HOUSE OF REPRESENTATIVES—*Tuesday, November 28, 1995*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore [Mr. BARR].

DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
November 28, 1995.

I hereby designate the Honorable BOB BARR 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 Florida [Mr. GOSS] for 5 minutes.

WHAT IS AT STAKE IN BALANCING THE BUDGET

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

Mr. GOSS. Mr. Speaker, much has been said on this floor and on TV screens in American households—and much has been written in newspapers across the country—about the alleged dangers of shrinking Government and cutting spending. The rhetorical warfare playing itself out among the partisan politics and the Presidential ambitions understandably has many Americans concerned. Big changes can be scary—and that fact has given comfort to those whose mission it is to preserve the status quo, whether the status quo is working or not, whether status quo is affordable or not. But I am convinced that most Americans are ready for the big changes we need to bring our Federal budget into balance. I am also convinced that most Americans see the real danger before us—the danger of doing nothing. Americans understand what is at stake in this debate. The facts are indisputable: We are on an unsustainable trend, spending more than we have. We are more than $5 trillion in debt. Seventy years ago, at his inaugural, Calvin Coolidge said:

> The men and women of this country who toil are the ones who bear the cost of the Government. Every dollar that we carelessly waste means that their life will be so much the more meager. Every dollar that we prudently save means that their life will be so much the more abundant. Economy is idealism in its most practical form.

I am mindful of my new grandchild, born just a few weeks ago. Because we failed to heed the advice of Coolidge and so many of our Nation's greatest leaders, that baby already carries on his tiny shoulders a lifetime share of the interest payment on the national debt totaling $187,000. That's the bill we are sending to every baby born this year just to pay the debt service for our failure to bring spending into line. Spending is the problem. We spend too much. Looking at it from another view, think about this: If we don't take the steps necessary to make annual deficits a thing of the past by 2002, as we are trying to do, we will be paying more every year for interest on our debt than we spend for our national defense.

The President of the United States went on television last night to talk to us about what a tough place the world is, and we are having a great debate about how we spend, but nobody denies we need moneys for national defense and we are spending more on interest payments than we are on national defense. The new leadership in this Congress has signaled that enough is enough. We must control spending. We have gone to the mat in order to implement the big changes needed to bring the budget into balance within 7 years. Balancing the budget will mean that Americans will see lower interest rates—making homes and cars and higher education more affordable. Unshackling the economy from its massive debt will boost productivity—creating millions of new jobs. Per capita incomes will rise and Federal revenues will increase as a result. There should be no need for tax increases—in fact, we will have more opportunities to reduce the Federal tax bite so that Americans can keep more of their hard earned tax dollars.

Mr. Speaker, no one enjoyed the partial Federal shutdown we saw before Thanksgiving. All agree that we must settle our major philosophical disagreements before the next major deadline of December 15, so we can avoid a repeat of that anxious time. But we cannot paper over the very real differences that exist between those of us who believe we must balance the budget within 7 years and those who do not see any urgency about reaching that goal. It is something like the irresistible force of reform hitting up against the immovable object of status quo. Given the tendency of this administration to watch the public opinion polls, the best way to bring about the right conclusion is for the American people to make their voices heard about their commitment to balancing the budget.

Certainly the cards, the letters, the calls that are coming into my office are overwhelmingly in support of the concept of getting our spending under control and balancing our budget in 7 years. I think that is probably true in every congressional office. I hope it is true at the White House, and I hope Americans will not lose patience and will keep sending those messages, because now is the time we are going to balance the budget for the United States of America and get spending under control so every baby is not born with the prospect of $187,000 of interest payments alone in his or her lifetime.

ENGLISH-ONLY LEGISLATION

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

Mr. UNDERWOOD. Mr. Speaker, I want to address the House on the issue of English only, making English the official language of the United States.

Mr. Speaker, mandating English as the official language of the United States is unnecessary, resolves no particular problem of Government, and communicates a negative divisive message to the society about people who speak other languages. We all acknowledge that English is the common language. In fact, 97 percent of Americans over the age of 5 speak English. And every immigrant to this country recognizes this also. In fact, today's immigrants learn English faster than previous immigrant generations.

A variety of official language legislation has been introduced in the 104th. Some of these bills are less intrusive than others, but most of them include provisions similar to section 2 of H.R. 739, the Declaration of Official Language Act, which states that all communications by Federal officials and employees with U.S. citizens "shall be in English." This implies that English-

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only improves Government efficiency. In fact, just the opposite is true. Language restrictions will make carrying out the functions of Government more cumbersome in the few instances where languages other than English are used. In fact 99.96 percent of all Federal Government documents are printed in English according to GAO.

Members of this House would feel the burden of this legislation if it ever became law. Under English-only provisions I would be breaking the law if I wrote a letter to one of my constituents in the indigenous language of our island of Guam. My staff would be breaking the law if they spoke to a constituent in a language other than English. Many of our congressional offices would become less effective if forced to speak only English.

English-only advocates further claim that language is what binds us together as a nation. I maintain rather that our unity as a nation is rooted in common beliefs and values, as well as a common language. It is these distinctive American values that bind us together as a people.

There are those in this country who feel it necessary to declare English as an official language in a symbolic way, but I want to remind Members of this House that most of this English-only legislation goes far, way beyond symbolism.

English-only legislation solves no real problem either in the Government or among U.S. citizens. What this kind of legislation does is stigmatize users of other languages as somehow not being quite American enough and discourages the cultivation of our linguistic resources. How can we value multilingualism, and simultaneously discourage the environment which would allow it to flourish. This country needs to develop not stifle our linguistic resources to compete in a global economy. This legislation communicates the wrong message. It tells citizens to speak only English while at the same time, American businesses seek persons with foreign language skills in order to maintain a competitive edge in today's global economy, and higher education degrees mark the truly educated as those who are multilingual.

In Arizona, English-only legislation has already been determined unconstitutional because it required all government officials to "act" only in English. This clearly inhibited the free speech of these employees. I find it ironic that those who fight for devolution, States rights, and limited government, also fight for English-only which takes power from the States and hands it over to the Federal Government. Further, it mandates that the Government infiltrate our private lives by regulating how we talk. This is the ultimate in Government intrusion and runs counter to the mood of the country which is to deregulate Government, to get Government out of our lives as free citizens. Nowhere did I hear a cry to regulate language, to regulate speech.

H.R. 739 also states that the Government "shall promote and support the use of English for communications among U.S. citizens." Provisions like this go far beyond encouraging the learning of English and move toward English-only, not English first but English-only. We make a distinction between attitudes. Frivolous litigation, which would no doubt follow such a law, would flood our already overburdened court system with claims such as: "I was spoken to in Spanish by a Government employee." "I heard them talking in Chinese on Government time." "The Government isn't doing enough to promote English." And on and on. Citizens will be permitted to sue for monetary relief based on these claims of linguistic abuse.

Because it solves no problems, English-only legislation which seeks to regulate language seems to be giving life to the social forces of resentment.

This resentment could stem from a rise in the number of foreign accents we hear day-today or the increase in the use of languages other than English. This kind of resentment is not based on a need to improve communications between individuals or their Government, but is based on a fear of the growing foreignness in our midst.

Recently, proponents of English-only have tried to frighten us by comparing America with Canada. They tell us that if we reject English-only, portions of America will again attempt secession from the United States. Every country has a different history and those who attempt to draw this comparison display an ignorance of the Quebec situation. In Canada, official languages were written into the original legal framework. It is because of legal language restrictions on languages that Canada finds herself divided. I doubt Americans want to create a bureaucracy to enforce language policy like our northern neighbors have.

English-only legislation is potentially dangerous because it encourages nativism, raises constitutional issue about free speech and empowers the Federal Government to regulate—for the first time in our country's 219-year history—how Americans speak. The message of English-only legislation cannot be that English should be America's common language because it already is. Is the message then that we are less than those who speak only English? For those of us with different mother tongues, it is not at all incompatible to practice the continuance of a mother tongue, to be a good American, and recognize that the lingua franca is English.

As Congress considers English-only measures, I urge my colleagues to consider the implications of such legislation and the message it will send to this Nation of immigrants.

Mr. Speaker, I urge every Member to take a close look at this legislation and examine it, and see it for what it is worth.

RECOMMENDING A LOBBYING DISCLOSURE BILL WITH NO AMENDMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. CANADY] is recognized for 5 minutes.

Mr. CANADY of Florida. Mr. Speaker, today the House will resume consideration of the Lobbying Disclosure Act. As we resume consideration of this bill, we have a historic opportunity to pass a lobbying disclosure bill and send it to the President for his signature. We need to do that. For 40 years the Congress has been grappling with this issue unsuccessfully. We have seen 40 years of gridlock on the subject of lobbying disclosure reform. It is time that we end this gridlock and move forward.

When the House begins its consideration later today of this bill, we will vote on four amendments. I want to bring the Member's attention to the substance of these amendments and urge that the Members reject these and all other amendments to the lobbying reform bill.

The Washington Post summed the situation up in an editorial that appeared yesterday. The headline says "Amending Lobby Reform to Death." The editorial says, "The question now is whether the House will pass this bill and send it to the President or gum it up with amendments that would force a House-Senate conference and delay enactment indefinitely. The Senate lobbying bill is worth passing, as written, and its enactment should not be delayed any further. The House should vote down the various amendments and send the bill straight to the President.

We need to focus on the task that is before us. That is the task of passing lobbying disclosure reform. I have some comments on the particular amendments. The first amendment we will vote on is an amendment offered by the gentleman from Pennsylvania [Mr. FOX]. The gentleman from Pennsylvania has good intentions with his amendment, which would prohibit lobbyists from giving gifts to Members of Congress, but his amendment is unnecessary because we have already passed comprehensive gift reform in the House and in the Senate.

Furthermore, his amendment is dangerous because it contains a definition of "gift" which is different from the definition contained in the gift reform that the House passed. The only thing that will result from the adoption of the Fox amendment is confusion and trouble for Members of the House.

Furthermore, the amendment is unfair. It will create a double standard under which a lobbyist can be fined up to $50,000 in a civil penalty for giving a gift to a Member of Congress that is prohibited, while a Member of Congress does not face a similar civil penalty. Is that fair? Should we have one standard for imposing fines on lobbyists and exempt Members of Congress for fines? I

do not think that is consistent with the spirit of reform. The Fox amendment does that, and it should be rejected for that reason alone.

Another amendment that we will consider is offered by the gentleman from Pennsylvania [Mr. CLINGER]. The amendment of the gentleman from Pennsylvania deals with an important issue of lobbying by executive agencies. I believe there have been some abuses there which should be corrected, but the amendment of Mr. CLINGER is poorly drafted, it has not been through the committee process, and it will create all sorts of problems.

Under the Clinger amendment, agency press officers would not be allowed to answer inquiries from the press regarding the agency's position on legislative proposals. Does that make any sense, I do not think so. This proposal goes too far. Mr. CLINGER should take this back through his committee, which has jurisdiction of the issue, and come forward with a refined proposal to really address the abuse. This amendment by the gentleman from Pennsylvania [Mr. CLINGER] is designed and calculated to ensure a veto of this bill.

□ 1245

The President is bound to veto this bill if anything like the Clinger amendment is attached to it. We should not derail lobbying disclosure reform by adding extraneous amendments such as this.

There are other amendments that will be considered; some of them have some merit. Some of them, standing alone, are amendments that I would support. But this is not the time; this is not the place. We need to get on with the business that has occupied the Congress off and on for more than 40 years, and if we can pass this bill and send it to the President I believe that we will demonstrate to the American people that things really have changed here in Washington, that we can accomplish things in this Congress that other Congresses have been unable to deal with.

So I would encourage the Members to support lobbying disclosure reform and oppose all amendments to the lobbying disclosure reform bill. These amendments all have one thing in common. They will derail this effort to reform this law, which everyone admits desperately needs reforming.

THE SHUTDOWN OF THE DISTRICT OF COLUMBIA

The SPEAKER pro tempore (Mr. BARR). Under the Speaker's announced policy of May 12, 1995, the gentlewoman from the District of Columbia [Ms. NORTON] is recognized during morning business for 5 minutes.

Ms. NORTON. Mr. Speaker, if we ask the average American what got shut down 25 days ago, They will say that the Federal Government got shut down 25 days ago. Well, I am here to tell my colleagues, Mr. Speaker, that the city in which the Congress does its business got shut down completely 25 days ago. The city got shut down with its own money.

Mr. Speaker, because of limitations on home rule, our entire budget has to come here, although 85 percent of that budget is raised in the District of Columbia from District taxpayers. The District got shut down with its own money, although the District of Columbia is second per capita in taxes paid to the Federal Treasury among the 50 States and the District of Columbia.

Suppose you represented people who paid that much tax and got shut down because they got caught in the middle of a debate that had nothing to do with them? I think you would be pretty mad, and so am I.

Mr. Speaker, I am asking on day 18, as we move toward December 15, that whatever quarrels the Federal Government and the President get in among themselves, that you not shut down my city again. This is a city in the midst of an awesome financial crisis, and the most that the Congress of the United States has been able to think to do to it is to allow it to be shut down.

Our appropriation is caught up here, 85 percent of that money, of course, being our own. What the Federal Government contributes is not a grant but is only a payment in lieu of taxes, because we cannot build on land occupied by the Federal Government and because we cannot build very high because of limitations put on us by the Congress of the United States. So who in the world would shut down people who are already in the midst of a financial crisis, except people who are unaccountable to the people in that city, the 600,000 people that I represent?

Of course we, like the Federal Government, had to pay our employees, because they were put on forced administrative leave; and, thus, we have to pay for all of that lost productivity. Mr. Speaker, because of the fiscal crisis, these employees had already given back 6 furlough days and had already given back 12 percent of their pay because the city is in crisis.

This city is not a Federal agency. We are demanding that we be treated like a city and not like a Federal agency—like a city that pays its own way.

Mr. Speaker, I am asking that if we get to Day Zero and another continuing resolution is necessary, that D.C. not be put in another short-term continuing resolution. Do you realize what it is like to have to calibrate on a 2- or 3-week basis so that you do not overobligate your own money?

My continuing resolution will say look, you can spend your own money; we are holding back part of the Federal payment. That is the least you can do if you want to insert onto our appropriation stuck up here on provisions you want to insert onto our appropriation that have been undemocratically put there by Members unaccountable to the voters of the District of Columbia. Free the D.C. appropriation.

The chairman of the subcommittee, Mr. DAVIS has cosponsored an independent D.C. continuing resolution with me. Congress has already done damage, incalculable damage in shutting the District down. All I am asking now is if you cannot get our appropriation out, and I would not bet on getting it out by December 15, that the Congress not do more to hurt the innocent bystanders.

Those are the people who pay the highest taxes, barring none, if you combine local taxes and Federal taxes in the United States. Those are the people who contribute more to the Federal Treasury than Members who represent any jurisdiction in the United States, except New jersey. We are second in Federal taxes only to New Jersey. So if you are not from New Jersey, you have to get behind the people I represent, get way behind them.

Let us keep our city open. Can you imagine that the Federal Government was delivering mail, but we could not pick up the trash in the District of Columbia for a week because of a dispute between the President and the Congress? That is your business. Stay out of our business. Let us keep our city open. Do us no harm. Do not get caught in the middle.

Shut down the Federal agencies if you must. That is your money. Do not shut down D.C. We have already paid for our city.

AMERICAN TROOPS IN BOSNIA A DANGEROUS PROPOSITION

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

Mr. BUYER. Mr. Speaker, I am compelled to come to the House floor today, being a leader in this Congress, to speak against placing United States ground troops in Bosnia. Having listened to the President's address last night, I feel compelled to speak to not only the Members listening back in their offices but to the American people as well.

On October 30, 1995, this House voted overwhelmingly in a bipartisan fashion on the Buyer-McHale resolution, and it was approved by a vote of 315 to 103. Ninety-three members of the Democratic caucus, almost half, supported the proposition that expressed a sense of this Congress that U.S. ground troops should not be a part of a peace agreement in the Balkans. This resolution passed because the President's plan is ill-conceived, poorly defined, and highly dangerous.

It is ill-conceived because, over 2 years ago, the President promised 25,000 U.S. troops to enforce a future peace agreement. The President made this commitment without knowing the mission or the conditions of a peace agreement.

Peacing 25,000 United States troops on the ground to implement an agreement and to make an enforced peace is ill-conceived because the United States forces have lost the protection of neutrality after having bombed the Bosnian Serbs and promising to arm and train the Bosnian Moslems. U.S. troops, having lost this protection of neutrality, will become targets and casualties on the ground.

The implementation plan has been poorly defined. What is the mission of the NATO force? We need very clear objectives. What are the criteria for success? What is the exit strategy? A date set for withdrawal in 1 year is no exit strategy. Will the rules of engagement allow the force to accomplish the mission? How do we prevent the "mission creep" that we learned in Somalia that may escalate United States involvement in the Balkans beyond the time period which the President has set, and how do we keep United States troops from conducting nation-building exercises?

This implementation plan is also highly dangerous in that the United States and NATO forces will enforce an agreement that is politically unsustainable in a region of the world that has a long history of all sides exercising vengeance and retribution on one another. This is a long-term ethnic and religious conflict that could take generations to cure.

That is why the President of France has indicated that NATO's involvement in the Balkans could be 20 years, 20 years. Now the President is saying, we are only going in for 1 year, and we have this exit strategy. Twenty years. Think of this. It is generational.

Now, the President last night made a good speech, but I would submit a good speech does not make good foreign policy. Whether it is mass murder or ethnic cleansing, the rape and the pillage and the plunder, the destruction are all violent to America's values. But if our foreign policy followed our heart and emotion, then U.S. troops would become the world's policeman and we would find ourselves in over 67 hot spots throughout the world. I do not believe America wants U.S. troops to be the world's policeman.

That is why, Mr. Speaker, we tie U.S. troops and their commitments on foreign soil to vital national security interests. Mr. Speaker, that is a lesson we learned in Somalia, that when a nation, when one of our own, our finest sons or daughters take an oath to lay down their life for this country for liberties and economic freedoms that many people take for granted, we in this Congress must ensure, and that we believe in their solemn oath to make sure that their life is not given in vain, that it is tied to national security interests.

I am extremely disappointed to be standing here and have the President of the United States ignore the will of this Congress, for we have voted twice on this issue of Bosnia in saying no to sending troops. I resent the position that the President of the United States has placed the American people in, I resent the position in which he has placed these American troops, and I resent the position that he has placed this U.S. Congress in. I remain highly skeptical of this deployment, and I recognize that the President, as Commander in Chief, can send these troops.

The Framers of the Constitution created friction between the legislative body and the President. Do we have to have the friction? We are going to. We are going to, because the President has on the blinders. He has ignored the will of the American people and this Congress, and he is sending the troops.

We control the purse stings. So what are we going to do? Well, I do not agree with the President's foreign policy with regard to placing ground troops in Bosnia. I believe that we have a key and vital role to play in the peace process and that we should be providing our air power and sea power and logistics on the ground in Bosnia but not sending the troops; and we have a duty to support our troops, but will narrow the parameters, define the criteria to minimize the loss of life.

REJECT ISTOOK AND McINTOSH ON LOBBYING REFORM LEGISLATION

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

Mr. SKAGGS. Mr. Speaker, as the gentleman from Florida mentioned a few minutes ago, we will be resuming debate later today on the lobbying reform legislation. And, as he put it so well, I hope this House will reject all of the many amendments that are pending on this bill. Some have merit, but as the gentleman indicated, they will doom this bill. We do not need to risk that, and we should not.

As we resume consideration later today, it is especially important, I think, to understand what the amendments to be offered by my colleagues from Indiana and Oklahoma would do. I think once those amendments noticed by the gentleman from Oklahoma [Mr. ISTOOK] and the gentleman from Indiana [Mr. McINTOSH] are understood, they will be rejected. However, we need to read them as they were once proposed, as a single legislative proposal. We can now not unscramble that egg.

Let me refer my colleagues to a statement made by that noted conservative columnist George Will about this proposal. He said, "It would make lawyers happy; it would erect a litigation-breeding regulatory regime of baroque complexity regarding political expression."

Now, why in the world would George Will say that about a proposal like this? Let me just give you a few examples of the terribly burdensome effect, the red-tape-breeding provisions of this legislation as it would affect what private organizations in America can do with their private money.

For example, the University of Georgia would be limited in how much contact it could have with Georgia's State government. That is because State colleges and universities that receive Federal grants would be regulated under this proposal and could only spend a limited amount on any kind of contacts with other governmental entities. The definition of governmental contact is very broad and includes State and local governments.

□ 1300

Another example. If the National Association of Counties has any contact with a Federal official about legislative or policy matters, then no county that is a member of NACO could receive Federal funds. Why is that? Well, under the McIntosh language, if a 501(c)(4) nonprofit like NACO engages in any lobbying, then it and all organizations that are affiliated with it are prohibited from receiving any kind of Federal grants, loans, or contracts.

Another example. A zealous, vigilante-type person could bring harassing lawsuits against State and local governments under this provision, as well as against universities, nonprofits, you name it. A cut of treble damage verdicts would be available to anybody that might wish to pursue such a lawsuit for violation of the McIntosh-Istook provisions under the False Claims Act. That is what would be put into the law by the McIntosh private citizen enforcement amendment.

A Federal grantee like General Motors, obviously a private company, would have to account to the Federal Government for every time any of its thousands of employees had any contact with a Federal, State, or local government official about virtually any issue, whether it is local zoning or fuel efficiency standards.

Looking at another well-known and worthy nonprofit organization, Mothers Against Drunk Driving would not be able to carry out its mission if this were to become law, because under the amendment's formula for the maximum allowable government relations expenditures, Mothers Against Drunk Driving could spend only 3 percent of its entire budget on contacts with all levels of government. It would simply

cripple MADD's efforts to get stricter Federal, State, and local laws and enforcement against drunk driving.

But do not take my word for this. Let me read to my colleagues from a letter sent out yesterday in behalf of the presidents of 34 major research universities in this country from the Association of American Universities. And I quote:

The Istook-McIntosh-Erlich legislation would impose a burdensome, new record-keeping mandate on our universities, some of which receive thousands of Federal grants for diverse purposes. For each grant, this legislation would require detailed and duplicative reports on political advocacy—even if the amount of advocacy did not exceed the prohibited threshold.

Mr. Speaker, I could go on and on, including a recent communication from the Red Cross about this. Let me just conclude by pointing out what our former colleague Mickey Edwards of Oklahoma had to say about this recently: "This is big brother with a vengeance." My colleagues, we should defeat these amendments.

AMERICA BETTER OFF WITH BALANCED BUDGET

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

Mr. HOKE. Mr. Speaker, I want to address the House this morning about an article that appeared yesterday in USA Today. It was entitled "What Life Would Be Like In 2002 With A Balanced Budget." It is a survey of a number of different economists and analysts and consultants who have been asked about what the impact would be on our economy over a 7-year period of coming into balance with the Federal budget.

It starts out by saying,

Mortgage rates near 5 percent. An economy that purrs along with a steady jobless rate around 5.5 percent. A standard of living that's on the rise again because wages are finally growing at a decent rate. A trade surplus.

Economists are nearly unanimous in their answers that for most people, in fact 80 percent or more, life would be better. Says Michael Englund, who is chief economist at consultants MMS International, "I have to believe a rising tide does raise all boats. Probably 80 percent or more would gladly benefit" with a balanced budget that helps bolster the economy.

Todd Buchholz, author and economist who is the author of a book entitled "From Here to Economy" says, "I can tell you things will only get worse if we don't balance the budget or come close to that."

Now why is that? What is at the bottom of this? At the bottom of it is the ability of the Government to borrow in a way that sucks capital out of capital markets that would go to productive activity in the economy.

In other words, if there is a deficit that is running, right now the deficit is about $164 billion, then it has to borrow that money in the capital markets. That means that that money is not available to be borrowed by individuals for the purchase of homes or consumer goods, or by businesses for capital investment that would create more jobs.

Because we do spend more than we collect, the Federal Government has to borrow from investors to pay its bills. The article goes on by saying it borrows by selling Treasury bonds, notes and bills on which it pays interest. That borrowing, most economists agree, keep interest rates higher than they would be otherwise.

I can tell you that the Chairman of the Federal Reserve Bank, Mr. Greenspan, testified before my committee, the Committee on the Budget, earlier in this year, and said that on average he believed that interest rates would drop 2 percent as the result of balancing the budget.

"The government is tapping into our savings pool," says Nancy Kimelman, chief economist at Investment Advisors Technical Data in Boston. It lures investors' money the only way that a borrower can, by offering tempting yields on bonds.

When you subtract the Government from the competition for investors money by balancing its budget, then the effect would be immediate and interest rates would head down. Here are some of the estimates.

Lawrence Meyer and Associates, which is a St. Louis-based economic consulting firm, estimates that by 2002 short-term interest rates would be close to 3 percent, as opposed to 5.4 percent today, and long-term rates would be just about 5 percent, versus 6.2 percent today.

With rates that low, the economy would surely be far better off. Businesses would invest more because they could borrow more at lower rates. Investment in computers, in buildings and equipment, would boost productivity even further.

There is another issue at stake here besides all of these economic benefits that would inure not only to the economy generally but to individual people, both in terms of lower interest rates that they would pay for mortgage payments and car payments and school tuition payments as well as the capital formation aspects that create a lot more jobs and a lot more opportunity. The other issue that I want to talk about with respect to a balanced budget is the one that goes to the question of how we define what Government should be, what its appropriate role is, and what its appropriate role ought to be in the American scene.

The way that this idea of a balanced budget comes into play with respect to that is that the most perfect way, the most compelling way, the most clarifying way to define as a people what we believe government's role ought to be is what we as a people are willing to pay for it on a pay-as-you-go basis. So that if we say to each other, to ourselves, look, we are only willing to spend what we are willing to pay for, then that is the most perfect way to define what this Government should be and should do. It also has the added benefit of not putting on our children the borrowing that we enter into and engage in today. It very perfectly defines what we ought to be as a government.

DEFEAT ISTOOK AMENDMENT TO LOBBY REFORM BILL

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

Mr. MENENDEZ. Mr. Speaker, I rise to express my outrage with the Istook amendment we will be voting on that will impede with the fundamental right of Americans—particularly nonprofit organizations to advocate with their Government—their Representatives.

Let me first make it clear that I find this whole censorship effort reprehensible. But what makes it truly despicable is that it is specifically crafted to deal only with certain kinds of grants from the Government—the kind that go to people they do not like. People who might dare to oppose their extremist agenda.

What I mean is this: Mr. ISTOOK's own testimony on behalf of his original amendment cited two Supreme Court decisions in which the court specifically stated that there are two kinds of Federal benefits that put taxpayer dollars in an organization's pocket: Grants, and tax exemptions and deductions. The Supreme Court came right out and said it point blank. Both Mr. ISTOOK's original and more controversial amendment and the one he offers here today allegedly rely on these decisions. But when it came time to put this amendment down on paper, he decided he was only interested in one kind of benefit—the grants—completely ignoring the court's specific finding that tax-exemptions are a form of subsidy which have much the same effect as a cash grant. What a curious oversight. The court names just two things—just two—but when Republicans wrote the bill, they managed to forget half of that short list.

What is the effect of this oversight? The American Heart Association is restricted. The American Red Cross is restricted. The Girl Scouts are restricted. They are restricted because they get grants. But the Speaker's network of think tanks and pet projects—such as the Progress and Freedom Foundation, Earning by Learning, National Empowerment Television and

the like—can take tax-deductible donations and keep their money tax-free. And do they take money? Yes, millions from the Speaker's political supporters. And what do they do with it? They videotape Mr. GINGRICH's speeches and sell them. They use the money to produce a weekly television show starring the Speaker. In short, the Speaker uses their activities to promote his political agenda—and it is all done on the taxpayer dollar. All tax-exempt.

What did the Supreme Court say about that? Mr. ISTOOK has told us that they said tax-exemptions were the same as cash grants. If so, then why is there no mention of tax-exemptions in this amendment? The Progress and Freedom Foundation gets no grants, so this amendment will not stop them from sending every Member a so-called "briefing" on why the telecommunications industry needs reform, and coincidentally that it should be reformed in precisely the way Speaker GINGRICH suggests. But the Supreme Court, and more importantly Mr. ISTOOK, said their money is just as much "welfare for lobbyists" as a grant is.

All of you have received numerous briefings from the National Center for Policy Analysis supporting Medical Savings Accounts, an idea which actually wormed its way into the bill which cut Medicare by $270 billion. Has anyone figured out why? The Republicans said they were impressed by the savings these accounts could achieve. But the CBO says these accounts will actually cost the Government $3.5 billion. Of course, the savings were based on numbers produced by the think tank itself, and were then used to lobby Members. This think tank, by the way, is a tax-exempt organization. Distribution of their briefings was essentially lobbying. That means that the National Center for Policy Analysis lobbied Members with taxpayer dollars.

But what does this amendment do about it? Nothing. Why? Does it have anything to do with the fact that the National Center for Policy Analysis is heavily funded by a major backer of the Speaker's Progress and Freedom Foundation, the shadowy GOPAC organization, and others of the Speaker's funds?

Consider also that this big-time financial backer is also the CEO of the Golden Rule Insurance Co., the country's biggest marketer of medical savings accounts. In other words, a big financial backer of the Speaker's has used his tax-deductible contributions to fund a tax-exempt lobbying campaign designed to result in legislation that would bring huge profits to his company. Later this week, they will try to rake in still more by including medical savings accounts in the Federal employee health benefits plan. Ironically, the hearing on the subject will be before the Government Reform and Oversight Committee—the very committee which has written and promoted the Istook language. Does this bother anyone?

It bothers me, but it apparently does not bother the supporters of the Istook amendment. They do not protest while big money buys out American politics, piece by piece. In fact, they now offer legislation designed to facilitate the process.

This Istook amendment is a sham. It deserves defeat. Let us not stop the Association for Retarded Citizens, the YMCA, and other voices of the little guy from advocating with their Government while we let fat cat special interests lobby to maintain huge profits, and then write off the expenses as tax deductions.

NO UNITED STATES TROOPS DEPLOYMENT TO BOSNIA

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

Mr. MANZULLO. Mr. Speaker, the United States Congress will within a very short period of time take up the very delicate issue as to whether or not American fighting troops should be positioned in the country that we know as Bosnia and Herzegovina. For the past 3 years, our President has, without consulting Congress, made a commitment that somehow he is going to send 20,000 to 25,000 American troops to Bosnia and Herzegovina.

□ 1315

Now we find ourselves at this point in American history where this body has to make a reasoned decision as to whether or not we should put these young men and women in harm's way. We have to take a look at the historical background of this country as we know it.

One can go back 1,000 or even 1,500 years to see continuous fighting on either side of the Balkans as the various tribes from the areas that we know as the former provinces of Yugoslavia, now independent nations, have risen up, engaged each other in mortal combat, then been quiet for a period of time only to have these types of prejudices flare up again and result in killing.

The question is this: Does America have such a strategic interest in Bosnia and Herzegovina so as to commit our young men and women into combat? And that other question is this: If there is, indeed, a peace treaty, then why should our young men and women, as part of a NATO force, be sent in heavily armed for the purpose of killing to keep the peace?

As I examined last night the very thick document that sets forth the memorandum of understanding among the parties to this horrible conflict, several points stood out, and I think the American people have a right to know the terms upon which American troops would be sent into this country.

Let us take a look at the nature of the country that will be set up. There will be an elected house. There will not be a president; there will not be two presidents; there will be three presidents. Can you imagine a constitution that has a troika for a presidency and is able to rule? And, incidentally, each of these presidents have to come from each of the three warring factions, the Moslems, the Croats, and the Serbs. So now you take one of each, put them into a government and say, "You rule."

What is even more ironic is that in the constitution that will be set up is called the country of Bosnia and Herzegovina, and yet it is legally split, one country that is already split, and this is supposed to be a peace agreement.

How is this peace agreement formed? Well, a demilitarized zone is set up. American troops have to pour in, and the language of the agreement says that the troops will use whatever force is reasonably necessary in order to carry out the peace plan. So that if the warring factions do not clear out of the DMZ, then after some type of a warning, presumably NATO forces will be called upon to shoot in order to secure a peace.

Mr. Speaker, I ask the question: What type of peace is this? And that is not all. The agreement says that within a year the troops are to be withdrawn.

So everybody gets together for a year, possibly acquiesces in a DMZ zone, and then knowing at the end of the year they can pull out only to have the fighting resume.

But there is more to it than this.

Mr. Speaker, I would encourage my colleagues to examine very closely the agreement before they vote in favor of this type of peace plan.

MOVE RESPONSIBLY AND PASS THE BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from the Virgin Islands [Mr. FRAZER] is recognized during morning business for 1 minute.

Mr. FRAZER. Mr. Speaker, I rise to urge my colleagues on both sides of the aisle to come together. The time is now for us to represent our constituents in a responsible manner.

We all agree that a balanced budget is possible. The manner in which we get there is our dilemma. We need a balanced budget that is fair and equitable. This equality is based on a set of principles wherein all areas of Government are affected proportionally.

Our children are the future. Our Government must continue to provide a

safety net for mothers and children who are least able to provide for themselves. Programs such as child nutrition and Head Start are essential to our national interest. We must also invest in education and job training so that our Nation will be able to effectively compete in the global marketplace.

We must also honor our commitment to the elderly. They have the right to live in this country and enjoy the security and comfort of retirement without the fear of Government reducing their benefits to the point they must sell all of their assets to qualify for governmental assistance.

We can achieve a balanced budget without devastating cuts in Medicaid, Medicare, education, and without raising taxes on working families.

Therefore I urge my colleagues to move responsibly and pass the budget.

EPA APPROPRIATIONS CONFERENCE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from New Jersey [Mr. PALLONE] is recognized during morning business for 4 minutes.

Mr. PALLONE. Mr. Speaker, this week, we will be addressing the remaining appropriations conference reports, including the VA-HUD appropriations conference report which provides funding for the Environmental Protection Agency.

Unfortunately, our environmental laws have taken blow after blow in the 104th Congress as bills spiked with antienvironmental measures pass the House floor, both out in the open as in the Clean Water Act reauthorization or through more mischievous measures, as through appropriation and budget bills like the VA-HUD conference report that we will be voting on this week, most likely tomorrow.

No other Government agency is facing the kind of cuts that are included in this bill for the EPA.

The bill cuts funding for the EPA to set and enforce environmental and public health standards for air pollution, pesticides, and clean and safe water by 17 percent from what the President proposed.

Hazardous waste site cleanup is being cut by 25 percent, slowing efforts to make the Superfund Program faster, fairer, and more efficient.

And EPA's enforcement funding is being hit even harder, with a 27-percent cut in enforcement of all environmental programs.

On top of all the direct cuts to EPA's budget, this bill cuts by 30 percent funds that go straight to the States to help keep raw sewage off beaches and out of waterways.

And State loan funds for use in protecting community drinking water nationwide are reduced by 45 percent in this bill.

Restricting the EPA's ability to implement environmental protection programs and reducing funding to the States, in my opinion, is nothing less than an unfunded mandate on the States to maintain environmental quality.

In the majority of cases where adequate Federal funds are not made available, State funding just is not there.

This means that a virtual environmental protection vacuum will be created by this bill, where polluters get off scot free at the expense of environmental quality, and human safety and health.

One must ask why funding for environmental protection is being targeted or why after three votes to remove restrictive riders from the VA-HUD appropriations bill, the majority of the riders were simply moved to report language and several riders still remain as actual legislative language in the bill.

For example, incorporated in this bill is a rider that prevents EPA from stopping dumping of potentially harmful fill into wetlands.

EPA is by no means overly zealous in its use of this authority over wetlands, and only 11 times in the history of the wetlands program has it stepped in to veto this type of dumping.

Even in New Jersey, a State with one of the most stringent wetlands programs in the country, 94 percent of all wetlands permit applications are approved. So why is it necessary to put a rider in this bill prohibiting the EPA from protecting wetlands?

Another measure that does not belong in this bill is the prohibition of EPA's authority to add hazardous waste sites to the national priority list under Superfund.

The Superfund listing process is strictly scientific now.

There are those in this Congress, however, who seem determined to politicize the process by placing all sorts of restrictions on listing Superfund sites.

My committee, the Committee on Commerce, is now reviewing the Superfund Program, and I maintain the legislative process should simply be allowed to run its course.

If this conference report is passed in its current form, the EPA's hands will be tied and the quality of the air we breathe and the water we drink will suffer dramatically.

I urge my colleagues to oppose this bill and send it back to conference in order to restore the EPA's ability to effectively protect the health and safety of our environment and our constituents.

Essentially, if we send the bill back to conference again, those who represent the House and the Senate can get together and come up with a better bill that does not cut enforcement for environmental protection as much, that provides sufficient funding to the States so that they can continue to maintain a quality environment. This is what we should be doing in this Congress instead of passing this bill.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 1 o'clock and 25 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 2 p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we gain more knowledge about the workings of our world, we pray, gracious God, that we will sense more fully the wonder and the awe and the marvel that are about us and which have been provided by Your creative hand. May we live each day with a reverence for the miracles that are before us, with an appreciation of the mysteries of the universe and with a greater awareness of the ambiguities of the road ahead. Give us pause to reflect on Your majesty, the power of Your love, and the marvelous occasions we have to serve You and the people of the land. In Your name, we pray. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Illinois [Mr. WELLER] come forward and lead the House in the Pledge of Allegiance.

Mr. WELLER 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.

COMMUNICATION FROM THE CLERK OF THE HOUSE

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

HOUSE OF REPRESENTATIVES,
OFFICE OF THE CLERK,
Washington, DC, November 28, 1995.

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

DEAR MR. SPEAKER: Pursuant to section 2702(a)(1)(B)(vi) of Public Law 101-509, I hereby appoint as a member of the Advisory Committee on the Records of Congress the following person: Roger Davidson, 3510 Edmunds Street, NW, Washington, DC.

With warm regards,

ROBIN H. CARLE, *Clerk.*

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bills on Monday, November 20, 1995:

S. 440, to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes; and

S. 1328, to amend the commencement dates of certain temporary Federal judgeships.

TIME TO BALANCE THE BUDGET

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

Mr. WELLER. Mr. Speaker, as one of the Republican freshmen, one of the new Members of this body, I came here with a commitment to change how Washington works. I now, as a privilege of serving as a Member of the House, carry a voting card, a piece of plastic with which to record my vote.

For the last 26 years, Members of the House have used this card and made it the world's most expensive credit card, running up a $4.9 trillion debt. We think about our own families, when someone runs up a massive credit card debt, what that means and how it needs to be paid off.

I have with me a bag full of play money, but this bag represents the $19,000 that every Illinois citizen, that every American citizen currently owes as their share of the national debt. If we had to pay off the national debt today, every American citizen would have to write a check for $19,000.

It is time to change how Washington works, to balance the budget. The President has now agreed with the Congress that we should do it in 10 years.

Republicans have a plan to balance the budget in 7 years by reforming welfare, strengthening Medicare and providing tax relief to working families, but the President has failed to show us his plan. Now he is going to leave the country for 6 days. All he issues is a press release saying he would like to do it in 7 years.

Mr. President, I think it is time, before you leave the country for 6 days, when we need to provide a balanced budget by December 15, that you show us the specifics. Show us, Mr. President, if you do not like our plan to balance the budget, how you would do it. We need to see the fine print.

REPUBLICAN TAX PLAN IS UNFAIR

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

Mr. PALLONE. Mr. Speaker, I have been very critical of the Republican budget plan because I believe that it cuts Medicare in order to provide major tax breaks primarily for wealthy Americans. This of course is disputed by some of the Republican leaders, most notably the gentleman from Texas [Mr. ARCHER], who is the chairman of the Republican, or in this case, the House Committee on Ways and Means, the tax-cutting committee.

The New York Times last week put out an editorial based on the Treasury Department's figures. Basically the Treasury Department shows that in fact the tax breaks are primarily for the wealthy in this Republican bill.

It says in the New York Times editorial that the Treasury estimated that the richest 1 percent would rake in almost twice as much, or 17 percent of the tax cut under the bill. Indeed, under the Republican bill the poorest 20 percent of families, taken as a group, would pay higher taxes as a percentage of their income. The Treasury figures are solid evidence that the Republican tax cut is heavily weighted toward the rich.

As we proceed over the next 2 weeks in this budget battle, in negotiating a compromise, I am very hopeful that we will see a lot of money brought back into Medicare, to make sure that the Medicare Program is viable, and that we cut back on these tax breaks for wealthy Americans. It is not fair to cut Medicare and essentially destroy it at the expense of the average American in order to finance tax breaks primarily for those wealthier members among us.

PRESIDENT SHOULD SIGN BALANCED BUDGET ACT

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

Mr. LEWIS of Kentucky. Mr. Speaker, if the President is honestly looking for a plan that balances the budget in 7 years, uses legitimate numbers, and protects his priorities, he need look no further than the Republican Balanced Budget Act. Let us consider some of the areas the President says he has problems with our bill.

Medicare—our plan increases Medicare spending every year and ensures Medicare's solvency through at least 2010. There are no cuts.

Education—there are no education cuts in the Republican bill. The dollar volume of student loans increases 50 percent during the next 7 years. More student loans will be available next year than ever before.

The environment—not a single environmental protection program is touched in the Republican Balanced Budget Act. There are no environmental cuts in the Republican bill.

Mr. Speaker, the Republican Balanced Budget Act is a good bill. It balances the budget while preserving the American people's priorities. The President should sign this bill.

SAYING NO TO GROUND TROOPS IN BOSNIA

(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, I oppose sending ground troops to Bosnia. All military experts agree that Bosnia is not a military threat to the United States. Also, they agree that Europe has more than enough military capability to handle the peacekeeping problems in Bosnia.

But there is another argument that keeps popping up, and that is that we must protect the integrity of NATO. My colleagues, NATO was created to protect Europe from Soviet invasion. I say it is time that America stop subsidizing Europe's protection. It is time to disband NATO, let them create their own military alliance that they can support.

Let Congress not forget, in the 1960's the Johnson administration asked Europe to help us in Vietnam. Europe said, "It's too costly. There's too much killing. It's your way, America."

I say, look, we have all come to know him as Uncle Sam. Now we are letting him be treated like Uncle Sucker. They have enough money. They have enough military capability. This is in Europe's backyard. Let them send their troops to the front. We can provide support with air strikes, with training, with advisers, but not with ground troops.

COLONIAL BEACH VOLUNTEER FIRE DEPARTMENT 100TH ANNIVERSARY

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

Mr. BLILEY. Mr. Speaker, the Colonial Beach Volunteer Fire Department got its start in March 1884, with a resolution passed at the 35th meeting of the town council, promising cooperation with property owners in raising funds to purchase a fire extinguishing apparatus to be operated by a volunteer fire company. A committee was appointed in October 1895, to ascertain the cost and to determine how much money interested citizens would contribute toward its purchase.

A request was received in July 1896, from the Howe Pump and Engine Company of Indianapolis, IN, to demonstrate a piece of fire apparatus in Colonial Beach, VA. The apparatus was to be drawn by a team of two horses, and would be operated by eight men, four on each side of the pump by cantilever action. It would be capable of dispensing 60 gallons of water per minute and was equipped with 500 feet of 2¼ inch hose. One of the rear wheels had a striker, which hit a gong with each revolution of the wheel. The apparatus was purchased in August 1896, for $875, a far cry from the $250,000 to $500,000 required to purchase one today. Since the fire department did not own any horses, it was agreed to purchase a set of double harnesses and that a premium of $2 be given to the first person to reach the fire house with two good fast horses and hookup to the apparatus.

Today's fire sirens, beepers, and radios are a far cry from the way fire alarms used to be sounded. The first alarm used in Colonial Beach, was by striking a metal triangle with a hammer and later on a large ring was struck with a sledge hammer. Both the triangle and the ring are displayed at the fire station on Colonial Avenue.

In August 1896, a bid was submitted by Charles Pfeil to build the first fire house for a sum of $24. A year later, Pfeil was appointed fire chief at a salary of $3 per month. His duties were to keep the apparatus, fire house, and fixtures clean and in ready condition. The fire house was moved to the old town hall in March 1907 and did not move again until another fire house was built in 1940. In 1952, a second story was added with the help of the Ladies Auxiliary. A brand new building was built in 1961 on Colonial Avenue and is the current fire house.

The first 100 years of the Colonial Beach Volunteer Fire Department have been an exciting time of service and growth. The department has always stayed one step ahead of its peers with new, innovative thinking and proactive programs. Their members have committed themselves for over 100 years now with a sense of pride, tradition, and service to all those in their community. The Colonial Beach Volunteer Fire Department vows to continue to carry the high level of professional service that has become their hallmark into the next century, protecting the citizens of the community through the next 100 years.

SUPPORT THE BOSNIA PEACE PLAN

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

Mr. RICHARDSON. Mr. Speaker, for the past 4 years Bosnia has witnessed atrocities not seen on the European Continent since the horrors of World War II. Among these are concentration camps, women and girls raped as a tool of war, documented instances of mass murder, and the nightmare of ethnic cleansing becoming a reality.

A quarter of a million people have been killed in this war, many of them defenseless civilians. This number includes women and children. Two million people, about half the population, have been forced from their homes and are now suffering the miserable life of refugees.

For 4 years war has raged in Bosnia, and the United States has rightly stayed out of the war. The United States could not force peace on the warring factions. Now the situation is different. Due primarily to American leadership, peace has been brokered between the war-weary combatants.

Mr. Speaker, let us say thanks that the war and the killing has ended. Genocide has stopped and the war is over because of American leadership. We should thank the President, Secretary of State Christopher, Madeline Albright, Richard Holbrook, and the man that probably had the most to do with this peace, Robert Frazier, who gave his life to this process. I would also like to particularly acknowledge the key role played by National Security Adviser Tony Lake in securing the peace agreement. The peace process was initiated during his trip to Europe in late July.

The United States now has the historic opportunity to help Bosnia return to normalcy and bring stability to this troubled region.

THE PRESIDENT HAS NOT MADE THE CASE IN BOSNIA

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

Mr. HEFLEY. Mr. Speaker, last night the President came to the American people to convince us it is a good idea to send ground troops to Bosnia. He says he will come to Congress. Both of these things are the things he should be doing. We have been asking him to do it.

I sat there in front of my television half wanting to be convinced, because you do not want to embarrass the President, you want him to be right, you want him to represent the country in the right way. What I found with his speech was a great deal of emotion. He talked about rapes and concentration camps and mass executions, all things that we would like to stop if we possibly could, but he was short on substance.

He talked about vital American interests but he does not tell us what that was. He talked about American leadership and he seemed to be saying that the only way we can have American leadership is if we pay the bill, if we pay the price with our blood and with our money. I found myself wondering, I wonder if it is so bad if in some cases if someone else takes the leadership. Do we have to lead in everything? Is this not a European problem? Could we not rely on Europe to take the leadership in this?

I wonder how the President is going to respond to the families who lose children in this conflict, and they will lose some. Is he going to say, "Your son died for the future of NATO?" Is he going to say, "Your son died because we might stop World War III?" Is he going to say, "Your son died for American leadership?" I do not think he has made the case.

THE LESSON OF HAITI

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

Mr. GOSS. Mr. Speaker, as the subject of Bosnia has come up, Haiti has somehow crept into the conversation as some sort of a model.

I think people should know that things are not so good in Haiti. Public security there is literally falling apart. There is violent rioting through the country, mob rule, the streets are unsafe. This past weekend a 6-year-old school girl waiting for a schoolbus was shot dead. Businesses are closed and shuttered.

I do not know how many people have been burned to death or hacked to death, but I know it is more than one. The police station in the major city has been burned down. A drive-by shooting took place at city hall. Fear is pervasive. You can measure it; you can feel it.

The wave of unrest and violence that is going on is not something that is caused by citizens from the ground up. It was unleashed by the democratically elected President, President Aristide, 2½ weeks ago at a funeral.

The new police force that is supposed to protect and provide law and order there was disassembled and disarmed by the mob and chased out. The judiciary is in hiding. The Presidential elections that we are supporting and paying for are in doubt.

□ 1415

Certainly, even if they come off, they will not be full, fair, and free. Investment is not happening. Privatization is not taking place. Corruption is not being taken care of.

But refugees are starting again. The drownings are happening again. This is not a model for success.

Let us not hope we are going to do in Bosnia what has happened in Haiti.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries.

A BALANCED BUDGET: GOOD FOR NEW YORK AND NEW YORKERS

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

Mrs. KELLY. Mr. Speaker, many of my colleagues have talked generally about the national merits of our achieving a balanced Federal budget. However, I want to talk about the balanced budget and what the subsequent lower interest rates mean for my friends and neighbors in New York's Hudson River Valley.

Lower interest rates will be good for homeowners. In fact a reduction in interest rates will not only help middle-class families save on their home mortgages, but it will also help those first-time home buyers make that crucial first step on the path toward long term financial security.

Because of this, experts agree that the average New York family will achieve annual mortgage savings of at least $2,643. And the Federal Reserve has stated that it is quite possible that once we achieve a balanced budget, we will see mortgage interest rates drop even lower to 5¼ percent—a rate which hasn't been seen in generations.

Another benefit of a balanced budget is an increase in the overall affordability of college education. The average New York student loan is $2,783, and a 2.7-percent drop in interest rates would mean that students would save $557 over each year of the life of their loan.

Mr. Speaker, President Clinton agreed to help us balance the Federal budget. The country will hold him to this promise. And I believe that New Yorkers need him to keep his promise. Our childrens' futures are at stake, and the President must remember it.

BOSNIA

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

Mr. FUNDERBURK. Mr. Speaker, I served as the United States Ambassador to Yugoslavia's next door neighbor, Romania. Bill Clinton is talking about 20,000 soldiers, many of whom will come out of North Carolina, for peacekeeping. This is not peacekeeping, it is peace enforcement. But there is no peace to enforce. Just 2 days ago the Bosnian Serb leader said he did not like the agreement.

So what artificial peace are we going to enforce? Last night we heard Orwellian doublespeak: war is peace, peace is war. Clinton has gotten bad advice.

What could we possibly hope to accomplish? Our troops stand guard for 1 year, then we are out. We lose some lives, we leave maybe, then full-scale war breaks out again. What is the purpose? What is 1 year in 600 years of ethnic warfare in the area? And what about the cost to the taxpayer for this folly?

We have spent the last 50 years defending our European allies in NATO from the Soviet threat; now wealthy Western Europe should use its resources to try to keep the peace in its backyard.

Our vital national security interests are not at stake in Bosnia and Herzegovina. First of all, there is no real Bosnian nation, no Bosnian people, no Bosnian language; there are Croats, Serbs, Muslims fighting each other since the 1300's. If Bosnia's ethnic strife and people killed are in our national interest, then whey not go into every place on the earth where people are fighting and being killed?

This is a tragic mistake. American lives will be sacrificed. And for what? Can we not learn some lessons from history?

THE PEOPLE'S INTEREST, NOT SPECIAL INTERESTS

(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 hope every American reads yesterday's Washington Post article on the Republican's real approach to campaign reform. This is sleight of hand and sleight of tongue, taken to its highest level.

While talking like the revolutionary, good government leader, GINGRICH has engineered the most aggressive quid pro quo ever seen in this city. We have seen lobbyists actually writing legislation and hear tell of the Republican list that determines which special interests get taken care of.

I challenge all freshmen Members, Democrats and Republicans, to join together and demand real reform now. None of us came here to be a part of a government that is for sale. The Republican majority has taken deception to a new high and government integrity to a new low. Mr. Speaker, this House should be more concerned with the people's interest than the special interest.

PRESIDENT HAS NOT MADE THE CASE FOR DEPLOYING TROOPS TO BOSNIA

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

Mr. SMITH of Texas. Mr. Speaker, American service men and women should not be asked to risk their lives in Bosnia unless national security interests are threatened and military deployment would protect United States interests. President Clinton made a strong statement last night, describing the horrors in Bosnia. But he did not define what American national security interests are involved in Bosnia. And his statement did not establish that U.S. ground troops would resolve the Balkan conflict.

The people of the 21st District of Texas are committed to a strong American defense that protects our Nation's security interests around the world. Thousands in the 21st District have risked their lives to serve our Nation in World War I, World War II, Korea, Vietnam, and the gulf war. But America's leaders have a responsibility to ask for their service only when it is essential to protect our Nation's national security interests.

Before committing U.S. troops, the President should demonstrate that American national security interests are at risk and that U.S. military deployment can decisively advance our interests. President Clinton has not made this case.

LISTEN TO THE AMERICAN PEOPLE

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

Mr. BURTON of Indiana. Mr. Speaker, we spent $2 billion going on $3 billion in Haiti, and it is a mess.

We tried to do nation building in Somalia. We lost 18 young Americans, and we left Somalia, and the dictators, the warlords that were in charge, are still in charge over there. We spent hundreds of millions of dollars, and nothing was accomplished.

That foreign policy led to disaster. Now the President that got us into those two messes is going to send 20,000 to 30,000 young Americans into Sarajevo, into Bosnia. There are 60,000 people around Bosnia, Bosnian Serbs that say they are not going to abide by the treaty. Some of them said, "You saw Americans dragged through the streets of Somalia dead and naked. You are going to see the same things around Sarajevo." They are telling us what is going to happen.

There are 6 million land mines over there. We only know where 100,000 to 500,000 of them are, 6 million land mines.

This is a recipe for disaster.

We saw a terrible tragedy occur in Beirut when I first came to Congress. We saw 240-some marines blown to smithereens. The same thing may very well happen in Bosnia.

The President is making a monumental mistake. I do not think the American people want this to happen. I

know they do not, and the President should listen to them.

FACTS ABOUT BENEFITS OF A BALANCED BUDGET

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

Mr. KIM. Mr. Speaker, over the past few months, congressional Democrats have used every scare tactic possible to attack the Republican balanced budget proposal. They accuse Republicans of taking away health care for senior citizens, trying to frighten senior citizens. Later they found out at the end of 7 years the part B premium, the Republican proposal is $87, Mr. Clinton's proposal is $84, only $3 difference.

Then senior citizens find out, and they are really upset. This is what they call a deep cut?

Second, they are accusing that we are stealing school lunches from children. Later they found out that actually we are doing more money to local districts by eliminating bureaucrats. Then suddenly they quiet down.

Finally, we are throwing poor people out in the street for talking about earned income tax credit. Again, what we are trying to do is eliminate waste and fraud, actually allowing people who have actual children to receive benefits. People again quiet down.

Now in the last few days, guess what is happening now, Democrats are trying to scare students by saying Republicans are cutting student loans. Oh, come on now, the fact is that our plan increases spending on student loans. Under our plan, total spending on student loans, listen to this, increased from $24 to $26 billion by the year 2002. That is a 48-percent increase.

REPUBLICANS ARE DOING WHAT DEMOCRATS FAILED TO DO

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

Mr. RIGGS. Mr. Speaker, the refrain we hear about Washington these days is everybody wants to balance the Federal budget. We even hear that claim coming from some of the more liberal Members of Congress who traditionally in years past have supported more deficit spending and higher taxes.

Well, let us remember a few important facts. First of all, candidate Bill Clinton pledged to balance the budget in 5 years, and we Republicans are proposing to do that in 7 years.

Second, the President stated unequivocally in his State of the Union Address, no less from the podium right behind me, that the Congressional Budget Office estimates should be used when formulating the budget, the same numbers that Republicans are using and that he now disputes.

Third, the Democratic Party controlled Congress for the last 2 years, the first 2 years of the Clinton Presidency, and nothing even remotely approaching a balanced budget plan evolved. In fact, many Americans got a tax hike despite the President's campaign promises of tax cuts.

We ought to remember the truth when we are having this debate, Mr. Speaker. If Democrats had us on a glidepath to a balanced budget within the first 2 years of the Clinton administration, not only would the Government shutdown have been avoided, but they would more than likely still be the majority party in the Congress.

Now the President is simply playing politics trying to block the Republicans from doing what his party has failed to do.

IS BOSNIA WORTH DYING FOR?

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

Mr. ROTH. Mr. Speaker, last night I listened very attentively to what the President was telling the House and the Congress and also the American people. I listened to the President, and he did not answer the question: Is Bosnia worth dying for?

I think that is the core question we have to ask ourselves. Therefore, I think the people in the Congress are not going to follow the President's wishes and back him going into Bosnia. Going into Bosnia is not a smart move.

Every lesson we learned in Vietnam has either been forgotten or ignored. Secretary of State Christopher's own doctrine says before you can put troops anywhere in the world you have to ask yourself four questions: First, what is the mission? The President did not give us a clear mission.

Second, is there a reasonable chance for success? There is no reasonable chance for success in Bosnia.

Third, the support of the American people. The American people do not support this adventure.

And, fourth, what is the exit strategy? There is no exit strategy.

Going into Bosnia is a very bad idea, and if we do, we will rue the day that we have done it.

CONTINUING NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. BARR) laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

I hereby report to the Congress on developments since the last Presidential report of May 18, 1995, concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c) and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa–9(c). This report covers events through September 29, 1995. My last report, dated May 18, 1995, covered events through April 18, 1995.

1. On March 15 of this year by Executive Order No. 12957, I declared a separate national emergency pursuant to the International Emergency Economic Powers Act and imposed separate sanctions. Executive Order No. 12959, issued May 6, 1995, then significantly augmented those new sanctions. As a result, as I reported on September 18, 1995, in conjunction with the declaration of a separate emergency and the imposition of new sanctions, the Iranian Transactions Regulations, 31 CFR Part 560, have been comprehensively amended.

There have been no amendments to the Iranian Assets Control Regulations, 31 CFR Part 535, since the last report. However, the amendments to the Iranian Transactions Regulations that implement the new separate national emergency are of some relevance to the Iran-United States Claims Tribunal (the "Tribunal") and related activities. For example, sections 560.510, 560.513, and 560.525 contain general licenses with respect to, and provide for specific licensing of, certain transactions related to arbitral activities.

2. The Tribunal, established at The Hague pursuant to the Algiers Accords, continues to make progress in arbitrating the claims before it. Since my last report, the Tribunal has rendered four awards, bringing the total number to 566. As of September 29, 1995, the value of awards to successful American claimants from the Security Account held by the NV Settlement Bank stood at $2,368,274.541.67.

Iran has not replenished the Security Account established by the Accords to ensure payment of awards to successful U.S. claimants since October 8, 1992. The Account has remained continuously below the $500 million balance required by the Algiers Accords since November 5, 1992. As of September 29, 1995, the total amount in the Security Account was $188,105,627.95, and the total amount in the Interest Account was $32,066,870.62.

Therefore, the United States continues to pursue Case A/28, filed in September 1993, to require Iran to meet its obligations under the Accords to replenish the Security Account. Iran filed its Statement of Defense in that case on August 31, 1995. The United

States is preparing a Reply for filing on December 4, 1995.

3. The Department of State continues to present other United States Government claims against Iran, in coordination with concerned government agencies, and to respond to claims brought against the United States by Iran, in coordination with concerned government agencies.

In September 1995, the Departments of Justice and State represented the United States in the first Tribunal hearing on a government-to-government claim in 5 years. The Full Tribunal heard arguments in Cases A/15(IV) and A/24. Case A/15(IV) is an interpretive dispute in which Iran claims that the United States has violated the Algiers Accords by its alleged failure to terminate all litigation against Iran in U.S. courts. Case A/24 involves a similar interpretive dispute in which, specifically, Iran claims that the obligation of the United States under the Accords to terminate litigation prohibits a lawsuit against Iran by the McKesson Corporation from proceeding in U.S. District Court for the District of Columbia. The McKesson Corporation reactivated that litigation against Iran in the United States following the Tribunal's negative ruling on Foremost McKesson Incorporated's claim before the Tribunal.

Also in September 1995, Iran filed briefs in two cases, to which the United States is now preparing responses. In Case A/11, Iran filed its Hearing Memorial and Evidence. In that case, Iran has sued the United States for $10 billion, alleging that the United States failed to fulfill its obligations under the Accords to assist Iran in recovering the assets of the former Shah of Iran. Iran alleges that the United States improperly failed to (1) freeze the U.S. assets of the Shah's estate and certain U.S. assets of close relatives of the Shah; (2) report to Iran all known information about such assets; and (3) otherwise assist Iran in such litigation.

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

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

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

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

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 28, 1995.*

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

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

To the Congress of the United States:

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

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 28, 1995.*

□ 1430

CORRECTIONS CALENDAR

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

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

PHILANTHROPY PROTECTION ACT OF 1995

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

The Clerk read the bill, as follows:

H.R. 2519

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

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

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

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

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

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

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

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

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

"(ii) assets of a pooled income fund;

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

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

"(v) assets of a charitable lead trust;

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

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

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

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

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

"(D) For purposes of this paragraph—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(e) CHARITABLE ORGANIZATIONS.—

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

"(A) such a charitable organization;

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

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

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

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

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

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

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

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

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

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

"(A) any such charitable organization;

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

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

SEC. 6. PROTECTION OF PHILANTHROPY UNDER STATE LAW.

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

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

(1) a charitable organization;

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

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

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

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

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

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

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

SEC. 7. EFFECTIVE DATES AND APPLICABILITY.

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

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

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

The Clerk read as follows:

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

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

Sec. 1. Short title; table of contents.

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

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

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

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

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

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

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

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

"(ii) assets of a pooled income fund;

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

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

"(v) assets of a charitable lead trust;

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

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

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

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

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

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

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

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

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

"(D) For purposes of this paragraph—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(e) CHARITABLE ORGANIZATIONS.—

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

"(A) such a charitable organization;

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

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

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

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

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

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

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

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

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

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

"(A) any such charitable organization;

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

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

SEC. 6. PROTECTION OF PHILANTHROPY UNDER STATE LAW.

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

exempt from any statute or regulation of a State that requires registration or qualification of securities.

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

(1) a charitable organization;

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

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

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

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

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

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

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

SEC. 7. EFFECTIVE DATES AND APPLICABILITY.

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

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia [Mr. BLILEY] will be recognized for 30 minutes, and the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 30 minutes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Finally, I would like to thank Linda Dallas Rich, Steve Cope, and Brian

McCullough of our staff for their diligent and excellent work on this initiative.

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

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

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

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

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

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

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

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

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

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

The document referred to is as follows:

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

AN UNCHARITABLE LAWSUIT

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

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

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

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

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

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

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

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

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

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

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

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

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

the year through gifts to charitable income funds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In closing, I particularly want to commend the gentlewoman from Nevada [Mrs. VUCANOVICH]. When the Corrections Day Advisory Committee first met, she said she wanted to feel her way step-by-step in establishing fair and appropriate procedures for corrections day. She has done an excellent

job feeling her way. Speaking as one who initially had doubts about how the corrections day process would be handled, I am pleased to be able to say that it has been handled very fairly and productively under the leadership of the gentlewoman from Nevada [Mrs. VUCANOVICH].

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Because the Republican draconian cuts that impact the poor and the disadvantaged, which these charities under H.R. 2519 are designed to serve, and where that money is being given, the $245 billion that is being cut and given to the very rich in tax cuts, we

can only hope that H.R. 2519 will encourage those same rich Republicans who get the $245 billion in tax cuts to give a little bit of it back. The harm they are causing the poor, the elderly, the disadvantaged, the disabled in this country and the young children, is so huge that one wonders if this little correction is going to be enough to overcome that awful, heartless cutting and gutting of the social programs that protect the needy and the disadvantaged in this country.

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely yours,

MICHAEL H. KULL,
President.

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

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

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

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

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

□ 1500

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

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

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

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

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

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

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

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

The question was taken.

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

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

The point of no quorum is considered withdrawn.

GENERAL LEAVE

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

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

There was no objection.

CHARITABLE GIFT ANNUITY ANTITRUST RELIEF ACT OF 1995

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

The Clerk read the bill, as follows:

H.R. 2525

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

SECTION 1. SHORT TITLE.

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

SEC. 2. MODIFICATION OF ANTITRUST LAWS.

(a) EXEMPT CONDUCT.—Except as provided in subsection (b), it shall not be unlawful under any of the antitrust laws, or under a State law similar to any of the antitrust laws, for 2 or more persons described in section 501(c)(3) of the Internal Revenue Code of

1986 (26 U.S.C. 501(c)(3)) that are exempt from taxation under section 501(a) of such Code to use, or to agree to use, the same annuity rate for the purpose of issuing 1 or more charitable gift annuities.

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

SEC. 3. DEFINITIONS.

For purposes of this Act:

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

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

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

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

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

SEC. 4. APPLICATION OF ACT.

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

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

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

GENERAL LEAVE

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

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

There was no objection.

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

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

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

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

The annuity rate applied to the value of the gift is the critical element in ensuring that the transaction will result in a meaningful gift to the charity. The American Council on Gift Annuities, a nonprofit organization representing more than 1,500 charitable organizations and institutions, assists its members in determining annuity rates which will produce an average gift to the organization of between 40 and 60 percent of the amount originally donated under the agreement.

H.R. 2525 addresses the application of the antitrust laws, and of similar State laws, to the issuance of charitable gift annuities and the publication and distribution of suggested annuity rates for charitable gift annuities—the activities of the American Council and other charitable organizations. In defining the application of the law as it pertains to charitable gift annuities, the bill addresses issues raised in a class action lawsuit brought in the U.S. District Court for the Northern District of Texas, Wichita Falls Division. This lawsuit charges that use of the annuity rates recommended by the council constitutes price fixing, and thus violates the antitrust laws.

Mr. Speaker, I believe in the vigorous and nondiscriminatory application of the antitrust laws, and as a general matter, I do not favor exemptions or exclusions from the antitrust laws. In this limited instance, however, it would serve no public policy purpose to subject the calculation of charitable gifts to antitrust scrutiny.

First of all, it is not at all certain that the use of consistent annuity rates would be found to be a violation of the antitrust laws. The answer depends on whether the issuance of gift annuities is deemed "pure charity" or a "commercial transaction with a 'public service aspect.'" If it is considered "pure charity," the conduct is not trade or commerce, and therefore not within the scope of the antitrust laws.

Even if the issuance of charitable annuities were considered trade or commerce, a court might well find that use of the same annuity rates is not anticompetitive in effect. It is particularly difficult to see what anticompetitive effect the supposed setting of prices has in a context where the decision to give is motivated not by price but by interest in and commitment to a charitable mission. Furthermore, it is unclear whether the selection of an annuity rate could be characterized as the setting of a price: in this instance an annuity rate merely determines the portion of the donation to be returned to the donor, and the portion the charity will retain. Donors are not primarily buying an annuity; they are making a gift.

Notwithstanding the serious doubts as to whether the alleged conduct would be considered a violation of the antitrust laws, the current litigation is causing charities to expend massive amounts of time and resources on defending their positions. It is also forcing these organizations to make public information about their donors, a fact which makes people who guard their privacy reluctant to give. In addition, the class action certification makes donors—people who want to help their charities—into unwilling adversaries, causing the charities to expend donated funds opposing those who gave the funds in the first place.

If the plaintiffs in the class action lawsuit prevail, thousands of charities nationwide would be required to refund donations and to pay treble damages. This would mean that virtually every charitable organization in America is threatened with losses which could total billions of dollars.

Our goal should be to encourage gift giving through legitimate means, and particularly through instruments which the IRS approves and regulates. Gift annuities carry this imprimatur. Regardless of the outcome of the suit, there is no denying that it has had and will continue to have a chilling effect on gift giving and that it is consuming financial resources which would otherwise be allocated to charitable millions. This loss to society far outweighs any possible benefit from the application of the antitrust laws to the setting and use of charitable annuity rates.

To eliminate the uncertainty raised by this litigation, and to ensure the proper public policy result, H.R. 2525 makes clear that charities' use of the same annuity rates when they issue gift annuities does not violate Federal or State antitrust laws. The antitrust

protection provided by H.R. 2525 is intended to extend to attorneys, accountants, actuaries, consultants and others retained or employed by a person described in section 501(c)(3) of the Internal Revenue Code of 1986, when assisting in the issuance of charitable gift annuities or the setting of charitable annuity rates.

I urge my colleagues to join me in protecting the charities of this country by voting in favor of H.R. 2525. I also urge my colleagues to support complementary legislation introduced by the gentleman from Texas [Mr. FIELDS] which addresses allegations of securities and insurance law violations contained in the class action suit. Enactment of that bill, H.R. 2519, along with H.R. 2525, will ensure that the vital work of charitable organizations can continue without the threat of crippling lawsuits.

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

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

Mr. Speaker, I am pleased this day to join with the gentleman from Illinois [Mr. HYDE], the distinguished chairman of the Committee on the Judiciary, in cosponsoring legislation that will help our nonprofits solicit charitable gifts which are so vital to their long-term operation and exclude them from being subjected to the possibility of unnecessary antitrust litigation.

As the Members of this body know so well, I support antitrust laws and their vigorous exercise thereof, and I am pleased to note that the ever-watchful Assistant Attorney General Anne Bingaman of the Antitrust Division has not had anything to do with the bringing of this case. This case was not brought nor was the Department of Justice involved in it in any way.

I favor the enforcement of antitrust laws and normally am very careful about exclusions or exemptions to the antitrust law. This limited instance, however, I believe, is one so important and so vital to public policy purpose that to subject the calculation of charitable gifts to antitrust scrutiny is something that we might want to avoid. Moreover, the bill has been crafted in an extremely narrow manner, and so it will not apply to any potential anticompetitive conduct.

The measure before us will overturn a legal action brought in a Federal court challenging the actions of the American Council on Gift Annuities in recommending annuity rates for nonprofits. These annuity rates represent complex calculations which allow donors to receive a reasonable future income and a tax deduction while preserving much of the gift's value for the charity. If the courts find the antitrust laws apply to these actions, it would cost our charities billions of dollars in resources and this would come at the expense of urgently needed civic and charitable needs at a time when they are more vital then ever to those who need them.

I would like to point out that the case that has been referenced has not been concluded. No decision has been rendered. And so we are acting in a very zealous fashion to make sure that no outcome that would cast a doubt over many of the activities of nonprofits could ever occur.

I must make one observation, though, that we are here under the corrections day calendar, Mr. Speaker. There have been 5 correction days and 7 bills so far, but might I point out that this measure could have perhaps more properly been brought under suspension of the rules. We have bipartisan support, there is little opposition, but to suggest that the Sherman Act and the Clayton Act, the antitrust laws of the Federal Government, should be subject to a corrections day revision I do not think speaks very thoughtfully about the importance of our bill, and the fact that the amendment we are making is neither ludicrous nor arbitrary. It is a serious change that we are making. We are making it in anticipation of a decision that nobody knows what would have happened. I think we are quite properly removing a cloud from over charitable gifts in the first place.

With that very minor and I hope not too nagging technicality, I also, as an original cosponsor of the legislation, urge Members to support the passage of this measure.

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

□ 1515

Mr. STARK. Mr. Speaker, I thank the gentleman for his kindness.

I want to support H.R. 2525, granting antitrust relief to charitable gift annuities, because we are going to need some more charitable gifts.

Now, to my modern-day pharisees on the other side of the aisle, I would point out it is, indeed, a Christian thing to do to encourage giving. The Bible uses the word "give" 862 times, and the phrase "stop giving" does not appear at all. But the Republicans are stopping giving.

H.R. 2525 may help that. But I wonder, and I am not a lawyer so I would have to rely on the Committee on the Judiciary, low-income energy assistance is being cut. Should we, therefore, give an exemption to the oil companies?

Food stamps are being capped and cut 20 percent.

POINT OF ORDER

Mr. HYDE. Mr. Speaker, point of order. Should the gentleman's remarks be confined to the bill and not to extraneous matter that may be lurking within his fertile imagination?

The SPEAKER pro tempore (Mr. BARR). The gentleman is correct. The Chair would admonish the gentleman from California to limit his remarks to the subject matter of H.R. 2525 currently pending before this body.

Mr. STARK. I thank the Speaker, and I shall continue to talk about granting of antitrust relief to encourage gift annuities, which I believe is the bill, the nexus of the relationship.

For instance, Medicare, which is being cut where it pays for debt for low-income seniors, the hospitals very much want an antitrust exemption, which is really the nexus of this bill.

Would it not be wise to correct the Republican mistake of cutting Medicare and to give hospitals an antitrust exemption?

Or, in the same vein, H.R. 2525 allows antitrust relief. Would if not be good to give antitrust relief to the landlords of Macy's and Wal-Mart because of the $33 billion in earned income tax credits being cut out of low-income people while rich people will not need it? I suggest that is within the nexus of H.R. 2525 and antitrust relief.

Finally, college aid is being cut $5 billion. Last weekend Muskingum College in Ohio was dropping tuition from $13,000 a year to $9,000 a year. I remember when MIT and the Ivy leagues were clamped for antitrust for getting together on student aid.

Why not give the college antitrust relief? Then we will not need the college loan program that the Republican are gutting.

So I say support H.R. 2525. Start a movement. Replace the $254 billion in charitable cuts the Republicans are making with a Thousand Points of Light.

I urge support of the bill.

Mr. THORNBERRY. Mr. Speaker, I rise today to add my support to the effort being made to assist our Nation's charities, universities, hospitals, and other organizations that hold as their sole objective assisting the needy. The Philanthropy Protection Act and the Charitable Gift Annuity Antitrust Relief Act are necessary steps toward restoring the interpretation of the purpose of charitable gifts. Without these two pieces of legislation, the foundation for donating charitable gifts and trusts will be eliminated.

Because of a lawsuit filed in my district, organizations ranging from the Girl Scouts of America and the Southern Baptist Foundation to the Red Cross and Texas Tech University will be in true danger of losing their primary source of revenue. In an era when we are asking Americans to take greater responsibility for themselves, their families, and their neighbors, we must protect charitable organizations' ability to continue their work.

The two acts offered on the House floor today will establish charitable gift annuities as an exemption from Federal antitrust and securities laws that require interest return at market rates. This will enable charitable organizations to continue to accept planned giving donations from individuals, pay out reasonable annual returns to the donor and provide the excess interest to benevolent activities.

People who give charitable gifts do not do it to get rich—they do it mainly to help others. Using charitable gift annuities and charitable trusts makes it possible for donors to make a contribution, while still retaining some income from their gift. This flexible arrangement allows the funds to be used to care for and educate the less fortunate while at the same time providing investment income for the donor.

In light of the immense benefit of these kind of gifts, it is only unfortunate that these bills were precipitated by some heirs seeking to retain the donations for their own use. Although this originated in the 13th District in Texas, the effects of these two acts will benefit the entire Nation. It is for these reasons that I am proud to join in this bipartisan effort.

Ms. PELOSI. Mr. Speaker, I rise to offer my support for both H.R. 2525, the Charitable Gift Annuity Relief Act, and H.R. 2519, the Philanthropy Protection Act. These bills offer much-needed clarity to our securities and antitrust laws and will encourage continued charitable giving by our Nation's non-profit organizations.

Charitable gift annuities and charitable trusts make it possible for donors to make contributions while still retaining some income from the gift. This legislation encourages this flexible arrangement and should be supported.

Mr. Speaker, the people of the United States are the most generous in the world. In 1995 alone, contributions to charity totaled $120 billion. These bills will ensure that this level of generosity continues. Vote "Yes" on H.R. 2519 and H.R. 2525.

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

Mr. HYDE. Mr. Speaker, I just want to say how pleasant it is to have the gentleman from Michigan [Mr. CONYERS] on our side.

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

The SPEAKER pro tempore. Pursuant to the rule, the previous question is ordered.

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

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

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

The question was taken.

Mr. HYDE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this question are postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the Chair declares the House in recess until 5:30 p.m.

Accordingly (at 3 o'clock and 20 minutes p.m.), the House stood in recess until 5:30 p.m.

□ 1730

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BARR) at 5 o'clock and 30 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair will now put the questions that were postponed earlier today in the order in which each question was entertained.

Votes will be taken in the following order:

H.R. 2519 de novo; and

H.R. 2525 by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

PHILANTHROPY PROTECTION ACT OF 1995

The SPEAKER pro tempore. The pending business is the question de novo on the passage of the bill, H.R. 2519, on which further proceeding were postponed.

The Clerk read the title of the bill.

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

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KLECZKA. 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. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 421, nays 0, not voting 11, as follows:

[Roll No. 822]

YEAS—421

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
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
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
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
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
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
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
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)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Coleman
Cunningham
de la Garza
Fowler
Hefner
Kennedy (RI)
Maloney
Pelosi
Radanovich
Royce
Tucker

□ 1752

So (three-fifths having voted in favor thereof) the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CUNNINGHAM. Mr. Speaker, during rollcall vote No. 822, I was detained. I ask that the RECORD reflect had I been present, I would have voted "yea".

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BARR). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the remaining postponed question.

CHARITABLE GIFT ANNUITY ANTITRUST RELIEF ACT OF 1995

The SPEAKER pro tempore. The pending business is the question of passage of the bill, H.R. 2525, on which further proceedings were postponed.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 427, nays 0, not voting 5, as follows:

[Roll No. 823]

YEAS—427

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
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 (GA)
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
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
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
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
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
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
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)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—5

Fowler
Hefner
Maloney
Pelosi
Tucker

□ 1804

So (three-fifths having voted in favor thereof) the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. FOWLER. Mr. Speaker, due to a family medical emergency, I was not present for rollcall vote Nos. 822 and 823. Had I been present I would have voted "yes" on H.R. 2525 and "yes" on Senate Concurrent Resolution 33.

PERSONAL EXPLANATION

Mrs. MALONEY. Mr. Speaker, I was unavoidably detained in my district, but had I been present, I would have voted "aye" on both rollcall votes 822 and 823.

EXPRESSING THANKS AND GOOD WISHES TO HON. GEORGE M. WHITE ON HIS RETIREMENT AS ARCHITECT OF THE CAPITOL

Mr. THOMAS of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 33) expressing the thanks and good wishes of the American people to Hon. George M. White on the occasion of his retirement as the Architect of the Capitol, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The text of the Senate concurrent resolution is as follows:

S. CON. RES. 33

Whereas at its inception, the Capitol of the United States of America was blessed to rise under the hand of some of this Nation's greatest architects, including Dr. William Thornton, Benjamin Henry Latrobe, and Charles Bullfinch;

Whereas prior to the Honorable George Malcolm White, FAIA, being appointed by President Nixon on January 27, 1971, it had been 106 years since a professional architect had been named to the post of Architect of the Capitol;

Whereas Mr. White has served the Congress through an unprecedented period of growth and modernization, using to advantage his professional accreditation in architecture, engineering, law, and business;

Whereas Mr. White has prepared the Capitol Complex for the next century by developing the "Master Plan for the Future Development of the Capitol Grounds and Related Areas";

Whereas Mr. White has added new buildings to the Capitol grounds as authorized by Congress, including the Thurgood Marshall Federal Judiciary Building, the Philip A. Hart Senate Office Building, and the Library of Congress James Madison Memorial Building, and through acquisition and renovation, the Thomas P. O'Neill and Gerald R. Ford House Office Buildings, the Webster Hall Senate Page Dormitory, and the Capitol Police Headquarters Building;

Whereas Mr. White has preserved for future generations the existing historic fabric of the Capitol Complex by faithfully restoring the Old Senate Chamber, the Old Supreme Court Chamber, National Statuary Hall, the Brumidi corridors, the Rotunda canopy and frieze, the West Central Front and Terraces of the Capitol, the House Monumental Stairs, the Library of Congress Thomas Jefferson and John Adams Buildings, and the Statue of Freedom atop the Capitol Dome;

Whereas Mr. White has greatly contributed to the preservation and enhancement of the design of the District of Columbia through his place on the District of Columbia Zoning Commission, the Commission of Fine Arts, the Pennsylvania Avenue Development Corporation, and other civic organizations and commissions; and

Whereas upon Mr. White's retirement on November 21, 1995, he leaves a legacy of tremendous accomplishment, having made the Capitol his life's work and brought to this century the erudition and polymath's capacity of our first Architects: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the thanks and good wishes of the American people are hereby tendered to the Honorable George M. White, FAIA, on the occasion of his retirement from the Office of the Architect of the Capitol after nearly a quarter-century of outstanding service to this nation.

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

Mr. FAZIO of California. Mr. Speaker, reserving the right to object, and I will not object, but I yield to my friend, the gentleman from California [Mr. THOMAS], who might like to make some comments on the legislation.

Mr. THOMAS. Mr. Speaker, after almost 25 years the Architect of the Capitol, George M. White, has retired. His retirement date was November 21. This resolution was passed in the Senate on the 20th of November, and we are just now getting around to giving the recognition that Mr. White deserves. We may certainly be recognizing his retirement after the fact, but at least it is not posthumously.

Mr. White was appointed Architect of the Capitol in 1971 by President Richard Nixon. He was only the ninth Architect of the Capitol in the history of the United States. Mr. White's credentials were virtually unique. He holds both a bachelor and master's degree of science from the Massachusetts Institute of Technology.

He holds a master's in business administration from Harvard, and he has a law degree as well, a juris doctorate.

In the time that George White has been Architect of the Capitol, the Capitol as we now know it evolved. There was no Hart Building. George White oversaw the construction of the third Senate Office Building. Anyone taking a tour of the Capitol today may not know that George White was responsible for the restoration of the old Senate Chamber or the old Supreme Court chamber, the restoration of the sandstone on the west front of the Capitol, and currently the renovation of the east monumental stairs in front of the House wing of the Capitol. Visitors may not realize how much he has contributed to the ongoing preservation of the Capitol.

The most well-publicized and perhaps unique event occurring under George White's tenure as Architect was the removal from the Capitol dome of the statue Freedom by helicopter, placing it on the east front, and carrying out a restoration on this very identifiable symbol of the Capitol. Then, after restoration, with great precision and accuracy, placing Freedom back on the Capitol to be preserved for an open-ended amount of time, the first time the statue had been refurbished in 130 years.

So, although it may be after the fact, our sincerity in wishing George White many happy years and many pleasant memories goes from this body to him. I thank the gentleman from California for yielding time to me.

Mr. FAZIO of California. Mr. Speaker, if I could continue to speak on my reservation briefly, I want to add my congratulations to George White, who perhaps had more impact on this monument that we work on here, this entire complex in Capitol Hill, than many, many Members of Congress of greater renown.

George White was the last Architect of the Capitol to be appointed by a President, without any advice or consent of Congress, to an open-ended term. His 25 years here already marked by many accomplishments: the Madison Building of the Library of Congress, the effort to house the new Senate Office Building, and to build buildings for all judicial offices, all of which were contemporary buildings of real merit.

I believe his greatest contribution was to restore the Library of Congress to a jewel-like facility, which I think is one of the most appreciated buildings in the country, and certainly one of the most important period pieces in American architectural history.

Mr. White has seen a transition in the office that he headed, and now he will be succeeded by an individual who will have a new challenge, the management and maintenance of the facilities as well as the architectural development of the Capitol. They will be a seminal element in the development of this city and the Capitol complex. He deserves the commendation this resolution provides.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Senate concurrent resolution was concurred in. A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered.

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

There was no objection.

PROVIDING ADDITIONAL DEBATE TIME ON AMENDMENTS ON WHICH VOTE WAS POSTPONED ON H.R. 2564, LOBBYING DISCLOSURE ACT OF 1995

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that in the further consideration of the bill, H.R. 2564, in the Committee of the Whole, prior to the votes on the four amendments which were considered on November 16 upon which further proceedings were postponed, that the gentleman from Pennsylvania [Mr. FOX], the gentleman from Pennsylvania [Mr. CLINGER], the gentleman from Pennsylvania [Mr. ENGLISH], and the gentleman from Illinois [Mr. WELLER], each be recognized for 2½ minutes in support of their amendment, and that I be recognized for 2½ minutes in opposition to each amendment.

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

There was no objection.

□ 1815

LOBBYING DISCLOSURE ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 269 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2564.

□ 1815

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 further consideration of the bill (H.R. 2564) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes, with Mr. KOLBE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, November 16, 1995, the amendment offered by the gentleman from Illinois [Mr. WELLER] had failed by voice vote and a request for a recorded vote had been postponed.

Pursuant to the order of the House of today, there will be a period of further debate on the following amendments on which further proceedings were postponed on Thursday, November 16, 1995:

No. 1, the amendment by the gentleman from Pennsylvania [Mr. FOX].

Second, the amendment by the gentleman from Pennsylvania [Mr. CLINGER.]

Third, the amendment by the gentleman from Pennsylvania [Mr. ENGLISH].

Fourth, the amendment by the gentleman from Illinois [Mr. WELLER].

Further debate on each amendment will be limited to 5 minutes equally divided and controlled by the proponent and the gentleman from Florida [Mr. CANADY]. Such further debate shall occur at the point of the debate.

AMENDMENT OFFERED BY MR. FOX OF PENNSYLVANIA

The CHAIRMAN. It is now in order to debate the subject matter of the amendment offered by the gentleman from Pennsylvania [Mr. FOX].

The gentleman from Pennsylvania [Mr. FOX] will be recognized for 2½ minutes, and the gentleman from Florida [Mr. CANADY] will be recognized for 2½ minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

My colleagues, we have a very important mission tonight to look at some important amendments. I regard the first rule of safety in any matter as self-defense, and my amendment provides that security in a bipartisan fashion.

We passed a rule not long ago which requires that we not take gifts from lobbyists. My amendment makes sure lobbyists do not give us gifts so that we are not caught in a catch-22, being guilty of receiving gifts, not knowing about it, not disclosing it, having an ethics violation, when in fact it should not exist.

Now, there have been some erroneous arguments presented by the gentleman from Florida [Mr. CANADY], my good friend, and I would like to explain why they are not correct. My amendment will not derail this important legislation, it will strengthen it so that we can finally attain lobby reform in a strong and logical way, and this will make sure we have true gift reform as well.

It is necessary because a ban of lobbyists presenting gifts to Members of Congress will protect Members of Congress from an unintentional failure to reject gifts. It is consistent with the Gift Reform Act that we passed under House Resolution 250. My amendment will provide reform without risk, and any differences there can be clarified within the conference committee.

It is fair because it makes lobbyists and Members equally responsible, and it makes sure that in fact they will be protected. As representatives of the people, we need to give the kind of reforms not only for lobbyists but for ourselves which the public wants.

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

Mr. CANADY of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman from Florida [Mr. CANADY] for yielding me this time and for his contributions on this important issue.

The issue here is whether or not we are going to have a lobbying bill. We have a history here of legislation getting killed because it gets caught up in House-Senate fights. I have filed a bill today, along with the gentleman from Texas and the gentleman from Connecticut, it is bipartisan, leaders in this fight, that take many of the amendments that will be offered that have a lot of merit and make them into a separate bill. Because if we amend this bill, the certainty is that it goes to the Senate; and the likelihood then is that no bill emerges and it becomes a way to kill it.

Mr. Chairman, the preferable way is to send this first very good step to the President and have him sign it and then for us to deal with this amendment and others in a vehicle that will soon follow.

I would ask the gentleman from Florida [Mr. CANADY], the chairman of the subcommittee, who has done such a good leadership job in this, if he would agree, as he has told me, that we would have such a vehicle.

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

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

Mr. CANADY of Florida. Mr. Chairman, I would say to the gentleman that I am committed to moving forward with other aspects of this reform issue early next year, and I will certainly work with the gentleman from Massachusetts and other Members who are concerned about strengthening this bill at the right time and the right place.

Mr. FOX of Pennsylvania. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois [Mr. WELLER].

Mr. WELLER. Mr. Chairman, I rise in support of this amendment.

Mr. Chairman, very often we have good bills that come to the floor and the chairman and the ranking members and many others have worked well to come forward with a bill that is a good bill. We have an amendment here which improves the bill, and frankly, my colleagues of the House, this is an amendment to protect Members of the House.

We all know that there are those out there who want to set up and entrap Members of Congress and their staff. This amendment will protect Members of Congress and their staff from entrapment by our political enemies who solely want to file ethics charges for campaign purposes.

Mr. Chairman, I say to my colleagues, I urge a "yes" vote. The gentleman from Pennsylvania [Mr. FOX] is right on the mark.

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

Mr. FOX of Pennsylvania. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and my colleagues of the House, I especially understand the importance of the lobby disclosure bill, and all Americans want to see us pass it, but I think also they want to see that we do it right with the gift ban.

When we pass a rule, there is nothing like teeth in a bill like this bill, making it better, making sure that lobbyists do not try to give us gifts: and, frankly, this is what the American people want. We want to make sure we have true reform that is meaningful. This amendment is necessary, it is consistent, it clarifies, it is fair, and it will help make the Canady bill better, not worse.

Mr. Chairman, I ask for passage of this bill and this amendment.

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me first say that I have the utmost respect for the gentleman from Pennsylvania [Mr. FOX]. He is a valuable Member of the House. However, I believe that the amendment before the House today is a seriously flawed amendment, and Members should pay close attention to its flaws.

The definition of gift contained in the amendment is different from the

definition of gift contained in the gift reform rule adopted by the House. Look at the two versions and you will see they are different. This inconsistency will create a mess for Members. It will not protect Members.

For example, under the gift reform rule, Members may accept food or refreshments of a nominal value, other than as part of a meal. However, under the Fox amendment, lobbyists would be banned from providing such food and refreshments of nominal value.

Under the Fox amendment, lobbyists are permitted to make donations of home State products to Members, but under the gift reform rule, Members are prohibited from accepting gifts of home State products.

These and other inconsistencies will only lead to confusion and trouble for Members, not to protection for Members.

Even more troubling, and I ask the Members to pay close attention to this, is the double standard set up by this amendment under which lobbyists who give unlawful gifts will face a civil penalty of up to $50,000, while Members are exempt from any civil penalty, no matter how many prohibited gifts they accept. Is that what we want to do in this House today? It is patently unfair.

How can we explain to the American people that we will hammer lobbyists with fines for giving gifts while we are exempt from the same fines if we accept gifts? Any attempt at an explanation to the American people will fall on deaf ears. The double standard should be rejected. This amendment should be rejected.

The CHAIRMAN. All time has expired.

AMENDMENT OFFERED BY MR. CLINGER

The CHAIRMAN. It is now in order to debate the subject matter of the amendment offered by the gentleman from Pennsylvania [Mr. CLINGER].

The gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 2½ minutes, and the gentleman from Florida [Mr. CANADY] will be recognized for 2½ minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the amendment we are considering at this point is an important amendment, and it is a commonsense amendment. I would not be offering this amendment, obviously, if this were a closed rule, and it would not be allowable for me to offer that, but this is an open rule.

Second, if this were not a germane amendment, I would not be offering it. They are asking for waivers, but it is a germane amendment.

The fact is I think all of us know that we have a problem in this area. Too many Federal agencies, both now and in the past, have been using taxpayer dollars to produce propaganda, lobbying material in the form of brochures and folders and flyers, et cetera, which then are disseminated out into the grassroots, out into the field and come back to us in the form of grassroots lobbying. That clearly is an impermissible activity. It is clearly one that should be illegal; and, in fact, it is illegal.

Under a law passed in 1919, it is a criminal offense to do just that, but nobody, nobody, no agency has ever been prosecuted under that criminal offense. What we would propose to do in this amendment is create a civil problem in saying, look, it is a civil offense; you cannot do this.

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

Mr. CANADY of Florida. Mr. Chairman, I yield 30 seconds to the gentleman from Illinois [Mr. FLANAGAN].

Mr. FLANAGAN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, with great respect to the gentleman from Pennsylvania [Mr. CLINGER], and there is no greater foe of Astroturf lobbying and abuses of grassroots lobbying on the floor than myself, having spoken on it several times, but I would still urge a no vote on this amendment and every amendment to this, because the purpose we have today is to try and get a clean bill through to the President.

We can handle it in separate legislation, offered in a bipartisan way. We can amend what will be a law later to include great ideas like this. There are many ways that we can have these sorts of advances in the law without having to do it by clogging up this bill and actually stopping the process cold today. I urge a "no" vote.

Mr. CANADY of Florida. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. BRYANT].

□ 1830

Mr. BRYANT of Texas. Mr. Chairman, I urge Members to vote against this.

We have asked all Members to vote against these amendments so we can send a clean bill to the President and be signed.

This amendment would in effect say that the President of the United States and the Cabinet members are the only ones that could communicate on television about any matter of public importance.

What it in effect says is that they would have to answer every single press inquiry and nobody in the agency could legally talk to a radio or television reporter or to the press.

I think it is very, very overbroad, it is probably unconstitutional, and if it is important enough and deserves our action, the bill is now in the committee of the gentleman from Pennsylvania [Mr. CLINGER]. He could bring the bill to the floor standing alone.

Vote against the amendment.

Mr. CLINGER. Mr. Chairman, I yield 30 seconds to the gentleman from Louisiana [Mr. TAUZIN], a strong supporter of this amendment.

Mr. TAUZIN. Mr. Chairman, I rise in strong support of the amendment. This is the right bill for this amendment.

This bill is about inappropriate lobbying. If there is a form of inappropriate lobbying that is most pernicious, it is the use of taxpayer dollars, which are supposed to be spent to carry out Government programs, instead using those taxpayer dollars to lobby this Congress and to work in collusion with outside groups to lobby this Congress. That is an act that ought to be prohibited in the civil statutes just as it is in the criminal statutes.

By the way, this practice is not a Democrat or Republican one. It has been going on for years. We need to make it illegal.

Mr. CLINGER. Mr. Chairman, I yield myself the balance of my time just to underscore a couple of points the gentleman from Louisiana made.

No. 1, this has been accused of being a partisan effort. It is not. Clearly this activity has gone on in many administrations. I can cite examples from the Reagan administration.

It is an amendment that will continue to be alive and well in the next administration, which those of us hope will be a Republican administration.

Second, we cannot worry always about what the other body is going to do. If we were going to circumscribe our activity by what the other body was going to do, we would never do anything over on this side. I think that is somewhat of a spurious argument.

This amendment is strongly supported by NFIB, the Chamber of Commerce, the National Taxpayers Union, Citizens Against Government Waste, and the House leadership, I might point out.

I would suggest, Mr. Chairman, that it is a good amendment, an amendment that clearly fits within this bill. It has to do with lobby reform, it has to do with inappropriate lobbying. Nothing could be more inappropriate in the way of lobbying than to have an administrative/executive branch agency producing documents which then are used in the field for grassroots lobbying. Let us put a stop to it. Let us vote for this amendment.

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

Although offered with the very best of intentions to address a real problem, I believe that the Clinger amendment is the wrong approach at the wrong time.

I am afraid to say that it is a poorly drafted proposal which will have an exceptionally broad impact. For example, under the Clinger amendment, agency press officers would not be allowed to

answer inquiries from the press regarding the agency's position on legislative proposals. Do we really want to do that?

Agency press secretaries would not be allowed to issue press releases regarding pending information. Do we really want to do that?

Agency legislative liaison personnel would be prohibited from making public statements regarding the merits of legislative proposals. Do we really want to do that?

No hearings have been conducted on this proposal even though the issue is within the jurisdiction of the gentleman from Pennsylvania, the committee that he chairs.

This proposal involves a conflict between the legislative branch and the executive branch and is calculated to provoke a Presidential veto. Although there have been lobbying abuses by Federal agencies, we all understand that, it has been a bipartisan matter, the Clinger amendment simply goes to far. The proposal of the gentleman from Pennsylvania [Mr. CLINGER] should be considered and refined by the Committee on Government Reform and Oversight which the gentleman from Pennsylvania chairs. It should not be allowed to threaten this Lobbying Disclosure Reform Act. We have waited too long.

I urge Members to vote against this amendment so that we can end 40 years of gridlock and send a lobbying disclosure reform bill to the President for his signature.

AMENDMENT OFFERED BY MR. ENGLISH OF PENNSYLVANIA

The CHAIRMAN. It is now in order to debate the subject matter of the amendment offered by the gentleman from Pennsylvania [Mr. ENGLISH].

The gentleman from Pennsylvania [Mr. ENGLISH] and the gentleman from Florida [Mr. CANADY] each will be recognized for 2½ minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. ENGLISH].

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I yield myself 1¼ minutes.

Mr. Chairman, I rise in strong support of the English-Traficant amendment and ask that the House do the right thing and slam the revolving door for all U.S. trade officials who then try to go to work for foreign interests.

The underlying bill here, which I strongly support, includes a life ban on people leaving the position of U.S. trade representative or deputy trade representative and going to work for foreign interests. It also applies a ban on individuals being hired for those positions who have previously worked for foreign interests.

I believe that it is very important that we extend this restriction to the Secretary of Commerce and to the members of the International Trade Commission. This is a clear conflict of interest. I think this is a fundamental reform necessary to protect American companies and American workers and preserve the integrity of U.S. trade law enforcement.

Mr. Chairman, we cannot allow these people to serve on one side of the table negotiating on our behalf, learn our secrets, learn our strategies, learn the inside, and then move over to the other side.

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

Mr. CANADY of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Chairman, this legislation presents us with a rare opportunity in this Congress to work together as people of good will, Democrats and Republicans, in a bipartisan effort to provide reform that people really want. We know that this is a statute that has not been significantly rewritten since 1946 when it was enacted. There has been one failed effort after another.

Now is not the time to let the perfect become the enemy of the good. This particular amendment is not a bad idea. In fact, I would support it as a freestanding piece of legislation, and there are numerous opportunities to put this kind of legislation on other legislation. But to put it on this particular bill at this time is to cripple and to defeat this bill.

There is only one way to get this legislation passed and to avoid the never-never land of a perfect bill, and that is to defeat this and every other amendment and to put this bill on the President's desk now and get it in place and signed into law by January. That is what we need to do tonight.

Mr. ENGLISH of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentleman from Youngstown, OH [Mr. TRAFICANT], one of the most distinguished trade warriors in this Chamber.

Mr. TRAFICANT. Mr. Chairman, I have heard the discussion that now is not the time, we can add this to some other piece of legislation. There is no other legislation. We will not see it.

Let me make this point. If a Government official left the Department of Defense to go to work for our enemies during war, they would in fact be jailed and charged with espionage and treason. But today high-ranking officials, once they leave our service, work on behalf of foreign interests.

Now the bill recognizes that. With a lifetime ban, U.S. Trade Representative and other deputy representatives. What about the Secretary of Commerce? What about the members of the International Trade Commission, folks?

I think this amendment speaks right to the point. There have been people wheeling and dealing in high places and when they leave, they go right to work for our competitors.

This is the bill, this is germane, this is the time to pass it. Support this amendment. It makes sense.

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

Mr. Chairman, I think it is essential for American workers and American companies that every Member of this Chamber who supports fair trade, who supports protecting our economic interests, who opposes economic quislings supports this amendment. It is essential. Ladies and gentlemen, let us get this one done.

Mr. CANADY of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas. Mr. Chairman, I urge Members to vote "no" on an amendment that I would on any other day in any other situation support.

I strongly support the English of Pennsylvania and the Fox of Pennsylvania amendments to the lobby reform bill. I strongly agree with the purposes of these amendments. I have supported the concepts contained in them for years and I continue to do so.

But I deeply regret I am compelled to urge Members to vote against them—just as we have urged Members to oppose all amendments to the bill—so we can send the bill on to the President to be signed into law.

We know any amendment to this bill—even those as meritorious as these two—will doom the bill to conference with the Senate, where it will surely die as all other attempts to reform lobbying for over 40 years have died.

Make no mistake about it, if we have to go to conference again on this bill, we will be stuck there—just as we were stuck at the adjournment of the last Congress when the original bill died. This bill is too important to meet the same fate in this Congress.

The chairman of the Constitution Subcommittee, Mr. CANADY, and its ranking member, Mr. FRANK, have promised to move a separate lobby reform bill through the Judiciary Committee early next year. I will cosponsor that bill and will do everything I can to ensure it becomes law with these two amendments in it.

Mr. CANADY of Florida. Mr. Chairman, I yield 1 minute to the gentlewoman from Washington [Mrs. SMITH].

Mrs. SMITH of Washington. Mr. Chairman, I think what we see before us today is what some of us call loving a bill to death.

In the State legislature, we used to call it Christmas treeing. You get enough on the Christmas tree that it crumbles by its own weight. Loving it to death just means that you keep doing good things to the bill until it dies.

Today we could be loving this bill to death if we pass any of these very good amendments. What we have got is some amendments that are good but at the wrong time. If we pass amendments on this bill, the chances of the underlying bill not becoming law go up substantially.

I believe inside, and from what I am hearing from the Senate and the President, there is a good chance that we will kill this legislation by hanging one amendment on it.

Since I have gotten here, I have found that a lot of people say a lot of good things about reform but then they find a lot of good ways to kill it. Do not kill this bill. Vote "no" on all the amendments.

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

I rise in opposition to this amendment, although I am very sympathetic to the goal of this amendment and I believe that the amendment has substantial merit. This proposal and others relating to representation of foreign interests will be considered by the Subcommittee on the Constitution early next year.

I do not believe, however, that it should be allowed to interfere with the passage of this bill and sending this bill to the President for his signature. We have waited 40 years and we should not allow this good proposal to get in the way of our goal of enacting lobbying disclosure reform.

AMENDMENT OFFERED BY MR. WELLER

The CHAIRMAN. It is now in order to debate the subject matter of the amendment offered by the gentleman from Illinois [Mr. WELLER].

The gentleman from Illinois [Mr. WELLER] and the gentleman from Florida [Mr. CANADY] will each be recognized for 2½ minutes.

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

□ 1845

Mr. WELLER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, this is basically a pretty simple issue on this amendment, and that is: Do taxpayers have the right to know?

Earlier this year there was a poll that was taken, and the national news media was actually held in lower esteem by the taxpayers than the Congress. I believe that the public deserves the right to know.

This amendment gives the public the opportunity to know that journalists are being paid speaking fees and honoraria by special interests. The Senate has already made clear its intentions by urging members of the media to disclose it.

Well, this amendment places the burden on the lobbyists when they disclose their paperwork every year. All they have to do is say what honoraria they pay to which journalists and when they pay it. It still allows journalists to collect the fees. It still allows journalists the right to go out and speak. It just gives the public the right to know.

I ask for a "yes" vote.

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

Mr. CANADY of Florida. Mr. Chairman, I yield 30 seconds to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I was to offer an amendment tonight that would require disclosure of paid lobbyists' contacts with Members. I thought it would be extraordinarily valuable to the public and the lobbyist community. But in the interests of getting this bill passed and getting some improvement in this situation here in Washington, I will withhold that amendment tonight and would urge everybody to oppose all amendments because it is a ruse to kill the bill.

We have got to get this bill, begin reform, and then we can come back with more significant reforms later in a second piece of legislation that we will bring up after the first of the year.

Mr. WELLER. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. TATE].

Mr. TATE. Mr. Chairman, I want to commend the gentleman from Illinois for his leadership in regards to reform issues.

This Congress has truly been cleaning house about rebuilding faith in our institutions. We have already done many of these reforms. There is more to be done.

There are some in the media, as was stated, that do receive honoraria for their speaking engagements. They then get the opportunity to report in regard to these industries on television.

The public has the right to know who these industries are. This amendment does not prohibit, does not limit. It simply requires the disclosure by the lobbyists who provide this honoraria.

The taxpayers have a right to know. We owe it to them.

Mr. CANADY. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, if Members want to kill lobby disclosure, just amend it. Find the best amendment and just amend it, and you have killed lobby disclosure.

The last meaningful bill we had was in 1946. Then the Senate gutted lobby disclosure. We have 660,000 to 780,000 people who lobby. Only 6,000 are registered lobbyists.

I urge my Members to wake up and see what is happening here. This is, in the end, an attempt to kill lobby disclosure.

Defeat all amendments. Send this to the President. Get this signed into law, and then bring out these bills after they have had public hearings.

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

Mr. Chairman, I stand in strong support of the bill the gentleman from Florida [Mr. CANADY] has brought forward. He is my friend. He has worked hard on this. I understand his intent.

Let us make a good bill better. I believe the process works. We need to add good amendments.

I also believe the American public has the right to know when those who are providing information and determining what information is shared with the American public on issues that are so important to American taxpayers that those who are the gatekeeper on information are receiving speaking fees or honoraria.

Let us give the public the right to know. What this amendment does is require a registered lobbyist to disclose speaking fees and honoraria that they pay to journalists, when it was paid, how it was paid and how much, and let the public know. Otherwise, journalists can continue receiving these fees.

It does not prevent them from being on the speaking circuit. It just gives the public the right to know journalists are receiving speaking fees up to $60,000.

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

Mr. Chairman, I urge a vote against the Weller amendment on the grounds it raises serious first amendment concerns.

I believe that targeting the media in the way that this amendment does is not something we should do, and would urge Members to vote against it on that basis.

But I would also urge Members, focus on what is at stake here. Tonight the House has a historic opportunity to end 40 years of gridlock, 40 years of inaction and stalemate and 40 years of failure. The bill we are considering is identical to the bill which passed the Senate 98 to zero. The President has said he will sign it.

It is time we got the job done. The American people want lobbying reform. We should listen to them. We should listen to them. We should not let this opportunity pass us by.

Let us send a bill to the President, no more delay, no more promises, no more excuses. Let us give the American people lobbying reform tonight.

I urge that the Members vote against all the amendments and support this bill.

Mr. WYDEN. Mr. Speaker, lobbying reform needs to be enacted now. If there is any delay, it may be another 40 years before anything gets done.

The United We Stand organization has written all of us that amendments on this bill should be opposed so that lobbying reform does not get caught up again in legislative gridlock. My colleagues SMITH, BRYANT, CANADY, FRANK, and others have argued passionately and convincingly that amendments would only mean that once again the enemies of lobbying reform would prevail. This is why I chose to oppose any amendments to this legislation.

I do want to emphasize, however, that under any other circumstances, I would support the Fox amendment to prohibit lobbyists from giving gifts to Members of Congress. Already, as of January 1, 1996, Members will be

prohibited from accepting gifts, and we ought to make this a two-way street.

Additionally, I would strongly support Representative ENGLISH's amendment which would impose a lifetime ban on the Secretary of Commerce and the Commissioner of the International Trade Commission from lobbying for a foreign interest.

Representative CANADY has promised that these amendments will be brought up in a second piece of legislation. I intend to be a part of the effort to move these amendments and will work for their passage.

While I think there are many ways to further improve lobbying reform legislation, it is time to end the gridlock on lobbying reform. The time is now. The place is here. At long last, let's send a lobbying reform bill to the President.

Mr. BOEHNER. Mr. Speaker, I support the amendment offered by Representative BILL CLINGER to put an end to the lobbying activities of executive branch employees.

Too much of the information the executive branch distributes is designed not to educate or inform but to generate public opposition or support for matters before Congress. Currently, there is a law on the books to prohibit such political lobbying activity. However, the statute is so vague, no one has ever been held accountable.

The Clinger amendment clarifies the existing law to make sure that Federal employees are administering Federal programs and assisting the American people rather than spending their time involved in partisan politics. Executive branch officials such as the President, Vice President, and officials approved by the Senate are exempted, but other public servants involved in the day-to-day operations of this Nation would be prohibited from playing politics with taxpayer money.

I have witnessed first-hand this irresponsible and inappropriate behavior by Ohio employees of the Department of Agriculture [USDA]. Ohio State directors of USDA programs issued a press release making outrageous claims mimicking the shrill, partisan attacks we have heard from full time politicians in Washington.

The antics of these employees, at taxpayer expense, degrade the term "public servants." These politically appointed bureaucrats with the USDA should have been spending their time and our tax dollars helping Ohio's farmers instead of attacking for partisan gain efforts to balance the budget. No administration, Democrat or Republican, should be allowed to use publicly paid employees to further blatantly partisan and political agendas.

I urge my colleagues to support the Clinger amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, my Republican colleagues are a little thin-skinned. They do not like criticism. Faced with it, their instinctive reaction is to try and silence it.

That is what the Istook amendment was all about—silencing the criticism of the Red Cross, the Girl Scouts, the Boy Scouts, the YMCA, and countless other nonprofit groups that oppose Republican cuts in education, nutritional programs, and health care.

They especially wanted to silence the National Council of Senior Citizens that had the nerve to oppose Speaker GINGRICH's cuts in Medicare and Medicaid. Republicans even went as far as to have senior citizens arrested when they tried to make their views known at a committee meeting.

The amendment of my colleague from Pennsylvania is also aimed at silencing opposition—this time it's the opposition of Federal agencies.

Isn't it interesting that the Republicans, who are so fond of reminding us that the Government belongs to the people, propose in this amendment to prohibit, I repeat prohibit, Federal agencies from talking to anyone except Congress? I ask my Republican colleagues, why do you want to prevent the people's Government from speaking to the people?

This amendment strictly prohibits, and I quote, "the preparation, publication, distribution, or use of any kit, pamphlet, booklet, public presentation, news release, radio, television, or film presentation, video, or other written or oral statement, that is intended to promote public support or opposition to any legislative proposal * * * on which congressional action is not complete.", end of quote.

Mr. Chairman, we had a President, not so long ago, who prided himself on being a great communicator. President Reagan took his case directly to the people. He had his whole administration out convincing the people of the correctness of his policies.

He went around Congress in order to build public support for his legislative agenda, and without that public support he would never have gotten Congress to do what he wanted.

I sincerely doubt President Reagan, the great communicator, would have wanted his administration restricted to communicating with Congress. While I was not a fan of many of President Reagan's policies, I firmly believe that he, and every President, not only has the right, but the duty to make his case directly to the people.

Mr. Chairman, let's get one other thing clear, too. The amendment we are now considering seeks to remedy a nonexistent problem.

Federal law already prohibits agencies from using appropriated funds to engage in lobbying.

If the proponents of this amendment believe agencies have engaged in grassroots lobbying, then they can take action under existing laws that already prohibit this activity.

So, why are new restrictions needed?

Mr. Chairman, the answer is: they are not.

I urge my colleagues to vote no on this amendment. True democracy can only exist where trust, not deceit, binds the people to their government and the government to its people.

Mr. LEACH. Mr. Chairman, I rise to explain a series of votes on lobby reform under consideration today. Amendments, several of which meet thorough-going commonsense standards, have been introduced which I expect to vote against because they will precipitate the bill going to conference where those leading the reform movement are convinced I will be buried.

National organizations from Common Cause to Ralph Nader's advocacy groups, as well as major newspapers such as the New York Times, Washington Post, and Des Moines Register have expressed concern that unless this lobby disclosure bill is passed without amendment exactly as the Senate has already approved it, lobby disclosure will wither in this Congress.

Hence, it is my intention to vote against amendments to this bill with the understanding that I would expect to support the precepts underlying them in discreet, separate bills which can be brought to the floor at another time.

As for now, if we pass this bill unamended, it can go to the President's desk for signature this week. If we amend it with any of the well-intentioned amendments before us, a strong possibility exists that the underlying bill will never become law. Let us thus pass the bill as is and then bring forth the approaches contained in the amendment in another context at another time.

Mr. POMEROY. Mr. Speaker, I rise in strong support of the Lobbying Disclosure Act of 1995 and in opposition to the amendments that will be offered for consideration today.

Mr. Speaker, the bill before us today is identical to the legislation passed by the Senate by unanimous vote. If we approve this legislation without amendment, the bill will be sent to the President and signed into law. If, on the other hand, the House adopts even a single amendment, the bill must be sent to conference, where history has taught us that the enemies of lobbying reform will delay, obstruct and effectively kill this breakthrough legislation.

Therefore, I will vote against the amendments offered today not because the bill is perfect or because all of the amendments are without merit, but because Congress can no longer afford to delay meaningful lobbying reform.

I appreciate the commitment of Chairman CANADY and Mr. FRANK to strongly advocate for the expeditious consideration these amendments in separate legislation. In this way, Congress will have the opportunity to evaluate the merit of these amendments without endangering the enactment of lobbying reform.

I congratulate the chairman and ranking minority member for their work on this legislation and strongly urge its adoption.

The CHAIRMAN. All time for further debate on these amendments has expired.

Pursuant to the order of the House of Tuesday, November 16, 1995, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: The amendment offered by the gentleman from Pennsylvania [Mr. FOX], the amendment offered by the gentleman from Pennsylvania [Mr. CLINGER], the amendment offered by the gentleman from Pennsylvania [Mr. ENGLISH], and the amendment offered by the gentleman from Illinois [Mr. WELLER].

The Chair would advise Members that he will reduce to a minimum of 5 minutes the time for any electronic vote after the second vote in this series. The first and second votes will be 15-minute votes. The last two will be 5-minute votes.

AMENDMENT OFFERED BY MR. FOX OF PENNSYLVANIA

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Pennsylvania [Mr. FOX], on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FOX of Pennsylvania: Page 23, insert after line 2 the following:

(d) PROHIBITION ON GIFTS.—

(1) IN GENERAL.—No lobbyist who is registered under section 4 may provide any gift to a Member of the House of Representatives, a Senator, or an officer or employee of the House of Representatives or the Senate unless the lobbyist is related to the Member, Senator, or officer or employee.

(2) DEFINITION.—For the purpose of paragraph (1), the term "gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

(3) EXCEPTION.—The restriction in paragraph (1) shall not apply to the following:

(A) Anything for which the Member, Senator, officer, or employee pays the market value, or does not use and promptly returns to the donor.

(B) A contribution, as defined in section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, a contribution for election to a State or local government office limited as prescribed by section 301(8)(B) of such Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

(B) A gift from a relative as described in section 109(5) of title I of the Ethics in Government Act of 1978 (Public Law 95-521).

(C)(i) Anything provided by an individual on the basis of a personal friendship unless the Member, Senator, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the Member, Senator, officer, or employee and not because of the personal friendship.

(ii) In determining whether a gift is provided on the basis of personal friendship, the Member, Senator, officer, or employee shall consider the circumstances under which the gift was offered, such as:

(I) The history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between such individuals.

(II) Whether to the actual knowledge of the Member, Senator, officer, or employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift.

(III) Whether to the actual knowledge of the Member, Senator, officer, or employee the individual who gave the gift also at the same time gave the same or similar gifts to other Members, officers, or employees.

(D) A contribution or other payment to a legal expense fund established for the benefit of a Member, Senator, officer, or employee that is otherwise lawfully made in accordance with the restrictions and disclosure requirements of the Committee on Standards of Official Conduct.

(E) Any gift from another Member, Senator, officer, or employee of the Senate or the House of Representatives.

(F) Food, refreshments, lodging, and other benefits—

(i) resulting from the outside business or employment activities (or other outside activities that are not concerned to the duties of the Member, Senator, officer, or employee as an officeholder) of the Member, Senator, officer, or employee, or the spouse of the Member, Senator, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the Member, Senator, officer, or employee and are customarily provided to others in similar circumstances;

(ii) customarily provided by a prospective employer in connection with bona fide employment discussions; or

(iii) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such an organization.

(G) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employee.

(H) Informational materials that are sent to the office of the Member, Senator, officer, or employee in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication.

(I) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

(J) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

(K) Donations of products from the State that the Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

(L) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a Member, Senator, officer, or employee, if such training is in the interest of the Senate or House of Representatives.

(M) Bequests, inheritances, and other transfers at death.

(N) Any item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

(O) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

(P) A gift of personal hospitality (as defined in section 109(14) of the Ethics in Government Act) of an individual other than a registered lobbyist or agent of a foreign principal.

(Q) Free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event provided by the sponsor of the event.

(R) Opportunities and benefits which are—

(i) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

(ii) offered to members of a group or class in which membership is unrelated to congressional employment;

(iii) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

(iv) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

(v) in the form of loans from banks and other financial institutions on terms generally available to the public; or

(vi) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

(S) A plaque, trophy, or other item that is substantially commemorative in nature and which is intended solely for presentation.

(T) Anything for which, in an unusual case, a waiver is granted by the Committee on Standards of Official Conduct.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded was ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 257, not voting 4, as follows:

[Roll No 824]

AYES—171

Abercrombie	Ehlers	Lucas
Allard	Ehrlich	Manton
Andrews	English	Manzullo
Archer	Evans	Mascara
Armey	Fields (LA)	McDade
Bachus	Fields (TX)	McInnis
Baesler	Filner	McIntosh
Baker (CA)	Forbes	McKeon
Baldacci	Fox	McNulty
Ballenger	Frisa	Metcalf
Barr	Funderburk	Mica
Bartlett	Gallegly	Miller (CA)
Barton	Gekas	Molinari
Bishop	Gillmor	Moorhead
Bliley	Goodling	Myers
Boehner	Gordon	Myrick
Bono	Green	Nethercutt
Boucher	Gutierrez	Neumann
Brewster	Gutknecht	Ney
Bryant (TN)	Hall (TX)	Norwood
Bunn	Hastert	Oxley
Bunning	Hastings (WA)	Parker
Burr	Hayworth	Pastor
Burton	Hefley	Paxon
Buyer	Heineman	Peterson (MN)
Camp	Herger	Porter
Chabot	Hilleary	Poshard
Chambliss	Holden	Pryce
Christensen	Horn	Quillen
Clinger	Hostettler	Radanovich
Coburn	Istook	Rahall
Collins (GA)	Jefferson	Ramstad
Combest	Johnson (CT)	Reed
Cooley	Johnson (SD)	Regula
Costello	Johnson, Sam	Riggs
Crane	Jones	Rogers
Cremeans	Kanjorski	Rohrabacher
Cubin	Kasich	Roth
Danner	Kelly	Royce
de la Garza	Kim	Salmon
DeFazio	Kingston	Saxton
Dickey	Klink	Scarborough
Dornan	LaHood	Schaefer
Doyle	Largent	Schumer
Duncan	LaTourette	Seastrand
Dunn	Lewis (CA)	Shadegg
Durbin	Lipinski	Skelton
Edwards	LoBiondo	Smith (MI)

Solomon
Souder
Stearns
Stenholm
Stockman
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Thurman
Tiahrt
Traficant
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Young (AK)

NOES—257

Ackerman
Baker (LA)
Barcia
Barrett (NE)
Barrett (WI)
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blute
Boehlert
Bonilla
Bonior
Borski
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TX)
Callahan
Calvert
Canady
Cardin
Castle
Chapman
Chenoweth
Chrysler
Clay
Clayton
Clement
Clyburn
Coble
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cox
Coyne
Cramer
Crapo
Cunningham
Davis
Deal
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dreier
Emerson
Engel
Ensign
Eshoo
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Flake
Flanagan
Foglietta
Foley
Ford
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gonzalez
Goodlatte
Goss
Graham
Greenwood
Gunderson
Hall (OH)
Hamilton
Hancock
Hansen
Harman
Hastings (FL)
Hayes
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Jackson-Lee
Jacobs
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
Lantos
Latham
Laughlin
Lazio
Leach
Levin
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
Lofgren
Longley
Lowey
Luther
Maloney
Markey
Martinez
Martini
Matsui
McCarthy
McCollum
McCrery
McDermott
McHale
McHugh
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (FL)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Petri
Pickett
Pombo
Pomeroy
Portman
Quinn
Rangel
Richardson
Rivers
Roberts
Roemer
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Schiff
Schroeder
Scott
Sensenbrenner
Serrano
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Spence
Spratt
Stark
Stokes
Studds
Stump
Tejeda
Thomas
Thompson
Thornton
Torkildsen
Torres
Torricelli
Towns
Upton
Velazquez
Vento
Visclosky
Vucanovich
Waldholtz
Walsh
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zeliff
Zimmer

NOT VOTING—4

Fowler
Hefner
Tucker
Volkmer

□ 1909

Messrs. BARCIA, LATHAM, and LAZIO of New York changed their vote from "aye" to "no."

Messrs. PORTER, CHAMBLISS, SCHUMER, WILLIAMS, MILLER of California, and DEFAZIO 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. CLINGER

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Pennsylvania [Mr. CLINGER] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CLINGER: Beginning on page 25, redesignate sections 8 through 24 as sections 9 through 25, respectively, strike "this Act" each place it occurs and insert "this Act (other than section 8)", and insert after line 2 the following:

SEC. 8. PROHIBITION ON USE OF APPROPRIATIONS FOR LOBBYING.

(a) IN GENERAL.—Subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end the following new section:

"§ 1354. Prohibition on lobbying by Federal agencies

"(a) PROHIBITION.—Except as provided in subsection (b), until or unless such activity has been specifically authorized by an Act of Congress and notwithstanding any other provision of law, no funds made available to any Federal agency, by appropriation, shall be used by such agency for any activity (including the preparation, publication, distribution, or use of any kit, pamphlet, booklet, public presentation, news release, radio, television, or film presentation, video, or other written or oral statement) that is intended to promote public support or opposition to any legislative proposal (including the confirmation of the nomination of a public official or the ratification of a treaty) on which congressional action is not complete.

"(b) CONSTRUCTION.—

"(1) COMMUNICATIONS.—Subsection (a) shall not be construed to prevent officers or employees of Federal agencies from communicating directly to Members of Congress, through the proper official channels, their requests for legislation or appropriations that they deem necessary for the efficient conduct of the public business or from responding to requests for information made by Members of Congress.

"(2) OFFICIALS.—Subsection (a) shall not be construed to prevent the President, Vice President, any Federal agency official whose appointment is confirmed by the Senate, any official in the Executive Office of the President directly appointed by the President or Vice President, or the head of any Federal agency described in paragraph (2) or (3) of subsection (d), from communicating with the American public, through radio, television, or other public communication media, on the views of the President for or against any pending legislative proposal. The preceding sentence shall not permit any such official to delegate to another person the authority to make communications subject to the exemption provided by such sentence.

"(c) COMPTROLLER GENERAL.—

"(1) ASSISTANCE OF INSPECTOR GENERAL.—In exercising the authority provided in section 712, as applied to this section, the Comptroller General may obtain, without reimbursement from the Comptroller General, the assistance of the Inspector General within whose Federal agency activity prohibited by subsection (a) of this section is under review.

"(2) EVALUATION.—One year after the date of the enactment of this section, the Comptroller General shall report to the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate on the implementation of this section.

"(3) ANNUAL REPORT.—The Comptroller General shall, in the annual report under section 719(a), include summaries of investigations undertaken by the Comptroller General with respect to subsection (a).

"(d) DEFINITION.—For purpose of this section the term 'Federal agency' means—

"(1) any executive agency, within the meaning of section 105 of title 5; and

"(2) any private corporation created by a law of the United States for which the Congress appropriates funds."

(b) CONFORMING AMENDMENT.—The table of sections for chapter 13 of title 31, United States Code, is amended by inserting after the item relating to section 1353 the following new item:

"1354. Prohibition on lobbying by Federal agencies."

"(c) APPLICABILITY.—The amendments made by this section shall apply to the use of funds after the date of the enactment of this Act, including funds appropriated or received on or before such date.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 238, not voting 4, as follows:

[Roll No. 825]

AYES—190

Allard
Archer
Armey
Bachus
Baker (CA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bliley
Boehner
Bonilla
Bono
Brewster
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Camp
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
de la Garza
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fields (TX)
Forbes
Fox
Franks (CT)
Frisa
Funderburk
Gallegly
Gekas
Gillmor
Gilman
Goodling
Gordon
Green
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary

Hobson
Horn
Hostettler
Houghton
Hunter
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Klug
Knollenberg
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Molinari
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Pombo
Porter
Portman
Pryce
Quillen
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Roth
Royce
Salmon
Scarborough
Schaefer
Seastrand
Shadegg
Shuster
Skeen
Smith (MI)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Traficant
Upton
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Young (AK)
Zeliff

NOES—238

Abercrombie
Ackerman
Andrews
Baesler
Baker (LA)
Baldacci
Barcia
Barrett (WI)
Bateman
Becerra
Beilenson
Bentsen
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blute
Boehlert
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TX)
Calvert
Canady
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
Davis
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Foley
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gonzalez
Goodlatte
Goss
Graham
Gunderson
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hilliard
Hinchey
Hoekstra
Hoke
Holden
Hoyer
Hutchinson
Hyde
Inglis
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klink
Kolbe
LaFalce
LaHood
Lantos
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Petri
Pickett
Pomeroy
Poshard
Quinn
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Saxton
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Spratt
Stark
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Walsh
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NOT VOTING—4

Fowler
Hefner
Tucker
Volkmer

□ 1926

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to the order of the House of Thursday, November 16, 1995, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each additional amendment on which the Chair has postponed further proceedings.

AMENDMENT OFFERED BY MR. ENGLISH OF PENNSYLVANIA

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Pennsylvania [Mr. ENGLISH] on which further proceedings were postponed and on which the noes prevailed on voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ENGLISH of Pennsylvania: Page 39, line 9, strike "REPRESENTATIVE" and insert "OFFICIAL".

Page 39, line 13, strike "or" and insert a comma and in line 14 insert before the close quotation marks a comma and the following: "Secretary of Commerce, or Commissioner of the International Trade Commission".

Page 39, line 18 strike "APPOINTMENT" through "REPRESENTATIVE" in line 20 and insert "APPOINTMENTS."

Page 40, line 4, strike "or as a" and insert a comma and insert before the first period in line 5 a comma and the following: "Secretary of Commerce, or Commissioner of the International Trade Commission".

Page 40, line 8, strike "or as a" and insert a comma and in line 9 insert before "on" a comma and the following: "Secretary of Commerce, or Commissioner of the International Trade Commission".

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 204, noes 221, not voting 7, as follows:

[Roll No. 826]

AYES—204

Abercrombie
Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bliley
Boehlert
Boehner
Bono
Boucher
Brewster
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Chabot
Chambliss
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Crane
Cremeans
Cubin
Cunningham
Danner
DeFazio
DeLay
Dickey
Doolittle
Dornan
Doyle
Duncan
Dunn
Durbin
Edwards
Ehlers
Emerson
English
Ensign
Evans
Everett
Fields (LA)
Fields (TX)
Forbes
Fox
Franks (CT)
Franks (NJ)
Frisa
Funderburk
Gallegly
Gekas
Geren
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Green
Greenwood
Gutknecht
Hall (TX)
Hancock
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Horn
Hostettler
Hunter
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Klug
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Lipinski
LoBiondo
Longley
Lucas
Mascara
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Menendez
Metcalf
Mica
Molinari
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Oxley
Packard
Parker
Paxon
Peterson (MN)
Pombo
Portman
Poshard
Quillen
Ramstad
Reed
Regula
Roemer
Rogers
Rohrabacher
Roth
Royce
Salmon
Saxton
Scarborough
Schaefer
Schumer
Seastrand
Shadegg
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Solomon
Souder
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thurman
Tiahrt
Torricelli
Traficant
Upton
Visclosky
Vucanovich
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Young (AK)
Zeliff

NOES—221

Ackerman
Baesler
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blute
Bonilla
Bonior
Borski
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TX)
Canady
Cardin
Castle
Chapman
Chenoweth
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Cramer
Crapo
Davis
de la Garza
Deal
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Dreier
Ehrlich
Engel
Eshoo
Ewing

Farr
Fattah
Fawell
Fazio
Filner
Flake
Flanagan
Foglietta
Foley
Ford
Frank (MA)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gonzalez
Goss
Graham
Gunderson
Gutierrez
Hall (OH)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hilliard
Hinchey
Hoekstra
Hoke
Holden
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Jackson-Lee
Jefferson
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Leach
Levin
Lewis (GA)
Linder
Lofgren
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Matsui
McCarthy
McCollum
McDermott
McHale
McKinney
Meehan
Meek
Meyers
Mfume
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Petri
Pickett
Pomeroy
Porter
Pryce
Quinn
Radanovich
Rahall
Rangel
Richardson
Riggs
Rivers
Roberts
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanford
Sawyer
Schiff
Schroeder
Scott
Sensenbrenner
Serrano
Shaw
Shays
Skaggs
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Spence
Spratt
Stark
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Torkildsen
Torres
Towns
Velazquez
Vento
Waldholtz
Walsh
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NOT VOTING—7

Bateman
Fowler
Hefner
Livingston
Sanders
Tucker
Volkmer

□ 1934

Mr. GUTIERREZ changed his vote from "aye" to "no."

Mr. FRANKS of Connecticut changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. BATEMAN. Mr. Chairman, on rollcall No. 826, I was detained and missed the vote on the English amendment. Had I been present, I would have voted "no."

AMENDMENT OFFERED BY MR. WELLER

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Illinois [Mr. WELLER], on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WELLER: Page 21, line 9, strike "and", in line 14 strike the period and insert "; and", and after line 14 insert the following:

(5) a report of honoraria (as defined in section 505(3) of the Ethics in Government Act of 1978) paid to a media organization or a media organization employee, including when it was provided, to whom it was provided, and its value.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 193, noes 233, not voting 6, as follows:

[Roll No. 827]

AYES—193

Abercrombie
Allard
Archer
Armey
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Bartlett
Bass
Bliley
Boehner
Bonilla
Bono
Boucher
Brewster
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Camp
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clinger
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
DeFazio
DeLay
Dickey
Dingell
Doolittle
Dornan
Doyle
Duncan
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Everett
Ewing
Farr
Fields (LA)
Fields (TX)
Filner
Forbes
Fox
Frisa
Funderburk
Gallegly
Gillmor
Gilman
Goodling
Graham
Greenwood
Gutierrez
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hefley
Heineman
Herger
Hilleary
Hobson
Holden
Horn
Hostettler
Hunter
Istook
Jacobs
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kelly
Kingston
Klink
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lightfoot
Lincoln
Lipinski
Longley
Lucas
Maloney
Manton
Manzullo
Mascara
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (CA)
Molinari
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Ortiz
Oxley
Packard
Parker
Pastor
Paxon
Pelosi
Peterson (MN)
Pombo
Porter
Poshard
Quillen
Radanovich
Regula
Rogers
Rohrabacher
Roth
Salmon
Schaefer
Schumer
Seastrand
Shadegg
Shuster
Skeen
Slaughter
Smith (MI)
Solomon
Souder
Stearns
Stenholm
Stockman
Stokes
Stump
Tanner
Tate
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Tiahrt
Torricelli
Traficant
Upton
Visclosky
Vucanovich
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Young (AK)
Zeliff

NOES—233

Ackerman
Andrews
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Barton
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blute
Boehlert
Bonior
Borski
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TX)
Calvert
Canady
Cardin
Castle
Chabot
Chapman
Clayton
Clement
Clyburn
Collins (IL)
Conyers
Coyne
Cramer
Davis
Deal
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dixon
Doggett
Dooley
Dreier
Dunn
Engel
Ensign
Evans
Fattah
Fawell
Fazio
Flake
Flanagan
Foglietta
Foley
Ford
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gonzalez
Goodlatte
Gordon
Goss
Green
Gunderson
Gutknecht
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayworth
Hilliard
Hinchey
Hoekstra
Hoke
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Jackson-Lee
Jefferson
Johnson (CT)
Johnson, E. B.
Johnston
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Luther
Markey
Martinez
Martini
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (FL)
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Nadler
Neal
Oberstar
Olver
Orton
Owens
Pallone
Payne (NJ)
Payne (VA)
Peterson (FL)
Petri
Pickett
Pomeroy
Portman
Pryce
Quinn
Rahall
Ramstad
Rangel
Reed
Richardson
Riggs
Rivers
Roberts
Roemer
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schiff
Schroeder
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sisisky
Skaggs
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Spence
Spratt
Stark
Studds
Stupak
Talent
Tauzin
Thornberry
Thornton
Thurman
Torkildsen
Torres
Towns
Velazquez
Vento
Waldholtz
Walsh
Ward
Waters
Watt (NC)
Waxman
White
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NOT VOTING—6

Bachus
Fowler
Hefner
Livingston
Tucker
Volkmer

□ 1941

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. CANADY of Florida. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. CHRYSLER) having assumed the chair, Mr. KOLBE, 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. 2564) to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the amendments just considered.

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

There was no objection.

PRIVILEGES OF THE HOUSE—REQUEST FOR REPORT FROM COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT REGARDING COMPLAINTS AGAINST SPEAKER

Mr. JOHNSTON of Florida. Mr. Speaker, pursuant to clause 2(a)(1) of rule IX, I hereby give notice of my intention to offer a resolution, on behalf of myself and the gentleman from Florida [Mr. PETERSON], which raises a question of the privileges of the House.

The form of the resolution is as follows:

Whereas the Committee on Standards of Official Conduct is currently considering several ethics complaints against Speaker Newt Gingrich;

Whereas the Committee has traditionally handled such cases by appointing an independent, non-partisan, outside counsel—a procedure which has been adopted in every major ethics case since the Committee was established;

Whereas—although complaints against Speaker Gingrich have been under consideration for more than 14 months—the Committee has failed to appoint an outside counsel;

Whereas the Committee has also deviated from other long-standing precedents and rules of procedure; including its failure to adopt a Resolution of Preliminary Inquiry before calling third-party witnesses and receiving sworn testimony;

Whereas these procedural irregularities—and the unusual delay in the appointment of an independent, outside counsel—have led to widespread concern that the Committee is making special exceptions for the Speaker of the House;

Whereas the integrity of the House depends on the confidence of the American people in the fairness and impartiality of the Committee on Standards of Official Conduct.

Therefore be it resolved that;

The Chairman and Ranking Member of the Committee on Standards of Official Conduct should report to the House, no later than December 12, 1995, concerning:

(1) The status of the Committee's investigation of the complaints against Speaker Gingrich;

(2) the Committee's disposition with regard to the appointment of a non-partisan outside counsel and the scope of the counsel's investigation;

(3) a timetable for Committee action on the complaints.

□ 1945

The SPEAKER pro tempore (Mr. CHRYSLER). Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time or place designed by the Speaker in the legislative schedule within 2 legislative days of its being properly noticed. The Chair will announce the Chair's designation at a later time.

The Chair's determination as to whether the resolution constitutes a question of privilege will be made at the time designated by the Chair for consideration of the resolution.

COMMUNICATION FROM THE HON. DANA ROHRABACHER, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Hon. DANA ROHRABACHER, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
November 15, 1995.

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

DEAR MR. SPEAKER. This is to formally notify you, pursuant to Rule L (50) of the rules of the House of Representatives that three staff persons in my Huntington Beach, California District Office—Cindy Hoffman, Lawrence Jones and Kathleen Hollingsworth—have been served with subpoenas issued by the Municipal Court of Orange County, California, in the matter of the People of the State of California v. Michael James Perry.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoenas is consistent with the precedents and privileges of the House.

Sincerely,

DANA ROHRABACHER,
Member of Congress.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

RECOGNITION OF VOLUNTEER TOUR GUIDES AT BULL SHOALS DAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. HUTCHINSON] is recognized for 5 minutes.

Mr. HUTCHINSON. Mr. Speaker, far too often the work of the men and women who choose to volunteer their time and talent goes unnoticed. These individuals, most of whom are busy with families, full-time jobs, and daily tasks, are rarely recognized for the invaluable service which they provide to their communities.

Mr. Speaker, I rise today to pay tribute to seven such individuals from my own congressional district of northwest Arkansas, who are better known to the folks back home as "The Fabulous Seven." All local residents of Lakeview and Bull Shoals, AR, Mr. Pete Ehmen, Ms. Shirley Spitzer, Mr. Bob Olmo, Mr. Curt Schlueter, Mr. Bob Koenig, Mr. Carl Wilhelm, and Mr. Neil Underhill took precious time out of their already-busy summers to conduct guided tours of Bull Shoals Dam, when Federal budget constraints threatened to end public tours of the local Corps of Engineers dam.

Mr. Speaker, I commend these individuals for coming forth with such a brilliant solution and putting it into action! At a time when Federal downsizing is necessary, and Federal funds are very limited, citizen volunteers are indispensable in keeping the wheels turning in our communities. Throughout the entire summer, over 7,000 tourists had the opportunity to see things, which otherwise would not have been possible, without this "Fabulous Gang of Seven."

According to Mr. Bill Self, Chief of the Corps of Engineers' hydropower facility in Mountain Home, it was quite routine to hear tourists exclaim, "This was the best tour we have ever been on!" after their tour of the dam. Mr. Self is particularly proud that his office did not receive one complaint all summer regarding the tours.

Mr. Speaker, while I am recognizing these individuals today on the floor of the U.S. House of Representatives, I would also like to point out that the corps formally honored "The Fabulous Seven" this fall with a brunch, and presented them with certificates of appreciation for their invaluable contributions throughout the summer. In the very words of Mr. Self, "The volunteers did a fabulous job this year!"

To "The Fabulous Seven," thank you for your dedication and hard work for Bull Shoals Dam, for northwest Arkansas, and for our great State of Arkansas.

CLINTON FOREIGN POLICY

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

Mr. BURTON of Indiana. Mr. Speaker, I would like to talk tonight about the Clinton foreign policy. The President has been asking us over the past couple of days to support him in sending troops to Bosnia. Before we start doing that, we ought to look at the record of the administration in dealing with foreign policy issues. So let us start with Haiti.

Mr. Aristide down there said he was going to become a true lover of democracy. He said that he was going to privatize a lot of the Government agencies down there, Government functions. He said he was going to have free and fair elections and step down as President. We found out just recently that he is not going along with the privatization program that he promised.

There have been a lot of killings recently, and he has used some very harsh rhetoric when speaking to crowds, which has led to additional killings. He said that he may not step down as President, may try to keep an extra 3 years. We have been putting pressure on him, and now it appears as though he will put in a puppet to replace them to keep control for the next 6 years and, during this time that we have been giving him hundreds of millions of dollars and keeping American troops down there, he has spent $1.8 million of American taxpayers' money to lobby the Congress of the United States to get more money. He is using our taxpayers' dollars to get more money.

This has been a total failure by the administration. It has not completely manifested itself yet, but it is getting there. Things are getting out of control. Mr. Aristide has paid one firm $48,000 a month. Ira Kurzban, a Miami attorney who has worked for Castro, who has worked for the Communist Sandinistas, who has worked for Mr. Aristide, in fact, his wife, Kurzban's wife, was so enamored with Castro, the Communist dictator in Cuba, she kissed him. And this is the man who is representing him in getting $48,000 of American taxpayers' money to represent him to lobby Congress.

There is another firm getting $50,000 a month. Another getting $41,000 a month. Another getting $12,500 a month. Another getting $10,000, another getting $5,000. All United States taxpayer money to support a failed policy in Haiti.

Then we talk about Somalia. In Somalia the President went over there and said he was going to nation build, to bring democracy to Somalia. He said he was going to bring the horrible Mr. Aideed, the tribal leader over there, to justice. Mr. Aideed used his forces to kill 18 American military people. What happened? A year later, after spending hundreds of millions of dollars to stabilize the situation in Somalia, we pulled out. Aideed is still there. Another foreign policy failure. And it cost the taxpayers hundreds of millions of dollars and a lot of American lives for nothing.

Now the President says he wants to send 25,000 troops into Bosnia to nation build, to stabilize the situation, to bring about peace and democracy there in a country that has a history of hundreds of years of war between religious factions and various ethnic groups.

Our troops are going to be put right smack-dab in the middle. Sixty thousand of the Serbian, Bosnian Serbs around Sarajevo have said they do not like the agreement, they are not going to go along with the agreement, and they have guns and weapons. And our troops are going to be there to maintain the peace. This is a recipe for disaster, another in a series of failed foreign policy programs pushed by the Clinton administration.

Do you know how many land mines there are in Bosnia? Six million. Six million. It is almost like you could not walk anyplace without stepping on a land mine. Do you know something even worse than that? We only have a map showing where between 100,000 and 1 million of them are. That means at least 5 million land mines are out there that we do not know about.

Our troops are going to be put there in between warring factions who hate each other, and we are supposed to keep the peace. If they break across the 2½-mile-wide line that we are going to be patrolling, then we have, we will be able to defend ours, shoot to kill. But when we do that, there is going to be retaliation. There is going to be a lot of Americans killed.

It is unfortunate that the President, time after time after time has had failed foreign policy, and we in the Congress of the United States have been unable to do anything about it. As Commander in Chief, he does not listen to the will of the Congress of the United States. We did not want him to send troops into Haiti, but he did it anyhow. We did not want him to nation build in Somalia, but he did it anyhow. We do not want him, by a vote of over 300 to less than 125, we did not want him to send troops into Bosnia, but he has said last night on American TV we are going to do it anyhow.

□ 2000

To heck with what the people in the Congress of the United States want; to heck with what the American people want. So I just like to say to my colleagues we ought to send the President a very strong message, try to stop him any way we can from sending troops over there. Once they get there, we have to support them because they are our young men and women. We cannot leave them in harm's way without proper military equipment.

But the President bears the responsibility. He said last night he bears the full responsibility. You bet he does.

SECURITIES LITIGATION REFORM ACT

Mr. WHITE submitted the following conference report and statement on the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes:

CONFERENCE REPORT (H. REPT. 104-369)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1058), to reform Federal securities litigation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Private Securities Litigation Reform Act of 1995".

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

Sec. 1. Short title; table of contents.

TITLE I—REDUCTION OF ABUSIVE LITIGATION

Sec. 101. Private securities litigation reform.
Sec. 102. Safe harbor for forward-looking statements.
Sec. 103. Elimination of certain abusive practices.
Sec. 104. Authority of Commission to prosecute aiding and abetting.
Sec. 105. Loss causation.
Sec. 106. Study and report on protections for senior citizens and qualified retirement plans.
Sec. 107. Amendment to Racketeer Influenced and Corrupt Organizations Act.
Sec. 108. Applicability.

TITLE II—REDUCTION OF COERCIVE SETTLEMENTS

Sec. 201. Proportionate liability.
Sec. 203. Applicability.
Sec. 204. Rule of construction.

TITLE III—AUDITOR DISCLOSURE OF CORPORATE FRAUD

Sec. 301. Fraud detection and disclosure.

TITLE I—REDUCTION OF ABUSIVE LITIGATION

SEC. 101. PRIVATE SECURITIES LITIGATION REFORM.

(a) SECURITIES ACT OF 1933.—Title I of the Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by adding at the end the following new section:

"SEC. 27. PRIVATE SECURITIES LITIGATION.

"(a) PRIVATE CLASS ACTIONS.—

"(1) IN GENERAL.—The provisions of this subsection shall apply to each private action arising under this title that is brought as a plaintiff class action pursuant to the Federal Rules of Civil Procedure.

"(2) CERTIFICATION FILED WITH COMPLAINT.—

"(A) IN GENERAL.—Each plaintiff seeking to serve as a representative party on behalf of a class shall provide a sworn certification, which shall be personally signed by such plaintiff and filed with the complaint, that—

"(i) states that the plaintiff has reviewed the complaint and authorized its filing;

"(ii) states that the plaintiff did not purchase the security that is the subject of the complaint at the direction of plaintiff's counsel or in order to participate in any private action arising under this title;

"(iii) states that the plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary;

"(iv) sets forth all of the transactions of the plaintiff in the security that is the subject of the

complaint during the class period specified in the complaint;

"(v) identifies any other action under this title, filed during the 3-year period preceding the date on which the certification is signed by the plaintiff, in which the plaintiff has sought to serve, or served, as a representative party on behalf of a class; and

"(vi) states that the plaintiff will not accept any payment for serving as a representative party on behalf of a class beyond the plaintiff's pro rata share of any recovery, except as ordered or approved by the court in accordance with paragraph (4).

"(B) NONWAIVER OF ATTORNEY-CLIENT PRIVILEGE.—The certification filed pursuant to subparagraph (A) shall not be construed to be a waiver of the attorney-client privilege.

"(3) APPOINTMENT OF LEAD PLAINTIFF.—

"(A) EARLY NOTICE TO CLASS MEMBERS.—

"(i) IN GENERAL.—Not later than 20 days after the date on which the complaint is filed, the plaintiff or plaintiffs shall cause to be published, in a widely circulated national business-oriented publication or wire service, a notice advising members of the purported plaintiff class—

"(I) of the pendency of the action, the claims asserted therein, and the purported class period; and

"(II) that, not later than 60 days after the date on which the notice is published, any member of the purported class may move the court to serve as lead plaintiff of the purported class.

"(ii) MULTIPLE ACTIONS.—If more than one action on behalf of a class asserting substantially the same claim or claims arising under this title is filed, only the plaintiff or plaintiffs in the first filed action shall be required to cause notice to be published in accordance with clause (i).

"(iii) ADDITIONAL NOTICES MAY BE REQUIRED UNDER FEDERAL RULES.—Notice required under clause (i) shall be in addition to any notice required pursuant to the Federal Rules of Civil Procedure.

"(B) APPOINTMENT OF LEAD PLAINTIFF.—

"(i) IN GENERAL.—Not later than 90 days after the date on which a notice is published under subparagraph (A)(i), the court shall consider any motion made by a purported class member in response to the notice, including any motion by a class member who is not individually named as a plaintiff in the complaint or complaints, and shall appoint as lead plaintiff the member or members of the purported plaintiff class that the court determines to be most capable of adequately representing the interests of class members (hereafter in this paragraph referred to as the 'most adequate plaintiff') in accordance with this subparagraph.

"(ii) CONSOLIDATED ACTIONS.—If more than one action on behalf of a class asserting substantially the same claim or claims arising under this title has been filed, and any party has sought to consolidate those actions for pretrial purposes or for trial, the court shall not make the determination required by clause (i) until after the decision on the motion to consolidate is rendered. As soon as practicable after such decision is rendered, the court shall appoint the most adequate plaintiff as lead plaintiff for the consolidated actions in accordance with this subparagraph.

"(iii) REBUTTABLE PRESUMPTION.—

"(I) IN GENERAL.—Subject to subclause (II), for purposes of clause (i), the court shall adopt a presumption that the most adequate plaintiff in any private action arising under this title is the person or group of persons that—

"(aa) has either filed the complaint or made a motion in response to a notice under subparagraph (A)(i);

"(bb) in the determination of the court, has the largest financial interest in the relief sought by the class; and

"(cc) otherwise satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure.

"(II) REBUTTAL EVIDENCE.—The presumption described in subclause (I) may be rebutted only upon proof by a member of the purported plaintiff class that the presumptively most adequate plaintiff—

"(aa) will not fairly and adequately protect the interests of the class; or

"(bb) is subject to unique defenses that render such plaintiff incapable of adequately representing the class.

"(iv) DISCOVERY.—For purposes of this subparagraph, discovery relating to whether a member or members of the purported plaintiff class is the most adequate plaintiff may be conducted by a plaintiff only if the plaintiff first demonstrates a reasonable basis for a finding that the presumptively most adequate plaintiff is incapable of adequately representing the class.

"(v) SELECTION OF LEAD COUNSEL.—The most adequate plaintiff shall, subject to the approval of the court, select and retain counsel to represent the class.

"(vi) RESTRICTIONS ON PROFESSIONAL PLAINTIFFS.—Except as the court may otherwise permit, consistent with the purposes of this section, a person may be a lead plaintiff, or an officer, director, or fiduciary of a lead plaintiff, in no more than 5 securities class actions brought as plaintiff class actions pursuant to the Federal Rules of Civil Procedure during any 3-year period.

"(4) RECOVERY BY PLAINTIFFS.—The share of any final judgment or of any settlement that is awarded to a representative party serving on behalf of a class shall be equal, on a per share basis, to the portion of the final judgment or settlement awarded to all other members of the class. Nothing in this paragraph shall be construed to limit the award of reasonable costs and expenses (including lost wages) directly relating to the representation of the class to any representative party serving on behalf of the class.

"(5) RESTRICTIONS ON SETTLEMENTS UNDER SEAL.—The terms and provisions of any settlement agreement of a class action shall not be filed under seal, except that on motion of any party to the settlement, the court may order filing under seal for those portions of a settlement agreement as to which good cause is shown for such filing under seal. For purposes of this paragraph, good cause shall exist only if publication of a term or provision of a settlement agreement would cause direct and substantial harm to any party.

"(6) RESTRICTIONS ON PAYMENT OF ATTORNEYS' FEES AND EXPENSES.—Total attorneys' fees and expenses awarded by the court to counsel for the plaintiff class shall not exceed a reasonable percentage of the amount of any damages and prejudgment interest actually paid to the class.

"(7) DISCLOSURE OF SETTLEMENT TERMS TO CLASS MEMBERS.—Any proposed or final settlement agreement that is published or otherwise disseminated to the class shall include each of the following statements, along with a cover page summarizing the information contained in such statements:

"(A) STATEMENT OF PLAINTIFF RECOVERY.—The amount of the settlement proposed to be distributed to the parties to the action, determined in the aggregate and on an average per share basis.

"(B) STATEMENT OF POTENTIAL OUTCOME OF CASE.—

"(i) AGREEMENT ON AMOUNT OF DAMAGES.—If the settling parties agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement concerning the average amount of such potential damages per share.

"(ii) DISAGREEMENT ON AMOUNT OF DAMAGES.—If the parties do not agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement from each settling party concerning the issue or issues on which the parties disagree.

"(iii) INADMISSIBILITY FOR CERTAIN PURPOSES.—A statement made in accordance with clause (i) or (ii) concerning the amount of damages shall not be admissible in any Federal or State judicial action or administrative proceeding, other than an action or proceeding arising out of such statement.

"(C) STATEMENT OF ATTORNEYS' FEES OR COSTS SOUGHT.—If any of the settling parties or their counsel intend to apply to the court for an award of attorneys' fees or costs from any fund established as part of the settlement, a statement indicating which parties or counsel intend to make such an application, the amount of fees and costs that will be sought (including the amount of such fees and costs determined on an average per share basis), and a brief explanation supporting the fees and costs sought.

"(D) IDENTIFICATION OF LAWYERS' REPRESENTATIVES.—The name, telephone number, and address of one or more representatives of counsel for the plaintiff class who will be reasonably available to answer questions from class members concerning any matter contained in any notice of settlement published or otherwise disseminated to the class.

"(E) REASONS FOR SETTLEMENT.—A brief statement explaining the reasons why the parties are proposing the settlement.

"(F) OTHER INFORMATION.—Such other information as may be required by the court.

"(8) ATTORNEY CONFLICT OF INTEREST.—If a plaintiff class is represented by an attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation, the court shall make a determination of whether such ownership or other interest constitutes a conflict of interest sufficient to disqualify the attorney from representing the plaintiff class.

"(b) STAY OF DISCOVERY; PRESERVATION OF EVIDENCE.—

"(1) IN GENERAL.—In any private action arising under this title, all discovery and other proceedings shall be stayed during the pendency of any motion to dismiss, unless the court finds, upon the motion of any party, that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to that party.

"(2) PRESERVATION OF EVIDENCE.—During the pendency of any stay of discovery pursuant to this subsection, unless otherwise ordered by the court, any party to the action with actual notice of the allegations contained in the complaint shall treat all documents, data compilations (including electronically recorded or stored data), and tangible objects that are in the custody or control of such person and that are relevant to the allegations, as if they were the subject of a continuing request for production of documents from an opposing party under the Federal Rules of Civil Procedure.

"(3) SANCTION FOR WILLFUL VIOLATION.—A party aggrieved by the willful failure of an opposing party to comply with paragraph (2) may apply to the court for an order awarding appropriate sanctions.

"(c) SANCTIONS FOR ABUSIVE LITIGATION.—

"(1) MANDATORY REVIEW BY COURT.—In any private action arising under this title, upon final adjudication of the action, the court shall include in the record specific findings regarding compliance by each party and each attorney representing any party with each requirement of Rule 11(b) of the Federal Rules of Civil Procedure as to any complaint, responsive pleading, or dispositive motion.

"(2) MANDATORY SANCTIONS.—If the court makes a finding under paragraph (1) that a party or attorney violated any requirement of Rule 11(b) of the Federal Rules of Civil Procedure as to any complaint, responsive pleading, or dispositive motion, the court shall impose sanctions on such party or attorney in accordance with Rule 11 of the Federal Rules of Civil Procedure. Prior to making a finding that any party or attorney has violated Rule 11 of the Federal Rules of Civil Procedure, the court shall give such party or attorney notice and an opportunity to respond.

"(3) PRESUMPTION IN FAVOR OF ATTORNEYS' FEES AND COSTS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), for purposes of paragraph (2), the court shall adopt a presumption that the appropriate sanction—

"(i) for failure of any responsive pleading or dispositive motion to comply with any requirement of Rule 11(b) of the Federal Rules of Civil Procedure is an award to the opposing party of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation; and

"(ii) for substantial failure of any complaint to comply with any requirement of Rule 11(b) of the Federal Rules of Civil Procedure is an award to the opposing party of the reasonable attorneys' fees and other expenses incurred in the action.

"(B) REBUTTAL EVIDENCE.—The presumption described in subparagraph (A) may be rebutted only upon proof by the party or attorney against whom sanctions are to be imposed that—

"(i) the award of attorneys' fees and other expenses will impose an unreasonable burden on that party or attorney and would be unjust, and the failure to make such an award would not impose a greater burden on the party in whose favor sanctions are to be imposed; or

"(ii) the violation of Rule 11(b) of the Federal Rules of Civil Procedure was de minimis.

"(C) SANCTIONS.—If the party or attorney against whom sanctions are to be imposed meets its burden under subparagraph (B), the court shall award the sanctions that the court deems appropriate pursuant to Rule 11 of the Federal Rules of Civil Procedure.

"(d) DEFENDANT'S RIGHT TO WRITTEN INTERROGATORIES.—In any private action arising under this title in which the plaintiff may recover money damages only on proof that a defendant acted with a particular state of mind, the court shall, when requested by a defendant, submit to the jury a written interrogatory on the issue of each such defendant's state of mind at the time the alleged violation occurred.".

(b) SECURITIES EXCHANGE ACT OF 1934.—Title I of the Securities Exchange Act of 1934 (78a et seq.) is amended by inserting after section 21C the following new section:

"SEC. 21D. PRIVATE SECURITIES LITIGATION.

"(a) PRIVATE CLASS ACTIONS.—

"(1) IN GENERAL.—The provisions of this subsection shall apply in each private action arising under this title that is brought as a plaintiff class action pursuant to the Federal Rules of Civil Procedure.

"(2) CERTIFICATION FILED WITH COMPLAINT.—

"(A) IN GENERAL.—Each plaintiff seeking to serve as a representative party on behalf of a class shall provide a sworn certification, which shall be personally signed by such plaintiff and filed with the complaint, that—

"(i) states that the plaintiff has reviewed the complaint and authorized its filing;

"(ii) states that the plaintiff did not purchase the security that is the subject of the complaint at the direction of plaintiff's counsel or in order to participate in any private action arising under this title;

"(iii) states that the plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary;

"(iv) sets forth all of the transactions of the plaintiff in the security that is the subject of the complaint during the class period specified in the complaint;

"(v) identifies any other action under this title, filed during the 3-year period preceding the date on which the certification is signed by the plaintiff, in which the plaintiff has sought to serve as a representative party on behalf of a class; and

"(vi) states that the plaintiff will not accept any payment for serving as a representative party on behalf of a class beyond the plaintiff's pro rata share of any recovery, except as ordered or approved by the court in accordance with paragraph (4).

"(B) NONWAIVER OF ATTORNEY-CLIENT PRIVILEGE.—The certification filed pursuant to subparagraph (A) shall not be construed to be a waiver of the attorney-client privilege.

"(3) APPOINTMENT OF LEAD PLAINTIFF.—

"(A) EARLY NOTICE TO CLASS MEMBERS.—

"(i) IN GENERAL.—Not later than 20 days after the date on which the complaint is filed, the plaintiff or plaintiffs shall cause to be published, in a widely circulated national business-oriented publication or wire service, a notice advising members of the purported plaintiff class—

"(I) of the pendency of the action, the claims asserted therein, and the purported class period; and

"(II) that, not later than 60 days after the date on which the notice is published, any member of the purported class may move the court to serve as lead plaintiff of the purported class.

"(ii) MULTIPLE ACTIONS.—If more than one action on behalf of a class asserting substantially the same claim or claims arising under this title is filed, only the plaintiff or plaintiffs in the first filed action shall be required to cause notice to be published in accordance with clause (i).

"(iii) ADDITIONAL NOTICES MAY BE REQUIRED UNDER FEDERAL RULES.—Notice required under clause (i) shall be in addition to any notice required pursuant to the Federal Rules of Civil Procedure.

"(B) APPOINTMENT OF LEAD PLAINTIFF.—

"(i) IN GENERAL.—Not later than 90 days after the date on which a notice is published under subparagraph (A)(i), the court shall consider any motion made by a purported class member in response to the notice, including any motion by a class member who is not individually named as a plaintiff in the complaint or complaints, and shall appoint as lead plaintiff the member or members of the purported plaintiff class that the court determines to be most capable of adequately representing the interests of class members (hereafter in this paragraph referred to as the 'most adequate plaintiff') in accordance with this subparagraph.

"(ii) CONSOLIDATED ACTIONS.—If more than one action on behalf of a class asserting substantially the same claim or claims arising under this title has been filed, and any party has sought to consolidate those actions for pretrial purposes or for trial, the court shall not make the determination required by clause (i) until after the decision on the motion to consolidate is rendered. As soon as practicable after such decision is rendered, the court shall appoint the most adequate plaintiff as lead plaintiff for the consolidated actions in accordance with this paragraph.

"(iii) REBUTTABLE PRESUMPTION.—

"(I) IN GENERAL.—Subject to subclause (II), for purposes of clause (i), the court shall adopt a presumption that the most adequate plaintiff in any private action arising under this title is the person or group of persons that—

"(aa) has either filed the complaint or made a motion in response to a notice under subparagraph (A)(i);

"(bb) in the determination of the court, has the largest financial interest in the relief sought by the class; and

"(cc) otherwise satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure.

"(II) REBUTTAL EVIDENCE.—The presumption described in subclause (I) may be rebutted only upon proof by a member of the purported plaintiff class that the presumptively most adequate plaintiff—

"(aa) will not fairly and adequately protect the interests of the class; or

"(bb) is subject to unique defenses that render such plaintiff incapable of adequately representing the class.

"(iv) DISCOVERY.—For purposes of this subparagraph, discovery relating to whether a member or members of the purported plaintiff class is the most adequate plaintiff may be conducted by a plaintiff only if the plaintiff first demonstrates a reasonable basis for a finding that the presumptively most adequate plaintiff is incapable of adequately representing the class.

"(v) SELECTION OF LEAD COUNSEL.—The most adequate plaintiff shall, subject to the approval of the court, select and retain counsel to represent the class.

"(vi) RESTRICTIONS ON PROFESSIONAL PLAINTIFFS.—Except as the court may otherwise permit, consistent with the purposes of this section, a person may be a lead plaintiff, or an officer, director, or fiduciary of a lead plaintiff, in no more than 5 securities class actions brought as plaintiff class actions pursuant to the Federal Rules of Civil Procedure during any 3-year period.

"(4) RECOVERY BY PLAINTIFFS.—The share of any final judgment or of any settlement that is awarded to a representative party serving on behalf of a class shall be equal, on a per share basis, to the portion of the final judgment or settlement awarded to all other members of the class. Nothing in this paragraph shall be construed to limit the award of reasonable costs and expenses (including lost wages) directly relating to the representation of the class to any representative party serving on behalf of a class.

"(5) RESTRICTIONS ON SETTLEMENTS UNDER SEAL.—The terms and provisions of any settlement agreement of a class action shall not be filed under seal, except that on motion of any party to the settlement, the court may order filing under seal for those portions of a settlement agreement as to which good cause is shown for such filing under seal. For purposes of this paragraph, good cause shall exist only if publication of a term or provision of a settlement agreement would cause direct and substantial harm to any party.

"(6) RESTRICTIONS ON PAYMENT OF ATTORNEYS' FEES AND EXPENSES.—Total attorneys' fees and expenses awarded by the court to counsel for the plaintiff class shall not exceed a reasonable percentage of the amount of any damages and prejudgment interest actually paid to the class.

"(7) DISCLOSURE OF SETTLEMENT TERMS TO CLASS MEMBERS.—Any proposed or final settlement agreement that is published or otherwise disseminated to the class shall include each of the following statements, along with a cover page summarizing the information contained in such statements:

"(A) STATEMENT OF PLAINTIFF RECOVERY.—The amount of the settlement proposed to be distributed to the parties to the action, determined in the aggregate and on an average per share basis.

"(B) STATEMENT OF POTENTIAL OUTCOME OF CASE.—

"(i) AGREEMENT ON AMOUNT OF DAMAGES.—If the settling parties agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement concerning the average amount of such potential damages per share.

"(ii) DISAGREEMENT ON AMOUNT OF DAMAGES.—If the parties do not agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement from each settling party concerning the issue or issues on which the parties disagree.

"(iii) INADMISSIBILITY FOR CERTAIN PURPOSES.—A statement made in accordance with clause (i) or (ii) concerning the amount of damages shall not be admissible in any Federal or State judicial action or administrative proceeding, other than an action or proceeding arising out of such statement.

"(C) STATEMENT OF ATTORNEYS' FEES OR COSTS SOUGHT.—If any of the settling parties or their counsel intend to apply to the court for an award of attorneys' fees or costs from any fund established as part of the settlement, a statement indicating which parties or counsel intend to make such an application, the amount of fees and costs that will be sought (including the amount of such fees and costs determined on an average per share basis), and a brief explanation supporting the fees and costs sought. Such information shall be clearly summarized on the cover page of any notice to a party of any proposed or final settlement agreement.

"(D) IDENTIFICATION OF LAWYERS' REPRESENTATIVES.—The name, telephone number, and address of one or more representatives of counsel for the plaintiff class who will be reasonably available to answer questions from class members concerning any matter contained in any notice of settlement published or otherwise disseminated to the class.

"(E) REASONS FOR SETTLEMENT.—A brief statement explaining the reasons why the parties are proposing the settlement.

"(F) OTHER INFORMATION.—Such other information as may be required by the court.

"(8) SECURITY FOR PAYMENT OF COSTS IN CLASS ACTIONS.—In any private action arising under this title that is certified as a class action pursuant to the Federal Rules of Civil Procedure, the court may require an undertaking from the attorneys for the plaintiff class, the plaintiff class, or both, or from the attorneys for the defendant, the defendant, or both, in such proportions and at such times as the court determines are just and equitable, for the payment of fees and expenses that may be awarded under this subsection.

"(9) ATTORNEY CONFLICT OF INTEREST.—If a plaintiff class is represented by an attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation, the court shall make a determination of whether such ownership or other interest constitutes a conflict of interest sufficient to disqualify the attorney from representing the plaintiff class.

"(b) REQUIREMENTS FOR SECURITIES FRAUD ACTIONS.—

"(1) MISLEADING STATEMENTS AND OMISSIONS.—In any private action arising under this title in which the plaintiff alleges that the defendant—

"(A) made an untrue statement of a material fact; or

"(B) omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading;

the complaint shall specify each statement alleged to have been misleading, the reason or reasons why the statement is misleading, and, if an allegation regarding the statement or omission is made on information and belief, the complaint shall state with particularity all facts on which that belief is formed.

"(2) REQUIRED STATE OF MIND.—In any private action arising under this title in which the plaintiff may recover money damages only on proof that the defendant acted with a particular state of mind, the complaint shall, with respect to each act or omission alleged to violate this title, state with particularity facts giving rise to a strong inference that the defendant acted with the required state of mind.

"(3) MOTION TO DISMISS; STAY OF DISCOVERY.—

"(A) DISMISSAL FOR FAILURE TO MEET PLEADING REQUIREMENTS.—In any private action arising under this title, the court shall, on the motion of any defendant, dismiss the complaint if the requirements of paragraphs (1) and (2) are not met.

"(B) STAY OF DISCOVERY.—In any private action arising under this title, all discovery and other proceedings shall be stayed during the pendency of any motion to dismiss, unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to that party.

"(C) PRESERVATION OF EVIDENCE.—

"(i) IN GENERAL.—During the pendency of any stay of discovery pursuant to this paragraph, unless otherwise ordered by the court, any party to the action with actual notice of the allegations contained in the complaint shall treat all documents, data compilations (including electronically recorded or stored data), and tangible objects that are in the custody or control of such person and that are relevant to the allegations, as if they were the subject of a continuing request for production of documents from an opposing party under the Federal Rules of Civil Procedure.

"(ii) SANCTION FOR WILLFUL VIOLATION.—A party aggrieved by the willful failure of an opposing party to comply with clause (i) may apply to the court for an order awarding appropriate sanctions.

"(4) LOSS CAUSATION.—In any private action arising under this title, the plaintiff shall have the burden of proving that the act or omission of the defendant alleged to violate this title caused the loss for which the plaintiff seeks to recover damages.

"(c) SANCTIONS FOR ABUSIVE LITIGATION.—

"(1) MANDATORY REVIEW BY COURT.—In any private action arising under this title, upon final adjudication of the action, the court shall include in the record specific findings regarding compliance by each party and each attorney representing any party with each requirement of Rule 11(b) of the Federal Rules of Civil Procedure as to any complaint, responsive pleading, or dispositive motion.

"(2) MANDATORY SANCTIONS.—If the court makes a finding under paragraph (1) that a party or attorney violated any requirement of Rule 11(b) of the Federal Rules of Civil Procedure as to any complaint, responsive pleading, or dispositive motion, the court shall impose sanctions on such party or attorney in accordance with Rule 11 of the Federal Rules of Civil Procedure. Prior to making a finding that any party or attorney has violated Rule 11 of the Federal Rules of Civil Procedure, the court shall give such party or attorney notice and an opportunity to respond.

"(3) PRESUMPTION IN FAVOR OF ATTORNEYS' FEES AND COSTS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), for purposes of paragraph (2), the court shall adopt a presumption that the appropriate sanction—

"(i) for failure of any responsive pleading or dispositive motion to comply with any requirement of Rule 11(b) of the Federal Rules of Civil Procedure is an award to the opposing party of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation; and

"(ii) for substantial failure of any complaint to comply with any requirement of Rule 11(b) of the Federal Rules of Civil Procedure is an award to the opposing party of the reasonable attorneys' fees and other expenses incurred in the action.

"(B) REBUTTAL EVIDENCE.—The presumption described in subparagraph (A) may be rebutted only upon proof by the party or attorney against whom sanctions are to be imposed that—

"(i) the award of attorneys' fees and other expenses will impose an unreasonable burden on that party or attorney and would be unjust, and the failure to make such an award would not impose a greater burden on the party in whose favor sanctions are to be imposed; or

"(ii) the violation of Rule 11(b) of the Federal Rules of Civil Procedure was de minimis.

"(C) SANCTIONS.—If the party or attorney against whom sanctions are to be imposed meets its burden under subparagraph (B), the court shall award the sanctions that the court deems appropriate pursuant to Rule 11 of the Federal Rules of Civil Procedure.

"(d) DEFENDANT'S RIGHT TO WRITTEN INTERROGATORIES.—In any private action arising under this title in which the plaintiff may recover money damages, the court shall, when requested by a defendant, submit to the jury a written interrogatory on the issue of each such defendant's state of mind at the time the alleged violation occurred.

"(e) LIMITATION ON DAMAGES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), in any private action arising under this title in which the plaintiff seeks to establish damages by reference to the market price of a security, the award of damages to the plaintiff shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the mean trading price of that security during the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated to the market.

"(2) EXCEPTION.—In any private action arising under this title in which the plaintiff seeks to establish damages by reference to the market price of a security, if the plaintiff sells or repurchases the subject security prior to the expiration of the 90-day period described in paragraph (1), the plaintiff's damages shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the security and the mean trading price of the security during the period beginning immediately after dissemination of information correcting the misstatement or omission and ending on the date on which the plaintiff sells or repurchases the security.

"(3) DEFINITION.—For purposes of this subsection, the 'mean trading price' of a security shall be an average of the daily trading price of that security, determined as of the close of the market each day during the 90-day period referred to in paragraph (1).".

SEC. 102. SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

(a) AMENDMENT TO THE SECURITIES ACT OF 1933.—Title I of the Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 27 (as added by this Act) the following new section:

"SEC. 27A. APPLICATION OF SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

"(a) APPLICABILITY.—This section shall apply only to a forward-looking statement made by—

"(1) an issuer that, at the time that the statement is made, is subject to the reporting requirements of section 13(a) or section 15(d) of the Securities Exchange Act of 1934;

"(2) a person acting on behalf of such issuer;

"(3) an outside reviewer retained by such issuer making a statement on behalf of such issuer; or

"(4) an underwriter, with respect to information provided by such issuer or information derived from information provided by the issuer.

"(b) EXCLUSIONS.—Except to the extent otherwise specifically provided by rule, regulation, or order of the Commission, this section shall not apply to a forward-looking statement—

"(1) that is made with respect to the business or operations of the issuer, if the issuer—

"(A) during the 3-year period preceding the date on which the statement was first made—

"(i) was convicted of any felony or misdemeanor described in clauses (i) through (iv) of section 15(b)(4)(B) of the Securities Exchange Act of 1934; or

"(ii) has been made the subject of a judicial or administrative decree or order arising out of a governmental action that—

"(I) prohibits future violations of the antifraud provisions of the securities laws;

"(II) requires that the issuer cease and desist from violating the antifraud provisions of the securities laws; or

"(III) determines that the issuer violated the antifraud provisions of the securities laws;

"(B) makes the forward-looking statement in connection with an offering of securities by a blank check company;

"(C) issues penny stock;

"(D) makes the forward-looking statement in connection with a rollup transaction; or

"(E) makes the forward-looking statement in connection with a going private transaction; or

"(2) that is—

"(A) included in a financial statement prepared in accordance with generally accepted accounting principles;

"(B) contained in a registration statement of, or otherwise issued by, an investment company;

"(C) made in connection with a tender offer;

"(D) made in connection with an initial public offering;

"(E) made in connection with an offering by, or relating to the operations of, a partnership, limited liability company, or a direct participation investment program; or

"(F) made in a disclosure of beneficial ownership in a report required to be filed with the Commission pursuant to section 13(d) of the Securities Exchange Act of 1934.

"(c) SAFE HARBOR.—

"(1) IN GENERAL.—Except as provided in subsection (b), in any private action arising under this title that is based on an untrue statement of a material fact or omission of a material fact necessary to make the statement not misleading, a person referred to in subsection (a) shall not be liable with respect to any forward-looking statement, whether written or oral, if and to the extent that—

"(A) the forward-looking statement is—

"(i) identified as a forward-looking statement, and is accompanied by meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the forward-looking statement; or

"(ii) immaterial; or

"(B) the plaintiff fails to prove that the forward-looking statement—

"(i) if made by a natural person, was made with actual knowledge by that person that the statement was false or misleading; or

"(ii) if made by a business entity; was—

"(I) made by or with the approval of an executive officer of that entity, and

"(II) made or approved by such officer with actual knowledge by that officer that the statement was false or misleading.

"(2) ORAL FORWARD-LOOKING STATEMENTS.—In the case of an oral forward-looking statement made by an issuer that is subject to the reporting requirements of section 13(a) or section 15(d) of the Securities Exchange Act of 1934, or by a person acting on behalf of such issuer, the requirement set forth in paragraph (1)(A) shall be deemed to be satisfied—

"(A) if the oral forward-looking statement is accompanied by a cautionary statement—

"(i) that the particular oral statement is a forward-looking statement; and

"(ii) that the actual results could differ materially from those projected in the forward-looking statement; and

"(B) if—

"(i) the oral forward-looking statement is accompanied by an oral statement that additional information concerning factors that could cause actual results to differ materially from those in the forward-looking statement is contained in a readily available written document, or portion thereof;

"(ii) the accompanying oral statement referred to in clause (i) identifies the document, or portion thereof, that contains the additional information about those factors relating to the forward-looking statement; and

"(iii) the information contained in that written document is a cautionary statement that satisfies the standard established in paragraph (1)(A).

"(3) AVAILABILITY.—Any document filed with the Commission or generally disseminated shall be deemed to be readily available for purposes of paragraph (2).

"(4) EFFECT ON OTHER SAFE HARBORS.—The exemption provided for in paragraph (1) shall be in addition to any exemption that the Commission may establish by rule or regulation under subsection (g).

"(d) DUTY TO UPDATE.—Nothing in this section shall impose upon any person a duty to update a forward-looking statement.

"(e) DISPOSITIVE MOTION.—On any motion to dismiss based upon subsection (c)(1), the court shall consider any statement cited in the complaint and cautionary statement accompanying the forward-looking statement, which are not subject to material dispute, cited by the defendant.

"(f) STAY PENDING DECISION ON MOTION.—In any private action arising under this title, the court shall stay discovery (other than discovery that is specifically directed to the applicability of the exemption provided for in this section) during the pendency of any motion by a defendant for summary judgment that is based on the grounds that—

"(1) the statement or omission upon which the complaint is based is a forward-looking statement within the meaning of this section; and

"(2) the exemption provided for in this section precludes a claim for relief.

"(g) EXEMPTION AUTHORITY.—In addition to the exemptions provided for in this section, the Commission may, by rule or regulation, provide exemptions from or under any provision of this title, including with respect to liability that is based on a statement or that is based on projections or other forward-looking information, if and to the extent that any such exemption is consistent with the public interest and the protection of investors, as determined by the Commission.

"(h) EFFECT ON OTHER AUTHORITY OF COMMISSION.—Nothing in this section limits, either expressly or by implication, the authority of the Commission to exercise similar authority or to adopt similar rules and regulations with respect to forward-looking statements under any other statute under which the Commission exercises rulemaking authority.

"(i) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) FORWARD-LOOKING STATEMENT.—The term 'forward-looking statement' means—

"(A) a statement containing a projection of revenues, income (including income loss), earnings (including earnings loss) per share, capital expenditures, dividends, capital structure, or other financial items;

"(B) a statement of the plans and objectives of management for future operations, including plans or objectives relating to the products or services of the issuer;

"(C) a statement of future economic performance, including any such statement contained in a discussion and analysis of financial condition by the management or in the results of operations included pursuant to the rules and regulations of the Commission;

"(D) any statement of the assumptions underlying or relating to any statement described in subparagraph (A), (B), or (C);

"(E) any report issued by an outside reviewer retained by an issuer, to the extent that the report assesses a forward-looking statement made by the issuer; or

"(F) a statement containing a projection or estimate of such other items as may be specified by rule or regulation of the Commission.

"(2) INVESTMENT COMPANY.—The term 'investment company' has the same meaning as in section 3(a) of the Investment Company Act of 1940.

"(3) PENNY STOCK.—The term 'penny stock' has the same meaning as in section 3(a)(51) of the Securities Exchange Act of 1934, and the rules and regulations, or orders issued pursuant to that section.

"(4) GOING PRIVATE TRANSACTION.—The term 'going private transaction' has the meaning given that term under the rules or regulations of the Commission issued pursuant to section 13(e) of the Securities Exchange Act of 1934.

"(5) SECURITIES LAWS.—The term 'securities laws' has the same meaning as in section 3 of the Securities Exchange Act of 1934.

"(6) PERSON ACTING ON BEHALF OF AN ISSUER.—The term 'person acting on behalf of an issuer' means an officer, director, or employee of the issuer.

"(7) OTHER TERMS.—The terms 'blank check company', 'rollup transaction', 'partnership', 'limited liability company', 'executive officer of an entity' and 'direct participation investment program', have the meanings given those terms by rule or regulation of the Commission.".

(b) AMENDMENT TO THE SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 21D (as added by this Act) the following new section:

"SEC. 21E. APPLICATION OF SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

"(a) APPLICABILITY.—This section shall apply only to a forward-looking statement made by—

"(1) an issuer that, at the time that the statement is made, is subject to the reporting requirements of section 13(a) or section 15(d);

"(2) a person acting on behalf of such issuer;

"(3) an outside reviewer retained by such issuer making a statement on behalf of such issuer; or

"(4) an underwriter, with respect to information provided by such issuer or information derived from information provided by such issuer.

"(b) EXCLUSIONS.—Except to the extent otherwise specifically provided by rule, regulation, or order of the Commission, this section shall not apply to a forward-looking statement—

"(1) that is made with respect to the business or operations of the issuer, if the issuer—

"(A) during the 3-year period preceding the date on which the statement was first made—

"(i) was convicted of any felony or misdemeanor described in clauses (i) through (iv) of section 15(b)(4)(B); or

"(ii) has been made the subject of a judicial or administrative decree or order arising out of a governmental action that—

"(I) prohibits future violations of the antifraud provisions of the securities laws;

"(II) requires that the issuer cease and desist from violating the antifraud provisions of the securities laws; or

"(III) determines that the issuer violated the antifraud provisions of the securities laws;

"(B) makes the forward-looking statement in connection with an offering of securities by a blank check company;

"(C) issues penny stock;

"(D) makes the forward-looking statement in connection with a rollup transaction; or

"(E) makes the forward-looking statement in connection with a going private transaction; or

"(2) that is—

"(A) included in a financial statement prepared in accordance with generally accepted accounting principles;

"(B) contained in a registration statement of, or otherwise issued by, an investment company;

"(C) made in connection with a tender offer;

"(D) made in connection with an initial public offering;

"(E) made in connection with an offering by, or relating to the operations of, a partnership, limited liability company, or a direct participation investment program; or

"(F) made in a disclosure of beneficial ownership in a report required to be filed with the Commission pursuant to section 13(d).

"(c) SAFE HARBOR.—

"(1) IN GENERAL.—Except as provided in subsection (b), in any private action arising under this title that is based on an untrue statement of a material fact or omission of a material fact necessary to make the statement not misleading, a person referred to in subsection (a) shall not be liable with respect to any forward-looking statement, whether written or oral, if and to the extent that—

"(A) the forward-looking statement is—

"(i) identified as a forward-looking statement, and is accompanied by meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the forward-looking statement; or

"(ii) immaterial; or

"(B) the plaintiff fails to prove that the forward-looking statement—

"(i) if made by a natural person, was made with actual knowledge by that person that the statement was false or misleading; or

"(ii) if made by a business entity; was—

"(I) made by or with the approval of an executive officer of that entity; and

"(II) made or approved by such officer with actual knowledge by that officer that the statement was false or misleading.

"(2) ORAL FORWARD-LOOKING STATEMENTS.—In the case of an oral forward-looking statement made by an issuer that is subject to the reporting requirements of section 13(a) or section 15(d), or by a person acting on behalf of such issuer, the requirement set forth in paragraph (1)(A) shall be deemed to be satisfied—

"(A) if the oral forward-looking statement is accompanied by a cautionary statement—

"(i) that the particular oral statement is a forward-looking statement; and

"(ii) that the actual results might differ materially from those projected in the forward-looking statement; and

"(B) if—

"(i) the oral forward-looking statement is accompanied by an oral statement that additional information concerning factors that could cause actual results to materially differ from those in the forward-looking statement is contained in a readily available written document, or portion thereof;

"(ii) the accompanying oral statement referred to in clause (i) identifies the document, or portion thereof, that contains the additional information about those factors relating to the forward-looking statement; and

"(iii) the information contained in that written document is a cautionary statement that satisfies the standard established in paragraph (1)(A).

"(3) AVAILABILITY.—Any document filed with the Commission or generally disseminated shall be deemed to be readily available for purposes of paragraph (2).

"(4) EFFECT ON OTHER SAFE HARBORS.—The exemption provided for in paragraph (1) shall be in addition to any exemption that the Commission may establish by rule or regulation under subsection (g).

"(d) DUTY TO UPDATE.—Nothing in this section shall impose upon any person a duty to update a forward-looking statement.

"(e) DISPOSITIVE MOTION.—On any motion to dismiss based upon subsection (c)(1), the court shall consider any statement cited in the complaint and any cautionary statement accompanying the forward-looking statement, which are not subject to material dispute, cited by the defendant.

"(f) STAY PENDING DECISION ON MOTION.—In any private action arising under this title, the court shall stay discovery (other than discovery that is specifically directed to the applicability of the exemption provided for in this section) during the pendency of any motion by a defendant for summary judgment that is based on the grounds that—

"(1) the statement or omission upon which the complaint is based is a forward-looking statement within the meaning of this section; and

"(2) the exemption provided for in this section precludes a claim for relief.

"(g) EXEMPTION AUTHORITY.—In addition to the exemptions provided for in this section, the Commission may, by rule or regulation, provide exemptions from or under any provision of this title, including with respect to liability that is based on a statement or that is based on projections or other forward-looking information, if and to the extent that any such exemption is consistent with the public interest and the protection of investors, as determined by the Commission.

"(h) EFFECT ON OTHER AUTHORITY OF COMMISSION.—Nothing in this section limits, either expressly or by implication, the authority of the Commission to exercise similar authority or to adopt similar rules and regulations with respect to forward-looking statements under any other statute under which the Commission exercises rulemaking authority.

"(i) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) FORWARD-LOOKING STATEMENT.—The term 'forward-looking statement' means—

"(A) a statement containing a projection of revenues, income (including income loss), earnings (including earnings loss) per share, capital expenditures, dividends, capital structure, or other financial items;

"(B) a statement of the plans and objectives of management for future operations, including plans or objectives relating to the products or services of the issuer;

"(C) a statement of future economic performance, including any such statement contained in a discussion and analysis of financial condition by the management or in the results of operations included pursuant to the rules and regulations of the Commission;

"(D) any statement of the assumptions underlying or relating to any statement described in subparagraph (A), (B), or (C);

"(E) any report issued by an outside reviewer retained by an issuer, to the extent that the report assesses a forward-looking statement made by the issuer; or

"(F) a statement containing a projection or estimate of such other items as may be specified by rule or regulation of the Commission.

"(2) INVESTMENT COMPANY.—The term 'investment company' has the same meaning as in section 3(a) of the Investment Company Act of 1940.

"(3) GOING PRIVATE TRANSACTION.—The term 'going private transaction' has the meaning given that term under the rules or regulations of the Commission issued pursuant to section 13(e).

"(4) PERSON ACTING ON BEHALF OF AN ISSUER.—The term 'person acting on behalf of an issuer' means any officer, director, or employee of such issuer.

"(5) OTHER TERMS.—The terms 'blank check company', 'rollup transaction', 'partnership', 'limited liability company', 'executive officer of an entity' and 'direct participation investment program', have the meanings given those terms by rule or regulation of the Commission.".

SEC. 103. ELIMINATION OF CERTAIN ABUSIVE PRACTICES.

(a) PROHIBITION OF REFERRAL FEES.—Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)) is amended by adding at the end the following new paragraph:

"(8) PROHIBITION OF REFERRAL FEES.—No broker or dealer, or person associated with a broker or dealer, may solicit or accept, directly or indirectly, remuneration for assisting an attorney in obtaining the representation of any person in any private action arising under this title or under the Securities Act of 1933.".

(b) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(f) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—Except as otherwise ordered by the court upon motion by the Commission, or, in the case of an administrative action, as otherwise ordered by the Commission, funds disgorged as the result of an action brought by the Commission in Federal court, or as a result of any Commission administrative action, shall not be distributed as payment for attorneys' fees or expenses incurred by private parties seeking distribution of the disgorged funds.".

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following new paragraph:

"(4) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—Except as otherwise ordered by the court upon motion by the Commission, or, in the case of an administrative action, as otherwise ordered by the Commission, funds disgorged as the result of an action brought by the Commission in Federal court, or as a result of any Commission administrative action, shall not be distributed as payment for attorneys' fees or expenses incurred by private parties seeking distribution of the disgorged funds.".

SEC. 104. AUTHORITY OF COMMISSION TO PROSECUTE AIDING AND ABETTING.

Section 20 of the Securities Exchange Act of 1934 (15 U.S.C. 78t) is amended—

(1) by striking the section heading and inserting the following:

"LIABILITY OF CONTROLLING PERSONS AND PERSONS WHO AID AND ABET VIOLATIONS";

and

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

"(f) PROSECUTION OF PERSONS WHO AID AND ABET VIOLATIONS.—For purposes of any action brought by the Commission under paragraph (1)

or (3) of section 21(d), any person that knowingly provides substantial assistance to another person in violation of a provision of this title, or of any rule or regulation issued under this title, shall be deemed to be in violation of such provision to the same extent as the person to whom such assistance is provided.".

SEC. 105. LOSS CAUSATION.

Section 12 of the Securities Act of 1933 (15 U.S.C. 77l) is amended—

(1) by inserting "(a) IN GENERAL.—" before "Any person";

(2) by inserting ", subject to subsection (b)," after "shall be liable"; and

(3) by adding at the end the following:

"(b) LOSS CAUSATION.—In an action described in subsection (a)(2), if the person who offered or sold such security proves that any portion or all of the amount recoverable under subsection (a)(2) represents other than the depreciation in value of the subject security resulting from such part of the prospectus or oral communication, with respect to which the liability of that person is asserted, not being true or omitting to state a material fact required to be stated therein or necessary to make the statement not misleading, then such portion or amount, as the case may be, shall not be recoverable.".

SEC. 106. STUDY AND REPORT ON PROTECTIONS FOR SENIOR CITIZENS AND QUALIFIED RETIREMENT PLANS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall—

(1) determine whether investors that are senior citizens or qualified retirement plans require greater protection against securities fraud than is provided in this Act and the amendments made by this Act;

(2) determine whether investors that are senior citizens or qualified retirement plans have been adversely impacted by abusive or unnecessary securities fraud litigation, and whether the provisions in this Act or amendments made by this Act are sufficient to protect their investments from such litigation; and

(3) if so, submit to the Congress a report containing recommendations on protections from securities fraud and abusive or unnecessary securities fraud litigation that the Commission determines to be appropriate to thoroughly protect such investors.

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

(1) the term "qualified retirement plan" has the same meaning as in section 4974(c) of the Internal Revenue Code of 1986; and

(2) the term "senior citizen" means an individual who is 62 years of age or older as of the date of the securities transaction at issue.

SEC. 107. AMENDMENT TO RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.

Section 1964(c) of title 18, United States Code, is amended by inserting before the period ", except that no person may rely upon any conduct that would have been actionable as fraud in the purchase or sale of securities to establish a violation of section 1962. The exception contained in the preceding sentence does not apply to an action against any person that is criminally convicted in connection with the fraud, in which case the statute of limitations shall start to run on the date on which the conviction becomes final".

SEC. 108. APPLICABILITY.

The amendments made by this title shall not affect or apply to any private action arising under title I of the Securities Exchange Act of 1934 or title I of the Securities Act of 1933, commenced before and pending on the date of enactment of this Act.

TITLE II—REDUCTION OF COERCIVE SETTLEMENTS

SEC. 201. PROPORTIONATE LIABILITY.

(a) AMENDMENT TO SECURITIES AND EXCHANGE ACT OF 1934.—Section 21D the Securities Exchange Act of 1934 (as added by this Act) is amended by adding at the end the following new subsection:

"(g) PROPORTIONATE LIABILITY.—

"(1) APPLICABILITY.—Nothing in this subsection shall be construed to create, affect, or in any manner modify, the standard for liability associated with any action arising under the securities laws.

"(2) LIABILITY FOR DAMAGES.—

"(A) JOINT AND SEVERAL LIABILITY.—Any covered person against whom a final judgment is entered in a private action shall be liable for damages jointly and severally only if the trier of fact specifically determines that such covered person knowingly committed a violation of the securities laws.

"(B) PROPORTIONATE LIABILITY.—

"(i) IN GENERAL.—Except as provided in paragraph (1), a covered person against whom a final judgment is entered in a private action shall be liable solely for the portion of the judgment that corresponds to the percentage of responsibility of that covered person, as determined under paragraph (3).

"(ii) RECOVERY BY AND COSTS OF COVERED PERSON.—In any case in which a contractual relationship permits, a covered person that prevails in any private action may recover the attorney's fees and costs of that covered person in connection with the action.

"(3) DETERMINATION OF RESPONSIBILITY.—

"(A) IN GENERAL.—In any private action, the court shall instruct the jury to answer special interrogatories, or if there is no jury, shall make findings, with respect to each covered person and each of the other persons claimed by any of the parties to have caused or contributed to the loss incurred by the plaintiff, including persons who have entered into settlements with the plaintiff or plaintiffs, concerning—

"(i) whether such person violated the securities laws;

"(ii) the percentage of responsibility of such person, measured as a percentage of the total fault of all persons who caused or contributed to the loss incurred by the plaintiff; and

"(iii) whether such person knowingly committed a violation of the securities laws.

"(B) CONTENTS OF SPECIAL INTERROGATORIES OR FINDINGS.—The responses to interrogatories, or findings, as appropriate, under subparagraph (A) shall specify the total amount of damages that the plaintiff is entitled to recover and the percentage of responsibility of each covered person found to have caused or contributed to the loss incurred by the plaintiff or plaintiffs.

"(C) FACTORS FOR CONSIDERATION.—In determining the percentage of responsibility under this paragraph, the trier of fact shall consider—

"(i) the nature of the conduct of each covered person found to have caused or contributed to the loss incurred by the plaintiff or plaintiffs; and

"(ii) the nature and extent of the causal relationship between the conduct of each such person and the damages incurred by the plaintiff or plaintiffs.

"(4) UNCOLLECTIBLE SHARE.—

"(A) IN GENERAL.—Notwithstanding paragraph (2)(B), upon motion made not later than 6 months after a final judgment is entered in any private action, the court determines that all or part of the share of the judgment of the covered person is not collectible against that covered person, and is also not collectible against a covered person described in paragraph (2)(A), each covered person described in paragraph (2)(B) shall be liable for the uncollectible share as follows:

"(i) PERCENTAGE OF NET WORTH.—Each covered person shall be jointly and severally liable for the uncollectible share if the plaintiff establishes that—

"(I) the plaintiff is an individual whose recoverable damages under the final judgment are equal to more than 10 percent of the net worth of the plaintiff; and

"(II) the net worth of the plaintiff is equal to less than $200,000.

"(ii) OTHER PLAINTIFFS.—With respect to any plaintiff not described in subclauses (I) and (II) of clause (i), each covered person shall be liable for the uncollectible share in proportion to the percentage of responsibility of that covered person, except that the total liability of a covered person under this clause may not exceed 50 percent of the proportionate share of that covered person, as determined under paragraph (3)(B).

"(iii) NET WORTH.—For purposes of this subparagraph, net worth shall be determined as of the date immediately preceding the date of the purchase or sale (as applicable) by the plaintiff of the security that is the subject of the action, and shall be equal to the fair market value of assets, minus liabilities, including the net value of the investments of the plaintiff in real and personal property (including personal residences).

"(B) OVERALL LIMIT.—In no case shall the total payments required pursuant to subparagraph (A) exceed the amount of the uncollectible share.

"(C) COVERED PERSONS SUBJECT TO CONTRIBUTION.—A covered person against whom judgment is not collectible shall be subject to contribution and to any continuing liability to the plaintiff on the judgment.

"(5) RIGHT OF CONTRIBUTION.—To the extent that a covered person is required to make an additional payment pursuant to paragraph (4), that covered person may recover contribution—

"(A) from the covered person originally liable to make the payment;

"(B) from any covered person liable jointly and severally pursuant to paragraph (2)(A);

"(C) from any covered person held proportionately liable pursuant to this paragraph who is liable to make the same payment and has paid less than his or her proportionate share of that payment; or

"(D) from any other person responsible for the conduct giving rise to the payment that would have been liable to make the same payment.

"(6) NONDISCLOSURE TO JURY.—The standard for allocation of damages under paragraphs (2) and (3) and the procedure for reallocation of uncollectible shares under paragraph (4) shall not be disclosed to members of the jury.

"(7) SETTLEMENT DISCHARGE.—

"(A) IN GENERAL.—A covered person who settles any private action at any time before final verdict or judgment shall be discharged from all claims for contribution brought by other persons. Upon entry of the settlement by the court, the court shall enter a bar order constituting the final discharge of all obligations to the plaintiff of the settling covered person arising out of the action. The order shall bar all future claims for contribution arising out of the action—

"(i) by any person against the settling covered person; and

"(ii) by the settling covered person against any person, other than a person whose liability has been extinguished by the settlement of the settling covered person.

"(B) REDUCTION.—If a covered person enters into a settlement with the plaintiff prior to final verdict or judgment, the verdict or judgment shall be reduced by the greater of—

"(i) an amount that corresponds to the percentage of responsibility of that covered person; or

"(ii) the amount paid to the plaintiff by that covered person.

"(8) CONTRIBUTION.—A covered person who becomes jointly and severally liable for damages in any private action may recover contribution from any other person who, if joined in the original action, would have been liable for the same damages. A claim for contribution shall be determined based on the percentage of responsibility of the claimant and of each person against whom a claim for contribution is made.

"(9) STATUTE OF LIMITATIONS FOR CONTRIBUTION.—In any private action determining liability, an action for contribution shall be brought not later than 6 months after the entry of a final, nonappealable judgment in the action, except that an action for contribution brought by a covered person who was required to make an additional payment pursuant to paragraph (4) may be brought not later than 6 months after the date on which such payment was made.

"(10) DEFINITIONS.—For purposes of this subsection—

"(A) a covered person 'knowingly commits a violation of the securities laws'—

"(i) with respect to an action that is based on an untrue statement of material fact or omission of a material fact necessary to make the statement not misleading, if—

"(I) that covered person makes an untrue statement of a material fact, with actual knowledge that the representation is false, or omits to state a fact necessary in order to make the statement made not misleading, with actual knowledge that, as a result of the omission, one of the material representations of the covered person is false; and

"(II) persons are likely to reasonably rely on that misrepresentation or omission; and

"(ii) with respect to an action that is based on any conduct that is not described in clause (i), if that covered person engages in that conduct with actual knowledge of the facts and circumstances that make the conduct of that covered person a violation of the securities laws;

"(B) reckless conduct by a covered person shall not be construed to constitute a knowing commission of a violation of the securities laws by that covered person;

"(C) the term 'covered person' means—

"(i) a defendant in any private action arising under this title; or

"(ii) a defendant in any private action arising under section 11 of the Securities Act of 1933, who is an outside director of the issuer of the securities that are the subject of the action; and

"(D) the term 'outside director' shall have the meaning given such term by rule or regulation of the Commission.".

(b) AMENDMENTS TO THE SECURITIES ACT OF 1933.—Section 11(f) of the Securities Act of 1933 (12 U.S.C. 77k(f)) is amended—

(1) by striking "All" and inserting "(1) Except as provided in paragraph (2), all"; and

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

"(2)(A) The liability of an outside director under subsection (e) shall be determined in accordance with section 38 of the Securities Exchange Act of 1934.

"(B) For purposes of this paragraph, the term 'outside director' shall have the meaning given such term by rule or regulation of the Commission .".

SEC. 202. APPLICABILITY.

The amendments made by this title shall not affect or apply to any private action arising under the securities laws commenced before and pending on the date of enactment of this Act.

SEC. 203. RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act shall be deemed to create or ratify any implied private right of action, or to prevent the Commission, by rule or regulation, from restricting or otherwise regulating private actions under the Securities Exchange Act of 1934.

TITLE III—AUDITOR DISCLOSURE OF CORPORATE FRAUD

SEC. 301. FRAUD DETECTION AND DISCLOSURE.

(a) IN GENERAL.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting immediately after section 10 the following new section:

"SEC. 10A. AUDIT REQUIREMENTS.

"(a) IN GENERAL.—Each audit required pursuant to this title of the financial statements of an issuer by an independent public accountant shall include, in accordance with generally accepted auditing standards, as may be modified or supplemented from time to time by the Commission—

"(1) procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts;

"(2) procedures designed to identify related party transactions that are material to the financial statements or otherwise require disclosure therein; and

"(3) an evaluation of whether there is substantial doubt about the ability of the issuer to continue as a going concern during the ensuing fiscal year.

"(b) REQUIRED RESPONSE TO AUDIT DISCOVERIES.—

"(1) INVESTIGATION AND REPORT TO MANAGEMENT.—If, in the course of conducting an audit pursuant to this title to which subsection (a) applies, the independent public accountant detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have a material effect on the financial statements of the issuer) has or may have occurred, the accountant shall, in accordance with generally accepted auditing standards, as may be modified or supplemented from time to time by the Commission—

"(A)(i) determine whether it is likely that an illegal act has occurred; and

"(ii) if so, determine and consider the possible effect of the illegal act on the financial statements of the issuer, including any contingent monetary effects, such as fines, penalties, and damages; and

"(B) as soon as practicable, inform the appropriate level of the management of the issuer and assure that the audit committee of the issuer, or the board of directors of the issuer in the absence of such a committee, is adequately informed with respect to illegal acts that have been detected or have otherwise come to the attention of such accountant in the course of the audit, unless the illegal act is clearly inconsequential.

"(2) RESPONSE TO FAILURE TO TAKE REMEDIAL ACTION.—If, after determining that the audit committee of the board of directors of the issuer, or the board of directors of the issuer in the absence of an audit committee, is adequately informed with respect to illegal acts that have been detected or have otherwise come to the attention of the accountant in the course of the audit of such accountant, the independent public accountant concludes that—

"(A) the illegal act has a material effect on the financial statements of the issuer;

"(B) the senior management has not taken, and the board of directors has not caused senior management to take, timely and appropriate remedial actions with respect to the illegal act; and

"(C) the failure to take remedial action is reasonably expected to warrant departure from a standard report of the auditor, when made, or warrant resignation from the audit engagement; the independent public accountant shall, as soon as practicable, directly report its conclusions to the board of directors.

"(3) NOTICE TO COMMISSION; RESPONSE TO FAILURE TO NOTIFY.—An issuer whose board of directors receives a report under paragraph (2) shall inform the Commission by notice not later than 1 business day after the receipt of such report and shall furnish the independent public accountant making such report with a copy of the notice furnished to the Commission. If the independent public accountant fails to receive a copy of the notice before the expiration of the required 1-business-day period, the independent public accountant shall—

"(A) resign from the engagement; or

"(B) furnish to the Commission a copy of its report (or the documentation of any oral report given) not later than 1 business day following such failure to receive notice.

"(4) REPORT AFTER RESIGNATION.—If an independent public accountant resigns from an engagement under paragraph (3)(A), the accountant shall, not later than 1 business day following the failure by the issuer to notify the Commission under paragraph (3), furnish to the Commission a copy of the accountant's report (or the documentation of any oral report given).

"(c) AUDITOR LIABILITY LIMITATION.—No independent public accountant shall be liable in a private action for any finding, conclusion, or statement expressed in a report made pursuant to paragraph (3) or (4) of subsection (b), including any rule promulgated pursuant thereto.

"(d) CIVIL PENALTIES IN CEASE-AND-DESIST PROCEEDINGS.—If the Commission finds, after notice and opportunity for hearing in a proceeding instituted pursuant to section 21C, that an independent public accountant has willfully violated paragraph (3) or (4) of subsection (b), the Commission may, in addition to entering an order under section 21C, impose a civil penalty against the independent public accountant and any other person that the Commission finds was a cause of such violation. The determination to impose a civil penalty and the amount of the penalty shall be governed by the standards set forth in section 21B.

"(e) PRESERVATION OF EXISTING AUTHORITY.—Except as provided in subsection (d), nothing in this section shall be held to limit or otherwise affect the authority of the Commission under this title.

"(f) DEFINITION.—As used in this section, the term 'illegal act' means an act or omission that violates any law, or any rule or regulation having the force of law.".

(b) EFFECTIVE DATES.—The amendment made by subsection (a) shall apply to each annual report—

(1) for any period beginning on or after January 1, 1996, with respect to any registrant that is required to file selected quarterly financial data pursuant to the rules or regulations of the Securities and Exchange Commission; and

(2) for any period beginning on or after January 1, 1997, with respect to any other registrant.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill, and agree to the same.

From the Committee on Commerce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

THOMAS BLILEY,
BILLY TAUZIN,
JACK FIELDS,
CHRIS COX,
RICHARD F. WHITE,
ANNA G. ESHOO,

As additional conferees from the Committee on the Judiciary, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

BILL MCCOLLUM,
Managers on the Part of the House.

ALFONSE D'AMATO,
PHIL GRAMM,

ROBERT F. BENNETT,
ROD GRAMS,
PETE V. DOMENICI,
CHRISTOPHER DODD,
JOHN F. KERRY,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

STATEMENT OF MANAGERS—THE "PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995"

The overriding purpose of our Nation's securities laws is to protect investors and to maintain confidence in the securities markets, so that our national savings, capital formation and investment may grow for the benefit of all Americans.

The private securities litigation system is too important to the integrity of American capital markets to allow this system to be undermined by those who seek to line their own pockets by bringing abusive and meritless suits. Private securities litigation is an indispensable tool with which defrauded investors can recover their losses without having to rely upon government action. Such private lawsuits promote public and global confidence in our capital markets and help to deter wrongdoing and to guarantee that corporate officers, auditors, directors, lawyers and others properly perform their jobs. This legislation seeks to return the securities litigation system to that high standard.

Congress has been prompted by significant evidence of abuse in private securities lawsuits to enact reforms to protect investors and maintain confidence in our capital markets. The House and Senate Committees heard evidence that abusive practices committed in private securities litigation include: (1) the routine filing of lawsuits against issuers of securities and others whenever there is a significant change in an issuer's stock price, without regard to any underlying culpability of the issuer, and with only faint hope that the discovery process might lead eventually to some plausible cause of action; (2) the targeting of deep pocket defendants, including accountants, underwriters, and individuals who may be covered by insurance, without regard to their actual culpability; (3) the abuse of the discovery process to impose costs so burdensome that it is often economical for the victimized party to settle; and (4) the manipulation by class action lawyers of the clients whom they purportedly represent. These serious injuries to innocent parties are compounded by the reluctance of many judges to impose sanctions under Federal Rule of Civil Procedure 11, except in those cases involving truly outrageous misconduct. At the same time, the investing public and the entire U.S. economy have been injured by the unwillingness of the best qualified persons to serve on boards of directors and of issuers to discuss publicly their future prospects, because of fear of baseless and extortionate securities lawsuits.

In these and other examples of abusive and manipulative securities litigation, innocent parties are often forced to pay exorbitant "settlements." When an insurer must pay lawyers' fees, make settlement payments, and expend management and employee resources in defending a meritless suit, the issuers' own investors suffer. Investors always are the ultimate losers when extortionate "settlements" are extracted from issuers.

This Conference Report seeks to protect investors, issuers, and all who are associated with our capital markets from abusive securities litigation. This legislation implements needed procedural protections to discourage frivolous litigation. It protects outside directors, and others who may be sued for nonknowing securities law violations, from liability for damage actually caused by others. It reforms discovery rules to minimize costs incurred during the pendency of a motion to dismiss or a motion for summary judgment. It protects investors who join class actions against lawyer-driven lawsuits by giving control of the litigation to lead plaintiffs with substantial holdings of the securities of the issuer. It gives victims of abusive securities lawsuits the opportunity to recover their attorneys' fees at the conclusion of an action. And it establishes a safe harbor for forward looking statements, to encourage issuers to disseminate relevant information to the market without fear of open-ended liability.

PRIVATE SECURITIES LITIGATION REFORM

Section 101 contains provisions to reform abusive securities class action litigation. It amends the Securities Act of 1933 (the "1933 Act") by adding a new section 27 and the Securities Exchange Act of 1934 (the "1934 Act") by adding a new section 21D. These provisions are intended to encourage the most capable representatives of the plaintiff class to participate in class action litigation and to exercise supervision and control of the lawyers for the class. These provisions are intended to increase the likelihood that parties with significant holdings in issuers, whose interests are more strongly aligned with the class of shareholders, will participate in the litigation and exercise control over the selection and actions of plaintiff's counsel. The legislation also provides that all discovery is stayed during the pendency of any motion to dismiss or for summary judgment. These stay of discovery provisions are intended to prevent unnecessary imposition of discovery costs on defendants.

THE PROFESSIONAL PLAINTIFF AND LEAD PLAINTIFF PROBLEMS

House and Senate Committee hearings on securities litigation reform demonstrated the need to reform abuses involving the use of "professional plaintiffs" and the race to the courthouse to file the complaint.

Professional plaintiffs who own a nominal number of shares in a wide array of public companies permit lawyers readily to file abusive securities class action lawsuits. Floor debate in the Senate highlighted that many of the "world's unluckiest investors" repeatedly appear as lead plaintiffs in securities class action lawsuits. These lead plaintiffs often receive compensation in the form of bounty payments or bonuses.

The Conference Committee believes these practices have encouraged the filing of abusive cases. Lead plaintiffs are not entitled to a bounty for their services. Individuals who are motivated by the payment of a bounty or bonus should not be permitted to serve as lead plaintiffs. These individuals do not adequately represent other shareholders—in many cases the "lead plaintiff" has not even read the complaint.

The Conference Committee believes that several new rules will effectively discourage the use of professional plaintiffs.

Plaintiff certification of the complaint

This legislation requires, in new section 27(a)(2) of the 1933 Act and new section 21D(a)(2) of the 1934 Act, that the lead plaintiff file a sworn certified statement with the complaint. The statement must certify that the plaintiff: (a) reviewed and authorized the filing of the complaint; (b) did not purchase the securities at the direction of counsel or in order to participate in a lawsuit; and (c) is willing to serve as the lead plaintiff on behalf of the class. To further deter the use of professional plaintiffs, the plaintiff must also identify any transactions in the securities covered by the class period, and any other lawsuits in which the plaintiff has sought to serve as lead plaintiff in the last three years.[1]

Method for determining the "most adequate plaintiff"

The Conference Committee was also troubled by the plaintiffs' lawyers "race to the courthouse" to be the first to file a securities class action complaint. This race has caused plaintiffs' attorneys to become fleet of foot and sleight of hand. Most often speed has replaced diligence in drafting complaints. The Conference Committee believes two incentives have driven plaintiffs' lawyers to be the first to file. First, courts traditionally appoint counsel in class action lawsuits on a "first come, first serve" basis. Courts often afford insufficient consideration to the most thoroughly researched, but later filed, complaint. The second incentive involves the court's decision as to who will become lead plaintiff. Generally, the first lawsuit filed also determines the lead plaintiff.

The Conference Committee believes that the selection of the lead plaintiff and lead counsel should rest on considerations other than how quickly a plaintiff has filed its complaint. As a result, this legislation establishes new procedures for the appointment of the lead plaintiff and lead counsel in securities class actions in new section 27(a)(3) of the 1933 Act and new section 21D(a)(3) of the 1934 Act.

A plaintiff filing a securities class action must, within 20 days of filing a complaint, provide notice to members of the purported class in a widely circulated business publication. This notice must identify the claims alleged in the lawsuit and the purported class period and inform potential class members that, within 60 days, they may move to serve as the lead plaintiff. Members of the purported class who seek to serve as lead plaintiff do not have to file the certification filing as part of this motion. "Publication" includes a variety of media, including wire, electronic or computer services.[2]

Within 90 days of the published notice, the court must consider motions made under this section and appoint the lead plaintiff. If a motion has been filed to consolidate multiple class actions brought on behalf of the same class, the court will not appoint a lead plaintiff until after consideration of the motion.

The current system often works to prevent institutional investors from selecting counsel or serving as lead plaintiff in class actions.[3] The Conference Committee seeks to increase the likelihood that institutional investors will serve as lead plaintiffs by requiring courts to presume that the member of the purported class with the largest financial stake in the relief sought is the "most adequate plaintiff."

Footnotes at end of article.

The Conference Committee believes that increasing the role of institutional investors in class actions will ultimately benefit shareholders and assist courts by improving the quality of representation in securities class actions. Institutional investors are America's largest shareholders, with about $9.5 trillion in assets, accounting for 51% of the equity market. According to one representative of institutional investors: "As the largest shareholders in most companies, we are the ones who have the most to gain from meritorious securities litigation."[4]

Several Senators expressed concern during floor consideration of this legislation that preference would be given to large investors, and that large investors might conspire with the defendant company's management. The Conference Committee believes, however, that with pension funds accounting for $4.5 trillion[5] or nearly half of the institutional assets, in many cases the beneficiaries of pension funds—small investors—ultimately have the greatest stake in the outcome of the lawsuit. Cumulatively, these small investors represent a single large investor interest. Institutional investors and other class members with large amounts at stake will represent the interests of the plaintiff class more effectively than class members with small amounts at stake. The claims of both types of class members generally will be typical.

The Conference Committee recognizes the potential conflicts that could be caused by the shareholder with the "largest financial stake" serving as lead plaintiff. As a result, this presumption may be rebutted by evidence that the plaintiff would not fairly and adequately represent the interests of the class or is subject to unique defenses. Members of the purported class may seek discovery on whether the presumptively most adequate plaintiff would not adequately represent the class. The provisions of the bill relating to the appointment of a lead plaintiff are not intended to affect current law with regard to challenges to the adequacy of the class representative or typicality of the claims among the class.

Although the most adequate plaintiff provision does not confer any new fiduciary duty on institutional investors—and the courts should not impose such a duty—the Conference Committee nevertheless intends that the lead plaintiff provision will encourage institutional investors to take a more active role in securities class action lawsuits. Scholars predict that increasing the role of institutional investors will benefit both injured shareholders and courts: "Institutions with large stakes in class actions have much the same interests as the plaintiff class generally; thus, courts could be more confident settlements negotiated under the supervision of institutional plaintiffs were 'fair and reasonable' than is the case with settlements negotiated by unsupervised plaintiffs' attorneys."[6]

Finally, this lead plaintiff provision solves the dilemma of who will serve as class counsel. Subject to court approval, the most adequate plaintiff retains class counsel. As a result, the Conference Committee expects that the plaintiff will choose counsel rather than, as is true today, counsel choosing the plaintiff. The Conference Committee does not intend to disturb the court's discretion under existing law to approve or disapprove the lead plaintiff's choice of counsel when necessary to protect the interests of the plaintiff class.

The Conference Report seeks to restrict professional plaintiffs from serving as lead plaintiff by limiting a person from serving in that capacity more than five times in three years. Institutional investors seeking to serve as lead plaintiff may need to exceed this limitation and do not represent the type of professional plaintiff this legislation seeks to restrict. As a result, the Conference Committee grants courts discretion to avoid the unintended consequence of disqualifying institutional investors from serving more than five times in three years. The Conference Committee does not intend for this provision to operate at cross purposes with the "most adequate plaintiff" provision. The Conference Committee does expect, however, that it will be used with vigor to limit the activities of professional plaintiffs.

Limitation on lead plaintiff's recovery

This legislation also removes the financial incentive for becoming a lead plaintiff. New section 27(a)(4) of the 1933 Act and section 21D(a)(4) of the 1934 Act limits the class representative's recovery to his or her pro rata share of the settlement or final judgment. The lead plaintiff's share of the final judgment or settlement will be calculated in the same manner as the shares of the other class members. The Conference Committee recognizes that lead plaintiffs should be reimbursed for reasonable costs and expenses associated with service as lead plaintiff, including lost wages, and grants the courts discretion to award fees accordingly.

IMPROVEMENTS TO THE SETTLEMENT PROCESS

Restriction on sealed settlement agreements

New section 27(a)(5) of the 1933 Act and section 21D(a)(5) of the 1934 Act generally bar the filing of settlement agreements under seal. The Conference Committee recognizes that legitimate reasons may exist for the court to permit the entry of a settlement or portions of a settlement under seal. A party must show "good cause," i.e., that the publication of a portion or portions of the settlement agreement would result in direct and substantial harm to any party, whether or not a party to the action. The Conference Committee intends "direct and substantial harm" to include proof of reputational injury to a party.

Limitation on attorney's fees

The House and Senate heard testimony that counsel in securities class actions often receive a disproportionate share of settlement awards.

Under current practice, courts generally award attorney's fees based on the so-called "lodestar" approach—i.e., the court multiplies the attorney's hours by a reasonable hourly fee, which may be increased by an additional amount based on risk or other relevant factors.[7] Under this approach, attorney's fees can constitute 35% or more of the entire settlement awarded to the class. The Conference Committee limits the award of attorney's fees and costs to counsel for a class in new section 27(a)(6) of the 1933 Act and new section 21D(a)(6) of the 1934 Act to a reasonable percentage of the amount of recovery awarded to the class. By not fixing the percentage of fees and costs counsel may receive, the Conference Committee intends to give the court flexibility in determining what is reasonable on a case-by-case basis. The Conference Committee does not intend to prohibit use of the lodestar approach as a means of calculating attorney's fees. The provision focuses on the final amount of fees awarded, not the means by which such fees are calculated.

Improved settlement notice to class members

The House and Senate heard testimony that class members frequently lack meaningful information about the terms of the proposed settlement.[8] Class members often receive insufficient notice of the terms of a proposed settlement and, thus, have no basis to evaluate the settlement. As one bar association advised the Senate Securities Subcommittee, "settlement notices provided to class members are often obtuse and confusing, and should be written in plain English."[9] The Senate received similar testimony from a class member in two separate securities fraud lawsuits: "Nowhere in the settlement notices were the stockholders told of how much they could expect to recover of their losses. . . . I feel that the settlement offer should have told the stockholders how little of their losses will be recovered in the settlement, and that this is a material fact to the shareholder's decision to approve or disapprove the settlement."[10]

In new section 27(a)(7) of the 1933 Act and new section 21D(a)(7) of the 1934 Act, the Conference Committee requires that certain information be included in any proposed or final settlement agreement disseminated to class members. To ensure that critical information is readily available to class members, the Conference Committee requires that such information appear in summary form on the cover page of the notice. The notice must contain a statement of the average amount of damages per share that would be recoverable if the settling parties can agree on a figure, or a statement from each settling party on why there is disagreement. It must also explain the attorney's fees and costs sought. The name, telephone number and address of counsel for the class must be provided. Most importantly, the notice must include a brief statement explaining the reason for the proposed settlement.

MAJOR SECURITIES CLASS ACTION ABUSES

Limits on abusive discovery to prevent "fishing expedition" lawsuits

The cost of discovery often forces innocent parties to settle frivolous securities class actions. According to the general counsel of an investment bank, "discovery costs account for roughly 80% of total litigation costs in securities fraud cases."[11] In addition, the threat that the time of key employees will be spent responding to discovery requests, including providing deposition testimony, often forces coercive settlements.

The House and Senate heard testimony that discovery in securities class actions often resembles a fishing expedition. As one witness noted, "once the suit is filed, the plaintiff's law firm proceeds to search through all of the company's documents and take endless depositions for the slightest positive comment which they can claim induced the plaintiff to invest and any shred of evidence that the company knew a downturn was coming."[12]

The Conference Committee provides in new section 27(b) of the 1933 Act and new section 21D(b)(3) of the 1934 Act that courts must stay all discovery pending a ruling on a motion to dismiss, unless exceptional circumstances exist where particularized discovery is necessary to preserve evidence or to prevent undue prejudice to a party. For example, the terminal illness of an important witness might require the deposition of the witness prior to the ruling on the motion to dismiss.

To ensure that relevant evidence will not be lost, new section 27(b) of the 1933 Act and new section 21D(b)(3) of the 1934 Act make it unlawful for any person, upon receiving actual notice that names that person as a defendant, willfully to destroy or otherwise alter relevant evidence. The Conference

Committee intends this provision to prohibit only the willful alteration or destruction of evidence relevant to the litigation. The provision does not impose liability where parties inadvertently or unintentionally destroy what turn out later to be relevant documents. Although this prohibition expressly applies only to defendants, the Conference Committee believes that the willful destruction of evidence by a plaintiff would be equally improper, and that courts have ample authority to prevent such conduct or to apply sanctions as appropriate.

"Fair share" rule of proportionate liability

One of the most manifestly unfair aspects of the current system of securities litigation is its imposition of liability on one party for injury actually caused by another. Under current law, a single defendant who has been found to be 1% liable may be forced to pay 100% of the damages in the case. The Conference Committee remedies this injustice by providing a "fair share" system of proportionate liability. As former SEC Chairman Richard Breeden testified, under the current regime of joint and several liability, "parties who are central to perpetrating a fraud often pay little, if anything. At the same time, those whose involvement might be only peripheral and lacked any deliberate and knowing participation in the fraud often pay the most in damages."[13]

The current system of joint and several liability creates coercive pressure for entirely innocent parties to settle meritless claims rather than risk exposing themselves to liability for a grossly disproportionate share of the damages in the case.

In many cases, exposure to this kind of unlimited and unfair risk has made it impossible for firms to attract qualified persons to serve as outside directors. Both the House and Senate Committees repeatedly heard testimony concerning the chilling effect of unlimited exposure to meritless securities litigation on the willingness of capable people to serve on company boards. SEC Chairman Levitt himself testified that "there [were] the dozen or so entrepreneurial firms whose invitations [to be an outside director] I turned down because they could not adequately insure their directors .... [C]ountless colleagues in business have had the same experience, and the fact that so many qualified people have been unable to serve is, to me, one of the most lamentable problems of all."[14] This result has injured the entire U.S. economy.

Accordingly, the Conference Committee has reformed the traditional rule of joint and several liability. The Conference Report specifically applies this reform to the liability of outside directors under Section 11 of the 1933 Act,[15] because the current imposition of joint and several liability for non-knowing Section 11 violations by outside directors presents a particularly glaring example of unfairness. By relieving outside directors of the specter of joint and several liability under Section 11 for non-knowing conduct, Section 201 of the Conference Report will reduce the pressure placed by meritless litigation on the willingesss of capable outsiders to serve on corporate boards.

In addition, Section 201 will provide the same "fair share" rule of liability, rather than joint and several liability, for all 1934 Act cases in which liability can be predicated on non-knowing conduct.[16]

In applying the "fair share" rule of proportionate liability to cases involving non-knowing securities violations, the Conference Committee explicitly determined that the legislation should make no change to the state of mind requirements of existing law. Accordingly, the definition of "knowing" conduct in the Conference Report is written to conform to existing statutory standards, and Section 201 of the Conference Report makes clear that the "fair share" rule of proportionate liability does not create any new cause of action or expand, diminish, or otherwise affect the substantive standard for liability in any action under the 1933 Act or the 1934 Act. This section of the Conference Report further provides that the standard of liability in any such action should be determined by the pre-existing, unamended statutory provision that creates the cause of action, without regard to this provision, which applies solely to the allocation of damages.

The Conference Report imposes full joint and several liability, as under current law, on defendants who engage in knowing violations of the securities laws. Defendants who are found liable but have not engaged in knowing violations are responsible only for their share of the judgment (based upon the fact finder's apportionment of responsibility), with two key exceptions. First, all defendants are jointly and severally liable with respect to the claims of certain plaintiffs. Such plaintiffs are defined in the Conference Report as those who establish that (i) they are entitled to damages exceeding 10% of their net worth, and (ii) their net worth is less than $200,000. The $200,000 net worth test does not reflect a judgment by the Conference Committee that investors who fall below this standard are "small," unsophisticated, or in need of or entitled to any special protection under the securities laws. Second, if a defendant cannot pay their allocable share of the damages due to insolvency, each of the other defendants must make an additional payment—up to 50% of their own liability—to make up the shortfall in the plaintiff's recovery.

The Conference Committee recognizes that private parties may wish to allocate attorney's fees and costs according to a formula negotiated previously by contract. Accordingly, the Conference Report provides that where authorized by contract a prevailing defendant may recover attorney's fees and costs. The Conference Report does not change the enforceability of indemnification contracts in the event of settlement.

Attorneys' fees awarded to prevailing parties in abusive litigation

The Conference Committee recognizes the need to reduce significantly the filing of meritless securities lawsuits without hindering the ability of victims of fraud to pursue legitimate claims. The Conference Committee seeks to solve this problem by strengthening the application of Rule 11 of the Federal Rules of Civil Procedure in private securities actions.

Existing Rule 11 has not deterred abusive securities litigation.[17] Courts often fail to impose Rule 11 sanctions even where such sanctions are warranted. When sanctions are awarded, they are generally insufficient to make whole the victim of a Rule 11 violation: the amount of the sanction is limited to an amount that the court deems sufficient to deter repetition of the sanctioned conduct, rather than imposing a sanction that equals the costs imposed on the victim by the violation. Finally, courts have been unable to apply Rule 11 to the complaint in such a way that the victim of the ensuing lawsuit is compensated for all attorneys' fees and costs incurred in the entire action.

The legislation gives teeth to Rule 11 in new section 27(c) of the 1933 Act and new section 21D(c) of the 1934 Act by requiring the court to include in the record specific findings, at the conclusion of the action, as to whether all parties and all attorneys have complied with each requirement of Rule 11(b) of the Federal Rules of Civil Procedure.

These provisions also establish the presumption that the appropriate sanction for filing a complaint that violates Rule 11(b) is an award to the prevailing party of all attorney's fees and costs incurred in the entire action. The Conference Report provides that, if the action is brought for an improper purpose, is unwarranted by existing law or legally frivolous, is not supported by facts, or otherwise fails to satisfy the requirements set forth in Rule 11(b), the prevailing party presumptively will be awarded its attorneys' fees and costs for the entire action. This provision does not mean that a party who is sanctioned for only a partial failure of the complaint under Rule 11, such as one count out of a 20-count complaint, must pay for all of the attorney's fees and costs associated with the action. The Conference Committee expects that courts will grant relief from the presumption where a *de minimis* violation of the Rule has occurred. Accordingly, the Conference Committee specifies that the failure of the complaint must be "substantial" and makes the presumption rebuttable.

For Rule 11(b) violations involving responsive pleadings or dispositive motions, the rebuttable presumption is an award of attorneys' fees and costs incurred by the victim of the violation as a result of that particular pleading or motion.

A party may rebut the presumption of sanctions by providing that: (i) the violation was de minimis; or (ii) the imposition of fees and costs would impose an undue burden and be unjust, and it would not impose a greater burden for the prevailing party to have to pay those same fees and costs. The premise of this test is that, when an abusive or frivolous action is maintained, it is manifestly unjust for the victim of the violation to bear substantial attorneys' fees. The Conference Committee recognizes that little in the way of justice can be achieved by attempting to compensate the prevailing party for lost time and such other measures of damages as injury to reputation; hence it has written into law the presumption that a prevailing party should not have the cost of attorney's fees added as insult to the underlying injury. If a party successfully rebuts the presumption, the court then impose sanctions consistent with Rule 11(c)(2).[18] The Conference Committee intends this provision to impose upon courts the affirmative duty to scrutinize filings closely and to sanction attorneys or parties whenever their conduct violates Rule 11(b).

Limitation on attorney's conflict of interest

The Conference Committee believes that, in the context of class action lawsuits, it is a conflict of interest for a class action lawyer to benefit from the outcome of the case where the lawyer owns stock in the company being sued. Accordingly, new section 27(a)(8) of the 1933 Act and new section 21D(a)(9) requires the court to determine whether a lawyer who owns securities in the defendant company and who seeks to represent the plaintiff class in a securities class action should be disqualified from representing the class.

Bonding for payment of fees and expenses

The house hearings on securities litigation reform revealed the need for explicit authority for courts to require undertakings for attorney's fees and costs from parties, or their

counsel, or both, in order to ensure the viability of potential sanctions as a deterrent to meritless litigation.[19] Congress long ago authorized similar undertakings in the express private right of action in Section 11 of the 1933 Act and in Sections 9 and 18 of the 1934 Act. The availability of such undertakings in private securities actions will be an important means of ensuring that the provision of the Conference Report authorizing the award of attorneys' fees and costs under Rule 11 will not become, in practice, a one-way mechanism only usable to sanction parties with deep pockets.[20]

The legislation expressly provides that such undertakings may be required of parties' attorneys in lieu of, or in addition to, the parties themselves. In this regard, the Conference Committee intends to preempt any contrary state bar restrictions that much inhibit attorneys' provision of such undertakings in behalf of their clients The Conference Committee anticipates, for example, that where a judge determines to require an undertaking in a class action, such an undertaking would ordinarily be imposed on plaintiffs' counsel rather than upon the plaintiff class, both because the financial resources of counsel would ordinarily be more extensive than those of an individual class member and because counsel are better situated than class members to evaluate the merits of cases and individual motions. This provision is intended to effectuate the remedial purposes of the bill's Rule 11 provision.

REQUIREMENTS FOR SECURITIES FRAUD ACTIONS

Heightened pleading standard

Naming a party in a civil suit for fraud is a serious matter. Unwarranted fraud claims can lead to serious injury to reputation for which our legal system effectively offers no redress. For this reason, among others, Rule 9(b) of the Federal Rules of Civil Procedure requires that plaintiffs plead allegations of fraud with "particularity." The Rule has not prevented abuse of the securities laws by private litigants.[21] Moreover, the courts of appeals have interpreted Rule 9(b)'s requirement in conflicting ways, creating distinctly different standards among the circuits.[22] The House and Senate hearings on securities litigation reform included testimony on the need to establish uniform and more stringent pleading requirements to curtail the filing of meritless lawsuits.

The Conference Committee language is based in part on the pleading standard of the Second Circuit. The standard also is specifically written to conform the language to Rule 9(b)'s notion of pleading with "particularity."

Regarded as the most stringent pleading standard, the Second Circuit requirement is that the plaintiff state facts with particularity, and that these facts, in turn, must give rise to a "strong inference" of the defendant's fraudulent intent. Because the Conference Committee intends to strengthen existing pleading requirements, it does not intend to codify the Second Circuit's case law interpreting this pleading standard.[23] The plaintiff must also specifically plead with particularity each statement alleged to have been misleading. The reason or reasons why the statement is misleading must also be set forth in the compliant in detail. If an allegation is made on information and belief, the plaintiff must state with particularity all facts in the plaintiff's possession on which the belief is formed.

Loss causation

The Conference Committee also requires the plaintiff to plead and then to prove that the misstatement or omission alleged in the complaint actually caused the loss incurred by the plaintiff in new Section 21D(b)(4) of the 1934 Act. For example, the plaintiff would have to prove that the price at which the plaintiff bought the stock was artificially inflated as the result of the misstatement or omission.

DAMAGES

Written interrogatories

In an action to recover money damages, the Conference Committee requires the court to submit written interrogatories to the jury on the issue of defendant's state of mind at the time of the violation. In expressly providing for certain interrogatories, the Committee does not intend to otherwise prohibit or discourage the submission of interrogatories concerning the mental state or relative fault of the plaintiff and of persons who could have been joined as defendants. For example, interrogatories may be appropriate in contribution proceedings among defendants or in computing liability when some of the defendants have entered into settlement with the plaintiff prior to verdict or judgment.

Limitation on "windfall" damages

The current method of calculating damages in 1934 Act securities fraud cases is complex and uncertain. As a result, there are often substantial variations in the damages calculated by the defendants and the plaintiffs. Typically, in an action involving a fraudulent misstatement or omission, the investor's damages are presumed to be the difference between the price the investor paid for the security and the price of the security on the day the corrective information gets disseminated to the market.

Between the time a misrepresentation is made and the time the market receives corrected information, however, the price of the security may rise or fall for reasons unrelated to the alleged fraud. According to an analysis provided to the Senate Securities Subcommittee, on average, damages in securities litigation comprise approximately 27.7%[24] of market loss. Calculating damages based on the date corrective information is disclosed may end up substantially overestimating plaintiff's damages.[25] The Conference Committee intends to rectify the uncertainty in calculating damages in new section 21D(e) of the 1934 Act by providing a "look back" period, thereby limiting damages to those losses caused by the fraud and not by other market conditions.

This provision requires that plaintiff's damages be calculated based on the "mean trading price" of the security. This calculation takes into account the value of the security on the date plaintiff originally bought or sold the security and the value of the security during the 90-day period after dissemination of any information correcting the misleading statement or omission. If the plaintiff sells those securities or repurchases the subject securities during the 90-day period, damages will be calculated based on the price of that transaction and the value of the security immediately after the dissemination of corrective information.

SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS

The muzzling effect of abusive securities litigation

Abusive litigation severely affects the willingness of corporate managers to disclose information to the marketplace. Former SEC Chairman Richard Breeden testified in a Senate Securities Subcommittee hearing on this subject: "Shareholders are also damaged due to the chilling effect of the current system on the robust and candor of disclosure. . . . Understanding a company's own assessment of its future potential would be among the most valuable information shareholders and potential investors could have about a firm."[26]

Fear that inaccurate projections will trigger the filing of securities class action lawsuit has muzzled corporate management. One study found that over two-thirds of venture capital firms were reluctant to discuss their performance with analysts or the public because of the threat of litigation.[27] Anecdotal evidence similarly indicates corporate counsel advise clients to say as little as possible, because "legions of lawyers scrub required filings to ensure that disclosures are as milquetoast as possible, so as to provide no grist for the litigation mill."[28]

Technology companies—because of the volatility of their stock prices—are particularly vulnerable to securities fraud lawsuits when projections do not materialize. If a company fails to satisfy its announced earnings projections—perhaps because of changes in the economy or the timing of an order or new product—the company is likely to face a lawsuit.

A statutory safe harbor for forward-looking statements

The Conference Committee has adopted a statutory "safe harbor" to enhance market efficiency by encouraging companies to disclose forward-looking information. This provision adds a new section 27A to the 1933 Act and a new section 21E of the 1934 Act which protects from liability in private lawsuits certain "forward-looking" statements made by persons specified in the legislation.[29]

The Conference Committee has crafted a safe harbor that differs from the safe harbor provisions in the House and Senate passed bills. The Conference Committee safe harbor, like the Senate safe harbor, is based on aspects of SEC Rule 175 and the judicial created "bespeaks caution" doctrine. It is a bifurcated safe harbor that permits greater flexibility to those who may avail themselves of safe harbor protection. There is also a special safe harbor for issuers who make oral forward-looking statements.

The first prong of the safe harbor protects a written or oral forward-looking statement that is: (i) identified as forward-looking, and (ii) accompanied by meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those projected in the statement.

Under this first prong of the safe harbor, boilerplate warnings will not suffice as meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those projected in the statement. The cautionary statements must convey substantive information about factors that realistically could cause results to differ materially from those projected in the forward-looking statement, such as, for example, information about the issuer's business.

As part of the analysis of what constitutes a meaningful cautionary statement, courts should consider the factors identified in the statements. "Important" factors means the stated factors identified in the cautionary statement must be relevant to the projection and must be of a nature that the factor or factors could actually affect whether the forward-looking statement is realized.

The Conference Committee expects that the cautionary statements identify important factors that could cause results to differ

materially—but not all factors. Failure to include the particular factor that ultimately causes the forward-looking statement not to come true will not mean that the statement is not protected by the safe harbor. The Conference Committee specifies that the cautionary statements identify "important" factors to provide guidance to issuers and not to provide an opportunity for plaintiff counsel to conduct discovery on what factors were known to the issuer at the time the forward-looking statement was made.

The use of the words "meaningful" and "important factors" are intended to provide a standard for the types of cautionary statements upon which a court may, where appropriate, decide a motion to dismiss, without examining the state of mind of the defendant. The first prong of the safe harbor requires courts to examine only the cautionary statement accompanying the forward-looking statement. Courts should not examine the state of mind of the person making the statement.

Courts may continue to find a forward-looking statement immaterial—and thus not actionable under the 1933 Act and the 1934 Act—on other grounds. To clarify this point, the Conference Committee includes language in the safe harbor provision that no liability attaches to forward-looking statements that are "immaterial."

The safe harbor seeks to provide certainty that forward-looking statements will not be actionable by private parties under certain circumstances. Forward—looking statements will have safe harbor protection if they are accompanied by a meaningful cautionary statement. A cautionary statement that misstates historical facts is not covered by the Safe harbor, it is not sufficient, however, in a civil action to allege merely that a cautionary statement misstates historical facts. The plaintiff must plead with particularity all facts giving rise to a strong inference of a material misstatement in the cautionary statement to survive a motion to dismiss.

The second prong of the safe harbor provides an alternative analysis. This safe harbor also applies to both written and oral forward looking statements. Instead of examining the forward-looking and cautionary statements, this prong of the safe harbor focuses on the state of mind of the person making the forward-looking statement. A person or business entity will not be liable in a private lawsuit for a forward-looking statement unless a plaintiff proves that person or business entity made a false or misleading forward-looking statement with actual knowledge that it was false or misleading. The Conference Committee intends for this alternative prong of the safe harbor to apply if the plaintiff fails to prove the forward-looking statement (1) if made by a natural person, was made with the actual knowledge by that person that the statement was false or misleading; or (2) if made by a business entity, was made by or with the approval of an executive officer of the entity with actual knowledge by that officer that the statement was false or misleading.

The Conference Committee recognizes that, under certain circumstances, it may be unwieldy to make oral forward-looking statements relying on the first prong of the safe harbor. Companies who want to make a brief announcement of earnings or a new product would first have to identify the statement as forward-looking and then provide cautionary statements identifying important factors that could cause results to differ materially from those projected in the statement. As a result, the Conference Committee has provided for an optional more flexible rule for oral forward-looking statements that will facilitate these types of oral communications by an issuer while still providing to the public information it would have received if the forward-looking statement was written. The Conference Committee intends to limit this oral safe harbor to issuers or the officers, directors, or employees of the issuer acting on the issuer's behalf.

This legislation permits covered issuers, or persons acting on the issuer's behalf, to make oral forward-looking statements within the safe harbor. The person making the forward-looking statement must identify the statement as a forward-looking statement and state that results may differ materially from those projected in the statement. The person must also identify a "readily available" written document that contains factors that could cause results to differ materially. The written information identified by the person making the forward-looking statement must qualify as a "cautionary statement" under the first prong of the safe harbor (i.e., it must be a meaningful cautionary statement or statements that identify important factors that could cause actual results to differ materially from those projected in the forward-looking statement.) For purposes of this provision, "readily available" information refers to SEC filed documents, annual reports and other widely disseminated materials, such as press releases.

Who and what receives safe harbor protection

The safe harbor provision protects written and oral forward-looking statements made by issuers and certain persons retained or acting on behalf of the issuer. The Conference Committee intends the statutory safe harbor protection to make more information about a company's future plans available to investors and the public. The safe harbor covers underwriters, but only insofar as the underwriters provide forward looking information that is based on or "derived from" information provided by the issuer. Because underwriters have what is effectively an adversarial relationship with issuers in performing due diligence, the use of the term "derived from" affords underwriters some latitude so that they may disclose adverse information that the issuer did not necessarily "provide." The Conference Committee does not intend the safe harbor to cover forward-looking information made in connection with a broker's sales practices.

The Conference Committee adopts the SEC's present definition, as set forth in Rule 175, of forward-looking information, with certain additions and clarifying changes. The definition covers: (i) certain financial items, including projections of revenues, income and earnings, capital expenditures, dividends, and capital structure; (ii) management's statement of future business plans and objectives, including with respect to its products or services; and (iii) certain statements made in SEC required disclosures, including management's discussion and analysis and results of operations; and (iv) any statement disclosing the assumptions underlying the forward-looking statement.

The Conference Committee has determined that the statutory safe harbor should not apply to certain forward-looking statements. Thus, the statutory safe harbor does not protect forward-looking statements: (1) included in financial statements prepared in accordance with generally accepted accounting principles; (2) contained in an initial public offering registration statement; (3) made in connection with a tender offer; (4) made in connection with a partnership, limited liability company or direct participation program offering; or (5) made in beneficial ownership disclosure statements filed with the SEC under Section 13(d) of the 1934 Act.

At this time, the Conference Committee recognizes that certain types of transactions and issuers may not be suitable for inclusion in a statutory safe harbor absent some experience with the statute. Although this legislation restricts partnerships, limited liability companies and direct participation programs from safe harbor protection, the Conference Committee expects the SEC to consider expanding the safe harbor to cover these entities where appropriate. The legislation authorizes the SEC to adopt exemptive rules or grant exemptive orders to those entities for whom a safe harbor should be available. The SEC should consider granting exemptive orders for established and reputable entities who are excluded from the safe harbor.

Moreover, the Committee has determined to extend the statutory safe harbor only to forward-looking information of certain established issuers subject to the reporting requirements of section 13(a) or section 15(d) of the 1934 Act. Except as provided by SEC rule or regulation, the safe harbor does not extend to an issuer who: (a) during the three year period preceding the date on which the statement was first made, has been convicted of a felony or misdemeanor described in clauses (i) through (iv) of Section 15(b)(4) or is the subject of a decree or order involving a violation of the securities laws; (b) makes the statement in connection with a "blank check" securities offering, "rollup transaction," or "going private" transaction; or (c) issues penny stock.

The Committee intends for its statutory safe harbor provisions to serve as a starting point and fully expects the SEC to continue its rulemaking proceedings in this area. The SEC should, as appropriate, promulgate rules or regulations to expand the statutory safe harbor by providing additional exemptions from liability or extending its coverage to additional types of information.

This legislation also makes clear that nothing in the safe harbor provision imposes any duty to update forward-looking statements.

The Conference Committee does not intend for the safe harbor provisions to replace the judicial "bespeaks caution" doctrine or to foreclose further development of that doctrine by the courts.

The safe harbor and stay of discovery

The legislation provides that, on any motion to dismiss the compliant based on the application of the safe harbor, the court shall consider the statements cited in the complaint and statements identified by the defendant in its moving papers, including any cautionary statements accompanying the forward-looking statement that are not subject to material dispute. The applicability of the safe harbor provisions under subsection (c)(1)(B) shall be based on the "actual knowledge" of the defendant and does not depend on the use of cautionary language. The applicability of the safe harbor provisions under subsections (c)(1)(A)(I) and (c)(2) shall be based upon the sufficiency of the cautionary language under those provisions and does not depend on the state of mind of the defendant. In the case of a compliant based on an oral forward-looking statement in which information concerning factors that could cause actual results to differ materially is contained in a "readily

available" written document, the court shall consider statements in the readily available written documents.

INAPPLICABILITY OF RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT (RICO) TO PRIVATE SECURITIES ACTIONS.

The SEC has supported removing securities fraud as a predicate offense in a civil action under the Racketeer Influenced and Corrupt Organizations Act ("RICO"). SEC Chairman Arthur Levitt testified: "Because the securities laws generally provide adequate remedies for those injured by securities fraud, it is both necessary and unfair to expose defendants in securities cases to the threat of treble damages and other extraordinary remedies provided by RICO."[30]

The Conference Committee amends section 1964(c) of title 18 of the U.S. Code to remove any conduct that would have been actionable as fraud in the purchase or sale of securities as racketeering activity under civil RICO. The Committee intends this amendment to eliminate securities fraud as a predicate offense in a civil RICO action. In addition, the Conference Committee intends that a plaintiff may not plead other specified offenses, such as mail or wire fraud, as predicate acts under civil RICO if such offenses are based on conduct that would have been actionable as securities fraud.

AUDITOR DISCLOSURE OF CORPORATE FRAUD

The Conference Report requires independent public accountants to adopt certain procedures in connection with their audits and to inform the SEC of illegal acts. These requirements would be carried out in accordance with generally accepted auditing standards for audits of SEC registrants—as modified from time to time by the Commission—on the detection of illegal acts, related party transactions and relationships, and evaluation of an issuer's ability to continue as a going concern.

The Conference Committee does not intend to affect the Commission's authority in areas not specifically addressed by this provisions. The Conference Committee expects that the SEC will continue its longstanding practice of looking to the private sector to set and to improve auditing standards. The SEC should not act to "modify" or "supplement" generally accepted auditing standards for SEC registrants until after it has determined that the private sector is unable or unwilling to do so on a timely basis. The Conference Committee intends for the SEC to have discretion, however, to determine the appropriateness and timeliness of the private sector response. The SEC should act promptly if required by the public interest or for the protection of investors.

FOOTNOTES

[1] This certification should not be construed to waive the attorney-client privilege.

[2] The notice provisions in this subsection do not replace or supersede other notice provisions provided in the Federal Rules of Civil Procedure.

[3] See Elliott J. Weiss and John S. Beckerman, "Let the Money Do the Monitoring: How Institutional Investors Can Reduce Agency Costs in Securities Class Actions," 104 Yale L.J. 2053 (1995).

[4] See testimony of Maryellen Anderson, Investor and Corporate Relations Director of the Connecticut Retirement & Trust Funds and Treasurer of the Council of Institutional Investors before the Securities Subcommittee of the Senate Committee on Banking, Housing, and Urban Affairs, July 21, 1993.

[5] See The Brancato Report on Institutional Investment, "Total Assets and Equity Holdings," Vol. 2, Ed. 1.

[6] See "Let the Money do the Monitoring," note 3, supra.

[7] See generally Majority Staff Report, May 17, 1994 at page 81 et seq.

[8] See testimony of Patricia Reilly before the Securities Subcommittee of the Senate Committee on Banking, Housing, and Urban Affairs, June 17, 1993.

[9] See NASCAT Analysis of Pending Legislation on Securities Fraud Litigation, Hearing on Securities Litigation Reform Proposals: Subcommittee on Securities, Senate Committee on Banking, Housing, and Urban Affairs, March 2, 1995.

[10] See testimony of Patricia Reilly, note 8 supra.

[11] See testimony of former SEC Commissioner J. Carter Beese, Jr., Chairman of the Capital Markets Regulatory Reform Project Center for Strategic and International Studies, before the Securities Subcommittee of the Senate Committee on Banking, Housing, and Urban Affairs, March 2, 1995 (citing testimony of Philip A. Lacavara before the Telecommunications and Finance Subcommittee of the House Committee on Energy and Commerce, hearing on H.R. 3185.)

[12] See testimony of Richard J. Egan, Chairman of the Board of EMC Corporation before the Securities Subcommittee of the Senate Committee on Banking, Housing, and Urban Affairs, June 17, 1993. See also testimony of Dennis Bakke, President and CEO, AES Corporation, before the Telecommunications and Finance Subcommittee of the House Committee on Commerce, January 19, 1995.

[13] See testimony of Hon. Richard Breeden, former Chairman, Securities and Exchange Commission, before the Subcommittee on Telecommunications and Finance, House Commerce Committee, February 10, 1995. See also testimony of Daniel Gelzer, id at 274.

[14] See testimony of Hon. Arthur Levitt, Chairman, Securities and Exchange Commission, before the Subcommittee on Telecommunications and Finance of the House Commerce Committee, February 10, 1995, at 192. See also id at 116, 126 (testimony of Dennis W. Bakke, Chairman and CEO, AES Corporation); id. at 137–8 (testimony of James Kimsey, Chairman, America Online).

[15] The Conference Report makes no change in the law with respect to Section 11 claims against other types of defendants. Section 11 expressly provides for a right of contribution, see Section 11(f), and this right has been construed to establish contribution and settlement standards like those set forth in the Conference Report. This section has no effect on the interpretation of Section 11(f) with respect to defendants other than outside directors.

[16] See Section 16(b) (short-swing transactions) and Section 18 (liability for misleading statements).

[17] See, e.g., testimony of Saul S. Cohen, Rosenman & Colin, before the Telecommunications and Finance Subcommittee of the House Committee on Commerce, February 10, 1995. ("In our experience, Rule 11 has been largely ineffective in deterring strike suits. As a general matter, courts rarely grant Rule 11 sanctions in all but the most egregious circumstances".)

[18] Rule 11(c)(2) limits sanctions to "what is sufficient to deter the repetition of such conduct or comparable conduct by others similarly situated".

[19] See testimony of John Olson, Chairman, American Bar Association Business Law Section, before the Subcommittee on Telecommunications and Finance, House Commerce Committee, February 10, 1995.

[20] See id.

[21] See, e.g., testimony of Saul S. Cohen, Rosenman & Colin, before the Telecommunications and Finance Subcommittee of the House Committee on Commerce at 234–35 (February 10, 1995).

[22] See id.

[23] For this reason, the Conference Report chose not to include in the pleading standard certain language relating to motive, opportunity, or recklessness.

[24] The percentages of damages as market losses in the analysis ranged from 7.9% to 100% See Princeton Venture Research, Inc., "PVR Analysis, Securities Law Class Actions, Damages as a Percent of Market Losses," June 15, 1993.

[25] See Lev and de Villiers, "Stock Price Crashes and 10b-5 Damages: A Legal, Economic and Policy Analysis," Standford Law Review, 7,9–11 (1994).

[26] See testimony of Hon. Richard C. Breeden, former Chairman, SEC, before the Securities Subcommittee of the Senate Committee on Banking, Housing, and Urban Affairs, April 6, 1995.

[27] See testimony of the National Venture Capital Association before the Securities Subcommittee on the Senate Committee on Banking, Housing, and Urban Affairs, March 2, 1995.

[28] See testimony of Hon. J. Carter Beese, former SEC Commissioner, at *id.*

[29] The concept of a safe harbor for forward-looking statements made under certain conditions is not new. In 1979, the SEC promulgated Rule 175 to provide a safe harbor for certain forward looking statements made with a "reasonable basis" and in "good faith." This safe harbor has not provided companies meaningful protection from litigation. In a February 1995 letter to the SEC, a major pension fund stated: "A major failing of the existing safe harbor is that while it may provide theoretical protection to issuers from liability when disclosing projections, it fails to prevent the threat of frivolous lawsuits that arises every time a legitimate projection is not realized." See February 14, 1995 letter from the California Public Employees' Retirement System to the SEC Courts have also crafted a safe harbor for forward-looking statements or projections accompanied by sufficient cautionary language. The First, Second, Third, Sixth and Ninth Circuits have adopted a version of the "bespeake caution" doctrine. See, e.g., In re *Worlds of Wonder Securities Litigation*, 35 F. 3d 1407 (9th Cir. 1994); *Rubinstein* v. *Collins*, 20 F.3d 169 (5th Cir. 1994), *Kline* v. *First Western Government Securities, Inc.*, 24 F. 3d 480 3d Cir. 1994); *Sinay* v. *Lamson & Sessions Company*, 948 F.2d 1037 (6th Cir. 1991); *I. Meyer Pincus & Associates* v. *Oppenheimer & Co., Inc.*, 936 F.2d 759 (2d Cir. 1991); *Romani* v. *Shearson Lehman Hutton*, 929 F.2d 875 (1st Cir. 1991); *Luce* v. *Edelstein*, 802 F.2d 49 (2d Cir. 1986); In re *Donald J. Trump Casino*, 7 F.3d 357 (3d Cir. 1993).

[30] See testimony of Hon. Arthur Levitt, Chairman, SEC, before the Telecommunications and Finance Subcommittee of the House Commerce Committee, February 10, 1995.

From the Committee on Commerce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

THOMAS BLILEY,
BILLY TAUZIN,
JACK FIELDS,
CHRIS COX,
RICHARD F. WHITE,
ANNA G. ESHOO,

As additional conferees from the Committee on the Judiciary, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

BILL MCCOLLUM,

Managers on the Part of the House.

ALFONSE D'AMATO,
PHIL GRAMM,
ROBERT F. BENNETT,
ROD GRAMS,
PETE V. DOMENICI,
CHRISTOPHER DODD,
JOHN F. KERRY,

Managers on the Part of the Senate.

CLINTON'S CASE FOR SENDING IN THE TROOPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, there is a remarkable column in today's Washington Times by its gifted editor/writer Wesley Pruden. It is titled "The Macabre Tribute to McNamara's Band." Some of us took to the floor here earlier this month to point out that Robert Strange McNamara was literally in Hanoi all but begging forgiveness and asking for a seminar on Vietnam in Vietnam where he could expiate his guilt on sending 58,700 American men to their death, 8 women, and try and go to his grave with some peace. He did this with Castro, a war criminal, down in Cuba, and now he wants to do it with the war criminals that prevail in Hanoi.

Listen to the opening of Mr. Pruden's column:

The man has no shame, but we knew that, and he is not talking about McNamara. He said:

Bill Clinton, who did everything but to defect to Hanoi to avoid doing his duty to his country 30 years ago, yesterday tried to make a case for sending young men to do their duty in Bosnia, and, being Bill Clinton, naturally he cast it as something else. In the afternoon, as an opportunity to immunize little children against childhood disease—this is an extraordinary opportunity, the President said, announcing $2 million for needles and serum for the children of all of that tragic area of the world.

It says that this man has a problem that others do not. If Mr. Clinton truly loathes the military, and he used that word in his infamous letter to Colonel Holmes that he wrote from England on December 3, 1969, there is no better way to show it than to send upwards of 20, 25; 40 is the better figure, Mr. Speaker, of our loathsome sons to a wintry nonholiday in the mountainous wilds of Bosnia where sniping at Americans or planting land mines under their feet will be the season's sport. Mr. Clinton enlists all the bromides and cliches, many weathered in antiquity, to make his case.

But as I listened to that case last night, Mr. Speaker, Vietnam, the killing fields of Cambodia and the tragedy of Laos kept going through my head. Clinton mentioned in his remarks that Americans will do good things in the face of defending freedom, and he mentioned World War I, which began in Sarajevo, by the way, World War II, Haiti, Iraq, the Middle East, Northern Ireland; he even mentioned Korea, but he studiously dodged paying tribute to the American sacrifices in Vietnam, a sacrifice he acidly scorned in the past, and when asked about Mr. McNamara's disgusting book of self vindication, Clinton told CNN reporter Wolf Blitzer that he, Clinton, felt vindicated by the war criminal McNamara's insidious book.

Mr. Speaker, I am going to do a 1-hour special order tonight. I hope my friends, the gentleman from Indiana [Mr. BURTON] and the gentleman from California [Mr. CUNNINGHAM], who is going to speak after me, will join me.

Here is the problem in the Balkans, and any one of these can be defeated singly. We have threatened and killed Serbs from the air. Now we are going to act as peacekeepers on the ground. We have trained the Croatian Army. I witnessed it myself in August. We have armed the Bosnian military through the airport at Zagreb with Iranian arms. One out of every three airplanes loaded to the gunnels with arms going to the Croats, the other two to the Bosnian Moslems. Now we have conducted peace negotiations, and we claim we are going to see through the indictment of the 53-plus war criminals, all but one a Croat, and he is a Serb, and the Croat is in custody, none of the Serbs are; that we are going to see through the war crimes trials going on at the Hague in the Netherlands. How can we do all of this together unless it is some complicated, incoherent mess that is going to get young American men, and now women. According to the Aspin, Halperin, Clinton plan, women will be going in harm's way, and I will bring to the floor tomorrow night the photograph and cowboy hat, working at home, of Randy Shugart, Medal of Honor winner from the streets of Mogadishu, along with a picture of my dad the day after the war in France with about 20 children. That war that started in Sarajevo, my dad was hit once with shrapnel, twice poison gas with mustard gas.

Mr. Speaker, I question and I want proof that Pope John Paul II, whose advice Clinton has not taken on the sanctity of human life; I doubt he asked Clinton to send our young men to Sarajevo so we would not end this century with a war there. I have a call in to the papal nuncio. I will give you a report on the veracity of that tomorrow night.

QUESTIONS ON DEPLOYING U.S. FORCES TO BOSNIA FOR CLINTON

1. What vital U.S. national interests are being threatened in Bosnia?

2. Have all options been used or considered before deploying U.S. forces?

3. Are you willing to extend the U.S. military commitment past one year to achieve success?

4. What do you consider a success in this operation?

5. What are the specific military and political objectives requiring deployment of 20,000? Why not more than 20,000 young American men and women?

6. If the aforementioned objectives change during the course of U.S. deployment, are you willing to provide our military with the adequate resources needed to meet the changed objectives?

7. Should U.S. forces be sent if the American people and Congress do not explicitly support such action?

8. Will it be guaranteed that the operational command of these forces be kept in American and allied hands?

9. Are you willing to ensure that U.S. personnel are always properly armed and trained to defeat any threat presented in Bosnia?

10. Are U.S. intelligence gathering operations properly sufficient in the Bosnia theater to maximize the security and protection of our troops and make their mission a success?

11. Will U.S. and allied intelligence be kept away from United Nations officials?

12. Are you ready to explain to American families why their son and daughter was put into harm's way?

13. If American air crews are shot down in the Bosnian Serb region, will U.S. forces be able to retrieve those forces and retaliate against those responsible?

14. What guarantees are you willing to make that every American will be accounted for in this operation?

15. Are you willing to increase resources and manpower significantly if that is what is determined to be needed to achieve success?

16. Volunteer reserve units are being called up for this operation. If this does not prove adequate, are you going to call into service various reserve units?

17. What are the specific rules of engagement for U.S. military personnel?

18. Will the rules of engagement include using force to protect civilian populations even when U.S. personnel are not threatened?

19. Does that include protecting civilian populations like ethnic Serbs in Croatia?

20. What will be the financial cost of this operation to U.S. taxpayers?

21. How do you intend to pay for these costs?

22. It is stated that an international conference will be held to discuss financing for the reconstruction of Bosnia, who will be a part of the international conference?

23. What kind of authority will these negotiators have in committing U.S. funds?

24. In Annex 1A, Article II of the Dayton Agreement, the parties to the agreement commit themselves to disarm and disband all armed civilian groups, except for authorized police forces. How will this be monitored to ensure all sides comply?

25. What will be the consequences of noncompliance?

26. In Annex 11, Article I of the agreement, a U.N. International Police Task Force (IPTF) will be created to carry out the program of assistance for law enforcement. Who will comprise the IPTF?

27. Will the IPTF be armed?

28. If so, will there be IPTF officers in the American protected region?

29. According to the agreement, the IPTF officers will only be able to notify higher officials of failure by the parties to comply with IPTF mandate. What good will that be if IPTF officers come across severe human right violations or other criminal activities?

30. NATO Army commanders had counted on a zone of separation 12 miles wide between the Serb and Muslim-Croat sides to keep Serb artillery as far away as possible. Why did U.S. negotiators agree to just a zone of separation 2½ miles wide?

31. The Bosnian Serbs will be required to reduce their military potential to the level where it is no longer a threat to the Muslim Croat Federation. How will it be determined if the Serb military potential is a threat?

32. If the Bosnian Serb forces do not comply, will U.S. forces be used to weaken the Bosnian Serb military potential or to strengthen the Muslim forces?

33. Will strengthening the Muslim forces include arming and training the Muslim forces?

34. Will the Croats consider such U.S. action a threat?

35. Will not the Bosnian Serbs consider the U.S. as its antagonist if we try to weaken their side or strengthen the Muslims?

36. Doesn't such a strategy place U.S. forces in the precarious position of being directly in between the Serbs and Muslims?

37. In Annex 1A, Article III, the agreement states that all foreign forces, including individual advisors, freedom fighters, trainers, volunteers, and personnel from neighboring and other states, shall be withdrawn from the Bosnian territory. How will this be carried out?

38. Will this require U.S. forces trying to prove every individual's true national identity in their sector?

39. How will it be determined who are foreign nationals in the Serb zone while there are no Implementation Forces in the Serb region?

40. Many officials in the region believe that without an accounting of the human rights abuses in the Balkans and just punishment for those acts, a long-term solution will not be achieved. Will U.S. forces be used to help account for the numerous violations?

41. Will U.S. forces be used to continue uncovering the evidence of mass killings in the Bosnian Serb regions?

42. The agreement states that 54 accused Serbian war criminals will not be allowed to hold democratically elected offices. What about the one Croatian accused war criminal General Tihomir Blaskic, now the top inspector in the Croatian army, indicted by the U.N. war crimes tribunal?

43. Will U.S. forces be used to chase down war criminals, like the failed Delta Force operation to arrest Aideed in Somalia, which resulted in the death of 19 Americans and the mutilation of five of their bodies?

44. There were 400,000 Serbs; 90,000 Muslims and 20,000 Croats displaced from their homes just in 1995. How will the NATO forces guarantee that these people can have safe passage back to their original homes in Bosnia?

45. What will be done to ensure that Serbs who had lived in Croatia will be guaranteed safe return back into Croatia?

46. Ethnic Serbs control the Eastern Slavonia region of Croatia around the devastated town of Vukovar and are supposed to cede control back to Croatia. What if that does not happen?

47. A wider Posavina Corridor in Northern Bosnia, which links the western and eastern regions controlled by the Bosnian Serbs, is supposed to be surrendered to Bosnian Serb forces by Croatian forces. Will U.S. forces be used to ensure Croat compliance?

48. Will U.S. forces be used to protect the Muslim enclave of Gorazde in Eastern Bosnia, which is totally surrounded by the Bosnian Serbs?

49. The Dayton agreement stipulates that each side will be allowed to maintain their own army and parliament. What will be the makeup of the Muslim-Croatian confederation parliament and what will be the structure of the Confederation Army?

50. What is the exit strategy for U.S. forces?

Mr. Speaker, again I submit for America the Weinberger-Dornan 10 principles for committing U.S. combat forces:

1. The U.S. must not commit combat forces unless the situation is vital to U.S. or allied national interests.

2. The U.S. must not commit combat forces unless all other options already have been used or considered.

3. The U.S. must not commit combat forces unless there is a clear commitment, including allocated resources, to achieving victory.

4. The U.S. must not commit combat forces unless there are clearly defined political and military objectives.

5. The U.S. must not commit combat forces unless our commitment of these forces will change if our objectives change.

6. The U.S. must not commit combat forces unless the American people and Congress supports the action, therefore insuring that the American people have been represented.

7. The U.S. must not commit combat forces unless under the operational command of American commanders or integrated allied commanders under a ratified treaty, thereby having insured joint training.

8. The U.S. must not commit combat forces unless properly equipped, trained and maintained by the Congress.

9. The U.S. must not commit combat forces unless there is substantial and reliable intelligence flow including HUMINT (human intelligence).

10. The U.S. must not commit combat forces unless the commander in chief and Congress can explain to the loved ones of any killed or wounded American soldier, sailor, Marine, pilot or aircrewman why their family member or friend was sent in harm's way.

[From USA Today, Nov. 27, 1995]

WEIGHING U.S. ROLE: ARGUMENTS FOR, AGAINST SENDING TROOPS

Key arguments for and against a U.S. military role in Bosnia-Herzegovina peace plan:

PRO

The United States has a moral obligation to try to end the genocide and random violence.

The United States, as a guarantor of the peace pact, must send troops to separate warring forces and establish clear borders.

U.S. forces will represent only a third (20,000) of the 60,000-person NATO force.

U.S. forces will operate under NATO, not United Nations, command, and have broader authority to respond to threats than they did in Somalia and Haiti.

The United States must lead the Bosnia peace effort to maintain its leadership role in NATO and Europe.

The United States cannot go back on the president's pledge to send troops without losing credibility internationally.

U.S. forces can withdraw if the peace agreement is violated.

Keeping peace in Bosnia keeps conflict from spreading.

Bosnian Serb leaders indicted as war criminals will have no role in the new government.

U.S. troops will not be required to track down war criminals or cope with refugees.

The firepower of Bosnian Muslims, long outgunned by Bosnian Serbs, will be improved, helping stabilize the situation.

For the first time, three warring parties, the Bosnians, Croats and Serbs, have initialed an agreement that divides land and agrees to a central government, signaling their interest in peace.

CON

There is no vital U.S. security interest in providing peacekeeping troops in Bosnia.

About 45,000 to 60,000 dissident rebel Serbs object to the accord. Operating in small groups, they could kill U.S. troops in retaliation.

The deployment will cost $1.5 billion at a time of budget constraints.

The peace pact is suspect because it would not have been reached without the U.S. commitment to send troops as enforcers.

Bosnian Serbs who have been bombed by NATO may view peacekeepers as the enemy.

An estimated 6 million land mines threaten U.S. troops.

U.S. troops will be required to settle local disputes over the treaty, which may give them the appearance of taking sides, and lead to retaliation.

The fighting in Bosnia is based on age-old disputes unlikely to be resolved in the 12-month period the U.S. peacekeeping force would be in the region.

Using NATO forces as peacekeepers is a mission for which the defense alliance is not designed and was not created.

The number of U.S. troops—20,000—is too small to effectively police the peace agreement and puts soldiers at risk.

[From the Washington Times, Nov. 28, 1995]

THE MACABRE TRIBUTE TO MCNAMARA'S BAND

(By Wesley Pruden)

The man has no shame, but we knew that.

Bill Clinton, who did everything but defect to Hanoi to avoid doing his duty to his country 30 years ago, tried yesterday to make a case for sending young men to do their duty in Bosnia and, being Bill Clinton, naturally cast it as something else—an opportunity to immunize little children against childhood disease.

"This is an extraordinary opportunity," the president said, announcing that he would commit $2 million for the needles and the serum.

"We have a very compelling responsibility," he said, stopping just short of announcing that Miss Hillary would accompany the troops as a Red Cross doughnut girl.

Anyone who objects to doing for Europe what European boys should be doing naturally despises children almost as much as the Republicans hate old folks, and probably roots for measles and chickenpox.

The bad news is that the commander-in-chief has the authority to send troops anywhere in the world, even to liberate Scotland from Di's daffy in-laws if such a notion pops into his head, and in the end Congress, skeptical or not, will have little choice but to stamp it "OK."

Once they're in place, there's not a man or woman among us—well, not many—who won't insist that they get everything they need to protect themselves and to make themselves as comfortable as possible.

Besides, if Mr. Clinton truly "loathes" the military, as he said he does, there's no better way to show it than to send upwards of 25,000 of our "loathsome" sons to a wintry holiday in the mountainous wilds of Bosnia, where sniping at Americans, or planting land mines under their feet, will be the season's sport.

Mr. Clinton enlists all the bromides and cliches, many well weathered in antiquity, to make his case: "We must not and we will not turn our backs on peace. The accord [signed in Dayton] offers the people of Bosnia the first real hope of peace in nearly four years. Now we have a responsibility to see this achievement through. That is who we are as a people. That is what we stand for as a nation."

This is remarkably like the fervent exhortations Lyndon Johnson employed to persuade young Bill Clinton three decades ago, and the mature Bill Clinton can only hope that it sounds better in a mock-sincere Arkansas drawl than in a tinny Texas twang.

From the snug comfort of their campaign headquarters, the president and his men, who were—in Mr. Clinton's youthful words—"too educated to fight," can live out the vicarious bang-bang enthusiasms they missed in Vietnam. Just as in Vietnam, the men the president sends to Bosnia will have to deal with the fierce ethnic rivalries and bitter suspicions that fragmented the countryside in the first place. In his speech last night, the president recited the scenes of other American attempts to do good in the face of fighting, in World Wars I and II, in Haiti, Iraq, the Middle East and even Northern Ireland. He studiously dodged paying tribute to the American sacrifice in Vietnam, a sacrifice he has acidly scorned in the past.

Mr. Clinton promises to go through the motions of seeking the support of Congress, and Congress will go through the motions of resisting. But in the end the troops will debark—unless the president changes his mind, and nobody is foolish enough to bet against that—and Congress will go along. How can it not, if we intend to redeem whatever shred of respect the rest of the world has for us three years into the Clinton era.

Bob Dole, who has seen the face of war up close and personal, understands this. "I want to be in a position to support the president," he says. "It seems to me, when it comes to foreign policy, if we speak with one voice, we're better off." He makes the point that the president "never thought foreign policy was important until now."

Congress has an obligation to the men and women it puts in harm's way to make it clear, since the president and his men won't, exactly who it is who's sending them there, and why. Defense Secretary William Perry, echoing Robert McNamara from the summer of '65, says the American role will be completed within a year. Warren Christopher, echoing Dean Rusk, dusts off the infamous domino theory ("the fighting could spread to Europe unless we act now").

Nicholas Burns, a State Department spokesman who will get no closer to Bosnia than Constitution Avenue, recites the "ironclad" assurances of the Serbians that they intend to be nice when the Americans arrive, and he scoffs at Radovan Karadzic's grim promise to make Bosnia "bleed for decades" as being meaningless because "his best days are behind him."

Perhaps. And perhaps Bill Clinton's, too, as his chickens from Saigon come home to roost on Pennsylvania Avenue.

RAIDING SOCIAL SECURITY TO BALANCE THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii [Mr. ABERCROMBIE] is recognized for 5 minutes.

Mr. ABERCROMBIE. Mr. Speaker, I am going to begin a series of, I do not know if they can be called lectures, tonight; this is by way of introduction; but certainly a series of observations on what is ostensibly taking place tonight, which is presumably the first meeting with respect to balancing the budget.

Mr. Speaker, I have been on the floor here previously indicating to you and to my colleagues and to the American people that the budget that has been presented to us is not going to be a balanced budget, certainly not a balanced budget in the sense that most Americans understand it to be. This is because we are going to have a category called off-budget spending.

Now the average person and the average household who has to deal with their budget does not begin to accept this kind of terminology, and the fact is that Speaker GINGRICH has indicated over and over again that he wants to have a balanced budget in 7 years, and he wants honest numbers. Well, I am perfectly willing to deal with that situation. I would like to approach it from a different perspective, and I will be discussing that in the days to come as well as to what that might be as an alternative.

But what is before us now very frankly is not honest numbers, not honest numbers as people understand them. I hope that we will be able to get a much broader discussion under way throughout the Nation as to what constitutes this balanced budget. If the Speaker wants to have honest numbers, then I think he needs to come down here on the floor and indicate that he is going to take money from the Social Security Trust Fund in order to do this balancing. That is where it is going to come from.

I will use the figures of the Congressional Budget Office. This is not something that I am going to be making up because it suits me. There has been an insistence that the Congressional Budget Office figures be used.

Now, I will indicate to you, Mr. Speaker, that the Congressional Budget Office will confirm that in order for the budget, as presented by the majority, to be balanced that it must take from the Social Security Trust Fund upward of $636 billion plus interest, so that in the year 2002, 7 years from now, when the majority is saying that the budget will be balanced, those of you who expect to be able to draw on Social Security will find that there will be a gigantic IOU for almost $1 trillion.

Now I am only one person so far, but I believe, if you have the truth on your side, that it will out. Dozens and dozens and dozens of Members can come down on this floor and say they are going to balance the budget in 7 years, and I will maintain that unless they can explain how they are going to pay the almost $1 trillion that they have taken from Social Security to pay for it, they cannot do it.

You need only look at the budget document itself and it will show every year a deficit. The budget document of the House indicates that starting this year there will be a deficit, and each year that deficit has to be accounted for.

No. 4; this is from the conference report of the 104th Congress, first session, concurrent resolution in the budget proposal for that year, 1996, presented in June of this year. The fourth sequence, deficits. For the purpose of the enforcement of this resolution the amount of the deficits are as follows: Fiscal year 1996, $245 billion, listing on up to the year 2002, $108 billion.

How is it possible for the Speaker or anyone else presenting the budget formula for the press, for the American people, to say that the budget is going to be balanced if by the conference report itself there is a $108 billion deficit? Very simple. You take $115 billion from Social Security, from the trust fund, and wonder of wonders, you come up with a $10 billion surplus.

In the days to come, Mr. Speaker, I am going to be examining what this is all about and what it means.

Now the average family, when they are being told that the budget is going to be balanced in 7 years and told that that is a good thing for the United States, has no idea that Social Security is being attacked, and as I have indicated, Mr. Speaker, and I appreciate this opportunity to make this introduction, in the days to come I will detail for you and for my colleagues and the American public how there is no balanced budget, how we are raiding the Social Security Trust Fund to mask the deficit that will actually exist in 2002.

IS BOSNIA WORTH DYING FOR?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, in 1961, President Kennedy said:

> We must face the fact that the U.S. is neither omnipotent nor omniscient—that we are only 6% of the world's population—that we cannot impose our will upon the other 94%—that we cannot right every wrong or reverse each adversity—and that therefore there cannot be an American solution to every world problem.

President Kennedy was right then, and his words are good advice today.

We should follow this advice in regard to the situation in Bosnia.

Last week, the cover of Time magazine showed an American soldier and asked the question: "Is Bosnia worth dying for?"

I believe the overwhelming majority of the American people would answer with an emphatic "no."

It should be for Bosnians because that is their homeland, but not for young Americans.

This is a limited ethnic conflict that has been going on for hundreds of years, and will continue unless we pour many billions in to stop it. And as soon as we stop pouring in billions, the situation will go right back like it was.

We should not send young American soldiers onto foreign battlefields unless there is a serious threat to our national security or unless there is a very real and very vital U.S. interest at stake.

Neither of these is present in Bosnia. Yet now, the President, regardless of how the American people feel, regardless of how the Congress votes, is going to send 20,000 troops into Bosnia.

We will then have another 20,000 in immediate nearby support in Croatia, the Adriatic Sea, and other places.

I had one veteran who called me last night who said that he was always told in Vietnam that it took seven troops in the rear to support one in the field.

We are making a tremendous commitment here. The worst thing is putting so many American lives at risk.

Then there is the huge money involved. We are told right off the bat that this effort will cost a minimum of $1.6 billion for the troops in the field.

We have promised another $600 million in direct foreign aid. That is an initial $2.2 billion and that is just the tip of the iceberg.

I now am told that the Bosnian leadership says they will need $35 billion in

loans or aid from the World Bank or other sources to rebuild their country.

Most of this will end up coming from the United States.

B.J. Cutler, the foreign affairs columnist for the Scripps-Howard newspaper chain, wrote several months ago:

If guarding people from the savagery of their rulers is America's duty, it would be fighting all over the world, squandering lives and bankrupting itself.

He was not writing about Bosnia, but his words are certainly applicable here.

There are at least 15 or 16 small wars going on around the world at any time. Some people say many more than that.

Why then are we trying to solve this insolvable problem.

Well, I think in part it is because our national media focused on this one.

But, I think the larger reason is that some people in high positions in this country are never satisfied with just running the United States.

They want to make a place for themselves in history. They want to be described as, or thought of as, world leaders.

That is why I believe there is such a class division on this.

Many upper-crust liberal elitist types—many NPR devotees, are all for this—because they want to prove to everyone that they care about foreign policy and are concerned about world affairs.

Horror of horrors, they certainly don't want to be associated with low-class, unintellectual isolationists. That would not be fashionable, that would not be politically correct.

But, Mr. Speaker, even one American life is too many and all these billions it will cost is to high a price to pay just so a few people in our Government can display world leadership and show their superiority to their unenlightened fellow citizens.

We should not get involved in this Bosnian quagmire.

The potential dangers and costs are simply too high.

The United States leads the world in humanitarian and charitable aid for those in other countries.

No other nation is even a close second.

Most Americans want to help out in international tragedies. We are already doing far more than our share. France, Germany, Sweden, Japan, and others are not even coming close.

We have no reason to feel guilty.

And, I repeat, Mr. Speaker, what I said at the beginning. We do not need to get involved militarily in Bosnia or anywhere else unless there is a real threat to our national security or a vital U.S. interest at stake.

Neither of these is present in Bosnia.

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THE CIRCUMSTANCES OF SENDING IN AMERICAN TROOPS

The SPEAKER pro tempore (Mr. CHRYSLER). Under a previous order of the House, the gentleman from Illinois [Mr. MANZULLO] is recognized for 5 minutes.

Mr. MANZULLO. Mr. Speaker, the people of this country are about to be subjected to a situation where 20,000 American troops will be sent into very difficult territory in the area that we know as Bosnia-Herzegovina. Let us take a look at the circumstances under which they will have to do that. I am holding the Proximity Peace Talks, which is an outline of the circumstances giving rise to the exact language of the peace talks. Listen to the country created by these peace talks.

"The country will be known as the Republic of Bosnia and Herzegovina, but the country will be split in two because it will also have two entities comprised of the Federation of Bosnia and Herzegovina and the Serb Republic. The Federation of Bosnia and Herzegovina will control 51 percent of the country."

I ask you, is that type of a situation tenable? Let me also throw something out here. There will not be one President on the new Constitution, there will not be two Presidents, it will be a troika, three Presidents, if that is correct. There will be three Presidents to run this country we know as the Republic of Bosnia and Herzegovina. That will be one Moslem, one Croat, and one Serb.

Do you really think that a troika comprised of these three who have been fighting essentially for the past 1,500 years can get along? But, Mr. Speaker, more important is the fact that American troops will be sent to Bosnia-Herzegovina for the purpose of killing, if necessary, to protect the peace. That is correct. The language in this report says that the troops should use "necessary force to ensure compliance."

What does that mean? That means they can use the gig guns to clear out the 2½-mile-wide demilitarized zone, but it means something else. American troops actually under the NATO command will try to do one of two things. They will try to keep the big guns away from the Serbs, and if that does not work, then they will try to arm the Bosnians to try to bring about military parity.

Mr. Speaker, this does not make sense. This is a peace agreement? A peace agreement means people shake hands, repent, reconcile, and say, "Let's go on with our lives, and put the war behind us." But what has happened here is the fact our President is going to put American troops in the position of fighting the war that the Bosnians have not been allowed to fight themselves. That is right. The United Nations, with the approval of the President, has steadfastly refused to allow the Bosnians to have the weapons with which to defend themselves. That has cased the tremendous amount of carnage in that country.

Now we have this great peace plan, the peace plan where Americans will be authorized to kill in order to enforce the peace. True peace in that area can only be brought about if the Americans leave the area, if NATO leaves the area, and we allow the Bosnians to arm themselves. I ask this question: Is it right for American blood to be spilled in Bosnia when the American President has not allowed the Bosnians to fight their own war?

CONCERNS REGARDING AMERICA SENDING PEACEKEEPING TROOPS TO BOSNIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. CUNNINGHAM] is recognized for 5 minutes.

Mr. CUNNINGHAM. Mr. Speaker, I know Members on both sides of the aisle are anguishing on whether we send troops or not to Bosnia. Let me give a few of this Member's concerns. First of all, I have had not one constituent walk up to me and say, "Duke, send our troops." Quite on the contrary, it has been overwhelmingly "Duke, try to stop it if you can."

Second, General Boyd and General MacKenzie, both in charge in that portion of the world in Bosnia-Herzegovina have stated: "Stay out. It will be a disaster." These are the two generals that headed up our forces in that particular part of the world.

I look at the cost. NATO has said that it is not $2.2, but by the end it will cost us $3 billion to $6 billion. The President just signed a balanced budget in 7 years agreement. Where is the money going to come from? Even if you have a supplemental, you have to offset it. You have to pay for it. We cannot do that.

NATO is broke today, billions of dollars. France said just 2 weeks ago that we can plan on a 20-year commitment with NATO in that portion of the world. Who is going to end up paying for that, Mr. Speaker? We are. The President said that the primary source of nation building will come from Europe. It also leaves a lot of room for the United States. We are looking at billions of dollars when we are talking about a time when balancing a budget, providing for Medicare, and a lot of other things that the other side is arguing against it.

I also look at the $4,000, much of it deemed. These are not the Bosnian Muslims, but primarily those from Iran, Iraq, Pakistan, Albania, that are the radicals. If they are allowed to stay in that portion of the world, these are the ones that have sworn a worldwide Jihad against Jews, Christians, and all nonbelievers. They will attack our troops, and they have got to go. We have got to demand equal treatment.

That has not happened in the past. Have Serbs and Croatians and Muslims

committed atrocious acts? Absolutely, all three groups. But we need not to train one side. Can you imagine during this peace agreement, we go in and train any side or give arms to any side? If I was on any one of the other two, I would say that is an act of war. I think that is the plan.

Who would come in with arms? France, Iran, Iraq, Russia, and yes, Mr. Speaker, even the United States, to sell arms. I think that would be disastrous.

I have another concern. President Clinton is going to be in a campaign mode over the next year. During Desert Storm, President Bush was focused. Colin Powell was focused. Dick Cheney was focused on Desert Storm, not on political activities coming up. I feel that if you look at Secretary Perry, I think he is a fairly good Secretary of Defense, but with all due respect, he is not a tactician. He is a politician and a bean counter. He is not a Dick Cheney.

I look at the problems of what we could end up with, as we did in Vietnam with Johnson and McNamara, that we are ill-suited for the job of the defense of our kids. We could get bogged down in Bosnia. I also look at what could happen to Saddam Hussein, in North Korea, and other areas, and the terrorist activities that could pick up.

We are $200 billion below the bottom-up review in defense dollars. That is the bare-bone minimum to fight two conflicts. The GAO has said we are $200 billion. the Chairman of our Joint Chiefs said is our military ready; yes, we are, but it is a paper-thin readiness that will not last more than a few weeks. If we get bogged down there, Mr. Speaker, I am afraid we will be in big trouble.

I look at replies that we had from Turkey that said they would come in with 20,000 troops around Sarajevo, Russia would send in 20,000 troops to align themselves between the Croats and the Serbs, without a single U.S. soldier involved. Why has the President not taken them up on this, without committing our troops? We must not arm or disarm any party, we must not train or arm any party, we must not get involved in civil disobedience protests, we must treat all even-handedly.

We must demand that all Mideast radical 4,000 Mujahidin be eliminated, all foreign regular troops be eliminated. I would like to submit for the RECORD this article from the Associated Press on the death of an American citizen at the hands of the radical Muslims.

The material referred to is as follows:

AMERICAN SLAIN IN NORTHERN BOSNIA

SARAJEVO, BOSNIA-HERZEGOVINA.—An American man working for the United Nations has been murdered in Bosnia, and a U.N. official yesterday said Middle Eastern fighters backing the Bosnian government are suspected.

The body of the American citizen, whose identity was not immediately released, was found by Bosnian police Sunday evening near the town of Banovici, 10 miles northwest of Tuzla.

Tuzla is the biggest Bosnian government-held city in northeastern Bosnia, and would be the headquarters for U.S. soldiers taking part in a NATO peace mission in Bosnia.

A U.N. official said the body was found just 500 yards from where Norwegian peacekeepers were stopped last month by mujahedeen, fighters from Middle Eastern countries helping the Muslim-led Bosnian government. The official said investigators suspect the mujahedeen were responsible for the American's death.

These fundamentalist cutthroats must be out by the time our troops are in place.

CONCERN ABOUT DEPLOYING GROUND TROOPS TO BOSNIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. RAMSTAD] is recognized for 5 minutes.

Mr. RAMSTAD. Mr. Speaker, I too am deeply concerned about the President's announced commitment to deploy 20,000 United States ground troops in Bosnia. I do not believe, Mr. Speaker, that document has articulated a compelling national interest in Bosnia worth the loss of American soldiers. We have no overriding national interest in Bosnia, and there is absolutely no reason American troops should be placed in harm's way as part of an ill-defined mission there.

Mr. Speaker, calling this mission a peacekeeping mission is a misnomer. This is a tenuous peace at best, and a potential quagmire for our troops at worst.

This is clearly not a legitimate peacekeeping mission, or 240,000 troops would not be required. Yes, I say 240,500, as the spokesperson at the Pentagon was quoted in Defense News today, counting the support troops. We hear the number 60,000, including 20,000 American servicemen and women, but the total number of troops, according to this statement today, is 240,000 troops.

Mr. Speaker, this mission goes way beyond peacekeeping to nation building. History should have taught us that we cannot build a nation from the outside.

Mr. Speaker, I ask, how much longer can the United States be denying a one-one number for the rest of the world? This is a European conflict, and using United States troops as a global peace force is neither a defensible function nor a practicing pragmatic reality for our military. Using our troops as a global police force in my judgment, and I say this respectfully, but I believe that it reflects a basic misunderstanding of our military's historic mission and capabilities.

□ 2030

Mr. Speaker, this situation is fraught with danger. Our troops will be sitting ducks, literally, physically, sitting ducks, positioned between the two warring factions.

Mr. Speaker, I think we have to recognize what is going on, what the political realities are in this part of the world. This is a war that has been going on for ethnic strife for 4,000 years. The present fighting has been going on for 40 years and longer.

Just today, just today, the Serb leader, Karadzic, and the mayors of the Sarajevo suburbs held a protest march; and some of the things they were saying, and I am quoting now, that the Dayton Agreement has created a new Beirut in Europe, referring of course to Lebanon's 15-year civil war, and that there will be bloodshed for centuries to come, that the ethnic Serbs will not be dominated by the Croats and the Moslems, that this is a Balkan powder keg.

We all know, Mr. Speaker, there are 6 million land mines waiting in the former Yugoslavia for our troops. Sixty thousand ethnic Serbs, according to Karadzic, will have grenades in their pockets. Well, Mr. Speaker, we have to be aware of these dangers.

The President mentioned the unspeakable human rights' violations. Certainly these crimes against humanity are as loathsome as any in the history of the world. But, Mr. Speaker, similar crimes have been documented by Amnesty International in 58 other countries. Why not Afghanistan? Why not go to Rwanda, to China, to Cuba, and all of the other countries in which similar crimes are being perpetrated against humanity?

Mr. Speaker, this mission is a logistical nightmare and will be extremely dangerous for U.S. troops who will be potentially under fire from all three factions.

Mr. Speaker, what is the solution here in this very complex and difficult situation? I would ask unanimous consent to submit for the RECORD, and I would commend all of my colleagues' attention to this editorial from today's Wall Street Journal, November 28, 1995, by two former Under Secretaries of Defense. Let me quote from this very provocative and profound piece:

The goal of U.S. policy toward Bosnia should be Bosnian self-reliance. We should aim to make it possible for the Bosnian government to defend its own country militarily. Congress should oppose the deployment of U.S. forces to Bosnia unless the administration make clear and binding commitment to create, by arming and training Bosnian Federation forces, a qualitative military balance between Bosnian-Croatian and Serb forces in the former Yugoslavia.

Mr. Speaker, that criterion has not been met.

This article goes on to say, very wisely,

Unfortunately, the Daytona Accords lack clear commitments to equip and train the Bosnian forces. Administration statements are disturbingly ambiguous on this point.

This piece concludes by saying,

If we are unable to help put the Bosnian government in a position to defend itself, the administration will find, when it wants to withdraw our forces after a year or so, that if cannot do so without triggering a catastrophe.

This piece is written by two people who served in previous administrations in the Defense Department who know about what they are writing.

Mr. Speaker, I hope and pray that the Congress will have its say on behalf of the American people before this deployment is made. I fear that we will not have such a voice in this deployment. I think each one of us here in this body, in the people's House, needs to examine our consciences, needs to listen to the people we represent and press this issue in the people's House. I know in Minnesota, in the Third District, my calls in the last 2 days have run 178 to 2 against this deployment.

Mr. Speaker, I offer for the RECORD the following article which I referred to earlier.

[From the Wall Street Journal, Nov. 28, 1995]

THE ARGUMENT CLINTON ISN'T MAKING ON BOSNIA

(By Paul Wolfowitz and Douglas J. Feith)

Having committed an armored division of American "peacekeepers" for Bosnia with little analysis and even less consultation, the Clinton administration now contends that Congress has no responsible choice but to concur. To be sure, if it repudiates the president's troop commitment, Congress would be blamed for bringing about resumption of the war, a collapse of American leadership in NATO and perhaps of the alliance itself, and a dangerous perception around the world of the U.S. becoming isolationist and unreliable.

But even worse than not backing the president's commitment would be for Congress to approve uncritically a flawed policy that could fail disastrously. Congress has a duty to try to force the administration to define sensible goals for the mission. Americans remember Lebanon and Somalia, where we managed to lose both men and credibility. we remain dubious of the operation in Haiti, which may succeed in restoring dictatorship rather than democracy. If U.S. troops end their Bosnia mission without having achieved what they came to do, especially if they take significant casualties, the consequences will be graver by far.

LITTLE GUIDANCE

The administration acknowledges the problem by stressing that U.S. troops will not be deployed unless there is a peace to enforce. But this rather sensible condition for getting in gives little guidance for how and when to get out.

There is one compelling rationale for U.S. participation in the international peacekeeping force: Bosnia has been the victim of international aggression and of crimes against humanity that the Bosnian Serbs, supported by the Milosevic regime in Belgrade, have committed against hundreds of thousands of predominantly Muslim Bosnians. The U.S. and our European allies and others bear a large measure of responsibility for these horrors because we have maintained an international arms embargo on Bosnia. The Bosnian government's troops have numerical superiority over their enemies, but, as a result of the embargo, they have remained inferior in equipment, especially heavy armor and artillery.

The goal of U.S. policy toward Bosnia should be Bosnian self-reliance. We should aim to make it possible for the Bosnian government to defend its own country militarily. Congress should oppose the deployment of U.S. forces to Bosnia unless the administration makes a clear and binding commitment to create, by arming and training Bosnian Federation forces, a qualitative military balance between Bosnian-Croatian and Serb forces in the former Yugoslavia.

If the peacekeeping force is conceived as a means of keeping Bosnia subject to unrealistic arms limitation schemes, and therefore doomed to remain a ward of NATO or the U.S., Congress should oppose it. But if peacekeepers are intended to deter aggression for the year or so needed for the Bosnian government to move toward self-reliance in the defense field, then the strategic and moral case for U.S. participation should be easier for Americans to credit.

Unfortunately, the Dayton Accords lack clear commitments to equip and train the Bosnian forces. Administration statements are disturbingly ambiguous on this point. U.S. officials say they have assured the Bosnians that federation forces will be equipped and trained, but that assurance itself is hedged by a misplaced faith that new arms control agreements might make it unnecessary. According to the accords, no weapons will be delivered for 90 days and no heavy weapons for 180 days, pending arms control talks. Also, U.S. statements make it clear that we will try to get others to do the equipping and training. (It is not reassuring that we still lack a good estimate of Bosnian requirements, even though for three years the Clinton administration said that it aimed to lift the arms embargo.)

These limitations imply that moving quickly or openly to arm the Bosnians would be destabilizing, but the opposite is true. To ensure a stable Bosnia and to be able to withdraw our troops on schedule, we must be committed, publicly and resolutely, to a rapid equip-and-train program. (Defensive systems not covered by the envisioned arms control regime, such as anti-tank missiles and counter-battery radars, are needed with particular urgency, given the precarious position of Sarajevo.)

The administration's hesitations seem to reflect a belief that equipping and training federation forces would be inconsistent with a "neutral" role for American peacekeepers.

It is important, however, to see clearly the purpose of the peacekeeping force: It must uphold the peace agreement generally, but it is intended also to deter the Serbs from taking advantage of their current (temporary) advantage in armaments. It is not correct or constructive to talk of the peacekeepers as "neutral." They do not have to be neutral to perform their mission any more than police have to be neutral as between shopkeepers and robbers. In fact, pretending to be neutral when none of the parties so regards us actually increases the danger to U.S. forces at a tactical level, by making it more difficult for them to decide how to respond to provocations or ambiguous situations on the ground. It was this posture that helped produce the inadequate security precautions taken by U.S. Marines in Beirut. The best way to shore up the peace is through a policy that deters Serbian aggression and secures Bosnian compliance through American support and cooperation.

EXIT STRATEGY

If the administration is to allay public and congressional skepticism about the troop deployment, it must make clear that arming and training Bosnian Federation forces is not only consistent with our role in the peacekeeping force, it is also the key to the "exit strategy" for our troops. If we are unable to help put the Bosnian government in a position to defend itself, the administration will find, when it wants to withdraw our forces after a year or so, that it cannot do so without triggering a catastrophe.

BOSNIA, MEDICARE, AND THE BUDGET

The SPEAKER pro tempore (Mr. CHRYSLER). Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 60 minutes.

Mr. KINGSTON. Mr. Speaker, having just returned from a series of meetings in Georgia and meeting with a number of constituents during the work recess period, there are three predominant things that people have on their minds back home, and I think this is probably true all over America, and that is Bosnia, Medicare, and the budget.

I would like to speak very briefly on Bosnia, because we are now in a new phase where the President, our Commander in Chief, has officially decided to embark in a new phase of the debate by sending and committing to send 20,000 of our troops over there. We all want to support troops who are anywhere fighting in the world at the order of the Commander in Chief, and yet certainly in Bosnia we have a lot of questions.

The questions that we had debated 2 weeks ago when we had a very critical vote on Bosnia, which in that vote Congress decided against sending troops over there, and our questions were at the time: What is our peril? What is the timetable that we will be there? What is the plan? Who are our allies? How long will we be there? How will we get out of being there? And what is the exact mission?

These questions need to be answered. I think within the next couple of weeks the President will be answering these through his staff members to Congress. Senate hearings, I believe, began today, Mr. Speaker. So I think it is appropriate that we look at this and continue this debate.

Mr. Speaker, as the previous speaker, the gentleman from Minnesota [Mr. RAMSTAD] said, clearly the people of America at this point are not in support of sending troops to Bosnia; and I think, because of that, we need to define what the American peril is, and I have yet to hear what that peril is. It is very important for us to know before we send our sons and daughters over there.

Mr. Speaker, I was in Italy in August and had the opportunity to be briefed by NATO on the Bosnian situation. In August, when one talked about Bosnia, it was years and years away in terms of everything that has happened; and yet,

in that discussion, one of the things that struck me was who are our allies. It is not just Bosnians and Croatians and Serbians. There are all kinds of subgroups and countergroups and local warloads and so forth.

I know often when we try to take humanitarian supplies into one section another group down the road or up the road from them would block the supply trucks, even though they all had the same label as being Bosnians. Yet they were different, because they were from a different territory. So one of my main questions is going to be that I hope to find out in the next couple of weeks who will our allies be.

Then a question that has come up more and more lately as we debate balancing the budget is what is this going to cost us? Will we really be able to get out of there in a year or is it going to be like so many other peaces that we have won worldwide?

The peace that we got in Somalia, the peace that we got in Haiti, the peace that we got anywhere is really purchased peace. It is a matter of the United States of America pulling out the checkbook and buying off the warring factions. I would like to know what those costs are. I know our taxpayers back home would like to know also.

Mr. Speaker, we are going to have debates and we are going to have hearings, and this is a good process. The War Powers Act has been debated since the inception of our great democracy, and yet the Congress and the President still view these things differently. Again, we do want to support the troops individually. It looks like at this point they are going to go over there, yet at the same time we have congressional duties of our own and we will begin immediately in due diligence to answer some of the questions that we have been asking on the floor of the House.

Mr. Speaker, on Medicare let me just say this. The gentleman from Connecticut [Mr. SHAYS], who is the budget expert, is down here. Our colleague, the gentlewoman from Connecticut [Mrs. JOHNSON] was able to come to Savannah this weekend and found the time to meet with a lot of our hospitals and nursing homes and home health care professionals and other health care providers, and we talked about the fact that in April the Medicare trustees said Medicare is going to run out of money in 2 years, it will be bankrupt in 6 years; it is the obligation and duty of the Congress to act to preserve and protect Medicare, which we have been doing.

We are trying to slow down the inflation rate of Medicare, the growth of it. It is right now at about 11 percent; regular medical inflation is more in the 4- to 6-percent range. We believe if we can get Medicare costs in that 4- to 6-percent range, we can save it. Yet at the same time, we are committed to increased spending per recipient from $4,800 to $6,700.

As I said that to the people back home, they said, well, that is not a cut. We said, well, yes, it is true. We are going from about $178 billion to $278 billion.

Mr. Speaker, let me yield back the balance of my time, and maybe the gentleman from Connecticut [Mr. SHAYS] would yield a few minutes to me to complete that thought.

BOSNIA AND THE BUDGET

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

Mr. SHAYS. Mr. Speaker, I yield to my colleague, the gentleman from Georgia [Mr. KINGSTON] to complete his presentation.

INCREASING MEDICARE BENEFITS

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding. I will just say real quickly something that is very appropriate to the subject that the gentleman from Connecticut [Mr. SHAYS] is going to address, which is the budget, and that is that in Washington, a decrease in the anticipated increase is considered a cut, which means if you are wanting to spend $15,000 and you only spend $10,000 more than you did last year, then that is a $5,000 cut instead of a $10,000 increase.

Therefore, so much of the debate I think is tainted by the fact that we use what are normal, every day, commonplace words, but we change them into an illegitimate-type usage so that the word "cut" again is a decrease in the anticipated increase.

Again, Mr. Speaker, I will say in that context we are increasing Medicare benefits per recipient from about $4,800 to $6,700 over a 7-year period of time, and we are doing that by giving seniors more options than normal Medicare. We are going to opt to have Medicare Plus, we are going to have managed care options, health maintenance organizations options; we will have medical savings account options and physician service network options, preferred provider organizations, all kinds of things which I think are very exciting. I have discussed these options with my parents and other senior citizens that I know, and they are excited about it and they are glad that we are going to move to protect and preserve Medicare.

Mr. Speaker, I now need to yield back to the gentleman from Connecticut his time, and maybe we can have a good discussion on the budget.

Mr. SHAYS. Mr. Speaker, I thank the gentleman and I would encourage him to participate in this special order. We are joined also by the gentleman from Maine [Mr. LONGLEY].

Mr. Speaker, this is obviously a time that many of us are focused in on Bosnia, and whether or not we are going to be committing troops. We are going to devote most of this special order to the budget, not Bosnia. However, I just want to put on the record that the vote on what Congress does and decides to do on the issue of whether we commit troops to Bosnia is going to be not a partisan debate.

Each member of a vote like that is going to look to his own conscience, is going to be checking and talking with people in the administration and outside of the administration to know ultimately what is the proper vote. I know that if I had to vote today, I would not be sending troops to Bosnia, but I have pledged to have a very open mind about this issue.

The President has committed our Government to send 20,000 troops, has made it very clear that he intends to work with NATO, and that obviously has to count for a lot. He is the Commander in Chief. However, then we have to wrestle with whether or not there is a defined national interest, whether we know exactly what that mission is, and if we know what that mission is, how we are going to carry it out and ultimately what will be our exit policy. We cannot be there indefinitely, how do we ultimately exit Bosnia and leave it better off than it is.

□ 2045

I am tempted to suggest to my leadership that we invite the participants who signed the agreement to come to Washington and convince us that they truly want peace. Because if we are just going there sending our troops, 60,000 sounds like a lot, ultimately, 20,000 Americans, but spread over such a wide part, a large area, there will not be a heavy concentration of troops practically in any one area, our troops will be at risk if the warring factions are not committed to the concept of peace.

So I want to start out this special order by just being on record as saying that I intend to keep an open mind, though if I had to vote, I would vote no, that it is not a partisan kind of decision, that we know we are talking about the lives of Americans, men and women who while volunteering trust us to engage them when there is a national interest and not when there is not a national interest. I do not know if either one of you would care to comment.

Mr. LONGLEY. If the gentleman would yield, I just would add to what the gentleman from Connecticut has said, that the most serious decision that any President can make is the decision to send American men and women into harm's way, and that I know that every Member of this body feels a very heavy responsibility to evaluate honestly and fairly the decision that the Commander in Chief is

now presuming to make. As speaking for myself, I have been very skeptical about what the benefit and certainly any number of risks that American service men and women would confront on the ground in Bosnia but I also feel that the President needs to be given every benefit of the doubt. Again, that does not necessarily mean that we may ultimately agree with him but again we respect the fact that this is about the lives of young American men and women and our role in the world.

But I think it is also important to mention Bosnia in the context of the budget, as two of the many very serious issues that we are dealing with, and I guess it is, for whatever purpose or reason at this point in time we are not only faced with the prospect of American ground troops in Bosnia but we are also debating how we might best balance this budget and finally get this country on the track to a balanced budget over the next 7 years. Frankly as we debate in this Chamber, we still do not know whether or not, even though the President last night spoke to the country about his need or his feeling that we needed to send American ground troops to Bosnia, we still do not have a decision as to whether he is willing to accept the defense budget that has been passed by this body and the Senate and sent to him for his signature. Again there is a strange irony in the fact that the President as Commander in Chief is now planning to commit American forces overseas in Bosnia, yet we are faced with the possible veto of the defense bill that was passed by this body. Again given the issues in Bosnia, given the significance of national defense and the fact that we may be asking men and women to risk their lives in pursuit of what the President deems to be our national interest, given the issues that are underlying the need, I feel, for once and for all finally getting Washington to accept the discipline of a balanced budget, I have no doubt that the public is watching us very closely, in fact, perhaps far more closely and with far more scrutiny than sometimes we may come to appreciate.

Mr. KINGSTON. One of the things that I think the gentleman from Connecticut [Mr. SHAYS] said that is extremely important and I wish we could really front-page bold-type your words about the warring factions asking for our troops to come there to help them keep peace. Because they are not asking. You had said that you were part of a group inviting them to come to Washington and assure us that it was their wish and desire to have American troops there as an integral part of them resolving their problems peacefully. They are not going to do that.

As you recall in Ohio last week, they would barely shake hands and they avoided eye contact. So I think you have really hit something very key to this whole debate. Are we thrusting our troops and our American, quote, good will on these folks, or are they saying, "We can't do it without you"? I am not sure. We need to find out.

Mr. SHAYS. The bottom line is that that is an important question to have answered along with what the President said, a well-defined mission after describing what our national interest is. That as yet has not been described to us. So, we are going to be doing everything possible to get answers to those questions and then ultimately to vote intelligently. It is an extraordinarily important vote.

It is just one of many votes obviously that are important in the days and weeks and months to come. I am happy my colleagues have joined me to just have a dialog about kind of what we have seen happen in the last year, and what we might expect ultimately to be the result of this effort.

It seems to me that we have had as a majority party three primary objectives: One is to get our financial house in order and balance our Federal budget within the timeframe of 7 years, or less. Ideally less.

The other is to save our trust funds, particularly Medicare, from insolvency and then ultimate bankruptcy, and ultimately to work on the long-term savings. We have a short-term crisis, then we have a long-term, when the baby boomers start to enter in as retirees in 2010 to the year 2030. By year 2030, all the baby boomers will be in. There will be a gigantic group from age 65 to 85. The third issue, and it is a little harder to define but is probably as important as the other two and maybe even more important, and I describe it this way. We are looking to transform our caretaking social and corporate welfare state into what I would describe as a caring opportunity society where American citizens feel that this is truly the land of opportunity. Instead of giving them the food to eat, we give them the seeds and teach them how to grow the seeds into food, ultimately has to be our biggest interest.

We set out last year with a Contract With America and it has been amply described and we do not need to get into all aspects of it but what I was so proud about was that this was a positive agenda of what we wanted, of what we were going to do as a majority party, a firm commitment to the American people. A number of reforms in the opening day of the session, meaningful reforms, and then a long-term, 100-day effort with 10 major bills.

Nowhere in the contract did we criticize Democrats in Congress, and nowhere did we criticize the President. It was interesting that the Contract With America was criticized. Yet if you analyzed it, we were doing something that they say politicians do not always do and, that is, instead of criticizing the other side, we said. "This is what we stand for, this is what we are going to do", and none of it was negative. It was all positive.

Mr. KINGSTON. I was in the State legislature before I got here. One of the things I have always heard about politicians is you make one set of promises on the campaign trail and then you vote a different set of philosophies once you are in elected office.

This was the first time in my knowledge in my political experience that Members of Congress, elected officials, actually kept the campaign brochure in their front pocket. And as you remember, it was even read each day, the first 1-minute of each day was to read the Contract With America.

Again as you are saying, this is what we are going to do, this is what we promised we would do, this is what we are doing, and now after the first 100 days, that is what we did.

Mr. SHAYS. I notice we have been joined by a new Member, the gentleman from Kansas [Mr. BROWNBACK]. We welcome you here. I think of how important the new Members have been as a catalyst, obviously one to give us the opportunity to be in the majority, but the second thing, a strong base of new Members that have been determined that we will fulfill the commitments that we made. I am happy to yield to my friend.

Mr. BROWNBACK. That is what I find out when I go home, that people are surprised that we are. That they go and say, "I really support and agree with what you guys are doing. You know what, I love it because this is what you said you were going to do and you're doing it." I even have had people that said, "I didn't vote for you but I'm going to this next time because you're doing exactly what you said you were going to do".

I do not know why this should be any great shock but it is in a political system that we are getting that done.

I would like to if, I could, compliment the gentlemen as well on the reform efforts we are getting done, gift ban passed 2 weeks ago, on the verge of lobby reform. Campaign finance next year. Those are key things that the gentleman from Connecticut [Mr. SHAYS] has done a tremendous amount of work on.

Mr. KINGSTON. If the gentleman would yield a second, putting Congress under the same laws as the American people, the Shays Act, from the gentleman from Connecticut.

Mr. BROWNBACK. An amazing thing to think that we were not under the same laws but we were not. But right now we are about to engage in one of the most historic things in re-shaping this Federal Government right now and that is balancing the budget. I do hope the administration is watching and going to participate in actually forming a 7-year budget that goes to balance, zero deficit in year 7, so that we can get rid of this deficit.

I get worried that the administration is not going to participate in this. I certainly hope that they are going to and that they are not just going to criticize the budget plan that we are putting forward. We have put forward a very specific budget plan and I hope the administration puts forward an equally specific budget plan of how we get to balance in 7 years. It is critical for our future, it is critical for our priorities, and we need to have a legitimate dialog and debate just about that.

Mr. LONGLEY. If the gentleman would yield, I would just like to point out again, we just celebrated the Thanksgiving holiday last week. Certainly all of us in our own way pause to give thanks for the great blessings that we have received as individuals, as families, and as a country.

I have been fortunate enough to live overseas for a year or two of my life, and it just really makes me realize how fortunate and how lucky we are as Americans to live in this country. But it also gives me an opportunity to kind of reflect back over the last 18 months, and one of the thoughts that came to my mind was, as important as the Contract With America was, the one aspect of the contract that really stood above all of the others is the need to get this country on the track to a balanced Federal budget.

I mention that because when I look at the 850 plus or minus votes that we have cast over the last 10 months, the dozens of issues that we have had very strong and maybe even very heated debates about, a lot of that has obscured the fundamental reason that many of us got into politics and decided to run for this office and to serve in this body, which is to get the country on the track to a balanced budget.

To pick up on what the gentleman from Kansas just said, I as a citizen, as a Member of Congress, as someone who is concerned about the welfare of this country, in listening to the President speak last night, in the back of my mind I am saying to myself, is the administration truly committed to balancing the budget in the 7-year timeframe?

Again, the President campaigned on the fact that he wanted to balance the budget in 5 years. We do not have an agreement to do it in 7 years. Given the fact that he has been in office for 2 years already, effectively what we have done is provided a mandate of a 9-year balanced budget when, in fact, the administration, the President, campaigned on a 5-year budget.

The only reason I mention that is that I want to be positive and I want to believe that we can count on the President and his administration to deliver on this commitment. I say I thought about that last night because one of the feelings that I know any American soldier or marine will have, and I have to confess that I felt that myself, having served during Desert Storm in northern Iraq, you always wonder. You realize that your fate is in the hands of powers far greater than you are.

I hope that the administration is serious about working with us. We are going to have policy disagreements. Republicans and Democrats can disagree, but we need to disagree within the context of balancing the Federal budget and taking no more than 7 years to do it.

In my view, the President's commitment to that objective is just as sacred a commitment as his duties as Commander in Chief when he orders American men and women into service overseas. I see a linkage between the two issues.

I will feel, frankly, far greater confidence in the administration's commitment to send troops to Bosnia if I know that they are also serious about keeping their commitments in other areas. Because if they are serious about keeping their commitment on the budget, then I know that they are going to be serious about keeping their commitment to act in the best interests of our men and women who may be called to duty over overseas.

I would yield back to the gentleman, but I wanted to pick up on the point he just made so very well.

Mr. BROWNBACK. I appreciate that very much from the gentleman from Maine.

I yield to the gentleman from Michigan [Mr. SMITH].

Mr. SMITH of Michigan. We do not want to spend a lot of time eulogizing the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Do not spend any time. We do not have much left.

Mr. SMITH of Michigan. But I am proud to work with you, CHRIS. Everybody knows the guy that is just consistent, that is soft-spoken, that has good ideas and follows through on them. I am certainly proud to work with you on all of these issues, from campaign finance reform to balancing the budget.

See, we just need to shout out and say,'' Look, does everybody realize what a predicament this huge, overbloated Government has gotten us into and the imposition that it is placing on our kids and our grandkids''?

□ 2100

You know, we say balance the budget, but even at the end of 7 years we are still borrowing $100 billion from the trust funds. And yet the whining and the moaning and the criticizing about our going too far, we are hurting our economic future and we are putting this load on our kids. you know, we have got unfunded liabilities in Social Security and Medicare, Medicaid, promises we have made to retirees. We have now guaranteed that we are going to hold harmless all the private pension funds just in our overzealousness to try to do good things to people so we will get re-elected.

We have really made some commitments that are placing us in great jeopardy.

Mr. SHAYS. I thank the gentleman for how incredibly persevering he has been in waking us to the fact that we cannot continue to increase our national debt until we get our financial house in order, and this made an incredible difference making sure people recognize increasing the national debt is very much related to the deficit that we have every year. We have deficits because we spend more than we raise in revenue each year, and the end of each year they just keep getting added to the national debt.

I was thinking about my colleagues talking about Thanksgiving and how much we have to be grateful for. This is a very bountiful Nation, but we are mortgaging our children's future and we need to wake up to that fact.

Thirty years ago, as one of the documents that you gave us pointed out, we had a debt of only $375 billion, and as your document pointed out, we had World War I, World War II, the Korean War, Vietnam War that was financed by debt, and now, with no war basically, we have gone from $375 billion to $4,900 billion, a 13-fold increase in a short period of time.

Mr. SMITH of Michigan. If the gentleman will yield, the interest on our public debt subject to the debt limit now is almost $330 billion. You compare that with 1977 of a total Federal budget of $370 billion, it is disrespectful.

Mr. SHAYS. We have been joined as well by the gentleman from Arizona. I would like to get us to begin to focus on what we are trying to do. What we are trying to do is get our financial house in order and balance the Federal budget at least within 7 years. There is nothing that says we could not do it in 6 or 5. We can talk about whether this is a difficult task or not.

In one sense, the gentleman from Kansas was pointing out people have said, you know, you vote for the balanced budget amendment, and there were over 305 Members who did that; and we are voting to balance it in 7 years, which is the balanced budget amendment said do it within 7 years. We are doing it for a logical reason. We just want to care about our children.

Mr. KINGSTON. Let me ask the gentleman a question. I am on the Committee on Appropriations. You guys are the budgeteers. I want to ask you something many constituents ask me, and that is you look at the Bush tax deal in 1990, look at Gramm-Rudman, you look at all these grand crescendos we had in Washington followed by a lot of bipartisan hugging and kissing, backslapping, are we not great? Then we wait. The budget is never balanced.

Is this going to be the case? Why 7 years? Those of us who are here in this Chamber tonight, we may not be elected in 7 years. Now we may cut the budget and start it. What is going to make sure that in the year 1997, 1998, 1999, 2000?

Mr. SHAYS. I would like to take a first crack at that. Basically, there are two parts of this budget we are focused in on. One is the appropriations the gentleman is very much involved in. That is only one-third of our budget.

Congress, for so many years, attempted to control the growth of spending by focusing on one-third of the budget. By entitlements, you fit a title, you are given a certain sum of money, a certain benefit, whether it is Medicare, Medicaid, welfare, food stamps, and so on. You get that benefit. Those entitlements have been growing. Gramm-Rudman never focused in on entitlements.

This is the first Congress, and the gentleman from Kansas was talking about those who said, you know, good, you are following through, and the positive response. We are getting some negative response. We have to be very up front about it. We are taking on a lot of special interests. It mostly focuses in on the entitlement side. I do not think people realize we are cutting some programs. We are eliminating some programs. The vast bulk of programs, most of them entitlements, will grow at significant rates. Medicare is going to grow at 7.2 percent, Medicaid at over 5 percent.

In some cases, we are seeing a lot of expansion. We are still trying to ultimately have spending slow the growth of spending so it ultimately intersects with revenue by the seventh year, and no balanced budget.

I yield to my colleague, the gentleman from Arizona, who has joined us.

Mr. HAYWORTH. I thank my good friend from Connecticut. He raises a point that is absolutely valid and cannot be repeated too often. That is the fact in the span of little more than 40 weeks in a majority in this Chamber we are looking to reverse the course of 40 years of a philosophy predominated by the notion of bigger is better in a centralized government, in a centralized bureaucracy.

The gentleman from Connecticut is quite correct to point out that what we have decided to do at long last, after almost a half century, is to seriously evaluate the efficiency and the practicality of the entitlement programs in addition to discretionary spending.

I look in the well, I see my good friend from Michigan, and I know that he has been a watchdog on these issues. I know that at times he quite accurately, I believe, voices some frustration that we hear from many of our constituents saying it is not happening fast enough. What I would say, Mr. Speaker, to those who join us tonight here in this special order is we get the message.

But a journey of 1,000 miles, in this case a journey of $12 trillion, to mix metaphors here, begins not with a single step but in this single session dedicated to making the fundamental change necessary.

Mr. SHAYS. I did not answer the second part. Obviously, we have to be vigilant each and every year. We have to make sure we do the heavy lifting this year and next year and not ask the next Congress and the Congress after that one. But one thing that is quite significant, if we can make changes in entitlements, still allow them to grow but slow their growth, that becomes written in law and becomes an automatic process.

So if we can make some significant changes in entitlements today, they will be in law, not sunsetted. So that is our effort.

Mr. BROWNBACK. If the gentleman will yield for just a moment, I think there is another pressure point here. I do not know how many people caught what Chairman Greenspan said yesterday of the Federal Reserve in front of the Senate Banking Committee. He said if Congress fails to balance the budget in 7 years, interest rates are going up, they are going up. This is the chairman of the Federal Reserve saying to Congress there are many incentives and one of the key ones is what will happen to this economy if you fail and what will happen immediately and directly as a consequence of your failure.

To just hook onto one of the points of the gentleman from Arizona, we are talking spending $12 trillion over 7 years. This is $12 trillion in Government spending. This is a lot of money that we are going to spend for the Government, $12 trillion. It is enough to run this Government on.

Mr. LONGLEY. If I could just add something to that, you know, and I respect the comments of the gentleman from Arizona, but we have built this Government up over 40 years, and there is not a single vote that I do not cast that I am not concerned about what is the impact of this vote, if it is in changing the funding pattern for a program or possibly eliminating a program, and I respect the fact that many of these programs, much of the spending that Washington now engages in, was built up in good faith on the assumption that we were going to be able to make positive changes in society. But I think what we have come to realize is that the money is not the issue.

Yes, money is part of the issue. But it is not the entire issue.

What has happened is that money and Government have become ends in themselves in Washington to the detriment of the values that make this country what it is, and the lack of accountability, the distance that Washington has from what is going on in local and State Government, and I have no doubt in my mind that we are making the tough decisions that we need to make because money is not the only issue.

It is now recognizing that individuals and local government and State Government need to have the authority and the responsibility to be able to do what only they can do and that much of what we have pretended Washington could do has not worked, and we have got to find new ways to do it.

Mr. SMITH of Michigan. If the gentleman will yield further, I think, Mr. Speaker and colleagues, that the American people should know that we are now at a turning point. Will the President work with us in changing the welfare programs and the entitlements? Because those programs represent 60 percent of the savings that need to be made to finally achieve a balanced budget, and the President right now, I do not know if you heard the reports from leadership when they met with the White House, they are still discussing how CBO will do the scoring.

Is the President serious about having a balanced budget in 7 years? Will he work with Congress in developing the kind of changes for the welfare programs so that we no longer have welfare as we know it?

Mr. SHAYS. Maybe the gentleman would just explain the significance of what the Congressional Budget Office is, a nonpartisan office, not partisan office, that sets the economy, that determines where the economy is going to go. What is so significant about how CBO scores the budget?

Mr. SMITH of Michigan. The Office of Management and Budget works for the President of the United States, takes their directions from him, and so they are able to say, look, the economy is going to expand by 3 or 4 percent. They are able to present a rosy scenario and predict tremendous amount of revenues coming into the Federal Government so that the President or anyone else that wants to say it, look, with all of these revenues coming in, we do not have to cut any spending and we will still achieve a balanced budget. So the danger is having somebody that is bipartisan, that is impartial, developing the projections for those 7 years.

Mr. SHAYS. That partly answers the question the gentleman from Georgia [Mr. KINGSTON] raised about how come we failed in the past. I can speak from direct experience. I voted for the 1990 budget agreement. The part I liked in it that said if you expanded an entitlement you either had to come up with revenue or cut spending to pay for an expanded entitlement.

What I failed to fully grasp was the budget being presented and being scored by the Office of Management

and Budget, a Republican administration at the time, projected a tremendously rosy scenario which said the budget would be balanced in no time without a lot of heavy lifting. They said the economy is going to grow at a rate it never came close to growing.

The challenge we had, and the President when he addressed it in the State of the Union Address 2 years ago, said let us use the Congressional Budget Office, a fair referee for determining how the economy will grow. Obviously, if the Congressional Budget Office scores it less than the Office of Management and Budget, we will have to do greater heavy lifting, we will have to make greater cuts to some programs and slow the growth in others, which I think we really have to do.

Mr. KINGSTON. If the gentleman will yield, if we look at a private sector example, the big motor companies, the tractor manufacturers who are out there, they have all in the last decade had to downsize, and as a result most large United States manufacturers can produce more now at less cost and at a higher quality than they could in 1980, and the Federal Government has to go through this process as well. But it is not easy.

You know, it has taken the fuel of the freshman class and the votes provided by the freshman class to get this through. But, you know, long-term players like you know that if this was easy we would have had a balanced budget since 1969, and, you know, I think the Speaker, has said nobody said that when you are going to start cutting the programs they are going to come up here and say this is great, you are cutting out my job but you are balancing the budget, I am so proud of you. That is just not happening.

Mr. LONGLEY. The gentleman has made an important point. The Federal Government is the least changed major institution in the United States, and as tough as the decisions have been that we have had to make, and we are going to be asked to make more of them and very serious decisions, the fact also remains that we need to succeed at what we are doing. We need to work with the President to make sure this happens because if we are not successful in making these kinds of changes, as modest as they are, and when I say modest, you know, the gentleman from Kansas referred to the $12 trillion that we are going to spend in the next 7 years versus the $12.8 trillion or $12.9 trillion that the other party would like to spend, or, if you will, the big difference between the mean, cold Republicans and the warm-hearted Democrats is that the mean Republicans are only going to let the Federal Government increase spending by $3 trillion, whereas the Democrats are going to have to increase by $4 trillion. But that $1 trillion, that trillion-dollar difference in a $12 trillion or $13 trillion budget is all the difference in the world between adding $1 trillion in national debt on top of the trillions of dollars of debt that we already have or finally getting to a balanced budget and starting to work towards eliminating our debt and not just adding to it.

Again, I remind myself I was barely two aisles away I was sworn in in January, and I had my 7-year-old daughter, Sarah, and my 11-year-old son, Matt, and while I am being sworn in, it is drawning on me this government today is spending the money that my 7-year-old and my 11-year-old will spend their working lifetimes paying back, just paying the interest let alone retiring any of the debt.

Mr. SHAYS. Which raises the question, where are we headed right now? What we have is an agreement with the White House, and I take them at their word that they will work within the parameters of balancing the budget within 7 years and also, very important, that they will use real numbers scored by the Congressional Budget Office, not the bipartisan office, the nonpartisan office.

□ 2115

So we have now the framework to have a meaningful dialog. We have presented our budget. Candidly, there are parts of that budget I do not like. I am proud of what we have done. I am in awe of what we have done. But there are parts I do not like.

Maybe some of the parts I like the gentleman from Michigan may not like or the gentleman from Georgia or the gentleman from Maine or Arizona. Even in that conference, we had our disagreements. Ultimately, we agreed as the majority party to do something no Congress has ever done, and that is take the initiative to balance the budget and get our financial house in order.

Now we have the right, and the President has the obligation to respond, we have the right to ask him where is his 7-year budget, where are your priorities, Mr. President, and then we will evaluate them and say we agree here and we disagree here. Candidly, I have some suggestions on how he could make our budget better. I would like to see it a little more friendly to urban areas. The gentleman from Michigan may want to see it more friendly to farming areas. We may be lobbying the White House to weigh in in a particular way.

Ultimately, if we can agree to balance the budget in 7 years, interest rates will not go up, they will go down. Maybe one of my colleagues would like to talk about the benefits of getting the balanced budget and what it means in terms of the interest rates.

Mr. SMITH of Michigan. Mr. Speaker, another situation I am sure that the people that want to spend more money have already started arguing is let us not have any tax cuts. So I think it is important to remind ourselves where we have been over the last 5 years, based on the tax increase over a 7-year span. In 1990, we had a tax increase of $235 billion. In 1993, a little over 2 years ago, we had a tax increase of $350 billion spread out over 7 years. Now the tax increase in this proposal is $222 billion. It is just a question that if you start increasing taxes too much, I mean, everybody knows and the economists all say that you start depressing the economy and depressing jobs. So the question is should we give some of those tax increases back.

Mr. LONGLEY. Mr. Speaker, is what the gentleman really saying is we are proposing a tax cut that is literally less than half of the two prior tax increases that were passed in this body?

Mr. SMITH of Michigan. That is correct. And the goal has got to be to expand business and jobs in this country, at the same time that we achieve a balanced budget, to say, just like the gentleman said, the wages that your kids have not even earned yet are going to have to pay for our overindulgence as a Federal Government living beyond our means.

Mr. HAYWORTH. Mr. Speaker, coming back off of break and spending time at home reminds me of the fact that on Saturday, John Micah Hayworth turns two, our youngest child. And if we do nothing to change the culture of taxing and spending, if we are somehow able to hold this remarkable experiment together with the legislative equivalent of chewing gum and bailing wire, postponing the decisions we need to make, John Micah Hayworth over the course of his lifetime as a working adult will pay over $185,000 in taxes to the Federal Government just to service the debt. Just to service the debt.

The President, to his credit, a couple of years ago, in sending his budget proposals up to Capitol Hill, included a page called generational accounting, measuring the effects of expenditures in governmental services, projecting it on the next generation of taxpayers.

The results were astonishing. Mr. Speaker, I do hope that those who join us are seated at home when they hear the figures, because they are mind boggling and terrifying. To maintain the current culture of spending and governmental services at all levels, the average taxpayer of the next generation would be looking at surrendering 82 percent of his or her income in taxes to provide those services.

Now, look at the steady increase. In 1948, an average family of four surrendered 3 percent of its income in taxes to the Federal government. By 1994, it was almost one-quarter of income, 24 percent. Clearly there is nothing ignoble, there is nothing selfish, in saying and recognizing that the people of this country, liberal and conservative, Republican and Democrat and Independent, all work hard for the money they

earn. They should hang on to more of it and send less of it to the Government, because, as the gentleman from Michigan points out, it is a matter of allowing the market to flourish and to prosper and to rekindle the economic engines that have driven this country so dynamically.

That is the challenge we face. It is not a matter of downsizing; it is a matter of right sizing. What is right for the future? Good honest debate can take place. The gentleman from Connecticut mentioned it. I championed the fact that the gentleman at the other end of Pennsylvania Avenue, the President of the United States, has put his signature now on what is in effect a contract agreeing to the parameters of a balanced budget in 7 years with honest numbers.

Mr. KINGSTON. Mr. Speaker, if the gentleman will yield, and I hate to stop his peroration. He is on a roll and sounding good, but I wanted to make a point that I think is very important. We do not discuss this as much when we talk about that middle class tax burden, which as the gentleman said, has gone from about 3 percent in the early 1950's to 24 percent now, and the gentleman from Maine points out how the middle class is just piling on more and more. The gentleman from Michigan talked about we got hit with new taxes under Bush, new taxes under Clinton, and this tax cut is less than those new taxes.

But the point is, there are also a lot of tax loopholes that this balanced budget bill actually stops. So often American people say, "You know, I don't mind paying my fair share, but I want to make sure everybody is paying their fair share." In many cases, there is a lot of fine print that it is stopping some of these loopholes in this balanced budget bill. A lot of this corporate welfare is stopped. But it never makes it into print or debate, but it is in there.

The gentleman from Connecticut talked about what the impact is on the middle class family of having a lower interest rate. If you have a $75,000 mortgage over a 30 year period of time, you save something like $39,000 with lower interest rates. That is big money for middle class America.

Mr. HAYWORTH. Will the gentleman repeat that? We have to amplify what is in effect a balanced budget bonus that will be there.

Mr. KINGSTON. This all comes back, and the gentleman from Michigan [Mr. SMITH] mentioned it earlier as to why, Alan Greenspan, the chairman of the Federal Reserve, when he testified to the Congress, and it was actually months ago, he said that balancing the budget could bring down the interest rate as much as 1.5 percent. Other economists have said 2 percent. Most everyone agrees it will be at least 1 percent. That is 1 percent, 2-percent lower, on a student loan, a house mortgage, a car payment, your Visa bill, your MasterCharge bill down the line. That is going to help the middle class of America.

Mr. SHAYS. Not to confuse the matter, it is really one point down. If someone was paying 8 percent, they would pay 7 percent. It is a significant drop in the total amount they would have to pay.

I was thinking about the gentleman raising the issue of taxes. We could even in this group here have argument or discussion as to when the tax cut should take place. But we all know that we pay for tax cuts with spending cuts. They amount to 1.5 percent of the total revenue we are going to raise in the next 7 years. So we are just reducing the revenue flow by 1.5 percent. One of those, the capital gains exemption in the minds of many will create revenue rather than cause a loss. We have to score it by the nonpartisan Congressional Budget Office as a revenue loss.

Mr. SMITH of Michigan. If the gentleman would yield, everybody should still understand that revenues from taxes significantly increase over this 7-year time period, so there are going to be more revenues coming in from taxes, even though we have a modest reduction in the rate of some of those taxes.

Mr. KINGSTON. I wanted to say one of the things that people are overlooking so often are the cuts for the rich. Seventy four percent of the people who benefit from the tax cuts have a combined household income of less than $75,000. Last week I was speaking to the AARP. I said, "You know who the rich are getting this tax cut? It is you, the senior citizens. You are going from $600,000 to $750,000 on your estate tax exemption, from $11,000 to $30,000 as the exemption for Social Security earnings limitation. You or your family will be getting a $500 tax credit for having a dependent senior living in your home." These are helping senior citizens as much as anybody.

Mr. LONGLEY. If I could interject, I think all of us would agree we need to provide tax relief, particularly to the middle class and to working families. I think that the public has been served a tremendous injustice to the extent to which they do not understand that some of the provisions in this tax cut that we are looking at are heavily geared towards working families. Radical ideas like eliminating or easing the marriage penalty, so a couple that gets married does not pay more tax to be married than they would pay if they lived together without being married. We are going to provide a tax credit for adoptions, to increase adoptions and the incentive to adopt, hopefully to make that an easier process for people. We are going to give people a deduction to take care of elderly parents in their homes. What an outrageous idea, that we could actually let a family try to take care of a loved senior in their own home.

We are going to be providing an increased health deduction for health insurance for the self-employed. Medical savings accounts. We are going to give spouses the opportunity to have a full IRA if they stay home to take care of the children. We are going to allow additional interest payment deductions on student loan repayments.

It is just outrageous to me that the public is not being told the full extent of the types of measures that we are targeting, that this is not some big tax cut for the rich. Frankly, anyone that suggests that is not paying attention to the facts.

Mr. SHAYS. If the gentleman would yield, more than half of the tax cut is a $500 tax credit to families who, if it is a single mother, would be any family under $75,000, and a dual family, husband and wife, father and mother, $115,000. Not above that income level. It is focused in on truly those most in need.

To illustrate the argument for it, it is a very clear one. You were talking about families in the 1940's. I was 1945 baby. My three older brothers were raised by my family in the 1940's and 1950's. My parents were given in today's dollars the equivalent of $8,200 per child tax deduction off their income, an equivalent of $32,800 off their total income in today's dollars. A family today is given $2,500 as a deduction. My family raised me when they paid less than 15 percent of their income in taxes. Today a family raising children are faced with anywhere from 25 to 40 percent of their income going to taxes. So there is just no question why we want to do it.

Someone asked me this question. They said, "Isn't the most important issue balancing the budget and getting the economy moving again?" The answer is yes, I say taxes would be second to that. But if we are going to balance the budget and take 7 years to do it, we can afford a tax cut. If we agreed that we could balance the budget in 4 years, maybe we could not do it with a tax cut. But that is not what is before us. It is a 7-year balanced budget effort. So we clearly can reduce the burden on taxpayers over that period of time.

Mr. HAYWORTH. If the gentleman would yield, some of the debate has been characterized, and indeed some have talked about letting people hang onto more of their hard-earned money as if it were the equivalent of free candy. I have heard that expression used by some who would try to envelop themselves in a populist mantra.

Again, this is money earned by working Americans. It is their money. And, again, we come back to the central realization: This Government does not create the wealth. In our free market

economy, this Government does not create the wealth. The wealth and the economic well-being results from the fruit of labor and work.

So what we are simply saying is for working Americans, you deserve to hold on to more of your money, because you know best how to care for your family. You know best the dreams and the aspirations of your children. You know best the dreams that you have for your children. You should have that money to spend as you see fit, to save, to invest, because in doing so, you will not only be caring for your family, you will be caring for your community.

Mr. SMITH of Michigan. If the gentleman will yield, just the frustration so many Americans have felt that are working so hard for the dollars that they have to raise their families, and then if you go out to the check out counter at the grocery store, very often you see food stamps that are being misused for all kinds of non-nutritious food items. So as you look at the welfare recipients that may be have ended up with a snowmobile or whatever that you cannot afford, while you are paying taxes, you know part of your tax dollars are being wastefully spent in so many areas. So I think the only way we are going to achieve this is for the American people to say "Look, enough is enough. Just do it." I think that is what the American people are starting to say.

□ 2130

Mr. KINGSTON. Mr. Speaker, if the gentleman will yield.

I am a Congressman in a car pool line. I have four kids. I drive a car pool every Monday before flying up to here. As I look at the other dads and moms in the car pool line and I think about that $500, I know where the money will go. It will go to buy new shoes, maybe a new book or two, maybe a downpayment on a computer or some software program. It will go to positive things.

And what happens is most of that money will be spent locally and it will be spent in small businesses. Those small businesses, as we all know, will expand, they will create jobs, and new people will be working. People will get off of public assistance benefits. And what will then happen? More revenue comes in.

I believe, Mr. Speaker, getting back to what the gentleman from Connecticut said, that the tax cut is very much in line with balancing the budget and will, in fact, grow the economy.

Mr. SHAYS. Mr. Speaker, if the gentleman will yield.

This was a commitment we made to the American people in our Contract With America and we are fulfilling it. We did not say before the election we will cut taxes and afterward forget that pledge. That is an important part of this whole effort.

We talked about the significance of balancing the budget, and as the gentleman from Michigan, NICK SMITH, has pointed out, in that wonderful document I keep referring to, he points out that 42 percent of all of our savings goes to pay for our national debt. Just think if some of that could go somewhere else, like investing in new plants and equipment. We know that when interest rates go down businesses say, I can be competitive, I can afford to buy this new plant and equipment because the cost of money is less.

If we could, I want to get into this one area, we have about 9 minutes left, and it is the whole issue of what are we doing; are we cutting earned income tax credit, are we cutting the school lunch program, are we cutting the student loan program, are we cutting Medicaid and Medicare?

I would love to go through this list because it has been such a difficult thing for me to hear some Members say, well, of course, everyone wants to balance the budget, then they tell us what they do not want to cut or they accuse us of cutting things we are not cutting.

On the table, when we talk to the President, we want him to know the earned income tax credit is going to go from $19 billion to $25 billion. Only in Washington when we go up 28 percent do people call it a cut. The school lunch program, just within a 5-year period, will go from $6.3 to $7.8 billion in 5 years. That is an increase, but in Washington they call it a cut. The student loan program, and this really gets me, it goes from $24 billion to $36 billion. We are going to spend in the 7th year $36 billion. That is a 50-percent increase, but in this place some people call it a cut. Medicaid will go from $89 to $127 billion. Clearly an increase in spending, not a cut. Medicare from $178 billion to $289 billion. That is a 7.2 increase each and every year.

So the bottom line is we are cutting some programs and we are actually eliminating some. We are consolidating the Commerce Department and we are making some tough decisions. But on some of these programs, that are basically entitlement programs, they are going to grow quite significantly. In fact, some people are embarrassed to admit how much they are growing, but at least we have to say to people these are increases.

Mr. Speaker, I hope the President realizes that, and I hope he focuses in on where his priorities are. He has a tax cut he would like. It is a tax credit for families who are paying to have their children go to college and are giving them some benefit. Maybe that is something to be on the table and we talk about taking one of our taxes off.

Mr. Speaker, I would be happy to yield to my colleague.

Mr. SMITH of Michigan. Let me mention that the Speaker tonight for the U.S. House of Representatives is the gentleman from Michigan, DICK CHRYSLER. The gentleman just mentioned the Department of Commerce. Mr. CHRYSLER led the way to make a consensus that we are now moving towards cutting the waste in that department out, abolishing it as a named institution. He has introduced legislation now also that gives that tax credit for education. So my compliments to the Speaker.

I throw that in and will yield to the gentleman.

Mr. HAYWORTH. I thank the gentleman from Michigan for saluting the other gentleman from Michigan, who tonight serves as our Speaker pro tempore, and who, indeed, led the way with a tangible action to right size the government borne of his experience in the working world.

Mr. SHAYS. And, I might add, saved about $7 billion in the process.

Mr. HAYWORTH. That is real money, and I thank the gentleman from Connecticut for making that vital point.

Mr. Speaker, I think it is important to note, and my colleagues here gathered on the floor on both sides of the aisle, I think it is worth noting that in the wake of this historic shift, with the changes that have taken place, there has been a great deal of heat generated on this floor. We recognize the fact that good people can disagree, but, Mr. Speaker, I do not believe it is too much to ask the American people to join with us now to take a look simply at the proposals which we have outlined; coolly, objectively, yes, compassionately, divorced from the venom and vitriol and exaggeration that so often takes the place of sound public policy discussion.

Indeed, what has happened here, tragically, has been almost the utilization of political theater instead of rational policy discussion.

So, Mr. Speaker, I simply have a challenge to the American people and, indeed, to our friends on the other side and, indeed, to our President at the other end of Pennsylvania Avenue, echoing what the gentleman from Connecticut has said. There are philosophical disagreements. There may be a different way of looking at what should happen in the future. We believe, in the new majority, that we have fashioned a plan that indeed complements very nicely, ironically, the path first endorsed by candidate Clinton in 1992, many of the objectives he said he had hoped to reach as a candidate.

Again tonight, Mr. Speaker, as we have done on so many occasions, recognizing that some things are nonnegotiable, the notion of balancing this budget in 7 years, the notion of providing adequate funding to reevaluate what transpires with entitlements to evaluate and better understand how to make sure that we have a safety net instead of a hammock in terms of social

spending, but once again, Mr. Speaker, we would be remiss if we did not say again the hand is extended from this legislative branch to the executive branch, from the Congress of the United States to the White House. Again, Mr. Speaker, we would simply ask the President of the United States to join with us and govern, to set the stage for a balanced budget in 7 years, because the American people deserve nothing less.

Mr. SMITH of Michigan. Mr. Speaker, I would like to compliment the gentleman from Connecticut [Mr. SHAYS] for organizing this special order and would ask for his conclusion.

Mr. SHAYS. Mr. Speaker, I thank the gentleman. I know we have about 2 minutes left, and the bottom line is that what is not negotiable is getting our financial house in order within at least 7 years and to use real numbers scored by the Congressional Budget Office.

We are not saying the President has to accept our budget. We are eager to see his budget and then work out where our differences are. Obviously, we will have our differences. People have said to me this must be kind of tough being down in Washington, the polls are somewhat negative about what is going on both to the President and the Congress, even more so to the Congress. And I have responded in a like response to say we are doing some heavy lifting.

I am proud of what we are doing. If we just looked at the polls, I am reminded of thinking if Abraham Lincoln had looked at polls we would not be one Nation under God, indivisible, we would be two nations. When President Lincoln was bringing about change and fighting the great conflict, his poll ratings were, according to historians, practically nonexistent. He was considered a bumbler. He had to be snuck into the city. Ultimately, it was not until the fourth year people began to realize the significance of what was taking place.

The bottom line for us is we are going to get our financial house in order. We will do it ultimately, I think, on a bipartisan basis. We will do it with an extended hand, as the gentleman has pointed out, but we are determined. We have left the old world for the new world, and we are not going back to the old world. We burned our ships. We are either going to succeed or fail, but we are not going to return to business as usual.

With that I thank my colleagues who have joined us and thank you, Mr. Speaker, for your attention and your willingness to preside over this.

THE BUDGET NEGOTIATION PROCESS

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

Mr. OWENS. Mr. Speaker, as we have heard from previous speakers, the countdown has begun on the budget negotiation process. It is a countdown of greater significance than we have ever experienced probably in the history of the Nation. It is a countdown to the remaking of America.

We are not just talking about budgets and appropriations. We are talking about a drastic overhaul, a remaking of America. We are not just talking about reforms, we are talking about destruction. We are talking about the wrecking ball that has to precede any rebuilding that may take place.

As we move toward December 15, we have gone through a period where a gun was held at the head of the American Government. The Republican majority refused to allow a continuing resolution to go forward until it extracted certain promises from the Democratic President in the White House. That is a most unfortunate way to proceed.

The general way of proceeding is to have appropriations bills passed, the President acts on those, Congress reacts, and we go through an orderly constitutional process. But a crisis was created this time and we have gone through that, and now we have a new framework established. The new framework says that we have until December 15 to work out the budget process, and in the process we must adhere to certain parameters that have been established.

The framework is established. The environment for negotiations is set. We must negotiate within the parameters of the establishment of a balanced budget by the year 2002. In 7 years we must balance the budget. We must negotiate this. If we do not, we will not be able to continue the Government beyond December 15. The same kind of crisis that was artificially created a week ago will be recreated. So we are negotiating with a psychological bomb threat hovering over the process.

Is this a logical and scientific way to remake America? No, but it is the conditions that have been set by people who have enormous amounts of power, and the process goes forward. The engagement is on now. The engagement is between the Democratic President and a Republican controlled Congress. The crisis in a revolutionary atmosphere has been created artificially and does not improve the decisionmaking process. We cannot expect a better America to emerge under the kind of atmosphere that has been created, a kind of bomb threat hovering over.

I do not think the decisionmaking is going to be the best that we are capable of. I do not think the decisionmaking is going to be the kind of decisionmaking that the American people deserve, but that is the crisis and the revolutionary atmosphere that has been created.

Those that have created the crisis obviously do not trust a rational step-by-step decisionmaking process. They do not agree with the process. They think that we have to have a crisis, we have to have a bomb threat hovering over the process. They are intellectual cowards who have nothing but contempt for the deliberative process of democracy, but they are in power. They have created the situation. That is the way it has to go forward as we count down toward December 15.

Reform is not on the agenda of this controlling group. The Republican majority is not interested in reform. They talk about reform. They come to us in the clothing of reform, in the camouflage of reform, but what they really mean is they want to wreck and destroy. Wrecking and destroying is on the agenda of the Republican controlled Congress. They want to wreck what has been put together over the last 60 years. They want to wreck Franklin Roosevelt's New Deal. They want to wreck Lyndon Johnson's Great Society.

□ 2145

They want to wreck Medicare. They do not really want to save Medicare. There are quotes which clearly show that they never believed in Medicare. The Republican votes were never there.

Medicare was created 30 years ago. It is an infant program. In the life of nations, 30 years is a very short period of time. But now, Medicare must be slowly strangled. The reforms are not to save Medicare. It is hoped that Medicare, "would wither on the vine."

There are other people that felt that Medicare was an idea that never worked anyhow, so the fact that they are attempting to make drastic cuts in Medicare now should surprise no one. It is logical. They are wrecking and destroying.

The original Contract With America came camouflaged in the clothing of reform, but destruction is the objective. Destruction is the goal, and destruction is the mission of the present Republican-controlled Congress.

The framework has been established. The countdown has begun. But each American voter, each constituent out there is not condemned to merely be a spectator. They do not have to be merely a spectator in this process. Their common sense has a vital role to play. Their common sense is already having a profound impact here in the distorted world of Washington decisionmaking.

I want to thank the American people for raising their voices. I want to thank them for letting it be known that they can clearly understand the language of political used car salesmen. They can understand when they

are being swindled. The public is far more intelligent than a lot of the professional decisionmakers here in Washington. I want to thank the American public.

There are people who say that, "Well, things are improving." Unfortunately, some within the Democratic Party. They say, "Things are improving, and the public is coming around to seeing things the way Democrats see them and, therefore, we should lower our voices and we should not be shrill."

Mr. Speaker, I do not understand that reasoning at all. I think that raising voices has led to American voters listening to each other. It has led to citizens out there waking up to the dangers that exist. It is not by accident that the polls now show that more than 60 percent of the American people do not want the cuts being proposed by the Republican majority in Congress. More than 60 percent. More than 70 percent do not want the Medicare and Medicaid cuts.

Common sense is prevailing. People raised their voices and they heard each other. I do not think anybody wants to be shrill unnecessarily. For God's sake, understand what is at stake here. For the sake of the American people, for the sake of our families and our children, and for the sake of the greatest Nation that ever existed in the history of the world, it is necessary to raise our voices, wake each other up.

Common sense is going to play a major role in what happens here. Common sense is going to be at the table in the White House, if it is kept highly visible and if the polls continue to record the truth of what the American people think out there.

We have a problem and common sense will help us with that problem. We have a collision of visions. I heard this phrase used on the floor by one of my Republican colleagues. I do not remember exactly who the gentleman is, I cannot attribute it to him properly, but I liked what he said. I wrote it down. Definitely, there is a collision of visions.

We heard the speakers before talk about their vision of America and one of them said that the government does not create wealth. The government has not created wealth. It has no role. Workers create wealth.

I am glad the gentleman gave workers some credit. That is the first time I have heard workers being praised by that side of the aisle. Well, I would like to think that it is great that workers are given credit for the creation of wealth, but wealth is created by a number of different forces, and where there is no government, there is no wealth. Government is the key component of the preservation of wealth.

Where would America be if there were no government to put the armies in the field to defend the principles of capitalism and the principles of democracy? Where would America be if we had no government to protect private property; if there were no government to maintain the kind of conditions which make it possible for some men to labor in the fields and sweat and others sit in their offices and earn their living by their ability to think of new kinds of ideas, and others to sit in offices and invest the money of other people?

There is a whole range of activities that would not go on unless we had the government. When we had no control over the process of investment on Wall Street, we had the Great Depression brought on by the collapse of the stock market which was the result of no government, no government properly controlling.

Of course, in all the wars that have been fought where American soldiers, ordinary people, sons and daughters of ordinary people have gone out to fight, if they had not gone out to fight those wars, we would have a different world. We would not have a world where America is basically economically in command and basically in a position of great privilege and advantage. That position is not there because some individual was able to use his mind and his advantages and his opportunities to create individual wealth. It all goes together.

The Constitution had the focus of the idea of promoting the general welfare. Had the Constitution not made a commitment to facilitate the pursuit of happiness, we would have a different kind of America and a different kind of government, and a lot of the wealth that exists would not exist.

The government also, in many other ways, has developed wealth. Science, technology, the organization and management of human resources; if there had been no American research and technology initiatives, if they had not been monumental, no individual corporation, no individual person could have financed and organized the kind of research and technology which went into the effort to win World War II and to maintain the edge, the technological and scientific edge on the Soviet Union following World War II.

That great effort, all the research that developed radar and computerization and miniaturization and all the kinds of things that private industry now uses as a matter of fact and takes advantage of, all that wealth would not exist if it were not for government.

So, the vision of those who say that government is in the way, and government is the problem, and government does not create wealth, that vision has to be challenged. Because if we do not believe that government is important, then we are saying that the great majority of the people who live in this society under the government are not important. Only those who can fend for themselves and are lucky enough to have reaped the benefits of all the previous efforts of government are worthy of existing. There is a collision of visions, definitely. And there is a collision of values.

There is definitely a collision of values. The values of the Republican Majority go in the direction of abstract, hypothetical children of the future. They say,

> We are going to save the children of the future from having to pay debts. We are going to crusade and pressure the present system. We are going to create a crisis. We are going to make children go hungry in the present, so that the hypothetical children of the future will not be saddled with hypothetical debts. We are not going to recognize the fact that wealth is increasing geometrically. We are going to focus, instead, on the fact that there are scarce resources and create an atmosphere where it is believed that resources are scarce and there is not going to be enough for everybody and, therefore, we must squeeze the system and certain people will be squeezed out and thrown overboard.
>
> There will not be enough for the elderly who need nursing homes and there will not be enough for all the children who need lunches. We are going to create a finite number of lunches available for poor children, and when that number runs out, then the rest will have to go hungry. We are going to subscribe to elitism.

The collision of values says that the Republican Majority believes that elitism is good for the country; a certain small minority has the right to control all the resources; they have a right to benefit from what is happening in America.

We have a great shift in wealth in America where a small percentage of the people control most of the wealth. That shift has gone on at an escalating rate. Great Britain used to be the place where the ratio of the wealthiest to the poorest was the greatest. They had this great divide between the wealthy and the poor. Now, America has taken over. It has surpassed all the other countries in that notoriety. The difference between the wealthiest Americans and the poorest Americans, their income, is greatest, and it is increasing at an alarming rate.

So, greed is good. If you have the value that greed is good and those that have the most should get the most and keep the most and not share and not even be bothered with a minimum amount of taxes; let the corporations continue to get away with paying the least amount of taxes, while individuals and families pay more and more taxes; then your value system certainly supports that of the Republican majority.

There is a collision. There are Democratic values which say we ought to have a minimum wage, as small as it may be. There are millions of people who are paid on the basis of that minimum wage and that minimum wage is way, way behind in terms of the cost of living. We only want to increase the minimum wage by 90 cents over a 2-year period and we cannot even get more than 110 cosponsors on the bill.

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The Republican majority refuses to let it be discussed in committee. Increasing the minimum wage has not been discussed in my Committee on Economic and Educational Opportunities, which has jurisdiction. My Subcommittee on Workforce Protections has jurisdiction, but we cannot get the majority to even have a hearing on the minimum wage.

The value system is such that greed is great; those who have, let them have more. It has nothing to do with balancing the budget, by the way. Increasing the minimum wage does not impact on this great process of balancing the budget.

But, Mr. Speaker, the public is the savior of the situation, the American people, the voters out there. Their common sense should continue to be focused. They set their common sense against the monstrous blunders that continue to go on here.

Both Republicans and Democrats have to look over their shoulder and watch the polls. The polls reflect the common sense of the American people. As I said before, the polls have shifted. The polls show that the word is getting out. The double-talk is being understood. The used car salesmen are being exposed. The public's common sense will save us.

I urge those who are listening to continue to raise their voices and maintain a steady focus on the critical life-and-death situation that is taking place here. This is no ordinary congressional session. This is no ordinary year.

Keep focus on the budget. The Republican remaking of America is an appropriation and expenditure revolution. This is war without blood, but there will be many casualties through this process of the way we appropriate money and the way we expend money. Many people will suffer and die. The process is beginning to take place already.

So, Mr. Speaker, I say to those listening tonight, "Raise your voice and maintain your focus, because what is happening here is more important than anything else that is happening in America today, or anything else that is going to happen in a long time."

I think Bosnia is important and we must make some critical decisions about Bosnia, because our Government is a part of a world of governments and we cannot exist as if we were on an island by ourselves. We have to deal with that situation. I am not saying it is not important, but nothing is more important than the budget negotiation process that has begun now between the Democratic White House and the Republican-controlled Congress.

Let common sense lead us to keep our eyes on the prize, and we should refuse to yield to any diversions. Between now and November 1996, "It's the budget, stupid." "It's the appropriations process, stupid". "It's the expenditure process, stupid".

How we spend the taxpayers' money is the issue of the 1996 campaign. The campaign for Members of Congress, the campaign for the Presidency, the campaign for the other body. That is the issue. Do not let anybody divert us from that issue. Keep the focus. Do not let Bosnia be used as a diversion. Do not let affirmative action, set-asides, voting rights be used as diversion. Do not let them abuse religion.

□ 2200

Come with a hypocritical focus on family values. We must not allow at this critical moment anybody to move away from the focus of the budget, the use of the American taxpayers' funds to provide for priorities that are determined by the American people. This countdown is everybody's business, and you can place yourself at the negotiation table. That is what I am trying to say. Keep your voices up, understand that you belong there. If you are not there, then terrible things will happen that will affect you right away and will affect your children and grandchildren, posterity.

The framework is established, environment for negotiations is set. I am happy that the chief of staff of the White House hugged the chairman of the Committee on the Budget of the House of Representatives. I am happy that they hugged when this agreement was made and the parameters were set for the negotiations.

I wonder if we are not in a situation similar to that faced by the Greeks who made the Trojans happy when they said: Look, we are going to stop all this fighting and in order for us to show that we no longer have any animosity toward you, even though we came over here to take your gold and to plunder your fields and to do everything we could to enrich ourselves, we use family values as an excuse, somebody stole somebody's wife, so that was a great excuse, we did all that, we came over here. We have slaughtered your young people. We have killed your great hero, Hector. Now we have a stalemate. We would like to show you that we are no longer angry at you for all the terrible things you let us do to you. We want to give you a horse, and we have constructed a horse, and we will push it inside your walls.

So the Trojan horse was pushed inside the walls of the city of Troy. The Trojans who had fought against the awesome might of the Greeks for so long found themselves overcome by a situation where a few men slipped out, inside the Trojan horse slipped out, then locked the gates and all heck broke loose. Troy was sacked. Every male child was murdered, and so forth. The legend goes on and on.

I hope we understand that there is a danger that a Trojan horse is here, that the people who want to remake America are in a hurry to make a revolution and are not going to accept a mere balancing of the budget by standards that deal with accounting only. People who want to remake America want to destroy certain programs. They want to destroy aid to families with dependent children. They do not want to reform it.

The President came into office saying he wanted to reform welfare as we know it. But he did not say he wanted to destroy welfare. He did not say he wanted to destroy the part which deals with children. But we have now reached a point where the entitlement which says that every poor child who meets a certain criteria and shows that they are poor is eligible for Federal aid.

They have taken the entitlement away. Yes, the final has not been signed, it has not been, but on the President's desk, but the agreement was made. The agreement has been made by all who are concerned. We cannot bring back the entitlement for aid to families with dependent children. It is dead.

It is dangerous to expend a great deal of energy mourning for that entitlement because the entitlement for Medicaid is now on the table. I cannot stress it too much. The entitlement for Medicaid is on the table. The beast has devoured the entitlement for aid to families with dependent children. And now the beast is hungry. The taste of entitlements is too strong to resist. The beast wants to devour the Medicaid entitlement.

We have had discussions about trimming the budget and balancing the budget for the last 13 years. I have been in Congress for 13 years. Since my first year here, there was a classmate of mine named Tim Penny. His name has been used often in the last year. I saw his picture in the paper recently. Tim Penny is a part of a group that is trying to get together an independent run for the Presidency. So I take my hat off to Tim for his integrity. I take my hat off to Tim for his consistency. I take my hat off to him for his persistence, Tim Penny and the people who surrounded him and from the very beginning were pushing for more budget sense and wanting to trim the waste from the Federal Government and wanting to move toward a balanced budget.

Tim Penny always started his dialog by saying, we must trim the entitlements that are not means tested, the entitlements that are not means tested. He did not talk about the means tested entitlements. By means tested, I mean you have to show you are poor before you can qualify. You cannot get aid to families with dependent children unless you prove you are poor. You cannot get Medicaid until you have proven you are poor. Those are means tested entitlements.

I even think at one point our Budget chairman, Mr. KASICH, was a part of the same group. They always emphasized not going after the means tested entitlements. In the process of balancing the budget now and moving toward a balanced budget, all we hear about now is the destruction of the means tested entitlements, the destruction of aid to families with dependent children, an accomplished fact almost, and the destruction of the entitlement for Medicaid. We are not talking about the entitlement for farm subsidies, various farm credit programs, farmers' mortgage, all kinds of programs out there which go to farmers regardless of whether they are poor or not. In fact, there is no means test whatsoever.

On two occasions, Congressman CHARLES SCHUMER, a colleague of mine from New York, has offered amendments, and I supported those amendments which said: Look, let us take away the farm subsidies from any farmer who makes $100,000 or more. Farmers who make $100,000 or more should not be given a Government handout.

Each time that bill was on the floor, it went down to inglorious, inglorious defeat. I think we got less than 70 votes out of 435. Recently, the last time the agriculture appropriations were on the floor, several bills were offered to take away subsidies for tobacco and for mines and for a number of things. They went down to defeat also.

The means tested entitlements have been put on the chopping block. One has been devoured already, and the others are about to be devoured. But the entitlements which do not relate to means testing—and there are some others that have not been put on the chopping block at all. The corporate welfare programs have not been put on the chopping block. The subsidies to corporations, the corporate tax loopholes have not been put on the chopping block. They are not even under discussion. They refuse to discuss my chart.

The best way to destroy an idea and to defeat an idea is to ignore it. Here is the most ignored chart in Washington. Here is the most ignored chart which is definitely a part, could be a part of the solution to the budget balancing problem. Here is a chart which says that the revenue stream in America which flows primarily from income tax comes in two directions. It comes from families and individuals. And it comes from corporations.

Yes, there are other taxes which make up the revenue, but the income tax comes from families and from corporations. Here is a chart that shows what has happened over the last 50 years. In 1943, this chart shows that families and individuals were paying a very small percentage of the revenue of the taxes; 27.1 percent was being paid by families and individuals; 39.8 percent was being paid by corporations. In 1983, that is the blue line, that is the families and individuals. And the red line is the corporate, corporations.

In 1983, under Ronald Reagan's regime, the amount of money paid by families and individuals jumped all the way to 48.1 percent. This is from 27.1 percent in 1943 to 48.1 percent in 1983; at the same time watch the red bar. The red bar dropped all the way down to 6.2 percent; corporations, their income taxes dropped drastically.

Do you want to know why we have a deficit? Do you want to know where your taxes went? Do you want to know why people are angry about taxes? They ought to be angry. Individuals and families have been swindled. I said this before and I will say it again and again, but nobody wants to talk about it.

Finally, in 1995, is the situation drastically improved? No. Watch the blue bar and the red bar, and you still have 43.7 percent being paid by families and individuals and 11.2 percent being paid by corporations.

This is fact that nobody wants to discuss in Washington. This is a fact that everybody wants to ignore. I invite you, the American public, the voters, to use your common sense and interpret what this means, especially in 1995.

In 1995, individuals and families are suffering drastically from downsizing and streamlining. People who lost their jobs in industrial enterprises have gone to work in service enterprises at much lower salaries. Individuals are suffering but the economy is booming. The economy is booming. So corporations are making tremendous amounts of money as a result of their application of the science and the technology which has been developed by the American Government, building on telecommunications, radar, computerization, miniaturization, all the things which our space program and our military program helped to design. Corporations are able to take advantage of that. And nobody wants to begrudge them. Let them make money. That is what capitalism is all about, making money. Why do they not pay their fair share? Why do not corporations pay half the total revenue that is derived from income taxes? They are the one sector that could afford it. They are the one sector that would hurt the least if they were to pay.

So here is the kind of fact that is destroying the kind of idea that does not exist because it is ignored. I urge you, the American people, to use your common sense and put this back on the agenda. Ask the question. Ask the question everywhere. Ask the Congress the question. Ask the Members of Congress. Ask the President the question.

We are going into a situation now where the negotiations are going to take place within very narrow parameters. They will not even put this on the table. There are certain kinds of cuts that will not be on the table. The farm subsidies will not be on the table. The farm subsidies that go to people who are not poor, entitlements that go to people and they are not means tested, they will not be on the table.

In 1990, we had a similar situation where there was a gridlock between the Congress and the President. The President at that time happened to be a Republican, President Bush. And the Congress was controlled by Democrats. At that time you had the same kind of negotiations initiated at the White House.

On May 24, 1990, I entered into the CONGRESSIONAL RECORD the following extension of remarks, and I find it so relevant at this moment that I am going to bore you by reading part of it.

In Extension of Remarks I submitted the following.

Mr. Speaker, the White House budget summit now underway is a process saturated with pitfalls. These discussions generate great fear among those Americans who have been repeatedly neglected or violated by similar deal making.

Since 1981, under the cloak of sweet reasonableness, we have watched the Democratic leadership being swindled. Tax reform gave more breaks to the rich while payroll taxes increased, resulting in the poor paying a greater percentage of their income than the rich.

Let us not forget also that the Gramm-Rudman conspiracy almost drove a life threatening dagger into the heart of certain vitally needed, low-income safety net programs.

Remember Gramm-Rudman? Senator GRAMM is still around, Gramm-Rudman.

Vigilance by the Congressional Black Caucus thwarted the vicious intent of the Gramm-Rudman conspiracy. It was through the efforts of the Congressional Black Caucus that seven low-income programs were exempted from the budget cutting axe of Gramm-Rudman: AFDC, school lunch and dependent care food program, commodity supplemental food program, food stamps, Medicaid, SSI, and WIC. They were all exempted from the Gramm-Rudman cuts.

Remember the Gramm-Rudman cuts went across the board and cut everything equally, but we will manage to exempt these safety net programs.

□ 2215

Thank God for Tip O'Neill and his wisdom. He responded positively to our requests that the safety-net programs which are now under attack, which are now being destroyed, that they be exempt from Gramm-Rudman and not cut drastically.

Mr. Speaker, these same crucial low-income programs are now in danger.

This I am reading from my May 24, 1990, entry into the CONGRESSIONAL RECORD:

White House spokesmen have announced that they want to "close the Gramm-Rudman loopholes." Our interpretation of this threat leads us to believe that a tradeoff will be offered. Defense cuts will be on the table in exchange for low-income program cuts. Beggars will be robbed and all who are present will be pressured to accept this goal as a reasonable exchange.

Mr. Speaker, the fear of the budget summit process in the streets of my district is very real. I would like to use the language and the attitude of a street constituent to sum up this deeply felt concern.

And it is at this point that I entered a rap poem into the RECORD, a poem that I wrote from the point of view of a constituent in the street out there watching the process.

THE BUDGET SUMMIT

At the big white D.C. mansion
There's a meeting of the mob
And the question on the table
Is which beggars will they rob.
There's a meeting of the mob
Now we'll never get a job.
All the gents will make a deal
And the poor have no appeal.
Which housing for the homeless will they hit?
School lunches they will cut all the way to the pit.
There's a meeting of the mob!
Big bailouts they will cheer
Cause the bankers they all fear.
Closing loopholes is their role
But never mind the S and L hole
There's a meeting of the mob!
Medicaid is against the wall
Watch health care take a fall
There's a meeting of the mob!
These good fellows won't be frisked
But welfare children are being risked
There's a meeting of the mob!
Not a cent will be left for AIDS
When they finish with their raids
Let addict babies remain with their pain
This gang will deal a budget that is certainly insane
There's a meeting of the mob!
These bosses lack logic but they all have clout
Old folk's COLA's will rapidly get rubbed out
There's a meeting of the mob!
At the big white D.C. mansion
There's a meeting of the mob!
Now we'll never get a job
All these gents will make a deal
And the poor have no appeal
There's a meeting of the mob!

This was in May 1990. History has gone slowly, in unfortunate circles, and we are right back to where we were in May 1990, only the situation is far worse.

An agreement has been made already that the budget will be balanced in 7 years, and it is required that the beggars must be robbed. Nobody is talking about taking away anything from the entitlements that exist for the middle class. It is the beggars who must be robbed.

In my district right now there are poor people who are on welfare, home relief. The constitution of the State of New York requires that they take care of poor people, and home relief cannot be abolished, so there are people on relief, home relief, who are being forced to work for their welfare check. I have no problem with having anybody work for their check, their income. It is altogether fitting and proper that everybody should work who can work. There are able-bodied people who cannot find jobs and for various reasons are on welfare, and the workfare that has not been thrust upon them would be appropriate if they were being paid the minimum wage. But they are being made to work more hours than are necessary if they were making minimum wage to generate the equivalent of their welfare check.

What does that mean? That means they are working for less than the minimum wage, they are moving toward a situation which you might call semi-slavery. When you are forced to work for your food and your basic necessities, and arbitrarily you are told that you must do a certain amount of work, even if it is inconsistent with the minimum wages that would be paid for that amount of work, then you are in a very serious situation, and that is a situation that exists in New York City right now. We have no problem with the workfare programs; the streets are cleaner, there are a number of things that are going on as a result of people being put to work. It should have happened a long time ago, but why not compensate them to the level of minimum wage, minimum wages? It is so slow anyhow.

We are fighting to get minimum wages on the agenda here in the Congress. The President has stamped his approval on a minimum-wage bill, an increase of 90 cents per hour over a 2-year period, 45 cents 1 year and 45 cents the next year. The minority leader, the gentleman from Missouri [Mr. GEPHARDT], is the sponsor of the legislation, and yet we can only get 110 people signed on.

There is suffering already as a result of the double-barreled agenda which has a lot to do with more than balancing the budget. New York hospitals are suffering already as a result of the atmosphere that has been created. They know the cuts are coming. The mayor has moved to drastically overhaul the hospital system; privatization is on the agenda. Whether it improves health care or not is of no concern. It will save money, so large numbers of administrators and supervisory personnel of hospitals are bailing out. They are leaving the system already. We have a lot of chaos and confusion in the city's hospitals now that could be avoided if we did not have this revolutionary atmosphere created that frightens everybody at various levels of government.

Cost of Federal Government is a primary ingredient in the income of these hospitals. They are thrown into panic almost by the fact that so much change over such a short period of time is being projected.

Schools are crumbling literally. There was an editorial in the New York Times yesterday which talked about every time it rains New York City schools get washed away or a little bit more. That is on the editorial page, and you think, well, what kind of joke is this? You look at the article more closely, you read more carefully, and they are literally describing a process whereby every time it rains and the rain runs through the crevices of the bricks and washes away the remaining dry cement, the bricks begin to fall off, and they have falling bricks. At a lot of schools you have ceilings falling, you have literally brigades of people in New York City schools carrying buckets and various newly fashioned aluminum vessels that collect rain.

It is the truth described in the pages of the New York Times. Schools are crumbling, and there is no relief in sight in terms of new construction.

At one time we had a bill that was passed here that called for the Federal Government to begin a program of physical assistance to exist in the physical plants of schools. It was a small program by Federal standards. The authorization, and Senator CAROL MOSELEY-BRAUN and I worked on it, and we had an authorization of $600 million to begin a process of emergency repairs in various schools that had emergencies; $600 million, a small amount of the total Federal budget. Well, that was cut down in the appropriations process to $100 million, and when the rescission bill came, it was cut down to zero.

So the Federal Government might have stimulated a process, might have kept a process going and encouraged the State government and the city government to approach the physical plants of school buildings in New York differently, but it provided no stimulus. I cannot blame the Federal Government for what New York is failing to do or the State and city are failing to do, but the Federal Government certainly in education has been a stimulus and lost a great, we lost a great, opportunity.

In this crisis and revolutionary atmosphere no one is willing to make any decisions about building new schools. There is nothing on the drawing board of consequence. As I said before, the crisis and revolutionary atmosphere does not approve of decision-making. It panics people not only here in Washington, but at the local level and at the State level, the panic sets in, and we are not having the best government at any level as a result of the kind of crisis atmosphere that has been created.

Reform is not on the agenda. If it was reform, it would go at a slower pace. There would be a more deliberative situation. I am all in favor of getting rid

of waste as fast as possible. It is the duty of every elected official, everybody who is in Government at any level, to constantly try to get the maximum output for every dollar that is put into any program.

We are in favor of reform, but reform is not on the agenda. It is wrecking and destroying that is on the agenda. If we wanted to reform, we would not have to throw programs down to the level of the State government. One of the ways to destroy programs for the poor is to block grant them to the State level. The States had the responsibility before the Federal Government assumed that responsibility for most of the history of the United States of America. States have had the responsibility for programs for poor people. States have had the responsibility for health care. States have had the responsibility for nutrition programs.

When World War II came along and they had to enlist large numbers of men over a short period of time, they found thousands of American males not fit for the process of training to go into combat. They were malnourished, they were weak, they were undeveloped as a result of the tremendous crisis in feeding programs throughout the country. The States had ignored the fact that their populations were not receiving proper nutrition. The States had produced a situation which endangered the security of the Nation because you did not have healthy bodies to deal with the crisis created by World War II. The States were in charge, the States have been in charge of health care, and their charity hospitals kept us going for a long time, but we know there were great gaps in services provided by charity hospitals or by the Hill-Burton Act which later came on from the Federal Government level and offered funds. The States had had responsibilities before, but they are now being handed back, and States have done a very poor job.

Now if we really wanted to make some improvements and to reform, we would not have this blanket determination that give it to the States and let them handle it. If you want to destroy programs, then give it to the States, and let them handle it. It is an ideological decision, not an administration decision. It is understood that the States will let Medicare wither on the vine. It is understood that the States will ignore large numbers of poor people, and welfare as we know it will certainly be gone in 5 to 10 years if the States are in charge. States have made monumental blunders. States have been guilty of horrific corruption.

I served in government at all three levels. I was commissioner in New York City government for 6 years. I was a State senator for 8 years. I have been in Congress now for 13 years. And I will tell you that the level of government which is the least efficient, the level of government which is most unreal, the level of government where you have the greatest amount of waste, is at the State level, not the municipal and local level where people in the government have to meet face to face with the people they are serving, not at the Federal level where you are forced to a process of competition. Believe it or not, 435 people from all over the country do generate a kind of creative competition in working out programs, and oversight, and a number of other things that we do right, but at the State level, this sort of in between, they have a lot of power and no responsibility, and if you want to cut out one level of government and save money, you find the State is a level you could cut out, and you would not miss it. Just give the money directly to the local governments, and you save a lot of money, but States have moved in to use their powers, the Governors are using their powers to grab a great segment of the American Treasury. We have a Balkanization of America about to take place. It is very dangerous when you start dividing up the responsibilities at the Federal Government and giving them to the States. You set in motion a process where States will begin to compete with each other, and in the case of services to the poor, Mr. Speaker, they will all strive to reach the lowest common denominator most rapidly.

In other words, the State which provides the least amount of services to the poor, the worst Medicaid that is provided will become the norm because every other State will be moving in a way to prevent citizens from one State which provides lower levels of service from moving to their State.

□ 2230

You will have a situation where Mississippi, which is at the bottom of the rung in so many ways, will set the level for the rest of the country. The States right around Mississippi in the South will be pushed into a situation where they have to lower their standards to keep Mississippians from moving out of their States, and then those States in the South, the surrounding States that surround them, will lower their levels, and it will go right across the country, where everybody will have the lowest possible level of service in order to defend themselves against people seeking better health care services trying to survive.

You may even have tremendous tension created between the States. There was a time in our history shortly following the Emancipation Proclamation and the 13th, 14th, and 15th amendments, where slaves were moving across the country, not wanted in any State or city, and large amounts of people were driven out with violence, large amounts were murdered, from one locality to another. They pushed them around because nobody wanted to take responsibility for poor people who had nowhere else to go. You may have that kind of situation. You may even have a situation which results in the largest States using their muscles to force the smaller States to not drop their people off on them.

You have a situation now where the United States of America is one America. You have a situation now where FDR, or Franklin Roosevelt, who started the New Deal, looked at the richest on the east coast. Franklin Roosevelt was a New Yorker. He clearly understood that New York is much richer than Georgia or Tennessee or Mississippi. He clearly understood if you create a new deal, if you have a Federal Government taking revenue from the richest States and you need to supply funds for programs in the poorer States, that it is going to come from the richest States and go into the poorer States.

Franklin Roosevelt was not stupid, not naive. He clearly understood that America is one America, and where there are riches and surplus, where people can give, they should not mind assisting the rest of America. That is what happened. It even endures until today, the unevenness in the distribution of Federal funds I have talked about previously.

There is a study that is done every year by the Kennedy School of Government and Senator MOYNIHAN, who originated the study in his own office. Jointly Senator MOYNIHAN and the Kennedy School of Government do a study of how the revenues of the Federal Government are distributed throughout the States. They list States which give more than they receive. They list States that receive more than they give also.

The pattern is shown, and I read from that booklet from this podium, and the pattern is clear. It is the Northeast States, it is the Midwestern States, the Great Lakes States, which even until today are giving much larger amounts of money to the Federal Treasury than they receive from the Federal Treasury.

The pattern is clear at the other end, the Southern States, all of them except Texas, and whether that is Southern or Western, it is not clear which category they fall in, but all of the Southern States are recipient States. They receive large amounts of Federal money, much more than they pay into the Treasury.

New York State, almost $19 billion in 1994, almost $19 billion more flowed from New York State taxpayers to the Federal Government than went back to the New York State people in terms of Federal services and expenditures; $19 billion.

Now, if you have a balkanization of America and every State is allowed to reclaim some of what they pay in, if

you had a revenue justice program, a revenue justice act, maybe the New York legislators ought to join me in creating a revenue justice act, where every State will get back at least half of what it overpays.

New York would be receiving, if it got half of $19 billion, they would be receiving $9.5 billion. $9.5 billion would balance the budget of New York State. We could solve all of our budget problems if we had $9.5 billion. If we had the whole $19 billion, New York State would be a paradise. Prior to that, there was $16 billion more paid by New York State the year before than they received back. Prior to that, $23 billion more was paid into the Federal coffers than New York received back.

So, the question is, who benefits by the balkanization of America, if you start giving the States the power, if the States are going to run it. Where does it lead to? The Southern States receive $68 billion. The collective Southern States receive $68 billion more from the Federal Government than they pay into the Federal Government. The Southern States, they lose if you balkanize America.

What is the great advantage of this process of handing it down to the States with the hope that the States are going to destroy the programs? It is dangerous precedent. It is not needed to accomplish the process of balancing the budget, but it is part of the destruction of programs.

The framework has been established, the countdown has begun. But, as I said before, each American, each constituent out there, is not condemned to be merely a spectator. Common sense has a vital role to play. Your common sense is already having a profound impact.

Stop and consider what some of the commonsense impacts are. If you or your child who is a sophomore in high school, or maybe they are just in the fourth grade, were to take out a pencil and paper and look at the options, take a look at the chart that I showed you before, would you not consider that it makes a lot of sense to help balance the budget by lowering the level of income taxes for families and individuals while you raise the level of income taxes paid by corporations? Would not your common sense tell you that ought to be one of the answers to increase the amount of money paid by corporations into the Federal coffers? Corporations are making all the money. Let them pay more in revenue as a part of the way to solve the problem.

Using your common sense, would you not say that even though there has been an agreement to do all of this in 7 years, that there is no magic to 7 years? If you have to, in order to do it in a more humane way and lessen the suffering, if you have to do it in 10 years or 9 years, why not do it in 9 or 10 years? Your common sense would tell you that.

Yes your common sense has told you over the years that something is wrong in Washington. You wanted to eliminate the high price toilet seats that the military was putting in their planes. You want to eliminate the $600 coffee pots.

Common sense has always been against waste. Medicaid waste, Medicare waste, food stamp waste, Embassies abroad wasting money, all of that waste, your common sense tells you to eliminate. So, let us bring our common sense into this debate, keep it focused.

Look at the CIA. The CIA has blundered and is now a danger to our foreign policy, a danger to America. It makes so many blunders, until we would be better off if we did not have a CIA. Yet the CIA goes on.

Recently the CIA was exposed as having a petty cash slush fund that nobody knew about, the Director of the CIA did not know about it, the President did not know about it. It was at least $1.5 billion .

We have proposed on this floor several times that you cut the CIA budget by just 10 percent a year. If you cut it by 10 percent a year over a 7-year period, take out your pencil and paper, and you will see that the CIA cut by 10 percent a year, and the admitted amount is at least $28 billion, 10 percent is $2.8 billion a year, times 7 years, you will end up with $19 billion in 7 years. The CIA would still exist, but it would only be cut 10-percent a year over that seven-year period.

If you take that $19 billion that you get from the CIA cut of 10 percent over a 7-year period, and you add to that the $1.5 billion slush fund that the CIA discovered that it had and nobody knew about, you would have $21 billion, and $21 billion is more than you need to make up for the education cut. Education is being cut by $4 billion next year.

$21 billion is not quite enough. Take the B–2 bomber and add that. The B–2 bomber over the period of its life will cost about $33 billion. One-third of that is $11 billion. You add the $11 billion of the B–2 bomber to the $21 billion of the CIA, you have $32 billion. Education cuts are going to be $4 billion left over, if you take out your pencil and paper and use common sense and get rid of real waste. But nobody is discussing a cut of the CIA. The CIA goes on blundering and nobody cuts it.

We must raise our voices, maintain a steady focus on the critical life and death target here in Washington. It is the budget. The Republican re-making of America is an appropriation and expenditure revolution. This is a war without blood, but there will be casualties. The common sense of the American people is necessary to minimize the casualties and to save America. We must raise our voices. We must maintain a steady focus. Do not let anybody tell you to lower your voice. Scream and scream loud.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind all Members to direct their remarks to the Chair and not to the viewing audience.

NEW YORK TO BE DISPROPORTIONATELY HURT BY CUTS IN MEDICARE AND MEDICAID

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. MALONEY] is recognized for 5 minutes.

Mrs. MALONEY. Mr. Speaker, I believe we have the greatest health care system in the world and New York City has many of the Nation's best hospitals to support that great system, hospitals that have the enormous responsibility of caring for the citizens of America's largest city, that train a disproportionate number of our next generation of health professionals, that conduct the cutting edge research to save and improve our lives. Yet many of these hospitals will be decimated by Republican Medicare and Medicaid cuts that will cost these great New York City hospitals billions in reduced payments.

Where will these institutions be forced to make up these cuts? Conservative estimates put the New York City job loss at 107,000 health care positions, more than 2.3 percent of the city's total employment.

Doctors will be cut, nurses will be cut, janitors who keep our hospitals clean and sanitary will be cut. New York medical technology will not be purchased. Yes, this will hurt seniors; yes, this will hurt the poor; yes, this will hurt the health care of every New Yorker and every American.

The House of Representatives voted to cut Medicare spending by $270 billion over 7 years and to cut $170 billion to the Medicaid Program. There are several unique features of the New York City health care system which make it especially vulnerable to the type of targeted cuts in the spending contained in the Republican legislation.

The New York City metropolitan area trains 15 percent of the medical residents for the entire Nation. The New York biomedical system is a recognized world center of advanced science, medicine and education. New York hospitals reach these heights while simultaneously serving a high percentage of patients with special needs far exceeding the national average. These patients include the elderly, the disabled, the chronically ill, and the poor, and it is not only the health care we all receive that will be affected by the proposed cuts. New York's economy will also be hard hit due to the State and city's dependence on its large and complex health care system.

Cuts in the formulas for Medicare, graduate medical education, and disproportionate share payments, would

create unacceptably severe reductions in payments for New York's hospitals. This is because indirect medical education and disproportionate share payments are based on percentages of overall medical payment rates. As the overall Medicare payment rates are reduced as a result of smaller inflation adjustments, payments for graduate medical education and disproportionate share are automatically reduced and their rates of growth are slowed. Thus, further reductions in graduate medical education and disproportionate share would amount to double cuts, which our hospitals, most of which are operating below the break-even point, simply cannot withstand.

Changes in Medicaid will also have a drastic impact on New York's health care providers, especially those providing long-term care. New York has received one of the lowest rates of Medicaid payment increases among the States. New York's nursing homes could lose 25 percent of the money necessary for their survival by 2002.

According to the Health Care Association of New York, New York State, with 7 percent of the Nation's population, would take 11 percent of the cuts in Medicare and Medicaid. New York City, with 2.9 percent of the Nation's population, would absorb 6.5 percent of these cuts, more than double its fair share. Over 7 years, cuts in Medicare and Medicaid payments to hospitals would cost New York State $20 billion and New York City $12 billion. Funding for long-term care and personal health services would decline by $11 billion in New York State and $7 billion in New York City.

The proposed cuts will dangerously damage health care services, but that is not all. The cuts would wreak havoc with New York's many health care workers, their employment and their income. New York City will lose 107,000 jobs, and New York State may stand to lose well over 200,000 jobs. Any budget plan must include everyone having to do their part to balance the budget, but I argue that any budget plan must treat all States equally.

I think the cuts to Medicare and Medicaid and the impact on hospitals and health care systems across the country is deeply disturbing. The disproportionate impact of these cuts on New York State and New York City is unacceptable. Protecting New York State's and New York City's hospitals, health care providers and medical educators helps to safeguard the health of our Nation while preserving the health and economic well-being of one of our country's most densely populated cities and States.

□ 2245

As the budget negotiations continue, I ask my colleagues to join me in fighting to reduce these cuts. I am proud to have voted against the reconciliation bill and I will oppose any future budget that cuts with the injustice and scope of the Republican proposal.

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

JUSTIFICATION FOR SENDING UNITED STATES TROOPS TO BOSNIA

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

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise this evening to discuss an issue that is going to confront us for the next several weeks in regard to the President's intention to send 20,000 to 25,000 of America's sons and daughters to the Balkans to participate in living up to the terms of the agreement just recently initialed in Dayton, OH.

Mr. Speaker, like many Americans across the country, I sat before my television set last evening and listened intently as President Clinton gave his justification to the American people for sending ground troops into Bosnia. Mr. Speaker, 2 weeks from tomorrow I was invited to the Pentagon, where I had breakfast with Secretary Perry and the leadership of the Joint Chiefs, including General Shalikashvili, where they made a personal case to me and other Members of the Committee on National Security as to why we should commit our troops to Bosnia in light of the pending peace agreement, which had not yet been initialed.

Mr. Speaker, I rise tonight to respond, first of all, to President Clinton's speech, because parts of it bothered me greatly, and to lay the foundation for a hearing which our committee will hold on Thursday when again Secretary Perry, General Shalikashvili, and Secretary Christopher will come before the House Committee on National Security and again make the case to us to support the President's efforts.

Mr. Speaker, as someone who has been on the Committee on National Security for 9 years and who chairs the Research and Development Subcommittee, I am vitally interested in any place or any time that we send our troops into harm's way, whether it be the time that we sent them to Desert Storm, or Haiti, or other operations around the world.

Mr. Speaker, I was taken aback by some of the comments President Clinton made in the speech yesterday evening and I have to respond to them, and this is the only opportunity where I can deal with them in a lengthy and involved format. I want to respond to three specific points that the President made to the American people and to Members of this body.

I want to, first of all, respond to his assertion that those who disagree with him are isolationists and want us to come back into our own borders and not be a part of the world community. The second issue I want to take exception to is the way that he characterized the moral argument involved in getting involved in Bosnia. And the third is the President's comparison of Bosnia and our potential involvement there to Haiti and Somalia as well as Desert Storm. Then I want to get into my own specific concerns relative to a potential vote that we may take in this body a week or two from now.

First of all, Mr. Speaker, let me respond to the contention made by President Clinton that those who may oppose his policy here are isolationists. Mr. Speaker, the fact is that for the past 3 years, a strong bipartisan voice in this body and the other body have voted repeatedly, have signed letters, have sent messages to the White House and the administration that we want to be a part of the process of helping achieve peace in the Balkans. And, in fact, Mr. Speaker, I, like many of my colleagues in this body today, would support the presence of the United States in a somewhat limited way in the Balkans, as we have done repeatedly over the last 3 years.

After all, Mr. Speaker, there were many Members of both the majority and minority parties that supported the President's use of our Air Force in terms of the air strikes. Many of us have supported logistical support to provide food and clothing and humanitarian support and relief to the people of the Balkans. So time and again over the past 3 years Members of this body and the other body have made it clear that we want to be involved.

And, in fact, Mr. Speaker, as I said to the Secretary of Defense 2 weeks ago, I am prepared to support American troops in Bosnia tomorrow, but not on the ground. And, Mr. Speaker, that is the key issue that President Clinton completely ignored last evening. He made it appear as if we are in disagreement with him on his policy; that, therefore, we must not want the United States to be involved at all, and that is absolutely totally wrong. I think it was really shortsighted of the President to make that statement to the American people.

In fact, what I proposed to Secretary Perry, I think, would be supported by many of our colleagues in this body; and that is, why should America have to put 20,000 to 25,000 ground troops in between three warring factions that have been at war not for 4 years and not for one decade but for decades and decades and centuries and centuries? Why should the European countries, who are the bordering nations to Bosnia, not step up with that ground support force and let the United States involvement be what we do very well; airlift, sealift, air strikes, command and control, intelligence gathering and monitoring, and all the other ancillary

support to make this mission a success?

In fact, Mr. Speaker, when the President talks about a U.S. commitment of 20,000 to 25,000 troops, he is not being realistic with the American people nor is he being realistic with our colleagues in this body. As a matter of fact, right now, Mr. Speaker, we have an estimated 15,000 troops who are providing support services in the theater around Bosnia.

These services range from airlift and sealift to intelligence gathering, to all kinds of functions that they have been assigned by the Pentagon, just to name a few of the assignments that our military is currently involved in in the European theater, and this is, by the way, not complete. We have Operation Able Sentry going on right now. We have Operation Deny Flight. We have Operation Provide Province, Operation Sharp Guard, and Operation Provide Comfort. All of those operations are, today, involving American troops in the theater that the President is talking about sending ground troops in.

In fact, along with the ground troops that President Clinton is proposing, we are going to have a carrier, the America, off the coast. We are going to have Navy pilots and Navy personnel available. So our total support forces, besides the 20,000 to 25,000 ground troops, is going to be somewhere between 13,000 and 17,000.

When I met with the Secretary 2 weeks ago, I tried to pin him and General Shalikashvili to a specific number, and I will do that again this Thursday. I asked them, how many other U.S. troops will be involved in this effort? They would not give me a specific answer. To the best of my ability, I have determined that number will be somewhere above 15,000. So when the President goes before the American people as he did last night and says, "I want to send 20,000 troops in, that is our commitment", what he should have said is, "I want to have 35,000 or perhaps 40,000 U.S. troops involved in the theater of operation that includes, as our overall mission, Bosnia and the maintaining of the peace agreement that was initiated in Dayton".

Now, many of us in this body feel that what the President should have done is said we will provide that support in the form of airlift and sealift and use of our aircraft for attacks, if necessary, on selected sites, and command and control and intelligence gathering, but should not have had American troops placed in harm's way in an area of the world so far away from our shore and in which many of us feel that we do not have a direct national interest. Many of us feel that it is unconscionable that those countries that directly surround the Balkans are only putting in small tokens of troops.

Now, Mr. Speaker, we have not been able to get exact counts. These numbers have varied. But I went through the foreign media, through our FBIS reports we get, that we can request in our offices, to try to get a feel for what other countries are committing in the way of troops to this operation. I think it is important for our colleagues and for the American public to understand exactly what those commitments are and what, if any, strings are being attached, so that, when the President speaks about 25 nations being involved, we know really what he means and what these countries are actually saying.

Great Britain, the United Kingdom, always our staunch ally, is in fact going to put up the largest complement of troops besides the United States. The Most recent number we have is about 13,000 troops compared to our 20,000. Now, Great Britain is very close to the Balkans, certainly much closer than the United States, and is obviously a part of the European theater. So you would expect them to put in place a large presence of military forces.

Let us go to Germany. Here I have a problem, Mr. Speaker. The United States and the President are committing 20,000 ground troops and the ancillary support troops that I have just talked about numbering at least 15,000. The Germans have said that, and get this, Mr. Speaker, subject to the Bundestag's approval. In other words, we do not have to approve what the President wants to do in our Congress. He can send the troops on his own, which he said he would do with or without our vote of approval. But in Germany their commitment to send their troops will be predicated upon the support of the Bundestag.

And how many troops are the Germans going to send in? Not 13,000, not 10,000, not 5,000, but 4,000. So Germany, right next to the Balkans, is going to send a total of 4,000 troops to the Balkans as their part of this operation.

Now, quoting the minister in a German publication, the defense minister, who spoke on November 22, he went on to say that these 4,000 troops would be involved, and I quote, in terms of being logistical units, engineers, medical orderlies, transport units, helicopters, and aircraft to secure the airspace. Where is the commitment for the ground troops in the middle of the hostile parties? This is Germany's commitment.

Then we go on to France. I remind our colleagues, Mr. Speaker, that France has a very real threat from the spread of the Bosnian operation, and France is very near and close to the proximity of the Balkan conflict and you would expect would be willing to put up a sizable amount of soldiers for this operation. France's commitment is currently listed in a most recent French publication of November 22 as 7,500 soldiers. This would be a part of the overall NATO deployment, but 7,500 soldiers. This is the same France that is only putting up 7,500 soldiers to our 20,000 that denied the United States the ability to fly our planes over France when we were going after Mu'ammar Qadhafi when Ronald Reagan was the President, in response to attacks he had made on American citizens. So France's commitment right now is listed at 7,500.

Let us go to Spain, another European country. Let us see what Spain is talking about committing. This is from a radio network in Spanish in Madrid. Mr. Suarez Pertierra said it would be a tactical group of some 1,250 soldiers. So, while America is putting in 20,000 to 25,000 ground troops, Spain in talking about sending 1,250 soldiers to this operation.

Let us look at Sweden. Sweden, another European country that obviously has an interest in seeing peace in that part of the world, has said that it will be part of a Nordic brigade that would have 900 Swedes. Now, Sweden also has a condition placed on its commitment.

□ 2300

And that condition is that the United Nations shall be financially responsible for this operation. So, Sweden is saying, "Yes, we will go, but you pay our bill." I did not hear that said on the part of our commitment. We are going to pay the entire bill.

Mr. Speaker, my guess is that this will end up much like Haiti. We not only paid for our expenses, but we will end up paying for the housing costs, the feeding, and logistical support for a number of other countries, all of which will be borne by the American taxpayers. But Sweden's troop commitment is right now 900.

Then we go to Austria, and I will quote a news source from Vienna Television Network, November 21, where there is a quotation from the leadership of Austria about their commitment. Their consideration is for sending a force of 200 to 250 men. It goes on to say, quote, "Volunteers, of course. No one is going to be forced to go into this." Mr. Speaker, 200 to 250 are going to be volunteers and they will not serve as combat troops. They will be there as a transport unit.

Let us go on and talk about Italy, another European country that is expected to be a part of this operation. Look at what Italy's contribution will be. Initially, Italy balked when the press said that they heard rumors that 2,100 men would be sent, but now there is confirmation that the form will be 2,100. But Italian news media sources also go on to say that actually, and I quote, "Parliament still has to give its approval to send out Italian troops."

So, the United States Congress will not have the ability to approve the President's sending of not 20,000, but perhaps 35,000 troops into that theater;

we will have the German Bundestag approve the German troops going in, and the Italian Parliament approve the Italian troops going in, but we will not have that ability in this country. The total commitment of Italy will be 2,100 men.

The Netherlands, another European country. The Netherlands, according to its population, is perhaps contributing a larger element that we would expect. The Netherlands Cabinet wants to make a decision about sending 2,000 troops to help with the peace accord.

Then we have Denmark. A Danish battalion is set to leave on January 8 as part of the NATO operation and they are talking about 807 men going from Denmark.

Mr. Speaker, these are not my reports. These are all sources that I will provide to anyone in this body in terms of what our European allies in NATO are going to commit to this operation.

Our point, Mr. Speaker, is not one of isolation. We want to be the leader of NATO, and we know we are. We continue to help our NATO allies every day. We have a strong presence in the European countries I have just mentioned. We have military bases there and Navy units deployed in the vicinity of those countries. We will be there for them.

But, Mr. Speaker, Bosnia is largely a European problem and many of us in this body feel that while the United States must play a role, and that role can be air strikes, air support, sea life support, command and control, intelligence gatherings, and all the other logistical help that we should not have to go beyond that and put 20,000 young American sons and daughters in the middle of what could be a very hostile environment; what certainly has been a very hostile environment.

So when the President talks, as he did last night, about isolationism, the President is totally, absolutely wrong. It is a slap in the face to every Member of this body that he would say his opponents are isolationists. In fact, many of us have said all along that we want us to be involved; we just do not want the United States to go it alone. That is what we think this President has gotten us into.

My opinion is the President, to some extent, put his foot in his mouth earlier this year when he said to the NATO allied leaders, "I will put ground troops in Bosnia if we get a peace agreement". What he should have said is, "I will make a commitment", and left that up to the final negotiations in Dayton. He did not do that.

Mr. Speaker, while the negotiations were going on, all of us in this body knew what was going to come out of those negotiations, and that was going to be taking the President up on his word, and that is to send 20,000 ground troops into Bosnia. That should never have been the negotiating position of this country in terms of our NATO involvement.

It certainly is not the position of this Member, and I know many of my colleagues, that we should not be involved, nor should we be isolationists.

The second issue I want to take up with the President is the way he characterized the morality argument here. He somehow tries to make the case that the Members of Congress who perhaps question what he wants to do here are not concerned about babies being killed, about ethnic cleaning, and about women being raped.

Mr. Speaker, nothing could be further from the truth. As a member of the Human Rights Caucus since I have been in this body, I have tirelessly, again and again, spoken out on behalf of human rights abuses. In fact, Mr. Speaker, in at least three votes in this body over the past 2 years, we have overwhelmingly told the President to lift the arms embargo so that the Bosnian people could defend themselves, so that they, in fact, could have a level playing field, so that we could stop the abuses and stop the ethnic cleaning and stop the rape and torturing.

Every time this Congress, in a strong bipartisan manner, told the President to lift the embargo, the President said, "no." Yet last night on national TV, the President tells the American people that he is really that one concerned about these kids being killed and these women being raped and the ethic cleaning.

Well, Mr. Speaker, what were we doing the past 2 or 3 years with all of these votes and these letters and these issues where we came forward and said, "You have got to do something, Mr. President, about what is happening in the Balkans," and he did nothing. Now, all of a sudden the solution to all of these problems is to spend 20,000 of our kids into the Balkans on the ground in the middle of this controversy.

Mr. Speaker, there is absolutely no justification for the President to make the statement that he made last night that he is the only one concerned with the moral issue of why we should be involved. There are steps that we could have and should have taken over the last 2 years to help even the playing field in the Balkans and we did not do it. Not because the Congress would not act, but because the President would not listen.

These were not just Republicans speaking. These were Republicans and Democrats. Some of the most eloquent leaders on lifting the arms sanctions and the arms embargo were on the minority side of the aisle; not just on the Republican side.

What really bothered me about the speech that the President made last night, at the end, Mr. Speaker, was when he alluded to a conversation that he had with the Pope. I really though it was grasping for straws when President Clinton basically said, The Pope told me to do it.

Mr. Speaker, I have the highest respect for the Vatican and for the Holy Father and for the leadership he provides for the world's Catholics. But, Mr. Speaker, to use a comment that supposedly have been attributed to the Pope as the political justification boggles my mind.

As one of our colleagues on the House floor said today, perhaps the President will tell us that he is going to change his stand on abortion, because I am sure the Holy Father talked to him about the sanctity of life, but I do not see President Clinton following the advice of the Pope on that issue, yet quoting the Pope in terms of taking this action in the Balkans.

The third issue I want to take exception with the President last night, Mr. Speaker, deals with his trying to compare the Balkans to what happened in Desert Storm and what happened in Haiti and Somalia.

First of all, Mr. Speaker, there are few, if any, similarities. In Desert Storm we have a figure who was destined to take over a major part of the world and threaten the security of not just one country but a freedom-loving people in the Middle East, including the State of Israel, and threatening to create anarchy in that part of the world.

President Bush went to great lengths to line up allied support. Mr. Speaker, remember, that the cost of Desert Storm was not just in American lives and dollars, because as every Member, every one of our colleagues knows, the entire cost of Desert Storm, over $52 billion, was borne by those nations that benefited from our involvement. It was not a case where the United States went over and paid the bill and enticed people to come in by saying, "We will pay your soldiers and provide them food and give them shelter, just be a part of the team."

Mr. Speaker, in Desert Storm the parties who benefited most provided the dollars. And, yes, we did have an interest and, yes, we responded. And, yes, President Bush came to this Congress and asked for us to have an up-or-down vote in both bodies.

I might add, Mr. Speaker, not one Member of the Democratic leadership at that time stood up and spoke for nor voted for the effort to send our troops into Desert Storm. Not one. Yet I am sure when we have a debate on this floor, every one of those Members will get up and support President Clinton's actions. There is irony in that statement.

The President compared it to Haiti. Mr. Speaker, Haiti is not turning out to be the success that he promised. What has happened is we have spent about $2 billion of the U.S. taxpayers' dollars, and while the President has

boasted about the other countries being involved, when he fails to tell the American people is that we paid for the bulk of their housing, their food, and their allowance support, subsistence support, to come to Haiti to be a part of that operation.

□ 2310

So basically they were brought in because America agreed to foot the bill. The U.S. taxpayers agreed to foot the bill. And whether or not we have been successful in Haiti is still undetermined. There have been killings and assassinations down there on a regular basis. And many of us predict Haiti will go right back to the way it was once we have our presence totally removed from that country.

Let us talk about Somalia, because perhaps here is what scares me the most, Mr. Speaker. Somalia is probably that area where we have been involved militarily that I think causes certainly me and many of our colleagues to feel most uncertain and concerned about what President Clinton wants to do in Bosnia. I remember well, Mr. Speaker, a meeting in mid-September, held in one of the largest meeting rooms in the basement of this building, when Secretary of Defense Aspin and Secretary Warren Christopher came into a meeting room filled with Members of Congress only. There were about 300 House and Senate Members there, after we had lost 18 young Americans who had been shot down over Mogadishu and had their bodies dragged through the streets because we did not have the backup troop support to go in and rescue them. When Les Aspin was asked why this happened, he eventually acknowledged that the commanding officer of the Somalian operation had in August requested additional backup support for our troops in that theater but that he and the administration denied that support. When asked why, Secretary Aspin said it was because of the hostile political environment inside the beltway, the first time since Vietnam that a political armchair decision in Washington affected military action in another part of the world.

Mr. Speaker, I can guarantee you this, as a member of the Committee on National Security, President Clinton is not going to repeat what he did in Somalia. If he, in fact, is successful in sending 20,000 ground troops into Bosnia, which I am certain he will be, whether or not we have a vote, he has already said he is sending the troops in, we are going to be very careful and we are going to be strident that this President is not going to call the political shots of what our military officers do in that theater. Because if our troops are committed by this Commander in Chief, then those calls have to be made by the commanding officer in charge of the theater of operation in Europe.

Commander Joulwon who has the highest respect of most every Member of this body who knows him and the military leadership who serves under him should and will be making those calls. And the one thing that we will be focusing on, since we will probably not be able to stop the President from asserting troops in Bosnia, will be to make sure that General Joulwon gets every bit of support that he needs to maintain the safety of our troops. We want to make sure that there is no second guessing at 1600 Pennsylvania Avenue, as there was in Somalia, saying, "General Joulwon, we cannot send in more troops, we cannot send you more equipment, because it is not the right political climate in Washington". If this President follows through on his commitment to send 20,000 ground troops into Bosnia, then this President better be prepared to let General Joulwon call the shots in terms of what support he needs to protect our troops, even though many of us in this body, including myself, have great hesitation with any ground troops going into Bosnia whatsoever.

Mr. Speaker, as I said a moment ago, most of us have resigned ourselves to the fact that we cannot stop the troops from being sent over there. The President is in fact the Commander in chief of our military. I acknowledge that. He has that function. He has the ability to commit our troops to any part of the world, even though twice in my lifetime, it has been this Congress, under Democrats, who have cut off funding for our military as a way to bring our troops back home from Vietnam and from Somalia. So this President will in fact send our troops. Whether we have a vote or not here will not matter. He has already ignored the will of the Congress in terms of lifting the arms embargo over the past 2 years, and he has already ignored the will of the Congress three times in the last 2 months. Because three times since August, Mr. Speaker, this body and the other body have taken specific votes to say to the President, "Do not commit ground troops. Aerial support, logistical support, other types of aerial attacks and other types of support that we can provide, OK, but do not commit ground troops".

And those votes were overwhelmingly bipartisan. They were not Republicans. There were Democrats and Republicans together. What did President Clinton do? For the past 3 months he has ignored those votes. Even last week, the week before, before the agreement was initialed in Dayton, OH, this body again went on record saying, "Mr. President, do not commit ground troops". He is going to send ground troops whether we have another vote or not. But what we will do in this body is, we will make sure that we do not have a repeat of the Clinton Somalia debacle where American kids who were sent to a foreign country are allowed to be put at risk and, in the case of Somalia, 18 of them coming home in body bags after their bodies were dragged through the streets of downtown Mogadishu.

With every ounce of energy in my body, Mr. Speaker, that is not going to happen this time. The President may have his way in sending the troops in, but we who are on the Committee on National Security and those of us in the bipartisan manner in this Congress will work to make sure that our troops are given every possible means of support that they need with no second-guessing coming from the bureaucracy inside the Beltway here, letting our military leadership that has been assigned to this operation, in this case General Joulwon, make those decisions and have the full support he needs.

Mr. Speaker, there are many other articles that I want to put in the RECORD and will do so either tonight or in special orders I will be taking out this week from news sources around the world where those people inside of the Balkans are questioning this agreement. We have to be aware of what the leadership in those countries are saying, not just what the three signatories to that agreement out in Dayton said, because they are three individuals. The question is, do they, in fact, represent the majority of the people in the Balkans? Are the people going to adhere? Are they going to cooperate with this peacekeeping force? If you read some of the FBIS articles that have come out over the past several days, I have grave concerns.

Mr. Speaker, I would ask to enter into the RECORD an article that was printed in the Belgrade Nasa Borba in Serbo-Croatian, its November 22 edition, relative to the political parties and the peace accord and statements specifically that Serbian Radical Party President Vojislav Seselj exclaimed, and I quote, "The biggest betrayal of the Serbian nation has just been committed."

In stark opposition to the prevailing positive reactions to the agreement, Serbian Radical Party President Vojislav Seselj, according to BETA, exclaimed that "the biggest betrayal of the Serbian nation has just been committed."

I ask to include in the RECORD articles, again from FBIS reports, quoting a leading Bosnian Serb official Momcilo Krajisnik in terms of his refusal to sign on to the accord and explaining his opposition and how this agreement is a sellout of the Serbs.

[FBIS Transcribed Text, Nov. 21, 1995]

PLAN "NOT ACCEPTED" BY SERBS

SARAJEVO (AFP).—A senior Bosnian Serb official warned late Tuesday [21 November] that the peace accord agreed in Dayton, Ohio does not satisfy "even a minimum" of their demands.

Quoted by the Bosnian Serb official media, "parliamentary speaker" Momcilo Krajisnik said: "The agreement that has been reached

does not satisfy even a minimum of our interests. Our delegation has not accepted the plan and we were unanimous on that."

I also ask to include articles, again from the FBIS reports, from the Banja Luka Srpska Televizija, a TV station in Banja Luka, relative to the explanation of the accord and saying that, "The people, the Serbs are not intimidated by the Dayton agreement, they are not intimidated by the Dayton agreement in terms of what it is going to do to their nation."

Further go on to quote in the same article, "We will never give up Sarajevo, dead or alive, let everyone know that". If I were able to talk to both Clinton and Christopher like our delegation that went to negotiate, I would tell them not to play with the Serbs.

It goes on to further say, there is no Serb who would leave this and leave the Serb land behind. And it further goes on to say, they will not be frightened of the signatures from Dayton, speaking of the Serbs in Bosnia.

[FBIS Translated Text, Nov. 23, 1995]

SERBS IN SARAJEVO AWAIT "EXPLANATION" OF ACCORD

(Report by Draga Grubic)

The signing of the Dayton peace agreement has recently engrossed the citizens of Serb Sarajevo as the event on which they pinned their hope and survival. Now that the results of the talks have been revealed, the people of Sarajevo expect official explanation of the agreement that is to determine their destiny as well as the future of the second largest Serb town in former Yugoslavia. Neither the joint Croat-Muslim enemy, NATO jets, nor rapid reaction mortars managed to send the locals into exile and they are not intimidated by the Dayton agreement either.

[FBIS Translated Text, Nov. 23, 1995]

EXCERPT FROM "SARAJEVO SERBS OPPOSE DAYTON PEACE PLAN"

[Unidentified woman] "What, to give them Sarajevo? It is Serb, and no one else's. We will never give up Sarajevo, dead or alive, let everyone know that. If I were able to talk to both Clinton and Christopher, like our delegation that went to negotiate, I would tell them not to play with the Serbs".

* * * * *

[Unidentified man] "There is no Serb who would leave this, and leave the Serb land behind. I have buried 11 of my dearest here over the last year, and now I am expected to leave them behind. No way, God forbid".

[Correspondent] "The population of the second largest Serb town in former Yugoslavia has not been driven away by the combined Muslim-Croat enemy, by NATO aircraft, or Rapid Reaction Force shells. And they will not be frightened of the signatures from Dayton". [end recording]

Then going on to an article that appeared in the November 27 FBIS report dealing with NATO, warning Karadzic about his bloodbath threat and NATO having to threaten him if, in fact, Karadzic was arrested for war crimes.

(Report by Angus MacKinnon)

BRUSSELS, Nov. 27 (AFP).—NATO on Monday [27 November] warned Bosnian Serb leader Radovan Karadzic that any attempt to intimidate the peace force the alliance plans to send to Bosnia would be greeted with an "extremely robust" response.

Finally, Mr. Speaker, another editorial, written by Bela Jodal, "Compulsory Hope", in a Budapest publication. This is a very important question he asks.

"Will it be the U.S. troops who left Somalia due to difficulties which were smaller than what can be expected in the Balkans?"

[FBIS Translated Text, Nov. 23, 1995]

EDITORIAL DOUBTS FUTURE OF BOSNIAN PEACE ACCORD

* * * * *

Will it be the U.S. troops who left Somalia due to difficulties which were much smaller than what can be expected in the Balkans?

Mr. Speaker, the key question we have to ask is, is what we are about to do and what this President is about to do in America's best interest? More importantly, Mr. Speaker, we, as elected Representatives of approximately 600,000 people each across this country, have to be able to ask ourselves the ultimate question: Can we go into that family's home when their son or daughter or mother or father or brother or sister are sent home as a casualty of this conflict and be able to justify the job and the mission that they did?

□ 2320

I am a strong supporter of our military, Mr. Speaker, and proudly so, and I will be a strong supporter if the President deploys them there. But I do not support the President's policy, and I do not believe he has made the case.

Let me say in closing, Mr. Speaker, in coming to my conclusions 2 weeks ago I had to rely on a friend of mine who has been in Sarajevo for 3 years. His name is John Jordan. He is a Rhode Island volunteer firefighter. He went over to Sarajevo because he heard that the fire and emergency services personnel were being abused by the military even though they were trying to serve the Croats, Serbs, Muslems, all factions. He went over to volunteer to help them. He ended up staying 3 years.

Mr. Speaker, he was featured by ABC–TV as their person of the week for the work that he did as a volunteer. He brought 50 other Americans over with him to help the Serbian fire brigade with Keenan Slimmick, who was the fire chief before he was assassinated.

John Jordan was shot twice while he was in Sarajevo. He was beaten in the chest with the blunt end of a rifle. He had concussions, shrapnel wounds, but stayed there helping all of the various people in Sarajevo get decent medical protection and protection from fires and disasters.

We sent an airlift of supplies over to him a year and a half ago., We sent three or four fire trucks, rescue equipment that had been donated from around the country, to help him perform this mission in Sarajevo of humanitarian aid to these people during the time this President did nothing to satisfy those concerns he spoke of last night.

I asked John Jordan to come down to Washington to tell me what he thought we should do. John Jordan, American citizen, after 3 years in Sarajevo, gave me the following quote, Mr. Speaker, which appeared in an AP wire story on October 22 in regard to what we are going to face in Bosnia. Every one of us in this body have to understand in a context of the quotes I have given what John Jordan said will occur there:

"We're going to face some very, very ugly, heavily armed, prone-to-violence people who are totally unafraid of the United States", he said. "I've had more than one Serb commander say to me, 'I really wish the U.S. instead of the French were running the airport. If we can just get enough of you in one place at one time, we can kill 200 or 300 of you, you'll be out of this war forever, and you won't be a problem anymore. You'll leave just like you left Beirut.'"

Mr. Speaker, that is a question we have to wrestle with. Are our kids heading for another Beirut? I hope not, Mr. Speaker, and while I would like to think that this Congress would have the same ability that the Bundestag is going to have, that the other parliaments, like Italy, are going to have in approving of sending in of their troops, we are not going to have that because our President said our troops are going with or without the support of this Congress and with or without the support of the American people.

But, Mr. Speaker, I can assure you of one thing. He may send the troops, but we will make sure that we do not have a repeat of the debacle that occurred in Somalia because our kids are not going to be shortchanged, there is not going to be some political decision determining what we will or will not send once they are over there. If the commitment is made and the troops are sent, then they are going to get every bit of support that this body and our committees in Congress can muster to make sure that our troops are protected.

Mr. Speaker, I would ask our colleagues to consider what is about to confront us both this week and next week if, in fact, we have a vote. I am considering legislation right now that I may offer as an amendment if, in fact, we have an up-or-down vote on Bosnia, but again I would close by saying the vote is not really going to matter, Mr. Speaker, because the dice have already been rolled, and the President has already made up his mind, the troops have already been committed, and those of us who have concerns are not isolationists, we are not people who are immoral, and we are not people who think that there is not a proper role for America to help provide security throughout the world. We just question the way that we got to where we are and the decision of this President to

put 20,000 kids in harm's way between these warring factions that have been at each other's throats not for 4 years, and not for one decade, but decade after decade and century after century.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HEFNER (at the request of Mr. GEPHARDT) for today, on account of medical reasons.

Mrs. FOWLER (at the request of Mr. ARMEY) for today, on account of illness in the family.

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. JOHNSTON of Florida) to revise and extend their remarks and include extraneous material:)

Mrs. CLAYTON, for 5 minutes, today.

Mrs. MALONEY, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. ABERCROMBIE, for 5 minutes, today.

(The following Members (at the request of Mr. HUTCHINSON of Florida) to revise and extend their remarks and include extraneous material:)

Mr. HUTCHINSON, for 5 minutes, today.

Mr. MCINNIS, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes each day, today, and on November 29 and 30, and December 1.

Mr. DORNAN, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

Mr. MANZULLO, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes, today.

(The following Members (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. CUNNINGHAM, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(Mr. TRAFICANT, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,472.)

(The following Members (at the request of Mr. JOHNSTON of Florida) and to include extraneous matter:)

Mr. WYNN.

Mr. STOKES.

Mr. SCHUMER in two instances.

Mr. TRAFICANT.

Mrs. MALONEY.

Mr. KILDEE in two instances.

Ms. NORTON.

Mr. TOWNS.

Mr. JACOBS.

Mr. LAFALCE.

Mrs. MEEK of Florida in two instances.

Mr. BERMAN in two instances.

Mr. WILSON.

Mr. MURTHA.

Mr. STARK.

Mr. GEPHARDT.

Mr. POSHARD.

(The following Members (at the request of Mr. HUTCHINSON) and to include extraneous matter:)

Mr. SOLOMON.

Mr. MOORHEAD.

Mr. WOLF.

Mr. BEREUTER.

Mr. BASS.

Mr. BRYANT of Texas.

(The following Members (at the request of Mr. WELDON of Pennsylvania) and to include extraneous matter:)

Mr. BAKER of California.

Mr. OWENS.

Mr. BRYANT of Tennessee.

Mr. KIM.

Ms. MCCARTHY.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2491. An act to provide for reconciliation pursuant to section 105 of the concurrent resolution on the budget for fiscal year 1996.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 440. An act to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 1328. An act to amend the commencement dates of certain temporary Federal judgeships.

ADJOURNMENT

Mr. WELDON of Pennsylvania. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 26 minutes p.m.), the House adjourned until tomorrow, Wednesday, November 29, 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:

1716. A letter from the Under Secretary of Defense, transmitting the Secretary's Selected Acquisition Reports [SAR's] for the quarter ending September 30, 1995, pursuant to 10 U.S.C. 2432; to the Committee on National Security.

1717. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to the United Kingdom for defense articles and services (Transmittal No. 96-16), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1718. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Belgium for defense articles and services (Transmittal No. 96-15), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1719. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. C-96 which relates to enhancements or upgrades from the level of sensitivity of technology or capability described in section 36(b)(1) AECA certifications 91-03 of June 11, 1991 and 94-017 of February 28, 1994, pursuant to 22 U.S.C. 2776(b)(5)(A); to the Committee on International Relations.

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. YOUNG of Alaska: Committee on Resources. H.R. 33. A bill to transfer the Fish Farming Experimental Laboratory in Stuttgart, AK, to the Department of Agriculture, and for other purposes (Rept. 104-357). Referred to the Committee of the Whole House on the State of the Union.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 255. A bill to designate the Federal Justice Building in Miami, FL, as the "James Lawrence King Federal Justice Building" (Rept. 104-361). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 395. A bill to designate the U.S. courthouse and Federal building to be constructed at the southeastern corner of Liberty and South Virginia Streets in Reno, NV, as the "Bruce R. Thompson United States Courthouse and Federal Building" (Rept. 104-362). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 653. A bill to designate the U.S. courthouse under construction in White Plains, NY, as the "Thurgood Marshall United States Courthouse" (Rept. 104-363). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 840. A bill to designate the Federal building and U.S. courthouse located at 215 South Evans Street in Greenville, NC, as the "Walter B. Jones Federal Building and United States Courthouse" (Rept. 104-364). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 869. A bill to designate the Federal building and U.S. courthouse located at 125 Market Street in Youngstown, OH, as the "Thomas D. Lambros Federal Building and U.S. Courthouse", with amendments (Rept. 104-365). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 965. A bill to designate the Federal building located at 600 Martin Luther King, Jr. Place in Louisville, KY, as the "Romano L. Mazzoli Federal Building" (Rept. 104-366). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 1804. A bill to designate the U.S. post office-courthouse located at South 6th and Rogers Avenue, Fort Smith, AR, as the "Judge Isaac C. Parker Federal Building" (Rept. 104-367). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2636. A bill to transfer jurisdiction over certain parcels of Federal real property located in the District of Columbia, and for other purposes (Rept. 104-368, Pt. 1). Ordered to be printed.

Mr. BLILEY: Committee of Conference. Conference report on H.R. 1058. A bill to reform Federal securities litigation, and for other purposes (Rept. 104-369). Ordered to be printed.

REPORTS OF COMMITTEES ON PRIVATE 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. HYDE: Committee on the Judiciary. H.R. 418. A bill for the relief of Arthur J. Carron, Jr. (Rept. 104-358). Ordered to be printed.

Mr. HYDE: Committee on the Judiciary. H.R. 419. A bill for the relief of Benchmark Rail Group, Inc. (Rept. 104-359). Ordered to be printed.

Mr. HYDE: Committee on the Judiciary. H.R. 1315. A bill for the relief of Kris Murty (Rept. 104-360). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

[The following action occurred on Nov. 24, 1995]

H.R. 1122. The Committee on Commerce discharged from further consideration. Referred to the Committee of the Whole House on the State of the Union.

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. BARRETT of Nebraska:

H.R. 2679. A bill to revise the boundary of the North Platte National Wildlife Refuge; to the Committee on Resources.

By Mr. JOHNSON of South Dakota:

H.R. 2680. A bill to authorize a land conveyance at the Radar Bomb Scoring Site, Belle Fourche, SD; to the Committee on National Security.

By Ms. NORTON:

H.R. 2681. A bill to amend the act of incorporation of the American University to reduce the minimum number of members of the university's board of trustees from 40 to 25; to the Committee on Government Reform and Oversight.

By Mr. SOLOMON:

H.R. 2682. A bill to amend the Clean Air Act to provide for additional reductions in emissions of sulfur dioxide and oxides of nitrogen in regions contributing to acid deposition in the Adirondacks; to the Committee on Commerce.

By Mr. WOLF (for himself, Mrs. MORELLA, and Mr. DAVIS):

H.R. 2683. A bill to amend title 5, United States Code, to extend to employees of the Federal Bureau of Investigation certain procedural and appeal rights with respect to certain adverse personnel actions; to the Committee on Government Reform and Oversight.

By Mr. ISTOOK (for himself, Mr. BACHUS, Mr. BAKER of California, Mr. BALLENGER, Mr. BARR, Mr. BARRETT of Nebraska, Mr. BARTON of Texas, Mr. BLILEY, Mr. BONILLA, Mr. BUNNING of Kentucky, Mr. BURTON of Indiana, Mr. CALLAHAN, Mr. CHAMBLISS, Mrs. CHENOWETH, Mr. CHRISTENSEN, Mr. CHRYSLER, Mr. COBLE, Mr. COBURN, Mr. COLLINS of Georgia, Mr. CONDIT, Mr. COOLEY, Mr. CRANE, Mr. CRAPO, Mrs. CUBIN, Mr. CUNNINGHAM, Mr. DEAL of Georgia, Mr. DICKEY, Mr. DOOLITTLE, Mr. DORNAN, Mr. DUNCAN, Mr. EMERSON, Mr. EVERETT, Mr. FORBES, Mr. FUNDERBURK, Mr. GRAHAM, Mr. GUTKNECHT, Mr. HALL of Texas, Mr. HANCOCK, Mr. HANSEN, Mr. HASTERT, Mr. HAYWORTH, Mr. HEFLEY, Mr. HEINEMAN, Mr. HERGER, Mr. HILLEARY, Mr. HUNTER, Mr. INGLIS of South Carolina, Mr. SAM JOHNSON, Mr. JONES, Mr. KASICH, Mr. KIM, Mr. KINGSTON, Mr. LARGENT, Mr. LAUGHLIN, Mr. LEWIS of Kentucky, Mr. LIGHTFOOT, Mr. LINDER, Mr. LIVINGSTON, Mr. LUCAS, Mr. MCCOLLUM, Mr. MCCRERY, Mr. MCHUGH, Mr. MCINTOSH, Mr. MCNULTY, Mr. MONTGOMERY, Mr. MOORHEAD, Mr. MYERS of Indiana, Mrs. MYRICK, Mr. NORWOOD, Mr. OXLEY, Mr. PACKARD, Mr. PARKER, Mr. PAXON, Mr. POMBO, Mr. RADANOVICH, Mr. RAHALL, Mr. ROBERTS, Mr. ROHRABACHER, Mr. ROTH, Mr. SCARBOROUGH, Mr. SKEEN, Mr. SMITH of New Jersey, Mrs. SMITH of Washington, Mr. SMITH of Michigan, Mr. SOLOMON, Mr. SPENCE, Mr. STEARNS, Mr. STENHOLM, Mr. STOCKMAN, Mr. TATE, Mr. TAUZIN, Mr. TAYLOR of North Carolina, Mr. TAYLOR of Mississippi, Mr. TIAHRT, Mr. TRAFICANT, Mrs. VUCANOVICH, Mr. WAMP, Mr. WATTS of Oklahoma, Mr. WHITFIELD, Mr. WICKER, Mr. YOUNG of Florida, and Mr. YOUNG of Alaska):

H.J. Res. 127. Joint resolution proposing a religious liberties amendment to the Constitution of the United States to secure the people's right to acknowledge God according to the dictates of conscience; to the Committee on the Judiciary.

By Ms. NORTON:

H.J. Res. 128. Joint resolution making further continuing appropriations for the District of Columbia for fiscal year 1996, and for other purposes; to the Committee on Appropriations.

By Mr. TIAHRT (for himself, Mr. HOKE, Mr. MILLER of Florida, Mr. SOUDER, Mr. EVERETT, Mr. ZELIFF, Mr. CALVERT, Mr. FOLEY, Mr. HERGER, Mr. BUNNING of Kentucky, Mr. CHABOT, Mr. HAYWORTH, Mr. LEWIS of Kentucky, Mr. NEUMANN, Mr. BURTON of Indiana, Mr. BASS, Mr. BARR, Mr. DORNAN, Mr. MCINNIS, Mr. ARCHER, Mr. HUNTER, Mr. FORBES, Mr. JONES, Mr. CANADAY, Mr. SALMON, Mr. ENSIGN, Mr. MCCOLLUM, Mr. COOLEY, Mr. SOLOMON, Mr. BROWNBACK, Mr. BAKER of Louisiana, and Mr. CUBIN):

H. Res. 283. Resolution expressing the sense of the House of Representatives relating to certain activities of the Secretary of Energy; to the Committee on Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 52: Mr. BRYANT of Texas.

H.R. 104: Mr. WICKER.

H.R. 491: Mr. ANDREWS.

H.R. 704: Mr. YATES.

H.R. 1023: Ms. BROWN of Florida, Mr. BACHUS, and Mr. LINDER.

H.R. 1078: Mr. ORTIZ and Mr. BONIOR.

H.R. 1193: Mr. YATES.

H.R. 1234: Mrs. MORELLA.

H.R. 1297: Mr. MARTINI.

H.R. 1458: Mr. BROWN of Ohio.

H.R. 1484: Mr. WILLIAMS.

H.R. 1591: Mr. PAYNE of New Jersey.

H.R. 1735: Mr. FOX.

H.R. 1972: Mr. LAUGHLIN, Mr. GOODLING, Mr. FLANAGAN, Mr. ROYCE, Ms. FURSE, and Mr. CLINGER.

H.R. 1993: Mr. TORKILDSEN.

H.R. 2027: Mr. VENTO.

H.R. 2089: Mr. SENSENBRENNER, Mr. NETHERCUTT, Mr. BUNN of Georgia, Mr. NORWOOD, and Mr. METCALF.

H.R. 2247: Mr. DELLUMS, Ms. LOFGREN, Mrs. LOWEY, Mr. OLVER, Mr. RAHALL, and Ms. WOOLSEY.

H.R. 2275: Mr. CRAMER, Mrs. MYRICK, and Mr. TATE.

H.R. 2407: Mr. FILNER, Mr. COLEMAN, Mr. BEILENSON, Mr. OLVER, Mr. YATES, Mrs. MALONEY, Mr. BROWN of California, Mr. FRANK of Massachusetts, and Mr. BROWN of Ohio.

H.R. 2435: Mr. BARR, Mr. RIGGS, Mr. FROST, Mr. DAVIS, and Mr. CALVERT.

H.R. 2443: Mr. WELLER and Mr. MANZULLO.

H.R. 2463: Ms. FURSE.

H.R. 2506: Mr. BREWSTER and Mr. PICKETT.

H.R. 2508: Mr. BREWSTER, Mr. HANSEN, and Mr. BONILLA.

H.R. 2540: Mr. HUTCHINSON.

H.R. 2551: Mr. YATES.

H.R. 2555: Mr. HASTINGS of Washington.

H.R. 2582: Ms. FURSE and Mr. CALVERT.

H.R. 2585: Mr. NADLER.

H.R. 2627: Mr. ABERCROMBIE, Mr. BALLENGER, Mr. BARTLETT of Maryland, Mr. BEILENSON, Mr. BERMAN, Mr. BOEHLERT, Mr. BONILLA, Mr. BOUCHER, Mr. BROWN of California, Mr. BROWN of Ohio, Mr. BUNN of Oregon, Mr. BURR, Mr. CALVERT, Mr. COBLE, Mr. DE LA GARZA, Mr. DIAZ-BALART, Mr. DOOLITTLE, Mr. EDWARDS, Mr. EMERSON, Mr. FALEOMAVAEGA, Mr. FORBES, Mr. FRELINGHUYSEN, Mr. GEJDENSON, Mr. GUNDERSON, Mr. HALL of Texas, Mr. HALL of Ohio, Mr. HAMILTON, Mr. HEFNER, Mr. HILLIARD, Mr. HOUGHTON, Mr. JONES, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Mr. KNOLLENBERG, Mr. KOLBE, Mr. LAHOOD, Mr. LARGENT, Ms. LOFGREN, Mr. MANZULLO, Mr. MENENDEZ, Mr. MONTGOMERY, Mr. MYERS of Indiana, Mr. OBEY, Mr. POMBO, Mr. QUILLEN, Mr. QUINN, Ms. ROYBAL-ALLARD, Mr. ROEMER, Mr. ROSE, Mr. RUSH, Mr. SAWYER, Mrs. SCHROEDER, Mrs. SEASTRAND, Ms. SLAUGHTER, Mr. SMITH of New Jersey, Mr. SMITH of Washington, Mr. SOLOMON, Mr. STARK, Mr. STENHOLM, Mr. TAYLOR of North Carolina, Mr. TORRES, Mr. WISE, Mr. WILSON, and Mr. YOUNG of Florida.

H.R. 2651: Mr. TAYLOR of Mississippi, Mr. FIELDS of Louisiana, and Ms. DANNER.

H.R. 2654: Mr. YATES, Mr. MCDERMOTT, Mr. HASTINGS of Florida, Mr. ABERCROMBIE, Mr. DELLUMS, Mr. FILNER, Mr. HINCHEY, and Mr. SCOTT.

H.R. 2661: Mr. DAVIS.

H.R. 2664: Mr. GENE GREEN of Texas, Mr. BOUCHER, Ms. BROWN of Florida, Mr. CRANE, Mr. LEWIS of Georgia, Mr. COOLEY, Mr. DEAL of Georgia, Mr. FUNDERBURK, Mrs. SEASTRAND, Mr. WATTS of Oklahoma, Mr. FALEOMAVAEGA, Mr. HEFNER, Mr. LAUGHLIN, Mr. BARTLETT of Maryland, Mr. HALL of Ohio, Mr. BORSKI, Mr. ENSIGN, Ms. WATERS, Mr. PALLONE, Mr. FROST, Mr. SANDERS, Mr. WAXMAN, Ms. RIVERS, Mr. SCHAEFER, Mrs. MEEK of Florida, Mr. CRAMER, Mr. ORTIZ, Mr. OXLEY, Mr. FILNER, Mr. SMITH of New Jersey, Mr. RIGGS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WYNN, Mr. HASTINGS of Florida, Mr. SANFORD, Mr. FORBES, Mr. MCCRERY, Mr. PASTOR, Mr. HANCOCK, Mr. BREWSTER, Mr. HERGER, Mr. HAMILTON, Mr. PICKETT, Mr. DOYLE, Mr. UNDERWOOD, Mr. CALLAHAN, Mr. GONZALEZ, Mr. MATSUI, and Mrs. LOWEY.

H.R. 2668: Mr. CLINGER, Mr. DEAL of Georgia, Mr. LAHOOD, Mr. BUNN of Oregon, Mr. BURR, Mr. NETHERCUTT, Mr. SOLOMON, Mr. FRISA, Mr. BALLENGER, Mr. FRELINGHUYSEN, Mrs. MEYERS of Kansas, Mr. METCALF, Mrs. KELLY, Mrs. MORELLA, Mr. TALENT, and Mr. WELDON of Pennsylvania.

H.J. Res. 114: Mr. LAFALCE.

H.J. Res. 117: Mr. JACOBS.

H. Con. Res. 50: Mr. NADLER.

H. Con. Res. 102: Mr. DELLUMS, Mr. WAXMAN, Mr. SABO, Mr. DEUTSCH, and Mr. BURTON of Indiana.

H. Res. 220: Ms. BROWN of Florida, Mrs. SCHROEDER, Mr. WILSON, Mr. BERMAN, Mr. SERRANO, Mr. FARR, Mr. STARK, Mr. LEWIS of Georgia, and Mr. MEEHAN.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1788

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 1: Page 5, after line 14, insert the following new section:

SEC. 104. TRACK WORK.

(a) OUTREACH PROGRAM.—Amtrak shall, within one year after the date of the enactment of this Act, establish an outreach program through which it will work with track work manufacturers in the United States to increase the likelihood that such manufacturers will be able to meet Amtrak's specifications for track work. The program shall include engineering assistance for the manufacturers and dialog between Amtrak and the manufacturers to ensure that Amtrak's specifications match the capabilities of the manufacturers.

(b) ANNUAL REPORT.—Amtrak shall annually report to the Congress on progress made under subsection (a), including a statement of the percentage of Amtrak's track work contracts that are awarded to manufacturers in the United States.