

Mr. Speaker, I also support the President's decision to continue our engagement with China because this is a foreign policy and a national security issue, not just a trade issue. China is cooperating with us in a number of areas of strategic importance to promote stability in Asia, including on nuclear nonproliferation and the financial crisis. For the Congress now to disapprove normal trading status and, instead, impose prohibitive tariffs on Chinese products clearly would have negative consequences for our overall strategic as well as economic relations.

The United States-China relationship is a key to global peace, prosperity, and stability for many years ahead. Management of this relationship in a constructive, positive way is of critical importance to our national interests. The wisdom of this course was demonstrated by the President's trip and I believe it must be maintained.

We should defeat H.J. Res. 121.

□ 1545

The SPEAKER pro tempore (Mr. PEASE). Pursuant to the order of the House of Friday, July 17, 1998, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that proceedings will resume on the motion to suspend the rules and pass the bill, H.R. 1689, immediately following this vote, and without objection, the Chair will reduce the time for that vote by the yeas and nays to not less than 5 minutes.

There was no objection.

The SPEAKER pro tempore. The question is on the joint resolution.

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

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 166, noes 264, not voting 5, as follows:

[Roll No. 317]

AYES—166

Abercrombie	Collins	Gallegly
Aderholt	Condit	Ganske
Barcia	Cook	Gejdenson
Barr	Costello	Gephardt
Bartlett	Cox	Gibbons
Barton	Coyne	Gilman
Bishop	Cummings	Goode
Blunt	Danner	Goodling
Bonior	Deal	Graham
Borski	DeFazio	Gutierrez
Brady (PA)	DeLaunt	Hall (OH)
Brown (OH)	DeLauro	Hastings (FL)
Bunning	Diaz-Balart	Hefley
Burr	Dickey	Hefner
Burton	Doolittle	Hilleary
Cardin	Duncan	Hinchee
Carson	Ehrlich	Hobson
Chambliss	Engel	Horn
Chenoweth	Ensign	Hostettler
Christensen	Evans	Hoyer
Clay	Everett	Hunter
Clayton	Forbes	Hyde
Clyburn	Fowler	Inglis
Coburn	Frank (MA)	Jackson (IL)

Jenkins	Ney	Souder
Jones	Norwood	Spence
Kaptur	Obey	Spratt
Kasich	Olver	Stark
Kennedy (MA)	Owens	Stearns
Kennedy (RI)	Pallone	Stokes
Kildee	Pappas	Strickland
Kilpatrick	Pascarell	Stupak
King (NY)	Payne	Sununu
Kingston	Pelosi	Taylor (MS)
Klink	Pickering	Taylor (NC)
Klug	Pombo	Thompson
Kucinich	Riley	Tiahrt
Lantos	Rivers	Tierney
Lee	Rogers	Torres
Lewis (GA)	Rohrabacher	Traficant
Lipinski	Ros-Lehtinen	Velazquez
LoBiondo	Rothman	Vento
Maloney (CT)	Royce	Visclosky
Markey	Sabo	Wamp
Mascara	Sanchez	Waters
McCarthy (NY)	Sanders	Waxman
McDade	Sanford	Weldon (FL)
McIntyre	Saxton	Wexler
McKinney	Scarborough	Weygand
Menendez	Schaefer, Dan	Wolf
Miller (CA)	Schaffer, Bob	Woolsey
Mink	Sensenbrenner	Wynn
Mollohan	Sisisky	Yates
Myrick	Smith (NJ)	Young (AK)
Nadler	Smith, Linda	
Neumann	Solomon	

NOES—264

Ackerman	Dooley	Klecza
Allen	Doyle	Knollenberg
Andrews	Dreier	Kolbe
Archer	Dunn	LaFalce
Armey	Edwards	LaHood
Bachus	Ehlers	Lampson
Baesler	Emerson	Largent
Baker	English	Latham
Baldacci	Eshoo	LaTourette
Ballenger	Etheridge	Lazio
Barrett (NE)	Ewing	Leach
Barrett (WI)	Farr	Levin
Bass	Fattah	Lewis (CA)
Bateman	Fawell	Lewis (KY)
Becerra	Fazio	Linder
Bentsen	Filner	Livingston
Bereuter	Foley	Lofgren
Berman	Fossella	Lowey
Berry	Fox	Lucas
Bilbray	Franks (NJ)	Luther
Bilirakis	Frelinghuysen	Maloney (NY)
Blagojevich	Frost	Manton
Bliley	Furse	Manzullo
Blumenauer	Gekas	Martinez
Boehert	Gilchrist	Matsui
Boehner	Gillmor	McCarthy (MO)
Bonilla	Gingrich	McCollum
Bono	Goodlatte	McCrery
Boswell	Gordon	McDermott
Boucher	Goss	McGovern
Boyd	Granger	McHale
Brady (TX)	Green	McHugh
Brown (CA)	Greenwood	McInnis
Brown (FL)	Gutknecht	McIntosh
Bryant	Hall (TX)	McKeon
Buyer	Hamilton	Meehan
Callahan	Hansen	Meek (FL)
Calvert	Harman	Meeks (NY)
Camp	Hastert	Metcalf
Campbell	Hastings (WA)	Mica
Canady	Hayworth	Millender-
Cannon	Herger	McDonald
Capps	Hill	Miller (FL)
Castle	Hilliard	Minge
Chabot	Hinojosa	Moakley
Clement	Hoekstra	Moran (KS)
Coble	Holden	Moran (VA)
Combest	Hooley	Morella
Conyers	Houghton	Murtha
Cooksey	Hulshof	Neal
Cramer	Hutchinson	Nethercutt
Crane	Istook	Northrup
Crapo	Jackson-Lee	Nussle
Cubin	(TX)	Oberstar
Cunningham	Jefferson	Ortiz
Davis (FL)	John	Oxley
Davis (IL)	Johnson (CT)	Packard
Davis (VA)	Johnson (WI)	Parker
DeGette	Johnson, E. B.	Pastor
DeLay	Johnson, Sam	Paul
Deutsch	Kanjorski	Paxon
Dicks	Kelly	Pease
Dingell	Kennelly	Peterson (MN)
Dixon	Kim	Peterson (PA)
Doggett	Kind (WI)	Petri

Pickett	Salmon	Stump
Pitts	Sandlin	Talent
Pomeroy	Sawyer	Tanner
Porter	Schumer	Tauscher
Portman	Scott	Tauzin
Poshard	Sessions	Thomas
Price (NC)	Shadegg	Thornberry
Pryce (OH)	Shaw	Thune
Quinn	Shays	Thurman
Radanovich	Sherman	Towns
Rahall	Shimkus	Turner
Ramstad	Shuster	Upton
Rangel	Skaggs	Walsh
Redmond	Skeen	Watkins
Regula	Skelton	Watt (NC)
Reyes	Slaughter	Watts (OK)
Riggs	Smith (MI)	Weldon (PA)
Rodriguez	Smith (OR)	Weller
Roemer	Smith (TX)	White
Rogan	Smith, Adam	Whitfield
Roukema	Snowbarger	Wicker
Roybal-Allard	Snyder	Wilson
Rush	Stabenow	Wise
Ryun	Stenholm	

NOT VOTING—5

Ford	McNulty	Young (FL)
Gonzalez	Serrano	

□ 1604

Mr. RUSH and Mr. McCRERY changed their vote from "aye" to "no." Mr. VISCLOSKY and Mrs. MYRICK changed their vote from "no" to "aye." So the joint resolution was not passed.

The result of the vote was announced as above recorded.

SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1997

The SPEAKER pro tempore (Mr. PEASE). The unfinished business is the question of suspending the rules and passing the bill, H.R. 1689, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. BLILEY) that the House suspend the rules and pass the bill, H.R. 1689, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 340, nays 83, answered "present" 1, not voting 11, as follows:

[Roll No. 318]

YEAS—340

Ackerman	Bonilla	Collins
Aderholt	Bono	Combest
Allen	Boswell	Condit
Andrews	Boucher	Cook
Archer	Boyd	Cooksey
Armey	Brady (TX)	Cox
Bachus	Brown (OH)	Cramer
Baesler	Bryant	Crane
Baker	Bunning	Crapo
Ballenger	Burr	Cunningham
Barcia	Burton	Danner
Barr	Buyer	Davis (FL)
Barrett (NE)	Callahan	Davis (VA)
Barrett (WI)	Calvert	Deal
Bartlett	Camp	DeLauro
Barton	Campbell	DeLay
Bass	Canady	Deutsch
Bateman	Cannon	Diaz-Balart
Bentsen	Capps	Dickey
Bereuter	Cardin	Dooley
Berry	Castle	Doolittle
Bilbray	Chabot	Doyle
Bilirakis	Chambliss	Dreier
Bishop	Chenoweth	Duncan
Bliley	Christensen	Dunn
Blumenauer	Clement	Edwards
Boehert	Coble	Ehlers
Boehner	Coburn	Ehrlich

Emerson	LaHood	Riley
English	Lampson	Rodriguez
Ensign	Lantos	Roemer
Eshoo	Largent	Rogan
Etheridge	Latham	Rogers
Everett	LaTourette	Rohrabacher
Ewing	Lazio	Ros-Lehtinen
Farr	Leach	Rothman
Fazio	Lewis (CA)	Roukema
Foley	Lewis (KY)	Royce
Forbes	Linder	Rush
Fossella	Livingston	Ryun
Fowler	LoBiondo	Sabo
Fox	Lofgren	Salmon
Frank (MA)	Lucas	Sanchez
Franks (NJ)	Luther	Sandlin
Frelinghuysen	Maloney (CT)	Sanford
Furse	Maloney (NY)	Sawyer
Galleghy	Manton	Saxton
Ganske	Manzullo	Scarborough
Gejdenson	Martinez	Schaefer, Dan
Gekas	Mascara	Schaffer, Bob
Gibbons	Matsui	Sensenbrenner
Gilchrest	McCarthy (MO)	Sessions
Gillmor	McCarthy (NY)	Shadegg
Gilman	McCollum	Shaw
Gingrich	McCrery	Shays
Goode	McDade	Sherman
Goodling	McGovern	Shimkus
Gordon	McHale	Shuster
Goss	McHugh	Siskiy
Graham	McInnis	Skeen
Granger	McIntosh	Skelton
Green	McIntyre	Slaughter
Greenwood	McKeon	Smith (MI)
Gutknecht	Meehan	Smith (NJ)
Hamilton	Meeks (NY)	Smith (OR)
Hansen	Metcalf	Smith (TX)
Harman	Mica	Smith, Adam
Hastert	Miller (CA)	Smith, Linda
Hastings (FL)	Miller (FL)	Snowbarger
Hastings (WA)	Minge	Snyder
Hayworth	Moakley	Solomon
Hefley	Moran (KS)	Souder
Hefner	Moran (VA)	Spence
Hill	Morella	Spratt
Hilleary	Murtha	Stabenow
Hinojosa	Myrick	Stearns
Hobson	Neal	Stenholm
Hoekstra	Nethercutt	Strickland
Holden	Neumann	Stump
Horn	Ney	Sununu
Hostettler	Northup	Talent
Houghton	Norwood	Tanner
Hoyer	Nussle	Tauscher
Hulshof	Ortiz	Tauzin
Hunter	Oxley	Taylor (NC)
Hutchinson	Packard	Thomas
Hyde	Pallone	Thornberry
Inglis	Pappas	Thune
Istook	Parker	Tiahrt
Jackson-Lee	Pascrell	Towns
(TX)	Paxon	Trafficant
Jefferson	Pease	Turner
Jenkins	Pelosi	Upton
John	Peterson (MN)	Velazquez
Johnson (CT)	Peterson (PA)	Vento
Johnson (WI)	Petri	Visclosky
Johnson, Sam	Pickering	Walsh
Jones	Pickett	Wamp
Kasich	Pitts	Waters
Kelly	Pombo	Watkins
Kennedy (MA)	Pomeroy	Watts (OK)
Kennedy (RI)	Porter	Weldon (FL)
Kennelly	Portman	Weldon (PA)
Kildee	Poshard	Weller
Kilpatrick	Price (NC)	Wexler
Kim	Pryce (OH)	Weygand
Kind (WI)	Quinn	White
King (NY)	Radanovich	Whitfield
Kingston	Ramstad	Wicker
Kleczka	Rangel	Wilson
Klug	Redmond	Wolf
Knollenberg	Regula	Wynn
Kolbe	Reyes	Young (AK)
LaFalce	Riggs	

NAYS—83

Abercrombie	Carson	Delahunt
Baldacci	Clay	Dicks
Becerra	Clayton	Dingell
Berman	Clyburn	Dixon
Blagojevich	Conyers	Doggett
Blunt	Costello	Engel
Bonior	Coyne	Evans
Borski	Cummings	Fattah
Brady (PA)	Davis (IL)	Filner
Brown (CA)	DeFazio	Frost
Brown (FL)	DeGette	Gephardt

Gutierrez	Meek (FL)	Sanders
Hall (OH)	Menendez	Schumer
Hilliard	Millender-	Scott
Hinchee	McDonald	Skaggs
Jackson (IL)	Mink	Stark
Johnson, E. B.	Mollohan	Stokes
Kanjorski	Nadler	Stupak
Kaptur	Oberstar	Taylor (MS)
Klink	Obey	Thompson
Kucinich	Olver	Thurman
Lee	Owens	Tierney
Levin	Pastor	Torres
Lewis (GA)	Paul	Watt (NC)
Lipinski	Payne	Waxman
Markey	Rahall	Wise
McDermott	Rivers	Woolsey
McKinney	Roybal-Allard	Yates

ANSWERED "PRESENT"—1

Lowey

NOT VOTING—11

Cubin	Goodlatte	McNulty
Fawell	Hall (TX)	Serrano
Ford	Herger	Young (FL)
Gonzalez	Hooley	

□ 1615

Mr. JACKSON of Illinois changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GOODLATTE. Mr. Speaker, on rollcall No. 318, I was unavoidably detained. Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Ms. HOOLEY of Oregon. Mr. Speaker, during rollcall vote No. 318, H.R. 1689—Securities Litigation, I was unavoidably detained. Had I been present, I would have voted "aye."

Mr. BLILEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1260) to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1260

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 "Securities Litigation Uniform Standards Act of 1998".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Private Securities Litigation Reform Act of 1995 sought to prevent abuses in private securities fraud lawsuits;

(2) since enactment of that legislation, considerable evidence has been presented to Congress that a number of securities class action lawsuits have shifted from Federal to State courts;

(3) this shift has prevented that Act from fully achieving its objectives;

(4) State securities regulation is of continuing importance, together with Federal regulation of securities, to protect investors and promote strong financial markets; and

(5) in order to prevent certain State private securities class action lawsuits alleging fraud from being used to frustrate the objectives of the Private Securities Litigation Reform Act of 1995, it is appropriate to enact national standards for securities class action lawsuits involving nationally traded securities, while preserving the appropriate enforcement powers of State securities regulators and not changing the current treatment of individual lawsuits.

SEC. 3. LIMITATION ON REMEDIES.

(a) AMENDMENTS TO THE SECURITIES ACT OF 1933.—

(1) AMENDMENT.—Section 16 of the Securities Act of 1933 (15 U.S.C. 77p) is amended to read as follows:

"SEC. 16. ADDITIONAL REMEDIES; LIMITATION ON REMEDIES.

"(a) REMEDIES ADDITIONAL.—Except as provided in subsection (b), the rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist at law or in equity.

"(b) CLASS ACTION LIMITATIONS.—No class action based upon the statutory or common law of any State or subdivision thereof may be maintained in any State or Federal court by any private party alleging—

"(1) an untrue statement or omission of a material fact in connection with the purchase or sale of a covered security; or

"(2) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security.

"(c) REMOVAL OF CLASS ACTIONS.—Any class action brought in any State court involving a covered security, as set forth in subsection (b), shall be removable to the Federal district court for the district in which the action is pending, and shall be subject to subsection (b).

"(d) PRESERVATION OF CERTAIN ACTIONS.—

"(1) IN GENERAL.—Notwithstanding subsection (b), a class action described in paragraph (2) of this subsection that is based upon the statutory or common law of the State in which the issuer is incorporated (in the case of a corporation) or organized (in the case of any other entity) may be maintained in a State or Federal court by a private party.

"(2) PERMISSIBLE ACTIONS.—A class action is described in this paragraph if it involves—

"(A) the purchase or sale of securities by the issuer or an affiliate of the issuer exclusively from or to holders of equity securities of the issuer; or

"(B) any recommendation, position, or other communication with respect to the sale of securities of the issuer that—

"(i) is made by or on behalf of the issuer or an affiliate of the issuer to holders of equity securities of the issuer; and

"(ii) concerns decisions of those equity holders with respect to voting their securities, acting in response to a tender or exchange offer, or exercising dissenters' or appraisal rights.

"(e) PRESERVATION OF STATE JURISDICTION.—The securities commission (or any agency or office performing like functions) of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions.

"(f) STATE ACTIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, nothing in this section may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans similarly situated.

"(2) STATE PENSION PLAN DEFINED.—For purposes of this paragraph, the term 'State

pension plan' means a pension plan established and maintained for its employees by the government of the State or political subdivision thereof, or by any agency or instrumentality thereof.

"(g) DEFINITIONS.—For purposes of this section the following definitions shall apply:

"(1) AFFILIATE OF THE ISSUER.—The term 'affiliate of the issuer' means a person that directly or indirectly, through 1 or more intermediaries, controls or is controlled by or is under common control with, the issuer.

"(2) CLASS ACTION.—

"(A) IN GENERAL.—The term 'class action' means—

"(i) any single lawsuit (other than a derivative action brought by 1 or more shareholders on behalf of a corporation) in which—

"(I) damages are sought on behalf of more than 50 persons or prospective class members, and questions of law or fact common to those persons or members of the prospective class, without reference to issues of individualized reliance on an alleged misstatement or omission, predominate over any questions affecting only individual persons or members; or

"(II) 1 or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated, and questions of law or fact common to those persons or members of the prospective class predominate over any questions affecting only individual persons or members; or

"(ii) any group of lawsuits (other than derivative suits brought by 1 or more shareholders on behalf of a corporation) filed in or pending in the same court and involving common questions of law or fact, in which—

"(I) damages are sought on behalf of more than 50 persons; and

"(II) the lawsuits are joined, consolidated, or otherwise proceed as a single action for any purpose.

"(B) COUNTING OF CERTAIN CLASS MEMBERS.—For purposes of this paragraph, a corporation, investment company, pension plan, partnership, or other entity, shall be treated as 1 person or prospective class member, but only if the entity is not established for the purpose of participating in the action.

"(3) COVERED SECURITY.—The term 'covered security' means a security that satisfies the standards for a covered security specified in paragraph (1) or (2) of section 18(b) at the time during which it is alleged that the misrepresentation, omission, or manipulative or deceptive conduct occurred."

(2) CONFORMING AMENDMENTS.—Section 22(a) of the Securities Act of 1933 (15 U.S.C. 77v(a)) is amended—

(A) by inserting "except as provided in section 16 with respect to class actions," after "Territorial courts,"; and

(B) by striking "No case" and inserting "Except as provided in section 16(c), no case".

(b) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—Section 28 of the Securities Exchange Act of 1934 (15 U.S.C. 78bb) is amended—

(1) in subsection (a), by striking "The rights and remedies" and inserting "Except as provided in subsection (f), the rights and remedies"; and

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

"(f) LIMITATIONS ON REMEDIES.—

"(1) CLASS ACTION LIMITATIONS.—No class action based upon the statutory or common law of any State or subdivision thereof may be maintained in any State or Federal court by any private party alleging—

"(A) a misrepresentation or omission of a material fact in connection with the purchase or sale of a covered security; or

"(B) that the defendant used or employed any manipulative or deceptive device or contrivance in connection with the purchase or sale of a covered security.

"(2) REMOVAL OF CLASS ACTIONS.—Any class action brought in any State court involving a covered security, as set forth in paragraph (1), shall be removable to the Federal district court for the district in which the action is pending, and shall be subject to paragraph (1).

"(3) PRESERVATION OF CERTAIN ACTIONS.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), a class action described in subparagraph (B) of this paragraph that is based upon the statutory or common law of the State in which the issuer is incorporated (in the case of a corporation) or organized (in the case of any other entity) may be maintained in a State or Federal court by a private party.

"(B) PERMISSIBLE ACTIONS.—A class action is described in this subparagraph if it involves—

"(i) the purchase or sale of securities by the issuer or an affiliate of the issuer exclusively from or to holders of equity securities of the issuer; or

"(ii) any recommendation, position, or other communication with respect to the sale of securities of an issuer that—

"(I) is made by or on behalf of the issuer or an affiliate of the issuer to holders of equity securities of the issuer; and

"(II) concerns decisions of such equity holders with respect to voting their securities, acting in response to a tender or exchange offer, or exercising dissenters' or appraisal rights.

"(4) PRESERVATION OF STATE JURISDICTION.—The securities commission (or any agency or office performing like functions) of any State shall retain jurisdiction under the laws of such State to investigate and bring enforcement actions.

"(5) STATE ACTIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, nothing in this subsection may be construed to preclude a State or political subdivision thereof or a State pension plan from bringing an action involving a covered security on its own behalf, or as a member of a class comprised solely of other States, political subdivisions, or State pension plans similarly situated.

"(B) STATE PENSION PLAN DEFINED.—For purposes of this paragraph, the term 'State pension plan' means a pension plan established and maintained for its employees by the government of a State or political subdivision thereof, or by any agency or instrumentality thereof.

"(6) DEFINITIONS.—For purposes of this subsection the following definitions shall apply:

"(A) AFFILIATE OF THE ISSUER.—The term 'affiliate of the issuer' means a person that directly or indirectly, through 1 or more intermediaries, controls or is controlled by or is under common control with, the issuer.

"(B) CLASS ACTION.—The term 'class action' means—

"(i) any single lawsuit (other than a derivative action brought by 1 or more shareholders on behalf of a corporation) in which—

"(I) damages are sought on behalf of more than 50 persons or prospective class members, and questions of law or fact common to those persons or members of the prospective class, without reference to issues of individualized reliance on an alleged misstatement or omission, predominate over any questions affecting only individual persons or members; or

"(II) 1 or more named parties seek to recover damages on a representative basis on behalf of themselves and other unnamed parties similarly situated, and questions of law or fact common to those persons or members

of the prospective class predominate over any questions affecting only individual persons or members; or

"(ii) any group of lawsuits (other than derivative suits brought by 1 or more shareholders on behalf of a corporation) filed in or pending in the same court and involving common questions of law or fact, in which—

"(I) damages are sought on behalf of more than 50 persons; and

"(II) the lawsuits are joined, consolidated, or otherwise proceed as a single action for any purpose.

"(C) COUNTING OF CERTAIN CLASS MEMBERS.—For purposes of this paragraph, a corporation, investment company, pension plan, partnership, or other entity, shall be treated as 1 person or prospective class member, but only if the entity is not established for the purpose of participating in the action.

"(D) COVERED SECURITY.—The term 'covered security' means a security that satisfies the standards for a covered security specified in paragraph (1) or (2) of section 18(b) of the Securities Act of 1933, at the time during which it is alleged that the misrepresentation, omission, or manipulative or deceptive conduct occurred."

SEC. 4. APPLICABILITY.

The amendments made by this Act shall not affect or apply to any action commenced before and pending on the date of enactment of this Act.

MOTION OFFERED BY MR. BLILEY

Mr. BLILEY. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. BLILEY moves to strike all after the enacting clause of the Senate bill, S. 1260, and insert in lieu thereof the text of H.R. 1689, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 1689) was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 6, HIGHER EDUCATION AMENDMENTS OF 1998

Mr. GOODLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6) to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania? The Chair hears none and, without objection, appoints the following conferees:

For consideration of the House bill (except section 464), and the Senate amendment (except sections 484 and 799C), and modifications committed to conference: Messrs. GOODLING, MCKEON, PETRI, GRAHAM, SOUDER, PETERSON OF PENNSYLVANIA, CLAY, KILDEE, MARTINEZ, and ANDREWS.

For consideration of section 464 of the House bill, and sections 484 and 799C of the Senate amendment, and modifications committed to conference: Messrs. GOODLING, TALENT, SHAW, CAMP, CLAY and LEVIN.