLO.

H.R. 789: Mr. KASICH, Mr. HASTINGS of Washington, Ms. DUNN of Washington, Mr. CUNNINGHAM, Mr. PORTER, and Mr. METCALF.

H.R. 866: Mr. OLVER.

H.R. 899: Mr. DORNAN.

H.R. 952: Mr. GOODLING and Mr. POMEROY.

H.R. 972: Mr. HINCHEY, Ms. DUNN of Washington, and Mr. SAXTON.

H.R. 994: Mr. BONO, Mr. LUCAS, Mr. SAXTON, Mr. BARTLETT of Maryland, Mr. PICKETT, and Mr. UNDERWOOD.

H.R. 1005: Mrs. MEYERS of Kansas.

H.R. 1007: Mrs. CHENOWETH.

H.R. 1010: Mr. HOKE.

H.R. 1021: Mr. TORRES.

H.R. 1023: Mr. SPENCE and Mr. KANJORSKI.

H.R. 1073: Mr. HALL of Ohio, Mr. DIXON, and Ms. DANNER.

H.R. 1074: Mr. SABO and Mr. HALL of Ohio.

H.R. 1078: Mr. ROHRABACHER.

H.R. 1083: Mr. QUINN, Mr. CUNNINGHAM, Mr. DORNAN, Mr. FOX, and Mr. HUTCHINSON.

H.R. 1162: Mr. HAYWORTH.

H.R. 1202: Mr. FRANK of Massachusetts and Mr. PETERSON of Florida.

H.R. 1299: Mrs. MEYERS of Kansas.

H.R. 1339: Ms. DELAURO.

H.R. 1404: Ms. DELAURO, Mr. DORNAN, Mr. GIBBONS, Ms. MOLINARI, Mr. OLVER, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 1501: Mr. CHAMBLISS.

H.R. 1560: Mr. OBEY.

H.R. 1656: Mr. GEJDENSON.

H.R. 1744: Mr. BURTON of Indiana, Mr. GANSKE, and Mr. NORWOOD.

H.R. 1756: Mr. STOCKMAN, Mr. CHAMBLISS, Mr. BAKER of Louisiana, and Mrs. CUBIN.

H.R. 1767: Mr. OBERSTAR.

H.R. 1802: Mr. HUTCHINSON, Mr. KIM, and Mr. GOODLATTE.

H.R. 1818: Mr. OXLEY, Mr. KINGSTON, Mr. BARR, Mr. DEAL of Georgia, Mr. SHAYS, Mr. SCARBOROUGH, Mr. PAXON, Mr. WHITFIELD, Mr. DOOLITTLE, Mr. SMITH of Michigan, and Mr. BROWNBACK.

H.R. 1821: Mr. TORRES, Mr. CRAMER, and Mrs. SEASTRAND.

H.R. 1846: Mr. ACKERMAN, Mr. JOHNSTON of Florida, Ms. ROYBAL-ALLARD, and Mr. TORRICELLI.

H.R. 1856: Ms. PRYCE, Mr. LAUGHLIN, Mr. VENTO, Mr. WILSON, Mr. FORBES, Mr. HAYWORTH, Mr. SCARBOROUGH, Mr. BRYANT of Tennessee, Mr. FOLEY, Mr. BILIRAKIS, Mr. KLUG, Mr. ALLARD, and Mr. BAKER of California.

H.R. 1866: Mr. PORTER, Mr. PARKER, and Ms. WOOLSEY.

H.R. 1872: Mr. WILLIAMS, Mr. FOLEY, Mr. OLVER, Mr. SANDERS, Mr. NADLER, Mr. GUTIERREZ, Mr. STARK, Mr. HOYER, Mr. FILNER, Mr. OWENS, Ms. WATERS, Mr. BENTSEN, Ms. MCKINNEY, Mr. BORSKI, Mrs. LOWEY, Mr. LAZIO of New York, Mr. DELLUMS, Mr. BROWN of California, Mr. DURBIN, Ms. WOOLSEY, Mr. JOHNSTON of Florida, Mr. RANGEL, Mr. WYNN, Mr. DEFAZIO, Mr. TUCKER, Mr. WARD, Mr. DIXON, Mrs. MALONEY, Mr. FLANAGAN, Mr. LEWIS of Georgia, Ms. ROYBAL-ALLARD, Mr. COLEMAN, Mrs. MEEK of Florida, Mr. EVANS, Ms. VELÁZQUEZ, Mr. GENE GREEN of Texas, Mr. BEILENSON, Mr. SHAYS, Ms. LOFGREN, Mr. LANTOS, Mr. FROST, Mr. FOX, Mr. FAZIO of California, Mr. SABO, and Mr. FATTAH.

H.R. 1883: Mr. BLILEY.

H.R. 1893: Mr. ENGEL, Mr. FORBES, and Mr. ROHRABACHER.

H.R. 1932: Mr. FORBES, Mr. HOSTETTLER, Mr. FLANAGAN, and Mr. SOLOMON.

H.R. 1963: Mr. SCHIFF.

H.R. 1982: Mr. LUTHER.

H.R. 2000: Ms. VELÁZQUEZ.

H.R. 2006: Mr. HOLDEN, Mr. HANSEN, and Mr. GILCHREST.

H.R. 2007: Mr. HOLDEN, Mr. HANSEN, Mr. CRAMER, and Mr. GILCHREST.

H.R. 2010: Mr. HOKE.

H.R. 2119: Ms. DANNER, Ms. RIVERS, Mrs. KELLY, Mr. PASTOR, Mr. SANDERS, and Mr. GILMAN.

H.R. 2132: Mr. FROST, Mr. PETE GEREN of Texas, Mr. MANTON, and Mr. GENE GREEN of Texas.

H.R. 2137: Mr. GUTKNECHT and Ms. LOFGREN.

H.R. 2138: Mr. INGLIS of South Carolina.

H.R. 2152: Mr. DEUTSCH, Mr. GEKAS, Mr. KLUG, Mr. COLLINS of Georgia, and Mr. HUTCHINSON.

H.R. 2164: Mr. JOHNSTON of Florida.

H.R. 2181: Mr. ACKERMAN, Mr. CLAY, Mr. FROST, and Mr. JOHNSTON of Florida.

H.R. 2189: Mr. LAUGHLIN, Mr. ABERCROMBIE, Mr. POMEROY, and Mr. SCOTT.

H.R. 2190: Mr. RIGGS.

H.R. 2200: Mr. CREMEANS, Mr. TALENT, Mr. PICKETT, Mr. KNOLLENBERG, Mr. SOUDER, Ms. DANNER, Mr. LEVIN, Mr. STUMP, Mr. KILDEE, Mr. CONYERS, Mr. BURR, Mr. ISTOOK, Mr. SOLOMON, Mr. BARCIA of Michigan, Mr. BRYANT of Tennessee, Miss COLLINS of Michigan, Mr. CRAMER, Mr. DINGELL, Mr. TRAFICANT, Mr. OWENS, Mr. BURTON of Indiana, Mr. WALKER, Ms. KAPTUR, Mr. CHRYSLER, Mr. HUTCHINSON, Mr. BOEHNER, Mr. REGULA, and Mr. HUNTER.

H. Con. Res. 80: Mr. MILLER of California, Mr. YATES, Mr. KILDEE, Ms. PELOSI, Mr. DELLUMS, Mr. MATSUI, Mr. FRAZER, and Mr. CONYERS.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1162

OFFERED BY: MR. FROST

AMENDMENT NO. 1: In section 707(b), strike "after the date this bill was engrossed by the House of Representatives and".

H.R. 1162

OFFERED BY: MR. GOSS

AMENDMENT NO. 2: Page 2, line 6, strike "ACCOUNT" and insert "LEDGER".

Page 2, line 7, strike "ESTABLISHMENT OF ACCOUNT" and insert "LEDGER".

Page 2, line 10, strike "ACCOUNT" and insert "LEDGER".

Page 2, line 11, strike "ESTABLISHMENT OF ACCOUNT" and insert "LEDGER".

Page 2, lines 11 and 12, strike "There" and all that follows through "Account." on line 13, and insert the following: "The Director of the Congressional Budget Office (hereinafter in this section referred to as the 'Director') shall maintain a ledger to be known as the 'Deficit Reduction Lock-box Ledger'.".

Page 2, line 14, strike "Account" and insert "Ledger" and strike "subaccounts" and insert "entries".

Page 2, line 16, strike "subaccount" and insert "entry" and strike "entries" and insert "parts".

Page 3, strike lines 1 through 3 and insert the following:

"(b) COMPONENTS OF LEDGER.—Each component in an entry shall consist only of amounts credited to it under subsection (c). No entry of a negative amount shall be made.

Page 3, line 4, strike "ACCOUNT" and insert "LEDGER".

Page 3, lines 5 and 6, strike "of the Congressional Budget Office (hereinafter in this section referred to as the 'Director')".

Page 3, line 9, strike "subaccount" and insert "entry".

Page 4, line 2, strike the comma and insert a period and strike lines 3 and 4.

Page 4, before line 5, add the following new paragraph:

"(3) CALCULATION OF LOCK-BOX SAVINGS IN SENATE.—For purposes of calculating under this section the net amounts of reductions in new budget authority and in outlays resulting from amendments agreed to by the Senate on an appropriation bill, the amendments reported to the Senate by its Committee on Appropriations shall be considered to be part of the original text of the bill.

Page 4, between lines 13 and 14, strike "account" and insert "ledger".

Page 5, lines 9 and 10, strike ", as calculated by the Director of the Congressional Budget Office, and" and insert a period, and on line 11 strike "the" and insert "The".

Page 5, line 19, strike "Director of the Congressional Budget Office" and insert "chairman of the Committee on Appropriations of each House".

Page 6, line 3, strike "ACCOUNT" and insert "LEDGER".

Page 6, line 7, strike "account" and insert "ledger", and on line 8, strike "subaccount" and insert "entry".

Page 6, strike line 9 and all that follows through page 7, line 7, and insert the following new section:

SEC. 6. DOWNWARD ADJUSTMENT OF DISCRETIONARY SPENDING LIMITS.

The discretionary spending limits for new budget authority and outlays for any fiscal year set forth in section 601(a)(2) of the Congressional Budget Act of 1974, as adjusted in strict conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985, shall be reduced by the amounts set forth in the final regular appropriation bill for that fiscal year or joint resolution making continuing appropriations through the end of that fiscal year. Those amounts shall be the sums of the Joint House-Senate Lock-box Balances for that fiscal year, as calculated under section 602(a)(5) of the Congressional Budget Act of 1974. That bill or joint resolution shall contain the following statement of law: "As required by section 6 of the Deficit Reduction Lock-box Act of 1995, for fiscal year [insert appropriate fiscal year], the adjusted discretionary spending limit for new budget authority shall be reduced by $ [insert appropriate amount of reduction] and the adjusted discretionary limit for outlays shall be reduced by $ [insert appropriate amount of reduction]." Notwithstanding section 904(c) of the Congressional Budget Act of 1974, section 306 of that Act as it applies to this statement shall be waived. This adjustment shall be reflected in reports under sections 254(g) and 254(h) of the Balanced Budget and Emergency Deficit Control Act of 1985.

Page 7, lines 14 and 15, strike "the date this bill was engrossed by the House of Representatives" and insert "August 4, 1995".

Page 8, lines 5 and 6, strike "the date this bill was engrossed by the House of Representatives" and insert "August 4, 1995".

H.R. 1162

OFFERED BY: MRS. MEEK OF FLORIDA

AMENDMENT NO. 3: At the end, add the following new section:

SEC. 8. PROHIBITION ON THE USE OF SAVINGS TO OFFSET DEFICIT INCREASES RESULTING FROM DIRECT SPENDING OR RECEIPTS LEGISLATION.

Reductions in outlays and reductions in discretionary spending limits specified in section 601(a)(2) of the Congressional Budget Act of 1974 resulting from the implementation of this Act shall not be taken into account for purposes of section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

H.R. 1655

OFFERED BY: MR. COMBEST

AMENDMENT NO. 3: Page 7, line 9, strike "other".

Page 7, line 10, insert "identified in section 904" after "law".

Page 7, line 13, insert "and reports to Congress in accordance with section 903" after "determines".

Page 7, line 15, insert "related to the activities giving rise to the sanction" after "investigation".

Page 7, line 16, insert "related to the activities giving rise to the sanction" after "method".

Page 7, beginning on line 16, strike "The President" and all that follows through line 18, and insert the following: "Any such stay shall be effective for a period of time specified by the President, which period may not exceed 120 days, unless such period is extended in accordance with section 902.".

Page 7, after line 18, insert the following:

"EXTENSION OF STAY

"SEC. 902. Whenever the President determines and reports to Congress in accordance with section 903 that a stay of sanctions pursuant to section 901 has not afforded sufficient time to obviate the risk to an ongoing criminal investigation or to an intelligence source or method that gave rise to the stay, he may extend such stay for a period of time specified by the President, which period may not exceed 120 days. The authority of this section may be used to extend the period of a stay pursuant to section 901 for successive periods of not more than 120 days each.

Page 7, strike line 19 and all that follows through line 6 on page 8, and insert the following:

"REPORTS

"SEC. 903. Reports to Congress pursuant to sections 901 and 902 shall be submitted in a timely fashion upon determinations under this title. Such reports shall be submitted to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate. With respect to determinations relating to intelligence sources and methods, reports shall also be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate. With respect to determinations relating to ongoing criminal investigations, reports shall also be submitted to the Committees on the Judiciary of the House of Representatives and the Senate.

"LAWS SUBJECT TO STAY

"SEC. 904. The President may use the authority of sections 901 and 902 to stay the imposition of an economic, cultural, diplomatic, or other sanction or related action by the United States Government concerning a foreign country, organization, or person otherwise required to be imposed by the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (title III of Public Law 102-182); the Nuclear Proliferation Prevention Act of 1994 (title VIII of Public Law 103-236); title XVII of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510) (relating to the nonproliferation of missile technology); the Iran-Iraq Arms Nonproliferation Act of 1992 (title XVI of Public Law 102-484); and section 573 of the Foreign Operations, Export Financing Related Programs Appropriations Act, 1994 (Public Law 103-87), section 563 of the Foreign Operations, Export Financing Related Programs Appropriations Act, 1995 (Public Law 103-306), and comparable provisions within annual appropriations Acts.

"APPLICATION

"SEC. 905. This title shall cease to be effective on the date which is three years after the date of the enactment of this title.".

Page 8, after line 9 and before line 10, amend the matter proposed to be inserted to read as follows:

"TITLE IX—APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES

"Sec. 901. Stay of sanctions.
"Sec. 902. Extension of stay.
"Sec. 903. Reports.
"Sec. 904. Laws subject to stay.
"Sec. 905. Application.".

H.R. 1655

OFFERED BY: MR. FRANK OF MASSACHUSETTS

AMENDMENT NO. 4: Page 5, after line 22, insert the following:

SEC. 105. REDUCTION IN AUTHORIZATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), the aggregate amount authorized to be appropriated by this Act, including the amounts specified in the classified Schedule of Authorizations referred to in section 102, is reduced by three percent.

(b) EXCEPTION.—Subsection (a) does not apply to amounts authorized to be appropriated by section 201 for the Central Intelligence Agency Retirement and Disability Fund.

(c) TRANSFER AND REPROGRAMMING AUTHORITY.—(1) The President, in consultation with the Director of Central Intelligence and the Secretary of Defense, may apply the reduction required by subsection (a) by transferring amounts among the accounts or reprogramming amounts within an account, as specified in the classified Schedule of Authorizations referred to in section 102, so long as the aggregate reduction in the amount authorized to be appropriated by this Act equals three percent.

(2) Before carrying out paragraph (1), the President shall submit a notification to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, which notification shall include the reasons for each proposed transfer or reprogramming.

H.R. 1655

OFFERED BY: MR. FRANK OF MASSACHUSETTS

AMENDMENT NO. 5: Page 10, after line 17, insert the following:

SEC. 308. DISCLOSURE OF ANNUAL INTELLIGENCE BUDGET.

As of October 1, 1995, and for fiscal year 1996, and in each year thereafter, the aggregate amounts requested and authorized for, and spent on, intelligence and intelligence-related activities shall be disclosed to the public in an appropriate manner.

H.R. 1670

OFFERED BY: MRS. COLLINS OF ILLINOIS

AMENDMENT NO. 1: Strike out sections 101, 102, 103, and 106 and insert in lieu of section 101 the following:

SEC. 101. COMPETITION PROVISIONS.

(a) CONFERENCE BEFORE SUBMISSION OF BIDS OR PROPOSALS.—(1) Section 2305(a) of title 10, United States Code, is amended by adding at the end the following paragraph:

"(6) To the extent practicable, for each procurement of property or services by an agency, the head of the agency shall provide for a conference on the procurement to be held for anyone interested in submitting a bid or proposal in response to the solicitation for the procurement. The purpose of the conference shall be to inform potential bidders and offerors of the needs of the agency and the qualifications considered necessary by the agency to compete successfully in the procurement.".

(2) Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a) is amended by adding at the end the following new subsection:

"(f) To the extent practicable, for each procurement of property or services by an agency, an executive agency shall provide for a conference on the procurement to be held for anyone interested in submitting a bid or proposal in response to the solicitation for the procurement. The purpose of the conference shall be to inform potential bidders and offerors of the needs of the executive agency and the qualifications considered necessary by the executive agency to compete successfully in the procurement.".

"(b) DESCRIPTION OF SOURCE SELECTION PLAN IN SOLICITATION.—(1) Section 2305(a) of title 10, United States Code, is further amended in paragraph (2)—

(A) by striking out "and" after the semicolon at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

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

"(C) a description, in as much detail as is practicable, of the source selection plan of the agency, or a notice that such plan is available upon request.".

(2) Section 303A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a) is further amended in subsection (b)—

(A) by striking out "and" after the semicolon at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

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

"(3) a description, in as much detail as is practicable, of the source selection plan of the executive agency, or a notice that such plan is available upon request.".

(c) DISCUSSIONS NOT NECESSARY WITH EVERY OFFEROR.—(1) Section 2305(b)(4)(A)(i) of title 10, United States Code, is amended by inserting before the semicolon the following: "and provided that discussions need not be conducted with an offeror merely to permit that offeror to submit a technically acceptable revised proposal".

(2) Section 303B(d)(1)(A) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b) is amended by inserting before the semicolon the following: "and provided that discussions need not be conducted with an offeror merely to permit that offeror to submit a technically acceptable revised proposal".

(d) PRELIMINARY ASSESSMENTS OF COMPETITIVE PROPOSALS.—(1) Section 2305(b)(2) of title 10, United States Code, is amended by adding at the end the following: "With respect to competitive proposals, the head of the agency may make a preliminary assessment of a proposal received, rather than a complete evaluation of the proposal, and may eliminate the proposal from further consideration if the head of the agency determines the proposal has no chance for contract award.".

(2) Section 303B(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(b)) is amended by adding at the end the following: "With respect to competitive proposals, the head of the agency may make a preliminary assessment of a proposal received, rather than a complete evaluation of the proposal, and may eliminate the proposal from further consideration if the head of the agency determines the proposal has no chance for contract award.".

(e) FEDERAL ACQUISITION REGULATION.—The Federal Acquisition Regulation shall be revised to reflect the amendments made by subsections (a), (b), (c), and (d).

H.R. 1670

OFFERED BY: MR. DAVIS

AMENDMENT NO. 2: Add at the end of title I (page 36, after line 9) the following new section:

SEC. 107. TWO-PHASE SELECTION PROCEDURES.

(a) Armed Services Acquisitions.—(1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2305 the following new section:

"§ 2305a. Two-phase selection procedures

"(a) AUTHORIZATION.—Unless the traditional acquisition approach of design-bid-build is used or another acquisition procedure authorized by law is used, the head of an agency shall use the two-phase selection procedures authorized in this section for entering into a contract for the design and construction of a public building, facility, or work when a determination is made under subsection (b) that the procedures are appropriate for use. The two-phase selection procedures authorized in this section may also be used for entering into a contract for the acquisition of property or services other than construction services when such a determination is made.

"(b) CRITERIA FOR USE.—A contracting officer shall make a determination whether two-phase selection procedures are appropriate for use for entering into a contract for the design and construction of a public building, facility, or work when the contracting officer anticipates that three or more offers will be received for such contract, design work must be performed before an offeror can develop a price or cost proposal for such contract, the offeror will incur a substantial amount of expense in preparing the offer, and the contracting officer has considered information such as the following:

"(1) The extent to which the project requirements have been adequately defined.

"(2) The time constraints for delivery of the project.

"(3) The capability and experience of potential contractors.

"(4) The suitability of the project for use of the two-phase selection procedures.

"(5) The capability of the agency to manage the two-phase selection process.

"(6) Other criteria established by the agency.

"(c) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

"(1) the agency develops, either in-house or by contract, a scope of work statement for inclusion in the solicitation that defines the project and provides prospective offerors with sufficient information regarding the Government's requirements (which may include criteria and preliminary design, budget parameters, and schedule or delivery requirements) to enable the offerors to submit proposals which meet the Government's needs. When the two-phase selection procedure is used for design and construction of a public building, facility, or work and the agency contracts for development of the scope of work statement, the agency shall contract for architectural/engineering services as defined by and in accordance with the Brooks Architect-Engineers Act (40 U.S.C. 541 et seq.).

"(2) the contracting officer solicits phase-one proposals that—

"(A) include information on the offeror's—

"(i) technical approach; and

"(ii) technical qualifications; and

"(B) do not include—

"(i) detailed design information; or

"(ii) cost or price information.

"(3) The evaluation factors to be used in evaluating phase-one proposals are stated in

the solicitation and include specialized experience and technical competence, capability to perform, past performance of the offeror's team (including the architect-engineer and construction members of the team if the project is for the construction of a public building, facility, or work) and other appropriate factors, except that cost-related or price-related evaluation factors are not permitted. Each solicitation establishes the relative importance assigned to the evaluation factors and subfactors that must be considered in the evaluation of phase-one proposals. The agency evaluates phase-one proposals on the basis of the phase-one evaluation factors set forth in the solicitation.

"(4) The contracting officer selects as the most highly qualified the number of offerors specified in the solicitation to provide the property or services under the contract and requests the selected offerors to submit phase-two competitive proposals that include technical proposals and cost or price information. Each solicitation establishes with respect to phase two—

"(A) the technical submission for the proposal, including design concepts or proposed solutions to requirements addressed within the scope of work (or both), and

"(B) the evaluation factors and subfactors, including cost or price, that must be considered in the evaluations of proposals in accordance with section 2305(b)(4) of this title.

The contracting officer separately evaluates the submissions described in subparagraphs (A) and (B).

"(5) The agency awards the contract in accordance with section 2305(b)(4) of this title.

"(d) SOLICITATION TO STATE NUMBER OF OFFERORS TO BE SELECTED FOR PHASE TWO REQUESTS FOR COMPETITIVE PROPOSALS.—A solicitation issued pursuant to the procedures described in subsection (c) shall state the maximum number of offerors that are to be selected to submit competitive proposals pursuant to subsection (c)(4). The maximum number specified in the solicitation shall not exceed 5 unless the agency determines with respect to an individual solicitation that a specified number greater than 5 is in the Government's interest and is consistent with the purposes and objectives of the two-phase selection process.

"(e) STIPENDS AUTHORIZED.—The head of an agency is authorized to provide a stipend to competitors that are selected to submit phase-two proposals and that submit proposals that meet the requirements of the solicitation but are not selected for the award.

"(f) REQUIREMENT FOR GUIDANCE AND REGULATIONS.—The Federal Acquisition Regulatory Council, established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)), shall provide guidance and promulgate regulations—

"(1) regarding the factors that may be considered in determining whether the two-phase contracting procedures authorized by subsection (a) are appropriate for use in individual contracting situations;

"(2) regarding the factors that may be used in selecting contractors;

"(3) providing for a uniform approach to be used Government-wide; and

"(4) regarding criteria to be used in determining whether the payment of a stipend is appropriate and for determining the amount of the stipend.".

(2) The table of sections at the beginning of chapter 137 of such title is amended by adding after the item relating to section 2305 the following new item:

"2305a. Two-phase selection procedures.".

(b) CIVILIAN AGENCY ACQUISITIONS.—(1) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303L the following new section:

"(a) AUTHORIZATION.—Unless the 'traditional' acquisition approach of design-bid-build is used or another acquisition procedure authorized by law is used, the head of an executive agency shall use the two-phase selection procedures authorized in this section for entering into a contract for the design and construction of a public building, facility, or work when a determination is made under subsection (b) that the procedures are appropriate for use. The two-phase selection procedures authorized in this section may also be used for entering into a contract for the acquisition of property or services other than construction services when such a determination is made.

"(b) CRITERIA FOR USE.—A contracting officer shall make a determination whether two-phase selection procedures are appropriate for use for entering into a contract for the design and construction of a public building, facility, or work when the contracting officer anticipates that three or more offers will be received for such contract, design work must be performed before an offeror can develop a price or cost proposal for such contract, the offeror will incur a substantial amount of expense in preparing the offer, and the contracting officer has considered information such as the following:

"(1) The extent to which the project requirements have been adequately defined.

"(2) The time constraints for delivery of the project.

"(3) The capability and experience of potential contractors.

"(4) The suitability of the project for use of the two-phase selection procedures.

"(5) The capability of the agency to manage the two-phase selection process.

"(6) Other criteria established by the agency.

"(c) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

"(1) The agency develops, either in-house or by contract, a scope of work statement for inclusion in the solicitation that defines the project and provides prospective offerors with sufficient information regarding the Government's requirements (which may including criteria and preliminary design, budget parameters, and schedule or delivery requirements) to enable the offerors to submit proposals which meet the Government's needs. When the two-phase selection procedure is used for design and construction of a public building, facility, or work and the agency contracts for development of the scope of work statement, the agency shall contract for architectural/engineering services as defined by and in accordance with the Brooks Architect-Engineers Act (40 U.S.C. 541 et seq.).

"(2) The contracting officer solicits phase-one proposals that—

"(A) include information on the offeror's—

"(i) technical approach; and

"(ii) technical qualifications; and

"(B) do not include—

"(i) detailed design information; or

"(ii) cost or price information.

"(3) The evaluation factors to be used in evaluating phase-one proposals are stated in the solicitation and include specialized experience and technical competence, capability to perform, past performance of the offeror's team (including the architect-engineer and construction members of the team if the project is for the construction of a public building, facility, or work) and other appropriate factors, except that cost-related or price-related evaluation factors are not permitted. Each solicitation establishes the relative importance assigned to the evaluation factors and subfactors that must be considered in the evaluation of phase-one proposals. The agency evaluates phase-one proposals on the basis of the phase-one evaluation factors set forth in the solicitation.

"(4) The contracting officer selects as the most highly qualified the number of offerors specified in the solicitation to provide the property or services under the contract and requests the selected offerors to submit phase-two competitive proposals that include technical proposals and cost or price information. Each solicitation establishes with respect to phase two—

"(A) the technical submission for the proposal, including design concepts or proposed solutions to requirements addressed within the scope of work (or both), and

"(B) the evaluation factors and subfactors, including cost or price, that must be considered in the evaluations of proposals in accordance with section 303B(d).

The contracting officer separately evaluates the submissions described in subparagraphs (A) and (B).

"(5) The agency awards the contract in accordance with section 303B of this title.

"(d) SOLICITATION TO STATE NUMBER OF OFFERORS TO BE SELECTED FOR PHASE TWO REQUESTS FOR COMPETITIVE PROPOSALS.—A solicitation issued pursuant to the procedures described in subsection (c) shall state the maximum number of offerors that are to be selected to submit competitive proposals pursuant to subsection (c)(4). The maximum number specified in the solicitation shall not exceed 5 unless the agency determines with respect to an individual solicitation that specified number greater than 5 is in the Government's interest and is consistent with the purposes and objectives of the two-phase selection process.

"(e) STIPENDS AUTHORIZED.—The head of an executive agency is authorized to provide a stipend to competitors that are selected to submit phase-two proposals and that submit proposals that meet the requirements of the solicitations but are not selected for the award.

"(f) REQUIREMENT FOR GUIDANCE AND REGULATIONS.—The Federal Acquisition Regulatory Council, established by section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)), shall provide guidance and promulgate regulations—

"(1) regarding the factors that may be considered in determining whether the two-phase contracting procedures authorized by subsection (a) are appropriate for use in individual contracting situations;

"(2) regarding the factors that may be used in selecting contractors;

"(3) providing for a uniform approach to be used Government-wide; and

"(4) regarding criteria to be used in determining whether the payment of a stipend is appropriate and for determining the amount of the stipend.".

(2) The table of sections at the beginning of such Act is amended by inserting after the items relating to section 303L the following new items:

"Sec. 303M. Two-phase selection procedures.".

H.R. 1670

OFFERED BY: MRS. MALONEY

AMENDMENT NO. 3: Strike out section 304 (relating to international competitiveness).

H.R. 1670

OFFERED BY: MRS. MALONEY

AMENDMENT NO. 4: Strike out section 202 (page 43, line 15, through page 45, line 19).

H.R. 1670

OFFERED BY: MRS. MALONEY

AMENDMENT NO. 5: Page 43, strike out lines 15 and 16 and insert in lieu thereof the following:

SEC. 202. APPLICATION OF SIMPLIFIED PROCEDURES TO COMMERCIAL OFF-THE-SHELF ITEMS.

Page 43, line 22, and page 44, line 18, insert after "commercial" the following: "off-the-shelf".

Page 44, strike out the closing quotation marks and period at the end of line 11 and insert after such line the following:

"(5) In this subsection, the term 'commercial off-the-shelf item' means an item that—

"(A) is an item described in section 4(12)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)(A));

"(B) is sold in substantial quantities in the commercial marketplace; and

"(C) is offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace.".

Page 45, strike out the closing quotation marks and period at the end of line 7 and insert after such line the following:

"(6) In this subsection, the term 'commercial off-the-shelf item' means an item that—

"(A) is an item described in section 4(12)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)(A));

"(B) is sold in substantial quantities in the commercial marketplace; and

"(C) is offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace.".