

AFFORDABLE LEGAL SERVICES

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 18, 1995

Mr. MOAKLEY. Mr. Speaker, today I introduced legislation to reinstate the limited tax exclusion for employer provided group legal services.

This measure would reinstate section 120 of the Internal Revenue Code, under which many middle-class Americans could afford legal services. If enacted, this bill would encourage employers to provide preventive and affordable legal services to their employees by excluding their \$70 per year in contributions to a qualified legal services plan.

Since section 120 was first enacted in 1976, both employers and employees have benefited from it. It helped employees, who were able to resolve their legal problems quickly and avoid costly legal bills. It also helped businesses because employees were not distracted from work because of personal legal difficulties. The provision has proved to be so successful that Congress extended it seven times before it expired in 1992.

I believe it is imperative to support this legislation which promotes family unity by encouraging people to seek legal help while they still have some options. The goal of this bill is to help those middle-class Americans who don't have access to quality and affordable legal representation.

I respectfully request your support of this bill.

PERSONAL EXPLANATION

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 18, 1995

Mr. TORRES. Mr. Speaker, I was unavoidably absent on official business on Tuesday, January 17, 1995, for rollcall vote No. 190. Had I been present on the House floor I would have cast my vote as follows:

Roll No. 190: "Yea" on the motion to suspend the rules and pass S.2., the Congressional Accountability Act, to make certain laws applicable to the legislative branch of the Federal Government.

CARIBBEAN BASIN ECONOMIC SECURITY ACT

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 18, 1995

Mr. CRANE. Mr. Speaker, today I am introducing the Caribbean Basin Economic Security Act. This bill would grant tariff treatment equivalent to that accorded to members of the North American Free-Trade Agreement [NAFTA], to Caribbean Basin beneficiary countries, for a 6-year period, pending their accession to NAFTA.

This bill would also direct the USTR to meet on a regular basis with trade ministers of countries in the Caribbean to discuss the likely

timing and possible procedures for initiating negotiations for beneficiary countries to accede to NAFTA.

Finally, as a way to encourage the administration to give a high priority to expanding trade with the Caribbean, the bill requires annual reports to Congress which: One, assess progress toward economic development and market oriented reforms in the Caribbean, and; two, analyze beneficiary countries with respect to their ability to undertake the trade obligations of NAFTA.

First proposed by the Reagan administration in 1982 and passed by the Congress in 1983, the Caribbean Basin Initiative [CBI] program is based on the understanding that the United States has a special responsibility to help the small, poorer economies which are our neighbors in the hemisphere. Because of the Caribbean's close proximity to the United States, Congress agreed, on a bipartisan basis, that it was in the best interest of the United States to encourage the development of strong democratic governments and healthy economies in these countries, through the expansion of trade.

Made permanent in 1990, the Caribbean Basin Initiative extends duty-free treatment to a wide-range of products imported from beneficiary countries. The program has served as a text-book example of the job-creating effects of promoting increased trade. As a result of the CBI, thousands of new jobs were created in the Caribbean. Even more remarkable was the increase in U.S. exports to the region during the life of the CBI program. They grew from \$5.8 billion in 1983 to \$12.3 billion in 1993. This represents a 112 percent increase, a rate three times the growth rate of U.S. exports to the world.

The legislation I am introducing today would ensure that the value of the U.S. commitment to the Caribbean contained in the CBI is not eroded over time. An unfortunate result of the passage of the NAFTA, enacted in 1993, is that some investment is being diverted from the Caribbean to Mexico.

This bill is designed to remedy the negative effects of NAFTA on the Caribbean by putting these countries on a clearer path toward eventually assuming the reciprocal trade obligations of NAFTA. For that to take place, the USTR must meet regularly in ministerial meetings with these countries in order to analyze and assess how they can best reform their economies in preparation for NAFTA membership. For some of the poorest countries, especially those in the Eastern Caribbean, this will require strong leadership from the United States, and longer transition periods during which NAFTA obligations can be phased in.

I am aware that the administration and possibly some U.S. industries will have concerns regarding the unilateral nature of the trade benefits in this bill. To them I would emphasize that the unilateral benefit in my bill is for a temporary period of 6 years so as to give these small economies time to develop and to undertake structural reforms.

I believe it is important that we start with the goal of achieving full NAFTA accession for CBI countries, because the standards of NAFTA, I believe, represent clear guide posts for charting trade expansion in the Western Hemisphere. My bill would allow for the negotiation of separate bilateral free-trade agreements, if necessary.

In my view, USTA should work with Canada and Mexico to ensure that CBI countries can be early partners with NAFTA members in the upcoming negotiations aimed at establishing the Free-Trade Agreement of the Americas [FTAA], announced at the recent Summit of Americas meeting in Miami.

As followup to the Summit of the Americas, the administration will be working to negotiate the accession of Chile to NAFTA this year. I believe it is equally important to work out a consensus with countries in the Caribbean regarding a procedure for expanding NAFTA which will include them. The Ways and Means Committee plans to consult closely with the administration in the coming weeks to achieve this goal.

Having been considered during approval of the NAFTA and Uruguay round implementing bills, NAFTA parity legislation represents unfinished business from the 103d Congress. It is my intention to seek swift approval of this bill by the Trade Subcommittee as soon the Contract With America schedule will permit.

CONGRATULATIONS TO GOLDTHWAITE HIGH SCHOOL STATE FOOTBALL CHAMPIONS

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 18, 1995

Mr. EDWARDS. Mr. Speaker, today, I would like to recognize a group of individuals, a team, whose strive for sportsmanship and fairness in scholastic sports have made them champions, not only in their game, but in their daily lives as well.

I extend my sincere congratulations to the Goldthwaite High School Eagles of Goldthwaite, TX, who captured the 1994 Class 2A State Championship on December 17, 1994 at Memorial Stadium in Austin. Exacting revenge on the team that defeated them for the 1992 State title, the Eagles defeated the Schulenburg High School Shorthorns, 20-16, taking their second consecutive State championship and third in less than 10 years.

This achievement could not have been possible if not for the support of the student body and parents of Goldthwaite. This victory also, if not more so, comes through the dedication of coach Gary Proffitt and his staff. They, too, must be congratulated for the role they took in shaping the lives of these winners, winners who by accepting this victory also accept a responsibility to be victorious throughout their lives and give back to their communities.

I urge my colleagues to join me today in recognizing and honoring the players, coaches, students, and parents of Goldthwaite, TX.

INTRODUCTION OF PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 18, 1995

Mr. MARKEY. Mr. Speaker, today I am introducing legislation which would reform securities fraud litigation in order to curb frivolous

lawsuits while protecting and strengthening the ability of defrauded investors to sue.

I believe that Americans can be justifiably proud of the substantial benefits we enjoy from the fact that we have the best securities markets in the world. Our stock and bond markets have expanded tremendously over the last several years. This has helped to finance the birth and growth of promising new industries such as telecommunications, computer software, and other high technology companies that create better jobs and promote economic growth.

One of the most critical factors supporting the successful growth of America's market-based capital formation system is the high level of trust and confidence investors have in the fundamental integrity and fairness of our securities markets. Our Federal securities laws help assure stock or bond prices efficiently reflect the values of the companies that have issued them. This is achieved through a system of full disclosure of all material information about public companies, which empowers Americans so that they can make informed investment decisions about which company's stocks or bonds they want to purchase. But disclosure cannot effectively serve the needs of the investing public unless backed up by strong enforcement mechanisms that assure that those who lie, cheat, and steal will be caught and punished.

Over the last decade, we have witnessed horrendous financial frauds involving hundreds of billions of dollars—including Lincoln Savings & Loan, Drexel, Centrust, Phar-Mor, Miniscribe, and ZZZ Best. The "rogues gallery" of financial miscreants and malfactors that were responsible for these crimes were brought to justice through the combined efforts of Federal regulators and individual investors who filed private lawsuits. Such private lawsuits perform functions that Federal bureaucrats cannot accomplish. They provide compensation to investors who have been defrauded and they supplement the SEC's enforcement activities by helping to deter companies that may be contemplating actions that would mislead their investors.

The securities litigation provisions of the GOP Contract With America would give white collar criminals, stock swindlers, and financial con artists a license to rip-off the investing public. Make no mistake about it: H.R. 10, the so-called Common Sense Legal Reform Act, is special interest legislation at its worst. While it purports to take aim against abuses by attorneys, in reality the principal beneficiaries of this legislation will be huge corporations, wealthy Wall Street investment bankers, Big Six Accounting firms, and well-heeled corporate lawyers. Who will lose out? The defrauded investors, pension funds, and State and local governments who are victimized by financial fraud, and every honest business in America which can't get capital to build because a competitor is checking the system.

Individual investors—such as those here today who have suffered financial losses as the result of the Orange County bankruptcy—will face nearly insurmountable new procedural and substantive obstacles in bringing their cases to court. Proposals such as adoption of the English rule on fee shifting, establishment of heightened intent requirements that would eliminate recklessness as a cause of action in securities fraud cases, enhanced pleading requirements, elimination of cases

based on a fraud on the market, and other proposed changes would effectively end securities class action litigation in this country. This would deprive potentially defrauded investors from being able to seek recovery of their lost savings.

Unlike the Republican bill, the legislation I am introducing today would target the real problems and abuses that can occur in the existing litigation process without impairing the ability of defrauded investors to sue wealthy corporations, and the accountants or attorneys who knowingly or recklessly assisted them in perpetrating financial frauds. My bill contains reforms which would:

Ban or restrict a range of abusive practices engaged in by plaintiffs' or defendants' attorneys;

Streamline the securities litigation process by providing for an early evaluation process aimed at weeding out frivolous cases;

Require the SEC to issue new rules to strengthen the safe harbor provided for companies to issue forward-looking statements;

Limit the potential financial risk faced by defendants in securities fraud litigation cases by providing defendants with a right to obtain contribution from their codefendants based on proportionate responsibility;

Assure that the interests of plaintiffs' attorneys are more closely aligned with the interests of their clients by mandating that fees be calculated on the percentage of lost funds recovered, rather than on how many billable hours the lawyers have generated;

Overtake the Supreme Court's Central Bank of Denver decision by fully restoring liability to those who knowingly or recklessly aid or abet securities fraud;

Overtake the Supreme Court's Lampf decision by establishing a statute of limitations for securities fraud cases of 5 years after occurrence or 3 years after the violation was actually discovered;

Strengthen the role of auditors in detecting and reporting evidence of financial fraud; and finally,

Mandate an SEC study on the effectiveness of private enforcement of compliance with the federal securities laws.

This package of reforms represents a balanced alternative to the special interest smorgasbord set forth in H.R. 10. Over the next few days and weeks, I intend to seek cosponsors to my bill and I fully expect to offer this legislation, or amendments derived from it, to H.R. 10 when it is marked up in our subcommittee. While the specifics of this bill may undergo further refinement during the course of discussions with my House colleagues, and some additional or related provisions may be introduced later, the fundamental principles of fairness to investors that this bill embodies will not be altered.

In conclusion, I am proud, as a Democrat, to have supported the evolution of a market system that provides investors with the right to obtain full disclosure of critical investment information. I believe that investors who are defrauded by false or misleading financial statements, or inflated puffery about a corporation's earnings, products or prospects, or the value of its securities, should have a right to sue for recovery. The bill I am introducing today would preserve that right, while eliminating certain abusive or problematic practices that unduly burden the overwhelming majority of compa-

nies who are seeking in good faith to play by the rules and comply with the law.

PERSONAL EXPLANATION

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 18, 1995

Mr. McINNIS. Mr. Speaker, due to travel delays, I was not present to vote for S. 2. As a cosponsor of the Congressional Accountability Act in this session, as well as the 103d, I would have clearly voted in support of this legislation, as I did with H.R. 1, on January 5, 1995.

IN HONOR OF MONO SEN, DISTINGUISHED INDIAN COMMUNITY LEADER

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 18, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Mono Sen, an Indian community leader. Mr. Sen has made many positive contributions to the Indian community in the 13th Congressional District. He has dedicated himself to helping others, no matter how difficult the task. He has spent his entire career creating opportunities for hundreds of people of all races, creeds and ethnicities.

Mr. Sen came to the United States in 1971 and lived in New York until June of 1974. While living in New York, he dedicated himself to helping senior citizens. He served as the management consultant at the William Hudson Center in the South Bronx and as director of Caring Community Center in New York, which provided quality services mostly to the Jewish and Italian communities.

Mr. Sen has provided jobs for many Indian E.S.L. teachers in Jersey City and is responsible for the hiring of many Indians as income maintenance technicians in the Hudson County Welfare Department. In 1977, Mr. Sen fought for Federal money to help Vietnamese refugees resettle in Hudson County. Mr. Sen is a community leader in the best sense of the word. People come to him with their problems, whether they are financial or personal, and Mr. Sen tries to help them with their problems.

Mr. Sen has expressed great interest in uniting the Asian-American community. He founded the United Ethnic Congress in America in 1980. The purpose of this organization was to promote the election and appointments of Asians to the U.S. Government, so that they could contribute politically. Mr. Sen also joined the American Association and began generating interest among Indians in the community in becoming involved in politics. In addition, he was one of the main speakers of the first Convention of Indians in New York. Also, in 1991, Mr. Sen spoke for almost 2 hours before the U.S. Civil Rights Commission on police abuses on behalf of 9 million Asian people.

Many people in the community depend on Mr. Sen for help in such matters as seeking help from the city, county or State, as well as