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No. 47

## House of Representatives

The House met at 10 a.m.

The Reverend Dr. Richard Lee, First Redeemer Church, Cumming, Georgia, offered the following prayer:

Most gracious God, our heavenly Father and Creator of all, we thank You for America, our homeland, and Your bountiful blessings upon us.

Today we ask that You would grant the Members of this Congress wisdom and understanding to lead our Nation into those paths of truth and righteousness that would please You and serve for our common good.

Forgive us when in times of our blessings we forget that Thou art our source, our defender, and guide. Protect those who even now place themselves in harm's way to preserve the freedom of our land.

Keep us from pride and arrogance and give us a willing spirit to seek out Your laws and commandments and be obedient to them. And grant us Your grace that we might show forth Your power and Your glory to all nations.

These things we pray in the name of Jesus Christ, our Lord and Saviour. 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 gentlewoman from Oregon (Ms. HOOLEY) come forward and lead the House in the Pledge of Allegiance.

Ms. HOOLEY of Oregon led the Pledge of Allegiance as follows:

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

### MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 4167. An act to extend for 8 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted.

The message also announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 169. An act to require that Federal agencies be accountable for violation of anti-discrimination and whistleblower protection laws; to require that each Federal agency post quarterly on its public Web site, certain statistical data relating to Federal sector equal employment opportunity complaints filed with such agency; and for other purposes.

### WELCOMING REVEREND DR. RICHARD LEE

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

Mr. LINDER. Mr. Speaker, I rise to extend a warm welcome to Dr. Richard Lee. It is a privilege to have him with us this morning.

Dr. Lee is the founding pastor of First Redeemer Church located in metropolitan Atlanta's Forsyth County, which is recognized as the fastest growing county in the United States.

Dr. Lee graduated magna cum laude from Mercer University and Luther Rice Seminary, earning the Bachelor of Arts degree in psychology and the Master of Divinity and Doctor of Ministry degrees in theology and pastoral ministry.

Dr. Lee is a recognized spokesman for the Christian community at large. He appears as a speaker at national and international conferences and conven-

tions, on national television programs, and has written 10 books, all of which pales compared to the fact that he was named Father of the Year by the National Father's Day Council of New York City, an achievement all of us would dream of.

Mr. Speaker, it has been said that example is not the main thing in influencing others, it is the only thing. During the past year, a year when every American has experienced the highest of highs and the lowest of lows, Dr. Lee's exemplary leadership has not only been a tremendous service to his congregation; it has been a shining light to the surrounding community as well.

Dr. Lee, you have honored us with your presence this morning and we thank you.

### ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. One-minutes will be at the end of legislative business today.

### MOTION TO INSTRUCT CONFEREES ON H.R. 2646, FARM SECURITY ACT OF 2001

Ms. HOOLEY of Oregon. Mr. Speaker, I offer a motion to instruct conferees.

The SPEAKER pro tempore (Mr. SHIMKUS). The Clerk will report the motion.

The Clerk read as follows:

Ms. HOOLEY of Oregon moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 2646 be instructed to agree to the provisions contained in section 1001 of the Senate amendment and section 944 of the House bill, relating to country of origin labeling requirements for agricultural commodities, but to insist on the six-month implementation deadline contained in the House bill.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Oregon (Ms. HOOLEY) and the gentleman from South Dakota (Mr.

This symbol represents the time of day during the House proceedings, e.g.,  1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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THUNE) each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I yield myself such time as I may consume.

Today with the support of my colleagues, the gentlewoman from California (Mrs. BONO), the gentleman from North Dakota (Mr. POMEROY), and the gentleman from South Dakota (Mr. THUNE), I bring a motion to the floor to instruct conferees to the farm bill regarding country-of-origin labeling.

Our friends on the conference committee have an incredibly difficult job to do, and I know they have been working hard. This is not an easy piece of legislation to agree on. However, one thing they should all be able to agree on is country-of-origin labeling. This is something that farmers want, this is something that consumers want, and this is something that your constituents want.

There are hundreds of local, regional, and national organizations that support country-of-origin labeling. These include the American Farm Bureau, National Farmers Union, United Stockgrowers of America, National Consumers League, Consumer Federation of America, Public Citizen, and hundreds of other organizations.

I have in front of me a potato and an onion. These were purchased at the grocery store last night. Where were they grown? I have not a clue.

Now, I have a hat. I know exactly where this hat is made. This I just wear on my head; this is what I put in my mouth. Which is the most important to know where it is made? I think it is the food you put in your mouth. It is my right to know as a consumer where that food comes from. When I walk into that grocery store to buy food for my family, I want to make sure that it is grown in a place that is safe. What if I want to support American agriculture and buy American? I guess I just have to hope that it was made in the United States or grown in the United States.

Our food is some of the safest produced, and the men and women that produce that food want Americans to know where it came from. Our growers have to comply with strict, exhaustive local, State and Federal regulations governing the use of land, water, labor and chemicals, rules that many of our trading partners do not comply with, such as worker safety, sanitation, environmental protection.

Opponents of this amendment contend that the costs for the industry, including retailers, to comply with country-of-origin labeling requirements are too great and the price of the products and produce will rise as a result. This is simply untrue. We already have a great test case currently in place. The fourth most populous State in the country, Florida, has had the country-of-origin labeling requirements in place for over 20 years. If you take a poll of the people in Florida, they will tell you by 96 percent, they love it.

Thirteen of our biggest trading partners, including Canada, Mexico, Japan, France, and the United Kingdom, require country-of-origin labeling on produce imported into their countries. When the gentlewoman from California (Mrs. BONO) and I brought an amendment to the farm bill on the floor that would require all fresh fruit and vegetables to clearly be marked with its country of origin, this body responded overwhelmingly; 296 Members, almost 300 people, supported our amendment.

All we are doing today is asking our colleagues to honor the wishes of its Members and retain these provisions as written into the House and Senate bills.

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

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

Mr. Speaker, I want to credit the gentlewoman from Oregon (Ms. HOOLEY) for her hard work and leadership on this issue; the gentlewoman from California (Mrs. BONO) for the work that she has done in advancing the cause of country-of-origin labeling; the gentleman from North Dakota (Mr. POMEROY), who along with me has introduced H.R. 1121, the Country of Origin Meat Labeling Act; and others in this body who have supported this effort to make sure that consumers in this country know where their food is coming from. This is important legislation.

The bill requires, or the motion would require, suggests to the conferees that any meat or meat product imported into the United States must be labeled to indicate its country of origin. Additionally, any meat product produced in the United States that contains any meat or meat product, the origin of which is not in the United States, must also be labeled to indicate country of origin.

Under this motion, U.S. consumers, if this language is adopted as part of the farm bill, would be assured that the products that they consume pass through one of the most stringent inspection systems in the world. Producers deserve the assurance that their reputation for producing quality meat is not damaged by inferior products. And consumers deserve the assurance that the meat that they buy is of the highest quality.

During the farm bill markup in the Committee on Agriculture, I offered a country-of-origin amendment, labeling amendment, to the farm bill for beef, lamb and pork, as well as perishable commodities and farm-raised fish. It was a long, vigorous, and often contentious 4-hour debate. Yet it is a debate worth having, and it is a fight worth having because the issue is that important to the American people. The more people understand what is involved with this issue, the more convinced they become that this is the right policy for America.

Why is this important? For several reasons. First, consumers have the

right to know the origin of the meat that they buy in the grocery store. Second, ranchers deserve to have their product clearly identified. Third, current law creates a false impression about the origin of USDA grade meat. Fourth, most other consumer products are labeled as to country of origin. Meat should be no different. And, fifth, as the gentlewoman from Oregon already noted, numerous countries already are imposing country-of-origin labeling requirements, including Canada, Mexico, and the European Union. It is only fair to producers in this country and to consumers in this country that we do the same thing.

The farm bill conference is currently deliberating this important issue. Conferees are considering a voluntary labeling requirement or provision in this bill. South Dakota producers find this unacceptable. We should find it unacceptable as well. The only real option is to include mandatory country-of-origin labeling in this farm bill.

I would encourage my colleagues in the House to vote for this motion to instruct. I again want to compliment and thank the gentlewoman from Oregon for her leadership; the gentlewoman from California (Mrs. BONO) for the hard work that she has done in making sure that this issue is front and center as we debate farm policy in this country and as we debate it in the House Committee on Agriculture, the folks who are involved in that; and the gentleman from Montana (Mr. REHBERG), also an active advocate and effective spokesperson on behalf of country-of-origin labeling.

It is important to those Members, to us, as well as to all people across this country and to the producers of this country that we put in place a mandatory country-of-origin labeling requirement so that the people in this country know where their food is coming from and so that producers in this country have an opportunity to have their product clearly identified as the finest and the best in the world.

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

Ms. HOOLEY of Oregon. Mr. Speaker, again I thank my colleague from South Dakota for his great words about how important this is.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Mrs. THURMAN), one of the States that has had mandatory labeling for the last 20 years.

Mrs. THURMAN. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I certainly thank my colleagues who have brought this motion to instruct to the conference committee.

□ 1015

I am especially appreciative because I can tell my colleagues a story of why this motion is so important and needed.

In 2001, there were some cantaloupes that were found to be contaminated

and word quickly spread, erroneously I might add, that all melons were contaminated, and the market collapsed. I have melon-growers in my district. If we had country-of-origin labeling then, consumers would have known the source of the contaminated melons. They were foreign and not domestic. Our market would not have been disrupted, perfectly good produce would not have been thrown out, and domestic growers would have been protected.

I want to address also the argument that the provision will be costly. Well, as has been mentioned, Florida has had a similar law for more than 20 years. When I walk into the grocery store, there is a sign that is placed to indicate the origin of the produce. It looks like it has been cut out of a piece of construction paper, printed, and put up. The Florida Department of Agriculture has indicated that it costs supermarkets \$5 to \$10 per store a week to comply with that law. It does not seem too costly to me that we could let our folks at home know the origin of our fruits and vegetables.

They might say, well, it could be a trade issue. Well, I do not see it as a trade issue. Thirteen of our 28 largest trading partners have similar laws for fresh produce and stores in those countries find a way to comply; certainly, American stores are just as capable.

Finally, the American people want this information: 78 percent, according to a recent poll, that shows that the House was correct last year when 296 of us voted for country-of-origin labeling.

So I ask my colleagues now to support this motion, as my colleagues did before. Let us make sure that our consumers and our farmers benefit from a motion that helps all of us.

Mr. THUNE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Mrs. BONO), someone who has been a fearless and effective advocate to ensure that we get country-of-origin labeling requirements in this farm bill, and someone who has been an incredible spokesperson on this issue; and, pending that, I ask unanimous consent that the balance of my time be controlled by the gentlewoman from California (Mrs. BONO), and that she be able to yield that time.

The SPEAKER pro tempore (Mr. SHIMKUS). Is there objection to the request of the gentleman from South Dakota?

There was no objection.

Mrs. BONO. Mr. Speaker, I thank the gentleman from South Dakota (Mr. THUNE) for yielding me this time.

Mr. Speaker, when the House of Representatives passed the Bono-Hooley amendment on country-of-origin labeling to the farm bill, we took a positive step forward. However, despite the House's resounding approval of this amendment, the farm bill conferees are considering an option to give us country-of-origin labeling on a voluntary basis and then leave the question of whether to mandate labeling up to the

discretion of the Secretary of Agriculture.

Mr. Speaker, this does us no good. We already have a voluntary program. So this offer to institute voluntary labeling does absolutely nothing to address the concerns our constituents have in wanting to know where in the world their produce and beef comes from.

When the last comprehensive labeling act was passed by Congress nearly 70 years ago, there were very few fruit and vegetable imports into the United States. However, with our grocery stores now inundated with foreign-grown produce and beef, I believe it is up to Congress and not to the Secretary of Agriculture, to mandate a consumer's right to know.

We have taken such action on other goods, and now it is the time for us to use our constitutional authority to act on mandatory labeling of fresh produce and beef.

There are those who charge that this program would be too costly for the consumer. In 1979, the State of Florida passed the Produce Labeling Act, which mandates country-of-origin labeling. This highly successful program requires only 2 staff hours per store per week.

Critics are also concerned about this provision leading to a trade war. But according to the GAO, 13 of our Nation's 28 biggest trading partners, including Mexico, the U.K., Japan and Canada, require country-of-origin labeling for fresh produce.

Mr. Speaker, country-of-origin labeling is practiced by our trading partners, it is inexpensive to implement and, in the name of safety and the consumers' right to know, it is much needed.

I urge my colleagues to let the conferees know how important this issue is. Vote in favor of the Hooley motion to instruct conferees.

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

Ms. HOOLEY of Oregon. Mr. Speaker, I yield myself the remaining time.

This, again, should be a simple matter. We have heard from Florida, where it literally costs a person a penny a week or less. This can be achieved very easily by placing signs near produce bins or with price information in the stores displaying their items in their original shipping cartons. This does not have to be a tough issue. It should be mandatory that we know where the food that we put in our mouth comes from, and I urge the support of this motion to instruct.

Mr. WU. Mr. Speaker, consumers are the only people in the produce marketing chain who don't know where their food is grown. The shippers know where the produce was grown. So do the buyers, the merchandisers, and the clerks. Produce shoppers rarely share in this information because the country-of-origin information is stripped off before it makes it to the display bin case.

For the past 69 years, goods imported into the United States have been required to be labeled with the product's country of origin. Your

clothing, coffee mug, and even the chair you are sitting in have country of origin labels. It's hard to find a consumer produce in this country without one. However, fruits and vegetables are exempt from the labeling law. It's time for Congress to change that exemption.

The cost of administering labeling is, by the retail industry's own accounts, insignificant . . . far less than a penny for each consumer's weekly food bill.

The GAO says that 13 of our Nation's 28 biggest trading partners require country of origin labels for fresh produce. Shouldn't U.S. consumers be entitled to the same information as consumers in these countries?

Growers in the 1st Congressional District of Oregon, like all U.S. growers, must comply with strict, comprehensive local, state and federal regulations governing the use of land, water, labor, and agricultural chemicals. Compliance with these laws and regulations is very costly, but necessary to ensure, among other things, food and worker safety, sanitation and environmental protection. These production standards add safety and value to our products.

With farm prices at record lows, we need to give our producers an edge in the market. Country of origin is one, low cost and effective way to help American consumers to make an informed choice at the supermarket, and benefit American growers at the same time. It's good for consumers and it's good for growers. And it's common sense. Why is it that I know where this tie was made, where this suit made, where my boots are made, but when I walk down the street and buy a head of lettuce, I can't find out where it was grown?

The motion to instruct is not only common sense, it is not only good for American health and sanitation—it goes to the heart of American values—consumer choice and help for the small farmer. I urge its adoption.

Mr. POMEROY. Mr. Speaker, I strongly support the Hooley motion to instruct farm bill conferees to retain language passed in the Senate farm bill that requires country of origin labeling information on meat, fish, fruits, and vegetables. Country of origin labeling is necessary to give U.S. consumers important information and give U.S. producers credit for the considerable investment they have made in the quality and safety of their products.

Consumers support country of origin labeling so that they are able to make informed decisions and choose products based on their origin. Our food system has become more global and consumers are demanding new information on the products they buy. Studies show that over 80 percent consumers support country of origin labeling of their food products. Consumers can pick up any article of clothing, read the label, and know where it was manufactured. However, the head of lettuce or steak they purchase in their grocery store lacks basic information on where it was produced.

Producers support country of origin labeling because it allows them to differentiate their product. American producers have placed a high priority on developing high-quality, safe food. They can benefit from this investment only if consumers are able to differentiate between products of U.S. origin and products from overseas.

I do want to commend the conferees to the farm bill. They are working diligently to arrive at a compromise that we can all support in

order to finish this farm bill quickly. However, we should still send the message to the Farm Bill conferees about consumers' right to know the origin of the food they buy and producers' right to distinguish their product.

I urge my colleagues to support country of origin labeling and this motion to instruct. We must protect the considerable investment that we have made in our high-quality, safe meat supply.

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

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from Oregon (Ms. HOOLEY).

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Ms. HOOLEY of Oregon. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the motion to instruct conferees on H.R. 2646.

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

There was no objection.

#### RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess for 5 minutes.

Accordingly (at 10 o'clock and 24 minutes a.m.), the House stood in recess for 5 minutes.

□ 1030

#### AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SHIMKUS) at 10 o'clock and 30 minutes a.m.

#### PROVIDING FOR CONSIDERATION OF H.R. 3763, CORPORATE AND AUDITING ACCOUNTABILITY, RESPONSIBILITY, AND TRANSPARENCY ACT OF 2002

Mr. SESSIONS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 395 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 395

*Resolved*, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3763) to protect investors by improving the accuracy and reliability of corporate disclosures made

pursuant to the securities laws, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Financial Services now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

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

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

Mr. Speaker, the resolution before us today is a fair, structured rule providing for the consideration of H.R. 3763, the Corporate and Accounting Accountability, Responsibility, and Transparency Act of 2002.

The rule provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Financial Services. All points of order against consideration of the bill are waived.

The amendment in the nature of a substitute recommended by the Committee on Financial Services now printed in the bill shall be considered as the original bill for the purposes of amendment and shall be considered as read. All points of order against the bill, as amended, are also waived.

Only the amendments printed in the report of the Committee on Rules ac-

companying the resolution are made in order. These amendments shall be considered only in the order printed in the report and may be offered only by a Member designated in the report. They shall be considered as read and debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent. They shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. Points of order against the amendments are also waived.

Finally, the rule provides one motion to recommit, with or without instructions.

Mr. Speaker, I am pleased that today we are going to debate the Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002, known as CARTA. Two weeks ago, the House considered and passed the Pension Security Act, which focused on providing workers with new options and resources concerning their pensions. Today, we are considering legislation that affects the corporate accountability side of that issue.

Mr. Speaker, currently, more than half of all U.S. households invest in mutual funds, pension funds, or 401(k) plans. The face of the American investor is younger and more diverse than ever today. I firmly believe that encouraging Americans to help secure their own future through savings is vitally important for their own success. While savings must begin with the individual, there are also ways that the government can, must, and will help to encourage people to save.

The positive ripple effects of this bill are far-reaching. Restoring investor confidence in the financial stability of companies doing business in this country leads to more jobs and a stronger economy. Increasing accessibility of timely and accurate investment information helps American workers not only plan for retirement, but also better assures them of a secure retirement. For those of us who are still planning for our children's college educations, we can be assured that greater corporate responsibility will help protect these and other investments that, as American workers, we make.

This legislation focuses on several principles, all designed to protect investors and employees.

First of all, we must restore confidence in accounting. In order to ensure auditor independence, firms would be prohibited from offering controversial consulting services to companies that they are also auditing.

Additionally, under CARTA, a new public regulatory board with strong oversight authority would be established, and under the direction of the Securities and Exchange Commission, they would work together. This bill recognizes that strong and healthy accounting companies that provide investors with accurate information are critical to ensuring the financial

soundness of companies that investors rely upon.

CARTA also contains provisions that increase corporate disclosure and responsibility. This bill increases the amount of information that would be made available to American workers, investors, and the general public. Instead of presenting this information using legal jargon, investors would receive increased information in real time English and in real time words, where they can understand the essence of not only financial accountability, but also the financial standing of a company.

This is good news for me, because it means we do not need an advanced accounting or legal degree in order to decipher the information. The average American investor will be able to obtain meaningful information, and they will be able to obtain it in a timely fashion.

CARTA also creates parity between senior corporate executives and rank and file workers. During blackout periods, which are routine times when a plan must undergo administrative or technical changes, employees many times are unable to change or access their retirement accounts. What we saw from Enron was an egregious example of disparity, where corporate executives were able to sell off their investments and preserve their savings while rank and file workers were barred from making those same changes. CARTA would prohibit insider sales during blackouts for every single employee.

I have also mentioned some additional responsibility that this bill requires of the Securities and Exchange Commission. However, this legislation also recognizes that we must make sure that the SEC has adequate resources and staffing in order to do an effective job.

The SEC's budget would be increased by 62 percent, allowing them to perform its additional tasks and oversight duties. Among those duties would be regular and thorough reviews of the largest and most widely-traded companies in America.

One thing that has come out from the seven Enron-related hearings in the Committee on Financial Services alone is that investors are not receiving the necessary unbiased information needed to make responsible investment decisions. It is clear that Wall Street research practices are in need of reform. CARTA also addresses this by directing the SEC to study the new regulations and report back to Congress through annual updates on the effectiveness of current rules and standards. This is a critical step towards reducing and resolving conflicts of interest for analysts.

Mr. Speaker, I would also like to today commend the chairman of the Committee on Financial Services, the gentleman from Ohio (Mr. OXLEY), and the gentleman from Louisiana (Chairman BAKER), for their efforts in put-

ting together a carefully crafted and balanced approach. When something such as Enron happens, we as Members of Congress must fight the temptation to react by overlegislating, thus doing more harm than good. These two gentlemen, through their leadership, have made sure that this did not happen.

I believe that the committee of the gentleman from Ohio (Chairman OXLEY) has diligently worked to make sure that the bill we consider today is a balanced and appropriate step towards addressing issues which were highlighted and brought to bear to all Americans as a result of the collapse of Enron. I am pleased that this bill will help create more jobs and strengthen our economy by restoring confidence in corporate financial stability.

I urge my colleagues to support this fair rule. I urge my colleagues to support the underlying legislation.

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

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

(Ms. SLAUGHTER asked and was given permission to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Texas for yielding me the customary 30 minutes.

This body is about to blow an extraordinary opportunity to address the erosion of trust between the American people and the financial institutions that wield enormous control over their lives.

Make no mistake, the outrage of our constituents is real. They are fed up with corporate fraud and abuses that have produced massive layoffs and wiped out the life savings of thousands of working families. The American people have voiced their outrage to this body through every medium available: letters, e-mails, hearings, interviews, you name it. They have shared stories of devastation, of loss, and dreams deferred, all in the hope that Congress would act to prevent future scandals.

Global Crossing's North American headquarters are located in my district in Rochester, New York. I am sure Members remember Global Crossing. The company was the darling of Wall Street, yet somehow it managed to plummet from a net worth of \$22 billion to \$750 million in the span of less than a year, not too far from AOL Time Warner, we hear this morning.

In the wake of its collapse, the lives of thousands in my district were shattered, all because the promised safeguards failed at every level. My people got a hard lesson on how companies cheat, overstate, or obscure their financial disclosures in an effort to charm analysts and to manipulate investor expectations.

On March 9, I hosted a public forum in Rochester where 250 people came to share their experiences. One Global Crossing employee noted, and I quote, "Many former employees have been economically devastated as a result of

corporate greed and the mismanagement of Global Crossing. People have spent their life savings and have had to cash in their deflated retirement/401(k) plans just to survive these last few months after Global Crossing abruptly ceased their promised severance payments. Some former employees are now forced to file bankruptcy themselves, while others may lose their homes, have had to drastically change their lifestyles, and are barely surviving."

Mr. Speaker, my constituents want real reform, not cosmetic changes, to correct the systemic flaws that brought about such havoc in our community. Quite simply, the market failed us, just as it did with the employees and shareholders of Enron.

I had hoped to send good news back today. I had hoped to tell my constituents that this underlying bill is the real thing, that the measure before us will restore confidence and integrity to the markets, and produce tough and effective reforms. But this bill does none of that. Indeed, it creates merely the illusion of reform. In what has become standard operating procedure in this body, corporate interests are the winners.

As for my colleagues, I wish I could say that what hit my community was an isolated event. I wish I could say that with the underlying bill in place, this would never happen in Members' communities. But even the sponsors of the measure acknowledge more Global Crossings and Enrons may come to light. In the months ahead, another Member of Congress will have to face thousands of panicked constituents wondering what happened to their future.

Mr. Speaker, the underlying bill simply sidesteps the problem. It does not provide for a strong, independent regulator for the auditing industry, but simply punts Congress' job to the Securities and Exchange Commission. To be blunt, this job is much too important to delegate. We need to create a powerful regulatory board to set strict standards for auditor independence, with sweeping investigative and disciplinary powers over audit firms.

□ 1045

The underlying bill pays lip service to the issue of auditor independence, but provides no guarantees that an auditor will not be compromised by payments received from his client for his consulting services. It does not ban auditors from performing nonaudit services that create conflicts of interest. Moreover, the bill says nothing about the revolving door between auditors and their clients. Enron, for example, hired several Arthur Andersen auditors, even though auditors who are angling for jobs from their customers are unlikely to show much independence from them.

The bill is also silent on the rotation of audit firms. If an auditor knew that after a few years a different outside

auditor would scrutinize its efforts, this would create a strong incentive to keep the numbers honest. But the half-measures contained in the bill continue. For instance, the bill protects corporate wrongdoers by making it more difficult to go to court to stop officers and directors who engage in deliberate misconduct. The bill does not hold corporate CEOs accountable by requiring them to certify the accuracy of their financial statements, as the Democrat substitute would do.

The underlying bill allows Enron executives and other dishonest CEOs to keep their ill-gotten gains, rather than requiring them to surrender stock bonuses and other incentive pay, as the Democrat bill provides. The underlying bill would simply study the issue. Moreover, individual investors and victims of securities fraud who want to hold the industry accountable for wrongdoing will face major legal hurdles. The committee-reported bill also does nothing to prevent securities analysts' conflicts of interest, even after investigations by New York Attorney General Eliot Spitzer exposed numerous examples of analysts' false or misleading advice to investors.

Mr. Speaker, I urge my colleagues to support real reform.

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

Mr. SESSIONS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the favorite son from San Dimas, who is the chairman of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding me time and I congratulate him on his superb management of this measure.

Mr. Speaker, I would like to say that I believe it is important for us to realize that we faced what clearly was one of the most devastating and horrible business failures in our Nation's history with the collapse of Enron. I know that there was a temptation by many to politicize this issue and take what clearly was a business failure and somehow determine that it was a political failure and that there were some political figures to blame.

I think that the work that the gentleman from Ohio (Mr. OXLEY) and the Committee on Financial Services has done is a very clear demonstration that there is recognition in a bipartisan way of this substitution that there was a business failure. And the debate that we will proceed with today makes in order two substitutes from our Democratic colleagues and three amendments from our Democratic colleagues which will allow for a full airing of this question.

I think that with the vote that came from the committee, Mr. Speaker, by a margin of 49 to 12, demonstrates that Democrats and Republicans alike have come together to deal with this very serious problem.

As my friend, the gentleman from Dallas, Texas (Mr. SESSIONS) men-

tioned, there are tremendous numbers of Americans who are members of what is called the investor class. In fact, many believe that over half of the American people are involved in 401(k)s, individual retirement accounts, or some other kind of investments. And it is obvious that there have been some problems with accounting and auditing. That is clearly an understatement. We have seen some very serious problems come forth and we have seen some abuse that has been reported by executives juxtaposed to employees in companies when it has come specifically to the blackout period of time when executives have been able to sell their stock and employees have not been able to.

This legislation is designed to address some of the very serious problems that exist in the area of accounting and auditing, and it is also designed to provide, once again, a level of confidence forever for those members of the American public who are part of the investor class.

It is my hope that we will see more and more Americans participate as members of the investor class. Our goal is to try and make sure that there is enough opportunity for everyone to be part of what President Kennedy loved to call that rising tide that lifts all ships.

I think that this bill will go a long way towards instilling that level of confidence that is necessary. The rule, as has been acknowledged by both sides, is very fair. We in the majority have again turned ourselves inside out to make sure that we provide an opportunity for those in the minority to be heard on this, and they clearly will have that opportunity as we proceed with debate today.

I urge my colleagues, Mr. Speaker, to vote for the rule and for the underlying legislation and we will have a full and rigorous debate on all of the amendments that will take place between now and then.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I rise this morning in opposition to this rule and the current legislation.

I have the privilege of serving on the Committee on Financial Services as well as serving on the Committee on Small Business. I had the privilege and opportunity to ask questions of Harvey Pitt, the SEC chairman. I had the privilege and opportunity to ask questions of the CEO of Arthur Andersen, CEO of Enron, and the CEO of Global Crossing. And what I have to say to the American public this morning is, in the course of that questioning I have never seen any men more arrogant in my life. I have never seen any men who believe that they did not need to respond to the questions of the American public on their conduct. If, in fact, the exhibition of the questions and answers before that committee are any indication of the conduct of the CEOs of large

companies, then clearly this legislation that we put on the floor this morning does not go far enough to deal with the issue of CEO responsibility.

I stand in support of a Democratic substitute that would strengthen corporate responsibility and executive accountability by requiring CEOs and CFOs to certify the accuracy of their firm's financial statements, subjecting them to criminal penalties for lying. If the rest of us are subject to criminal penalties for lying, why should they not be?

I will give you a perfect example. When I asked the Global Crossing CEO what his salary is, he said, Mrs. JONES, it is a matter of public record. And I said, sir, it may well be, but I want you to answer my question for the record. He said it was \$3.5 million. He failed to disclose at that point that he got a \$10 million loan forgiveness to become the CEO of Global Crossing.

Let us go on to say that it is important as Members of this Congress that we restore the public's trust in the CEOs and CFOs of large companies in which we invest. Clearly, not everyone is an investor, but there are those, like those who are members of the Public Employees Retirement System of the State of Ohio, who lost their compensation as a result of the Enron situation or the California Public Employee Retirement System. I believe we need greater accountability. And while we are doing this, let us not just sit back and give something to the public where we say we are doing something when in reality the bill does not go far enough.

I think it is important that we look to auditor independence and industry oversight. When I questioned the Arthur Andersen head, as well as Mr. Pitt, it was clear that in the past we have not done a good job of distinguishing between auditor and the consultant. And this legislation, in my opinion, does not go far enough to distinguish and keep them from being in the position of saying, oh, your company is in great shape, when in reality it is not.

Mr. Speaker, it is clear that we need to be in a position to distinguish between those two roles so that never again do we find ourselves in the position of having the possibility of an Arthur Andersen, being the accounting firm that is looked upon as the greatest accounting firm in the world upon which all of us rely, when in fact, behind the scenes, and I am not saying all Arthur Andersen employees were involved in the process, but in fact the name Arthur Andersen was consistent with who you invested in.

Mr. Speaker, again, I believe it is important that any legislation that we deal with this morning deals with the independence in the auditor industry as well as dealing with issues of conflict of interest. And so, therefore, I again rise in opposition to the rule, and with all respect to the chairman and this great effort in dealing with this legislation, we need greater corporate

accountability and CEO accountability. And we do not need just a study about what CEOs do in a possible conflict of interest, we need some legislation that addresses the conflict.

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

Mr. Speaker, we have heard a lot of political rhetoric about how the Federal Government should be engaged in the oversight of companies, the oversight of CEOs. We hear about how CEOs are arrogant and think that what they want to think should not fall into compliance of what many of us others think. But the fact of the matter is that we live in an environment where the free market has an opportunity to have success and have failure. The free market has that balance which they have to follow, and, in fact, we did; we have learned something as a result of the circumstance with Enron. But that balance continues to come back to us, and we as Republicans, while listening to the exact same words and the questions that were spoken throughout these committee hearings, also heard something that the Federal Reserve Chairman Alan Greenspan said, and I would like to quote him at this time. He said,

We have to be careful, however, we have to be careful with how the Congress and the American public react. We should not look to a significant expansion of regulations as the solution to current problems.

I believe that perhaps this statement made by the Federal Reserve Chairman is among the most important, and one that Members of Congress should take seriously as our duties as Members of Congress, and understand that while we saw, and many of us sat by helplessly and watched as the Enron problem began and then got worse, and then we watched the fall-out from it, we should learn lessons from what happened and not overreact. We should not go out and place rules and regulations across the entire industry, not only in accounting practices but also across CEOs at other companies, that will cause them to do the wrong things, which will cause them to not share information.

That is where this carefully crafted legislation by the gentleman from Ohio (Mr. OXLEY) and this fabulous committee are not going to overreact. They are going to look at what will be the essence of a comeback for America, confidence that people will have. And our message is very clear today. We want more jobs and create a stronger economy. We want to make sure that confidence in financial services is what we get, not overregulation. We want to make sure that there is more secure retirement in retirement plans by providing investor information and accountability, not rules and regulations that will inhibit people and give them another skirt to hide behind.

We want to make sure that savings is available for people who are just like my wife and I, who are saving for college for our children, and we want to

make sure that the corporate responsibility becomes a part of a person's own financial plan also. That is why we are not going to fall victim to believing that emotions should override common sense.

This plan that the gentleman from Ohio (Mr. OXLEY) and the Committee on Financial Services put together on the floor today is not only common sense but is something that will provide confidence for our future.

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

Ms. SLAUGHTER. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. BENTSEN).

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

Mr. BENTSEN. Mr. Speaker, on the underlying bill, let me say first of first off that I think the rule is a pretty good rule. There have been a lot of rules in this House that were not particularly good. This time the Committee on Rules saw fit to make a number of amendments in order. I wish that was the norm rather than the exception, but I appreciate the fact that that was the case on this bill.

A lot is going to be said about the underlying bill, the substitutes, and the amendments in today's debate. I just want to say, having sat through a number of the hearings on Enron and looked at the other issues, the underlying bill is a good bill and I supported it in committee. I do not think we should view the underlying bill as a panacea. And I think if there is anything that we get out of this debate today, it is going to be that the Congress has to very clearly put itself on record, both to the public, including the investor class as one of our colleagues mentioned, as well as to the regulators, and particularly the Securities and Exchange Commission, exactly what it is we expect them to do.

□ 1100

I think all of us believe in the sanctity of free markets. We have the most efficient markets in the world in the United States, but one of the reasons why the markets are so efficient is because we have a very strong disclosure system so that investors have an understanding of what it is they are buying. Anytime we have corporate managers or their advisers who disguise or withhold information from the market, we are distorting those markets; and we put at risk not just investors who are abused or hurt by that, but we put at risk the entire market system itself.

So I think, on the one hand, the gentleman from Texas is correct, we do not want to overregulate; but on the other hand, I think we should be very cautious not to underregulate because if we do, we will not have efficient markets, we will not have the efficient distribution of capital at a reasonable price, and the economy as a whole will suffer and we will not have confidence in the markets from investors, which is

a growing group of people, including a lot of pensioners in my district who lost their savings because of what happened at Enron.

I think that the House should look at the legislation, whatever it is we end up passing, which I have my ideas of what exactly will pass and will not pass, as a start and not a finish because our goals should be to ensure that there is fair and sufficient disclosure in the markets, that there is a level playing field in the markets for all investors, not just some investors. I think there is a lot to be offered on all sides, and I want to commend the committee for at least having some sense of an open rule today to allow a number of amendments to be offered.

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

I appreciate the comments of the gentleman from Texas (Mr. BENTSEN). His service not only to this body but also to this Nation has been well deserved and done well, and I believe what he speaks about is the fairness of not only what the Committee on Rules has done today to make sure that there are two substitutes and other actions that will be available so the minority can be debated today, can be brought for full debate on the floor but also about our ability to not overregulate.

By not overregulating means that we will in essence bring the light of day, which is the best of all standards. The light of day will now be available not only to the SEC for them to have the ability to come and look at companies with that authority and responsibility of the Federal Government but also some changes of the things that we have learned as a result of the Enron circumstance with accounting firms.

I believe that what the gentleman from Texas (Mr. BENTSEN) has talked about means that this is a fair opportunity today on this floor to talk about problems that have been seen, and this is yet another opportunity for this body to address things that we see; and I am proud of what we are doing here.

Mr. Speaker, I would like to inquire how much time is remaining on both sides.

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Texas (Mr. SESSIONS) has 13½ minutes. The gentlewoman from New York (Ms. SLAUGHTER) has 18 minutes remaining.

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

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

We have had a vigorous debate about this important rule that is in front of us. I would ask the Members to give due consideration to supporting this bill.

Mr. LAFALCE. Mr. Speaker, the bill before us today presents an opportunity to restore confidence and integrity to our markets and right the wrongs demonstrated by the dramatic failure of Enron and Global Crossing. Unfortunately, the Rules Committee has seen fit to close off debate on most of the critical issues that plague our capital markets. The House

should have had the opportunity to discuss the modest and reasonable package of amendments I put before the Rules Committee to strengthen this woefully inadequate bill.

This House should have the opportunity to consider and debate thoughtfully proposals to strengthen H.R. 3763, the so-called Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002. This bill claims to address many of the financial disclosure and accounting issues raised by the collapse of Enron. Unfortunately, the kinds of financial abuses that led to this unprecedented debacle will not be stopped—or even very much impeded—by this Republican bill. It is cosmetic and simply pretends to bring about reform. “Don’t look for a major overhaul of the accounting industry soon,” says the Wall Street Journal in a recent article criticizing the Oxley bill because it “punts” overhaul “to just where the industry would like it—the Securities and Exchange Commission.”

This bill does virtually nothing to correct the systemic flaws in our financial reporting system. It fails to strengthen oversight of auditors and accountants, and fails to hold corporate executives fully accountable for their misdeeds. Unless major improvements are made, H.R. 3763 will do nothing to restore integrity to our financial markets and will not protect the savings and pensions plans of millions of Americans that remain threatened by future Enrons.

The House should have had the opportunity today to work its will on several key areas.

First, I offered an amendment in the Rules Committee to create a powerful new regulatory board to ensure that auditors will be truly independent and objective. My amendment provided for a regulator that (1) sets audit and quality standards for auditors of public companies; (2) possesses sweeping investigative and disciplinary powers over audit firms; and (3) is controlled by a board comprised of public members—not the accounting industry. My amendment took a decidedly different approach than H.R. 3763, which punts almost all of the functions and powers of the regulator to the SEC. Only a regulator with explicit powers and duties, and a defined composition, such as the one I proposed, will ensure that the abuses we witnessed in the Enron debacle will not be repeated.

In addition, the Republican bill purports to prohibit auditors from providing their audit clients with two consulting services: financial reporting systems design and internal auditing. In fact, the bill prohibits nothing. Instead, it simply codifies existing SEC rules that provide only very limited restrictions on these services. In contrast, my amendment clarifies the definitions of these two services in a way that will actually ban them. In the case of any non-audit consultant services that are not prohibited, my amendment requires approval by the audit committee of the firm’s board of directors.

Second, in a spirit of bipartisanship and comity with our Republican friends. Mr. KANJORSKI and I have taken President Bush’s proposals on corporate responsibility and executive accountability and prepared an amendment to give them legislative substance and real teeth. Rather than implement the President’s proposals, the GOP bill either regresses from current law or does nothing to hold CEOs accountable. It amazes me that the Republican bill summarily rejected the President’s own plan to promote corporate responsibility.

So our amendment, also rejected by the Rules Committee, did three things to implement the Bush plan. First, it requires CEOs and CFOs to certify the accuracy of their firms’ financial statements. Violation of this provision would carry with it criminal (in the event that the violation is willful), civil, and other penalties provided for under the securities laws. H.R. 3763 contains no similar provision. It is essential that Congress require officers of public companies to stand behind their public disclosures. That is the absolute minimum we should require.

Second, this amendment required corporate officers who falsify their financial statements to surrender their compensation, including stock bonuses and other incentive pay. It empowered the Securities and Exchange Commission (SEC), in an administrative proceeding, or in court, to seek such a disgorgement. H.R. 3763 requires only a study of the question: should guilty CEOs forfeit their stock bonuses.

Third, this amendment empowered the SEC to bar officers and directors from serving in that capacity for a public company if they are found guilty of wrongdoing and determined to be unfit. It would also remove judicial hurdles to seeking such a bar in court. Incredibly, the Republican bill actually makes it harder to obtain officer and director bars. It codifies restrictive judicial standards that would make it substantially more difficult for the SEC to obtain officer and director bars—a change which the head of the SEC’s Enforcement Division has stated publicly is highly problematic. In this regard, H.R. 3763 is a serious step backward.

The Rules Committee even refused to allow debate on my amendment that gave shareholders a voice in executive compensation decisions by requiring that a majority of shareholders approve any stock options plan for an officer or director. H.R. 3763 does not include a similar provision. Would anyone argue on this floor that shareholders should not have a voice in the lucrative stock option plans of officers and directors. After all, it is the shareholders who own public companies, not management.

Finally, the Rules Committee refused to give this body an opportunity to debate and vote on an amendment to ensure that stock analysts are truly independent and objective. My amendment achieved this by (1) barring analysts from holding stock in the companies they cover; (2) prohibiting analysts’ pay from being based on their firms’ investment banking revenue; and (3) barring their firm’s investment banking department from having any input into analysts’ pay or promotion. As with other important issues in this legislation, H.R. 3763 only requires a study.

Today we are on the verge of squandering an opportunity for real reform. I urge my colleagues to consider our substitute and do something real to prevent the next Enron.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON FINANCIAL SERVICES TO FILE SUPPLEMENTAL REPORT ON H.R. 3764, SECURITIES AND EXCHANGE COMMISSION AUTHORIZATION ACT OF 2002

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that the Committee on Financial Services be permitted to file a supplemental report on H.R. 3764.

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

There was no objection.

CORPORATE AND AUDITING ACCOUNTABILITY, RESPONSIBILITY, AND TRANSPARENCY ACT OF 2002

The SPEAKER pro tempore. Pursuant to House Resolution 395 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3763.

□ 1105

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3763) to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes, with Mr. SWEENEY in the chair.

The Clerk read the title of the bill.

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

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

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

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

Today, the House turns to H.R. 3763, the Corporate and Auditing Accountability, Responsibility, and Transparency Act. To my colleagues on both sides of the aisle, today we must act. We must act for our Nation’s investors, retirees, and employees of publicly traded companies; and that covers a large majority of Americans.

In recent months our struggling economy has absorbed a number of shocks. We have endured two large bankruptcies, Enron and Global Crossing. Thousands of jobs have been lost for hardworking employees. Billions of dollars are gone from investment portfolios and retirement plans. Investor confidence has understandably wavered.

Congress has examined these issues for 4 months. The Committee on Financial Services alone held seven hearings, took testimony from 33 witnesses; and we are but one of many panels. We know now what happened, and we know what needs to be done. Now it is our responsibility to do something about it.

We owe action to the American investor who faithfully puts away money every month in his IRA or his 401(k) plan. We owe action to the employees who lost their jobs, and we owe action to all of the American companies who are operating in good faith and working to grow.

I would like to say a word of thanks to the President and his staff for all of the support and encouragement we have received throughout the process of drafting and moving this bill. His 10-point plan was very much on the same track as our bill, and the White House has helped us improve the bill every step of the way.

I also want to say a word of thanks to the 16 Democrats who voted for the bill on final passage in the Committee on Financial Services. We appreciate their support for our sound legislative bipartisan product.

President Bush has asked us to move on his plan; and clearly, this is a national priority. We need to encourage greater corporate responsibility. We need to strengthen and modernize our accounting oversight, and we need to make sure that investors have timely and clear information. There is a real urgency. We cannot undo the past, but we can help to prevent future Enrons and Global Crossings; and we ought to do just that today.

In our zeal to act, we can easily do more harm than good. It is easy to do something extreme. We can easily smother American businesses with red tape. We can punish those who have done nothing wrong. We can damage the capital markets and the economy in the process.

I say let us do the difficult thing. Let us accomplish something that is worthy, as the President has charged us, and CARTA strikes that balance. CARTA recognizes the need for corporate leaders to act responsibly and holds them accountable if they fail to do so.

CARTA ensures the highest standards of auditor independence, ethics and confidence and establishes a public regulatory organization for accountants of publicly traded companies, something that has never been done before.

CARTA improves corporate disclosures by requiring companies to provide the public with more information about their financial condition.

CARTA makes important improvements in the area of corporate transparency, requiring that companies disclose to investors important company news on a real-time basis.

CARTA also directs the SEC to require greater disclosure for off-balance sheet transactions.

I am confident that we are striking the right balance, particularly when it comes to the role of the Securities and Exchange Commission. CARTA gives the SEC the flexibility to deal with problems without legislating every time. Congress created the SEC precisely to deal with situations like this.

We need to empower the SEC to act without tying its hands and within flexible statutory changes.

Let us remember that a strong regulator is not one that is completely dictated to by Congress. A strong regulator has some say over his jurisdiction, some power and discretion to shape the capital markets; and I trust the SEC with this authority and so does our bill.

CARTA makes it a crime for anybody to interfere with a corporate audit. It requires CEOs and other corporate insiders to disclose within 48 hours when they sell company stock so that investors and employees and retirees know if a corporate officer is getting out. It prohibits insider sales of company stock while the employee retirement plan is locked down.

Strengthening these areas of corporate responsibility, accounting oversight, and investor information is an important priority as our economy recovers. Let us show the American people that we can respond in a meaningful way to their very real economic concerns. Pass CARTA today.

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

Mr. KANJORSKI. Mr. Chairman, I yield myself such time as I may need.

Mr. Chairman, I rise to oppose H.R. 3763, the Corporate and Auditing Accountability, Responsibility, and Transparency Act. The dramatic collapse of Enron exposed many systemic problems to the intricate public-private network that monitors excess in our Nation's capital markets, including deficits and corporate governance and insufficiencies in audit independence and oversight.

H.R. 3763 responds to these problems in a largely illusory and superficial way. It will not sufficiently restore public confidence in the integrity of our capital markets; and it will not significantly improve the protections for investments, pensions and savings of millions of hardworking Americans and retirees. For example, in the words of the Wall Street Journal, the bill "punts" an overhaul of the accounting industry to the Securities and Exchange Commission.

Although H.R. 3763 creates a new organization to oversee accountants that audit public companies, much of the bill's language is simply too vague to ensure that essential standards for effective oversight will be met, giving the SEC near-total flexibility in establishing guidelines for the new oversight body.

Given the importance of this oversight role, Congress should not delegate this task. We should create a strong auditor regulatory board with sufficient investigation and disciplinary powers.

The legislation also preserves auditors' cozy relationships with their clients by not prohibiting consultant services that create conflicts of interest. Audits are supposed to be independent assessments on a company's fi-

nances conducted for the benefit of the investing public. When an auditor also receives a million dollars from the company for nonaudit services, common sense dictates that those nonaudit fees may influence the auditors' judgment in favor of the client.

While H.R. 3763 partially bans two nonaudit services, it does not go far enough to eliminate the serious potential for undermining the independence of auditors. Additionally, H.R. 3763 protects corporate wrongdoers by actually making it more difficult to ban guilty officers and directors from serving in other public companies. In particular, the bill codifies high standards that the SEC complains significantly impedes its abilities to obtain officer and director bars in court. We must fix this problem.

Finally, the bill prescribes studies, not legislative action, on some major issues raised by Enron, whether CEOs who misled investors about the financial health of their companies should surrender their bonuses and fat stock option and whether stock analysts are pitching stocks they do not believe in.

In sum, Mr. Chairman, the Congress should not shirk its responsibility by delegating these urgent problems to the SEC or shunting them off to the oblivion of bureaucratic studies. We have an opportunity and a responsibility to restore integrity to capital markets. Quick fixes will not do the job.

Ultimately, Mr. Chairman, we must work together on a bipartisan basis to develop an appropriate response to the collapse of Enron and the overabundance of earning restatements by our Nation's publicly traded companies. Although we have made improvements in the bill since its introduction, it will represent only superficial reform at best. Meaningful reform will require lengthy deliberation and a substantial strengthening of the bill before us today.

Mr. Chairman, there is an old idea of lost opportunities. As the Congress addresses this serious problem today, we are missing an opportunity for Congress not to delegate its responsibility to the SEC or not to dodge its responsibility to the American public, but to take time and effort and deliberation necessary to make a bill that will protect the investing public, will arm the regulatory agencies with the authority they need to ensure the protection of the investing public, and to significantly improve the confidence in the American market.

□ 1115

Just last night I had the occasion to speak with some members of the investing community, and they called to my attention that never in their experience in the last 25-30 years have they seen a loss of confidence in the capital markets of the United States as has recently been exposed in the last several months since the Enron collapse. The capital markets of the United States

are the greatest in the world, but they are that way because the Congress at times of need and at times of overabundance of activities and recklessness in the markets have stood tall to enact legislation to straighten the markets out and to send a signal to the investing public that the Congress will oversee and protect their interests as best can be had in a capitalist system.

Today's legislation does not meet that mark. As the Wall Street Journal said, "This bill punts." As The Washington Post said this morning, "The chairman punts." I urge us to oppose this legislation at this time, and I encourage my colleagues to do the same.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Michigan (Mr. ROGERS), a valuable member of the committee.

Mr. ROGERS of Michigan. Mr. Chairman, I rise today in support of the Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002, and I want to congratulate the chairman on this bill that was reported out of the Committee on Financial Services last week on a strong bipartisan vote under his leadership.

This bill brings needed reforms and oversight to the accounting industry. It ensures that those with the greatest interest in ensuring that the information provided to the marketplace regarding public companies is accurate and complete and facilitates the fair and efficient functioning of the markets.

Mr. Chairman, this is an important piece of legislation that does not create a new Federal bureaucracy funded by taxpayers; rather, it requires a new private sector oversight body to review the accounting firms that audit financial statements. This new body, called the Public Regulatory Organization, would have broad powers to discipline accountants that violate the most basic codes of ethics, standards of independence, and standards of competency.

Mr. Chairman, this bill is necessary to restore the faith in our markets. This bill brings credibility and integrity to the process by protecting against conflicts of interest in the accounting industry. This piece of legislation is important because we need to act now. We need to pass this bill today. We need to give the SEC and this new PRO the tools to be up and running quickly to protect the future of investments in this country.

Mr. Chairman, at this time I would like to have a colloquy with my good friend, the gentleman from Ohio (Mr. OXLEY), the distinguished chairman of the Committee on Financial Services.

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

Mr. ROGERS of Michigan. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Chairman, I thank the gentleman from Michigan and I want to commend him for his efforts on this bill, for his fight for the integrity of America's financial markets.

The gentleman is right; we need to act quickly on this important issue. We are calling on our colleagues to take this opportunity to restore transparency and accountability to the audited financial statements of America's companies.

Mr. ROGERS of Michigan. Reclaiming my time, Mr. Chairman, it is my understanding that this bill does not create a new Federal bureaucracy to oversee the accounting profession but, rather, creates a private sector regulator to do that job.

Mr. OXLEY. Mr. Chairman, if the gentleman will continue to yield, that is correct. We are giving the SEC the tools to oversee this new PRO, but it is going to be funded by the private sector.

Mr. ROGERS of Michigan. Mr. Chairman, I want to see that this PRO is up and running in an expeditious fashion. Does the PRO have the authority to contract for services with other private sector companies or regulators to make this happen as quickly as possible?

Mr. OXLEY. That is correct. Under the legislation, the SEC or the PRO could consult or contract with private sector regulators and companies to get the necessary insight as well as the systems and processes to get this organization on its feet in a timely manner. I am confident the SEC and the PRO will take such measures as necessary to move with all deliberate speed.

Mr. ROGERS of Michigan. Reclaiming my time once again, Mr. Chairman, I thank the distinguished chairman for clarifying this point and I thank him for his leadership on this very important bill.

The CHAIRMAN. Without objection, the gentleman from New York (Mr. LAFALCE) will control the time of the gentleman from Pennsylvania (Mr. KANJORSKI).

There was no objection.

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

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

Mr. LAFALCE. Mr. Chairman, today we consider legislation to address the serious problems in our capital markets raised by the collapse of Enron, problems of corporate abuse, problems of accounting fraud, problems of earnings manipulation, and problems of analyst hype. All of these have destroyed public confidence in our markets and jeopardized the investments and retirement savings of millions of working Americans. Millions of working Americans have been robbed.

Now, Enron provided a catalyst for our consideration of these issues, but it is not the first or even the most recent example of what has become a common phenomenon: earnings manipulation, deceptive accounting, and hyped analyst reports by some of our largest companies. Company after company has been found to have manipulated their accounting to present a picture

to investors that did not match the reality.

The tremendous growth in investigations opened by the SEC this year indicates the problem is getting worse and worse. The question we will debate today essentially is whether we are ready to recognize and make real changes to address the systemic weaknesses undermining our capital markets or not. The bill before us is cosmetic. The bill before us is a press release. Look at this morning's editorial in The Washington Post. It says, basically, that the bill takes a punt at the problem. Look at the editorial in yesterday's Wall Street Journal. It says, basically, the same thing. It chastised the accounting profession for its resistance to all efforts at reform. The Journal opined that "The accountants may think that they have outsmarted everyone by sinking reforms along with Andersen. And they may be right. On the other hand, if there's another Enron out there, they may wish they'd taken Mr. Volcker's advice."

I think it is safe to say it is only a matter of time before the next Enron or Global Crossing appears, and today's bill will do nothing to prevent it.

There are many areas in which the bill before us fails to provide true reform. First, it fails to establish a strong regulator to oversee the accounting profession, largely delegating decisions as to both its powers and duties and makeup to the SEC. You do not need a law to do that; the SEC could do that today. The bill provides virtually nothing.

Secondly, the bill fails to limit in any way the nonaudit services that auditors can provide to their audit clients, not even going as far as the accounting industry has said it would go voluntarily to limit their conflicts of interest. The accounting industry has said they should and will go further than the bill goes, and they will not go far enough on their own voluntarily.

As the Wall Street Journal said yesterday, the credibility of their audits matter more than their ability to offer other services that let them live like investment bankers.

And, third, the bill fails to effectively implement any of the measures proposed by President Bush himself to improve executive responsibility and improve the ability of the SEC to bar or seek disgorgement from executives. In some areas, it actually represents a step backwards, making it more difficult for the SEC to do its job, making it harder, rather than easier, for the SEC to bar officers or directors who have committed securities fraud from serving in other public companies.

Fourth, the bill fails to make any improvements in the area of corporate governance of public companies by giving the audit committees of their boards of directors the authority they need over auditors to truly protect shareholder interest.

And, fifth, and very importantly, it fails to include any measures to limit

the incentives for securities analysts to serve as salesmen for their firms' investment banking business rather than being objective analysts. It fails to address the problem of research analysts being compensated based upon the business they are able to generate for the investment banking arm of their firms. It allows the continuance of research analysts being hucksters for the investment banking arms rather than owing a responsibility to give honest investment advice to the public at large.

Now, I would like to have had a debate on these important issues on the floor individually, but the rule does not permit the offering of individual amendments. And, therefore, I will offer my substitute to accomplish that.

Mr. Chairman, today we consider legislation to address the serious problems in our capital markets raised by the collapse of Enron—problems of corporate abuse and accounting fraud that have destroyed public confidence in our markets and jeopardized the investments and retirement savings of millions of working Americans. While Enron has provided the catalyst for our consideration of these issues, it is not the first or even the most recent example of what has become a common phenomenon—earnings manipulation and deceptive accounting by our largest companies. Company after company has been found to have manipulated their accounting to present a picture to investors that did not match reality. The tremendous growth in investigations opened by the SEC this year indicates the problem is only getting worse.

The question we will debate today essentially is whether we are ready to recognize and make real changes to address the systemic weaknesses undermining our capital markets. The bill before us does not represent real reform, as even the Wall Street Journal recognized in an editorial yesterday in which it chastised the accounting profession for its resistance to all efforts at reform. The Journal opined that “[t]he accountants may think that they've outsmarted everyone by sinking reforms along with Andersen. And they may be right. On the other hand, if there's another Enron out there, they may wish they'd taken Mr. Volcker's advice.” I think it's safe to say that it's only a matter of time before the next Enron or Global Crossing appears, and this bill will do nothing to prevent it.

There are many areas in which the bill before us fails to provide true reform:

First, it fails to establish a strong regulator to oversee the accounting profession, largely delegating decisions as to its powers and duties to the SEC. Without an explicit statutory mandate, the regulator will be subject to the intensive efforts of the accounting industry to avoid reform of any kind. Congress should give the new regulator effective disciplinary and investigative powers and clear authority to set standards for auditors of public companies, rather than just enforcing the standards set by the accounting industry bodies.

Second, the bill fails to limit in any way the non-audit services that auditors can provide to their audit clients, not even going as far as the accounting industry has said it would go voluntarily to limit their conflicts of interest. As the Journal said yesterday, “[t]he credibility of their audits matter more than their ability to

offer other services that let them live like investment bankers.”

Third, the bill fails to effectively implement any of the measures proposed by the President to improve executive responsibility and improve the ability of the SEC to bar or seek disgorgement from executives. In some areas, it represents a step backwards, making it more difficult for the SEC to do its job, making it harder, rather than easier, for the SEC to bar officers or directors who have committed securities fraud from serving in other public companies. Moreover, it fails to empower the SEC to require corporate wrong-doers to disgorge their bonuses and other compensation after committing securities fraud.

Fourth, the bill fails to make any improvements to the corporate governance of public companies by giving the audit committees of their boards of directors the authority they need over auditors to truly protect shareholder interests.

Fifth, it fails to include any measures to limit the incentives for securities analysts to serve as salesmen for their firms' investment banking business rather than objective analysts.

I would like to have had a debate on these important issues on the floor today, but the rule does not permit me to offer amendments on these individual issues. I will offer a substitute, however, that cures many of the defects of the Republican bill. My substitute will: Establish a tough and credible overseer for the accounting industry; include effective limits on the two non-audit services included in the existing bill; provide corporate audit committees with authority over the full scope of a company's relationship with its auditor; hold executives responsible for the accuracy of their companies' financial statements; enable the SEC to seek disgorgement of bonuses and profits on options or to bar officers and directors who have committed wrongdoing from serving in other public companies; and finally, eliminate the conflicts that result in Wall Street analysts hyping the stocks of their investment banking clients.

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York (Mrs. KELLY), the chair of the Subcommittee on Oversight and Investigations.

Mrs. KELLY. Mr. Chairman, I rise today in strong support for the Corporate Auditor Accountability, Responsibility, and Transparency Act, known as the CARTA Act. I thank my good friend, the gentleman from Ohio, for yielding me this time.

This legislation represents the first positive step forward to restore public confidence to our Nation's accounting industry. Since the dramatic failures in both Global Crossing and Enron, we have heard from countless former employees and investors who have been harmed because of the lack of transparency, the lack of auditor independence, and the lack of timely and clear disclosures. CARTA takes substantive steps to address all of these issues, with a focused approach that will restore confidence in the industry.

Let me be clear. The legislation is not the complete solution. There are many investigations which continue with the Securities and Exchange Commission, the Department of Justice,

and the Department of Labor. As the appropriate agencies uncover new issues, we are going to continue our work to ensure that we act prudently, appropriately, and responsibly. As with the medical profession, though, our overriding goal has to be, first, do no harm. We must be focused in our work and make sure our response is effective, restores public confidence, and has a positive impact on the market.

CARTA is reasonable and responsible. CARTA creates a new Public Regulatory Organization with real power to discipline accountants who violate the standards of ethics, competency, and independence. CARTA makes it a crime for any corporate official to mislead or coerce an accountant in the course of conducting an audit. CARTA requires real-time disclosures of significant financial information to ensure that employees and investors know about important events as they happen, instead of when the quarterly report comes out.

These are just a few of the significant reforms made in this legislation. CARTA is a strong reform. It gives greater authority to the Securities and Exchange Commission to act, and it is stronger authority than in the Democratic substitute. It takes significant steps to ensure accountants are truly independent and corporations are clear and honest in their statements.

It is a bipartisan bill. It was supported in committee by both Democrats and Republicans. The committee vote on final passage of 49 to 12 demonstrates that there is real agreement in the House that the provisions contained in this legislation will move us forward to our goal of restoring public confidence in our accounting system and corporate disclosures.

Mr. Chairman, I urge colleagues on both sides of the aisle to join us with the strong support of CARTA so we can prevent mistakes, misstatements, and obfuscations we witnessed in the failures of Global Crossing, Enron, and Arthur Andersen from being repeated and harming others.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Chairman, to my colleague, the gentleman from the great State of Ohio (Mr. OXLEY), and to the ranking member, the gentleman from the great State of New York (Mr. LAFALCE), I am pleased to have had an opportunity to serve on the Committee on Financial Services as we have debated this legislation. But what is clear to me is the American public expects us to do more than pass strong legislation that does not go far enough. I just want to put in the RECORD a copy of The Washington Post editorial that fully addresses many of the issues.

Let me tell my colleagues a few things I am concerned about.

□ 1130

Mr. Chairman, I do not believe that this current legislation that is before

the House of Representatives addresses the issue wherein the CEOs, like the CEO at Enron and Global Crossing, were able to take their 401(k) dollars out of the pot, and leave workers like Mrs. Linton, who I read about in the newspaper, stuck with not receiving any other dollars.

Now, what we have not addressed, and I am not an SEC attorney, but I do know there is a piece or a rule that allows a CEO to put in place a plan to dispose of his assets in a particular company, as long as they have in place a plan to do so. We need to put in place a plan that would also allow workers to be able to access their dollars in the same fashion that CEOs do. Or if they are not able to do so, that the CEOs would be held accountable.

Let me go to another point that I raised at the Enron hearings, which is with regard to the SEC. I have a lot of respect for the SEC and their chairman, Mr. Harvey Pitt; but the reality of the matter is that we should not leave our job to the SEC. We should give the SEC clear direction on what we want done, when we want it done, and how we want it done. For example, the records of Enron were not reviewed by the SEC. That presents a real problem for me and other Members as we review this process.

Finally, I am worried about a private organization giving advice and counsel on many of these issues to the Congress. Let me just say that the Arthur Andersen relationship with Global Crossing, the CEO said that he thought that relationship was okay. If he thought it was okay, what does that say about other private industry people.

The material previously referred to is as follows:

[From the Washington Post, Apr. 24, 2002]  
MR. OXLEY PUNTS

The HOUSE is due to vote today on a package of post-Enron reforms prepared by Rep. Michael Oxley (R-Ohio), chairman of the Financial Services Committee. The bill is a troubling sign of how easily the momentum for reform can be dissipated. Though it purports to deal with many of the audit reforms discussed during dozens of congressional hearings since January, it actually pulls its punches. Democrats will get a chance to offer some better provisions in the House today, but nobody expects them to pass. It will be up to the Senate, if it can ever terminate its interminable debates on energy, to produce a stronger bill.

The Oxley bill purports to set up a new regulatory board to oversee and discipline auditors, which everybody agrees is needed. But it would not give this body powers of subpoena, which would undermine its authority; and it would allow auditors to fill some of the board's positions, which could undermine its independence. The details of the new board would be left to the Securities and Exchange Commission, which would have to decide among other things how the new body would be funded. Given the SEC's vulnerability to industry lobbying, there is a danger that the result will fall short of what's needed.

The Oxley bill takes other half-steps and side-steps. It directs the SEC to prohibit auditors from performing certain types of

consulting services for their clients, but it stops short of requiring an outright halt to consulting and the conflicts of interest that ensue. The bill says nothing about the revolving door between auditors and their clients—Enron, for example, hired several Arthur Andersen auditors—even though auditors who are angling for jobs from their customers are unlikely to show much independence from them. The bill is also silent on the rotation of audit firms. If an auditor knew that, after a few years, a different outside auditor would scrutinize its efforts, this would create a strong incentive to keep the numbers honest.

The Oxley bill does at least boost the SEC's budget substantially, and it has the right mood music. But given the outrage that Congress has expressed about the Enron scandal, this is a weak effort. Just this week, Enron announced that it had discovered a further \$14 billion worth of assets in its balance sheet that don't really exist after all, and it confessed that a "material portion" of this overstatement was due to accounting irregularities. This kind of confession further undermines investors' trust in financial disclosures. Congress needs to restore that trust with tough legislation. Perhaps the Senate can deliver if the House won't.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA).

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

Mrs. ROUKEMA. Mr. Chairman, I commend the gentleman from Ohio (Mr. OXLEY) and the gentleman from Louisiana (Mr. BAKER) for this legislation. This legislation has numerous provisions which provide and strengthen oversight of the accounting industry, what we have really learned from Enron and Global Crossing failures. But the specifics of these provisions have been properly outlined by the chairman, and I will not go into those again. However, I will stress one in particular, and that is it includes important safeguards for individuals who invest in the 401(k) plans. That is an excellent provision in this legislation.

Mr. Chairman, I want to say to Members that there are some who argue that this bill does not go far enough. I will say to those critics that we must take care not to overreact to this situation and create greater problems than we have here. This bill represents a giant step in the right direction to reforming the system. We need to enact this legislation and let the regulatory process go forward. Clearly we should revisit this issue in the months ahead, but this bill does include sound, strong, unprecedented measures that I believe will go a long way in reforming the situation.

A Member mentioned earlier Chairman Paul Volcker's oversight and activity in terms of the Andersen question. Clearly, Mr. Volcker's analysis will be helpful to us and significant in laying the groundwork for extended consideration in the future for whatever additional reforms we may need. Clearly, we must not overreact and create today further problems and create more loopholes.

I want to commend Chairmen OXLEY and BAKER for their leadership on this legislation

and urge my colleagues' support for the Corporate and Auditing Accountability, Responsibility and Transparency Act.

We must return confidence back to the markets and to the accounting profession. Individual investors have to be certain that the information they are receiving is accurate and complete. Certainly the media and many in this Congress have been focused on the Enron bankruptcy—the largest in U.S. history—but Enron is merely a symptom of a larger problem.

The current structure for regulation and oversight of the accounting industry consists of Federal and State regulators and a complex system of self-regulation by the industry itself. Although the SEC has broad authority to regulate all aspects of corporate accounting and the auditing of publicly-traded companies, the SEC historically has not directly regulated the industry because of a lack of resources. Instead, they have investigated and taken enforcement action in only the most egregious cases. Consequently, the most comprehensive supervision of accountants and auditors has been exercised by the industry's trade association, the American Institute of Certified Public Accountants, a voluntary organization funded entirely by the industry.

H.R. 3763 includes numerous provisions to strengthen supervision and oversight of the accounting industry, increase standards of corporate responsibility, and improve the quality of corporate disclosure and the auditing of publicly-traded companies. The specifics of these provisions have been properly outlined by the Chairman.

First, this legislation establishes a public regulatory organization (PRO) to oversee and review accounts that certify financial statements required under the securities law. This new board would be subject to direct SEC authority and supervision. In addition it makes it illegal—subject to SEC civil penalties—for any corporate official to interfere, mislead, or coerce an accountant performing an audit of the company.

Second, this legislation requires increased and meaningful disclosures, such as information about special purpose entities and other off-balance sheet transactions. It requires real-time disclosure of financial information and immediate disclosures by corporate insiders when they sell securities they own in their company.

This legislation also includes important safeguards and protections for individuals who invest in 401(k) plans. The bill prohibits corporate executives from buying and selling company stock during "blackout" periods when rank-and-file company employees are barred from doing so in their pension 401(k) plans and allows companies, and other shareholders to go to court to recover any profits made from such illegal transactions. The measure also establishes procedures under which the SEC may recover any profits gained, or losses avoided, by executives through stock trades in the six months prior to a company's restatement of earnings, if the executive had knowledge that the company's accounting was misleading.

Finally, H.R. 3763 authorizes new resources and responsibilities for the SEC, requires the SEC to review the audited corporate financial reports of all publicly-traded companies at least every three years, and allows the SEC to ban corporate officers and directors whom the

SEC finds guilty of violating securities law from serving in similar positions in other publicly-traded companies.

There are some that may argue today that this bill does not go far enough—I would say to those critics that we must take care not to overreact to this situation—this bill represents a significant and proper first step. We need to enact this legislation—and let the regulatory process go forth. Clearly, we may have to revisit this issue in the months and years ahead, but this bill includes sound, strong and unprecedented measures that I believe will go a long way in addressing this current crisis.

Clearly, Chairman Paul Volker's oversight and analysis will be significant in laying the way for extended consideration for additional reforms.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Chairman, I thank the ranking member, the gentleman from New York (Mr. LAFALCE), for yielding me this time and for his leadership on these tough issues.

Mr. Chairman, I rise today in strong opposition to H.R. 3763. This is another sham bill that purports to fix the very serious problems that have arisen from the Enron debacle, but instead it takes us backwards in protecting the American public. H.R. 3763 is supposed to impose tougher standards on auditors to prevent future Enrons where workers lost their pensions and investors lost money because Enron cooked its books. However, H.R. 3763 does nothing to protect employees and investors. It allows corporate auditors to continue to perform both auditing and consulting functions, which got Enron into this mess in the first place.

The GOP bill puts investors and workers at greater risk than they are now. It does not hold corporate wrongdoers criminally accountable if they knowingly release misleading financial statements, and it does not increase oversight of the accounting industry.

We need true reform. That is why I am supporting the LaFalce substitute which takes important steps to protect workers and investors. It would set up a seven-person board with members representing investors and pension funds. Some of them can be accountants; but others with important interests can also be included, unlike the Republican legislation which will only permit auditors and former auditors on the board. Workers and investors also deserve a seat at the table.

The LaFalce substitute also bans auditors from consulting services that create conflicts of interest, requires CEOs to surrender their stock bonuses when they commit fraud, and makes it easier for SEC to remove corporate wrong-doers.

Ken Lay and the other Enron executives do not deserve millions of dollars in payoffs when their workers have lost their future. We must hold companies accountable when they engage in fraud that jeopardizes the retirement security of our Nation's workers and our economy.

The Republican legislation before us today does none of these things. The LaFalce substitute does. I urge my colleagues to vote "yes" on LaFalce and "no" on H.R. 3763.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT), a valuable member of the Committee on Financial Services.

Mrs. BIGGERT. Mr. Chairman, I rise today in strong support of H.R. 3763. This is a good bill because it strikes the right balance between doing enough to prevent another Enron and Andersen debacle, but not so much as to overreact to it causing more harm. The last thing we want is to federalize the accounting industry and create a seat for the government on every corporate board from New York to San Francisco and back again.

This is a good bill because it helps rebuild the confidence of the American people by restoring the integrity of the accounting industry. It increases corporate responsibility, reforms the accounting industry, and forces businesses to disclose much more financial information in real-time. Holding corporate officers responsible for their actions is a big part of the foundation of this bill. As President Bush said not long ago, our goal is better rules so that conflicts, suspicion, and broken faith can be avoided in the first place. That is what this bill does in several ways. For example, an amendment that I offered last week provides the SEC the administrative authority to bar persons accused of malfeasance from serving as officers or directors of public companies pending judicial appeal.

Mr. Chairman, it is unfortunate that no one understands the concept of executive accountability or lack thereof better than the 500 Andersen employees from my district. They ask, How on earth can the alleged sins of a handful of partners uproot the lives of so many innocent employees? One of them went further, asking me in a recent letter if one out of our 535 Congressmen and Senators gets in trouble, should you all be fired? I think we all get the point.

And the point is that change is needed in the accounting industry, and H.R. 3763 is an important step in the right direction. With this legislation, we will avoid any more blanket charges to groups of accountants, and instead bring justice to the particular accountants at fault. Some have argued that the standard may prove to be unreasonably high or it goes too far. I respectfully disagree. H.R. 3763 empowers the SEC to take a bite out of corporate crime.

Mr. Chairman, I encourage all of my colleagues to support this bill.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. SHERMAN).

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

Mr. SHERMAN. Mr. Chairman, Enron not only cost its own shareholders tens

of billions of dollars, but our markets would be selling at trillions of dollars more in net capitalization if investors around the world did not have to wonder whether the next Enron was right around the corner.

All three of our institutions failed our investors. The SEC failed to even read the Enron financial statements, let alone demand clarification of their incomprehensible footnotes. And when the SEC reauthorization bill comes to this floor, it should come in regular order so that we can propose amendments to improve the SEC.

The stock analysts and the auditors both failed as well; and they failed in part because the current system clouds their judgment with excessive conflicts of interest. The stock analysts are affected by the huge investment banking fees so that they now not only recommended Enron as an investment, but they recommend a hold or a buy on virtually every stock on the board.

The auditors received not only their audit fee from their clients, but huge and unlimited fees for other services, sometimes five or 10 times the fees they received for auditing; and this bill, while providing a list of services that they are not to provide, does nothing to cap the total fee that they receive.

We need to restore confidence in our markets. If Congress does its job, our capital markets will once again be the envy of the world. But we cannot do it just by passing this bill. The LaFalce substitute at least takes us further down the road toward reform; and then we need to do even more to deal with the SEC, the stock analysts, and the total amount of fees received by auditors for nonaudit services.

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentlewoman from Pennsylvania (Ms. HART), an outstanding member of our Committee on Financial Services.

Ms. HART. Mr. Chairman, I rise in support of the CARTA bill as it stands. The Committee on Financial Services did an extensive amount of research on these issues, especially in light of the concerns raised by the Enron debacle. Several disturbing aspects about corporate disclosures in financial statements were made very clear during this process, but one of the most alarming was the unequal treatment of employees and what they were and were not allowed to do with company stock that they received in their retirement plans.

I have here what will happen as a result of the CARTA bill. Pre-Enron there was little disclosure. Financial information was all in legal jargon. People could not really understand it. There was insider auditing, as we saw in the Enron case, deals made among the auditors with the company which were really not fair or right or a true representation of the actual financial situation of the company. Also, insider trading during blackouts, those executives were allowed to sell their stock; those regular people, the employees,

unfortunately were not, and ended up losing a lot of money because of the deceit involved with the financial statements.

Post-Enron, under the CARTA bill we have full disclosure. We also have something very important, and that is the financial information that all investors get in plain English. No more games. Under CARTA, plain English so that everybody understands exactly what is going on with the company.

Also something extremely important, the independent audit versus the insider audit. We need to make sure that Americans have confidence in financial statements and invest wisely.

It will also close the loophole on insider trading during blackouts. This is one of the most important things that was revealed to us during Enron, and one thing that this bill handles very well.

America's investors have changed significantly. It is important for us to protect them and provide them with the information that they need. More than half of American families, that is 90 million people, invest in the stock market, including mutual funds, pensions, and 401(k)s. This represents a growing trend. These people are investing in American companies that produce American jobs. In fact, a majority of these investors, 67 percent of them, are our average Americans with household income of \$75,000 or less.

Mr. Chairman, these are American families that we are talking about. We need to protect them with CARTA. According to the National Center for Employee Ownership, 10 million employees in the United States received stock options as part of their benefits in 2001. This is a 10-fold increase over 1992. This bill protects those employees and those Americans. It protects those American jobs.

□ 1145

Finally, the benefits of the bipartisan corporate responsibility bill is greater confidence. Americans will continue to invest. We want them to invest. It is better for our future. There is more confidence for them to invest, there will be more corporate stability and the end result, which is what we all want, is more jobs and a stronger economy.

Mr. LAFALCE. Mr. Chairman, I yield 2½ minutes to the distinguished gentleman from Texas (Mr. BENTSEN).

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

Mr. BENTSEN. Mr. Chairman, Enron, Global Crossing, the restatements at Xerox, Sunbeam and others are part of the corporate excesses that have occurred as a result of the exuberant nineties. The bill before us today, I believe, is a good start but, as I said earlier, is by no means a panacea and will not solve all the problems that existed or came about, but at least begins putting us in the right direction to hopefully restore some confidence to the

markets. It does establish an oversight function of auditors of public companies. It amends the law to crack down on insider self-dealing, where you had corporate managers really treating public companies as private banks, and I am glad the committee adopted a few amendments I offered to deal with that. It continues the process of eliminating the conflict between independent auditors and the companies they audit.

Some will say it does not go far enough, but at least it begins that process. It was strengthened by an amendment that the gentleman from North Carolina (Mr. WATT) and I offered and, quite frankly, the gentleman from New York's substitute strengthens that even further. It puts the Securities and Exchange Commission on notice and provides them with the resources, and it puts the Congress on notice that there needs to be stronger oversight of the players in the public markets. And it is quite a change from where the SEC was under the prior chairman, Mr. Levitt, who really did take a strong stance in trying to root out conflict of interest and, quite frankly, ran into some of his toughest opponents in the Congress as much as out on Wall Street.

The committee should adopt the Capuano amendment, which I think strengthens the oversight board in ensuring that the makeup of that board is one that is truly independent. And while there are things in the substitute I like and things I do not like, the committee should adopt it. But what I think this bill does that is so terribly important is that it puts the Congress on record in saying that we will not tolerate abuses in the public market.

Maybe we need to go further. Maybe we do not go far enough in the bill, and I do not think a lot of bills we pass here necessarily go far enough. I do not know that we know all the answers. But it also puts the regulators on notice and provides them with the resources to do the job they are entrusted to do. And if they do not, then the Congress should be willing to act again. Because if we do not restore confidence in the markets and ensure confidence in the markets, then we will raise the cost of capital to great expense to the general economy, and while we are concerned about the Enron employees, many of whom are my constituents, we as a Nation will suffer as well. I appreciate the start we are making today. I hope we can continue the process.

Mr. OXLEY. Mr. Chairman, let me commend my friend, the able gentleman from Texas, for his good work on the committee and on the floor. The committee will certainly miss his excellent leadership and insights next year. I wanted to pass those remarks along.

Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana (Mr. BAKER), the lead cosponsor of the CARTA legislation and the chairman of the Subcommittee on Capital Markets.

Mr. BAKER. Mr. Chairman, I thank the gentleman for yielding me this time and wish to express my deep appreciation for his leadership in helping the committee construct what I think is one of the most significant reform pieces of legislation in financial markets in this Congress.

In listening to the debate, many would assume that we have done nothing. In listening to the debate, many would assume there are those in the Congress who would like to sit on the board of every board of directors of every corporation in America, because that is the only way we could possibly have protection for individuals and consumers. In listening to the debate, one would believe that some think it is inappropriate for a corporation to make a profit. In the free enterprise system, it is clear, people invest, they work hard; if they convince consumers and they are successful and beat their competition, at the end of the day we hope people make a profit. Some think profit is gained only by ill-conceived, manipulative, backdoor deals at the expense of working people. Where are we? This is America. We are taught if you work hard, invest, that it is okay to make a profit, and one day if you work hard you might be able to keep some of it. That was the basis of our tax relief program: You work hard, you pay your taxes to the Federal Government.

Some say, "Let's not give them their money back. They might spend it. We ought to keep it here in Washington and regulate them." Some people watch business and they say, "If it's making a profit, let's first regulate it. If it's still making a profit, let's tax it. And if that doesn't stop it, let's sue it." I think we have had enough of that. This bill is about common sense. It is not lawful for a corporate executive to withhold material facts about the financial condition of his corporation. And we go further and say, if you do, there is a penalty to pay.

We provide for auditing independence by saying the audit committee works for the shareholder and has an obligation to report the true and accurate financial condition of the corporation, or there are consequences.

Some have suggested we are doing nothing with the analysts. Let me point out that last fall before the Enron matter became public knowledge, this committee, the Committee on Financial Services, was working on these sets of rules to provide new standards for analysts' conduct that go far beyond anything I have heard suggested in the debate in the committee today. We have taken action. We have taken action to preserve our free enterprise system, the ability to govern a corporation and make a profit, employ individuals and provide opportunities for millions of investors to participate in the dynamic growth of this economy.

In 1995, no one could invest online. Today, there are over 800,000 trades a

day where working men and women take \$100, \$200, and invest it for their child's education, to purchase their first home, and maybe their retirement. That is the American way. Are these the large institutional investors who are making backroom deals with analysts and Wall Street CEOs? No, they are people who are working as we debate this bill this morning to try to make a few extra dollars to enhance the quality of their children's future.

This bill makes sure that the financial statement they read, that the analyst recommendations they research on the Internet, that the corporate executives' representations about the future of corporate profitability are true and accurate. We cannot guarantee success. Of all the companies listed on the New York Exchange in the early 1900s, there is only one that is still listed there today. The dynamic free enterprise system is going to cause changes in our market that no one can predict and we cannot guarantee success or failure, but what this Congress can guarantee is that no one is misled or mistreated and all have equal opportunity.

What shall we do? Some would say this bill is insufficient. At the end of this process, after all the amendments are considered and the gentleman from New York's motion to recommit is finally disposed of and defeated, as I hope it will be, you will have a decision to make. Do you vote for this bill on final passage or do you say "no" and turn your back on the most meaningful reform effort you will ever have?

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Oregon (Ms. HOOLEY).

(Ms. HOOLEY of Oregon asked and was given permission to revise and extend her remarks.)

Ms. HOOLEY of Oregon. Mr. Chairman, I thank the ranking member for all of his hard work on this piece of legislation. I guess I am a little different from some of the speakers so far because I think that this legislation before us is an improvement over the current system. Is it perfect? No. Does it go far enough? Probably not. Will it prevent another Enron? Who knows? I do not think it is within the realm of possibility that we will ever be able to prevent people from being greedy and deceiving shareholders. Every single one of us knows that if this bill was introduced before the Enron scandal, it probably would have had a handful of cosponsors and probably never seen the light of day. But now we are being told that it is completely inadequate and does not do anything to address the problems that led to the collapse of Enron. I disagree.

This is the bottom line. H.R. 3763 is going to strengthen our financial reporting system which in turn will strengthen our capital markets. It is a huge step in the right direction. However, that does not mean that this legislation is comprehensive or that it could not stand improvement. For example, it completely ignores the Presi-

dent's call for corporate governance reform. It simply calls for a study on whether CEOs who engage in fraud should surrender their stock options. The President does not think we need to study this matter. He has publicly stated that they should disgorge those earnings. The President also does not think corporate officers who engage in fraud should be permitted to serve on another board. But again H.R. 3763 is silent on this matter.

Is this bill better than what we currently have? Yes. But I want to urge my colleagues on both sides of the aisle who truly want to protect the interests of investors to also support Ranking Member LAFALCE's substitute.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Alabama (Mr. BACHUS), a subcommittee chair.

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

Mr. Chairman, Members will recall that 2 years ago, the SEC proposed to limit auditors from doing several non-auditing functions for their clients, consulting work and other nonauditing services. When the SEC proposed that, they do what they always do, what this body has insisted they do, what they ought to do, that they put those proposals out for public comment, because all knowledge does not come from Washington. It is not all inside the Beltway. They made 10 specific proposals to ban nonauditing services. Consumer groups came in and testified before the Securities and Exchange Commission. Consumer groups came in and testified before Arthur Levitt and the SEC. Industry groups came in and testified. Over a 4- or 5-, 6-month period, they looked at the rules, they listened to witnesses, they refined the rules, they revised the rules. And in September, Arthur Levitt had this to say about that process of letting the public participate in how they are governed. He said this: "Thanks to the thoughtful and constructive public input, we see ways to revise the proposed rules to avoid unintended consequences and to address other legitimate concerns."

There are unintended consequences when you propose a rule. There are other legitimate concerns that people have when you put a rule out there for public comment. As a result, Arthur Levitt said, "We've gone through this process and we have got better rules, we have got more effective rules, we have got a good product." Basically that is what the bill that Chairman BAKER and Chairman OXLEY have put out for us, is the result of that process by Arthur Levitt, with public comment from consumer groups, labor groups and industry groups.

Both bills ban these nonauditing services. Both of them ban them. But the difference is that the gentleman from New York (Mr. LAFALCE) and, in fact, when I mentioned this in committee, the gentleman from New York said, "I realize that's a major prob-

lem," but it is a problem that we still have in the substitute. The gentleman from New York went back and actually adopted the proposed rules, not the final rules as the base text has. He went back to the proposed rules, throw out all the comments by the consumer groups, throw out all the comments by the business groups, throw out all the comments by the labor organizations, throw out all the comments by those in the academic world. He goes back to the original proposed rules, like starting all over again. That is not what this place is all about. It is about including the public.

Mr. LAFALCE. Mr. Chairman, I yield myself 30 seconds. The gentleman from Alabama (Mr. BACHUS) was referring to an amendment that was offered within the committee, but he is not referring at all to the provision that is in the substitute. So all his remarks were irrelevant to the provisions within the substitute.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. DOGGETT).

□ 1200

Mr. DOGGETT. Mr. Chairman, a few months ago, one really could not turn on the television at night or open a newspaper without hearing about the plight of those who suffered in the Enron-Andersen debacle—people whose tomorrow was stolen, many of them innocent, hard-working employees for the very companies that were engaged in these questionable deals. Even expert investors, including those at a public state retirement system in Austin, Texas, lost millions of dollars in Enron investments. Many people who were working to prepare their own tax returns saw that Enron was not paying much in the way of taxes; in fact, it apparently was not paying any taxes at all.

There were two reactions to this debacle. There were some people, like the gentleman from New York (Mr. LAFALCE) who said, how can we prevent something like this from happening again? What can we do? What is the best way? Certainly, it is challenging and complex, but what is the best way to be sure that more people do not suffer like this in the future?

And then there was a second response, the response we normally hear in Washington from those special interest lobbyists: how can we keep the loopholes, the back doors, the exceptions, the special preferences and exemptions that we worked so diligently over the years to be sure that Congress gave us, how can we be sure we keep them in the future?

In the face of this Enron-Andersen fiasco, those lobbyists, that second group, could not come with a straight face and say, "do nothing." So their best avenue to thwart any meaningful reform was to say, "do next to nothing," and we will call it "something"; and that is precisely where we are today. The bill before us is "next to

nothing” and it is being called “something” to blunt attempts to exact more far-reaching reform.

As if that were not bad enough, there are some lobbyists who saw this Andersen-Enron crisis as an opportunity, an opportunity to get a little more. And so when we took up the pension bill a couple of weeks ago, the first response in this House to Enron, instead of doing something to help the employees, a little more discrimination was approved in favor of the executives at the top. Today, in this bill, instead of making it more difficult for corporate wrongdoers to assume a position of responsibility at another corporation, this bill makes it easier.

When it comes to tax problems, the same accountants that are causing many of these problems, as *Forbes* magazine said a couple of years ago, they are the “tax shelter hustlers,” “respectable accountants” who are out peddling dicey corporate tax loopholes. And when today ends, they will still be able to do it. The analysts will still be able to think one thing and say another to those they advise to purchase stock. The accountants will still be held to a level of responsibility under this law that is less than even the modest changes President Bush proposed and less than what even the accountants agreed to do voluntarily.

Many people in this country, many Americans, are absolutely amazed that Enron could have fallen apart last year like it did. This year, they will be similarly amazed that Congress did next to nothing about it.

The CHAIRMAN. The Chair will advise Members that there are 5½ minutes remaining on both sides of the debate.

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. FERGUSON), a new and valuable member of our committee.

Mr. FERGUSON. Mr. Chairman, I want to commend the gentleman from Ohio (Mr. OXLEY) for his great work on this legislation and for also working so closely with the major investigators: the Justice Department, the SEC, the Enron and Andersen internal teams, to achieve the goal that we have been able to achieve with this legislation. The Committee has heard from a diverse group of witnesses representing a broad spectrum of views from across America regarding the securities markets and the government’s role in protecting investors.

The distinct differences in the testimony, including former SEC officials and the securities industry and a leading consumer organization and the accounting industry, have confirmed that the committee and the members on the committee have taken the necessary steps to improve the current regulatory system with this legislation, the CARTA legislation.

This legislation is a product of a multitude of views and months of work by the committee to improve the public’s confidence in our capital markets and

to strengthen the overall financial system in the most appropriate manner. It is effective because it gets to the heart of the issues that will prevent future Enrons from happening in this country, without drowning our businesses in a sea of red tape.

It is important that this legislation avoids the temptation to overreact and to over-legislate in a manner that is going to cripple the entire business community. In fact, the Federal Reserve Chairman, Alan Greenspan, recently testified that the Enron collapse has already generated a significant shift in corporate transparency and responsibility, highlighting the market’s sometime ability to self-correct. Clearly, over-legislating would be counterproductive and make it impossible for our markets to function properly.

Clearly we need to legislate, and I think we have done that in this bill. But legislating should not be the end of the Congress’s role in addressing these issues. The collapse of Enron represents a combination of irresponsible actions on the part of some decision-makers with knowledge of the company’s financial well-being, and a meltdown of the financial safeguards that we have used to identify problems at a stage when corrective action still might be possible. We have to continue to work directly with the private sector to instill a spirit of corporate responsibility. We must challenge America’s business leaders to meet the highest standards of ethics and responsibility to their employees and their shareholders.

There have been dozens of legislative measures introduced by both sides of the aisle to address these issues. It is time we put partisan wrangling aside and to move forward with the practical solutions that will actually help. We need to increase the American people’s confidence in our capital markets, because by doing so, we will increase their confidence in our economy at a time when our economy needs to continue to grow.

I urge my colleagues to support the CARTA legislation.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the very distinguished gentlewoman from California (Ms. WATERS), the ranking member of the Subcommittee on Financial Institutions.

Ms. WATERS. Mr. Chairman, I rise in opposition to H.R. 3763. I truly believe the gentleman from Ohio (Mr. OXLEY), the chairman of the committee, had good intentions, and I appreciate that he accepted one of my amendments on the disgorgement fund at SEC. However, the bill simply does not respond to the outrageous and corrupt behavior of Enron, Arthur Andersen, Global Crossing, and perhaps many other corporations and Wall Street firms. What more harm to our citizens will we tolerate?

This bill does not recognize the wake-up call we have been afforded. This bill will not prevent another Enron from happening. Unfortunately,

there are major problems with the larger bill which does not offer strong enough protections to prevent what appears to be a growing number of unscrupulous corporate practices.

Instead of instituting real accounting reforms, the Republican bill leaves the bulk of the work to the SEC, who can be pressured by the industry into issuing so-called reforms that are meaningless. The Democratic substitute, however, creates a powerful new regulatory board with authority to set strict standards on auditors, with strong investigative and disciplinary powers, recognizing that years of the accounting industry’s self-policing has failed.

The Republican bill fails to ban consultant services that create conflicts of interest. The Democratic substitute ensures auditor independence by prohibiting consulting services that create conflicts of interest, and gives audit committees of corporate boards authority to hire and fire auditors. The Republican bill protects executive corporate wrongdoers by making it more difficult to bar guilty officers and directors from serving at other public companies. The Democratic substitute holds CEOs accountable for their financial statements and subjects them to criminal penalties for knowingly lying. It requires those who make false or misleading statements to surrender their stock bonuses, and it also bars guilty officers and directors from serving at other public companies.

The Democratic substitute bars analysts from holding stock in the companies they cover and ending incentives to act as salesmen rather than objective experts.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from New York (Mr. GRUCCI), one of our outstanding freshman members of the committee.

Mr. GRUCCI. Mr. Chairman, I thank the gentleman for yielding.

First of all, I would like to thank the gentleman from Ohio (Mr. OXLEY) and my colleagues on the Committee on Financial Services for their tireless effort to swiftly address this crisis.

Mr. Chairman, the Enron debacle highlights the need for reform of our accounting and investment standards. However, any bill in response to this cannot go overboard in restricting our already self-regulating markets. For this purpose, I believe that this corporate responsibility bill strikes a solid balance, and I am in favor of its passage.

First, the corporate responsibility bill creates a public regulatory organization to make sure accounting laws are followed and audits are done properly. This is a necessary, commonsense approach to restoring investors’ faith. Next, the bill applies the same stock bailout period to corporate executives as it does to employee shareholders, as is only fair. Finally, it demands that executives disclose their stock trades faster so employees and analysts truly

know what is going on inside the company.

The beauty of the corporate responsibility bill is that it does not try to put the brakes on the wheels of our markets. Instead, it restores fairness and honesty to the system, while leaving its main tenets in place. It allows the investor to still be a master of his or her own destiny, but in a much safer environment. The self-regulating nature of our free enterprise system is left intact, and now it will be open to staying more clean.

The era of corporate mystery must end. Either we can let the corporate responsibility bill take us on a path to transparency and legitimacy where rules are valued and fraud is exposed and prevented, or we can watch as more innocent Americans are deprived of their life savings by greed and callousness. Although the corporate responsibility bill was written as a response to recent events, it is common-sense legislation that should have been considered long ago, and I urge my colleagues to vote in favor of it.

Mr. LAFALCE. Mr. Chairman, I yield myself the balance of the time remaining.

Mr. Chairman, we have an enormous, enormous problem on our hands. Investors have lost hundreds of billions of dollars, and sometimes it may have been due to bad investment decisions they made, but an awful lot of the time it was due to earnings manipulation or analyst hype or corporate or accounting wrongdoing. We need to rise to the challenge. This bill just does not do that. We could say, well, if we gave it a test and somebody gets 50 percent of the answers right, we would say, well, pass them. I think we flunk them if that is as good as they could do, especially if they do a poor job on all of the important issues. I think the main bill does a very poor job on all of the important issues.

Let us go to, for example, officers of corporations. What should we do about that? Well, the President has told us what he thinks should be done at a minimum. In President Bush's 10-point plan, proposal number 3: "CEOs should personally vouch for the veracity, timeliness and fairness of their company's public disclosures, including their financial statements." The Republican bill punts on that. It does not do anything on that. Our substitute legislatively codifies what President Bush asked for.

What about boards of directors? Well, we have to make them more responsible. One way is to make sure that they are responsible for both the hiring and the firing of the auditors, so that the auditors then would be independent from the officers. The Republican bill does nothing on that. Our bill specifically says that it is a right and responsibility of the board of directors, the audit committee in particular, to perform that function.

Something else that we need to do to deal with officers or directors is if they

are proven unfit, we need to be able to bar them from serving as officers and directors on other publicly traded corporations, and the SEC has complained that they do not have that power. President Bush says, proposal number 5: "CEOs or other officers who clearly abuse their power should lose their right to serve in any corporate leadership positions."

□ 1215

The Republican bill codifies bad judicial law and makes it more difficult for the SEC to bar officers and directors. Our proposal adopts the reforms that have been advocated by the SEC, another fundamental threshold difference.

What about auditors? Well, we need a regulatory organization. The Republican approach is to say to the SEC, "Well, if you think there should be a regulatory organization for accountants, then you should create one. It is discretionary on your part. You decide what powers they will have and you decide who shall serve."

We say that there shall be created an independent regulatory organization for accountants, we specify what their powers should be, and we also indicate the type of person who should be appointed: individuals who are representative of the pension plans of private employees, individuals who are representative of the pension plans of public employees, et cetera.

And very importantly, with respect to research analysts, the Republican bill says, well, we ought to study that problem. We say, look, the SEC has studied it. The SEC has given report after report showing conflicts. The Attorney General of New York has come out with unbelievable revelations.

On all other legislation, for example, Graham-Leach-Bliley, we created firewalls between banking, securities, and insurance. We need a firewall within securities firms with respect to the compensation that research analysts are given and the revenues that are generated for the investment arm of the firm. The quality of research should be the sole determinant of the compensation of research analysts. The Republican bill does nothing on that. We take meaningful action.

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

Mr. Chairman, this has been a worthwhile debate and I think does clearly point out some of the philosophical differences between at least a portion of the Democratic Party and the Republican approach.

This committee acted. We are the only committee who have acted responsibly in this manner with moving legislation forward. We had the first hearing in December on the Enron debacle. We have had six subsequent hearings. We have had 33 witnesses. We had a markup that lasted over 2 days, for 11 hours. We debated this thoroughly.

At the end of the process, at the end of the process in committee, over half

of the Democrats on the committee supported the final passage of this legislation to recommend it for a floor vote. That is a positive development. So I stand here today supporting the bipartisan legislation that came out of our committee, and I am very proud of that.

My friend, the gentleman from New York (Mr. LAFALCE), points out the alleged differences with the White House. Let me point out and read the statement of administrative policy for the Members.

"The administration supports House passage of H.R. 3763 as an important step toward improving corporate responsibility. The bill is consistent with the President's 10-point plan, and is guided by the core principles of providing better information to investors, making corporate officers more accountable, and developing a stronger, more independent audit system."

That is the statement of administrative policy. They support this legislation. Let us support this bipartisan proposal as we move forward.

Mr. BARR of Georgia. Mr. Chairman, I rise today in support of the Corporate Auditing and Accountability, Responsibility and Transparency Act (CARTA) of 2002, H.R. 3763. This legislation represents necessary—but measured—response to the Enron and Global Crossing scandals.

It is important Congress continues to respond efficiently and effectively to the concerns of American investors, retirees, and employees. The Financial Services Committee has worked hard in order to send this solid, bipartisan legislation to the House floor.

I commend Chairman MICHAEL OXLEY for his continued efforts on this legislation. He has been dedicated to work with Members on both sides of the aisle, the industries and the administration in order to create a bill which would strike a reasonable balance.

H.R. 3763 is a tough bill on auditor accountability and corporate transparency and addresses the weaknesses revealed in the bankruptcies by carefully strengthening the markets. In addition, H.R. 3763 will help to protect America's shareholders by providing better information to investors, making corporate officers more accountable, and developing a stronger, more independent audit system.

Mr. Chairman, some may support the idea to create even more regulation and bureaucracy to prevent future collapses of major corporations like Enron or Global Crossing. However, the idea does not bear out. Neither Congress, nor the government should be in the position of handcuffing the private sector and how it does business.

H.R. 3763 gives the Securities and Exchange Commission the tools to identify future criminal wrongdoing, without imposing such strict regulatory guidelines that it would take an act of Congress to give any flexibility. Such restrictions would hamstring the agency and businesses. Moreover, we could, in the end, wrap an endless stream of red tape around the capital markets. As we emerge from the most recent economic slowdown, it would be the height of irresponsibility by this Congress to dampen investment.

I urge my colleagues to pass H.R. 3763 which would protect working families investing in their futures.

Mr. BEREUTER. Mr. Chairman, this Member rises today to express his support for H.R. 3763, the Corporate and Auditing Accountability, Responsibility and Transparency Act of 2002. This bill, of which I am an original co-sponsor, is necessary to protect investors by ensuring auditor independence in the accounting of publicly traded companies.

This Member would express his appreciation to the distinguished gentleman from Ohio, Mr. OXLEY, the chairman of the House Financial Services Committee, for introducing H.R. 3763. In addition, this Member would like to express his appreciation to the distinguished gentleman from Louisiana, Mr. BAKER, the chairman of the Financial Services Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, for his efforts in getting this measure to the House floor for consideration.

In large part, H.R. 3763 is a response to the grossly negligent activities by Arthur Andersen in their accounting audit of the Enron Corporation. For example, Arthur Andersen provided both consulting and auditing services to Enron, which certainly would appear to be an obvious conflict of interest. In addition, after the Securities and Exchange Commission, SEC, began investigating the Enron matter, Arthur Andersen nonetheless allegedly continued to destroy documents and e-mails related to its audit of Enron.

Therefore, H.R. 3763, among many things, would do the following:

First, prohibit firms from offering the consulting services of financial information system design and internal audit services to companies that are externally auditing.

Second, establish a new public regulatory board, the Public Regulatory Organizations PROs, to conduct oversight over the accounting industry. The PROs would be under the direct authority of the SEC. Currently, accountants are subject to partial oversight by their professional organization, the American Institute of Certified Public Accountants; the Federal Accounting Standards Board; and the State Boards of Accountancy, which license accountants. Under H.R. 3763, the power of these State boards is not diminished.

Third, prohibit corporate executives from buying or selling company stock during any period where 401(k) plan participants are unable to buy or sell securities. This provision would address the particular actions of Enron corporate executives who sold their stock when 401(k) participants were prohibited from selling their shares of stock.

Fourth, make it a crime for a corporate official to fraudulently influence, coerce, manipulate, or mislead an accountant performing an audit of a company.

Fifth, require companies to make real-time disclosures of financial information that is important to investors, such as material changes in a company's financial condition.

Sixth, require corporate executives to disclose when they sell securities they own in the company immediately. Current regulations allow corporate executives up to 40 days to make such disclosures.

This Member would also like to note that while H.R. 3763 is certainly a step towards protecting investors in the future, he also hopes that the corporate executives at Enron and the relevant auditors at Arthur Andersen are punished in the proper manner for their grossly irresponsible, probably illegal, corporate behavior.

In closing, this Member urges his colleagues to support H.R. 3763.

Mrs. MINK of Hawaii. Mr. Chairman, H.R. 3763, the Corporate Accountability, Responsibility, and Transparency Act of 2002, does not go far enough to reform the accounting industry and strengthen corporate disclosure rules, which are critical to restoring investor confidence, which was shattered by the collapse of the Enron Corporation.

The implosion of what was once the Nation's seventh largest company and dominant energy-trading enterprise proved that the integrity of the system of checks and balances that is supposed to prevent an Enron-like debacle has been compromised. The system's failure has devastated thousands of individuals and their families.

Enron's employees, the vast majority of whom were unaware of the breadth and scope of the company's questionable financial dealings, lost not only their jobs but also much of their life savings. Enron's executives fared considerably better, cashing in \$1.1 billion in stock, as they overstated the company's revenues and concealed much of its debt in off-balance-sheet partnerships.

The employees of Arthur Andersen LLP, the auditing firm responsible for verifying the accuracy of Enron's books, have similarly been victimized by the actions of a relative handful of Anderson partners and personnel that chose to overlook Enron's fraudulent bookkeeping activities. Today, Arthur Andersen LLP faces huge civil lawsuits and is steadily losing clients, thereby causing many of its employees to become unemployed.

In addition to the employees of Enron and Arthur Andersen, many thousands of investors that relied on the supposed independent advice of stock analysts were victimized by the Enron debacle. Because Wall Street investment companies reaped huge fees for brokering Enron's numerous deals, they continued to lavish praise on the company's stock, even after it nosedived in October 2001.

While H.R. 3763 is intended to strengthen the independent auditing of publicly traded companies, it does not address actual accounting standards. For example, it is silent on the question of whether certain types of debt may be moved off a company's balance sheets, which, it cannot be stressed enough, was a hallmark of Enron's accounting machinations. The Democratic substitute to H.R. 3763 would: Require CEOs to certify the accuracy of their company's financial statements; allow the Securities and Exchange Commission to bar those guilty of wrongdoing from serving as corporate officers; prohibit auditors from performing consulting and auditing services for the same client; and prohibit analysts from owning stock in the companies on which they report.

Investor confidence is the bedrock upon which our market system is built. Investors must have full confidence that business executives will look after the long-term interests of their companies, directors will look after the interests of shareholders, auditors will verify the accuracy of financial statements, and analysts will offer sound investment advice. There is no question that investor confidence has been badly shaken, if not lost. If that confidence is to be fully restored, more than good intentions are required. It will require provisions with force and teeth. It will, in short, require the Democratic substitute. I strongly urge my colleagues to vote for it.

Mr. CASTLE. Mr. Chairman, I rise today to express my strong support for the Corporate and Auditing Accountability, Responsibility, and Transparency Act. Americans should know that this is the second piece of legislation the House has passed to protect them from future "Enrons." Earlier this month, the House passed legislation to enhance pension protections and give employees more tools to diversify their retirement plans.

This legislation is designed to enhance the independence of the accounting industry to make sure the stock markets and investors have a more accurate picture of a corporation's financial conditions so they can make wise and informed decisions on where to invest their money. In particular, the bill creates a new Public Regulatory Organization, PRO, to oversee the activities of accountant. The PRO would be subject to direct SEC authority. A majority of the PRO board members will be independent of the accounting industry to assure that the PRO itself is not "captured" by the very industry it is regulating.

One of the other Enron-related problems this bill addresses is the failure to disclose the types of off-balance-sheet partnerships that Enron used to distort its financial condition. This bill requires prompt disclosure of these partnerships.

This bill also reigns in corporate management sales of company stock. Among the most disturbing actions Enron executives took was to sell their company stock at the same time there was a blackout period on the employees 401(k) retirement plan. They were preserving their own assets at the same time their employees were losing their retirements as the Enron ship continued to sink. From now on, whenever employee stock trades are prohibited, corporate management stock trades will also be prohibited.

Finally, while some have urged Congress to take further steps, I want to caution people that freezing additional reforms in legislation based upon our current understanding of the causes of these problems can lead to its own set of problems. In passing Gramm-Leach-Bliley a few years ago, Congress finally fixed some of the mistakes that were made in attempting to address the causes of the Great Depression. Critics should also note that this legislation calls on the SEC and other regulators to explore additional reforms. Congress will maintain active oversight of the SEC as they continue to develop sound ideas to prevent future Enrons.

Mr. Chairman, again, I want to express my strong support for this bill and urge my colleagues on both sides of the aisle to join the 49 bipartisan members of the House Financial Services Committee who reported this bill favorably to the House floor. This is a responsible step toward preventing future Enrons that does not punish the innocent.

Mr. STARK. Mr. Chairman, I rise in opposition to H.R. 3763, the Corporate and Auditor Responsibility Act, because the bill does nothing to prevent another Enron debacle from occurring in the future.

Enron's collapse has highlighted major gaps in our securities laws. These gaps jeopardize the retirement savings of millions of hard working Americans who have their retirement funds invested in securities. After the Enron collapse, the American people overwhelmingly called for strong measures to prevent such a debacle from happening again. They called on Congress to act, but this bill falls far short.

This so-called "Corporate and Auditor Responsibility Act" is nothing more than a political document for Republicans to appear like they are protecting investors and workers when, in fact, they are protecting corporations and CEOs. H.R. 3763 would actually increase the likelihood of another Enron situation because it limits the SEC's authority to prohibit Enron's corporate officers and directors from serving in such positions in the future if they are found guilty of misconduct.

What happened to the GOP mantra of holding executives accountable for corporate misconduct? H.R. 3763 fails miserably to hold CEOs even remotely accountable for their actions. Even President Bush thinks it makes sense to have a company's CEO certify the accuracy of their financial statements. This bill fails to take even that small step.

The Enron scandal happened less than 6 months ago, yet my Republican colleagues have quickly forgotten some of its major components. While thousands of Enron employees were being told to invest their retirement savings in Enron securities, Enron's CEO sold millions of dollars worth of company stock. Corporate officers knew that hollow deals were taking place to prop up the stock price, and the employees had to pay the price.

Shouldn't company CEOs be responsible for signing on the dotted line and verifying the company's books? Of course they should! Which makes it all the more unfathomable that the GOP would submit a bill without a provision to hold CEOs responsible for the veracity of their company's bottom line. Our Republican friends are basically saying to Ken Lay: feel free to get another CEO gig, create some new tax shelters for the company, prop up the stock price and then walk away with millions in personal profit. Today's bill does nothing to prevent that.

In contrast, the Democratic substitute addresses the more egregious corporate misconduct issues.

First and foremost, the Democratic substitute requires the CEO and chief financial officer (CFO) of publicly-traded companies to certify the accuracy and veracity of the company's financial statements. This is a reasonable first step to ensure that executives be held accountable for misleading investors and employees.

Next, the Democratic substitute allows the Securities and Exchange Commission (SEC) to recover all executive compensation received (including salaries, commissions, fees, bonuses, and stock options) for any period during which the executive falsified a company's financial statements. The Republican bill only allows the SEC to recover stock transaction proceeds for the six months prior to a corporate restatement of earnings. Under the Republican bill, an executive making a \$3 million salary, who falsifies company financial records, will be able to keep it. He can also keep hundreds of millions of dollars in stock option proceeds accumulated under falsified accounting from previous years.

Finally, the Democratic substitute bill will empower the SEC to bar directors and officers found guilty of corporate misconduct from holding similar positions in the future. CEOs who mislead and defraud their investors and employees must not be allowed to return to similar positions. Without a strong provision such as this, incentives will continue to abound for CEOs to choose personal profit over corporate integrity.

This Republican bill is another sham on the American public who expect Congress to pass effective legislation to restore corporate accountability. I urge my colleagues to vote for the Democratic substitute and no on the Republican bill.

Mr. PAUL. Mr. Chairman, seldom in history have supporters of increased state power failed to take advantage of a real or perceived crisis to increase government interference in our economic and/or personal lives. Therefore we should not be surprised that the events surrounding the Enron bankruptcy are being used to justify the expansion of Federal regulatory power contained in H.R. 3763, the Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002 (CARTA).

So ingrained is the idea that new Federal regulations will prevent future Enrons, that today's debate will largely be between CARTA's supporters and those who believe this bill does not provide enough Federal regulation and control. I would like to suggest that before Congress imposes new regulations on the accounting profession, perhaps we should consider whether the problems the regulations are designed to address were at least in part caused by prior government interventions into the market. Perhaps Congress could even consider the almost heretical idea that reducing Federal control of the markets is in the public's best interest. Congress should also consider whether the new regulations will have costs which might outweigh any (marginal) gains. Finally, Mr. Speaker, Congress should contemplate whether we actually have any constitutional authorization to impose these new regulations, instead of simply stretching the Commerce Clause to justify the program *de jour*.

CARTA establishes a new bureaucracy with enhanced oversight authority of accounting firms, as well as the authority to impose new mandates on these firms. CARTA also imposes new regulations regarding investing in stocks and enhances the power of the Securities and Exchange Commission (SEC). However, Mr. Speaker, companies are already required by Federal law to comply with numerous mandates, including obtaining audited financial statements from certified accountants. These mandates have enriched accounting firms and may have given them market power beyond what they could obtain in a free market. These laws also give corrupt firms an opportunity to attempt to use political power to gain special treatment for Federal lawmakers and regulators at the expense of their competitors and even, as alleged in the Enron case, their employees and investors.

When Congress establishes a regulatory state it creates an opportunity for corruption. Unless CARTA eliminates original sin, it will not eliminate fraud. In fact, by creating a new bureaucracy and further politicizing the accounting profession, CARTA may create new opportunities for the unscrupulous to manipulate the system to their advantage.

Even if CARTA transformed all (or at least all accountants) into angels, it could still harm individual investors. First, new regulations inevitably raise the overhead costs of investing. This will affect the entire economy as it lessens the capital available to businesses, thus leading to lower rates of economic growth and job creation. Meanwhile, individual investors will have less money for their retirement, their children's education, or to make a down payment on a new home.

Government regulations also harm investors by inducing a sense of complacency. Investors are much less likely to invest prudently and ask tough questions of the companies they are investing in when they believe government regulations are protecting their investments. However, as mentioned above, government regulations are unable to prevent all fraudulent activity, much less prevent all instances of imprudent actions. In fact, as also pointed out above, complex regulations create opportunities for illicit actions by both the regulator and the regulated, Mr. Chairman, publicly held corporations already comply with massive amounts of SEC regulations, including the filing of quarterly reports that disclose minute details of assets and liabilities. If these disclosures rules failed to protect Enron investors, will more red tape really solve anything?

In truth, investing carries risk, and it is not the role of the Federal Government to bail out every investor who loses money. In a true free market, investors are responsible for their own decisions, good or bad. This responsibility leads them to vigorously analyze companies before they invest, using independent financial analysts. In our heavily regulated environment, however, investors and analysts equate SEC compliance with reputability. The more we look to the government to protect us from investment mistakes, the less competition there is for truly independent evaluations of investment risk.

Increased Federal interference in the market could also harm consumers by crippling innovative market mechanisms to hold corporate managers accountable to their shareholders. Ironically, Mr. Chairman, current SEC regulations make it difficult for shareholders to challenge management decisions. Thus government regulations encourage managers to disregard shareholder interests!

Unfortunately, the Federal Government has a history of crippling market mechanisms to protect shareholders. As former Treasury official Bruce Bartlett pointed out in a recent Washington Times column, during the 1980s, so-called corporate raiders helped keep corporate management accountable to shareholders through devices such as the "junk" bond, which made corporate takeovers easier. Thanks to the corporate raiders, managers knew they had to be responsive to shareholders needs or they would become a potential target for a takeover.

Unfortunately, the backlash against corporate raiders, led by demographic politicians and power-hungry bureaucrats eager to expand the financial police state, put an end to hostile takeovers. Bruce Bartlett, in the Washington Times column cited above, described the effects of this action on shareholders, "Without the threat of a takeover, managers have been able to go back to ignoring shareholders, treating them like a nuisance, and giving themselves bloated salaries and perks, with little oversight from corporate boards. Now insulated from shareholders once again, managers could engage in unsound practices with little fear of punishment for failure." Ironically, the Federal power grab which killed the corporate raider may have set the stage for the Enron debacle, which is now being used as an excuse for yet another Federal power grab!

If left alone by Congress, the market is perfectly capable of disciplining businesses who engage in unsound practices. After all, before

the government intervened, Arthur Andersen and Enron had already begun to pay a stiff penalty, a penalty delivered by individual investors acting through the market. This shows that not only can the market deliver punishment, but it can also deliver this punishment swifter and more efficiently than the government. We cannot know what efficient means of disciplining companies would emerge from a market process but we can know they would be better at meeting the needs of investors than a top-down regulatory approach.

Of course, while the supporters of increased regulation claim Enron as a failure of "ravenous capitalism," the truth is Enron was a phenomenon of the mixed economy, rather than the operations of the free market. Enron provides a perfect example of the dangers of corporate subsidies. The company was (and is) one of the biggest beneficiaries of Export-Import (Ex-Im) Bank and Overseas Private Investment Corporation (OPIC) subsidies. These programs make risky loans to foreign governments and businesses for projects involving American companies. While they purport to help developing nations, Ex-Im and OPIC are in truth nothing more than naked subsidies for certain politically-favored American corporations, particularly corporations like Enron that lobby hard and give huge amounts of cash to both political parties. Rather than finding ways to exploit the Enron mess to expand Federal power, perhaps Congress should stop aiding corporations like Enron that pick the taxpayer's pockets through Ex-Im and OPIC.

If nothing else, Mr. Chairman, Enron's success at obtaining State favors is another reason to think twice about expanding political control over the economy. After all, allegations have been raised that Enron used the same clout by which it received corporate welfare to obtain other "favors" from regulators and politicians, such as exemptions from regulations that applied to their competitors. This is not an uncommon phenomenon when one has a regulatory state, the result of which is that winners and losers are picked according to who has the most political clout.

Congress should also examine the role the Federal Reserve played in the Enron situation. Few in Congress seem to understand how the Federal Reserve system artificially inflates stock prices and causes financial bubbles. Yet, what other explanation can there be when a company goes from a market value of more than \$75 billion to virtually nothing in just a few months? The obvious truth is that Enron was never really worth anything near \$75 billion, but the media focuses only on the possibility of deceptive practices by management, ignoring the primary cause of stock overvaluations: Fed expansion of money and credit.

The Fed consistently increased the money supply (by printing dollars) throughout the 1990s, while simultaneously lowering interest rates. When dollars are plentiful, and interest rates are artificially low, the cost of borrowing becomes cheap. This is why so many Americans are more deeply in debt than ever before. This easy credit environment made it possible for Enron to secure hundreds of millions in uncollateralized loans, loans that now cannot be repaid. The cost of borrowing money, like the cost of everything else, should be established by the free market—not by government edict. Unfortunately, however, the trend toward overvaluation will continue until the Fed stops creating money out of thin air and stops keeping interest rates artificially low.

Finally, Mr. Chairman, I would remind my colleagues that Congress has no constitutional authority to regulate the financial markets or the accounting profession. Instead, responsibility for enforcing laws against fraud are under the jurisdiction of the state and local governments. This decentralized approach actually reduces the opportunity for the type of corruption referred to above—after all, it is easier to corrupt one Federal official than 50 State Officials.

In conclusion, the legislation before us today expands Federal power over the accounting profession and the financial markets. By creating new opportunities for unscrupulous actors to maneuver through the regulatory labyrinth, increasing the costs of investing, and preempting the market's ability to come up with creative ways to hold corporate officials accountable, this legislation harms the interests of individual workers and investors. Furthermore, this legislation exceeds the constitutional limits on Federal power, interfering in matters the 10th amendment reserves to state and local law enforcement. I therefore urge my colleagues to reject this bill. Instead, Congress should focus on ending corporate welfare programs which provide taxpayer dollars to large politically-connected companies, and ending the misguided regulatory and monetary policies that helped create the Enron debacle.

Mr. BLUMENAUER. Mr. Chairman, I rise today in support of H.R. 3763, the Corporate and Auditing Accountability and Responsibility Act. This bill moves policy in the direction necessary to strengthen corporate and auditor oversight needed to prevent future debacles that we have seen recently at Enron and Global Crossing, and in the past with the Savings and Loan catastrophe.

These oversight failures have led to the loss of hundreds of billions of dollars of savings by innocent investors and employees. These losses have shattered the lives of families, including those in my district who are employed at Portland General Electric, which was purchased by Enron in 1997. Congress owes it to the American public to put in place measures that will eliminate conflicts of interest, lack of independence, and special protections given to accountants and lawyers, which have all been critical factors leading to corporate and industry failures.

Due to the severe impact that these corporate failures create, I urge the House to implement more significant reforms by passing the Democratic Substitute amendment, which:

Creates an independent regulatory board that can set strict standards for auditor independence, with sweeping investigative and disciplinary powers over audit firms.

Holds corporate CEOs accountable by requiring them to certify the accuracy of their financial statements and empowers the SEC to bar those guilty of wrongdoing from serving as corporate officers or directors at other companies.

Prohibits auditors from doing consulting work for the same clients they are in charge of auditing, thereby insuring that auditors remain independent and are not subject to conflicts of interests.

Bans analysts from owning stocks in the companies on which they report and prohibits their pay from being based on their investment firm's banking revenue.

The Democratic approach ensures that our corporate leaders, financial statement auditors,

and stock analysts have adequate independent oversight and regulations to fulfill their professional duties. However, I also support the underlying bill, H.R. 3763, which begins the process of putting in place the reforms needed to prevent future tragedies that are so devastating to the savings and lives of American workers and investors.

Mr. SHOWS. Mr. Chairman, today I rise in favor of commonsense legislation that provides necessary reform for the auditing profession.

The Corporate and Auditing Accountability, Responsibility, and Transparency Act (CAARTA) offers the appropriate framework for addressing the concerns raised by the Enron debacle and the revelation of improprieties by its auditor, Arthur Andersen.

The consumers, employees, and investors affected by the demise of Enron due to unlawful misrepresentation of financial information deserve both answers and solutions so that confidence in accounting independence, objectivity, and integrity is restored. However, government should not overreact with prescriptive regulations. Instead, we should provide thoughtful and balanced measures that encourage sound auditing practices yet mandate compliance.

Auditors must maintain an independent relationship with businesses whose books are under review. CAARTA establishes the appropriate guidelines for determining true auditor independence without treading the slippery slope of unnecessary and debilitating regulation. Small businesses throughout Mississippi rely on their local accountants to provide more than just auditing services. These businesses rely on advice and counsel for all types of accounting problems such as bookkeeping, payroll services budgeting, and income tax preparation. We must keep local accountants and small businesses in Rural America in mind when we legislate policy that might impact these relationships in the future.

With these small businesses and local accountants in mind, I oppose any provision requiring auditors of publicly traded companies to meet a netcapital requirement of 50% of its annual audit revenue from publicly traded companies. I agree that auditors of SEC reporting companies ought to have enough capital and insurance to cover the liability they incur when an audit is performed; however, my concern remains with the small businesses and accountants in Rural America whose practices could eventually fall under the same requirement, devastating local, small-town accountants and debilitating the services they currently provide.

I support CAARTA's creation of a public regulatory organization (PRO) made up of both members of the public and members of the accounting profession. The American public and the accounting profession will be better served by this independent governmental body that is given the authority to sanction and discipline those accountants who violate codes of ethics, standards of independence and competency, or securities laws.

As United States Comptroller General David Walker identified in his written testimony before the Financial Services committee on April 9, 2002, the current self-regulatory system for

auditors “involves many players in a fragmented system that is not well coordinated, involves certain conflicts of interest, lacks effective communication, and has a discipline system that is largely perceived as being ineffective.” Mr. Walker concluded, “direct government intervention to statutorily create a new independent Federal government body to regulate the accounting profession is needed.” I support this conclusion and the means and degree by which CAARTA creates a public regulatory board to address those concerns.

There were two specific issues that I would have liked strengthened or included in this reform package: a stronger section providing for disgorgement of bonuses and other incentives and the inclusion of a requirement for CEOs and CFOs to be held accountable for their companies’ financial statements. CEOs must not be allowed to profit from inaccurate and falsified financial statements. Bonuses and other incentive-based forms of compensation should be given back to the workers who lost their pensions and the consumers who lost their investments resulting from misconduct and erroneous accounting statements at the hands and direction of corporate executives. Furthermore, CEOs and CFOs must be responsible for a company’s financial statement and certify its accuracy. This is a good business practice that is now, unfortunately, no longer the norm.

We must restore confidence in the accounting profession by enacting legislation that ensures accurate and responsible financial disclosure. CAARTA represents commonsense reform, which makes a deliberate attempt to safeguard American workers, investors, and consumers.

Mr. SHAYS. Mr. Chairman, I want to commend Chairman MIKE OXLEY and Chairman RICHARD BAKER for their work on the legislation we are debating. The reforms contained in this accounting bill represent a balanced approach between industry and government oversight and I am pleased to support it.

The Corporate and Auditing Accountability, Responsibility, and Transparency Act meets the tests for reform put forward by President Bush. It prohibits accounting firms from offering certain controversial consulting services to companies they’re also auditing. And it establishes a new, public regulatory board to certify any accountant wishing to audit the financial statement required from public issuers of stock. This board will have enforcement powers and will be under the direction of the Securities and Exchange Commission.

Under CAARTA, all publicly-traded companies will be responsible for ensuring that their accounting firms are in good standing and for having their financial statement certified by the regulatory board.

Well, maybe I shouldn’t be so quick to say “all” publicly-traded companies. You see, there are two giant private corporations that enjoy a very special privilege from the federal government: they are completely exempt from our federal securities laws.

Mr. Chairman, these companies are Fannie Mae and Freddie Mac, and all the important improvements this legislation makes won’t apply one iota to them.

After studying the collapse of Enron and Global Crossing, the Financial Services Committee determined that a number of reforms were necessary to restore confidence in corporate America. These reforms build on the

Securities Act of 1933 and the Securities Exchange Act of 1934, the two landmark securities laws to which all publicly-traded companies, except Fannie and Freddie, must adhere.

The reforms contained in this legislation will strengthen securities laws and accounting standards—except when it comes to Fannie and Freddie. This legislation improves transparency in our capital markets and protects investors—unless they’re investing in Fannie Mae and Freddie Mac securities.

What this legislation highlights is that we have two separate rules in corporate America: those that apply to Fannie and Freddie, and those that apply to every other publicly-traded company.

The Financial Services Committee has had a number of hearings on the unfair advantages these two secondary mortgage companies have over the rest of the mortgage industry. With Chairman OXLEY’s support, I hope we can continue to ask Fannie Mae and Freddie Mac why they can’t play by the same rules as all other companies and why they continue to seek exemptions from federal laws designed to protect investors.

The CHAIRMAN. All time for general debate has expired.

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

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

#### H.R. 3763

*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 “Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002”.

(b) *TABLE OF CONTENTS.*—

Sec. 1. Short title; table of contents.

Sec. 2. Auditor oversight.

Sec. 3. Improper influence on conduct of audits.

Sec. 4. Real-time disclosure of financial information.

Sec. 5. Insider trades during pension fund blackout periods prohibited.

Sec. 6. Improved transparency of corporate disclosures.

Sec. 7. Improvements in reporting on insider transactions and relationships.

Sec. 8. Codes of conduct.

Sec. 9. Enhanced oversight of periodic disclosures by issuers.

Sec. 10. Retention of records.

Sec. 11. Commission authority to bar persons from serving as officers or directors.

Sec. 12. Disgorging insiders profits from trades prior to correction of erroneous financial statements.

Sec. 13. Securities and Exchange Commission authority to provide relief.

Sec. 14. Study of rules relating to analyst conflicts of interest.

Sec. 15. Review of corporate governance practices.

Sec. 16. Study of enforcement actions.

Sec. 17. Study of credit rating agencies.

Sec. 18. Study of investment banks and other financial institutions.

Sec. 19. Study of model rules for attorneys of issuers.

Sec. 20. Enforcement authority.

Sec. 21. Exclusion for investment companies.

Sec. 22. Definitions.

#### **SEC. 2. AUDITOR OVERSIGHT.**

(a) *CERTIFIED FINANCIAL STATEMENT REQUIREMENTS.*—If a financial statement is required by the securities laws or any rule or regulation thereunder to be certified by an independent public or certified accountant, an accountant shall not be considered to be qualified to certify such financial statement, and the Securities and Exchange Commission shall not accept a financial statement certified by an accountant, unless such accountant—

(1) is subject to a system of review by a public regulatory organization that complies with the requirements of this section and the rules prescribed by the Commission under this section; and

(2) has not been determined in the most recent review completed under such system to be not qualified to certify such a statement.

(b) *ESTABLISHMENT OF PRO.*—The Commission shall by rule establish the criteria by which a public regulatory organization may be recognized for purposes of this section. Such criteria shall include the following requirements:

(1)(A) The board of such organization shall be comprised of five members, three of whom shall be public members who are not members of the accounting profession and two of whom shall be persons licensed to practice public accounting and who have recent experience in auditing public companies.

(B) Each member of the board of such organization shall be a person who meets such standards of financial literacy as are determined by the Commission.

(C) For purposes of this paragraph, a person shall not be considered a member of the accounting profession if such person has not worked in such profession for any of the last two years prior to the date of such person’s appointment to the board.

(2) Such organization is so organized and has the capacity—

(A) to be able to carry out the purposes of this section and to comply, and to enforce compliance by accountants and persons associated with accountants, with the provisions of this Act, professional ethics and competency standards, and the rules of the organization;

(B) to perform a review of the work product (including the quality thereof) of an accountant or a person associated with an accountant; and

(C) to perform a review of any potential conflicts of interest between an accountant (or a person associated with an accountant) and the issuer, the issuer’s board of directors and committees thereof, officers, and affiliates of such issuer, that may result in an impairment of auditor independence.

(3) Such organization shall have the authority to impose sanctions, which, if there is a finding of knowing or intentional misconduct, may include a determination that an accountant is not qualified to certify a financial statement, or any categories of financial statements, required by the securities laws, or that a person associated with an accountant is not qualified to participate in such certification, if, after conducting a review and providing fair procedures and an opportunity for a hearing, the organization finds that—

(A) such accountant or person associated with an accountant has violated the standards of independence, ethics, or competency in the profession;

(B) such accountant or person associated with an accountant has been found by the Commission or a court of competent jurisdiction to have violated the securities laws or a rule or regulation thereunder (provided in both cases that any applicable time period for appeal has expired);

(C) an audit conducted by such accountant or any person associated with an accountant has been materially affected by an impairment of auditor independence;

(D) such accountant or person associated with an accountant has performed both auditing services and consulting services in violation of

the rules prescribed by the Commission pursuant to subsection (c), or

(E) such accountant or any person associated with an accountant has impeded, obstructed, or otherwise not cooperated in such review.

(4) Any such organization shall disclose publicly, and make available for public comment, proposed procedures and methods for conducting such reviews.

(5) Any such organization shall have in place procedures to minimize and deter conflicts of interest involving the public members of such organization, and have in place procedures to resolve such conflicts.

(6) Any such organization shall have in place procedures for notifying the boards of accountancy of the States of the results of reviews and evidence under paragraphs (2) and (3).

(7) Any such organization shall have in place procedures for notifying the Commission of any findings of such reviews, including any findings regarding suspected violations of the securities laws.

(8) Any such organization shall consult with boards of accountancy of the States.

(9) Any such organization shall have in place a mechanism to allow the organization to operate on a self-funded basis. Such funding mechanism shall ensure that such organization is not solely dependent upon members of the accounting profession for such funding and operations.

(10) Any such organization shall have the authority to request, in a manner established by the Commission, that the Commission, by subpoena or otherwise, compel the testimony of witnesses or the production of any books, papers, correspondence, memoranda, or other records relevant to any accountant review proceeding or necessary or appropriate for the organization to carry out its purposes. The Commission shall comply with any such request from such an organization if the Commission determines that compliance with the request would assist the organization in its accountant review proceeding or in carrying out its purposes, unless the Commission determines that compliance would not be in the public interest. The issuance and enforcement of a subpoena requested under this paragraph shall be deemed to be made pursuant to, and shall be made in accordance with, the provisions of subsections (b) and (c) of section 21 of the Securities and Exchange Act of 1934 (15 U.S.C. 78u(b)–(c)). For purposes of taking evidence, the Commission in its discretion may designate the Board, or any member thereof, as officers pursuant to section 21(b) of such Act.

(c) PROHIBITION ON THE OFFER OF BOTH AUDIT AND CONSULTING SERVICES.—

(1) MODIFICATION OF REGULATIONS REQUIRED.—The Commission shall revise its regulations pertaining to auditor independence to require that an accountant shall not be considered independent with respect to an audit client if the accountant provides to the client the following nonaudit services, as such terms are defined in such regulations as in effect on the date of enactment of this Act, and subject to such conditions and exemptions as the Commission shall prescribe:

(A) financial information system design or implementation; or

(B) internal audit services.

(2) REVIEW OF PROHIBITED NONAUDIT SERVICES.—The Commission is authorized to review the impact on the independence of auditors of the scope of services provided by auditors to issuers in order to determine whether the list of prohibited nonaudit services under paragraph (1) shall be modified. In conducting such review, the Commission shall consider the impact of the provision of a service on an auditor's independence where provision of the service creates a conflict of interest with the audit client.

(3) ADDITIONS BY RULE.—After conducting the review required by paragraph (2) and at any other time, the Commission may, by rule consistent with the protection of investors and the public interest, modify the list of prohibited nonaudit services under paragraph (1).

(4) REPORT.—The Commission shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on its conduct of any reviews as required by this section. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

(5) CONFORMING REVISION.—The Commission shall revise its regulations pertaining to accountant fee disclosure items, as set forth in paragraphs (e)(1) through (e)(3) of item 9 from Schedule 14A (17 CFR 240.14a–101), in light of paragraph (1) of this subsection and after making a determination as to whether such disclosures are necessary.

(6) DEADLINE FOR RULEMAKING.—The Commission shall—

(A) within 90 days after the date of enactment of this Act, propose, and

(B) within 270 days after such date, prescribe, the revisions to its regulations required by this subsection.

(d) PRO ACCOUNTANT REVIEW PROCEEDINGS.—

(1) REVIEW PROCEEDING FINDINGS.—Any findings made pursuant to an accountant review conducted under this section that a financial statement audited by such accountant and submitted to the Commission may have been materially affected by an impairment of auditor independence, or by a violation of professional ethics and competency standards, shall be submitted to the Commission. The Commission shall promptly notify an issuer of any such finding that relates to the financial statements of such issuer.

(2) CONFIDENTIAL TREATMENT OF PROCEEDINGS PENDING SEC REVIEW.—

(A) NO DISCLOSURE.—Except as otherwise provided in this section, but notwithstanding any other provision of law, neither the Commission, a recognized public regulatory organization, nor any other person shall disclose any information concerning any accountant review proceeding and the findings therein.

(B) SPECIFIC WITHHOLDING NOT AUTHORIZED.—Nothing in this subsection shall—

(i) authorize a recognized public regulatory organization to withhold information from the Commission;

(ii) authorize such board or the Commission to withhold information concerning an accountant review proceeding from an accountant or person associated with an accountant that is the subject of such proceeding;

(iii) authorize the Commission to withhold information from Congress; or

(iv) prevent the Commission from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission.

(C) DURATION OF WITHHOLDING.—Neither the Commission nor the recognized public regulatory organization shall disclose the results of any review by the Commission under subsections (e) and (f), or the conclusion of the 30-day period for seeking review if no motion seeking review is filed within such period.

(D) TREATMENT UNDER FOIA.—For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552.

(3) NONPRECLUSIVE EFFECT OF PRO FINDINGS.—A finding by a recognized public regulatory organization that an individual audit of an issuer met or failed to meet any applicable standard with respect to the quality of such audit shall not be construed in any action arising out of the securities laws as indicative of compliance or noncompliance with the securities laws or with any standard of liability arising thereunder.

(e) REVIEW OF SANCTIONS.—

(1) NOTICE.—If any recognized public regulatory organization—

(A) makes a finding with respect to or imposes any final disciplinary sanction on any accountant;

(B) prohibits or limits any person in respect to access to services offered by such organization; or

(C) makes a finding with respect to or imposes any final disciplinary sanction on any person associated with an accountant or bars any person from becoming associated with an accountant,

the recognized public regulatory organization shall promptly submit notice thereof with the Commission. The notice shall be in such form and contain such information as the Commission, by rule, may prescribe as necessary or appropriate in furtherance of the purposes of this section.

(2) REVIEW BY COMMISSION.—Any action with respect to which a recognized public regulatory organization is required by paragraph (1) of this subsection to submit notice shall be subject to review by the Commission, on its own motion, or upon application by any person aggrieved thereby filed within 30 days after the date such notice was filed with the Commission and received by such aggrieved person, or within such longer period as the Commission may determine. Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of such action unless the Commission otherwise orders, summarily or after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of the submission of affidavits or presentation of oral arguments). The Commission shall establish for appropriate cases an expedited procedure for consideration and determination of the question of a stay.

(f) CONDUCT OF COMMISSION REVIEW.—

(1) BASIS FOR ACTION.—In any proceeding to review a final disciplinary sanction imposed by a recognized public regulatory organization on an accountant or a person associated with such accountant, after notice and opportunity for hearing (which hearing may consist solely of consideration of the record before the recognized public regulatory organization and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the sanction)—

(A) if the Commission finds that such accountant or person associated with an accountant has engaged in such acts or practices, or has omitted such acts, as the recognized public regulatory organization has found him to have engaged in or omitted, that such acts or practices, or omissions to act, are in violation of such provisions of this section, or of professional ethics and competency standards, and that such provisions are, and were applied in a manner, consistent with the purposes of this section, the Commission, by order, shall so declare and, as appropriate, affirm the sanction imposed by the recognized public regulatory organization, modify the sanction in accordance with paragraph (2) of this subsection, or remand to the recognized public regulatory organization for further proceedings; or

(B) if the Commission does not make any such finding, it shall, by order, set aside the sanction imposed by the recognized public regulatory organization and, if appropriate, remand to the recognized public regulatory organization for further proceedings.

(2) REDUCTION OF SANCTIONS.—If the Commission, having due regard for the public interest and the protection of investors, finds after a proceeding in accordance with paragraph (1) of this subsection that a sanction imposed by a recognized public regulatory organization upon an accountant or person associated with an accountant imposes any burden on competition not necessary or appropriate in furtherance of the purposes of this Act or is excessive or oppressive, the Commission may cancel, reduce, or require the remission of such sanction.

(g) REVIEW AND APPROVAL OF RULES.—

(1) SUBMISSION, PUBLICATION, AND COMMENT.—Each recognized public regulatory organization shall file with the Commission, in accordance with such rules as the Commission may prescribe, copies of any proposed rule or any proposed change in, addition to, or deletion from the rules of such recognized public regulatory organization (hereinafter in this subsection collectively referred to as a “proposed rule change”) accompanied by a concise general statement of the basis and purpose of such proposed rule change. The Commission shall, upon the filing of any proposed rule change, publish notice thereof together with the terms of substance of the proposed rule change or a description of the subjects and issues involved. The Commission shall give interested persons an opportunity to submit written data, views, and arguments concerning such proposed rule change. No proposed rule change shall take effect unless approved by the Commission or otherwise permitted in accordance with the provisions of this subsection.

(2) APPROVAL OR PROCEEDINGS.—Within 35 days of the date of publication of notice of the filing of a proposed rule change in accordance with paragraph (1) of this subsection, or within such longer period as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the recognized public regulatory organization consents, the Commission shall—

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved. Such proceedings shall include notice of the grounds for disapproval under consideration and opportunity for hearing and be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. At the conclusion of such proceedings the Commission, by order, shall approve or disapprove such proposed rule change. The Commission may extend the time for conclusion of such proceedings for up to 60 days if it finds good cause for such extension and publishes its reasons for so finding or for such longer period as to which the recognized public regulatory organization consents.

(3) BASIS FOR APPROVAL OR DISAPPROVAL.—The Commission shall approve a proposed rule change of a recognized public regulatory organization if it finds that such proposed rule change is consistent with the requirements of this Act and the rules and regulations thereunder applicable to such organization. The Commission shall disapprove a proposed rule change of a recognized public regulatory organization if it does not make such finding. The Commission shall not approve any proposed rule change prior to the 30th day after the date of publication of notice of the filing thereof, unless the Commission finds good cause for so doing and publishes its reasons for so finding.

(4) RULES EFFECTIVE UPON FILING.—

(A) Notwithstanding the provisions of paragraph (2) of this subsection, a proposed rule change may take effect upon filing with the Commission if designated by the recognized public regulatory organization as (i) constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the recognized public regulatory organization, (ii) establishing or changing a due, fee, or other charge imposed by the recognized public regulatory organization, or (iii) concerned solely with the administration of the recognized public regulatory organization or other matters which the Commission, by rule, consistent with the public interest and the purposes of this subsection, may specify as outside the provisions of such paragraph (2).

(B) Notwithstanding any other provision of this subsection, a proposed rule change may be put into effect summarily if it appears to the

Commission that such action is necessary for the protection of investors, or otherwise in accordance with the purposes of this title. Any proposed rule change so put into effect shall be filed promptly thereafter in accordance with the provisions of paragraph (1) of this subsection.

(C) Any proposed rule change of a recognized public regulatory organization which has taken effect pursuant to subparagraph (A) or (B) of this paragraph may be enforced by such organization to the extent it is not inconsistent with the provisions of this Act, the securities laws, the rules and regulations thereunder, and applicable Federal and State law. At any time within 60 days of the date of filing of such a proposed rule change in accordance with the provisions of paragraph (1) of this subsection, the Commission summarily may abrogate the change in the rules of the recognized public regulatory organization made thereby and require that the proposed rule change be refiled in accordance with the provisions of paragraph (1) of this subsection and reviewed in accordance with the provisions of paragraph (2) of this subsection, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act. Commission action pursuant to the preceding sentence shall not affect the validity or force of the rule change during the period it was in effect, shall not be subject to court review, and shall not be deemed to be “final agency action” for purposes of section 704 of title 5, United States Code.

(h) COMMISSION ACTION TO CHANGE RULES.—The Commission, by rule, may abrogate, add to, and delete from (hereinafter in this subsection collectively referred to as “amend”) the rules of a recognized public regulatory organization as the Commission deems necessary or appropriate to insure the fair administration of the recognized public regulatory organization, to conform its rules to requirements of this Act, the securities laws, and the rules and regulations thereunder applicable to such organization, or otherwise in furtherance of the purposes of this Act, in the following manner:

(1) The Commission shall notify the recognized public regulatory organization and publish notice of the proposed rulemaking in the Federal Register. The notice shall include the text of the proposed amendment to the rules of the recognized public regulatory organization and a statement of the Commission’s reasons, including any pertinent facts, for commencing such proposed rulemaking.

(2) The Commission shall give interested persons an opportunity for the oral presentation of data, views, and arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(3) A rule adopted pursuant to this subsection shall incorporate the text of the amendment to the rules of the recognized public regulatory organization and a statement of the Commission’s basis for and purpose in so amending such rules. This statement shall include an identification of any facts on which the Commission considers its determination so to amend the rules of the recognized public regulatory agency to be based, including the reasons for the Commission’s conclusions as to any of such facts which were disputed in the rulemaking.

(4)(A) Except as provided in paragraphs (1) through (3) of this subsection, rulemaking under this subsection shall be in accordance with the procedures specified in section 553 of title 5, United States Code, for rulemaking not on the record.

(B) Nothing in this subsection shall be construed to impair or limit the Commission’s power to make, or to modify or alter the procedures the Commission may follow in making, rules and regulations pursuant to any other authority under the securities laws.

(C) Any amendment to the rules of a recognized public regulatory organization made by

the Commission pursuant to this subsection shall be considered for all purposes to be part of the rules of such recognized public regulatory organization and shall not be considered to be a rule of the Commission.

(i) COMMISSION OVERSIGHT OF THE PRO.—

(1) RECORDS AND EXAMINATIONS.—A public regulatory organization shall make and keep for prescribed periods such records, furnish such copies thereof, and make and disseminate such reports as the Commission, by rule, prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act or the securities laws.

(2) ADDITIONAL DUTIES; SPECIAL REVIEWS.—A public regulatory organization shall perform such other duties or functions as the Commission, by rule or order, determines are necessary or appropriate in the public interest or for the protection of investors and to carry out the purposes of this Act and the securities laws, including conducting a special review of a particular public accounting firm’s quality control system or a special review of a particular aspect of some or all public accounting firms’ quality control systems.

(3) ANNUAL REPORT; PROPOSED BUDGET.—

(A) SUBMISSION OF ANNUAL REPORT AND BUDGET.—A public regulatory organization shall submit an annual report and its proposed budget to the Commission for review and approval, by order, at such times and in such form as the Commission shall prescribe.

(B) CONTENTS OF ANNUAL REPORT.—Each annual report required by subparagraph (A) shall include—

(i) a detailed description of the activities of the public regulatory organization;

(ii) the audited financial statements of the public regulatory organization;

(iii) a detailed explanation of the fees and charges imposed by the public regulatory organization under subsection (b)(9); and

(iv) such other matters as the public regulatory organization or the Commission deems appropriate.

(C) TRANSMITTAL OF ANNUAL REPORT TO CONGRESS.—The Commission shall transmit each approved annual report received under subparagraph (A) to the Committee on Financial Services of the United States House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the United States Senate. At the same time it transmits a public regulatory organization’s annual report under this subparagraph, the Commission shall include a written statement of its view of the functioning and operations of the public regulatory organization.

(D) PUBLIC AVAILABILITY.—Following transmittal of each approved annual report under subparagraph (C), the Commission and the public regulatory organization shall make the approved annual report publicly available.

(4) DISAPPROVAL OF ELECTION OF PRO MEMBER.—The Commission is authorized, by order, if in its opinion such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act or the securities laws, to disapprove the election of any member of a public regulatory organization if the Commission determines, after notice and opportunity for hearing, that the person elected is unfit to serve on the public regulatory organization.

(j) CLARIFICATION OF APPLICATION OF PRO AUTHORITY.—The authority granted to any such organization in this section shall only apply to the actions of accountants related to the certification of financial statements required by securities laws and not other actions or actions for other clients of the accounting firm or any accountant that does not certify financial statements for publicly traded companies.

(k) DEADLINE FOR RULEMAKING.—The Commission shall—

(1) within 90 days after the date of enactment of this Act, propose, and

(2) within 270 days after such date, prescribe, the rules or regulations required by this section.

(1) **EFFECTIVE DATE; TRANSITION PROVISIONS.**—

(1) **EFFECTIVE DATE.**—Except as provided in paragraph (2), subsection (a) of this section shall be effective with respect to any certified financial statement for any fiscal year that ends more than one year after the Commission recognizes a public regulatory organization pursuant to this section.

(2) **DELAY IN ESTABLISHMENT OF BOARD.**—If the Commission has failed to recognize any public regulatory organization pursuant to this section within one year after the date of enactment of this Act, the Commission shall perform the duties of such organization with respect to any certified financial statement for any fiscal year that ends before one year after any such board is recognized by the Commission.

**SEC. 3. IMPROPER INFLUENCE ON CONDUCT OF AUDITS.**

(a) **RULES TO PROHIBIT.**—It shall be unlawful in contravention of such rules or regulations as the Commission shall prescribe as necessary and appropriate in the public interest or for the protection of investors for any officer, director, or affiliated person of an issuer of any security registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) to take any action to fraudulently influence, coerce, manipulate, or mislead any independent public or certified accountant engaged in the performance of an audit of the financial statements of such issuer for the purpose of rendering such financial statements materially misleading. In any civil proceeding, the Commission shall have exclusive authority to enforce this section and any rule or regulation hereunder.

(b) **NO PREEMPTION OF OTHER LAW.**—The provisions of subsection (a) shall be in addition to, and shall not supersede or preempt, any other provision of law or any rule or regulation thereunder.

(c) **DEADLINE FOR RULEMAKING.**—The Commission shall—

(1) within 90 days after the date of enactment of this Act, propose, and

(2) within 270 days after such date, prescribe, the rules or regulations required by this section.

**SEC. 4. REAL-TIME DISCLOSURE OF FINANCIAL INFORMATION.**

(a) **REAL-TIME ISSUER DISCLOSURES REQUIRED.**—

(1) **OBLIGATIONS.**—Every issuer of a security registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) shall file with the Commission and disclose to the public, on a rapid and essentially contemporaneous basis, such information concerning the financial condition or operations of such issuer as the Commission determines by rule is necessary in the public interest and for the protection of investors. Such rule shall—

(A) specify the events or circumstances giving rise to the obligation to disclose or update a disclosure;

(B) establish requirements regarding the rapidity and timeliness of such disclosure;

(C) identify the means whereby the disclosure required shall be made, which shall ensure the broad, rapid, and accurate dissemination of the information to the public via electronic or other communications device;

(D) identify the content of the information to be disclosed; and

(E) without limiting the Commission's general exemptive authority, specify any exemptions or exceptions from such requirements.

(2) **ENFORCEMENT.**—The Commission shall have exclusive authority to enforce this section and any rule or regulation hereunder in civil proceedings.

(b) **ELECTRONIC DISCLOSURE OF INSIDER TRANSACTIONS.**—

(1) **DISCLOSURES OF TRADING.**—The Commission shall, by rule, require—

(A) that a disclosure required by section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) of the sale of any securities of an issuer, or any security futures product (as defined in section 3(a)(56) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(56))) or any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) that is based in whole or in part on the securities of such issuer, by an officer or director of the issuer of those securities, or by a beneficial owner of such securities, shall be made available electronically to the Commission and to the issuer by such officer, director, or beneficial owner before the end of the next business day after the day on which the transaction occurs;

(B) that the information in such disclosure be made available electronically to the public by the Commission, to the extent permitted under applicable law, upon receipt, but in no case later than the end of the next business day after the day on which the disclosure is received under subparagraph (A); and

(C) that, in any case in which the issuer maintains a corporate website, such information shall be made available by such issuer on that website, before the end of the next business day after the day on which the disclosure is received by the Commission under subparagraph (A).

(2) **TRANSACTIONS INCLUDED.**—The rule prescribed under paragraph (1) shall require the disclosure of the following transactions:

(A) Direct or indirect sales or other transfers of securities of the issuer (or any interest therein) to the issuer or an affiliate of the issuer.

(B) Loans or other extensions of credit extended to an officer, director, or other person affiliated with the issuer on terms or conditions not otherwise available to the public.

(3) **OTHER FORMATS; FORMS.**—In the rule prescribed under paragraph (1), the Commission shall provide that electronic filing and disclosure shall be in lieu of any other format required for such disclosures on the day before the date of enactment of this subsection. The Commission shall revise such forms and schedules required to be filed with the Commission pursuant to paragraph (1) as necessary to facilitate such electronic filing and disclosure.

**SEC. 5. INSIDER TRADES DURING PENSION FUND BLACKOUT PERIODS PROHIBITED.**

(a) **PROHIBITION.**—It shall be unlawful for any person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security (other than an exempted security) which is registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or who is a director or an officer of the issuer of such security, directly or indirectly, to purchase (or otherwise acquire) or sell (or otherwise transfer) any equity security of any issuer (other than an exempted security), during any blackout period with respect to such equity security.

(b) **REMEDY.**—Any profit realized by such beneficial owner, director, or officer from any purchase (or other acquisition) or sale (or other transfer) in violation of this section shall inure to and be recoverable by the issuer irrespective of any intention on the part of such beneficial owner, director, or officer in entering into the transaction. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer shall fail or refuse to bring such suit within 60 days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than 2 years after the date such profit was realized. This subsection shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security or security-based swap (as defined in section 206B of the Gramm-Leach-Bliley Act) involved, or any transaction or transactions which the Commission by rules and reg-

ulations may exempt as not comprehended within the purposes of this subsection.

(c) **RULEMAKING PERMITTED.**—The Commission may issue rules to clarify the application of this subsection, to ensure adequate notice to all persons affected by this subsection, and to prevent evasion thereof.

(d) **DEFINITION.**—For purposes of this section, the term "beneficial owner" has the meaning provided such term in rules or regulations issued by the Securities and Exchange Commission under section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p).

**SEC. 6. IMPROVED TRANSPARENCY OF CORPORATE DISCLOSURES.**

(a) **MODIFICATION OF REGULATIONS REQUIRED.**—The Commission shall revise its regulations under the securities laws pertaining to the disclosures required in periodic financial reports and registration statements to require such reports to include adequate and appropriate disclosure of—

(1) the issuer's off-balance sheet transactions and relationships with unconsolidated entities or other persons, to the extent they are not disclosed in the financial statements and are reasonably likely to materially affect the liquidity or the availability of, or requirements for, capital resources, or the financial condition or results of operations of the issuer; and

(2) loans extended to officers, directors, or other persons affiliated with the issuer on terms or conditions that are not otherwise available to the public.

(b) **DEADLINE FOR RULEMAKING.**—The Commission shall—

(1) within 90 days after the date of enactment of this Act, propose, and

(2) within 270 days after such date, prescribe, the revisions to its regulations required by subsection (a).

(c) **ANALYSIS REQUIRED.**—

(1) **TRANSPARENCY, COMPLETENESS, AND USEFULNESS OF FINANCIAL STATEMENTS.**—The Commission shall conduct an analysis of the extent to which, consistent with the protection of investors and the public interest, disclosure of additional or reorganized information may be required to improve the transparency, completeness, or usefulness of financial statements and other corporate disclosures filed under the securities laws.

(2) **ALTERNATIVES TO BE CONSIDERED.**—In conducting the analysis required by paragraph (1), the Commission shall consider—

(A) requiring the identification of the key accounting principles that are most important to the issuer's reported financial condition and results of operation, and that require management's most difficult, subjective, or complex judgments;

(B) requiring an explanation, where material, of how different available accounting principles applied, the judgments made in their application, and the likelihood of materially different reported results if different assumptions or conditions were to prevail;

(C) in the case of any issuer engaged in the business of trading non-exchange traded contracts, requiring an explanation of such trading activities when such activities require the issuer to account for contracts at fair value, but for which a lack of market price quotations necessitates the use of fair value estimation techniques;

(D) establishing requirements relating to the presentation of information in clear and understandable format and language; and

(E) requiring such other disclosures, included in the financial statements or in other disclosure by the issuer, as would in the Commission's view improve the transparency of such issuer's financial statements and other required corporate disclosures.

(3) **RULES REQUIRED.**—If the Commission, on the basis of the analysis required by this subsection, determines that it is necessary in the public interest or for the protection of investors

and would improve the transparency of issuer financial statements, the Commission may prescribe rules reflecting the results of such analysis and the considerations required by paragraph (2). In prescribing such rules, the Commission may seek to minimize the paperwork and cost burden on the issuer consistent with achieving the public interest and investor protection purposes of such rules.

**SEC. 7. IMPROVEMENTS IN REPORTING ON INSIDER TRANSACTIONS AND RELATIONSHIPS.**

(a) **SPECIFIC OBJECTIVES.**—The Commission shall initiate a proceeding to propose changes in its rules and regulations with respect to financial reporting to improve the transparency and clarity of the information available to investors and to require increased financial disclosure with respect to the following:

(1) **INSIDER RELATIONSHIPS AND TRANSACTIONS.**—Relationships and transactions—

(A) between the issuer, affiliates of the issuer, and officers, directors, or employees of the issuer or such affiliates; and

(B) between officers, directors, employees, or affiliates of the issuer and entities that are not otherwise affiliated with the issuer,

to the extent such arrangement or transaction creates a conflict of interest for such persons. Such disclosure shall provide a description of such elements of the transaction as are necessary for an understanding of the business purpose and economic substance of such transaction (including contingencies). The disclosure shall provide sufficient information to determine the effect on the issuer's financial statements and describe compensation arrangements of interested parties to such transactions.

(2) **RELATIONSHIPS WITH PHILANTHROPIC ORGANIZATIONS.**—Relationships between the registrant or any executive officer of the registrant and any not-for-profit organization on whose board a director or immediate family member serves or of which a director or immediate family member serves as an officer or in a similar capacity. Relationships that shall be disclosed include contributions to the organization in excess of \$10,000 made by the registrant or any executive officer in the last five years and any other activity undertaken by the registrant or any executive officer that provides a material benefit to the organization. Material benefit includes lobbying.

(3) **INSIDER-CONTROLLED AFFILIATES.**—Relationships in which the registrant or any executive officer exercises significant control over an entity in which a director or immediate family member owns an equity interest or to which a director or immediate family member has extended credit. Significant control should be defined with reference to the contractual and governance arrangements between the registrant or executive officer, as the case may be, and the entity.

(4) **JOINT OWNERSHIP.**—Joint ownership by a registrant or executive officer and a director or immediate family member of any real or personal property.

(5) **PROVISION OF SERVICES BY RELATED PERSONS.**—The provision of any professional services, including legal, financial advisory or medical services, by a director or immediate family member to any executive officer of the registrant in the last five years.

(b) **DEADLINES.**—The Commission shall complete the rulemaking required by this section within 180 days after the date of enactment of this Act.

**SEC. 8. CODES OF CONDUCT.**

(a) **RULES REQUIRED.**—Within 180 days after the date of enactment of this Act, the New York Stock Exchange, the American Stock Exchange and the Nasdaq Stock Market (or any successor to such entities), shall file with the Commission proposed rule changes that would prohibit the listing of any security issued by an issuer that has not adopted a senior financial officers code

of ethics applicable to its principal financial officer, its comptroller or principal accounting officer, or persons performing similar functions that establishes such standards as are reasonably necessary to promote honest and ethical conduct, the avoidance of conflicts of interest, full, fair, accurate, timely and understandable disclosure in the issuer's periodic reports and compliance with applicable governmental rules and regulations. The Commission shall approve such proposed rule changes pursuant to the requirement of section 19(b)(2) of the Securities Act of 1934.

(b) **OTHER EXCHANGES.**—The Commission, by rule or regulation, may require any other national securities exchange, to propose rule changes necessary to comply with the provisions of subsection (a) of this section if the Commission determines such action is necessary or appropriate in the public interest and consistent with the protection of investors.

(c) **FURTHER STANDARDS.**—In addition to the requirements of subsections (a) and (b), the Commission may, by rule or regulation, prescribe further standards of conduct for senior financial officers as necessary or appropriate in the public interest and consistent with the protection of investors.

(d) **CHANGES IN CODES OF CONDUCT.**—Within 180 days after the date of enactment of this Act, the Commission shall revise its regulations concerning matters requiring prompt disclosure on Form 8K to require the immediate disclosure, by means of such Form and by the Internet or other electronic means, by any issuer of any change in, or waiver of, the code of ethics of such issuer.

**SEC. 9. ENHANCED OVERSIGHT OF PERIODIC DISCLOSURES BY ISSUERS.**

(a) **REGULAR AND SYSTEMATIC REVIEW.**—The Securities and Exchange Commission shall review disclosures made by issuers pursuant to the Securities Exchange Act of 1934 (including reports filed on form 10-K) on a basis that is more regular and systematic than that in practice on the date of enactment on this Act. Such review shall include a review of an issuer's financial statements.

(b) **RISK RATING SYSTEM.**—For purposes of the reviews required by subsection (a), the Commission shall establish a risk rating system whereby issuers receive a risk rating by the Commission, which shall be used to determine the frequency of such reviews. In designing such a risk rating system the Commission shall consider, among other factors the following:

(1) Emerging companies with disparities in price to earning ratios.

(2) Issuers with the largest market capitalization.

(3) Issuers whose operations significantly impact any material sector of the economy.

(4) Systemic factors such as the effect on niche markets or important subsectors of the economy.

(5) Issuers that experience significant volatility in their stock price as compared to other issuers.

(6) Any other factor the Commission may consider relevant.

(c) **MINIMUM REVIEW PERIOD.**—In no event shall an issuer be reviewed less than once every three years by the Commission.

(d) **PROHIBITION OF DISCLOSURE OF RISK RATING.**—Notwithstanding any other provision of law, the Commission shall not disclose the risk rating of any issuer described in subsection (b).

**SEC. 10. RETENTION OF RECORDS.**

(a) **DUTY TO RETAIN RECORDS.**—Any independent public or certified accountant who certifies a financial statement as required by the securities laws or any rule or regulation thereunder shall prepare and maintain for a period of no less than 7 years, final audit work papers and other information related to any accountants report on such financial statements in sufficient detail to support the opinion or assertion

reached in such accountants report. The Commission may prescribe rules specifying the application and requirements of this section.

(b) **ACCOUNTANT'S REPORT.**—For purposes of subsection (a), the term "accountant's report" means a document in which an accountant identifies a financial statement and sets forth his opinion regarding such financial statement or an assertion that an opinion cannot be expressed.

**SEC. 11. COMMISSION AUTHORITY TO BAR PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.**

(a) **COMMISSION AUTHORITY TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.**—Notwithstanding any other provision of the securities laws, in any cease-and-desist proceeding under section 8A(a) of the Securities Act of 1933 or section 21C(a) of the Securities and Exchange Act of 1934, the Commission may issue an order to prohibit, conditionally or unconditionally, permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) of the Securities Act of 1933 or section 10(b) of the Securities Exchange Act of 1934 (or any rule or regulation thereunder) from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of such Act if the person's conduct demonstrates substantial unfitness to serve as an officer or director of any such issuer.

(b) **FINDING OF SUBSTANTIAL UNFITNESS.**—In making any determination that a person's conduct demonstrates substantial unfitness to serve as an officer or director of any such issuer, the Commission shall consider—

(1) the severity of the persons conduct giving rise to the violation, and the persons role or position when he engaged in the violation;

(2) the person's degree of scienter;

(3) the person's economic gain as a result of the violation; and

(4) the likelihood that the conduct giving rise to the violation, or similar conduct as defined in subsection (a), may recur if the person is not so prohibited.

(c) **AUTOMATIC STAY PENDING APPEAL.**—The enforcement of any Commission order pursuant to subsection (a) shall be stayed—

(1) for a period of at least 60 days after the entry of any such order or decision; and

(2) upon the filing of a timely application for judicial review of such order or decision, pending the entry of a final order resolving the application for judicial review.

**SEC. 12. DISGORGING INSIDERS PROFITS FROM TRADES PRIOR TO CORRECTION OF ERRONEOUS FINANCIAL STATEMENTS.**

(a) **ANALYSIS REQUIRED.**—The Commission shall conduct an analysis of whether, and under what conditions, any officer or director of an issuer should be required to disgorge profits gained, or losses avoided, in the sale of the securities of such issuer during the six month period immediately preceding the filing of a restated financial statement on the part of such issuer.

(b) **DISGORGEMENT RULES AUTHORIZED.**—If the Commission determines that imposing the requirement described in subsection (a) is necessary or appropriate in the public interest or for the protection investors, and would not unduly impair the operations of issuers or the orderly operation of the securities markets, the Commission shall prescribe a rule requiring the disgorgement of all profits gained or losses avoided in the sale of the securities of the issuer by any officer or director thereof. Such rule shall—

(1) describe the conditions under which any officer or director shall be required to disgorge profits, including what constitutes a restatement for purposes of operation of the rule;

(2) establish exceptions and exemptions from such rule as necessary to carry out the purposes of this section;

(3) identify the scienter requirement that should be used in order to determine to impose the requirement to disgorge; and

(4) specify that the enforcement of such rule shall lie solely with the Commission, and that any profits so disgorged shall inure to the issuer.

(c) **NO PREEMPTION OF OTHER LAW.**—Unless otherwise specified by the Commission, in the case of any rule promulgated pursuant to subsection (b), such rule shall be in addition to, and shall not supersede or preempt, the Commission's authority to seek disgorgement under any other provision of law.

**SEC. 13. SECURITIES AND EXCHANGE COMMISSION AUTHORITY TO PROVIDE RELIEF.**

(a) **PROCEEDS OF ENRON AND ANDERSEN ENFORCEMENT ACTIONS.**—If in any administrative or judicial proceeding brought by the Securities and Exchange Commission against—

(1) the Enron Corporation, any subsidiary or affiliate of such Corporation, or any officer, director, or principal shareholder of such Corporation, subsidiary, or affiliate for any violation of the securities laws; or

(2) Arthur Andersen L.L.C., any subsidiary or affiliate of Arthur Andersen L.L.C., or any general or limited partner of Arthur Andersen L.L.C., or such subsidiary or affiliate, for any violation of the securities laws with respect to any services performed for or in relation to the Enron Corporation, any subsidiary or affiliate of such Corporation, or any officer, director, or principal shareholder of such Corporation, subsidiary, or affiliate;

the Commission obtains an order providing for an accounting and disgorgement of funds, such disgorgement fund (including any addition to such fund required or permitted under this section) shall be allocated in accordance with the requirements of this section.

(b) **PRIORITY FOR FORMER ENRON EMPLOYEES.**—The Commission shall, by order, establish an allocation system for the disgorgement fund. Such system shall provide that, in allocating the disgorgement fund amount the victims of the securities laws violations described in subsection (a), the first priority shall be given to individuals who were employed by the Enron Corporation, or a subsidiary or affiliate of such Corporation, and who were participants in an individual account plan established by such Corporation, subsidiary, or affiliate. Such allocations among such individuals shall be in proportion to the extent to which the nonforfeitable accrued benefit of each such individual under the plan was invested in the securities of such Corporation, subsidiary, or affiliate.

(c) **ADDITION OF CIVIL PENALTIES.**—If, in any proceeding described in subsection (a), the Commission assesses and collects any civil penalty, the Commission shall, notwithstanding section 21(d)(3)(C)(i) or 21A(d)(1) of the Securities Exchange Act of 1934, or any other provision of the securities laws, be payable to the disgorgement fund.

(d) **ACCEPTANCE OF ADDITIONAL DONATIONS.**—The Commission is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, to the United States for the disgorgement fund. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the disgorgement fund and shall be available for allocation in accordance with subsection (b).

(e) **DEFINITIONS.**—As used in this section:

(1) **DISGORGEMENT FUND.**—The term “disgorgement fund” means a disgorgement fund established in any administrative or judicial proceeding described in subsection (a).

(2) **SUBSIDIARY OR AFFILIATE.**—The term “subsidiary or affiliate” when used in relation to a person means any entity that controls, is controlled by, or is under common control with such person.

(3) **OFFICER, DIRECTOR, OR PRINCIPAL SHAREHOLDER.**—The term “officer, director, or principal shareholder” when used in relation to the Enron Corporation, or any subsidiary or affiliate of such Corporation, means any person that is subject to the requirements of section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) in relation to the Enron Corporation, or any subsidiary or affiliate of such Corporation.

(4) **NONFORFEITABLE; ACCRUED BENEFIT; INDIVIDUAL ACCOUNT PLAN.**—The terms “nonforfeitable”, “accrued benefit”, and “individual account plan” have the meanings provided such terms, respectively, in paragraphs (19), (23), and (34) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(19), (23), (34)).

**SEC. 14. STUDY OF RULES RELATING TO ANALYST CONFLICTS OF INTEREST.**

(a) **STUDY AND REVIEW REQUIRED.**—The Commission shall conduct a study and review of any final rules by any self-regulatory organization registered with the Commission related to matters involving equity research analysts conflicts of interest. Such study and report shall include a review of the effectiveness of such final rules in addressing matters relating to the objectivity and integrity of equity research analyst reports and recommendations.

(b) **REPORT REQUIRED.**—The Commission shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on such study and review no later than 180 days after any such final rules by any self-regulatory organization registered with the Commission are delivered to the Commission. Such report shall include recommendations to the Congress, including any recommendations for additional self-regulatory organization rule-making regarding matters involving equity research analysts. The Commission shall annually submit an update on such review.

**SEC. 15. REVIEW OF CORPORATE GOVERNANCE PRACTICES.**

(a) **STUDY OF CORPORATE PRACTICES.**—The Commission shall conduct a study and review of current corporate governance standards and practices to determine whether such standards and practices are serving the best interests of shareholders. Such study and review shall include an analysis of—

(1) whether current standards and practices promote full disclosure of relevant information to shareholders;

(2) whether corporate codes of ethics are adequate to protect shareholders, and to what extent deviations from such codes are tolerated;

(3) to what extent conflicts of interests are aggressively reviewed, and whether adequate means for redressing such conflicts exist;

(4) to what extent sufficient legal protections exist or should be adopted to ensure that any manager who attempts to manipulate or unduly influence an audit will be subject to appropriate sanction and liability, including liability to investors or shareholders pursuing a private cause of action for such manipulation or undue influence;

(5) whether rules, standards, and practices relating to determining whether independent directors are in fact independent are adequate;

(6) whether rules, standards, and practices relating to the independence of directors serving on audit committees are uniformly applied and adequate to protect investor interests;

(7) whether the duties and responsibilities of audit committees should be established by the Commission; and

(8) what further or additional practices or standards might best protect investors and promote the interests of shareholders.

(b) **PARTICIPATION OF STATE REGULATORS.**—In conducting the study required under subsection (a), the Commission shall seek the views of the securities and corporate regulators of the various States.

(c) **REPORT REQUIRED.**—The Commission shall submit a report on the analysis required under subsection (a) as a part of the Commission's next annual report submitted after the date of enactment of this Act.

**SEC. 16. STUDY OF ENFORCEMENT ACTIONS.**

(a) **STUDY REQUIRED.**—The Commission shall review and analyze all enforcement actions by the Commission involving violations of reporting requirements imposed under the securities laws, and restatements of financial statements, over the last five years to identify areas of reporting that are most susceptible to fraud, inappropriate manipulation, or inappropriate earnings management, such as revenue recognition and the accounting treatment of off-balance sheet special purpose entities.

(b) **REPORT REQUIRED.**—The Commission shall report its findings to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate within 180 days of the date of enactment of this Act and shall use such findings to revise its rules and regulations, as necessary. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

**SEC. 17. STUDY OF CREDIT RATING AGENCIES.**

(a) **STUDY REQUIRED.**—The Commission shall conduct a study of the role and function of credit rating agencies in the operation of the securities market. Such study shall examine—

(1) the role of the credit rating agencies in the evaluation of issuers of securities;

(2) the importance of that role to investors and the functioning of the securities markets;

(3) any impediments to the accurate appraisal by credit rating agencies of the financial resources and risks of issuers of securities;

(4) any measures which may be required to improve the dissemination of information concerning such resources and risks when credit rating agencies announce credit ratings;

(5) any barriers to entry into the business of acting as a credit rating agency, and any measures needed to remove such barriers; and

(6) any conflicts of interest in the operation of credit rating agencies and measures to prevent such conflicts or ameliorate the consequences of such conflicts.

(b) **REPORT REQUIRED.**—The Commission shall submit a report on the analysis required by subsection (a) to the President, the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate within 180 days after the date of enactment of this Act. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

**SEC. 18. STUDY OF INVESTMENT BANKS**

(a) **GAO STUDY.**—The Comptroller General shall conduct a study on the role played by investment banks and financial advisors in assisting public companies in manipulating their earnings and obfuscating their true financial condition. The study should address the role of the investment banks—

(1) in the collapse of the Enron Corporation, including with respect to the design and implementation of derivatives transactions, transactions involving special purpose vehicles, and other financing arrangements that may have had the effect of altering the company's reported financial statements in ways that obscured the true financial picture of the company;

(2) in the failure of Global Crossing, including with respect to transactions involving swaps of fiber optic cable capacity, in designing transactions that may have had the effect of altering the company's reported financial statements in ways that obscured the true financial picture of the company; and

(3) generally, in creating and marketing transactions designed solely to enable companies

to manipulate revenue streams, obtain loans, or move liabilities off balance sheets without altering the economic and business risks faced by the companies or any other mechanism to obscure a company's financial picture.

(b) **REPORT.**—The General Accounting Office shall report to the Congress within 180 days after the date of enactment of this Act on the results of the study required by this section. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

#### SEC. 19. STUDY OF MODEL RULES FOR ATTORNEYS OF ISSUERS.

(a) **IN GENERAL.**—The Comptroller General shall conduct a study of the Model Rules of Professional Conduct promulgated by the American Bar Association and rules of professional conduct applicable to attorneys established by the Commission to determine—

(1) whether such rules provide sufficient guidance to attorneys representing corporate clients who are issuers required to file periodic disclosures under section 13 or 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o), as to the ethical responsibilities of such attorneys to—  
(A) warn clients of possible fraudulent or illegal activities of such clients and possible consequences of such activities;

(B) disclose such fraudulent or illegal activities to appropriate regulatory or law enforcement authorities; and

(C) manage potential conflicts of interests with clients; and

(2) whether such rules provide sufficient protection to corporate shareholders, especially with regards to conflicts of interest between attorneys and their corporate clients.

(b) **REPORT REQUIRED.**—The Comptroller General shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of the study required by this section. Such report shall include any recommendations of the General Accounting Office with regards to—

(1) possible changes to the Model Rules and the rules of professional conduct applicable to attorneys established by the Commission to provide increased protection to shareholders;

(2) whether restrictions should be imposed to require that an attorney, having represented a corporation or having been employed by a firm which represented a corporation, may not be employed as general counsel to that corporation until a certain period of time has expired; and

(3) regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

#### SEC. 20. ENFORCEMENT AUTHORITY.

For the purposes of enforcing and carrying out this Act, the Commission shall have all of the authorities granted to the Commission under the securities laws. Actions of the Commission under this Act, including actions on rules or regulations, shall be subject to review in the same manner as actions under the securities laws.

#### SEC. 21. EXCLUSION FOR INVESTMENT COMPANIES.

Sections 4, 6, 9, and 15 of this Act shall not apply to an investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8).

#### SEC. 22. DEFINITIONS.

As used in this Act:

(1) **BLACKOUT PERIOD.**—The term “blackout period” with respect to the equity securities of any issuer—

(A) means any period during which the ability of at least fifty percent of the participants or beneficiaries under all applicable individual account plans maintained by the issuer to purchase (or otherwise acquire) or sell (or otherwise transfer) an interest in any equity of such issuer is suspended by the issuer or a fiduciary of the plan; but

(B) does not include—

(i) a period in which the employees of an issuer may not allocate their interests in the individual account plan due to an express investment restriction—

(I) incorporated into the individual account plan; and

(II) timely disclosed to employees before joining the individual account plan or as a subsequent amendment to the plan; or

(ii) any suspension described in subparagraph (A) that is imposed solely in connection with persons becoming participants or beneficiaries, or ceasing to be participants or beneficiaries, in an applicable individual account plan by reason of a corporate merger, acquisition, divestiture, or similar transaction.

(2) **BOARDS OF ACCOUNTANCY OF THE STATES.**—The term “boards of accountancy of the States” means any organization or association chartered or approved under the law of any State with responsibility for the registration, supervision, or regulation of accountants.

(3) **COMMISSION.**—The term “Commission” means the Securities and Exchange Commission.

(4) **INDIVIDUAL ACCOUNT PLAN.**—The term “individual account plan” has the meaning provided such term in section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34)).

(5) **ISSUER.**—The term “issuer” shall have the meaning set forth in section 2(a)(4) of the Securities Act of 1933 (15 U.S.C. 77b(a)(4)).

(6) **PERSON ASSOCIATED WITH AN ACCOUNTANT.**—The term “person associated with an accountant” means any partner, officer, director, or manager of such accountant (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such accountant, or any employee of such accountant who performs a supervisory role in the auditing process.

(7) **RECOGNIZED PUBLIC REGULATORY ORGANIZATION.**—The term “recognized public regulatory organization” means a public regulatory organization that the Commission has recognized as meeting the criteria established by the Commission under subsection (b) of section 2.

(8) **SECURITIES LAWS.**—The term “securities laws” means the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.), and the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), notwithstanding any contrary provision of any such Act.

The CHAIRMAN. No amendment to the committee amendment in the nature of a substitute is in order except those printed in House Report 107–418. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 107–418.

AMENDMENT NO. 1 OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer amendment No. 1 made in order pursuant to the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. OXLEY:

Page 9, line 24, strike “study” and insert “reviews”.

Page 11, line 10, insert “or” after “review”.

Page 11, line 17, strike “board” and insert “organization”.

Page 33, line 7, strike “DEFINITION” and insert “DEFINITIONS”; on line 8, strike “term ‘beneficial owner’ has the meaning” and insert “terms ‘officer’, ‘director’, and ‘beneficial owner’ have the meanings”; and line 9, strike “term” and insert “terms”.

Page 39, strike line 5 and all that follows through page 40, line 9; and on page 40, line 10, strike “(d) CHANGES IN CODES OF CONDUCT.”.

Page 42, lines 9 and 11, strike “accountants report” and insert “accountant’s report”.

Page 42, line 17, insert “or her” after “his”, and beginning on line 18, strike “an opinion cannot be expressed” and insert “he or she cannot express an opinion”.

Page 53, line 23, strike “the role played by” and insert “whether”, and on line 24, strike “in assisting” and insert “assisted”.

Page 54, line 18, insert “which may have been” before “designed solely”.

Page 57, line 9, insert “7, 8,” after “6.”.

The CHAIRMAN. Pursuant to House Resolution 395, the gentleman from Ohio (Mr. OXLEY) and a Member opposed each will control 5 minutes.

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

Mr. OXLEY. Mr. Chairman, I yield myself 5 minutes to explain the amendment.

Mr. Chairman, this manager’s amendment clarifies the language in a few portions of the legislation to give greater effect to the committee’s intent in reporting out H.R. 3763.

The amendment clarifies that certain terms used in the bill are meant to be consistent with how those terms are used in the securities laws. It also removes some language that the committee had adopted which would have required self-regulatory organizations to undertake specific rule-makings. Because this is not standard practice under the securities laws, that language was deleted, with the consent of its original sponsor, the gentlewoman from New York (Mrs. MALONEY). However, important provisions relating to the requirement that issuers may make public any waiver of their code of ethics was retained.

The amendment also clarifies a section directing the GAO to conduct a study of investment banks. The original sponsor of the language, the gentleman from New York (Mr. LAFALCE) agrees with these changes, which were designed to ensure that the GAO study is fair, impartial, and accurate.

Lastly, the amendment specifies that certain provisions of the bill are not designed to apply to investment companies that are currently registered with the SEC. Because these investment companies are already fully regulated by the SEC under the Investment Company Act of 1940, application of the noted provisions to them would be inappropriate.

Mr. Chairman, these changes mostly fall within the realm of technical and conforming amendments. I know of no opposition to these amendments, and I certainly urge their adoption.

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

Mr. CAPUANO. Mr. Chairman, I rise to claim the time on my side.

The CHAIRMAN. The gentleman from Massachusetts (Mr. CAPUANO) is recognized for 5 minutes.

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

Mr. Chairman, we have no objection to the manager's amendment.

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

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

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

Mr. Chairman, I rise in support of the manager's amendment and the underlying bill. Mr. Chairman, the aim of this legislation is to ensure a continued faith in our capital markets, and to allow America's families and the investing public to continue to benefit from the free flow of accurate information.

This bill, the manager's amendment, provides a surgical strike approach to address the issues arising out of the Enron bankruptcy without hampering our markets' ability to thrive and the benefit they provide to America's families.

We have heard discussion today on the floor, Mr. Chairman, about the issues that arose under the Enron bankruptcy: the issue about the black-out period, the fact that we ought not have employees blacked out while executives have the ability to sell company stock. That is addressed.

We also have addressed in the bill the disclosure of off-balance-sheet transactions, that they all must be disclosed.

The other side speaks about the fact that certain specified nonaudit services are not prohibited under this legislation, but I would bring to the body's attention that there were 10 nonaudit services that the SEC proposed restrictions on. Of these ten, seven were prohibited by the SEC's final independent rules, and two, two of them, the financial systems work and internal auditing ability, are prohibited under the chairman's bill.

The one remaining nonaudit service was expert services, which the SEC decided in its final rule should not be prohibited. Accordingly, Mr. Chairman, the other side is largely proposing redundant legislation that is already in place under existing rules, except for one.

There is one major problem with the proposal coming from the other side. By adopting word for word the SEC's proposed rules, the other side would codify prohibitory and definitional language that the SEC, through notice and comment rule-making, has already determined to be unacceptable.

Mr. Chairman, I urge adoption of the manager's amendment and the underlying bill.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding time to me.

Enron was a great tragedy; it was a tragedy for the employees, for the investors, and it was a tragedy for the American public. It was a tragedy for our Nation.

We clearly need legislation. We need legislation that will give investors better access to information necessary to judge a firm's performance, the financial risk, the condition of that company. We need legislation that will give investors prompt information that is critical to decide whether or not they should make an investment.

We also need legislation that will deal with dishonest and unscrupulous CEOs, legislation that will bar them from serving as an officer of a company, that will force them to disclose critical information about what they are doing when they buy or sell stock in that company.

This legislation before us addresses all of those issues. It would be a greater tragedy if we were, in this body, to introduce legislation that would create unnecessary and burdensome red tape for American industries, that would nationalize the accounting industry. It would be inappropriate for us to put forward legislation that would create ambiguous and difficult-to-understand standards.

This is a good bill. I urge all colleagues on both sides of the aisle to support it. I commend the chairman and the subcommittee chairman who worked on this very important legislation.

Mr. OXLEY. Mr. Chairman, I yield the final 30 seconds, with apologies, to my good friend, the gentleman from California (Mr. ROYCE).

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

Mr. Chairman, I will be brief. By creating an independent regulatory organization comprised of a majority of financial experts from outside of the accounting profession, this bill brings much needed reform and oversight to the status quo ante of self-regulation within the auditing profession.

By requiring that CEOs and other corporate insiders disclose their trades in company stock within 48 hours, within 48 hours of making that trade, this bill will increase the speed and transparency of information disclosure necessary for the efficient operation of our capital markets.

By preventing these same executives from unloading these shares during the lockdown of an employee pension account, it ensures that all stakeholders in a company are treated equitably and fairly, not as first- and second-class shareholders in equity.

For these reasons, I urge support for the manager's amendment and for the underlying bill. I thank the chairman, the gentleman from Ohio (Mr. OXLEY), for the Corporate and Auditing Accountability, Responsibility, Transparency Act of 2002.

The CHAIRMAN. Does any Member rise in opposition?

If not, the question is on the amendment offered by the gentleman from Ohio (Mr. OXLEY).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 107-418.

AMENDMENT NO. 2 OFFERED BY MR. CAPUANO

Mr. CAPUANO. Mr. Chairman, I offer amendment No. 2.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. CAPUANO: Page 3, beginning on line 21, strike paragraph (1) of section 2(b) through page 4, line 9, and insert the following:

(1)(A) The board of such organization shall be comprised of five members—

(i) two of whom shall be persons who are licensed to practice public accounting and who have recent experience in auditing public companies;

(ii) two of whom may be persons who are licensed to practice public accounting, if such person has not worked in the accounting profession for any of the last two years prior to the date of such person's appointment to the board; and

(iii) one of whom shall be a person who has never been licensed to practice public accounting.

(B) Each member of the board of such organization shall be a person who meets such standards of financial literacy as are determined by the Commission.

The CHAIRMAN. Pursuant to House Resolution 395, the gentleman from Massachusetts (Mr. CAPUANO) and a Member in opposition each will control 10 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. CAPUANO).

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

Mr. Chairman, this amendment is relatively simple. It does one small item in the proposed bill which simply guarantees that one, only one of the five seats, will be someone who has never been licensed as an accountant.

It simply is the best way that I could think of to guarantee that the general public has at least one voice at the table. The other four seats are just as submitted in the current draft; namely, two seats shall be people who are licensed to practice accounting, and two people may have a license to practice accounting, as long as they have not practiced in the last 2 years.

It is exactly what the bill says, with the sole exception of one person who has never been licensed. I think that is the least we can do to guarantee the general public, the investing public, has at least one seat at the table without having been subject to practice for the last 30 or 40 years.

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

The CHAIRMAN. For what purpose does the gentleman from Ohio (Mr. OXLEY) rise?

Mr. OXLEY. Mr. Chairman, I claim the time in opposition to the amendment, though I am not opposed to the amendment.

The CHAIRMAN. Without objection, the gentleman from Ohio (Mr. OXLEY) is recognized for 10 minutes.

There was no objection.

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

Mr. Chairman, I thank my friend, the gentleman from Massachusetts (Mr. CAPUANO), a fine member of the Committee, for his good work on this amendment. I rise in strong support of it. By clarifying that at least two members of the five-member public reporting organization created by CARTA must be certified public accountants, the Capuano amendment recognizes the need for accounting expertise.

Equally important, it guarantees that at least one member of the board, and potentially three, is not a CPA. That would guarantee a level of independence from the accounting profession that is absolutely essential to keeping our financial reporting system the best in the world.

Mr. Chairman, I thank the gentleman and urge all Members to vote aye.

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Mr. OXLEY. Mr. Chairman, I support the Capuano amendment.

Mr. Chairman, I have no further speakers, and I yield back the balance of my time.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. CAPUANO).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider Amendment No. 3 printed in House Report 107-418.

AMENDMENT NO. 3 OFFERED BY MR. SHERMAN

Mr. SHERMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. SHERMAN: In section 21 strike "and 15" and insert "and 16" and after section 13, insert the following new section (and redesignate the succeeding sections and conform the table of contents accordingly):

**SEC. 14. AUDITOR MINIMUM CAPITAL.**

(a) REGULATION REQUIRED.—The Commission shall revise its regulations pertaining to auditor independence to require that an accountant shall not be considered independent unless such accountant complies with such capital adequacy standards as the Commission shall prescribe by regulation.

(b) MINIMUM STANDARD.—The capital adequacy standards established by the Commission pursuant to this section shall require that the net capital of an accountant be equal to not less than one-half of the annual audit revenue received by such accountant from issuers registered with the Commission.

(c) TREATMENT OF CAPITAL AND REVENUE.—For purposes of this section—

(1) net capital shall include the sum of capital, reserves, and malpractice insurance available to the accountant for the performance of audit functions; and

(2) annual audit revenue shall include the sum of all audit fees received by the account-

ant, but shall not include any fees for non-audit services, as such terms are defined in regulations of the Commission in effect on the date of enactment of this Act.

The CHAIRMAN. Pursuant to House Resolution 395, the gentleman from California (Mr. SHERMAN) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Chairman, I yield myself such as I may consume.

Mr. Chairman, I know there are others that would like to speak in favor of this amendment, but this whole process has gone more quickly than expected, so we will see if they can make it here to the floor.

Mr. Chairman, the financial auditing system is the only one where the umpire is paid by one of the teams. That is to say, we have a situation where the auditor must make tough judgment calls, particularly as to how to apply generally accepted accounting principles which are not mechanical but, rather, require judgment. And the firm must make those judgments relative to the client, sometimes being the difference between whether the stock sells for \$20 a share or \$40 a share. The auditing firm must make that decision affecting the clients when they are being paid by that client.

The one financial check on this is the fact that if the auditor does not make the right decision, but is rather negligent, they may be sued. The other check on this, of course, is the integrity and the professionalism of the individual auditors involved in the process. But our system, our capitalist system works well when we rely on the good spirit of people but also on financial incentives, financial checks and balances. Those financial checks and balances, however, ring hollow in the present system.

Back when I was practicing—and, Mr. Chairman, that was a long time ago, I had hair when I was doing it, that tells us how long ago it was—we had general partnerships that were the Big Eight, now the Big Five accounting firms. That meant that every partner's personal assets were on the line if the firm committed malpractice. So of course the firms purchased malpractice insurance. And it meant that if an investor was hurt by malpractice, that that investor would at least get some compensation.

Now our corporate laws have changed. There are professional corporations, limited liability companies, and limited liability partnerships.

As a result, those investors hurt by auditor malpractice can only look to the assets of the firm. It makes sense that we make sure that there are at least some assets there so that investors hurt by accounting malpractice at least get some compensation.

That is not the case at the present time. Arthur Andersen is supposed to be paying \$217 million, not in relation to Enron, but in relation to the Baptist

Foundation of Arizona audit in which they also committed malpractice. And now it looks like those investors are not going to be paid. It looks like the Enron investors are not going to get a penny from Arthur Andersen. Why? Because Arthur Andersen has virtually no malpractice insurance and virtually no reserves.

Mr. Chairman, if you are going to drive your car, you might hurt somebody. And that is why every State in this Union requires you to have some sort of reserve or auto insurance. If you are going to operate a fleet of thousands of taxis, certainly you would have insurance, because driving down Main Street you might make a mistake and hurt somebody.

Well, driving on Wall Street is also potentially dangerous. And those who drive down Wall Street and can cause billions of dollars of harm if they are not careful, should also have the same insurance required of every driver in this country. Wall Street is as dangerous for pedestrians as Main Street, and that is why I have proposed this amendment.

I want to be very clear on what it does not do. It does not have an effect on the 99 percent of CPA firms that do not audit public companies. It has virtually no effect on the regional firms that do a very few SEC audits. It requires them to have such minimal capital reserves that if they just own their own computers, they meet the test. They probably would have malpractice insurance anyway.

This bill affects the Big Five firms. It says that those firms that do 99.5 percent of all the SEC auditing have to have reserves or they have to have malpractice insurance. It ensures that if investors are hit on Wall Street, they will at least get some recompense. We provide that assurances to pedestrians. We ought to provide it to investors as well.

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

Mr. OXLEY. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from Ohio (Mr. OXLEY) is recognized for 10 minutes.

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

Mr. Chairman, the amendment before us requires audit firms to establish and maintain huge capital reserves, at least 50 percent of annual audit revenue. The Sherman amendment was offered in committee and defeated by an overwhelming margin of 49 to 9. Though well intentioned, it would establish a burdensome and wholly unprecedented requirement, expanding government's reach into the financing and structuring of audits firms. Minimum capital requirements would harm small audit firms in particular and would result in less stability for public companies, higher audit cost for public companies, lower profits for investors, and more speculative lawsuits.

Clearly this is a case of using a sledgehammer to crack a nut.

I urge all Members to oppose this amendment and support the base bill.

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

Mr. SHERMAN. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from California has 5 minutes remaining.

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

Mr. Chairman, let me respond to the comments of our distinguished chairman.

This is hardly a sledgehammer. Keep in mind that 20 years ago, every one of the accounting firms, big and small, had far more reserves available to those who were affected by accounting malpractice. Twenty, 30 years ago, they were all general partnerships, so they had malpractice insurance. One of the reasons they had it is that the personal assets of every partner were on the line. The assets available to the creditors of Arthur Andersen 30 years ago would have been tens of billions of dollars, adjusted for inflation, talking about 2002 dollars. Today we have an empty shell.

I remind the House that when they ask poor people in each district who need to drive somewhere to work to earn the minimum wage, we insist they have liability insurance, because while we are concerned about their ability to drive, we are also concerned that those who are hurt by negligence get at least something. And yet we turn to what will probably be the Big Four accounting firms, each with many billions of dollars of revenue, and say that they do not have to have any liability insurance.

Is that a fair society? Do we really believe that driving down Wall Street is not as hazardous as driving down any street in America? Certainly all the automobile accidents in this country will not add up to the losses suffered by Enron investors. If we require those who drive to have insurance and we do not regard that as an undue burden on driving, how can we say that auditing publicly traded corporations, an activity engaged in by only five accounting firms for the most part, maybe two or three others, are we going to say that the five or eight or nine largest accounting firms in the country do not need any liability insurance? I do not think we should. I think at this time it is reasonable to say that if you are engaging in activity that only exists because the securities law requires it, if you are receiving billions of dollars in fees because publicly-traded companies are required by Federal law to have an audit, then you ought to have liability insurance.

I will give another example. If a small plumbing contractor wishes to do the plumbing on a Federal building or a State construction project, surely we would require a completion bond or

other insurance that the work will be done appropriately. How can we turn to individual drivers and say they must have insurance, the smallest companies who do construction work, and say they must have insurance, and then turn to the Big Four accounting firms and say they can walk away scot-free no matter what liability a court imposes on them? It is an illusory liability. The Enron investors will probably get nothing from Arthur Andersen.

I do not think that is a fair system. I think instead it is reasonable to require that those who engage in activities which may make them liable to someone else have reasonable amounts of insurance. I want to repeat, this bill will affect only the Big Four or, today, Big Five accounting firms. It will have no effect on the 99 percent of firms who do no SEC auditing and will have no effect or virtually no effect on the four, five, or six other regional firms who may have a very few SEC audits. Only when a firm is deriving a very large percentage of its revenue from SEC audit does this bill have any effect.

So I ask my colleagues to require that investors who are named on Wall Street at least be able to get some amounts of compensation, as they would if they were hurt walking across the street in their hometown.

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

Mr. OXLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Richmond, Virginia (Mr. CANTOR).

Mr. CANTOR. Mr. Chairman, I rise in opposition to the gentleman from California's (Mr. SHERMAN) amendment, and with all due respect, I beg to differ. We are not talking about insurance here. What we are talking about is a totally unprecedented and, in my opinion, unjustified expansion of government's reach into the financing and structuring of accounting firms.

Let us address the first issue that the gentleman from Ohio (Mr. OXLEY) made here, that this particular amendment would really contribute to the instability of any public company that was required to have audited financial statements. Just imagine if the auditing firm dipped below the required level of reserve while that firm was in the middle of an audit. That public company who is required to have the audited financial statements would be left in the lurch. There would be no other option in that firm than to go out and seek another accounting firm to restart the audit or pick up where the one that is now disqualified left off, thus adding to the cost of having audited financial statements. In addition, I think it would take away from the quality of the audit itself.

Mr. Chairman, I would also say that in any other instance where the government requires a certain capital, minimum capital requirement, for instance the banking industry, there is some type of quasi-guarantee relationship that the government has and in some sense is the insurer of the indus-

try. In this particular case, there is no relationship by the government to the auditing firm. In the case of the banks, the government is there to provide some type of confidence to the depositors that their personal funds will be insured to a certain extent. Here there is no such relationship and, in fact, auditing firms are precluded from maintaining any deposits from individuals or from clients.

Think about the effect that this amendment would have on small accounting firms. Many firms with reduced access to capital and costly insurance will be now precluded from seeking or acquiring business elsewhere. When we are talking about a firm having to have 50 percent of the annual audit fee in reserve, that is a tremendous financial and capital hurdle for most American businesses, not just to mention auditing firms. Such a requirement to have that type of reserve will certainly add to the cost of the financial audit, ultimately adding to the cost and taking away the benefit to the investors in that company.

Mr. Chairman, I would say this amendment goes in the wrong direction and I urge my colleagues to oppose the amendment.

□ 1245

The CHAIRMAN. The Chair will advise Members that the gentleman from Ohio (Mr. OXLEY) has 6 minutes remaining. The gentleman the California (Mr. SHERMAN) has 30 seconds remaining.

Mr. SHERMAN. Mr. Chairman, I yield myself the remaining time.

This bill will not adversely affect small accounting firms. It restores a system similar to what we had 30 years ago when every firm had malpractice insurance because the LLC and LLP structures had yet to be invented under State law. We in the federal government require that an audit be conducted because of the securities law, and we ought to require that those who will rely on those financial statements will get some compensation in the event that auditor malpractice takes place.

State governments require insurance to drive a car. We ought to require insurance to drive on Wall Street.

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

Before yielding back, I would only reiterate the fact that we debated this in committee, the same amendment. The gentleman from California was able to get nine votes in favor of his amendment, 49 against. I think the committee understood the issue and reacted accordingly.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in support of the Sherman amendment to H.R. 3763, the Corporate and Auditing Accountability and Responsibility Act.

This amendment would establish capital standards for accounting companies that audit publicly traded companies.

This amendment would require the SEC to set capital standards at a level no lower than

half of the firm's annual audit revenues. Moreover, it allows auditors to apply capital, reserves and malpractice insurance to meet this net capital requirement.

Accounting firms that fail to maintain required levels of capital reserves would be prohibited from auditing publicly traded companies.

As evidenced by the relationship between Enron and its auditor, Arthur Andersen, there are many flaws in the system that needs fixing. This amendment is another step in the right direction.

It is very likely that because Arthur Andersen did not carry adequate malpractice insurance, the Enron shareholders, many of them former Enron employees, will not see any monetary compensation from their auditor. This amendment does not and will not hurt small accounting firms because nearly all SEC audits are done by the big five accounting firms.

It is important to note that this amendment is being offered so that auditors of SEC reporting companies will have enough capital and insurance to cover the liability they incur when they perform a large audit and would only affect auditors performing audits for companies required to file disclosures with the SEC.

This is an important amendment and I urge you to support it.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. SHERMAN). The amendment was rejected.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 107-418.

AMENDMENT NO. 4 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. KUCINICH

Mr. KUCINICH. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

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

Amendment No. 4 in the nature of a substitute offered by Mr. KUCINICH:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Investor, Shareholder, and Employee Protection Act of 2002".

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) The failure of accounting firms to provide accurate audits of its clients is not a new or isolated problem.

(2) Accounting firms have been implicated in failed audits that have cost investors billions of dollars when earnings restatements sent stock prices tumbling.

(3) Auditors have an inherent conflict of interest. They are hired, and fired, by their audit clients.

(4) This conflict of interest pressures auditors to sign off on substandard financial statements rather than risk losing a large client.

(5) Auditing a public company for the benefit of small as well as large investors requires independence.

(6) Therefore the only truly independent audit is one by a governmental agency.

(7) The Federal Bureau of Audits, closely regulated by the Commission, will provide honest audits of all publicly traded companies.

**SEC. 3. ESTABLISHMENT OF BUREAU.**

(a) ESTABLISHMENT.—There is hereby established within the Commission an independent regulatory agency to be known as the Federal Bureau of Audits.

(b) FUNCTION OF THE BUREAU.—The Bureau shall conduct an annual audit of the financial statements that are required be submitted by reporting issuers and to be certified under the securities laws or the rules or regulations thereunder.

(c) OFFICERS.—

(1) BUREAU HEAD.—The head of the Bureau shall be a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) ADDITIONAL OFFICERS.—There shall also be in the Bureau a Deputy Director and an Inspector General, each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(3) TERMS.—The Director, Deputy Director, and Inspector General shall be appointed for terms of 12 years, except that—

(A) the first term of office of the Deputy Director shall be eight years; and

(B) the first term of office of the Inspector General shall be 4 years.

(d) INDEPENDENCE.—Except as provided in sections 4 and 5, in the performance of their functions, the officers, employees, or other personnel of the Bureau shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent of any other part of the Commission.

(e) ADMINISTRATIVE SUPPORT.—The Commission shall provide to the Bureau such support and facilities as the Director determines it needs to carry out its functions.

(f) RULES.—The Bureau is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions, but the Bureau may not establish any auditing standards within the jurisdiction of the Commission under sections 4 and 5.

(g) ADDITIONAL AUTHORITY.—In carrying out any of its functions, the Bureau shall have the power to hold hearings, sign and issue subpoenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate. The Bureau may, by one or more of its officers or by such agents as it may designate, conduct any hearing or other inquiry necessary or appropriate to its functions, except that nothing in this subsection shall be deemed to supersede the provisions of section 556 of title 5, United States Code relating to hearing examiners.

(h) CONFLICT OF INTEREST PROVISIONS.—A person previously employed by the Bureau may not accept employment or compensation from an issuer audited by the Bureau or an accountant that provides audit related services to an issuer audited by the Bureau for 10 years after the last day of employment at the Bureau. Any current employee of the Bureau shall be required to place all investments in a blind trust, in accordance with regulations prescribed by the Commission. The employees of the Bureau who conduct the audits shall be exempt from the civil service pay system under section 4802 of title 5, United States Code, and shall be paid salaries that are competitive with similar private sector employment.

(i) LEGAL REPRESENTATION.—Except as provided in section 518 of title 28, United States Code, relating to litigation before the Supreme Court, attorneys designated by the Director of the Bureau may appear for, and represent the Bureau in, any civil action brought in connection with any function carried out by the Bureau pursuant to this Act or as otherwise authorized by law.

**SEC. 4. ASSUMPTION OF AUTHORITY BY COMMISSION OVER AUDITING STANDARDS.**

(a) ASSUMPTION OF AUTHORITY.—Pursuant to its authority under the securities laws to

require the certification, in accordance with the rules of the Commission, of financial statements and other documents of reporting issuers of securities, the Commission shall, by rule, establish and revise as necessary auditing standards for audits of such financial statements.

(b) INCORPORATION OF CURRENT STANDARDS.—In adopting auditing standards under this section, the Commission shall incorporate generally accepted auditing standards in effect on the date of enactment of this Act, with such modifications as the Commission determines are necessary and appropriate in the public interest and for the protection of investors.

(c) ADDITIONAL REQUIREMENTS FOR RULES.—The rules prescribed by the Commission under subsection (a)—

(1) shall be available for public comment for not less than 90 days;

(2) shall be prescribed not less than 180 days after the date of enactment of this Act; and

(3) shall be effective on the first January 1 that occurs after the end of such 180 days.

**SEC. 5. FEES FOR THE RECOVERY OF COSTS OF OPERATIONS.**

(a) IN GENERAL.—The Commission shall in accordance with this section assess and collect a fee on each reporting issuer whose financial statements are audited by the Bureau. This section applies as of the first fiscal year that begins after the date of enactment of this Act (referred to in this section as the 'first applicable fiscal year').

(b) TOTAL FEE REVENUES; INDIVIDUAL FEE AMOUNTS.—The total fee revenues collected under subsection (a) for a fiscal year shall be the amounts appropriated under subsection (d)(2) for such fiscal year. Individual fees shall be assessed by the Commission on the basis of an estimate by the Commission of the amount necessary to ensure that the sum of the fees collected for such fiscal year equals the amount so appropriated.

(c) FEE WAIVER OR REDUCTION.—The Commission shall grant a waiver from or a reduction of a fee assessed under subsection (a) if the Commission finds that the fee to be paid will exceed the anticipated present and future costs of the operations of the Bureau.

(d) CREDITING AND AVAILABILITY OF FEES.—

(1) IN GENERAL.—Fees collected for a fiscal year pursuant to subsection (a) shall be credited to the appropriation account for salaries and expenses of the Bureau and shall be available until expended without fiscal year limitation.

(2) APPROPRIATIONS.—

(A) FIRST FISCAL YEAR.—For the first applicable fiscal year, there shall be available for the salaries and expenses of the Bureau \$5,150,000,000.

(B) SUBSEQUENT FISCAL YEARS.—For each of the four fiscal years following the first applicable fiscal year, there shall be available for the salaries and expenses of the Bureau an amount equal to the amount made available by paragraph (1) for the first applicable fiscal year, multiplied by the adjustment factor for such fiscal year (as defined in subsection (f)).

(e) COLLECTION OF UNPAID FEES.—In any case where the Commission does not receive payment of a fee assessed under subsection (a) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

(f) DEFINITION OF ADJUSTMENT FACTOR.—For purposes of this section, the term 'adjustment factor' applicable to a fiscal year is the lower of—

(1) the Consumer Price Index for all urban consumers (all items; United States city average) for April of the preceding fiscal year divided by such Index for April of the first applicable fiscal year; or

(2) the total of discretionary budget authority provided for programs in categories other than the defense category for the immediately preceding fiscal year (as reported in the Office of Management and Budget sequestration preview report, if available, required under section 254(c) of the Balanced Budget and Emergency Deficit Control Act of 1985) divided by such budget authority for the first applicable fiscal year (as reported in the Office of Management and Budget final sequestration report submitted for such year).

For purposes of this subsection, the terms "budget authority" and "category" have the meaning given such terms in the Balanced Budget and Emergency Deficit Control Act of 1985.

#### SEC. 5. DEFINITIONS.

As used in this Act:

(1) COMMISSION.—The term "Commission" means the Securities and Exchange Commission.

(2) SECURITIES LAWS.—The term "securities laws" means the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.), and the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.).

(3) REPORTING ISSUER.—The term "reporting issuer" means any registrant under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or any other issuer required to file periodic reports under section 13 or 15 of such Act (15 U.S.C. 78m, 78o).

The CHAIRMAN. Pursuant to House Resolution 395, the gentleman from Ohio (Mr. KUCINICH) and a Member opposed each will control 10 minutes.

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

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

Mr. Chairman, I include for the RECORD an article in the New Yorker entitled "The Accountants' War," and it has many interesting details about the collapse of accounting responsibilities in this country. It says that Enron was forced to reveal that its profits had been off by about 20 percent over 3 years and that as early as 1997 Arthur Andersen had known that Enron was inflating its income, but when Enron declined to correct the numbers, Andersen certified them anyway.

[From the New Yorker, Apr. 22, 2002]

#### THE ACCOUNTANTS' WAR

(By Jane Mayer)

Nothing, it has been said, is duller than accounting—until someone is defrauded. And after every modern financial disaster—the stock-market crash of 1929, the bankruptcy of the Penn Central Railroad in 1970, the savings-and-loan crisis of the eighties, and now the bankruptcy of the Enron Corporation—investors have tended to ask the same question: where were the auditors?

Arthur Levitt, Jr., who was the chairman of the Securities and Exchange Commission under President Bill Clinton, believes that in the years leading up to Enron's collapse the auditors were busy organizing themselves

into a lobbying force on Capitol Hill—one that has been singularly effective. Levitt, who issued a series of warnings about the accounting profession in those years, suggests that the aim of the so-called Big Five accounting firms—PricewaterhouseCoopers, Deloitte & Touche, Ernst & Young, K.P.M.G., and Arthur Andersen, Enron's auditor—was to weaken federal oversight, block proposed reform and overpower the federal regulators who stood in their way. "They waged a war against us, a total war," Levitt said.

Some have portrayed Enron's crash and the woes of Arthur Andersen simply as huge business failures. "There are always going to be bad apples," said Jay Velasquez, a former aide to Senator Phil Gramm, who is now a Washington lobbyist for the accounting profession, and who has fought increased regulation. Barry Melancon, who heads the American Institute of Certified Public Accountants, the profession's trade group, which has three hundred and fifty thousand members, fears that those who are trying to impose political solutions will overreact. "We live in a free-market system," Melancon told me. "Businesses fail. People are not infallible."

But Levitt casts the Enron story in starker terms. It is, as he puts it, "the story of the nineties"—a battle between public and private interests that is being fought at a time when there is more corporate money in politics than ever before. "This is about corporate greed," Levitt told me. "It is the result of two decades of erosion of business ethics. It was the ultimate nexus of business and politics. If there was ever an example where money and lobbying damaged the public interest, this was clearly it."

Levitt, who is seventy-one and has silver hair, exhibits a starchy correctness. He still seems bitter about his war with the accounting trade, and called one adversary "an oily weasel" and another "a sly mongoose" as he spoke about the influence of money on politics. "It used to be that if industries had a problem they would try to work it out with the regulatory authorities," he said, in his sleek office at the Carlyle Group, in midtown Manhattan, surrounded by mementos of years in public life. "Now they bypass the regulators completely, and go right to Congress." Their campaign contributions lend them clout. "It's almost impossible to compete with the effect that money has on these congressmen." Enron's campaign contributions and its political power have received much attention, but two of the top five accounting firms—Arthur Andersen and Deloitte—and the accountants' trade association actually spent more during the 2000 elections. "The money was enormous," Levitt said. "Look at the end result."

Not many years ago, Levitt was considered a consummate Wall Street insider, even an operator. In 1993, when President Clinton picked him to run the Securities and Exchange Commission, he was a centrist, a well-connected fundraiser who had contributed to both parties. He had founded his own lobbying organization, the American Business Conference, to advocate the interests of small business on Capitol Hill. He was also someone with a knack for cultivating famous and powerful friends. In the nineteen-sixties, he joined a successful start-up New York firm as a stockbroker, and he eventually counted among his clients Leonard Bernstein, Aaron Copland, and Kenneth Clark. Three of Levitt's original partners were Sanford Weill, who became the chairman of Citigroup; Arthur Carter, now the publisher of the New Yorker Observer; and Roger Berlind, who became a Broadway producer. (Levitt had his own ties to Broadway; his aunt was Ethel Merman.) Levitt thrived, too, and by the late sixties he was running Shearson Hayden Stone, which later became Shearson Lehman Brothers.

In 1977, after being asked to head a search committee for the next leader of the American Stock Exchange, he got the job himself. A few years later, he was thinking of investing in *The National Journal*, a policy-oriented magazine in Washington, when he learned of the publication's interest in acquiring *Roll Call*, a struggling newspaper on Capitol Hill. Levitt declined to invest in *The National Journal* but bought *Roll Call* himself, for about five hundred thousand dollars. Seven years later, he sold it for fifteen million dollars.

At the same time, Levitt was drawn to public life. He had grown up in a political household, the only son of Arthur Levitt, Sr., a Democrat who for twenty-four years was the New York State comptroller. Both his father and his mother, a public-school teacher in Brooklyn, were dependent on public pensions for their retirement, and they cared deeply about the protection of small investors.

When Levitt began his S.E.C. job, he acknowledged the populist tradition of the Roosevelt Administration, which created the S.E.C. in 1934, to insure the integrity of American financial markets. The agency's new Web site carried the motto of his most famous predecessor, William O. Douglas: "We are the investors' advocates." The S.E.C.'s basic requirement was that all publicly traded companies register with the agency and submit to annual independent audits. Douglas liked to say that the S.E.C. was "the shotgun behind the door." But Levitt soon discovered that the agency's arsenal was no match for the bull markets of the nineties. The new economy spawned new accounting schemes that raised concerns almost from the start.

One early fight was over stock options. Many pointed out that the accounting convention that kept these expenses, unlike ordinary executive compensation, off the books was deceptive. It meant that investors could not see a company's real liabilities. Levitt recalls that when he took office the first thing that Senators David Boren and Carl Levin, who were both active in regulatory reform, told him was that he "had to do something about stock options."

Congress soon got involved in the stock-option fight, and the politicization of accounting became more apparent than ever. Supporters of Wall Street and Silicon Valley, including many ordinarily pro-regulatory Democrats, fought against changing the stock-option rules; one, for example, was Senator Joseph Lieberman, of Connecticut, a state with a large concentration of Fortune 500 companies, many of which are campaign contributors. More surprising, the accounting profession, rather than remaining neutral, joined forces with its clients to fight the change. Together, they exerted pressure on the organization that sets the rules for the accounting business, the Financial Accounting Standards Board, or F.A.S.B. "This was a defining moment for me," Levitt said. A lawyer who was with the S.E.C. at the time says, "The accountants were going beyond good accounting. They were advocating a business position. They wanted to keep their customers happy. It was quite unseemly."

At first, Levitt played a hesitant role. In what he now regards as his "biggest mistake" at the commission, he, too, urged the F.A.S.B. to back off. His rationale, he said, was a fear that, if the board tried to resist the anti-regulatory feeling then sweeping Congress, it would be crushed altogether. (Sarah Teslik, the executive director of the Council of Institutional Investors, an advocate for shareholders, is among those who

argue that Levitt "wasn't the hero he makes himself out of be.") Levitt told me that the episode showed him that the accounting trade was undergoing a cultural transformation. Instead of overseeing corporate America, it was joining forces with it. "The kind of greed that produced Enron and Arthur Andersen was symbolized by the way the companies dealt with stock options," he said. "I realized something was wrong."

Until the Second World War, the American accounting industry has stayed close to its eighteenth-century roots in bookkeeping. But with the rise of information technology the accounting firms branched into consulting. During the nineteen-nineties, the Big Five doubled their collective revenues, to \$26.1 billion. Their consulting practices, in particular, were hugely profitable, and brought in three times as much revenue as auditing did, according to a study soon to be published in *The Accounting Review*. Auditors started coming under pressure to attract non-audit business. At some firms, like Andersen, auditors compensation depended upon their ability to sell other services to clients; equity partners began to be paid like investment bankers. Inevitably, there were conflicts between the independent role required of an auditor and the applicant role of a salesman trying to expand services.

At Enron, for example, Andersen did consulting on taxes and on internal auditing. Both projects threatened to put the outside auditors in the awkward position of assessing their own company's work. The relationship was further compromised by the fact that Enron's management included many former Andersen employees, among them the company's president, vice-president, and chief accounting officer. Auditors were thus in the position of judging former colleagues—and prospective bosses.

More than a year ago, well before Enron's problems became public, an internal e-mail revealed that fourteen top Andersen partners had pointed out several of the financial schemes that eventually contributed to Enron's fall. In a discussion about retaining Enron as a client the partners considered whether Enron's "aggressive . . . transaction structuring" was too risky. It appears from the e-mail, however, that the partners' concerns were outweighed by possible future rewards. The e-mail noted that their fees "could reach \$100 million per year."

"If you get too friendly and too relaxed, you can wind up nodding your head yes when you should be saying no," said Charles Bowsher, a former head of the General Accounting Office, who worked at Andersen for many years and has been retained to help reform the firm. "There's a lot of art in addition to science in accounting." Bowsher says that "most fraud flourishes in gray areas." But James Cox, a professor of corporate and securities law at Duke University, suggests that Enron's accounting gimmickry was black-and-white. "It was not even close," he said. "It was dead wrong."

Levitt said that, as the country's senior guardian of fair markets, he watched the transformation of the accounting profession with alarm. "The brakes on the worst instincts of the business community weren't working," he says. "The gatekeepers were letting down the gates." The number of audit failures afflicting corporate America was increasing; Lynn Turner, who served under Levitt as the chief accountant at the S.E.C., estimates that investors lost a hundred billion dollars owing to faulty, misleading, or fraudulent audits in the six years preceding Enron's crash. Many of the best-known corporations in the country were affected, among them Cendant, W. R. Grace, Sunbeam, Xerox, Lucent, and Oxford Health Plans. In fact, the number of publicly traded

companies forced to re-state their earnings went from three in 1981 to a hundred and fifty-eight last year, according to a doctoral thesis at New York University's Stern School of Business. (Barry Melancon, of the American Institute of Certified Public Accountants, calls concern over these numbers misleading, noting that they represent "fewer than one per cent of the audits performed.")

Shareholder lawsuits against the accounting firms proliferated. In response, the Big Five and their trade association united as a political force. According to the nonpartisan Center for Responsive Politics, between 1989 and 2001 accounting firms spent nearly thirty-nine million dollars on political contributions. The contributions were bipartisan, reaching more than half the current members of the House and ninety-four of a hundred senators.

By 1995, this investment had started to pay off. Congress passed the Private Securities Litigation Reform Act, making it harder for shareholders to sue businesses and their auditors when the businesses failed. The legislation was championed by the Speaker of the House, Newt Gingrich, as part of his Contract with America. "What we were after was trying to get rid of the frivolous, meritless cases," Mark Gitenstein, a lawyer and lobbyist who helped shape the legislation, said. "We convinced Congress that you needed a system that did a better job of screening the marginal cases from the serious ones." The resulting legislation, Professor Cox said, reversed "eighty years of federal procedure."

At first, Levitt tried to fight the private-securities bill, but when it became clear that the federal regulators couldn't compete with the accountants' clout in Congress, he looked for a compromise. "It was a case where the industry had more power than the regulators," he said. Then, as now, there were approximately seventy-five lobbyists for every member of the House and Senate; in the Gingrich era, they were more integrated into the lawmaking process than ever before. Jeffrey Peck, a former Democratic Senate aide who was then the head of Arthur Andersen's Washington lobbying office and is now an outside lobbyist for the firm, says that after this fight there was "really bad feeling" between Levitt and the profession. "It was as if two people had gone out on a first date and had a bad time," he says. "But the rules required them to keep dating."

Levitt told me that he has always been proud of his ability to create consensus, and in the spring of 1996 he tried to involve the profession in reforming itself. He urged the big accounting firms to strengthen their oversight system and toughen discipline for transgressors. He proposed giving investors and other members of the public a bigger role. But, he said, the accountants resisted, and progress was made only after "huge fights."

Rules governing auditors' independence hadn't been updated in two decades. To examine the growing number of questions about conflicts of interest, Levitt created a new board, whose membership was divided between independent business leaders and people from the accounting industry. "They were constantly deadlocked by differences of opinion," Levitt said, and added, "When I asked for support, I never got it. I never heard in any speech they"—the accountants—"gave the words 'public interest.' They were so stilted, and terse, and non-productive—I realized it was an industry that completely lacked leadership."

The accounting industry hired Harvey Pitt, who was known as one of the smartest and most aggressive private-securities lawyers in the country. Pitt responded to Levitt's call for greater public oversight by

arguing, in a lengthy white paper, that the accounting firms were better off policing themselves. "The staff regarded his white paper as a kick in the stomach, because it was so one-sided and confrontational," Levitt said. One S.E.C. official recalls that Pitt made the negotiations over the new board "the most horrible ever," and Lynn Turner says, "It was doomed from day one."

Pitt, who was appointed by President George W. Bush to succeed Levitt as chairman of the S.E.C., said, "There was a lot of misperception about what the white paper said. For some reason, early on people seemed to get in their mind that I opposed what Levitt did," to reform accounting. "I tried to give him my own help on a personal basis."

In the summer of 1998, Levitt received a report about a problem in Pricewaterhouse's Tampa office. According to the report, nine executives there had made eighty investments in companies that they were supposed to be auditing—a violation of the most basic independence standards. Under the S.E.C.'s direction, the firm initiated a company-wide investigation. To the shame of the entire profession, it turned up more than eight thousand such violations. The S.E.C. fined Pricewaterhouse two and a half million dollars, and called for an investigation into compliance with independence rules at the rest of the Big Five firms; Levitt asked an independent group, the Public Oversight Board, which had been created after the Penn Central collapse, to undertake this task.

Levitt also took his battle public, in the fall of 1998, he gave a speech that attacked the "number game." He said, "Accounting is being perverted. Auditors who want to retain their clients are under pressure not to stand in the way." He explained, "Auditors and analysts are participants in a game of nods and winks. . . . I fear we are witnessing an erosion in the quality of earnings, and therefore the quality of financial reporting." In conclusion, he said, "Today American markets enjoy the confidence of the world. How many half-truths and accounting sleights of hand will it take to tarnish that faith?"

The Public Oversight Board, made up of major business figures, was supposed to act as the profession's conscience. But in May, 2000, before its investigation could be completed, the P.O.B.'s head, Charles Bowsher, received a letter from officials at the American Institute of Certified Public Accountants, which finances the board, announcing that it would "not approve nor authorize" funding for further investigations. Bowsher, who had himself been a high-ranking officer with Arthur Andersen before becoming the head of the General Accounting Office, says that he was shocked; the industry was effectively stopping the investigation. Melvin Laird, a former Secretary of Defense, who was the longest-serving member of the P.O.B., called it "the worst incident in my seventeen years." Barry Melancon, the head of the trade association, defended the association's position. "We were never opposed to the concept," he told me, referring to the investigation. "We just felt the P.O.B. was undertaking a project that it couldn't define."

At the same time, the S.E.C. was uncovering a huge case of accounting fraud involving the garbage-disposal company Waste Management: Arthur Andersen had put an unqualified seal of approval on numbers that the government said it either knew or should have known were misleading. As if in anticipation of the revolving-door conflicts at Enron, practically ever C.F.O. and C.A.O. in Waste Management's history had come from Andersen, S.E.C. enforcement documents from the investigation reveal something

else: at least two of the partners who were singled out for scrutiny by the S.E.C. remained in influential positions at Andersen while being investigated, and both have now surfaced in connection with the Enron affair. (One executive, Robert Kutsenda, who was later barred by the S.E.C. from auditing public companies for a year, was placed in charge of redesigning the firm's policy on which documents to retain and which to shred, an issue in the Enron case. Kutsenda and Steve Samek, who was also investigated in the Waste Management case but not publicly sanctioned, were among those involved in the discussion of whether to retain Enron as a client. None of the executives involved in the Waste Management matter were fired by Andersen, which last year agreed to pay a seven-million-dollar penalty to the S.E.C., without admitting or denying guilt, after it was charged with fraud. In addition, two of the Andersen partners targeted by the S.E.C. in the fraud case now serve on the profession's standard-setting board, the F.A.S.B.)

By 2000, Levitt, faced with what he calls the Big Five's "fortress mentality," had initiated a series of meetings with the firms at which he insisted that they needed to do more to police themselves. Levitt's message, Turner told me, was that the firms could either cooperate with an investigation into their compliance with independence rules or "we'll issue the subpoenas tomorrow—take your pick."

In the spring of 2000, the S.E.C. announced that it planned to draft new rules that would greatly restrict accountants' ability to consult for the same companies they audited. Arthur Andersen reportedly argued that this would cut its market potential by forty per cent, and vowed to fight back. A June meeting in Deloitte's New York headquarters with the heads of the three firms who most vehemently opposed the new rules "was so icy you could have stored cold meat in that room," Turner says. The heads of Andersen, Deloitte, and K.P.M.G. joined Melancon on one side of a conference table. (Price-waterhouse and Ernst & Young were more supportive of Levitt, and didn't attend.) Levitt and two S.E.C. officials were on the other. When Levitt made it clear that he intended to move forward, Andersen's chief executive, Robert Grafton, declared, "This is war."

"It was unbelievable, just unbelievable," Turner recalled. "They all went after Arthur. They made clear that everything was fair game." Turner says that the attitude of the firms was "You know we're going to win anyway in the end, so why not save us the expense, and give up now?"

"As soon as I left that meeting," Levitt told me, "it was clear the fight was going to Capitol Hill." Such clashes over commercial interests are commonplace in Congress, but "this wasn't about legislation," he said. "It was about S.E.C. rule-making—we're supposed to be an independent agency. I'd never seen anything like it at the S.E.C."

During this period, Levitt said, he got a letter from Representative W.J. (Billy) Tauzin, of Louisiana, the chairman of the House Energy and Commerce Committee, who has received more than two hundred and eighty thousand dollars from the accounting industry over the past decade. The letter consisted of four pages of pointed questions. In a not very veiled threat, Tauzin asked how many violations Levitt and the other members of the S.E.C. would have if their stock holdings were subjected to the independence rules being proposed for the accountants. He also demanded that Levitt produce proof that non-audit consulting undermines auditors' accuracy. "It was a shot across the bow from the industry," Levitt says. "They were saying, 'If you go forward, expect a lot of pain.'"

In the following weeks, he said, Tauzin "badgered me relentlessly. He knew what the accountants were doing before I did. He was working very closely with them. I don't mean to sound cynical, but is it because he loves accountants?" At one point, relations between the two men grew so bad that Levitt hung up on Tauzin, because he felt that "his words and his tone were threatening."

Tauzin was not alone. In the four weeks after Levitt announced his intention to go through with the proposed new rules, forty-six more congressmen wrote to him questioning them. Data from the Center for Responsive Politics show that in 2000 the accountants contributed more than ten million dollars to political campaigns and spent \$12.6 million on federal lobbying. Arthur Andersen alone nearly doubled its lobbying budget in the second half of the year, to \$1.6 million. Among the lobbyists hired by the industry were Vic Fazio, a former congressman; Jack Quinn, a former Clinton White House counsel; Ed Gillespie, a former Bush campaign adviser; Patrick Griffin, Clinton's former congressional liaison; Dan Brouillette, a former aide to Tauzin who is now an Assistant Energy Secretary; and a number of other former Hill staff people.

Now, however, Tauzin has joined in the public outrage toward Enron and Andersen; in a House hearing that he chaired, he called the case "an old-fashioned example of theft by insiders, and a failure of those responsible for them to prevent that theft." He told me that money hadn't influenced his earlier defense of the accountants. "Donations have never bought anybody any slack with this committee," he said. "I'm not saying that contributions don't have the power to corrupt. They do. But I always assume people contribute to me because they like the work I do."

By early fall of 2000, Levitt says, he began to hear another kind of threat; lobbyists told him that if he didn't back off there would be a push to cut the S.E.C.'s funding. "They were going to place a rider on our appropriations budget," Levitt said, still sounding as if he could not believe it. Jay Velasquez, a lobbyist for the accountants at the time, confirmed this. "You have to consider all your options," he said. "There is no doubt that the rider was a consideration. In these battles, everything is on the table." Henry Bonilla, a Texas Republican with an anti-regulatory temperament who is a member of the House Appropriations Committee, was prepared to attach the rider. Bowsher, the former G.A.O. head, says that such threats were once unthinkable. "In the old days, the S.E.C. was off limits to that kind of pressure. It was a place the private sector respected. Nobody, nobody, would have thought about asking Congress to cut the budget."

Representative Tom Udall, a Democrat from New Mexico, says that his staff urged him to sign a widely circulated letter to Levitt opposing the proposed rules, because so many of his colleagues had. "There's sort of a herd mentality," he said. He refused; he knew Levitt slightly, through mutual friends in Santa Fe. "Levitt was out to solve these things before people realized there was a problem. That's the sign of a leader. But the special interests have such a hold on members of Congress that they were able to stop a lot of things."

Levitt initiated a nationwide series of public hearings about accounting abuses, fighting back as if he were involved in a political campaign. Damon Silvers, an A.F.L.-C.I.O. official who supported the S.E.C.'s position, recalls that "Levitt looked like a figure from some old movie—he was sitting at a huge desk at the S.E.C. with a bank of phones, talking on several lines at once."

But by then Levitt's eight-year term at the S.E.C. was about to expire, and the account-

ing-industry supporters developed a new strategy: they started to oppose the rule's substance on procedural grounds, arguing that there hadn't been enough time for public hearings. "Of course, we knew that by calling for more time it would mean the end of Levitt," one lobbyist said.

With the accounting firms threatening to take the S.E.C. to court if he went ahead with the rules, Levitt tried to strike a deal with the three firms who opposed him, at which point the two firms who had previously supported him turned against him. That night, one aide recalled, Levitt gave up. "I lost it," Levitt said.

In the end, he kept negotiating, and the S.E.C. agreed to let the firms continue to consult for the companies they audited. But the firms agreed to disclose the details to investors. "I knew it wasn't enough, but I thought we'd be overruled by Congress in one fashion or another," Levitt said. "The part of me that was insecure wanted a bird in the hand."

Almost exactly a year later, Enron's outside auditor, Arthur Andersen L.L.P., a company whose image had virtually defined Midwestern probity, made an astonishing admission. During the previous three years, when it had vouched for Enron's financial statements, the company's net income had actually been inflated by almost six hundred million dollars. In a financial market where stocks plummet if corporate earnings fall a penny short of projections, Enron was forced to reveal that its profits had been off by about twenty per cent over three years. As early as 1997, Andersen had known that Enron was inflating its income. But when Enron declined to correct the numbers Andersen certified them anyway. Within six months, Enron had filed for bankruptcy and Andersen had been indicted on charges of obstruction of justice for destroying documents related to its Enron work. Investors lost an estimated ninety-three billion dollars, a sum nearly equal to the amount of the economic-stimulus package that President Bush requested for the entire country. In the year before Enron's crash, Andersen had collected a million dollars a week from Enron for its expertise. More than half of that, Andersen acknowledged, in compliance with the new S.E.C. rule, was for non-auditing work.

"If these reforms had been in place earlier, we wouldn't have had an Enron," Lynn Turner told me. He laughed, but the laugh sounded a little forced as he spoke about Congress's newfound interest in reform. "Maybe the congressman were listening more than I thought—we just weren't giving them enough money," he said.

Not long ago, Levitt was called to testify before Congress about what went wrong at Arthur Andersen. "It was a play within a play," he told me. He said that he has little hope for meaningful change in the profession, despite all the bills under consideration, and despite commitments from Harvey Pitt, his successor at the S.E.C. Before Enron collapsed, Pitt promised the accountants "kinder and gentler" treatment than Levitt had shown them, but he has since sharpened his rhetoric and proposed a great many reforms. Pitt told me that his work for the accountants has made him better able to persuade them to change their ways because, "to put it bluntly, I know where the bodies are buried." But Pitt dismissed Levitt's approach—separating auditing from consulting—as "a simplistic solution to a complex problem," and told me that he thought it could prove counterproductive. "A firm that does only audits may be incompetent," he said.

"That's the same argument that the accountants put forward," Levitt said with a sigh. "I didn't accept it then, and I accept it

even less today. I have to conclude it's specious. It's very sad. The Administration is missing a glorious opportunity to reform this industry."

The failure of Arthur Andersen to provide an accurate audit of Enron for several years is not a new or isolated problem. All of the Big Five accounting firms have been implicated in failed audits that cost investors billions of dollars when earnings restatements sent stock tumbling. I have here a chart that shows how failed audits have cost investors billions, how a company named MicroStrategy with PricewaterhouseCoopers, the auditor, lost \$10 billion, \$10.4 billion in lost market capitalization; and the list is a pretty extensive list.

For-profit private auditors have an inherent conflict of interest. They are hired and fired by their audit clients. If their draft audit does not please the firm they are auditing, they may lose future business unless they change their ways to please the firm.

As a result, auditors have a strong incentive to sign-off on substandard financial statements rather than risk losing a client. The integrity and the independence of the audit is undermined by the profit-seeking motive of the private auditing firm.

This amendment which I have brought before the House would ensure the independence of the audit, and I am offering a substitute amendment. Actually, this bill creates a Federal bureau of audits to regulate corporate America's books by auditing all publicly traded companies.

Americans rely on the FBI to protect them from criminals and terrorists, but who protects the American shareholders from corporate criminals? The Enron scandal suggests that we need audit cops, the Federal bureau of audits. This is a conservative pro-free market amendment to the Corporate and Auditing Accountability, Responsibility, and Transparency Act because it guarantees shareholders accurate and partial information about their investments that requires an absolute separation between the auditors and companies they audit.

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

Mr. OXLEY. Mr. Chairman, I rise to claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from Ohio (Mr. OXLEY) is recognized for 10 minutes.

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

This amendment offered by my friend from Ohio would basically create a Federal bureau of audits. The Kucinich amendment would actually put the Federal Government in charge of auditing the 17,000 public companies in the United States, essentially nationalizing the accounting profession; and that is simply not a good idea. In fact, it is really quite dangerous.

Overnight we would go from having the strongest capital market system in

the world, with the best accounting, most integrity and most transparent disclosures to investors, to becoming the laughingstock of the global economy. Remember, this is the same Federal Government that cannot deliver a letter on time, cannot keep out illegal immigrants, and cannot buy a hammer for under \$500.

The amendment would create a massive bureaucracy that is almost unimaginable, produce truly disastrous results, reducing substantially the quality of public audits and financial disclosures to investors. America's nearly 100 million investors, and investors from all over the world for that matter, would no longer have confidence in the audited financial statements of our 17,000 public companies.

It is not hyperbole to say this amendment would do great damage to our capital markets; but if my colleagues think the solution to the Enron problem is attacking with the creativity and efficiency of the DMV, then they should support this amendment. If they think, as I do, that a fair and balanced approach by experts is the best way to protect American investors, they should support the base bill and oppose this amendment.

Mr. Chairman, I strongly urge all Members to vote "no" on this very dangerous proposal, and later I will tell my colleagues what I really think.

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

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

It is good to see my friend from Ohio's feelings about this, particularly in light of the fact that America's investors have lost over \$100 billion in a system where people are allowed to profit where they cook the books.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), who knows firsthand from the constituents she represents in Texas what happens under this current system.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Ohio (Mr. KUCINICH) very much for his distinguished leadership on this issue, and I cannot thank the gentleman from New York (Mr. LAFALCE) enough for the leadership he has given to this, and may I personally on the floor of the House thank him for the assistance he has given to ex-Enron employees. We are very much appreciative of that.

Let me announce to the House that right now we are in the midst of very, very intense negotiations to simply be able to provide a refund of the severance pay that is owed over 4,000 employees that was canceled out by the bankruptcy filing over the weekend; and the day after it was cancelled, 4,000 of my constituents and Houstonians were laid out into the street.

I believe, unlike one of the journalists who suggested that those of us who

represent Enron are trying to reconstruct ourselves, and I would like to take him on on that issue, I think what we are trying to do is to think out of the box and be able to respond to what the American people would like. They want some very strong legislation that answers these concerns, and that is why I am supporting the Brad Sherman amendment. I am supporting the LaFalce substitute, and I come to the floor for the gentleman from Ohio (Mr. KUCINICH) because I believe that the previous announcement is incorrect.

The American people want a strong oversight bureau such as the Federal bureau of audits within the SEC. One of the problems was the weakness of the SEC in dealing with the debacle that occurred. We are not castigating those hardworking employees that are now trying to rebuild Enron in another name and do its business selling gas, but what we are saying is because there was no one looking into the dark of night, turning the light bulb on and letting us know about these audits that were coming in, individuals who could divest themselves of their investments, independent individuals who are not consulting and auditing at the same time, not only did we bring a company down that we in Houston believe was a great corporate citizen, giving to all the charities around; but we have put a taint on corporate America.

It is imperative that we pass the Kucinich amendment, the Sherman amendment, and the LaFalce substitute.

Mr. Chairman, I rise today in support of the Kucinich substitute to H.R. 3763, the Corporate and Auditing Accountability and Responsibility Act.

This substitute would create a new office, the Federal Bureau of Audits, within the SEC. This office would be responsible for performing annual audits on the financial statements of all publicly-traded companies and replaces the current system of private auditors.

This new office would be afforded adequate powers to investigate, such as the power to hold hearings, issue subpoenas, administer oaths and examine witnesses. Moreover, Bureau employees would be required to place their investments in a blind trust and they would be prohibited from taking jobs or consulting fees from any company audited by the bureau for 10 years from the time they leave the agency.

I believe that this substitute adequately addresses the relationship between audit firms and companies that hire them. This Congress has witnessed and investigated in detail the conflict of interest that could occur in such a partnership.

Moreover, it guarantees shareholders accurate, impartial information about their investments. Many of my constituents in the 18th Congressional District were employed by Enron and deceived by shady auditing practices. They are now jobless and it is the responsibility of this body to see that this never happens again.

I urge my colleagues to vote for the Kucinich substitute.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from New York (Mrs.

KELLY), the chairman of the Subcommittee on Oversight and Investigations of the Committee on Financial Services.

Mrs. KELLY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio (Mr. KUCINICH). This amendment is not balanced. It goes too far, and I do not believe it would do anything but great harm to the businesses of this country.

The free market is important, and it is important that we do not do things that will have unintended consequences and choke that free market. This amendment could do away with all accounting firms because, as the amendment states, and I quote, "The only truly independent audit is one by a government agency."

As we heard, the amendment creates the Federal bureau of audits. I guess it is modeled after the FBI so I can see auditors storming into companies with their calculators drawn, demanding individuals to freeze and drop their pencils.

The amendment seems to envision that the most efficient and effective auditor would be the U.S. Government. Somehow I just cannot agree with that, and I think this amendment is important for us to take a good look at for its unintended consequences.

I think the author is looking to combine the same level of efficiency to accounting that HUD brought to housing, perhaps. I imagine that the author is looking for the effectiveness of the IRS in its customer service.

Finally, with the accounting expertise of the Department of Defense with \$100 hammers, I am sure our corporations will be in the best hands possible.

This amendment does not understand, I think, the concepts of reasonable, responsive response from our government, and I think this amendment needs to be defeated. I urge Members on both sides of the aisle to think about this and join us in the opposition to the amendment.

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

I want to point out that Arthur Andersen not only participated in a fraud, it manipulated this Congress to ensure that the firm could participate in other frauds with deceptive company executives.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Chairman, I thank the gentleman from Ohio (Mr. KUCINICH) for yielding me the time.

I rise in support of the Kucinich and Progressive Caucus substitute to H.R. 3763. This substitute restores integrity to investor-owned companies by ensuring that the investors and taxpayers and employees get an accurate assessment of a corporation.

We know that the Enron debacle demonstrated how corrupting the so-called free market is when corporate officials and auditing firms are intertwined. When we create the Federal bu-

reau of audits we remove this corrupting influence, and appointments for 12 years remove the temptation of Congress to tamper with the watchdog duties.

So let us remove the conflict of interest between corporations and auditing firms they can hire and fire. We can guarantee shareholders accurate and impartial information about their investments, and that is the true free market solution to this problem.

The underlying bill is more than a no no bill. It is a no no no no no no no no bill because does the bill help the SEC recover ill-gotten gains from corporate executives? No. Does it make CEOs responsible for their companies' public disclosures? No. Does it help the SEC send those who commit fraud to jail? No. Does it bar bad executives from serving in other companies? No. Does it make auditors independent? No. Does it ensure the oversight board is independent? No. Does it give the oversight board a clear mandate? No. Does it require auditors to be rotated? No. Does it close the revolving doors between accountants and their clients? No.

The underlying bill could be termed the Ken Lay Protection Act. We can no longer have the fox guarding the hen house. The Kucinich amendment fixes the problem.

□ 1300

The CHAIRMAN. The Chair advises Members that the gentleman from Ohio (Mr. OXLEY) has 6 minutes remaining and the gentleman from Ohio (Mr. KUCINICH) has 2½ minutes remaining.

Mr. OXLEY. Mr. Chairman, I would inquire of the Chair whether the gentleman from Ohio has further speakers.

Mr. KUCINICH. Right here. I will be closing. Mr. Chairman, I have the right to close on this?

The CHAIRMAN. The Chair will advise the Member that the gentleman from Ohio (Mr. OXLEY) has the right to close.

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

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. BAKER).

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

The Kucinich amendment is an interesting one in its practical effect. We are going to create a government entity that is going to have the sole and specific authority to evaluate the financial condition of 17,000 public corporations. Now, if anyone has tried to read a single financial statement and understand it and then evaluate its accuracy, one can pretty quickly determine that this is a responsibility beyond any magnitude that anyone could possibly comprehend.

The amendment, I am sure, is based on a good-faith effort to be responsive to the Enron crisis, but this would be the crisis of all crises. We would have a complete inability to have a free flow

of information from the corporation to their investors without this intervening government regulatory body giving its stamp of approval.

I do not know how many of you have ever had any difficulty, let us say, with the IRS in trying to work through its maze of regulatory constraints and get a direct answer overnight on whether or not you are filing the form properly. This is like taking the IRS and sticking it in the corporate board room of every corporation in America. This will not work.

I understand the gentleman's concerns and share those concerns. Many innocent third parties were harmed by the failure of Enron, Global Crossing, and perhaps others yet to be disclosed. And I feel for those individuals who likely will never get any of those funds back in their retirement accounts or who have lost their jobs. But let us make it clear, there are ongoing criminal investigations, and prosecutions certainly to follow, because under the simplest of rules, under rule 10(b)5 of the SEC's regulations, there was fraud committed. People are going to jail.

What we are trying to do is to create a manner in which a free flow of accurate information can be given to investors to make quality decisions. That is what the underlying bill will do.

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

Americans are urged to own a piece of the rock; invest in corporate America. We have gone from a psychology of owning a piece of the rock to owning a piece of the Brooklyn Bridge. Because what is happening is that investors are not being given accurate information by accountants who have an inherent conflict of interest.

It is said the pen is mightier than the sword. Well, this pencil is mightier than the free market, apparently, because a pencil can change the nature of the free market by misstating earnings and then restating earnings and having the value of the stock drop. And then what happens to investors? Nothing. They lose it all.

We need to take a stand here. A free market requires accurate information to operate efficiently. My amendment is the only amendment that guarantees accurate information for investors, and my amendment is profoundly conservative. It is totally dedicated to protecting and conserving the property of investors.

Who is taking a stand here for the investors, to make sure that investors get information that is accurate and upon which they can make decisions on how they are going to spend their money?

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

Mr. OXLEY. Mr. Chairman, I understand I have the right to close and I plan to do so, and would so indicate to my friend.

Mr. KUCINICH. How much time remains, Mr. Chairman?

The CHAIRMAN. The gentleman from Ohio (Mr. KUCINICH) has 1½ minutes remaining, the gentleman from

Ohio (Mr. OXLEY) has 4 minutes remaining.

Mr. KUCINICH. Mr. Chairman, I continue to reserve the balance of my time, unless the gentleman is going to close right now.

Mr. OXLEY. I am prepared to close.

Mr. LAFALCE. Mr. Chairman, will the gentleman from Ohio yield me 1 minute?

Mr. OXLEY. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Chairman, I want to commend the gentleman from Ohio (Mr. KUCINICH) for his good-faith effort to deal with the problem, and if we were starting anew, I might well favor this approach.

We do have examiners for our banks, our national banks and our State banks, and they work for the government. We do have examiners for our thrifts, and they work for the government. We do have examiners for our credit unions, and they work for the government. It works. And the reason we had examiners for the government is because we trusted them. We thought that they would be representing the public interest.

We devised this system in an era when most people put almost all of their money in banks, in thrifts, in credit unions. That is no longer the case. Now, most people are putting most of their hard-earned money in publicly traded corporations.

And while I suspect the amendment of the gentleman from Ohio (Mr. KUCINICH) goes further than we can politically do at this juncture, I commend him for at least raising the issue.

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

Let us go to middle America, where men and women who work hard all their lives to establish some kind of a financial nest egg put their faith not only in the market, but in this country, and invest in various corporate enterprises. Mr. and Mrs. Middle America are the backbone of this economy. They work, they help produce taxes for this country, and they help produce wealth that can continue to grow and make America the strong country which it is.

What happens when they cannot have confidence that the earnings statements of the companies in which they are investing are real? What if there is no credibility for a market that one day goes up and the other day goes down because people are lying about their books?

There is something that is at stake here that is much larger than this bill that is before the House for debate. And what is at stake here is the confidence that people need to have in our free market system. And the only way you can rescue that in a climate where the accounting industry has basically stolen a march on regulators is to retrieve the role of the government in assuring that people's investments are going to be protected.

That is what this amendment is about. The free market economy again requires accurate information to operate efficiently. And so I ask all of my colleagues, where is your commitment to free markets today? Where will you stand when your constituents ask what happened to my investment; why did they lie to me; and why did you not do something about it?

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

I would welcome my friend from Ohio to the conservative ranks if I really thought this amendment was conservative in nature, but it is hardly that. This is a big government solution. It is a one-size-fits-all solution. It is essentially the neutron bomb. I guess his message is, if you have lost faith in the free market, you need to have faith in big government.

I do not think people are ready to make that leap. I think they understand intuitively, based on their investments, that they trust the free market, and they trust that our markets are the most open and efficient markets in the world, represented by the American marketplace. That is really the message.

And, indeed, people have changed dramatically. Probably just a few years ago when I first came to Congress, two-thirds of people's savings were in bank accounts and only a third in equities. That is totally turned around now. We have become a Nation of investors from a Nation of savers, and that is a positive development. We have 46 million in 401(k) plans that are invested in those accounts. We have over half of the households today invested in equities.

We have the most robust market in the history of the world. Let us not change that. Let us not endanger that free market with the Kucinich amendment. I ask the Members to vote against the Kucinich amendment and for the underlying bill.

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

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio (Mr. KUCINICH).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KUCINICH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 39, noes 381, not voting 14, as follows:

[Roll No. 107]

AYES—39

Abercrombie	Davis (IL)	Hilliard
Baldwin	Evans	Jackson (IL)
Berkley	Filner	Jackson-Lee
Bonior	Frank	(TX)
Clayton	Green (TX)	Kaptur
Clyburn	Gutierrez	Kennedy (RI)
Conyers	Hastings (FL)	Kucinich

Lee	Pascrell	Stark
Lewis (GA)	Pastor	Thompson (MS)
McDermott	Payne	Waters
McKinney	Roybal-Allard	Watson (CA)
Mink	Sanders	Woolsey
Olver	Schakowsky	
Owens	Solis	

NOES—381

Ackerman	Dicks	Kennedy (MN)
Aderholt	Dingell	Kerns
Akin	Doggett	Kildee
Allen	Dooley	Kilpatrick
Andrews	Doolittle	Kind (WI)
Army	Doyle	King (NY)
Baca	Dreier	Kingston
Bachus	Duncan	Kirk
Baird	Dunn	Klecza
Baker	Edwards	Knollenberg
Baldacci	Ehlers	Kolbe
Ballenger	Ehrlich	LaFalce
Barcia	Emerson	LaHood
Barr	Engel	Lampson
Barrett	Eshoo	Langevin
Bartlett	Etheridge	Lantos
Barton	Everett	Larsen (WA)
Bass	Farr	Larson (CT)
Becerra	Fattah	Latham
Bentsen	Ferguson	LaTourette
Bereuter	Flake	Leach
Berman	Fletcher	Levin
Berry	Foley	Lewis (CA)
Biggert	Forbes	Lewis (KY)
Bilirakis	Ford	Linder
Bishop	Fossella	Lipinski
Blumenauer	Frelinghuysen	LoBiondo
Blunt	Frost	Lofgren
Boehlert	Galleghy	Lowey
Boehner	Ganske	Lucas (KY)
Bonilla	Gekas	Lucas (OK)
Bono	Gephardt	Luther
Boozman	Gibbons	Lynch
Borski	Gillmor	Maloney (CT)
Boswell	Gilman	Maloney (NY)
Boucher	Gonzalez	Manzullo
Boyd	Goode	Markey
Brady (PA)	Goodlatte	Mascara
Brady (TX)	Gordon	Matheson
Brown (FL)	Goss	Matsui
Brown (OH)	Graham	McCarthy (MO)
Brown (SC)	Granger	McCarthy (NY)
Bryant	Graves	McCollum
Burr	Green (WI)	McCreery
Burton	Greenwood	McGovern
Buyer	Grucci	McHugh
Callahan	Gutknecht	McInnis
Calvert	Hall (OH)	McIntyre
Camp	Hall (TX)	McKeon
Cannon	Hansen	McNulty
Cantor	Harman	Meehan
Capito	Hastings (WA)	Meek (FL)
Capps	Hayes	Meeks (NY)
Capuano	Hayworth	Menendez
Cardin	Hefley	Mica
Carson (IN)	Herger	Millender-
Carson (OK)	Hill	McDonald
Castle	Hilleary	Miller, Dan
Chabot	Hinchee	Miller, Gary
Chambliss	Hinojosa	Miller, Geoff
Clay	Hobson	Miller, Jerry
Clement	Hoefel	Mollohan
Coble	Hoekstra	Moore
Collins	Holden	Moran (KS)
Combest	Holt	Moran (VA)
Condit	Honda	Morella
Cooksey	Hooley	Murtha
Costello	Horn	Myrick
Cox	Hostettler	Nadler
Coyne	Hoyer	Napolitano
Cramer	Hulshof	Neal
Crane	Hunter	Nethercutt
Crenshaw	Hyde	Ney
Crowley	Inlee	Northup
Cubin	Isakson	Norwood
Culberson	Israel	Nussle
Cummings	Issa	Oberstar
Cunningham	Istook	Obey
Davis (CA)	Jefferson	Ortiz
Davis (FL)	Jenkins	Osborne
Davis, Jo Ann	John	Ose
Davis, Tom	Johnson (CT)	Otter
Deal	Johnson (IL)	Oxley
DeFazio	Johnson, E. B.	Pallone
Delahunt	Johnson, Sam	Paul
DeLauro	Jones (NC)	Pelosi
DeLay	Jones (OH)	Pence
DeMint	Kanjorski	Peterson (MN)
Deutsch	Keller	Peterson (PA)
Diaz-Balart	Kelly	Petri

Phelps	Scott	Thomas
Pickering	Sensenbrenner	Thompson (CA)
Pitts	Serrano	Thornberry
Platts	Sessions	Thurman
Pombo	Shadegg	Tiahrt
Pomeroy	Shaw	Tiberi
Portman	Shays	Tierney
Price (NC)	Sherman	Toomey
Putnam	Sherwood	Toomey
Quinn	Shimkus	Towns
Radanovich	Shows	Turner
Rahall	Shuster	Udall (CO)
Ramstad	Simmons	Udall (NM)
Rangel	Simpson	Upton
Rehberg	Skeen	Velazquez
Reyes	Skelton	Visclosky
Reynolds	Slaughter	Vitter
Rivers	Smith (MI)	Walden
Roemer	Smith (NJ)	Walsh
Rogers (KY)	Smith (TX)	Wamp
Rogers (MI)	Snyder	Watkins (OK)
Rohrabacher	Souder	Watt (NC)
Ros-Lehtinen	Spratt	Watts (OK)
Ross	Stearns	Waxman
Rothman	Stenholm	Weldon (FL)
Roukema	Strickland	Weldon (PA)
Royce	Stump	Weller
Rush	Stupak	Wexler
Ryan (WI)	Sullivan	Whitfield
Ryun (KS)	Sununu	Wicker
Sabo	Sweeney	Wilson (NM)
Sanchez	Tancredo	Wilson (SC)
Sandlin	Tanner	Wolf
Sawyer	Tauscher	Wu
Saxton	Tauzin	Wynn
Schaffer	Taylor (MS)	Young (AK)
Schiff	Taylor (NC)	Young (FL)
Schrock	Terry	

## NOT VOTING—14

Blagojevich	Houghton	Smith (WA)
DeGette	Pryce (OH)	Thune
English	Regula	Trafficant
Gilchrest	Riley	Weiner
Hart	Rodriguez	

□ 1333

Messrs. BACA, KINGSTON, SAXTON, Mrs. DAVIS of California, Messrs. CUMMINGS, GEORGE MILLER of California, BURR of North Carolina and Ms. CARSON of Indiana changed their vote from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. ENGLISH. Mr. Speaker, on rollcall vote No. 107, I was unavoidably detained at an event with several of my colleagues and missed the vote. Had I been present, I would have voted "no."

Mr. WEINER. Mr. Speaker, on Wednesday, April 24, 2002, I was unavoidably detained and missed rollcall vote No. 107. Had I been present, I would have voted "no."

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 107-418.

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
NO. 5 OFFERED BY MR. LAFALCE

Mr. LAFALCE. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

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

Amendment in the nature of a substitute No. 5 offered by Mr. LAFALCE:

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 "Corporate and Auditing Accountability, Responsibility, and Transparency Act of 2002".

(b) **TABLE OF CONTENTS.**—

- Sec. 1. Short title; table of contents.  
 Sec. 2. Auditor oversight.  
 Sec. 3. Improper influence on conduct of audits.  
 Sec. 4. Real-time disclosure of financial information.  
 Sec. 5. Insider trades during pension fund blackout periods prohibited.  
 Sec. 6. Improved transparency of corporate disclosures.  
 Sec. 7. Improvements in reporting on insider transactions and relationships.  
 Sec. 8. Enhanced oversight of periodic disclosures by issuers.  
 Sec. 9. Retention of records.  
 Sec. 10. Removal of unfit corporate officers.  
 Sec. 11. Disgorgement required.  
 Sec. 12. CEO and CFO accountability for disclosure.  
 Sec. 13. Securities and Exchange Commission authority to provide relief.  
 Sec. 14. Authorization of appropriations of the Securities and Exchange Commission.  
 Sec. 15. Analyst conflicts of interest.  
 Sec. 16. Independent directors.  
 Sec. 17. Enforcement of audit committee governance practices.  
 Sec. 18. Review of corporate governance practices.  
 Sec. 19. Study of enforcement actions.  
 Sec. 20. Study of credit rating agencies.  
 Sec. 21. Study of investment banks  
 Sec. 22. Study of model rules for attorneys of issuers.  
 Sec. 23. Enforcement authority.  
 Sec. 24. Exclusion for investment companies.  
 Sec. 25. Definitions.

**SEC. 2. AUDITOR OVERSIGHT.**

(a) **CERTIFIED FINANCIAL STATEMENT REQUIREMENTS.**—If a financial statement is required by the securities laws or any rule or regulation thereunder to be certified by an independent public or certified accountant, an accountant shall not be considered to be qualified to certify such financial statement, and the Securities and Exchange Commission shall not accept a financial statement certified by an accountant, unless such accountant—

(1) is subject to a system of review by a public regulatory organization that complies with the requirements of this section and the rules prescribed by the Commission under this section; and

(2) has not been determined in the most recent review completed under such system to be not qualified to certify such a statement.

(b) **ESTABLISHMENT OF PRO.**—

(1) **ESTABLISHMENT REQUIRED.**—Not later than 90 days after the date of enactment of this section, the Commission shall establish a public regulatory organization to perform the duties set forth in this section.

(2) **CHAIRMAN.**—The Chairman of the public regulatory organization shall be appointed by the Commission for a term of 5 years.

(3) **APPOINTMENT OF PUBLIC REGULATORY ORGANIZATION MEMBERS.**—There shall be 6 additional public regulatory organization members, who shall be selected jointly by the Chairman of the public regulatory organization and the Chairman of the Commission.

(4) **ACCOUNTANT MEMBERS.**—Up to 2 of the members may be present or former certified public accountants, provided such members—

(A) are not currently in public practices;

(B) have not been a person associated with a public accounting firm for a period of at least 3 years; and

(C) agree to not be a person associated with a public accounting firm or to receive consulting fees from a public accounting firm for a period of 5 years after leaving the public regulatory organization.

(5) **NOMINATIONS.**—In making appointments of members, the Chairman of the public regulatory organization and the Chairman of the Commission shall consult with, and make appointments from nominations received from—

(A) institutional investors;

(B) public employee pension plans;

(C) pension plans organization pursuant to the Employee Retirement Income Security Act of 1974; and

(D) pension plans organized pursuant to the Taft-Hartley Act.

(6) **TERMS.**—The members of the public regulatory organization shall have terms of 4 years, except that the Chairman of the public regulatory organization and the Chairman of the Commission shall adopt procedures for staggering the initial terms of the members first so appointed to provide for a reasonable overlapping of the terms of office of subsequently elected members.

(7) **FULL-TIME BASIS.**—The members of the public regulatory organization shall serve on a full-time basis, severing all business ties with former firms or employers prior to beginning service on the public regulatory organization.

(8) **RULES.**—Following selection of the initial members of the public regulatory organization, the public regulatory organization shall propose and adopt rules, which shall provide for—

(A) the operation and administration of the public regulatory organization, including the compensation of the members of the public regulatory organization, which shall be at a level comparable to similar professional positions in the private sector;

(B) the appointment and compensation of such employees, attorneys, and consultants as may be necessary or appropriate to carry out the public regulatory organization's functions under this section;

(C) the registration of public accounting firms with the public regulatory organization pursuant to subsections (d); and

(D) the matters described in subsections (e) and (f).

(9) **FUNDING OF THE PUBLIC REGULATORY ORGANIZATION.**—

(A) **SELF-FINANCING.**—The public regulatory organization shall establish rules for the assessment and collection of fees sufficient to recover the costs and expenses of the public regulatory organization and to permit the public regulatory organization to operate on a self-financing basis.

(B) **ASSESSMENT AND COLLECTION.**—The fees shall be assessed on issuers that file any financial statements, reports, or other documents with the Commission under the securities laws that must be certified by a public accounting firm. The fees shall be collected through the public accounting firm that certifies such statement, report, or document.

(C) **PAYMENT A CONDITION OF REGISTRATION.**—The public regulatory organization shall terminate or suspend the registration under subsection (d) of any public accounting firm that fails to collect and transmit a fee assessed under this subsection.

(c) **PROHIBITION ON THE OFFER OF BOTH AUDIT AND CONSULTING SERVICES.**—

(1) **MODIFICATION OF REGULATIONS REQUIRED.**—The Commission shall revise its regulations pertaining to auditor independence to require that an accountant shall not be considered independent with respect to an audit client if the accountant provides to the client the following nonaudit services, subject to such conditions and exemptions as the Commission shall prescribe:

(A) financial information system design or implementation; or

(B) internal audit services.

(2) **AUDIT COMMITTEE APPROVAL OF NONAUDIT SERVICES.**—The Commission shall

revise its regulations pertaining to auditor independence to require that—

(A) an accountant shall not be considered to be independent for purposes of certifying the financial statements or other documents of an issuer required to be filed with the Commission under the securities laws for any fiscal year of the issuer if, during such fiscal year, the accountant provides any nonaudit services unless the provision of such nonaudit services was approved in advance by the audit committee or, in the absence of an audit committee, the equivalent board committee or the entire board of directors; and

(B) in approving such services, the audit committee shall evaluate the impact of the provision of such services on the independence of the auditor.

(3) REVIEW OF PROHIBITED NONAUDIT SERVICES.—The Commission is authorized to review the impact on the independence of auditors of the scope of services provided by auditors to issuers in order to determine whether the list of prohibited nonaudit services under paragraph (1) shall be modified. In conducting such review, the Commission shall consider the impact of the provision of a service on an auditor's independence where provision of the service creates a conflict of interest with the audit client.

(4) ADDITIONS BY RULE.—After conducting the review required by paragraph (3) and at any other time, the Commission may, by rule consistent with the protection of investors and the public interest, modify the list of prohibited nonaudit services under paragraph (1).

(5) REPORT.—The Commission shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on its conduct of any reviews as required by this section. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

(6) DEFINITIONS.—For purposes of this subsection:

(A) FINANCIAL INFORMATION SYSTEM DESIGN OR IMPLEMENTATION.—The term “financial information systems design or implementation” means designing or implementing a hardware or software system used to generate information that is significant to the audit client's financial statements taken as a whole, not including services an accountant performs in connection with the assessment, design, and implementation of internal accounting controls and risk management controls.

(B) INTERNAL AUDIT SERVICES.—The term “internal audit services” means internal audit services for an audit client or an affiliate of an audit client, not including non-recurring evaluations of discrete items or programs and operational internal audits unrelated to the internal accounting controls, financial systems, or financial statements.

(7) DEADLINE FOR RULEMAKING.—The Commission shall—

(A) within 90 days after the date of enactment of this Act, propose, and

(B) within 270 days after such date, prescribe,

the revisions to its regulations required by this subsection.

(d) REGISTRATION WITH PUBLIC REGULATORY ORGANIZATION.—

(1) REGISTRATION REQUIRED.—Beginning 1 year after the date on which all initial members of the public regulatory organization have been selected in accordance with subsection (b), it shall be unlawful for a public accounting firm to furnish an accountant's report on any financial statement, report, or other document required to be filed with the

Commission under any Federal securities law, unless such firm is registered with the public regulatory organization.

(2) APPLICATION FOR REGISTRATION.—A public accounting firm may be registered under this subsection by filing with the public regulatory organization an application for registration in such form and containing such information as the public regulatory organization, by rule, may prescribe. Each application shall include—

(A) the names of all clients of the public accounting firm for which the firm furnishes accountant's reports on financial statements, reports, or other documents filed with the Commission;

(B) financial information of the public accounting firm for its most recent fiscal year, including its annual revenues from accounting and auditing services, its assets, and its liabilities;

(C) a statement of the public accounting firm's policies and procedures with respect to quality control of its accounting and auditing practice;

(D) information relating to criminal, civil, or administrative actions or formal disciplinary proceedings pending against such firm, or any person associated with such firm, in connection with an accountant's report furnished by such firm;

(E) a list of persons associated with the public accounting firm who are certified public accountants, including any State professional license or certification number for each such person; and

(F) such other information that is reasonably related to the public regulatory organization's responsibilities as the public regulatory organization considers necessary or appropriate.

(3) PERIODIC REPORTS.—Once in each year, or more frequently as the public regulatory organization, by rule, may prescribe, each public accounting firm registered with the public regulatory organization shall submit reports to the public regulatory organization updating the information contained in its application for registration and containing such additional information that is reasonably related to the public regulatory organization's responsibilities as the public regulatory organization, by rule, may prescribe.

(4) EXEMPTIONS.—The Commission, by rule or order, upon its own motion or upon application, may conditionally or unconditionally exempt any public accounting firm or any accountant's report, or any class of public accounting firms or any class of accountant's reports, from any provisions of this section or the rules or regulations issued hereunder, if the Commission finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of this section.

(5) CONFIDENTIALITY.—The public regulatory organization may, by rule, designate portions of the filings required pursuant to paragraphs (2) and (3) as privileged and confidential. This paragraph shall be considered to be a statute described in section 552(b)(3)(B) of title 5, United States Code, for purposes of that section 552.

(e) DUTIES REGARDING QUALITY CONTROL.—

(1) OBJECTIVES; ATTAINMENT.—The public regulatory organization shall seek to promote a high level of professional conduct among public accounting firms registered with the public regulatory organization, to improve the quality of audit services provided by such firms, and, in general, to protect investors and promote the public interest. The public regulatory organization shall attain these objectives—

(A) by establishing standards regarding the performance of financial audits in accordance with the requirements of paragraph (2);

(B) by the direct performance of quality reviews and inspections of audits in accordance with the requirements of paragraphs (3) and (4); and

(C) by the supervision and oversight of peer review organizations in accordance with the requirements of paragraph (5).

(2) AUDIT QUALITY STANDARDS.—

(A) IN GENERAL.—The public regulatory organization shall, by rule, establish quality standards applicable to the conduct of audit services provided by public accounting firms. Such standards shall include—

(i) independence standards;

(ii) quality control standards;

(iii) professional and ethical standards; and

(iv) such other standards as the public regulatory organization determines to be necessary to carry out the objectives specified in paragraph (1).

(B) SPECIFIC CONTENTS OF STANDARDS.—In establishing the quality standards required by subparagraph (A), the public regulatory organization shall also establish—

(i) procedures for the monitoring by public accounting firms of their compliance with professional ethical standards established by the public regulatory organization, including its independence from its audit clients;

(ii) procedures for the assignment of personnel to audit engagements;

(iii) procedures for consultation within a public accounting firm or with other accountants relating to accounting and auditing questions;

(iv) procedures for the supervision of audit work;

(v) procedures for the review of decisions to accept and retain audit clients;

(vi) procedures for the internal inspection of the public accounting firms own compliance with such policies and procedures;

(vii) requirements for public accounting firms to prepare and maintain for a period of no less than 7 years, audit work papers and other information related to any audit report, in sufficient detail to support the conclusions reached in an audit report issued by a public accounting firm; and

(viii) procedures establishing “concurring” or “second” partner review systems for the evaluation and review of audit work by a partner that is not in charge of the conduct of the audit.

(3) DIRECT REVIEWS OF PUBLIC ACCOUNTING FIRMS.—The public regulatory organization shall, by rule, establish procedures for the conduct of a continuing program of inspections of each public accounting firm registered with the public regulatory organization to assess compliance by such firm, and by persons associated with such firm, with applicable provisions of this Act, the securities laws, the rules and regulations thereunder, the rules adopted by the public regulatory organization, and professional standards. Except as provided in paragraph (5), the public regulatory organization shall annually inspect each public accounting firm that audits more than 100 issuers on an ongoing annual basis, to the extent practicable, and all other public accounting firms no less than at least once every 3 years. In conducting such inspections, the public regulatory organization shall, among other things, inspect selected audit and review engagements. The review shall include evaluations of the firm's quality control procedures and compliance with all legal and ethical requirements. In connection with each review, the public regulatory organization shall prepare a report of its findings and such report, accompanied by any letter of comments by the public regulatory organization or reviewer and any letter of response from the firm under review, shall be made available to the public. The public regulatory organization shall take any appropriate disciplinary

or remedial action based on its findings after completion of such review and an opportunity for a hearing.

(4) **QUALITY REVIEW OF INDIVIDUAL AUDITS.**—The public regulatory organization shall, by rule, establish procedures for the conduct of direct inspection and review of individual audits of issuers and standards under which it will evaluate audit service quality. A finding by the public regulatory organization that an individual audit of an issuer did or did not meet the standards of the public regulatory organization with respect to the quality of the audit shall not be construed in any action arising out of the securities laws as indicative of compliance or noncompliance with the securities laws or with any standard of liability arising thereunder.

(5) **USE OF PROFESSIONAL PEER REVIEW ORGANIZATIONS.**—

(A) **OPTION TO UTILIZE PEER REVIEW ORGANIZATIONS.**—The public regulatory organization may, by rule, establish requirements for the use of peer review organizations for the purposes of conducting the continuing program of inspections to assess compliance as required by paragraph (3) of each public accounting firm registered with the public regulatory organization. Such rule shall provide for appropriate oversight and supervision of such peer review organization by the public regulatory organization to ensure that such inspections meet the requirements of such paragraph.

(B) **PENALTIES.**—If the public regulatory organization establishes requirements for the conduct of peer reviews under subparagraph (A), the violation by a public accounting firm or a person associated with such a firm of a rule of the peer review organization to which the firm belongs shall constitute grounds for—

(i) the imposition of disciplinary sanctions by the public regulatory organization pursuant to subsection (g); and

(ii) denial to the public accounting firm or person associated with such firm of the privilege of appearing or practicing before the Commission.

(6) **CONFIDENTIALITY.**—Except as otherwise provided by this section, all reports, memoranda, and other information provided to the public regulatory organization solely for purposes of paragraph (3) or (4), or to a peer review organization certified by the public regulatory organization, shall be confidential, unless such confidentiality is expressly waived by the person or entity that created or provided the information.

(f) **DISCIPLINARY DUTIES OF PUBLIC REGULATORY ORGANIZATION.**—The public regulatory organization shall have the following duties and powers:

(1) **INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS.**—The public regulatory organization shall establish fair procedures for investigating and disciplining public accounting firms registered with the public regulatory organization, and persons associated with such firms, for violations of the Federal securities laws, the rules or regulations issued thereunder, the rules adopted by the public regulatory organization, or professional standards in connection with the preparation of an accountant's report on a financial statement, report, or other document filed with the Commission.

(2) **INVESTIGATION PROCEDURES.**—

(A) **IN GENERAL.**—The public regulatory organization may conduct an investigation of any act, practice, or omission by a public accounting firm registered with the public regulatory organization, or by any person associated with such firm, in connection with the preparation of an accountant's report on a financial statement, report, or other document filed with the Commission that may violate any applicable provision of the Fed-

eral securities laws, the rules and regulations issued thereunder, the rules adopted by the public regulatory organization, or professional standards, whether such act, practice, or omission is the subject of a criminal, civil, or administrative action, or a disciplinary proceeding, or otherwise is brought to the attention of the public regulatory organization.

(B) **POWERS OF PUBLIC REGULATORY ORGANIZATION.**—For purposes of an investigation under this paragraph, the public regulatory organization may, in addition to such other actions as the public regulatory organization determines to be necessary or appropriate—

(i) require the testimony of any person associated with a public accounting firm registered with the public regulatory organization, with respect to any matter which the public regulatory organization considers relevant or material to the investigation;

(ii) require the production of audit workpapers and any other document or information in the possession of a public accounting firm registered with the public regulatory organization, or any person associated with such firm, wherever domiciled, that the public regulatory organization considers relevant or material to the investigation, and may examine the books and records of such firm to verify the accuracy of any documents or information so supplied; and

(iii) request the testimony of any person and the production of any document in the possession of any person, including a client of a public accounting firm registered with the public regulatory organization, that the public regulatory organization considers relevant or material to the investigation.

(C) **SUSPENSION OR REVOCATION OF REGISTRATION FOR NONCOMPLIANCE.**—The refusal of any person associated with a public accounting firm registered with the public regulatory organization to testify, or the refusal of any such person to produce documents or otherwise cooperate with the public regulatory organization, in connection with an investigation or hearing under this section, shall be cause for suspending or barring such person from associating with a public accounting firm registered with the public regulatory organization, or such other appropriate sanction authorized by paragraph (3)(B) as the public regulatory organization shall determine. The refusal of any public accounting firm registered with the public regulatory organization to produce documents or otherwise cooperate with the public regulatory organization, in connection with an investigation or hearing under this section, shall be cause for the suspension or revocation of the registration of such firm, or such other appropriate sanction authorized by paragraph (3)(B) as the public regulatory organization shall determine.

(D) **REFERRAL TO COMMISSION.**—

(i) **IN GENERAL.**—If the public regulatory organization is unable to conduct or complete an investigation or hearing under this section because of the refusal of any client of a public accounting firm registered with the public regulatory organization, or any other person, to testify, produce documents, or otherwise cooperate with the public regulatory organization in connection with such investigation, the public regulatory organization shall report such refusal to the Commission.

(ii) **INVESTIGATION.**—The Commission may designate the public regulatory organization or one or more officers of the public regulatory organization who shall be empowered, in accordance with such procedures as the Commission may adopt, to subpoena witnesses, compel their attendance, and require the production of any books, papers, correspondence, memoranda, or other records relevant to any investigation by the public

regulatory organization. Attendance of witnesses and the production of any records may be required from any place in the United States or any State at any designated place of hearing. Enforcement of a subpoena issued by the public regulatory organization, or an officer of the public regulatory organization, pursuant to this subparagraph shall occur in the manner provided for in section 21(c). Examination of witnesses subpoenaed pursuant to this subparagraph shall be conducted before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held.

(iii) **REFERRALS TO COMMISSION.**—The public regulatory organization may refer any investigation to the Commission, as the public regulatory organization deems appropriate.

(E) **IMMUNITY FROM CIVIL LIABILITY.**—An employee of the public regulatory organization engaged in carrying out an investigation or disciplinary proceeding under this section shall be immune from any civil liability arising out of such investigation or disciplinary proceeding in the same manner and to the same extent as an employee of the Federal Government in similar circumstances.

(3) **DISCIPLINARY PROCEDURES.**—

(A) **DECISION TO DISCIPLINE.**—In a proceeding by the public regulatory organization to determine whether a public accounting firm, or a person associated with such firm, should be disciplined, the public regulatory organization shall bring specific charges, notify such firm or person of the charges, give such firm or person an opportunity to defend against such charges, and keep a record of such actions.

(B) **SANCTIONS.**—If the public regulatory organization, after conducting a review and providing an opportunity for a hearing, finds that a public accounting firm, or a person associated with such firm, has engaged in any act, practice, or omission in violation of the Federal securities laws, the rules or regulations issued thereunder, the rules adopted by the public regulatory organization, or professional standards, the public regulatory organization may impose such disciplinary sanctions as it deems appropriate, including—

(i) temporary or permanent revocation or suspension of registration under this section;

(ii) limitation of activities, functions, and operations;

(iii) fine;

(iv) censure;

(v) in the case of a person associated with a public accounting firm, suspension or bar from being associated with a public accounting firm registered with the public regulatory organization; and

(vi) any such other disciplinary sanction or remedial action as the public regulatory organization has established by rule that the public regulatory organization determines to be appropriate to prevent the recurrence of the violation.

(C) **STATEMENT REQUIRED.**—A determination by the public regulatory organization to impose a disciplinary sanction shall be supported by a written statement by the public regulatory organization that shall be made available to the public and that sets forth—

(i) any act or practice in which the public accounting firm or person associated with such firm has been found to have engaged, or which such firm or person has been found to have omitted;

(ii) the specific provision of the Federal securities laws, the rules or regulations issued thereunder, the rules adopted by the public regulatory organization, or professional standards which any such act, practice, or omission is deemed to violate; and

(iii) the sanction imposed and the reasons therefor.

(D) PROHIBITION ON ASSOCIATION.—It shall be unlawful—

(i) for any person as to whom a suspension or bar is in effect willfully to be or to become associated with a public accounting firm registered with the public regulatory organization, in connection with the preparation of an accountant's report on any financial statement, report, or other document filed with the Commission, without the consent of the public regulatory organization or the Commission; and

(ii) for any public accounting firm registered with the public regulatory organization to permit such a person to become, or remain, associated with such firm without the consent of the public regulatory organization or the Commission, if such firm knew or, in the exercise of reasonable care should have known, of such suspension or bar.

(4) REPORTING OF SANCTIONS.—If the public regulatory organization imposes a disciplinary sanction against a public accounting firm, or a person associated with such firm, the public regulatory organization shall report such sanction to the Commission, to the appropriate State or foreign licensing public regulatory organization or public regulatory organizations with which such firm or such person is licensed or certified to practice public accounting, and to the public. The information reported shall include—

(A) the name of the public accounting firm, or person associated with such firm, against whom the sanction is imposed;

(B) a description of the acts, practices, or omissions upon which the sanction is based;

(C) the nature of the sanction; and

(D) such other information respecting the circumstances of the disciplinary action (including the name of any client of such firm affected by such acts, practices, or omissions) as the public regulatory organization deems appropriate.

(5) DISCOVERY AND ADMISSIBILITY OF PUBLIC REGULATORY ORGANIZATION MATERIAL.—

(A) DISCOVERABILITY.—

(i) IN GENERAL.—Except as provided in subparagraph (C), all reports, memoranda, and other information prepared, collected, or received by the public regulatory organization, and the deliberations and other proceedings of the public regulatory organization and its employees and agents in connection with an investigation or disciplinary proceeding under this section shall not be subject to any form of civil discovery, including demands for production of documents and for testimony of individuals, in connection with any proceeding in any State or Federal court, or before any State or Federal administrative agency. This subparagraph shall not apply to any information provided to the public regulatory organization that would have been subject to discovery from the person or entity that provided it to the public regulatory organization, but is no longer available from that person or entity.

(ii) EXEMPTION.—Submissions to the public regulatory organization by or on behalf of a public accounting firm or person associated with such a firm or on behalf of any other participant in a public regulatory organization proceeding (other than a public hearing), including documents generated by the public regulatory organization itself, shall be exempt from discovery to the same extent as the material described in clause (i), whether in the possession of the public regulatory organization or any other person, if such submission—

(I) is prepared specifically for the purpose of the public regulatory organization proceeding; and

(II) addresses the merits of the issues under investigation by the public regulatory organization.

(iii) HEARINGS PUBLIC.—Except as otherwise ordered by the public regulatory organization on its own motion or on the motion of a party, all hearings under this paragraph shall be open to the public.

(B) ADMISSIBILITY.—

(i) IN GENERAL.—Except as provided in subparagraph (C), all reports, memoranda, and other information prepared, collected, or received by the public regulatory organization, the deliberations and other proceedings of the public regulatory organization and its employees and agents in connection with an investigation or disciplinary proceeding under this section, the fact that an investigation or disciplinary proceeding has been commenced, and the public regulatory organization's determination with respect to any investigation or disciplinary proceeding shall be inadmissible in any proceeding in any State or Federal court or before any State or Federal administrative agency.

(ii) TREATMENT OF CERTAIN DOCUMENTS.—Submissions to the public regulatory organization by or on behalf of a public accounting firm or person associated with such a firm or on behalf of any other participant in a public regulatory organization proceeding, including documents generated by the public regulatory organization itself, shall be inadmissible to the same extent as the material described in clause (i), if such submission—

(I) is prepared specifically for the purpose of the public regulatory organization proceedings; and

(II) addresses the merits of the issues under investigation by the public regulatory organization.

(C) AVAILABILITY AND ADMISSIBILITY OF INFORMATION.—

(i) IN GENERAL.—All information referred to in subparagraphs (A) and (B) shall be—

(I) available to the Commission;

(II) available to any other Federal department or agency in connection with the exercise of its regulatory authority to the extent that such information would be available to such agency from the Commission as a result of a Commission enforcement investigation;

(III) available to Federal and State authorities in connection with any criminal investigation or proceeding;

(IV) admissible in any action brought by the Commission or any other Federal department or agency pursuant to its regulatory authority, to the extent that such information would be available to such agency from the Commission as a result of a Commission enforcement investigation and in any criminal action; and

(V) available to State licensing public regulatory organizations to the extent authorized in paragraph (6).

(ii) OTHER LIMITATIONS.—Any documents or other information provided to the Commission or other authorities pursuant to clause (i) shall be subject to the limitations on discovery and admissibility set forth in subparagraphs (A) and (B).

(6) PARTICIPATION BY STATE LICENSING PUBLIC REGULATORY ORGANIZATIONS.—

(A) NOTICE.—When the public regulatory organization institutes an investigation pursuant to paragraph (2)(A), it shall notify the State licensing public regulatory organizations in the States in which the public accounting firm or person associated with such firm engaged in the act or failure to act alleged to have violated professional standards, of the pendency of the investigation, and shall invite the State licensing public regulatory organizations to participate in the investigation.

(B) ACCEPTANCE BY STATE PUBLIC REGULATORY ORGANIZATION.—If a State licensing public regulatory organization elects to join in the investigation, its representatives shall participate, pursuant to rules established by

the public regulatory organization, in investigating the matter and in presenting the evidence justifying the charges in any hearing pursuant to paragraph (3)(A).

(C) STATE SANCTIONS PERMITTED.—If the public regulatory organization or the Commission imposes a sanction upon a public accounting firm or person associated with such a firm, and that determination either is not subjected to judicial review or is upheld on judicial review, a State licensing public regulatory organization may impose a sanction on the basis of the public regulatory organization's report pursuant to paragraph (4). Any sanction imposed by the State licensing public regulatory organization under this clause shall be inadmissible in any proceeding in any State or Federal court or before any State or Federal administrative agency.

(g) REVIEW AND APPROVAL OF RULES.—

(1) SUBMISSION, PUBLICATION, AND COMMENT.—Each recognized public regulatory organization shall file with the Commission, in accordance with such rules as the Commission may prescribe, copies of any proposed rule or any proposed change in, addition to, or deletion from the rules of such recognized public regulatory organization (hereinafter in this subsection collectively referred to as a "proposed rule change") accompanied by a concise general statement of the basis and purpose of such proposed rule change. The Commission shall, upon the filing of any proposed rule change, publish notice thereof together with the terms of substance of the proposed rule change or a description of the subjects and issues involved. The Commission shall give interested persons an opportunity to submit written data, views, and arguments concerning such proposed rule change. No proposed rule change shall take effect unless approved by the Commission or otherwise permitted in accordance with the provisions of this subsection.

(2) APPROVAL OR PROCEEDINGS.—Within 35 days of the date of publication of notice of the filing of a proposed rule change in accordance with paragraph (1) of this subsection, or within such longer period as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the recognized public regulatory organization consents, the Commission shall—

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved. Such proceedings shall include notice of the grounds for disapproval under consideration and opportunity for hearing and be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. At the conclusion of such proceedings the Commission, by order, shall approve or disapprove such proposed rule change. The Commission may extend the time for conclusion of such proceedings for up to 60 days if it finds good cause for such extension and publishes its reasons for so finding or for such longer period as to which the recognized public regulatory organization consents.

(3) BASIS FOR APPROVAL OR DISAPPROVAL.—The Commission shall approve a proposed rule change of a recognized public regulatory organization if it finds that such proposed rule change is consistent with the requirements of this Act and the rules and regulations thereunder applicable to such organization. The Commission shall disapprove a proposed rule change of a recognized public regulatory organization if it does not make such finding. The Commission shall not approve any proposed rule change prior to the

30th day after the date of publication of notice of the filing thereof, unless the Commission finds good cause for so doing and publishes its reasons for so finding.

**(4) RULES EFFECTIVE UPON FILING.—**

(A) Notwithstanding the provisions of paragraph (2) of this subsection, a proposed rule change may take effect upon filing with the Commission if designated by the recognized public regulatory organization as (i) constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the recognized public regulatory organization, (ii) establishing or changing a due, fee, or other charge imposed by the recognized public regulatory organization, or (iii) concerned solely with the administration of the recognized public regulatory organization or other matters which the Commission, by rule, consistent with the public interest and the purposes of this subsection, may specify as outside the provisions of such paragraph (2).

(B) Notwithstanding any other provision of this subsection, a proposed rule change may be put into effect summarily if it appears to the Commission that such action is necessary for the protection of investors, or otherwise in accordance with the purposes of this title. Any proposed rule change so put into effect shall be filed promptly thereafter in accordance with the provisions of paragraph (1) of this subsection.

(C) Any proposed rule change of a recognized public regulatory organization which has taken effect pursuant to subparagraph (A) or (B) of this paragraph may be enforced by such organization to the extent it is not inconsistent with the provisions of this Act, the securities laws, the rules and regulations thereunder, and applicable Federal and State law. At any time within 60 days of the date of filing of such a proposed rule change in accordance with the provisions of paragraph (1) of this subsection, the Commission summarily may abrogate the change in the rules of the recognized public regulatory organization made thereby and require that the proposed rule change be refiled in accordance with the provisions of paragraph (1) of this subsection and reviewed in accordance with the provisions of paragraph (2) of this subsection, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act. Commission action pursuant to the preceding sentence shall not affect the validity or force of the rule change during the period it was in effect, shall not be subject to court review, and shall not be deemed to be "final agency action" for purposes of section 704 of title 5, United States Code.

(h) **COMMISSION ACTION TO CHANGE RULES.—**The Commission, by rule, may abrogate, add to, and delete from (hereinafter in this subsection collectively referred to as "amend") the rules of a recognized public regulatory organization as the Commission deems necessary or appropriate to insure the fair administration of the recognized public regulatory organization, to conform its rules to requirements of this Act, the securities laws, and the rules and regulations thereunder applicable to such organization, or otherwise in furtherance of the purposes of this Act, in the following manner:

(1) The Commission shall notify the recognized public regulatory organization and publish notice of the proposed rulemaking in the Federal Register. The notice shall include the text of the proposed amendment to the rules of the recognized public regulatory organization and a statement of the Commission's reasons, including any pertinent facts, for commencing such proposed rulemaking.

(2) The Commission shall give interested persons an opportunity for the oral presentation of data, views, and arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

(3) A rule adopted pursuant to this subsection shall incorporate the text of the amendment to the rules of the recognized public regulatory organization and a statement of the Commission's basis for and purpose in so amending such rules. This statement shall include an identification of any facts on which the Commission considers its determination so to amend the rules of the recognized public regulatory agency to be based, including the reasons for the Commission's conclusions as to any of such facts which were disputed in the rulemaking.

(4)(A) Except as provided in paragraphs (1) through (3) of this subsection, rulemaking under this subsection shall be in accordance with the procedures specified in section 553 of title 5, United States Code, for rulemaking not on the record.

(B) Nothing in this subsection shall be construed to impair or limit the Commission's power to make, or to modify or alter the procedures the Commission may follow in making, rules and regulations pursuant to any other authority under the securities laws.

(C) Any amendment to the rules of a recognized public regulatory organization made by the Commission pursuant to this subsection shall be considered for all purposes to be part of the rules of such recognized public regulatory organization and shall not be considered to be a rule of the Commission.

**(i) COMMISSION OVERSIGHT OF THE PRO.—**

(1) **RECORDS AND EXAMINATIONS.—**A public regulatory organization shall make and keep for prescribed periods such records, furnish such copies thereof, and make and disseminate such reports as the Commission, by rule, prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act or the securities laws.

(2) **ADDITIONAL DUTIES; SPECIAL REVIEWS.—**A public regulatory organization shall perform such other duties or functions as the Commission, by rule or order, determines are necessary or appropriate in the public interest or for the protection of investors and to carry out the purposes of this Act and the securities laws, including conducting a special review of a particular public accounting firm's quality control system or a special review of a particular aspect of some or all public accounting firms' quality control systems.

**(3) ANNUAL REPORT; PROPOSED BUDGET.—**

(A) **SUBMISSION OF ANNUAL REPORT AND BUDGET.—**A public regulatory organization shall submit an annual report and its proposed budget to the Commission for review and approval, by order, at such times and in such form as the Commission shall prescribe.

(B) **CONTENTS OF ANNUAL REPORT.—**Each annual report required by subparagraph (A) shall include—

(i) a detailed description of the activities of the public regulatory organization;

(ii) the audited financial statements of the public regulatory organization;

(iii) a detailed explanation of the fees and charges imposed by the public regulatory organization under subsection (b)(9); and

(iv) such other matters as the public regulatory organization or the Commission deems appropriate.

(C) **TRANSMITTAL OF ANNUAL REPORT TO CONGRESS.—**The Commission shall transmit each approved annual report received under subparagraph (A) to the Committee on Financial Services of the United States House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the

United States Senate. At the same time it transmits a public regulatory organization's annual report under this subparagraph, the Commission shall include a written statement of its views of the functioning and operations of the public regulatory organization.

(D) **PUBLIC AVAILABILITY.—**Following transmittal of each approved annual report under subparagraph (C), the Commission and the public regulatory organization shall make the approved annual report publicly available.

(4) **DISAPPROVAL OF ELECTION OF PRO MEMBER.—**The Commission is authorized, by order, if in its opinion such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act or the securities laws, to disapprove the election of any member of a public regulatory organization if the Commission determines, after notice and opportunity for hearing, that the person elected is unfit to serve on the public regulatory organization.

(j) **CLARIFICATION OF APPLICATION OF PRO AUTHORITY.—**The authority granted to any such organization in this section shall only apply to the actions of accountants related to the certification of financial statements required by securities laws and not other actions or actions for other clients of the accounting firm or any accountant that does not certify financial statements for publicly traded companies.

(k) **DEADLINE FOR RULEMAKING.—**The Commission shall—

(1) within 90 days after the date of enactment of this Act, propose, and

(2) within 270 days after such date, prescribe, rules to implement this section.

(l) **EFFECTIVE DATE; TRANSITION PROVISIONS.—**

(1) **EFFECTIVE DATE.—**Except as provided in paragraph (2), subsection (a) of this section shall be effective with respect to any certified financial statement for any fiscal year that ends more than one year after the Commission recognizes a public regulatory organization pursuant to this section.

(2) **DELAY IN ESTABLISHMENT OF BOARD.—**If the Commission has failed to recognize any public regulatory organization pursuant to this section within one year after the date of enactment of this Act, the Commission shall perform the duties of such organization with respect to any certified financial statement for any fiscal year that ends before one year after any such board is recognized by the Commission.

**SEC. 3. IMPROPER INFLUENCE ON CONDUCT OF AUDITS.**

(a) **RULES TO PROHIBIT.—**It shall be unlawful in contravention of such rules or regulations as the Commission shall prescribe as necessary and appropriate in the public interest or for the protection of investors for any officer, director, or affiliated person of an issuer of any security registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) to take any action to fraudulently influence, coerce, manipulate, or mislead any independent public or certified accountant engaged in the performance of an audit of the financial statements of such issuer for the purpose of rendering such financial statements materially misleading. In any civil proceeding, the Commission shall have exclusive authority to enforce this section and any rule or regulation hereunder.

(b) **NO PREEMPTION OF OTHER LAW.—**The provisions of subsection (a) shall be in addition to, and shall not supersede or preempt, any other provision of law or any rule or regulation thereunder.

(c) **DEADLINE FOR RULEMAKING.—**The Commission shall—

(1) within 90 days after the date of enactment of this Act, propose, and

(2) within 270 days after such date, prescribe, the rules or regulations required by this section.

**SEC. 4. REAL-TIME DISCLOSURE OF FINANCIAL INFORMATION.**

(a) REAL-TIME ISSUER DISCLOSURES REQUIRED.—

(1) OBLIGATIONS.—Every issuer of a security registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) shall file with the Commission and disclose to the public, on a rapid and essentially contemporaneous basis, such information concerning the financial condition or operations of such issuer as the Commission determines by rule is necessary in the public interest and for the protection of investors. Such rule shall—

(A) specify the events or circumstances giving rise to the obligation to disclose or update a disclosure;

(B) establish requirements regarding the rapidity and timeliness of such disclosure;

(C) identify the means whereby the disclosure required shall be made, which shall ensure the broad, rapid, and accurate dissemination of the information to the public via electronic or other communications device;

(D) identify the content of the information to be disclosed; and

(E) without limiting the Commission's general exemptive authority, specify any exemptions or exceptions from such requirements.

(2) ENFORCEMENT.—The Commission shall have exclusive authority to enforce this section and any rule or regulation hereunder in civil proceedings.

(b) ELECTRONIC DISCLOSURE OF INSIDER TRANSACTIONS.—

(1) DISCLOSURES OF TRADING.—The Commission shall, by rule, require—

(A) that a disclosure required by section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) of the sale of any securities of an issuer, or any security futures product (as defined in section 3(a)(56) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(56))) or any security-based swap agreement (as defined in section 206B of the Gramm-Leach-Bliley Act) that is based in whole or in part on the securities of such issuer, by an officer or director of the issuer of those securities, or by a beneficial owner of such securities, shall be made available electronically to the Commission and to the issuer by such officer, director, or beneficial owner before the end of the next business day after the day on which the transaction occurs;

(B) that the information in such disclosure be made available electronically to the public by the Commission, to the extent permitted under applicable law, upon receipt, but in no case later than the end of the next business day after the day on which the disclosure is received under subparagraph (A); and

(C) that, in any case in which the issuer maintains a corporate website, such information shall be made available by such issuer on that website, before the end of the next business day after the day on which the disclosure is received by the Commission under subparagraph (A).

(2) TRANSACTIONS INCLUDED.—The rule prescribed under paragraph (1) shall require the disclosure of the following transactions:

(A) Direct or indirect sales or other transfers of securities of the issuer (or any interest therein) to the issuer or an affiliate of the issuer.

(B) Loans or other extensions of credit extended to an officer, director, or other person affiliated with the issuer on terms or conditions not otherwise available to the public.

(3) OTHER FORMATS; FORMS.—In the rule prescribed under paragraph (1), the Commission shall provide that electronic filing and disclosure shall be in lieu of any other format required for such disclosures on the day before the date of enactment of this subsection. The Commission shall revise such forms and schedules required to be filed with the Commission pursuant to paragraph (1) as necessary to facilitate such electronic filing and disclosure.

**SEC. 5. INSIDER TRADES DURING PENSION FUND BLACKOUT PERIODS PROHIBITED.**

(a) PROHIBITION.—It shall be unlawful for any person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security (other than an exempted security) which is registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or who is a director or an officer of the issuer of such security, directly or indirectly, to purchase (or otherwise acquire) or sell (or otherwise transfer) any equity security of any issuer (other than an exempted security), during any blackout period with respect to such equity security.

(b) REMEDY.—Any profit realized by such beneficial owner, director, or officer from any purchase (or other acquisition) or sale (or other transfer) in violation of this section shall inure to and be recoverable by the issuer irrespective of any intention on the part of such beneficial owner, director, or officer in entering into the transaction. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer shall fail or refuse to bring such suit within 60 days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than 2 years after the date such profit was realized. This subsection shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security or security-based swap (as defined in section 206B of the Gramm-Leach-Bliley Act) involved, or any transaction or transactions which the Commission by rules and regulations may exempt as not comprehended within the purposes of this subsection.

(c) RULEMAKING PERMITTED.—The Commission may issue rules to clarify the application of this subsection, to ensure adequate notice to all persons affected by this subsection, and to prevent evasion thereof.

(d) DEFINITION.—For purposes of this section, the term "beneficial owner" has the meaning provided such term in rules or regulations issued by the Securities and Exchange Commission under section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p).

**SEC. 6. IMPROVED TRANSPARENCY OF CORPORATE DISCLOSURES.**

(a) MODIFICATION OF REGULATIONS REQUIRED.—The Commission shall revise its regulations under the securities laws pertaining to the disclosures required in periodic financial reports and registration statements to require such reports to include adequate and appropriate disclosure of—

(1) the issuer's off-balance sheet transactions and relationships with unconsolidated entities or other persons, to the extent they are not disclosed in the financial statements and are reasonably likely to materially affect the liquidity or the availability of, or requirements for, capital resources, or the financial condition or results of operations of the issuer; and

(2) loans extended to officers, directors, or other persons affiliated with the issuer on terms or conditions that are not otherwise available to the public.

(b) DEADLINE FOR RULEMAKING.—The Commission shall—

(1) within 90 days after the date of enactment of this Act, propose, and

(2) within 270 days after such date, prescribe,

the revisions to its regulations required by subsection (a).

(c) ANALYSIS REQUIRED.—

(1) TRANSPARENCY, COMPLETENESS, AND USEFULNESS OF FINANCIAL STATEMENTS.—The Commission shall conduct an analysis of the extent to which, consistent with the protection of investors and the public interest, disclosure of additional or reorganized information may be required to improve the transparency, completeness, or usefulness of financial statements and other corporate disclosures filed under the securities laws.

(2) ALTERNATIVES TO BE CONSIDERED.—In conducting the analysis required by paragraph (1), the Commission shall consider—

(A) requiring the identification of the key accounting principles that are most important to the issuer's reported financial condition and results of operation, and that require management's most difficult, subjective, or complex judgments;

(B) requiring an explanation, where material, of how different available accounting principles applied, the judgments made in their application, and the likelihood of materially different reported results if different assumptions or conditions were to prevail;

(C) in the case of any issuer engaged in the business of trading non-exchange traded contracts, requiring an explanation of such trading activities when such activities require the issuer to account for contracts at fair value, but for which a lack of market price quotations necessitates the use of fair value estimation techniques;

(D) establishing requirements relating to the presentation of information in clear and understandable format and language; and

(E) requiring such other disclosures, included in the financial statements or in other disclosure by the issuer, as would in the Commission's view improve the transparency of such issuer's financial statements and other required corporate disclosures.

(3) RULES REQUIRED.—If the Commission, on the basis of the analysis required by this subsection, determines that it is necessary in the public interest or for the protection of investors and would improve the transparency of issuer financial statements, the Commission may prescribe rules reflecting the results of such analysis and the considerations required by paragraph (2). In prescribing such rules, the Commission may seek to minimize the paperwork and cost burden on the issuer consistent with achieving the public interest and investor protection purposes of such rules.

**SEC. 7. IMPROVEMENTS IN REPORTING ON INSIDER TRANSACTIONS AND RELATIONSHIPS.**

(a) SPECIFIC OBJECTIVES.—The Commission shall initiate a proceeding to propose changes in its rules and regulations with respect to financial reporting to improve the transparency and clarity of the information available to investors and to require increased financial disclosure with respect to the following:

(1) INSIDER RELATIONSHIPS AND TRANSACTIONS.—Relationships and transactions—

(A) between the issuer, affiliates of the issuer, and officers, directors, or employees of the issuer or such affiliates; and

(B) between officers, directors, employees, or affiliates of the issuer and entities that are not otherwise affiliated with the issuer, to the extent such arrangement or transaction creates a conflict of interest for such persons. Such disclosure shall provide a description of such elements of the transaction

as are necessary for an understanding of the business purpose and economic substance of such transaction (including contingencies). The disclosure shall provide sufficient information to determine the effect on the issuer's financial statements and describe compensation arrangements of interested parties to such transactions.

(2) **RELATIONSHIPS WITH PHILANTHROPIC ORGANIZATIONS.**—Relationships between the registrant or any executive officer of the registrant and any not-for-profit organization on whose board a director or immediate family member serves or of which a director or immediate family member serves as an officer or in a similar capacity. Relationships that shall be disclosed include contributions to the organization in excess of \$10,000 made by the registrant or any executive officer in the last five years and any other activity undertaken by the registrant or any executive officer that provides a material benefit to the organization. Material benefit includes lobbying.

(3) **INSIDER-CONTROLLED AFFILIATES.**—Relationships in which the registrant or any executive officer exercises significant control over an entity in which a director or immediate family member owns an equity interest or to which a director or immediate family member has extended credit. Significant control should be defined with reference to the contractual and governance arrangements between the registrant or executive officer, as the case may be, and the entity.

(4) **JOINT OWNERSHIP.**—Joint ownership by a registrant or executive officer and a director or immediate family member of any real or personal property.

(5) **PROVISION OF SERVICES BY RELATED PERSONS.**—The provision of any professional services, including legal, financial advisory or medical services, by a director or immediate family member to any executive officer of the registrant in the last five years.

(b) **DEADLINES.**—The Commission shall complete the rulemaking required by this section within 180 days after the date of enactment of this Act.

**SEC. 8. ENHANCED OVERSIGHT OF PERIODIC DISCLOSURES BY ISSUERS.**

(a) **REGULAR AND SYSTEMATIC REVIEW.**—The Securities and Exchange Commission shall review disclosures made by issuers pursuant to the Securities Exchange Act of 1934 (including reports filed on form 10-K) on a basis that is more regular and systematic than that in practice on the date of enactment on this Act. Such review shall include a review of an issuer's financial statements.

(b) **RISK RATING SYSTEM.**—For purposes of the reviews required by subsection (a), the Commission shall establish a risk rating system whereby issuers receive a risk rating by the Commission, which shall be used to determine the frequency of such reviews. In designing such a risk rating system the Commission shall consider, among other factors the following:

(1) Emerging companies with disparities in price to earning ratios.

(2) Issuers with the largest market capitalization.

(3) Issuers whose operations significantly impact any material sector of the economy.

(4) Systemic factors such as the effect on niche markets or important subsectors of the economy.

(5) Issuers that experience significant volatility in their stock price as compared to other issuers.

(6) Any other factor the Commission may consider relevant.

(c) **MINIMUM REVIEW PERIOD.**—In no event shall an issuer be reviewed less than once every three years by the Commission.

(d) **PROHIBITION OF DISCLOSURE OF RISK RATING.**—Notwithstanding any other provi-

sion of law, the Commission shall not disclose the risk rating of any issuer described in subsection (b).

**SEC. 9. RETENTION OF RECORDS.**

(a) **DUTY TO RETAIN RECORDS.**—Any independent public or certified accountant who certifies a financial statement as required by the securities laws or any rule or regulation thereunder shall prepare and maintain for a period of no less than 7 years, final audit work papers and other information related to any accountants report on such financial statements in sufficient detail to support the opinion or assertion reached in such accountants report. The Commission may prescribe rules specifying the application and requirements of this section.

(b) **ACCOUNTANT'S REPORT.**—For purposes of subsection (a), the term "accountant's report" means a document in which an accountant identifies a financial statement and sets forth his opinion regarding such financial statement or an assertion that an opinion cannot be expressed.

**SEC. 10. REMOVAL OF UNFIT CORPORATE OFFICERS.**

(a) **REMOVAL IN JUDICIAL PROCEEDINGS.**—

(1) **SECURITIES ACT OF 1933.**—Section 20(e) of the Securities Act of 1933 (15 U.S.C. 77t(e)) is amended by striking "substantial unfitness" and inserting "unfitness".

(2) **SECURITIES EXCHANGE ACT OF 1934.**—Section 21(d)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(2)) is amended by striking "substantial unfitness" and inserting "unfitness".

(b) **REMOVAL IN ADMINISTRATIVE PROCEEDINGS.**—

(1) **SECURITIES ACT OF 1933.**—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end the following new subsection:

"(f) **AUTHORITY TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.**—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) of this title from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of that Act if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer."

(2) **SECURITIES EXCHANGE ACT OF 1934.**—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3) is amended by adding at the end the following new subsection:

"(f) **AUTHORITY TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.**—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to section 15(d) of this title if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer."

**SEC. 11. DISGORGEMENT REQUIRED.**

(a) **ADMINISTRATIVE ACTIONS.**—Within 30 days after the date of enactment of this Act, the Securities and Exchange Commission shall prescribe regulations to require disgorgement, in a proceeding pursuant to its authority under section 21A, 21B, or 21C (15 U.S.C. 78u-1, 78u-2, 78u-3), of salaries, commissions, fees, bonuses, options, profits

from securities transactions, and losses avoided through securities transactions obtained by an officer or director of an issuer during or for a fiscal year or other reporting period if such officer or director engaged in misconduct resulting in, or made or caused to be made in, the filing of a financial statement for such fiscal year or reporting period which—

(1) was at the time, and in the light of the circumstances under which it was made, false or misleading with respect to any material fact; or

(2) 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.

(b) **JUDICIAL PROCEEDINGS.**—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:

"(5) **ADDITIONAL DISGORGEMENT AUTHORITY.**—In any action or proceeding brought or instituted by the Commission under the securities laws against any person—

"(A) for engaging in misconduct resulting in, or making or causing to be made in, the filing of a financial statement which—

"(i) was at the time, and in the light of the circumstances under which it was made, false or misleading with respect to any material fact; or

"(ii) 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; or

"(B) for engaging in, causing, or aiding and abetting any other violation of the securities laws or the rules and regulations thereunder, such person, in addition to being subject to any other appropriate order, may be required to disgorge any or all benefits received from any source in connection with the conduct constituting, causing, or aiding and abetting the violation, including (but not limited to) salary, commissions, fees, bonuses, options, profits from securities transactions, and losses avoided through securities transactions."

**SEC. 12. CEO AND CFO ACCOUNTABILITY FOR DISCLOSURE.**

(a) **REGULATIONS REQUIRED.**—The Securities and Exchange Commission shall by rule require, for each company filing periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)), that the principal executive officer or officers and the principal financial officer or officers, or persons performing similar functions, certify in each annual or quarterly report filed or submitted under either such section of such Act that—

(1) the signing officer has reviewed the report;

(2) based on the officer's knowledge, the report does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading;

(3) based on such officer's knowledge, the financial statements, and other financial information included in the report, fairly present in all material respects the financial condition and results of operations of the issuer as of, and for, the periods presented in the report;

(4) the signing officers—

(A) are responsible for establishing and maintaining internal controls;

(B) have designed such internal controls to ensure that material information relating to the issuer and its consolidated subsidiaries is made known to such officers by others within those entities, particularly during the period in which the periodic reports are being prepared;

(C) have evaluated the effectiveness of the issuer's internal controls as of a date within 90 days prior to the report; and

(D) have presented in the report their conclusions about the effectiveness of their internal controls based on their evaluation as of that date;

(5) the signing officers have disclosed to the issuer's auditors and the audit committee of the board of directors (or persons fulfilling the equivalent function)—

(A) all significant deficiencies in the design or operation of internal controls which could adversely affect the issuer's ability to record, process, summarize, and report financial data and have identified for the issuer's auditors any material weaknesses in internal controls; and

(B) any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal controls; and

(6) the signing officers have indicated in the report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

(b) DEADLINE.—The rules required by subsection (a) shall be effective not later than 30 days after the date of enactment of this Act.

### SEC. 13. SECURITIES AND EXCHANGE COMMISSION AUTHORITY TO PROVIDE RELIEF.

(a) PROCEEDS OF ENRON AND ANDERSEN ENFORCEMENT ACTIONS.—If in any administrative or judicial proceeding brought by the Securities and Exchange Commission against—

(1) the Enron Corporation, any subsidiary or affiliate of such Corporation, or any officer, director, or principal shareholder of such Corporation, subsidiary, or affiliate for any violation of the securities laws; or

(2) Arthur Andersen L.L.C., any subsidiary or affiliate of Arthur Andersen L.L.C., or any general or limited partner of Arthur Andersen L.L.C., or such subsidiary or affiliate, for any violation of the securities laws with respect to any services performed for or in relation to the Enron Corporation, any subsidiary or affiliate of such Corporation, or any officer, director, or principal shareholder of such Corporation, subsidiary, or affiliate;

the Commission obtains an order providing for an accounting and disgorgement of funds, such disgorgement fund (including any addition to such fund required or permitted under this section) shall be allocated in accordance with the requirements of this section.

(b) PRIORITY FOR FORMER ENRON EMPLOYEES.—The Commission shall, by order, establish an allocation system for the disgorgement fund. Such system shall provide that, in allocating the disgorgement fund amount the victims of the securities laws violations described in subsection (a), the first priority shall be given to individuals who were employed by the Enron Corporation, or a subsidiary or affiliate of such Corporation, and who were participants in an individual account plan established by such Corporation, subsidiary, or affiliate. Such allocations among such individuals shall be in proportion to the extent to which the non-forfeitable accrued benefit of each such individual under the plan was invested in the securities of such Corporation, subsidiary, or affiliate.

(c) ADDITION OF CIVIL PENALTIES.—If, in any proceeding described in subsection (a), the Commission assesses and collects any civil penalty, the Commission shall, not-

withstanding section 21(d)(3)(C)(i) or 21A(d)(1) of the Securities Exchange Act of 1934, or any other provision of the securities laws, be payable to the disgorgement fund.

(d) ACCEPTANCE OF ADDITIONAL DONATIONS.—The Commission is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, to the United States for the disgorgement fund. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the disgorgement fund and shall be available for allocation in accordance with subsection (b).

(e) DEFINITIONS.—As used in this section:

(1) DISGORGEMENT FUND.—The term "disgorgement fund" means a disgorgement fund established in any administrative or judicial proceeding described in subsection (a).

(2) SUBSIDIARY OR AFFILIATE.—The term "subsidiary or affiliate" when used in relation to a person means any entity that controls, is controlled by, or is under common control with such person.

(3) OFFICER, DIRECTOR, OR PRINCIPAL SHAREHOLDER.—The term "officer, director, or principal shareholder" when used in relation to the Enron Corporation, or any subsidiary or affiliate of such Corporation, means any person that is subject to the requirements of section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) in relation to the Enron Corporation, or any subsidiary or affiliate of such Corporation.

(4) NONFORFEITABLE; ACCRUED BENEFIT; INDIVIDUAL ACCOUNT PLAN.—The terms "non-forfeitable", "accrued benefit", and "individual account plan" have the meanings provided such terms, respectively, in paragraphs (19), (23), and (34) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(19), (23), (34)).

### SEC. 14. AUTHORIZATION OF APPROPRIATIONS OF THE SECURITIES AND EXCHANGE COMMISSION.

In addition to any other funds authorized to be appropriated to the Securities and Exchange Commission, there are authorized to be appropriated to carry out the functions, powers, and duties of the Commission, \$776,000,000 for fiscal year 2003, of which—

(1) not less than \$134,000,000 shall be available for the Division of Corporate Finance and for the Office of Chief Accountant;

(2) not less than \$326,000,000 shall be available for the Division of Enforcement; and

(3) not less than \$76,000,000 shall be available to implement section 8 of the Investor and Capital Markets Fee Relief Act, relating to pay comparability.

### SEC. 15. ANALYST CONFLICTS OF INTEREST.

(a) STUDY AND REVIEW REQUIRED.—The Securities and Exchange Commission shall conduct a study and review of any final rules by any self-regulatory organization registered with the Commission pursuant to section 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78s) related to matters involving equity research analysts conflicts of interest. Such study and report shall include a review of the effectiveness of such final rules in addressing matters relating to the objectivity and integrity of equity research analyst reports and recommendations.

(b) REPORT REQUIRED.—The Securities and Exchange Commission shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on such study and review no later than 180 days after any such final rules by any self-regulatory organization registered with the Commission pursuant to section 19 of the Securities Exchange Act of 1934 are approved by the Commission. Such report shall include recommendations to the

Congress, including any recommendations for additional self-regulatory organization rulemaking regarding matters involving equity research analysts. The Commission shall annually submit an update on such review.

(c) ADDITIONAL RULES REQUIRED.—Unless the final rules reviewed by the Commission under subsections (a) and (b) contain the following provisions, the Commission shall, by rule—

(1) prohibit equity research analysts from—

(A) holding any beneficial interest in any equity security (as such term is defined in section 3(a)(11) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(11)) in any issuer covered by such analyst; and

(B) receiving compensation based on the investment banking revenues of the firm with which the analyst is associated, or on the investment banking revenues of such firm and its affiliates, except that this prohibition shall not prohibit such an analyst from receiving compensation based on the overall revenues of such firm or of such firm and its affiliates;

(2) prohibit the investment banking department of such firm from having any input in the compensation, hiring, firing, or promotion of analysts; and

(3) require such self-regulatory organizations—

(A) to establish criteria for evaluating analyst research quality; and

(B) to require analyst compensation to be based principally on the quality of the equity research analyst's research.

### SEC. 16. INDEPENDENT DIRECTORS.

(a) RULEMAKING REQUIRED.—The Commission shall adopt rules, effective no later than 6 months after the date of enactment of this Act, to require that the independent directors on the board of directors of any issuer of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) be nominated for election by a nominating committee that is composed exclusively of other independent directors of such issuer.

(b) INDEPENDENCE.—The rules required by subsection (a) shall require the same degree of independence for service on the nominating committee of an issuer as is required for purposes of service on the audit committee of an issuer by the listing standards concerning corporate governance of the exchange or association on which the securities of such issuer are listed.

### SEC. 17. ENFORCEMENT OF AUDIT COMMITTEE GOVERNANCE PRACTICES.

The Commission shall revise its regulations pertaining to auditor independence to require that an accountant shall not be considered to be independent for purposes of certifying the financial statements or other documents of an issuer required to be filed with the Commission under the securities laws unless—

(1) an issuer's auditor is appointed by and reports directly to the audit committee of the board of directors or, in the absence of an audit committee, the board committee performing equivalent functions or the entire board of directors;

(2) the audit committee meets with the accountants engaged to perform such audit on a regular basis, at least quarterly; and

(3) the audit committee is provided with the opportunity to meet with such accountants without the attendance at such meetings of any officer, director, or other member of the issuer's senior management.

### SEC. 18. REVIEW OF CORPORATE GOVERNANCE PRACTICES.

(a) STUDY OF CORPORATE PRACTICES.—The Commission shall conduct a study and review of current corporate governance standards and practices to determine whether

such standards and practices are serving the best interests of shareholders. Such study and review shall include an analysis of—

(1) whether current standards and practices promote full disclosure of relevant information to shareholders;

(2) whether corporate codes of ethics are adequate to protect shareholders, and to what extent deviations from such codes are tolerated;

(3) to what extent conflicts of interests are aggressively reviewed, and whether adequate means for redressing such conflicts exist;

(4) to what extent sufficient legal protections exist or should be adopted to ensure that any manager who attempts to manipulate or unduly influence an audit will be subject to appropriate sanction and liability, including liability to investors or shareholders pursuing a private cause of action for such manipulation or undue influence;

(5) whether rules, standards, and practices relating to determining whether independent directors are in fact independent are adequate;

(6) whether rules, standards, and practices relating to the independence of directors serving on audit committees are uniformly applied and adequate to protect investor interests;

(7) whether the duties and responsibilities of audit committees should be established by the Commission; and

(8) what further or additional practices or standards might best protect investors and promote the interests of shareholders.

(b) PARTICIPATION OF STATE REGULATORS.—In conducting the study required under subsection (a), the Commission shall seek the views of the securities and corporate regulators of the various States.

(c) REPORT REQUIRED.—The Commission shall submit a report on the analysis required under subsection (a) as a part of the Commission's next annual report submitted after the date of enactment of this Act.

#### SEC. 19. STUDY OF ENFORCEMENT ACTIONS.

(a) STUDY REQUIRED.—The Commission shall review and analyze all enforcement actions by the Commission involving violations of reporting requirements imposed under the securities laws, and restatements of financial statements, over the last five years to identify areas of reporting that are most susceptible to fraud, inappropriate manipulation, or inappropriate earnings management, such as revenue recognition and the accounting treatment of off-balance sheet special purpose entities.

(b) REPORT REQUIRED.—The Commission shall report its findings to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate within 180 days of the date of enactment of this Act and shall use such findings to revise its rules and regulations, as necessary. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

#### SEC. 20. STUDY OF CREDIT RATING AGENCIES.

(a) STUDY REQUIRED.—The Commission shall conduct a study of the role and function of credit rating agencies in the operation of the securities market. Such study shall examine—

(1) the role of the credit rating agencies in the evaluation of issuers of securities;

(2) the importance of that role to investors and the functioning of the securities markets;

(3) any impediments to the accurate appraisal by credit rating agencies of the financial resources and risks of issuers of securities;

(4) any measures which may be required to improve the dissemination of information

concerning such resources and risks when credit rating agencies announce credit ratings;

(5) any barriers to entry into the business of acting as a credit rating agency, and any measures needed to remove such barriers; and

(6) any conflicts of interest in the operation of credit rating agencies and measures to prevent such conflicts or ameliorate the consequences of such conflicts.

(b) REPORT REQUIRED.—The Commission shall submit a report on the analysis required by subsection (a) to the President, the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate within 180 days after the date of enactment of this Act. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

#### SEC. 21. STUDY OF INVESTMENT BANKS.

(a) GAO STUDY.—The Comptroller General shall conduct a study on whether investment banks and financial advisors assisted public companies in manipulating their earnings and obfuscating their true financial condition. The study should address the role of the investment banks—

(1) in the collapse of the Enron Corporation, including with respect to the design and implementation of derivatives transactions, transactions involving special purpose vehicles, and other financing arrangements that may have had the effect of altering the company's reported financial statements in ways that obscured the true financial picture of the company;

(2) in the failure of Global Crossing, including with respect to transactions involving swaps of fiber optic cable capacity, in designing transactions that may have had the effect of altering the company's reported financial statements in ways that obscured the true financial picture of the company; and

(3) generally, in creating and marketing transactions which may have been designed solely to enable companies to manipulate revenue streams, obtain loans, or move liabilities off balance sheets without altering the economic and business risks faced by the companies or any other mechanism to obscure a company's financial picture.

(b) REPORT.—The General Accounting Office shall report to the Congress within 180 days after the date of enactment of this Act on the results of the study required by this section. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

#### SEC. 22. STUDY OF MODEL RULES FOR ATTORNEYS OF ISSUERS.

(a) IN GENERAL.—The Comptroller General shall conduct a study of the Model Rules of Professional Conduct promulgated by the American Bar Association and rules of professional conduct applicable to attorneys established by the Commission to determine—

(1) whether such rules provide sufficient guidance to attorneys representing corporate clients who are issuers required to file periodic disclosures under section 13 or 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o), as to the ethical responsibilities of such attorneys to—

(A) warn clients of possible fraudulent or illegal activities of such clients and possible consequences of such activities;

(B) disclose such fraudulent or illegal activities to appropriate regulatory or law enforcement authorities; and

(C) manage potential conflicts of interests with clients; and

(2) whether such rules provide sufficient protection to corporate shareholders, especially with regards to conflicts of interest between attorneys and their corporate clients.

(b) REPORT REQUIRED.—The Comptroller General shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of the study required by this section. Such report shall include any recommendations of the General Accounting Office with regards to—

(1) possible changes to the Model Rules and the rules of professional conduct applicable to attorneys established by the Commission to provide increased protection to shareholders;

(2) whether restrictions should be imposed to require that an attorney, having represented a corporation or having been employed by a firm which represented a corporation, may not be employed as general counsel to that corporation until a certain period of time has expired; and

(3) regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

#### SEC. 23. ENFORCEMENT AUTHORITY.

For the purposes of enforcing and carrying out this Act, the Commission shall have all of the authorities granted to the Commission under the securities laws. Actions of the Commission under this Act, including actions on rules or regulations, shall be subject to review in the same manner as actions under the securities laws.

#### SEC. 24. EXCLUSION FOR INVESTMENT COMPANIES.

Sections 4, 6, 9, and 15 of this Act shall not apply to an investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a-8).

#### SEC. 25. DEFINITIONS.

As used in this Act:

(1) BLACKOUT PERIOD.—The term "blackout period" with respect to the equity securities of any issuer—

(A) means any period during which the ability of at least fifty percent of the participants or beneficiaries under all applicable individual account plans maintained by the issuer to purchase (or otherwise acquire) or sell (or otherwise transfer) an interest in any equity of such issuer is suspended by the issuer or a fiduciary of the plan; but

(B) does not include—

(i) a period in which the employees of an issuer may not allocate their interests in the individual account plan due to an express investment restriction—

(I) incorporated into the individual account plan; and

(II) timely disclosed to employees before joining the individual account plan or as a subsequent amendment to the plan; or

(ii) any suspension described in subparagraph (A) that is imposed solely in connection with persons becoming participants or beneficiaries, or ceasing to be participants or beneficiaries, in an applicable individual account plan by reason of a corporate merger, acquisition, divestiture, or similar transaction.

(2) BOARDS OF ACCOUNTANCY OF THE STATES.—The term "boards of accountancy of the States" means any organization or association chartered or approved under the law of any State with responsibility for the registration, supervision, or regulation of accountants.

(3) COMMISSION.—The term "Commission" means the Securities and Exchange Commission.

(4) INDIVIDUAL ACCOUNT PLAN.—The term "individual account plan" has the meaning

provided such term in section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34)).

(5) ISSUER.—The term “issuer” shall have the meaning set forth in section 2(a)(4) of the Securities Act of 1933 (15 U.S.C. 77b(a)(4)).

(6) PERSON ASSOCIATED WITH AN ACCOUNTANT.—The term “person associated with an accountant” means any partner, officer, director, or manager of such accountant (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such accountant, or any employee of such accountant who performs a supervisory role in the auditing process.

(7) PUBLIC REGULATORY ORGANIZATION.—The term “public regulatory organization” means the public regulatory organization established by the Commission under subsection (b) of section 2.

(8) SECURITIES LAWS.—The term “securities laws” means the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 80b et seq.), and the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), notwithstanding any contrary provision of any such Act.

The CHAIRMAN. Pursuant to House Resolution 395, the gentleman from New York (Mr. LAFALCE) and the gentleman from Ohio (Mr. OXLEY) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. LAFALCE).

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

Mr. Chairman, Members can vote against the substitute, and they can vote for final passage of the bill if they want. This will enable them to put a press release out to the public telling them that they have done something meaningful about the problem. This will also enable them to go to corporate America, to the accounting profession, to Wall Street and receive at the very least a pat on the back and they will tell them a job well done because they will be very pleased that an opportunity to enact meaningful reform has been passed and eluded and avoided by passage of the Republican bill. I hope we will not let this opportunity pass without meaningful reform.

My substitute is the barest minimum of what is necessary to have meaningful reform. I say the barest minimum, because I wanted to try to attract as many votes as I possibly could. What do we do? First of all, with respect to auditing, we do a number of things. First of all, we say there shall be a PRO, a professional review organization. We do not make it permissive. We do not say it is something the SEC may do, whatever they want to, if they want to. Secondly, we spell out what its powers and responsibilities are. We make it a real organization with powers and responsibilities in the legislation. We do not leave it totally to the discretion of the SEC, which may or may not do something.

And, third, we spell out the nature of the composition of this PRO. We do not want all accountants, and now through an amendment it will not be all accountants, but we do not want the Ken Lays of this world on that review authority, either. And so we spell out that it shall consist of representatives of groups such as pension plans of private employees, pension plans of public employees, et cetera. So what it shall do and who shall be on it are extremely important and there is a fundamental difference between the gentleman from Ohio's approach which the Washington Post this morning says punts on the issue and the approach that we would take.

Secondly, who shall hire and who shall fire the auditors? We think that is an important issue. There has been too close of a relation between the CEOs, the CFOs, and the auditors. It has been an incestuous relationship. We specify what virtually all good corporate governance individuals have been calling for now, a delineation of the rights and responsibilities of the boards of directors and most especially the audit committee. We say that the hiring and the firing of the auditors shall not be by the officers but by the audit committee of the board of directors. That is a very important provision. We also think that there should be a reasonable, but real, distinction between auditing and nonauditing functions.

And so what we have done is taken the Republican version, not the version that I offered in committee that the gentleman from Alabama (Mr. BACHUS) was referring to, and cleaned it up, took out the language that made it meaningless so that with the deletion of about one sentence, it can be meaningful; and that is all we have done on that score. Except, of course, saying that the board of directors, too, is the one that should be hiring and firing the auditors.

President Bush has also called for a certain type of action. The Republican bill does nothing to effectuate what President Bush called for. Our substitute, as President Bush called for, requires CEOs and CFOs to certify the accuracy of their firm's financial statements. The Republican bill says nothing on it and, therefore, leaves it to the voluntary discretion of corporate America. That will not work.

The substitute also requires corporate officers who falsify their financial statements to disgorge their compensation, including stock bonuses and other incentive pay for any period in which they falsified statements. The Republican bill does nothing on that score. It is absolutely outrageous that corporate officers are able to walk away with tens of millions of dollars or more in the past 2- or 3-year period that they have been engaging in fraudulent activity and misleading manipulation of their earnings statement at the expense of investors. The investors should be able to go after that and ob-

tain redress from those officers and directors. The substitute does something about it, as President Bush wants. The main bill, the Republican bill, does nothing.

Our substitute also empowers the SEC in an enforcement proceeding to bar officers and directors from serving as an officer or director of a public company if they are found guilty of wrongdoing and determined to be unfit. This too was proposed by the President. The SEC said that existing case law makes it virtually impossible for them to do this, to bar unfit officers and directors. And what have the Republicans done? They have taken that bad case law and codified it. In that respect the Republican bill is worse than the status quo.

Finally, with respect to securities analysts, the research analysts, most individuals rely most heavily on the recommendations of Wall Street. Yet we regrettably have learned that there has been a terrible relationship between research analysts and the investment banking arms of the securities firms. Research analysts have been compensated in large part by the revenues they have been able to generate for the investment banking arm of the firm because there are no fire walls within those firms between the research analyst and the investment banking.

The Republican bill has no fire walls whatsoever. Our substitute creates fire walls. That is what has been called for by the Attorney General of the State of New York, by the President of the AFL-CIO, et cetera. Our bill says that the research analysts' compensation shall in no way have any bearing on revenues that are generated by the investment banking portion of the securities firm. This is extremely important. What do the Republicans do? The Republicans say, Gee, that's an issue we ought to think about.

If Members want to please corporate America, the officers, if they want to please the accounting firms, if they want to please Wall Street and be able to put out a piece of paper that says they have done something about it, it will be a wrong piece of paper, it will be a misleading piece of paper. They will be able to get a pat on the back from all those special interests, but they will not really be helping investors. Vote for the substitute. If the substitute passes, vote for final passage. If the substitute should go down, oppose this cosmetic approach that is being advanced to the floor today.

Mr. Chairman, I rise to offer a substitute for H.R. 3763. As I described in detail earlier, the bill before us does virtually nothing to correct the systemic flaws in our financial reporting system. The substitute I offer will provide real reform to restore integrity to our financial markets and protect the savings and pensions plans of millions of Americans that remain threatened by future Enrons. My substitute will provide improvement and reform in several major areas.

First, the substitute would create a powerful new regulatory board with the authority and

responsibility to ensure that auditors will be truly independent and objective. My substitute provides for a regulator that: Sets audit and quality standards for auditors of public companies; possesses sweeping investigative and disciplinary powers over audit firms; and is controlled by a board comprised of public members and not the accounting history. This is a decidedly different approach from H.R. 3763, which punts decisions on almost all of the functions and powers of the regulator to the SEC. Only a regulator with explicit powers and duties, and a defined composition, such as the one I propose, will ensure that the abuses we witnessed in the Enron debacle will not be repeated.

Second, while the Republican bill purports to prohibit auditors from providing their audit clients with two nonaudit services—financial reporting systems design and internal auditing—in reality, it prohibits nothing, merely codifying the limited restrictions in existing SEC rules. In contrast, my amendment modifies the definitions of these two services to actually ban these consulting services, which create significant conflicts of interest for auditors.

Third, the substitute includes important corporate governance reforms that will ensure that the audit committees of public companies have the authority they need to better protect shareholder interests. The substitute ensures that audit committees, not management, are responsible for hiring and firing the auditors. It requires that audit committees approve any consulting services that auditors provide to an audit client. These provisions will ensure that auditors give their allegiance to shareholders, not to corporate management.

Fourth, in a bipartisan spirit, we have taken three meritorious elements of President Bush's proposals on corporate responsibility and executive accountability and given them legislative substance and real teeth, unlike the provisions contained in H.R. 3763. Our substitute requires CEOs and CFOs to certify the accuracy of their firms' financial statements. Violation of this provision would carry with it the civil penalties provided for under the securities laws, and potentially criminal penalties for willful violations. The Republican bill contains no similar provision. It is essential that Congress require officers of public companies to stand behind their public disclosures. It is the minimum we should require.

The substitute requires corporate officers who falsify their financial statements to disgorge their compensation, including stock bonuses and other incentive pay, for any period in which they falsified statements. Our amendment would empower the Securities and Exchange Commission, SEC, to seek such a disgorgement in an administrative proceeding, or in court. H.R. 3763 requires only a study of this issue, and limits the scope of any disgorgement actions by the SEC to 6 months prior to a restatement.

The amendment would also empower the SEC in an enforcement proceeding to bar officers and directors from serving as an officer or director of a public company if they found guilty of wrongdoing and determined to be unfit. It would also remove judicial hurdles to seeking such a bar in court. H.R. 3763, however, makes obtaining director and officer bars more difficult, codifying the most restrictive judicial standard, a standard that the head of the SEC's Enforcement Division has stated

publicly is almost impossible to meet. We must not codify a standard that makes it harder than ever for the SEC to obtain officer and director bars at a time when accounting fraud and earnings manipulation by corporate executive is at an all time high.

Finally, my substitute seeks to ensure that stock analysts are truly independent and objective. The substitute achieves this by: Barring analysts from holding stock in the companies they cover; prohibiting analysts' pay from being based on their firms' investment banking revenue; and barring their firm's investment banking department from having any input in to analysts' pay or promotion. The revelations brought to light by Eliot Spitzer, the NY State attorney general, in his investigations of major Wall street firms' analysts, confirm the need to address analysts' conflicts of interest. In urging the Financial Services Committee to adopt reforms, Attorney General Spitzer stated, "[o]nly if the pernicious link between investment banking and research compensation is severed will the public receive the unbiased research it deserves and the public market's integrity be preserved." Unfortunately, as with other important topics in this legislation, the Republican bill requires only a study.

The Democratic substitute is a strong reform bill that mandates tough corporate responsibility and strict accounting industry reforms. I urge Members to vote for the real reforms my substitute offers.

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

Mr. OXLEY. Mr. Chairman, I yield myself 3 minutes. Mr. Chairman, as we have heard throughout this debate, H.R. 3763 is a tough bill which imposes much-needed reforms in the areas of auditor and corporate responsibility and accountability. The legislation ensures that investors in America's capital markets will know that they have access to accurate and understandable information regarding publicly traded companies.

In the committee's hearings and debate on H.R. 3763, we had an opportunity to hear from a broad group of regulators, investors, and corporate employees. We were told by some that our proposal went too far. Others, not far enough. At the end of the day we decided to strike a balance, create a bill that is tough but fair, which punishes those who do wrong, while encouraging the vast number of America's honest and ethical companies to keep up the good work.

During the debate on the bill, the committee had the opportunity to consider a similar substitute amendment to the one Ranking Member LAFALCE is offering today. After a fair debate, the committee rejected the amendment by voice vote. The committee then adopted H.R. 3763 along bipartisan lines with a vote of 49 to 12 with more Members of the minority voting for the bill than against it. We should not overturn the bipartisan consensus reached by our committee. We should not reject the balanced approach taken by the members of the committee, both Republican and Democrat, which will make our markets stronger.

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I commend the ranking member, the gentleman from New York (Mr. LAFALCE) for his efforts throughout this process. In fact, many of his ideas were adopted by the committee. But his substitute amendment represents an honest difference of opinion between us.

I do not believe we should micro-manage the tough, new accountant regulatory body that we create. I do not believe we should preempt the laws of the States with regard to how corporations are governed, and I do not believe we should overturn the will of the committee when it adopted this legislation. The President supports H.R. 3763. This legislation represents the ideas he presented in his 10-point plan on corporate responsibility. Where the President requests legislation, we legislate. Where the plan urges that the regulators be given the freedom to act, we give them that freedom.

Mr. Chairman, I urge my colleagues to support the President's plan. I urge my colleagues to support the bipartisan approach that the committee took in passing CARTA. I ask all of my colleagues to reject the LaFalce amendment and to pass H.R. 3763.

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

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI), the distinguished ranking member of the Subcommittee on Capital Markets, who has done an outstanding job in this entire area and has shown tremendous leadership.

Mr. KANJORSKI. Mr. Chairman, I thank the gentleman from New York for yielding me this time.

Mr. Chairman, I rise in favor of the substitute amendment. I heard the chairman of the committee say that this is the embodiment of the President's plan. If it is, then it is an example of the President having spoken on one occasion as to what is necessary, and then seeing it reduced to legislation that does not comport with what the President indicated in his public appearances as to what he wanted us to do.

This is opting out. When we have an opportunity to do something well, the underlying bill ignores or virtually sets aside any of the real reform and just plasters over the defects within the system. The substitute bill, although in my own opinion is maybe premature in itself but we are stuck with the rules of having to come here, I support the substitute because it at least puts meat on the bones. It says something to corporate America, that we are going to hold you responsible. We are going to hold corporate executives responsible when they put out statements that are fraudulent or grossly overstated. We are going to tell the accounting industry that they cannot have conflicts of interest and, if they do, there is a penalty to be had, and perhaps a loss of their business. We are going to say to Main Street America

and the investors, that you can understand that corporate America plays by the same rules you do, and that they are fair and they are honest and they are straightforward; that they are not swindlers, that they are not tellers of untruth in order to encourage 50 percent of the American people to make investments in equities in our market today who are getting information that they cannot rely on. Not in all instances, not all corporations by a long shot, but enough that we see a need for remedial legislation.

Instead, the underlying bill is an attempt to cover and do little or nothing. But in the substitute bill, we have substance, we have material that will correct some of the Enron problems, will give some form of integrity back to Wall Street and some sort of support to Main Street investors.

Mr. Chairman, I urge my colleagues to support the substitute amendment and, if that fails, to vote "no" on the underlying bill.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 5 minutes to the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Chairman, I thank the gentleman for yielding me this time. I would start by observing that the Enron debacle is obviously devastating in many ways to many people. One of the most devastating ways is the way that collapse has shaken public confidence and really raised the question about financial reporting, even in the accounting profession, and the stability of our financial markets.

This underlying bill is going to have several very significant and very positive effects. It is going to help investors make better informed investment decisions; there is no question about that. It is going to require greater disclosure. It is going to enhance audit quality and the quality of financial reporting. By doing those things, it is going to increase the confidence in our capital markets, our financial reporting system, and those effects can only be beneficial for our financial system and our economy and our economic growth.

I would remind my colleagues that this bill passed our committee by a vote of 49 to 12. It was obviously supported by a bipartisan effort, and it takes some unprecedented measures. We take some very dramatic steps, one of which is the creation of the Public Regulatory Organization. This is going to be an organization that is going to be able, for the first time, to really discipline accountants that violate standards of ethics, competency, or independence, and it includes even disbarment. This is a major step in the regulation of the accounting profession, a dramatic departure from the traditional model in which this profession was entirely self-regulated.

But I think that it is impossible for us to know today, here in this Chamber, all of the answers to all of the questions that that regulatory organi-

zation needs to address. That is why instead of specifying in great detail every rule that we want them to promulgate, what we ought to do instead is set the broad parameters, and then give them the authority to carry this out, together with the regulators like the SEC, and that is what the underlying bill does.

My main criticism of the substitute amendment is that it goes too far in trying to micromanage this process in spelling out in great detail rules that ought to be left to the SEC and to others.

Mr. Chairman, the ranking member does an outstanding job and does a lot of great work in our committee. Today's substitute differs from the substitute he offered in the committee; it is more similar to ours than the substitute offered in committee. Maybe in another few weeks we would see something quite similar to our bill. In fact, it is not enormously different. I do not think that the differences are that huge, but they are important, and they differ in the sense that I think the ranking member has gone too far in trying to specify details that ought to be left to others.

Several have mentioned the President's principles that have been discussed. Let there be no question about it: The President supports this bill. The administration has issued a statement of their policy, and it clearly supports this bill.

Let me look at a couple of the specifics in which the ranking member gets very specific. Disgorgement is one. But look at what we do with disgorgement. We take a very tough approach. It is unprecedented, the approach we take in this bill. If an officer or director sells stock in a company 6 months prior to a restatement, then the SEC can require the disgorgement of any profits that were earned or avoided losses. That is probably all we need to say about this. Let us let the specifics be developed by the SEC. Instead, in the substitute, basically, the SEC's rule is written for them. I do not think that is a good idea.

With regard to analyst conflicts, again, this bill tries to micromanage how analyst conflicts should be addressed. But we have entities, the NASD, the New York Stock Exchange, they are already in the process of producing rules on how this is going to be governed. I think the ranking member, as well as other members on this committee, have had input on that rule-making process. It is still under review. It is they who should be doing this job, not us.

I think part of the problem with the substitute is an underlying failure to appreciate the ability of the marketplace to impose some discipline as well. But we have already seen how severely and appropriately investors have responded to companies who have even questionable accounting practices after this Enron debacle. It is not as though the investment community has not no-

ticed and has not taken the precautions to demand certain greater disclosures and more transparency in financial reports and to punish companies that have engaged in perhaps dubious accounting principles, and that same kind of discipline is going to continue; it is going to continue with respect to analysts and other matters between the market's discipline.

In this bill, the underlying bill that the majority is proposing, we take some unprecedented measures. I am very confident we are going to encourage a greater degree of honesty and transparency in financial statements. It is going to be extremely helpful. I would suggest to my colleagues that we reject the substitute, reject the micromanagement of what should be done by regulators who have the expertise in this area, and support the underlying bill.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York City (Mrs. MALONEY), the distinguished ranking minority member of the Subcommittee on Domestic Monetary Policy.

Mrs. MALONEY of New York. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in strong support of the LaFalce substitute.

The implosion of Enron is a scandal on a massive scale that demands a real response. Enron's failure has shaken the accounting industry, once again exposed the conflicts Wall Street analysts face in rating stocks, and ruined the lives of thousands of innocent employees and retirees.

For financial markets to work, investors must be able to trust the information on which they base decisions. Auditors must not be under pressure to cook the books because their firm is chasing a consulting contract, and analysts must not have their compensation tied to investment banking deals.

The LaFalce substitute best addresses each of these areas with concrete, real reforms. The Enron scandal has done serious, lasting damage to the reputation of the accounting industry. The majority of accountants, many of whom live in my district, are honest and hard-working, but this scandal has revealed serious weaknesses in the industry's oversight structure, and only the substitute, the LaFalce substitute, directly spells out standards for a new accounting oversight board.

We need a new accounting oversight board because the current structure has failed dramatically. There are 17,000 public companies in the United States, and we may be down to just 4 major accounting firms to audit financial statements. Therefore, we need stronger regulation.

It is not enough for Congress to delegate regulation of the industry to the SEC. We owe it to the public to do the job ourselves and support the LaFalce substitute.

Long after the con men of Enron fade from memory, the conflicts faced by

accountants and analysts will still be in place unless Congress acts now.

Mr. OXLEY. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Chairman, I rise in opposition to the substitute amendment offered by the gentleman from New York (Mr. LAFALCE).

The substitute makes clear the different philosophical positions from which we seek to address the problems of the accounting industry. While CARTA gives broad authority to the SEC to set up the new public regulatory organization, this substitute stipulates exactly how it is going to be set up, to what extent the powers will be, regardless of what the experts may think, especially the experts at the SEC. Unfortunately, I do not believe that most of these provisions would actually do anything to prevent future Enrons and Global Crossings. So I am thinking about what the American investors do. I think the American investors will only risk their savings based on truth and transparency in the market. No smart investor should be required to buy a "pig in a poke."

This bill provides control without choking the free market. The reason the people put their money in the market is to make a good return on their money. Many Americans have saved for their retirement through pension funds and 401(k)s. This money is often invested in the markets, so the markets must function with transparency and truth if we expect our citizens to invest their future in the stock of American corporations and other investment vehicles that are offered in the markets.

The CARTA act will ensure transparency and truth responsibly and appropriately. This substitute was defeated during committee consideration and does not enjoy the broad bipartisan support that the underlying bill enjoys. So I urge my colleagues on both sides of the aisle to join us in opposition to this amendment.

Mr. LAFALCE. Mr. Chairman, I yield myself 10 seconds to advise the gentleman that this substitute was never offered in committee, and what was offered was defeated on a voice vote, not a recorded vote.

Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. DINGELL), the distinguished dean of the House of Representatives, and the ranking member of the Committee on Energy and Commerce, who for so many years had jurisdiction over the field of securities.

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

□ 1400

Mr. DINGELL. Mr. Chairman, I rise in strong support of the amendment and in opposition to the bill. I say to the sponsors of the legislation, shame. This is a piece of drivel. It is not a piece of legislation, it is a gift to the

accounting industry and those who would steal from the American investing public.

Look at the history: Enron, Global Crossing, Baptist Foundation of Arizona, Waste Management, Sunbeam, Xerox, Rite Aid, Microstrategy. Accountants and fat cat officers of corporations stole billions and lied to the American investing public. That is what happened, and that is what needs to be corrected, and that is not what is addressed here.

The watchdogs in those cases and many others were asleep, or benefiting from their wrongdoing, or just plain blind. What is the response of the legislation to this outrage? The bill passes the buck to the SEC on every major issue, and avoids addressing important issues altogether by requiring that the SEC conduct studies.

If Members like studies and they want to waste money, that is a fine way to do it. If they want to hurt the investing public, that is a fine way. Enron would have loved this legislation. Anderson would have found it to be splendid.

I would be embarrassed to put a piece of legislation of this kind on the House floor. The LaFalce substitute ends the farcical self-regulation by the accounting industry which is encouraged and fostered by the committee bill. It creates a strong regulatory board that sets strict standards for auditor independence and auditor quality, and it is a shame if the House does not accomplish this important reform today.

The LaFalce substitute also requires executives to surrender ill-gotten gains made as a result of financial frauds, and empowers the SEC to bar officers guilty of wrongdoing from serving with other companies so that they may steal again. I think that that is necessary. It also imposes strong penalties for lying, including criminal penalties.

The committee bill actually makes it harder for the SEC to bar crooked executives from serving in other companies. On whose side are the authors of this legislation?

Mr. Chairman, our financial markets run on confidence. Those on this side apparently do not know that. If the people have confidence, everybody makes lots of money. They do not run on money, and no confidence will exist, where there is stealing, dishonesty, false accounting, and the kinds of things which we have seen going on in the accounting industry.

I would note that it is time that we deal with these things, and deal vigorously. The American public wants action. They do not trust the accounting, they do not trust the financial markets, and they want to see something in which they can have faith.

Unless and until Members do something about the situation that the American public sees, again with the Enrons and the other corporations where this is going on, and about the Andersens, we are going to see no confidence in the securities markets, and

we are going to find that the economy of this country is going to hurt.

I say vote for the LaFalce amendment, vote against the committee bill. The committee bill is a sad, sorry, and repugnant joke. Vote for a piece of legislation that protects the American public. Vote for a piece of legislation that protects the investors of this Nation. Let us give confidence to the markets, instead of passing a sorry, silly charade like this.

Mr. OXLEY. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, at least my friend, the gentleman from Michigan, has been consistent in his strong support for big government and lack of respect and recognition of the free market. So I congratulate him on his consistency, if nothing else.

Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana (Mr. BAKER), the chairman of the Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises.

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

I would join him in recognizing the importance of the preceding speaker's remarks in characterizing the legislation now pending before the House, as in free enterprise, as buyer beware. We should carefully evaluate and analyze any representation made by some salesman as to his product.

I think it is also an advisable warning to those listening to speeches by Members of Congress.

Mr. Chairman, let me turn for a moment to the criticism of the bill with regard to analysts' conduct. Some would have us believe that this Congress has turned its back, protecting the Wall Street interests, walking away from the working families of America, letting the pillaging continue without restraint.

They seem to fail to remember just last year this committee, with bipartisan help, spent hours in evaluating the approach to take in resolving inappropriate conduct by analysts on Wall Street.

Let me explain. When a company wants to raise money on Wall Street, they have to hire a firm to go sell their stock. In order to sell that stock, they need to have a research department that says, is this a good investment or not? And investors rely on that research, understanding that the investment bank is separate from the research.

Well, unfortunately, that has not always been the case. Apparently, in some limited instances, the research was held out by the investment bank sort of as a marketing tool, to say, if you give us a good research product, the investment bank gets the business, and huge profits were made.

Here is the change: Research integrity is restored by having analyst independence from investment bankers. The investment banker cannot talk to the research analyst anymore. They

have to be maintained in separate divisions of the business, and there are consequences if they do collude.

It restricts the ties between analysts' compensation and investment banking transactions. If there is any connection, if there is, it must be stated publicly in a report for all to see, or else there is a violation of the law.

It prohibits promising favorable research for the investment bank to get the work in compensation for the firm. So they cannot go out and use the research department information for the investment bank to go make the deal with the corporation. That is illegal. They cannot do it anymore.

It limits analysts' own purchasing and trading of stocks on which they issue research, and prohibits trading against their recommendations. It would be wrong if I were an analyst to say, go buy, gobble it up, America, this is a great stock, and privately I was in the back room selling my own interest to protect my financial position. This prohibits such conduct, and there are penalties, including up to disbarment from the profession.

We require potential conflicts of interest to be disclosed clearly. If we have missed something, if there is something inappropriate that an investor should know, they have a professional obligation to disclose it, and if they do not, there are penalties for that inappropriate conduct.

We have taken action. We have stood up to Wall Street. We are protecting working families across this country. To vote against this bill would be in their disinterest.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute to the gentleman from Washington (Mr. INSLEE), a member of the Committee.

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

Mr. INSLEE. Mr. Chairman, I speak in favor of the substitute and against the bill. This Enron collapse really did rock underlying confidence in the American people, and I think all of us know that the American people want and expect a real guard dog around their life's savings, a bulldog, someone with teeth, vigilance.

This bill, charitably, has all the attributes of a Chihuahua. It fails. It fails to do even what the President of the United States has suggested to require CEO accountability.

It fails in dealing with board independence, to make sure that the board answers to stockholders and not management by preventing payments to the directors by management.

It fails to address the separation of accounting services that even accounting companies have adopted on their own initiative.

It fails and it is disappointing. It is going to disappoint the American people, but it will not surprise the American people that the Republican Party, who gave us an energy policy based on Enron, is giving us an accounting policy based on Arthur Andersen.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Texas (Mr. BENTSEN), a member of the Committee.

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

Mr. BENTSEN. Mr. Chairman, the underlying bill is not perfect, and I do not think the substitute is necessarily perfect, but there are certain pieces of the substitute that I think would make the underlying bill better.

Number one, the substitute is stronger on the issue of scope of services for auditing firms. Originally, I thought the gentleman from New York (Mr. LAFALCE) went too far in the committee.

The language he has adopted would bolster the language that the gentleman from North Carolina (Mr. WATT) and I put in the bill that was accepted by the chairman, and I think that is very good in ensuring that the SEC is on the job and doing what it is supposed to do.

Second of all, as the gentleman from Michigan (Mr. DINGELL) pointed out, the substitute is much stronger on giving authority to the SEC to remove officers and directors who engage in misconduct in public companies, and I think that needs to be done.

I have some concerns, as the gentleman from Louisiana (Mr. BAKER) pointed out, about the analyst provisions. I think they go too far. But I think what the gentleman from New York (Mr. LAFALCE) has put together in the substitute would add greatly to where we want this bill to go when it finally gets to the President's desk.

For those reasons, I think I will support the substitute.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute and 15 seconds to the distinguished gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Chairman, I rise in support of the LaFalce substitute and in opposition to the underlying bill.

Mr. Chairman, accounting is a boring profession. It is easier to watch grass grow than be an accountant, unless people want to engage in financial fraud. Then it is a fascinating subject, because it affects thousands or millions of people, and that is what happened in this country: Auditors decided they were going to be financiers at the same time. They were going to play both roles.

They cannot do that, and this bill does not correct the fundamental, underlying problem that caused the Enron-Arthur Andersen scandal. It does not go nearly far enough to deal with the causes of the financial chicanery that have turned, overnight, people who thought they had their life's savings protected into those who are wondering about the future.

Specifically, the public regulatory organization created by the bill is a joke. It is set up in such a way that it will be dominated and controlled by the accounting profession. It lacks the

investigative and enforcement powers needed to be an effective regulatory agency. The SEC is not given the powers needed to properly oversee its operation.

There is not a proper separation between the auditing and the consulting functions that led to the very core of the problems that were created that have defrauded millions of Americans out of their hard-won savings.

Mr. OXLEY. Mr. Chairman, I yield 1 minute to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. Mr. Chairman, I rise today in opposition to the amendment offered by the gentleman from New York (Mr. LAFALCE), who earlier claimed that the underlying bill would make it harder for the SEC to ban officers and directors from serving on corporate boards.

Quite the contrary. For the first time in history, H.R. 3763 will allow, through the administrative process, the SEC to provide greater oversight of corporate officers. Currently, the SEC must go to court to obtain such a ban. This change makes it easier, not harder, for the SEC to go after malfeasance. H.R. 3763 does not allow such a ban to be imposed without providing at least minimum standards for the SEC to consider.

What we do in this bill is to provide the SEC with the tools it needs to tighten corporate oversight without giving the SEC carte blanche authority. We cannot, as someone suggests, grant the SEC unwarranted powers that would alter its appropriate role in maintaining the integrity of the capital markets, but we should give the SEC the ability to efficiently remove those who have no business serving as corporate officers.

Mr. LAFALCE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from the State of Washington (Mr. BAIRD).

Mr. BAIRD. Mr. Chairman, I thank the ranking member for yielding time to me.

Mr. Chairman, thousands of workers of Portland General Electric lost their entire life's savings when Enron collapsed. I praise the gentleman from New York (Mr. LAFALCE) for introducing legislation that would have prevented that tragedy.

I am particularly concerned about a provision in the Republican majority bill which does not allow State boards of accountancy to know if there have been irregularities and penalties imposed. Let me refer Members to a letter from James Caley, a CPA from Vancouver, Washington, who called for precisely such notification.

Mr. Caley wrote, "A system which encourages cooperation between State and Federal regulatory agencies increases the overall effectiveness of both entities, ensuring maximum protection to the public." State agencies need to know if there have been irregularities recognized by Federal entities. The Republican bill, the majority

bill, does not provide that notification. The substitute of the gentleman from New York (Mr. LAFALCE) does. I commend the gentleman for including that.

□ 1415

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

Mr. Chairman, I do not want individuals to kid themselves. If Members vote against this substitute or even if Members vote for the substitute, it goes down and then Members vote for final passage of this bill, Members are voting for basically a cover-up because we are not dealing in a fundamental way with the fundamental problems. We are not dealing with the problems of officers who either knowingly or through negligence engage in wrongdoing. We are not dealing with the problems of directors. We are not dealing with the problems of auditors. We are not dealing adequately with the problems of research of the securities firms.

You are relying on two things basically in your bill, the SROs, the Self Regulatory Organizations. So let the officers and directors take care of themselves. Let the securities individuals take care of themselves. Let the accountants take care of themselves. And the magic of the marketplace, you say the marketplace will punish. The marketplace punishes investors. It does not punish the wrongdoers. You have got it wrong.

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

Mr. Chairman, we have had a good debate here today about competing ideas. We made some decisions about our direction and now it comes time to cast our vote.

Today we are acting for America's employees, retirees and investors. At the same time, we recognize that every company in America is not an Enron, every company is not a Global Crossing. The vast majority of American companies are led and managed by good, hard-working citizens. They want to provide benefits and a good living for their employees and they want their companies to prosper and grow. Similarly, the vast majority of accountants are honest and trustworthy individuals who make an invaluable contribution to our financial systems.

If we have learned anything in recent months, we have learned that we need a strong and vibrant accounting community to give us that objective view of companies' financial conditions.

We understand to overreact would make things worse, not better as Chairman Greenspan and Chairman Pitt both admonished in testimony before our committee. So we are not going to make life even more difficult for every American company that is just trying to come out of a slump. We will ask them to provide more and better information. We will ask them to take on some more corporate responsibility, and we will support the accounting industry with a solid and effective

oversight organization, while strengthening the Securities and Exchange Commission.

We will ensure that the new rules for analysts are working as they are intended, to provide higher-quality information for investors. We are going to review corporate governance practices to ensure that they adequately protect shareholders and employees. We will look at the credit reporting agencies to ensure they are free of conflicts of interest and provide accurate reports.

CARTA really gets to the heart of what went wrong. CEOs and other corporate insiders will have to publicly reveal in 2 days when they sell their company stock, as compared with 60 days now. It will be a crime to try to interfere with an audit. And never again will employees be locked into owning company stock while the executives are selling.

Mr. Chairman, today we have the chance to offer more than just talk. Today we have a chance to take a scandal and offer a real solution. Today, Mr. Chairman, we have an opportunity to pass a bipartisan product that came out of the Committee on Financial Services. Oppose the LaFalce substitute and pass CARTA.

Ms. SCHAKOWSKY. Mr. Chairman, I am dismayed that the Republican leadership of this body has not responded to the widespread corruption in our financial markets. The Republican so called "reforms" bill will not protect investors and pension holders from conflicts of interest and corporate greed. By failing to enact meaningful reform we are failing the American people.

We all know that if not for Enron's collapse we would not consider these important matters today. I am concerned that some want to characterize the Enron collapse as just a case of one bad actor in the market place. I disagree with that interpretation. Enron's collapse has systemic causes. Corporate board of directors, Wall Street analysts, and the big five accounting firms all have an economic incentive to provide biased analysis of large, profitable companies.

Enron used its political ties to persuade the government to carry out its business plan. Just take a look at California, President Bush, his regulators, and congressional Republicans opposed price caps for consumers while Enron manipulated the market, causing the California energy crisis. Enron had incredible access to the White House. President Bush received over \$736,000 throughout his career as an elected official. Vice President CHENEY had at least six meetings with Enron officials while drafting the Administration's energy plan. Enron's economic and political power effectively muted people who were skeptical of the company's economic stability. Enron is not an isolated case and this is not only a business scandal it is also a political scandal.

The fact of the matter is we do not have the laws and procedures in place to protect common investors. I have little doubt that corporate executives' greed and deception will victimize more people. We in Congress cannot simply rely on free market dogma. The American people deserve better than this sham of a reform bill.

I am a member of the Financial Services Committee and I voted against final passage

of this cosmetic excuse for a bill. I am dismayed to report that Republicans on the committee refused to even pass an amendment that called for CEO's and CFO's to certify financial statements. I think most Americans would be surprised to learn that this is not a requirement that already exists.

Employees and pension managers must be involved in corporate decision making. Boards that are dominated by corporate executives are inherently flawed, a lesson we learned from Enron's collapse.

Enron's collapse had a major impact on working families—many lost their life savings while Enron's executives gained millions. It is estimated that Illinois' state pension fund lost \$25 million. That means that hard working teachers, police officers, and firefighters who worked for the public good may not be able to enjoy their hard-earned retirement. Back home in my home Chicago thousands of Andersen employees have, through no fault of their own, lost their jobs. For this reason, as well as many others, it is important that we do act in order to prevent those kinds of layoffs and to protect investors and pension holders from unfettered corporate greed. I hope that the final bill that is sent to the President's desk will make real reforms that will help prevent this from occurring, again.

A real reform bill will:

Make sure that our auditors are independent.

Create a strong public regulatory body that does not have conflict of interest or financial ties to the industry being regulated.

Ensure that investors have at least the same rights and receive the same treatment as corporate executives.

Ensure those employees, investors and pension holders have access to pertinent information and participate in corporate decision making.

Ensure that Enron executives cannot keep the money they stole from their employees and investors.

Our ranking member, JOHN LAFALCE, has crafted an alternative that will accomplish these goals. Please join me in voting for his substitute.

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

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. LAFALCE).

The question was taken; and the Chairman announced that the noes appeared to have it.

#### RECORDED VOTE

Mr. LAFALCE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 202, noes 219, not voting 13, as follows:

[Roll No. 108]

AYES—202

Abercrombie	Bentsen	Brady (PA)
Ackerman	Berkley	Brown (FL)
Allen	Berman	Brown (OH)
Andrews	Berry	Capps
Baca	Bishop	Capuano
Baird	Blumenauer	Cardin
Baldacci	Bonior	Carson (IN)
Baldwin	Borski	Carson (OK)
Barcia	Boswell	Clay
Barrett	Boucher	Clayton
Becerra	Boyd	Clement

Clyburn Johnson, E. B.  
 Condit Jones (OH)  
 Conyers Kanjorski  
 Costello Kaptur  
 Coyne Kennedy (RI)  
 Cramer Kildee  
 Crowley Kilpatrick  
 Cummings Kind (WI)  
 Davis (CA) Kleczka  
 Davis (FL) Kucinich  
 Davis (IL) LaFalce  
 DeFazio Lampton  
 Delahunt Langevin  
 DeLauro Lantos  
 Deutsch Larsen (WA)  
 Dicks Larson (CT)  
 Dingell Lee  
 Doggett Levin  
 Dooley Lewis (GA)  
 Doyle Lipinski  
 Edwards Lofgren  
 Engel Olowe  
 Eshoo Luther  
 Etheridge Lynch  
 Evans Maloney (CT)  
 Farr Maloney (NY)  
 Fattah Markey  
 Filner Mascara  
 Ford Matheson  
 Frank Matsui  
 Frost McCarthy (MO)  
 Gephardt McCarthy (NY)  
 Gonzalez McColm  
 Gordon McDermott  
 Green (TX) McGovern  
 Gutierrez McInnis  
 Hall (OH) McIntyre  
 Hall (TX) McKinney  
 Harman McNulty  
 Hastings (FL) Meehan  
 Hill Meek (FL)  
 Hilliard Meeks (NY)  
 Hinchey Menendez  
 Hinojosa Millender-  
 Hoeffel McDonald  
 Holden Miller, George  
 Holt Mink  
 Honda Mollohan  
 Hooley Moore  
 Hoyer Moran (VA)  
 Insole Murtha  
 Israel Nadler  
 Jackson (IL) Napolitano  
 Jackson-Lee Neal  
 (TX) Oberstar  
 Jefferson Oliver  
 John Ortiz

NOES—219

Aderholt Crenshaw  
 Akin Cubin  
 Arney Culberson  
 Bachus Cunningham  
 Baker Davis, Jo Ann  
 Ballenger Deal  
 Barr DeLay  
 Bartlett DeMint  
 Barton Hobson  
 Bass Doolittle  
 Bereuter Dreier  
 Biggart Duncan  
 Bilirakis Dunn  
 Blunt Ehlers  
 Boehlert Ehrlich  
 Boehner Emerson  
 Bonilla English  
 Bono Everett  
 Boozman Flake  
 Brady (TX) Fletcher  
 Brown (SC) Foley  
 Bryant Forbes  
 Burr Fossella  
 Burton Frelinghuysen  
 Buyer Gallegly  
 Callahan Ganske  
 Calvert Gekas  
 Camp Gibbons  
 Cannon Gillmor  
 Cantor Gilman  
 Capito Goode  
 Castle Goodlatte  
 Chabot Goss  
 Chambliss Graham  
 Coble Granger  
 Collins Graves  
 Combest Green (WI)  
 Cooksey Greenwood  
 Cox Grucci  
 Crane Gutknecht

Lucas (KY) Putnam  
 Lucas (OK) Quinn  
 Manzullo Radanovich  
 McCrery Ramstad  
 McHugh Regula  
 McKeon Rehberg  
 Mica Reynolds  
 Miller, Dan Riley  
 Miller, Gary Roemer  
 Rahall Rogers (KY)  
 Rangel Moran (KS)  
 Reyes Morella  
 Rivers Myrick  
 Ross Nethercutt  
 Rothman Ney  
 Roybal-Allard Northup  
 RUSH Norwood  
 Sabo Nussle  
 Sanchez Osborne  
 Sanders Ose  
 Sandlin Otter  
 Sawyer Oxley  
 Schakowsky Paul  
 Schiff Pence  
 Scott Peterson (MN)  
 Serrano Peterson (PA)  
 Sherman Petri  
 Skelton Pickering  
 Slaughter Pitts  
 Snyder Platts  
 Solis Pombo  
 Spratt Portman  
 Stenholm Pryce (OH)  
 Strickland  
 Stupak  
 Tanner  
 Tauscher  
 Taylor (MS)  
 Thompson (CA)  
 Thompson (MS)  
 Thurman  
 Tierney  
 Towns  
 Turner  
 Udall (CO)  
 Udall (NM)  
 Velazquez  
 Visclosky  
 Waters  
 Watson (CA)  
 Watt (NC)  
 Waxman  
 Weiner  
 Wexler  
 Woolsey  
 Wu  
 Wynn

Blagojevich Houghton  
 Davis, Tom Obey  
 DeGette Rodriguez  
 Ferguson Smith (WA)  
 Gilchrist Stark

NOT VOTING—13

□ 1440

Mr. JOHNSON of Illinois and Mr. YOUNG of Alaska changed their vote from "aye" to "no."

Messrs. UDALL of Colorado, MCINNIS and BARCIA changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. WATTS of Oklahoma. Mr. Chairman, on rollcall No. 108, I was inadvertently detained. Had I been present, I would have voted "no."

Mr. FERGUSON. Mr. Chairman, on rollcall No. 108, I was unavoidably detained. Had I been present, I would have voted "no."

The CHAIRMAN. There being no further amendments permitted under the rule, the question is on the committee amendment in the nature of a substitute, as amended.

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

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. SWEENEY, 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. 3763) to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes, pursuant to House Resolution 395, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

Is a separate vote demanded on any amendment to the committee amend-

ment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on 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.

MOTION TO RECOMMIT OFFERED BY MR. LAFALCE

Mr. LAFALCE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. LAFALCE. I am, Mr. Speaker.

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

The Clerk read as follows:

Mr. LAFALCE moves to recommit the bill H.R. 3763 to the Committee on Financial Services with instructions to report the same back to the House forthwith with the following amendment:

AMENDMENT TO H.R. 3763, AS REPORTED OFFERED BY MR. LAFALCE OF NEW YORK

(executive responsibility)

Strike sections 11 and 12 and insert the following (and redesignate the succeeding sections and conform the table of contents accordingly):

SEC. 11. REMOVAL OF UNFIT CORPORATE OFFICERS.

(a) REMOVAL IN JUDICIAL PROCEEDINGS.—  
 (1) SECURITIES ACT OF 1933.—Section 20(e) of the Securities Act of 1933 (15 U.S.C. 77t(e)) is amended by striking "substantial unfitness" and inserting "unfitness".

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21(d)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(2)) is amended by striking "substantial unfitness" and inserting "unfitness".

(b) REMOVAL IN ADMINISTRATIVE PROCEEDINGS.—

(1) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end the following new subsection:

"(f) AUTHORITY TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) of this title from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of that Act if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer."

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3) is amended by adding at the end the following new subsection:

"(f) AUTHORITY TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to section 15(d) of

this title if the person's conduct demonstrates unfitness to serve as an officer or director of any such issuer."

#### SEC. 12. DISGORGEMENT REQUIRED.

(a) ADMINISTRATIVE ACTIONS.—Within 30 days after the date of enactment of this Act, the Securities and Exchange Commission shall prescribe regulations to require disgorgement, in a proceeding pursuant to its authority under section 21A, 21B, or 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u-1, 78u-2, 78u-3), of salaries, commissions, fees, bonuses, options, profits from securities transactions, and losses avoided through securities transactions obtained by an officer or director of an issuer during or for a fiscal year or other reporting period if such officer or director engaged in misconduct resulting in, or made or caused to be made in, the filing of a financial statement for such fiscal year or reporting period which—

(1) was at the time, and in the light of the circumstances under which it was made, false or misleading with respect to any material fact; or

(2) 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.

(b) JUDICIAL PROCEEDINGS.—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:

"(5) ADDITIONAL DISGORGEMENT AUTHORITY.—In any action or proceeding brought or instituted by the Commission under the securities laws against any person—

"(A) for engaging in misconduct resulting in, or making or causing to be made in, the filing of a financial statement which—

"(i) was at the time, and in the light of the circumstances under which it was made, false or misleading with respect to any material fact; or

"(ii) 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; or

"(B) for engaging in, causing, or aiding and abetting any other violation of the securities laws or the rules and regulations thereunder, such person, in addition to being subject to any other appropriate order, may be required to disgorge any or all benefits received from any source in connection with the conduct constituting, causing, or aiding and abetting the violation, including (but not limited to) salary, commissions, fees, bonuses, options, profits from securities transactions, and losses avoided through securities transactions."

#### SEC. 13. CEO AND CFO ACCOUNTABILITY FOR DISCLOSURE.

(a) REGULATIONS REQUIRED.—The Securities and Exchange Commission shall by rule require, for each company filing periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)), that the principal executive officer or officers and the principal financial officer or officers, or persons performing similar functions, certify in each annual or quarterly report filed or submitted under either such section of such Act that—

(1) the signing officer has reviewed the report;

(2) based on the officer's knowledge, the report does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading;

(3) based on such officer's knowledge, the financial statements, and other financial information included in the report, fairly

present in all material respects the financial condition and results of operations of the issuer as of, and for, the periods presented in the report;

(4) the signing officers—

(A) are responsible for establishing and maintaining internal controls;

(B) have designed such internal controls to ensure that material information relating to the issuer and its consolidated subsidiaries is made known to such officers by others within those entities, particularly during the period in which the periodic reports are being prepared;

(C) have evaluated the effectiveness of the issuer's internal controls as of a date within 90 days prior to the report; and

(D) have presented in the report their conclusions about the effectiveness of their internal controls based on their evaluation as of that date;

(5) the signing officers have disclosed to the issuer's auditors and the audit committee of the board of directors (or persons fulfilling the equivalent function)—

(A) all significant deficiencies in the design or operation of internal controls which could adversely affect the issuer's ability to record, process, summarize, and report financial data and have identified for the issuer's auditors any material weaknesses in internal controls; and

(B) any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer's internal controls; and

(6) the signing officers have indicated in the report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

(b) DEADLINE.—The rules required by subsection (a) shall be effective not later than 30 days after the date of enactment of this Act.

In section 21, strike "and 15" and insert "and 16".

Mr. LAFALCE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from New York is recognized for 5 minutes on his motion to recommit.

Mr. LAFALCE. Mr. Speaker, I am trying to make the motion to recommit easy to vote for and very difficult to vote against, and how am I doing this?

First of all, I am taking the Republican bill that has been passed in its entirety with three exceptions, and the exceptions were all called for by President George Bush who offered a 10-point plan. Three of those points require, in my judgment, legislation.

The Republican bill does nothing about it. The motion to recommit would report out the bill that the floor has just reported, but with the three separate addition. What are they? First of all, let me read from the President's proposal.

The President in proposal Number 3 says, CEOs should personally vouch for the veracity, timeliness and fairness of

their company's public disclosures, including their financial statements. CEOs would personally attest each quarter that the financial statements and company disclosures accurately and fairly disclose the information of which the CEO is aware that a reasonable investor should have to make an informed investment decision. The Republican version leaves it up to corporate America to do this or not do this. The motion to recommit legislatively codifies this Presidential recommendation.

Secondly, the President said, CEOs or other officers should not be allowed to profit from erroneous financial statements. We codify that, too, and they say cannot profit from it and we could obtain their moneys back.

□ 1445

The motion to recommit also deals in a markedly different way from the Republican bill with respect to the surrendering of officer compensation, including stock bonuses and other incentive pay. The motion to recommit empowers the SEC, in either an administrative proceeding or in court, to seek such disgorgement.

The Republican bill says that the SEC shall study the issue and then, if they make a determination that it is warranted, they can go back and seek disgorgement, but only for what took place in the past 6 months; and if something took place 7 months or so ago, they made \$10 million, \$20 million, and they are home free under the Republican bill. That is an absurdity.

Vote for the motion to recommit.

And then, third, I want to read to my colleagues from a speech given by the head of enforcement of President Bush's SEC just about a month or so ago. He is referring to judicially decreed tests that you have to adhere to before you can declare an officer or director unfit to serve at a future firm. And he says, "These tests, which require, amongst other things, a showing that the misconduct at issue is likely to recur, has created an unreasonably high standard for obtaining a bar. The result has been, unbelievably, that in some cases courts have refused to impose permanent officer and director bars on individuals who have engaged in egregious, even criminal misconduct."

What do the Republicans do? They codify that test that the SEC denounces. We give the SEC the authority they have said they need in order to bar such individuals who are unfit from serving as future officers and directors.

The only reason to vote against the motion to recommit is partisanship. We ought to transcend that, because we are taking the Republican bill and President Bush's recommendations which we have codified. Do not go home and say that you have passed something that is meaningful when corporate America and the accounting firms and Wall Street are going to give you a pat on the back for letting them escape once again.

Mr. OXLEY. Mr. Speaker, I rise in strong opposition to the motion to recommit.

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

Mr. OXLEY. I yield to the gentleman from Louisiana, the chairman of the Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises.

Mr. BAKER. Mr. Speaker, I thank the gentleman for yielding to me.

It was 1896, and the Dow Jones industrial average was constructed. Today, 106 years later, only one United States corporation remains in existence that was included in that publication of that first Dow Jones average.

Capital markets, free markets, are difficult because of the enormous competition that exists to succeed, but it yields tremendous benefit for us all. Today, we are about a debate in how to best regulate those aberrant actors in the marketplace.

Let it be understood, the vast majority of professionals who conduct their business in all sectors of the marketplace today, are that, professional. We are acting today to identify those few aberrant actors who have brought about great harms to innocent third parties. And act we shall.

It is important to recognize that in constructing this regulatory or legislative oversight that we not go too far. In evidence of the point, this bill came out of our committee by a 16-to-12 vote by Democrat Members. They see it as reasonable. They see it as an appropriate first step.

We have a higher obligation. All those working families today who struggle to make ends meet and invest either in their 401(k) by payroll deduction or by putting that \$200 online investment through their computer at home expect fairness. That is what this bill is about: honest, transparent disclosure, so you can make informed decisions for your family to buy that first home, invest for your children's education, or for your own retirement.

Inscribed on this wall behind us is an admonition to Members of the House that I read every day. "Let us develop the resources of the land, call forth its powers, build up its institutions, promote all its great interests, and see whether we also in this hour, day, and generation may perform something worthy to be remembered."

Daniel Webster is telling us what our job is. Let us make a difference. Let us stand for the working people of America today. Let us not let the Wall Street interests take away people's future by disclosing inappropriate information. That is what this bill is about. It is about standing in the face of those who have abused their corporate and business opportunities to the disinterest of their employees and their investors.

We can make a difference. Vote down the motion to recommit and pass this bill.

Mr. OXLEY. Mr. Speaker, reclaiming my time, the first provision in the

amendment which deals with removal of unfit corporate officers is more appropriately addressed in the underlying bill. CARTA, the bill before us, gives the SEC the authority to administratively bar directors and officers from serving in public companies. Under our legislation, the commission no longer would have to go to Federal Court to do this. The SEC must consider a number of factors, longstanding standards used by the courts, in order to make that determination. Our language is endorsed by the White House.

CARTA also prevents corporate officers from profiting from erroneous financial statements. Our legislation was carefully crafted with the focus on bad actors. This language is also endorsed by the White House.

On the issue of CEO certification, we are sympathetic to this well-intentioned legislative provision, but it is important to note that the President never requested legislation to accomplish this objective. The SEC already has the authority to require certification and is currently considering whether to do so. The SEC is in the best position to decide whether and how such a requirement would operate. It would do more harm than good to legislatively mandate what such a rule would look like, and that is exactly what we were told by Chairman Greenspan and Chairman Pitt.

Proponents say this is the President's plan. The fact is, nothing could be further from the truth. Let us be clear. The President endorses the underlying legislation, the CARTA legislation. If my friends want to advance the President's agenda, they should support the underlying bill and reject the motion.

Oppose the motion to recommit. Pass this CARTA legislation, this historic legislation. It is in the best interest of the investing public and the United States.

The SPEAKER pro tempore (Mr. SWEENEY). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

RECORDED VOTE

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

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 205, noes 222, not voting 7, as follows:

[Roll No. 109]

AYES—205

Abercrombie	Andrews	Baldacci
Ackerman	Baca	Baldwin
Allen	Baird	Barcia

Barrett	Hilliard	Nadler
Becerra	Hinchey	Napolitano
Bentsen	Hinojosa	Neal
Berkley	Hoeffel	Oberstar
Berman	Holden	Obey
Berry	Holt	Olver
Bishop	Honda	Ortiz
Blumenauer	Hooley	Owens
Bonior	Hoyer	Pallone
Borski	Inslie	Pascarell
Boswell	Israel	Pastor
Boucher	Jackson (IL)	Payne
Boyd	Jackson-Lee	Pelosi
Brady (PA)	(TX)	Phelps
Brown (FL)	Jefferson	Pomeroy
Brown (OH)	John	Price (NC)
Capps	Johnson, E. B.	Rahall
Capuano	Jones (OH)	Rangel
Cardin	Kanjorski	Reyes
Carson (IN)	Kaptur	Rivers
Carson (OK)	Kennedy (RI)	Roemer
Clay	Kildee	Ross
Clayton	Kilpatrick	Rothman
Clement	Kind (WI)	Roybal-Allard
Clyburn	Kleczka	Rush
Condit	Kucinich	Sabo
Conyers	LaFalce	Sanchez
Costello	Lampson	Sanders
Coyne	Langevin	Sandlin
Cramer	Lantos	Sawyer
Crowley	Larsen (WA)	Schakowsky
Cummings	Larson (CT)	Schiff
Davis (CA)	Lee	Scott
Davis (FL)	Levin	Serrano
Davis (IL)	Lewis (GA)	Sherman
DeFazio	Lipinski	Skelton
DeGette	Lofgren	Slaughter
Delahunt	Lowey	Snyder
DeLauro	Luther	Solis
Deutsch	Lynch	Spratt
Dicks	Maloney (CT)	Stark
Dingell	Maloney (NY)	Stenholm
Doggett	Markey	Strickland
Dooley	Mascara	Stupak
Doyle	Matheson	Tanner
Edwards	Matsui	Tauscher
Engel	McCarthy (MO)	Taylor (MS)
Eshoo	McCarthy (NY)	Thompson (CA)
Etheridge	McCollum	Thompson (MS)
Evans	McDermott	Thurman
Farr	McGovern	Tierney
Fattah	McIntyre	Towns
Filner	McKinney	Turner
Ford	McNulty	Udall (CO)
Frank	Meehan	Udall (NM)
Frost	Meek (FL)	Velazquez
Gephardt	Meeks (NY)	Visclosky
Gonzalez	Menendez	Waters
Gordon	Millender	Watson (CA)
Green (TX)	McDonald	Watt (NC)
Gutierrez	Miller, George	Waxman
Hall (OH)	Mink	Weiner
Hall (TX)	Mollohan	Wexler
Harman	Moore	Woolsey
Hastings (FL)	Moran (VA)	Wu
Hill	Murtha	Wynn

NOES—222

Aderholt	Castle	Foley
Akin	Chabot	Forbes
Armey	Chambless	Fossella
Bachus	Coble	Frelinghuysen
Baker	Collins	Galleghy
Ballenger	Combest	Ganske
Barr	Cooksey	Gekas
Bartlett	Cox	Gibbons
Barton	Crane	Gillmor
Bass	Crenshaw	Gilman
Bereuter	Cubin	Goode
Biggert	Culberson	Goodlatte
Bilirakis	Cunningham	Goss
Blunt	Davis, Jo Ann	Graham
Boehlert	Davis, Tom	Granger
Boehner	Deal	Graves
Bonilla	DeLay	Green (WI)
Bono	DeMint	Greenwood
Boozman	Diaz-Balart	Grucci
Brady (TX)	Doollittle	Gutknecht
Brown (SC)	Dreier	Hansen
Bryant	Duncan	Hart
Burr	Dunn	Hastings (WA)
Burton	Ehlers	Hayes
Buyer	Ehrlich	Hayworth
Callahan	Emerson	Hefley
Calvert	English	Heger
Camp	Everett	Hilleary
Cannon	Ferguson	Hobson
Cantor	Flake	Hoekstra
Capito	Fletcher	Horn



member of the Helsinki Commission and Vice President of the Parliamentary Assembly of the Organization for Security and Cooperation in Europe.

While serving in this capacity, I missed rollcall votes 93, 94, 95, 96, 97, 98, 99, 100, 101, 102 and 103. Had I been present for these votes, I would have voted the following way: On 93, yes; 94, yes; 95, yes; 96, yes; 97, no; 98, no; 99, no; 100, no; 101, no; 102, no; and 103, no.

#### REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3113

Ms. RIVERS. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 3113. It was erroneously included.

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

There was no objection.

#### SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

#### ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. PALLONE) is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, this afternoon I would like to address during my 5 minutes the Armenian genocide. Today, of course, is April 24. The Armenian genocide began over 85 years ago, on April 24 in 1915. Why are we here? Why am I? The gentleman from Michigan (Mr. KNOLLENBERG), who is the cochair of the Armenian Caucus, is with me who has been a champion over the years of trying to bring an Armenian genocide recognition resolution to the floor of the House and to the Congress so that we finally would pass it. We are here because we feel very strongly that the Armenian genocide has not been properly recognized in the U.S. House, in this Congress and also by the President.

There is no need, I guess, to go into the reasons. We all know the reasons. And they are that the Turkish Government is very strenuous in its opposition and constantly exerts pressure on the President, on the Congress, on the leadership of the Houses not to bring a resolution up that would recognize the genocide.

I have maintained for years that that is a huge mistake on the part of the Turkish Government to use that kind of leverage against our Government, in part because the fact of the matter is the genocide occurred and it is a huge mistake to try to cover it up. We know that if genocide occurs and it is covered up, it will occur again. History tells us that. But beyond that, it is also a mistake because until the time

comes when the Turkish Government is willing to recognize the genocide, there never will be what I call the cleansing effect that Turkey needs to go through with its leaders and with its population to make sure that they recognize this horrible series of events, and they do not have the events reoccur, that they do not continue to persecute minorities, including the Armenian minority that still exists in a very minimum amount in the state of Turkey today.

What we have done this year is the gentleman from Michigan (Mr. KNOLLENBERG) and I within the Armenian Caucus have circulated a letter asking President Bush tomorrow to use the word "genocide" and recognize the genocide in his address that he and other Presidents have done now for many years. President Bush to his credit has been a friend of Armenia and a friend of U.S.-Armenia relations and the two countries growing closer together. During his campaign, he repeatedly made statements about the Armenian genocide and used the term "genocide." Unfortunately, like his predecessors, both Democrat and Republican, once they took office we do not see the word "genocide" used.

□ 1530

We do ask the President, we do call upon him tomorrow when he commemorates and when he issues a statement about the Armenian genocide, to use the term "genocide" because, in fact, it was a purposeful, intentional State act that occurred in 1915. It was not a coincidence. It was not a mishap. It was not a civil war. It was an intentional act on the part of the then Turkish Government to perpetrate a genocide against the Armenian people.

We have, I believe, 163 cosponsors of that letter to the President. We have another 5 or 10 Members on a bipartisan basis who sent similar letters on their own, individually, to the President asking that he do so, and I hope sincerely that he does tomorrow.

Let me say this, though. The issue of the genocide is important not only because of the past and because we do not want to repeat the mistakes of the past, but also because the actions of the Turkish Government today continue to perpetrate the genocide. As I mentioned, there are not that many Armenians who are now living in Turkey, but there are a few thousand, and those people that live there today continue to be discriminated against. The Turkish Government makes it very difficult for them to practice their Christian Armenian orthodox religion. There are limitations on their ability to open Armenian schools and teach the Armenian language and Armenian culture. They still face problems in terms of owning property, and their inability to own property or to buy and sell property.

One of the most egregious examples of this took place just in the last few months when two Armenian Ameri-

cans, American citizens, were encouraged by the Turkish Government to purchase a hotel for tourism purposes in Van, which is the area where many Armenians historically lived. This couple, after they had opened the hotel and purchased the hotel, were basically told to get out. They were told that they would not be reimbursed for this hotel and for their property. They have not been able to operate the hotel. They have not been able to essentially do anything with their business. They have lost their business, they have lost their investment, because the Turkish Government found out that they were of Armenian dissent. Myself and others within our Caucus have sent a letter to the U.S. Ambassador objecting to this.

I want to conclude now, Mr. Speaker, but I just want to say that the genocide continues and the perpetrators of the genocide continue to make it difficult, even for Armenians who live in Turkey, to continue to operate as legitimate citizens.

#### COMMEMORATION OF ARMENIAN GENOCIDE

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Under a previous order of the House, the gentleman from Michigan (Mr. KNOLLENBERG) is recognized for 5 minutes.

#### GENERAL LEAVE

Mr. KNOLLENBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on subject of my Special Order.

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

There was no objection.

Mr. KNOLLENBERG. Mr. Speaker, as a Republican cochair of the Congressional Caucus on Armenian Issues, I come to the floor on this very special and important day to join my colleagues and individuals around the world in commemorating the 87th anniversary of the Armenian genocide. We must never forget the tragedy of the Armenian genocide, and this commemoration makes an important contribution to making sure that we never do.

I would like to commend my colleague and fellow cochair of the Congressional Caucus on Armenian Issues, the gentleman from New Jersey (Mr. PALLONE), for working with me to help arrange this commemoration, and I appreciate his remarks.

Our Caucus is now up to 114 Members, which I believe shows the incredible support Armenia has in the U.S. House of Representatives. We also, of course, wrote a letter, and the gentleman from New Jersey (Mr. PALLONE) referenced the letter with over 160 signatures that went to the President.

When most people hear the word "genocide," they immediately think of Hitler and his persecution of the Jews during World War II. Many individuals are unaware that the first genocide of

the 20th century occurred during World War I and was perpetrated by the Ottoman Empire against the Armenian people. Concerned that the Armenian people would move to establish their own government, the Ottoman Empire embarked on a reign of terror that resulted in the massacre of over 1.5 million Armenians. This atrocious crime began on April 15, 1915, when the Ottoman Empire arrested, exiled, and eventually killed hundreds of Armenian religious, political, and intellectual leaders.

Once they had eliminated the Armenian people's leadership, they turned their attention to the Armenians serving in the Armenian Army. These soldiers were disarmed and placed in labor camps where either they were starved or they were executed. The Armenian people, lacking political leadership and deprived of young, able-bodied men who could fight against the Ottoman onslaught, were then deported from every region of Turkish Armenia. The images of human suffering from the Armenian genocide are graphic and as haunting as the pictures of the Holocaust.

Why then, it must be asked, are so many people unaware of the Armenian genocide? I believe the answer is found in the international community's response to this disturbing event. At the end of World War I, those responsible for ordering and implementing the Armenian genocide were never brought to justice, and the world casually forgot about the pain and suffering of the Armenian people. That proved to be a grave mistake. In a speech made at the beginning of World War II, Adolf Hitler justified his brutal tactics with the infamous statement, "Who today remembers the Armenians?"

Tragically, 6 years later, the Nazis had exterminated 6 million Jews. Never has the phrase, "Those who forget the past will be destined to repeat it" been more applicable. If the international community had spoken out against this merciless slaughtering of the Armenian people instead of ignoring it, the horrors of the Holocaust might never have taken place.

As we commemorate the 87th anniversary of the Armenian genocide, I believe it is time to give this event its rightful place in history. This afternoon and this evening, let us pay homage to those who fell victim to the Ottoman oppressors and tell the story of the forgotten genocide. For the sake of the Armenian heritage, it is a story that must be heard.

#### COMMEMORATING THE 87TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. LANGEVIN) is recognized for 5 minutes.

Mr. LANGEVIN. Mr. Speaker, I rise today to commemorate the 87th anniversary of the Armenian genocide and

to commend my colleagues, the gentleman from New Jersey (Mr. PALLONE) and the gentleman from Michigan (Mr. KNOLLENBERG), for organizing this Special Order and to remember this solemn occasion.

Over an 8-year period, beginning in 1915, the Ottoman Turkish Empire systematically tortured and murdered 1.5 million Armenians and exiled another half million more. In the years since, Armenian descendants have thrived in the United States and in many other countries, bringing extraordinary vitality and achievement to communities across this Nation and throughout the world.

Tragically, the Turkish Government has refused to acknowledge the Armenian genocide and has made repeated attempts to exonerate itself of any wrongdoing through a shameful propaganda campaign. The victims of the genocide deserve our remembrance and their rightful place in history. It is in the best interests of our Nation and the entire global community to remember the past and learn from these unfortunate events to ensure that they are never repeated.

Earlier this year, the European Union adopted a resolution affirming the Armenian genocide, making it one of the many official bodies, including the Governments of Canada, Argentina, France, Italy, Sweden and Belgium, to do so. Now more than ever, the genocide underscores our responsibility to help convey our cherished tradition of respect for fundamental human rights and opposition to such heinous atrocities. Only through such recognition can the Armenian people hope to feel some measure of compensation for the ultimate injustice perpetrated against their Nation.

As a proud member of the Congressional Caucus on Armenian Issues and an ardent supporter of Rhode Island's Armenian American community, I will continue to encourage my colleagues to hold the Turkish Government accountable for its actions and to honor the memory of those Armenians who suffered and perished nearly a century ago.

#### COMMEMORATION OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOYER) is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, I rise to join my colleagues in speaking about the genocide, a genocide, unfortunately, that has not been acknowledged by some and, unfortunately, heightens the risk of its repetition. The massacre of Armenians in Turkey during and after World War I is recorded as the first State-ordered genocide against a minority group in the 20th century. Tragically, Mr. Speaker, it was not, as we all know, the last.

In the 87 years since this unspeakable tragedy, the world has witnessed dec-

ades of genocide and ethnic cleansing and wholesale persecution of people simply because of who they are: European Jews, Bosnian Muslims, the Tutsis of Rwanda, Kosovar Albanians, and others.

Mr. Speaker, we undertake this year's commemoration of the Armenian genocide in a world that is forever changed as we reflect on the terrible events of September 11. We understand that confronting irrational hatred and the evil which kindles it remains a constant challenge for us all.

Mr. Speaker, there are those who deny that there was an Armenian genocide, yet there is, of course, no lack of documentation of what occurred during that terrible time. In her powerful new book, *A Problem From Hell: America and the Age of Genocide*, author Samantha Powers points out that *The New York Times* gave the Turkish horrors steady coverage, publishing 145 stories in 1915 alone. According to Powers, beginning in March 1915, the paper spoke of Turkish "massacres," "slaughter," and "atrocities" against the Armenians, relaying accounts by missionaries, Red Cross officials, local religious authorities, and survivors of mass executions.

The U.S. Ambassador to Turkey at that time, Henry Morgenthau, Sr., cabled Washington on July 10, 1950 stating, "Persecution of Armenians assuming unprecedented proportions. Reports from widely scattered districts indicate systematic attempt to uproot peaceful Armenian populations and through arbitrary arrests, terrible tortures, wholesale expulsions, and deportations from one end of the empire to the other, accompanied by frequent instances of rape, pillage, and murder, turning into massacre, to bring destruction and destitution on them." The tragedy, Mr. Speaker, is that similar language could have been applied during the 1990s in Bosnia-Herzegovina.

Mr. Speaker, those reports came to us, and the West did little. The West did little until the middle of the 1990s and, when we acted, the killing and carnage stopped. Sadly, Mr. Speaker, at that time in 1915, no action, no action was taken to try to save the Armenians because their plight was deemed to be an "internal affair" of their government.

Mr. Speaker, I have the privilege of having chaired for 10 years the Commission on Security and Cooperation in Europe, otherwise known as the Helsinki Commission. It oversees the implementation of the Helsinki Final Act, signed August 1, 1975 in Helsinki, Finland. That act, post-genocide of the 1930s and 1940s, adopted the premise that a nation's mistreatment of its own citizens would never be again an internal affair. To that extent, Mr. Speaker, the international community has, in fact, adopted the premise that we are our brothers' and our sisters' keepers.

Decades later, 6 million Jews would perish in the Holocaust before the community of nations would adopt the universal declaration of human rights. Then, as I have said, the Helsinki Final Act, some years later.

The declaration on human rights captured the world's revulsion of that traditional view of international relations and made clear a new norm: how a State treats its own people is of direct and legitimate concern to all States and is not simply an internal affair of the State concerned.

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Mr. Speaker, I trust that all of us will urge our Turkish friends who were not involved in this genocide, but who now head their governments, to acknowledge and express their own horror at those acts taken in 1915.

#### ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SWEENEY) is recognized for 5 minutes.

Mr. SWEENEY. Mr. Speaker, I, too, join my colleagues and commend my colleagues this evening for working towards educating the world about the Armenian genocide. I am a proud member of the Armenian Caucus, and, Mr. Speaker, I come with some qualifications in that I am one of two Members of Congress from Armenian ancestry.

We continue to take important steps every day, like the planned establishment of an Armenian Genocide Museum and Memorial here in Washington, D.C., but more needs to be done to further educate our citizens about these atrocities.

As we are all well aware, since the latter part of the 21st century, our Nation has been focused on a hotbed of activity in the Middle East. During the past 7 months, we have seen the level of commitment the Nation has dedicated toward the war on terror, but it is vital that the United States recognize, in particular, the 20th century's first instance of genocidal terror, the Armenian genocide.

Mr. Speaker, our country appreciates the importance of a strong partnership with Armenia in these trying times. Armenia continues to move forward alongside our country by pledging assistance as we progress on the war on terror. Now we must move forward with Armenia hand-in-hand by recognizing the past atrocities for what they truly are: a genocide.

I cannot stress enough, Mr. Speaker, that the historical record is clear. From at least 1915 to 1923, the Ottoman Empire succeeded in systematically eliminating the Armenians from the historical homeland where they lived for more than 2000 years.

I would take this moment to point out that this is a particularly personal message from my family to the rest of the world. My grandfather, Oscar Chaderjian, emigrated from Armenia

at the beginning of the 21st century, but only after he had been witness to and forced to be involved in the execution of one of his own uncles, a schoolteacher. He was forced to hold one arm with his cousin, whose dad was attached to the other arm, while the Ottoman Turks executed him in front of a classroom full of Armenian children.

Recognizing the severity of the Ottoman Empire's actions, England, France, and Russia jointly issued a statement on May 24, 1950, explicitly charging a government for the first time with a crime against humanity. The Armenian genocide has been acknowledged by not only these nations but also Argentina, Belgium, Canada, Cyprus, Greece, Lebanon, and Uruguay, as well as by international organizations such as the United Nations, the Council of Europe, and the European Parliament.

Furthermore, the U.S. National Archives and Records Administration has broad and thorough documentation of the Armenian genocide; in particular, Record Group 59 of the United States Department of State, files 867.00 and 867.40.

America must take another step and acknowledge the Armenian genocide in history so that we may begin to educate the world as to its effect, and therefore avoid, and serve as a means of avoiding, similar kinds of atrocities in the future.

We must bring awareness of the atrocities that have plagued history in areas such as Armenia, Europe, Cambodia, Rwanda, Bosnia, Kosovo, and Sierra Leone. Acknowledging these events of the past will provide us with the proper tools to ensure peace and stability in the future. Peace and stability must always be a goal of a civilized world.

As always, I am proud to stand with Armenians, and even prouder to be one of them. Mr. Speaker, we call on our friends, the Turks, to recognize that recognizing the actions of the past by other people not of this generation of Turks, not of this Turkish government, is not to condemn the current, but to recognize the past so that we may never repeat it.

#### RECOGNITION OF THE 1915 ARMENIAN GENOCIDE

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Under a previous order of the House, the gentleman from Illinois (Mr. KIRK) is recognized for 5 minutes.

Mr. KIRK. Mr. Speaker, I rise today to recognize April 24th, 1915 as one of the darkest days of the 20th century. On this day 300 Armenian leaders, writers, religious figures and professionals in Constantinople were gathered together, deported, and brutally murdered. Thousands of Armenian citizens were dragged out of their homes and murdered in the streets. What few citizens remained were taken from their communities and marched off to concentration camps in the desert, where

most died of starvation and thirst. The Ottoman Empire systematically deprived Armenians of their homes, property, freedom, and ultimately, their lives. By 1923, 1.5 million Armenian citizens had been murdered, while half a million had been deported.

Today, we must overcome the obstacle of denial. The Armenian Genocide is a historical fact. The United States and the international community must overcome this denial and recognize the horror that took place between 1915 and 1923.

The Armenian people have spent the last ten years courageously establishing an Independent Republic of Armenia. These efforts are a testament to the strength and character of the Armenian people. I strongly support the United States' continued efforts with Armenia to ensure a safe and stable environment in the Caucasus region.

Today, I join my colleagues in recognizing the Armenian genocide of 1915, and while this is indeed a day of mourning, we must also take this opportunity to celebrate Armenia's commitment towards democracy in the face of adversity.

#### ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mrs. MALONEY) is recognized for 5 minutes.

Mrs. MALONEY of New York. Mr. Speaker, as a proud member of the Congressional Caucus on Armenian Issues, and the representative of a large and vibrant community of Armenian-Americans, I rise today to join my colleagues in the sad commemoration of the Armenian Genocide.

Today, we continue the crusade to ensure that this tragedy is never forgotten. This 87th anniversary of the Armenian Genocide is an emotional time. The loss of life experienced by so many families is devastating. But, in the face of the systematic slaughter of 1.5 million people, the Armenian community has persevered with a vision of life and of freedom.

Armenian Americans are representative of the resolve, bravery, and strength of spirit that is so characteristic of Armenians around the world. That strength carried them through humanity's worst: Upheaval from a homeland of 3,000 years, massacre of kin, and deportation to foreign lands. That same strength gathers Armenians around the world to make certain that this tragedy is never forgotten.

Without recognition and remembrance, this atrocity remains a threat to nations around the world. I've often quoted philosopher George Santayana who said: "Those who do not remember the past are condemned to repeat it." And to remember, we must first acknowledge what it is—Genocide.

As another scholar stated: "Denial of genocide is the final stage of genocide; it is what Elie Wiesel has called "double killing." Denial murders the dignity of the survivors and seeks to destroy the remembrance of the crime."

Tragically, more than 1.5 million Armenians were systematically murdered at the hands of the Young Turks. More than 500,000 were deported. It was brutal. It was deliberate. It was an organized campaign and it lasted more than 8 years. We must make certain that we remember.

Now, we must assure that the world recognizes that Armenian people have remembered, and they have survived and thrived.

Out of the crumbling Soviet Union, the Republic of Armenia was born, and independence was gained. But, independence has not ended the struggle.

To this day, the Turkish government denies that genocide of the Armenian people occurred and denies its own responsibility for the deaths of 1.5 million people.

In response to this revisionist history, the Republic of France passed legislation that set the moral standard for the international community. The French National Assembly unanimously passed a bill that officially recognizes the massacre of 1.5 million Armenians in Turkey during and after WWI as genocide.

Several nations have since joined in the belief that history should be set straight.

Canada, Argentina, Belgium, Lebanon, The Vatican, Uruguay, the European parliament, Russia, Greece, Sweden and France, have authored declarations or decisions confirming that the genocide occurred. As a country, we must join these nations in recognition of this atrocity.

Two years ago I joined numerous Members in support of the International Relations Committee's Armenian Genocide Resolution. As may of you remember, the resolution passed and was sent to the full House for a vote. Though the resolution was withdrawn, the Congress had taken its stand. We must demand that the United States officially acknowledge the forced exile and annihilation of 1.5 million people as genocide.

Denying the horrors of those years merely condones the behavior in other places as was evidenced in Rwanda, Indonesia, Burundi, Sri Lanka, Nigeria, Pakistan, Ethiopia, Sudan, and Iraq. Silence may have been the signal to perpetrators of these atrocities that they could commit genocide, deny it, and get away with it.

As Americans, the reminder of targeted violence and mass slaughter is still raw. We lost nearly 3,000 people on September 11th. I cannot imagine the world trying to say that this did not occur. The loss of 1.5 million people is a global tragedy.

A peaceful and stable South Caucasus region is clearly in the U.S. national interest. Recognizing the genocide must be a strategy for this goal in an increasingly uncertain region. One of the most important ways in which we honor the memory of the Armenian victims of the past is to help modern Armenia build a secure and prosperous future.

The United States has a unique history of aid to Armenia, being among the first to recognize that need, and the first to help. I am pleased with the U.S. involvement in the emphasis of private sector development, regionally focused programs, people-to-people linkages and the development of a civil society.

Other reform has included the 1998 five part Comprehensive Market Reform Program, tax and fiscal reform, modernization of tax offices, land registration, capital markets development, and democratic and legal reforms.

Armenia has made impressive progress in rebuilding a society and a nation in the face of dramatic obstacles.

I will continue to take a strong stand in support of Armenia's commitment to democracy, the rule of law, and a market economy—I am proud to stand with Armenia in doing so. But there is more to be done. Conflict persists in the Nagorno-Karabagh region.

Congress has provided funding for confidence building in that region, and I will con-

tinue in my support of that funding and the move towards a brighter future for Armenia. But in building our future, we must not forget our past. That is why I strongly support the efforts of the Armenian community in the construction of the Armenian Genocide Memorial and Museum. Because so many Armenians have spoken of the destruction they have made certain that we remember.

Last Sunday, I met with Vickie Smith Foston, the author of *Victoria's Secret: A Conspiracy of Silence*. Through this story, we learn about the historical journey of a lifetime that preceded her grandmother's leap to her death on March 9, 1950 and the danger of silence. Though her family tried desperately to hide and conceal their identity, Vickie discovers a past that was to be buried with Victoria—her family's Armenian heritage and the horrors of the Armenian Genocide.

This book forces the reader to remember. Now we must make certain that the world remembers.

#### 87TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WEINER) is recognized for 5 minutes.

Mr. WEINER. Mr. Speaker, I rise today to commemorate the 87th anniversary of the Armenian Genocide.

On April 24, 1915, the government of the Ottoman-Turkish Empire rounded up approximately 600 leaders and intellectuals of the Armenian community and executed them. This was the beginning of the first genocide of the 20th Century.

Shortly after that, the Ottoman-Turkish government disarmed all of the Armenian soldiers in the Turkish army, separated them from their units and executed them, too.

From 1915 to 1923 the Ottoman-Turkish government, on a systematic campaign to wipe out the Armenians, killed more than 1.5 million men, women, and children.

Despite the eyewitness accounts from then U.S. Ambassador to the Ottoman Empire, Henry Morgenthau, detailing the events in 1915, the U.S. government did nothing. And if that isn't bad enough, since 1915 the U.S. has refused to recognize that the Armenian Genocide even occurred.

Elie Wiesel has called the denial of the genocide a "double killing": "denial of genocide," he wrote, "seeks to reshape history in order to demonize the victims and rehabilitate the perpetrators and is, in effect, the final stage of genocide."

And Elie Wiesel was right. But what is most horrific, is that today, 87 years after the Armenian Genocide began, the United States still has yet to officially recognize this tragedy.

We came close in the 106th Congress when a vote was scheduled on House Resolution 398. This resolution would have acknowledged the Armenian Genocide and provided training for our Foreign Service officers so they would be able to recognize and react to ethnic cleansing and genocide. But a vote never occurred. We chose not to act.

Last year, in April 2001, the President called the events of 1915 a "forced exile and annihilation" but he would not call this a genocide.

Some listening to this debate may wonder why it is so important that we bring this mes-

sage to the House floor year, after year, after year. Simple. It is important for two reasons. The first is that we must honor those who lost their lives during the fall of the Ottoman Empire. The second reason is that while the Armenian Genocide was the first Genocide of the 20th Century, it was not the last. In Germany in the 1930s, Cambodia in the 1970's, Yugoslavia in the 1990s, and Rwanda in 1994 we saw history repeat itself again, and again and again and again.

Until the United States is willing to acknowledge the Armenian Genocide and take concrete steps to acknowledge this tragedy, we cannot say that we are any closer to preventing this from happening again.

I thank the gentleman from New Jersey and the gentleman from Michigan for arranging this very important special order today and yield back the balance of my time.

#### REMEMBERING THE 87TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BILIRAKIS) is recognized for 5 minutes.

Mr. BILIRAKIS. Mr. Speaker, I rise today to join my colleagues in commemorating one of the most appalling violations of human rights in all of modern history—the eighty-seventh anniversary of the Armenian genocide. I want to commend my colleagues Representatives JOE KNOLLENBERG and FRANK PALLONE, the co-chairs of the Congressional Caucus on Armenian Issues, for once again sponsoring this special order.

Each year, we join the world in the commemoration of the Armenian genocide because the tragedy of lost lives through ethnic cleansing must not be forgotten. By remembering the bloodshed and atrocities committed against the Armenian people, we hope to prevent similar tragedies from occurring in the future.

On April 24, 1915, 200 Armenian leaders, scholars, and professionals were gathered, deported, and killed in Constantinople. Later that day, 5,000 more Armenians were butchered in their homes and on the streets of the city. By 1923, two million men, women, and children had been murdered and another 500,000 Armenian survivors were homeless and exiled. The Armenian genocide was the first of the twentieth century, but unfortunately as we all know, it was not the last.

Talat Pasha, one of the Ottoman rulers, stated that the regime's goal was to "thoroughly liquidate its internal foes, the indigenous Christian." The regime called the mass murder a mass relocation, masking its horrendous acts from the rest of the world. The Ottoman Empire was fully aware that the possibility of foreign intervention was minimal considering the world was preoccupied with World War I at the time.

However, the massacre was immediately denounced by representatives from Britain, France, Russia, and the United States. Even Germany and Austria, allies of the Ottoman Empire in the First World War, condemned the Empire's heinous acts.

Henry Morgenthau, U.S. Ambassador to Constantinople at the time, vividly documented the massacre of 1.5 million Armenians with the statement, "I am confident that the whole

history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seem almost insignificant when compared to the sufferings of the Armenian race in 1915."

Winston Churchill used the word "holocaust" to describe the Armenian massacres when he said that, "in 1915 the Turkish government began and ruthlessly carried out the infamous general massacre and deportation of Armenians in Asia Minor . . . [the Turks were] massacring uncounted thousands of helpless Armenians—men, women, and children together; whole districts blotted out in one administrative holocaust—these were beyond human redress."

We must recognize the enormity of this act as one of the darkest chapters in world history. Only at that point can we truly take account of the severity of loss and honor the memory of the two million Armenians and others that were murdered during the genocide.

The orchestrated extermination of people is contrary to the values the United States espouses. We are a nation which strictly adheres to the affirmation of human rights everywhere. No one can erase a horrendous historical fact by ignoring what so many witnessed and survived.

Recognition and acceptance of misdeeds are necessary steps toward its extinction. Without acceptance, there is no remorse, and without remorse, there is no catharsis and pardon. We all want to forget these horrific tragedies in our history and bury them in the past. However, it is only through the painful process of acknowledging and remembering that we can prevent similar iniquity in the future.

As recently as the year 2000, the United States, together with many European nations, took an active part in halting the genocidal events occurring in Kosovo. We cannot turn our heads from similar events that happened to the Armenian people. By remaining silent, we set a dangerous precedent, and in essence, we condone the horrific act.

The survivors of the Armenian genocide and their descendants have made great contributions to every country in which they have settled, including the United States where they have made their mark in business, the professions and our cultural life.

In closing, I would like to ask that we all take a moment to reflect upon the hardships endured by the Armenians, and acknowledge that in the face of adversity, the Armenian people have persevered. Today, we commemorate the memories of those who lost their lives in the genocide, as well as the resilience of those who survived.

Mr. CROWLEY. Mr. Speaker, this April marks the 87th anniversary of the Armenian Genocide, when the Ottoman Empire killed 1.5 million Armenians and exiled over 500,000 more during an eight-year-long reign of terror. By recognizing these events, we can hopefully prevent similar horrors from occurring again. To recognize the Armenian Genocide, however, the United States must affirm that a genocide indeed occurred. To date, President Bush has refused to acknowledge that the events of 1915 to 1923 comprised acts of genocide.

I have joined 101 other members of Congress in signing a letter to President Bush urging him to recognize the Armenian Genocide. Doing so will place the United States in the company of the European Union, Canada,

Russia, and other members of the international community.

History has a way of rewarding those who have suffered. Today, after centuries of Turkish domination and eighty years of Soviet domination, an independent Republic of Armenia is an upstanding, sovereign member of the family of nations. The United States must continue to help the government in Yerevan guarantee its security, develop its economy, and institutionalize its democracy.

As a member of International Relations Committee and Congressional Caucus on Armenia, I will continue to argue strongly for policies benefiting Armenia. My district includes many Armenians, especially in Woodside, and I have listened to the concerns of the Armenian-American Community there many times. I have worked tirelessly to promote the interests of Armenia and the Armenian-American community, including:

Augmenting the Administration's 2003 budget request for Armenia. The Bush Administration's 2003 budget requests only \$70 million in bilateral assistance funds for Armenia, \$20 million less than Congress appropriated in 2002. Similarly, The Administration requested only \$3 million, a \$1 million decrease from the 2002 appropriation, in Foreign Military Financing (FMF) to help the Armenian armed forces guarantee the security of the nation. The higher figures must be restored.

Insisting that any regional oil pipeline pass through Armenia.

Maintaining Section 907 in the 2002 Freedom Support Act, which prohibits certain types of direct U.S. assistance to Azerbaijan until it has ended its aggression and lifted its blockades against Armenia and Nagorno-Karabagh.

Supporting legislation to require the State Department to train all Foreign Service Officers dealing with human rights in the U.S. record on the Armenian genocide.

Hosting a town hall meeting with the State Department negotiator for Nagorno-Karabakh to ensure the Armenian-American community is fully informed about the Administration's policies.

As we commemorate the horrific events experienced by the Armenian people in the past, let us also celebrate the extraordinary accomplishments of the Armenian community in the United States and work to enhance the tremendous future potential of the sovereign Armenian nation.

Mr. HINCHEY. Mr. Speaker, I rise in remembrance to mark one of the most horrific tragedies of the 20th century, the Armenian Genocide. On this date in 1915, leaders of the Ottoman Empire began murdering thousands of Armenian people. By 1923, the number of Armenians murdered was over 1.5 million. In spite of irrefutable evidence, the United States of America and the Republic of Turkey have consistently refused to officially acknowledge that the Armenians were victims of genocide.

The Armenian Genocide is a historical event that cannot be denied or forgotten. It is vital for Turkey to accept recognition of this tragedy taking place on its soil. Turkey must follow the example of Germany in its swift commendation and acknowledgement of the Holocaust.

In 2000 the European Parliament officially recognized the Armenian Genocide. The following year the French Parliament recognized it as well. Many attempts have also been made by the U.S. Congress to officially recognize the Armenian Genocide. These attempts,

however, have been scuttled by successive administrations for fear of disrupting our strategic relationship with Turkey. While I certainly value Turkey's friendship, as a world leader, the U.S. must officially acknowledge the Armenian Genocide. Not doing so sets an extremely poor example for the rest of the world and denies the victims of this horrific tragedy the proper reverence they deserve.

Armenia was quick to respond to the terrorist attacks on the World Trade Centers and the Pentagon and to offer their condolences and support. With Armenia offering its support and sharing in our grievances, it is unimaginable that we would deny them the same sympathies. The Armenian people deserve official recognition by the United States for the tragic genocide that was inflicted on their people during Ottoman rule, as well as, U.S. efforts to encourage Turkey to also officially recognize the Armenian Genocide.

Mr. ROTHMAN. Mr. Speaker, I am proud to join my colleagues today in commemorating the 87th anniversary of the Armenian Genocide. By rising together to remember the atrocities that occurred in Armenia from 1915–1923, we force people to acknowledge that what occurred was genocide and should be called genocide.

Today, as we reflect on the events of the early 20th Century, we honor the 1.5 million people that lost their lives defending themselves against the Ottoman Empire. We also honor the survivors of the Armenian Genocide for their bravery and courage in the face of evil. The survivors provide an example of courage and determination to future generations of Armenians and non-Armenians alike, and on this anniversary, we recognize them as heroes.

This anniversary of the Armenian Genocide also provides us with an opportunity to reflect on and examine what occurred in 1915 to ensure that such slaughter never occurs again. The events of the 20th Century, from the Holocaust to ethnic cleansing in Kosovo and Rwanda, demonstrate the clear need for retrospection on the causes of these past systematic and deliberate attempts at elimination of specific racial or cultural groups. And, just as importantly, we must continue to fight to ensure that these crimes against humanity are recognized as genocides.

As a Jewish-American who is ever mindful of the Holocaust, I stand with you in recognizing the Armenian Genocide so that the world will never forget the first crime against humanity in the 20th Century.

Mr. SHAW. Mr. Speaker, today marks the eighty-seventh anniversary of an event none of us would wish we have to remember—the genocide of the Armenian people. On April 24, 1915, hundreds of Armenian political, religious and intellectual leaders were forcibly rounded up, exiled and eventually murdered. Over the course of the next eight years, over a million Armenian men, women, and children lost their lives. Untold numbers of Armenian villages were destroyed.

Peace-loving people the world over pause today to reflect on these most tragic events. I urge my fellow Members of Congress and Americans throughout the country to join me in commemorating the Armenian people and to honor the memory of so many who fell to the horrible injustices inflicted upon them.

The plight of the Armenian people can be overshadowed by more recent and more visible acts of genocide, such as that suffered by

Jews in World War II. But all acts of inhumanity can have no place in civilized societies. We must not forget the death of even a single child, whether in Auschwitz or Anatolia.

I hope that remembering the events of April 24, 1915 is more than mere ceremony. These memories are a signpost pointing the way to a future where no people should have to live in fear of their lives, especially because of racial or ethnic circumstances none of us can control. All of us must redouble efforts to ensure that the anniversaries celebrated by future generations will be joyous occasions to celebrate the freedom and prosperity of Armenians everywhere.

Mr. OLVER. Mr. Speaker, each year, on April 24th, we solemnly observe the Armenian Genocide in order to recognize its occurrence, honor the memory of those who perished, and educate the public. We remember so that those who still choose to deny the genocide will one day begin the atonement process.

More than one million Armenians were systematically abused, deported and killed from 1915 to 1923, between the fall of the Ottoman Empire and the establishment of modern Turkey.

April 24, 1915 marked the rise of the atrocities. On this night, the Turkish government arrested over 200 Armenian community leaders in Constantinople. Hundreds of similar arrests followed. These leaders were all imprisoned and summarily executed. Thousands of Armenian soldiers in the Ottoman army were disarmed and eventually murdered. After Armenian intellectuals and soldiers were killed, the terror visited every city, town and village in Asia Minor and Turkish Armenia. By 1923, 1,500,000 Armenians were killed and 500,000 were exiled from the Ottoman Empire. There is no doubt that the government was intent upon the destruction of the Armenian people.

Despite long-standing international recognition and condemnation, the present-day Republic of Turkey denies the genocide. As the first genocidal event of the 20th century, the Armenian Genocide was a precursor to the Nazi Holocaust and the more recent eruptions of "ethnic cleansing" in the Balkans.

Raphael Lemkin, the Polish-Jewish lawyer once said: "The practices of genocide anywhere affect the vital interests of all civilized people." As citizens in a democracy, it is incumbent upon all Americans to remember the Armenian Genocide. It is my hope that today we reflect upon the moral and ethical questions that this genocide invokes and respond with this refrain: Never again.

Mr. SCHIFF. Mr. Speaker, on April 24, 2002, the City of Glendale will sponsor an Armenian Genocide Commemoration ceremony and will honor the remarkable achievements in filmmaking and teaching of Dr. J. Michael Hagopian, who has dedicated his life's work to documenting the Armenian Genocide of 1915–1922. I rise today to join in recognizing the work, commitment and dedication of Dr. Hagopian, who has sought to shine the light of truth on the first genocide of the 20th century and honor the memory of the 1.5 million men, women and children who perished in it.

Dr. Hagopian, the founder and chairman of the Armenian Film Foundation and president of Atlantis Productions, has a doctorate in International Relations from Harvard University. He graduated from the University of California at Berkeley, and has completed graduate work in cinema at the University of

Southern California. He has taught political science and economics at the University of California at Los Angeles, American University of Beirut, Lebanon, Benares Hindu University, India, and Oregon State University, Corvallis.

Since 1954, Dr. Hagopian has been engaged in making educational and documentary films for the classroom and on television. He has written, directed and produced more than 70 films that have won more than 150 national and international awards. His film, "The Forgotten Genocide," was nominated for two Emmys in production and writing. Several of these films were produced under grants from the U.S. Office of Education and Ethnic Heritage Program, California Endowment for the Humanities, and California State Department of Education. In 1979, Dr. Hagopian established the Armenian Film Foundation, which has produced 13 videos and films, and gathered a film archive of more than 350 survivors of the 1915 Armenian Genocide.

Most recently, he has produced "Voices from the Lake—the Secret Genocide," a tragic tale told by the eyewitness survivors of Kharper-Mezreh, one among 4,000 towns and villages of the former Ottoman Empire to have been decimated under the genocide. I was proud when serving in the California State Senate to have secured state funding for the production of this film, and, after being elected to Congress, to have arranged a screening of this remarkable documentary at the Library of Congress.

"Voices from the Lake" is the first film in "The Witnesses" project of the Armenian Film Foundation. The second film in the series will examine the impact of the Great Powers on the Armenian Genocide and the third film will depict the deportation of the Armenians from their ancestral homes to the Great Syrian desert and the killing fields along the legendary Euphrates and the wilderness of Der Zor.

Mr. Speaker, acknowledging and honoring the memory of those who lost their lives in the Armenian Genocide is a moral obligation for all humankind. I ask all Members of Congress to join me in recognizing the remarkable work of one man, Dr. J. Michael Hagopian, who has dedicated his life to ensuring that we do not forget the victims of this genocide so that the world may never again tolerate such crimes against humanity.

Mr. GEKAS. Mr. Speaker, April 14th is the day on which we remember the victims of the gruesome events of the Armenian Genocide. From 1915 to 1923 during the times of the Ottoman Empire, the Turkish government implemented a ruthless extermination of innocent Armenians through which an astonishing and sickening 1.5 million Armenians were killed and over 500,000 additional individuals were exiled from the lands in which they had lived for hundreds and of years.

It is imperative that we properly recognize this massacre as a genocide—a concerted effort to annihilate a people. We must show respect and remembrance to the victims of this terrible period in history. By doing so, we are honoring those victims and condemning the government-sanctioned crime of mass murder and doing our part to prevent similarly horrific events from occurring again. The archives of history must be honest and accurate and tell the real story of the Armenian Genocide.

On a personal level, I have joined the Armenian congressional caucus to assist in the ef-

fort to promote international awareness of Armenia's history. With my caucus colleagues, I have encouraged successive Presidents to publicly decry the Ottoman policy of Armenian genocide. In my judgment, the Armenian Genocide is a fact of history and should be recognized as a fact of history. The Armenian Caucus seeks to educate policymakers and the public on the facts of history so that none will ever forget or repeat these atrocities.

Mr. Speaker, just as I rise today in commemoration of the Armenian Genocide and in support of the Republic of Armenia and the Armenian-American community, so should we all stand to show our support and solidarity with these courageous and proud people. They have faced a truly cruel and evil event in history and, through perseverance and hope, have survived with dignity and strength.

Mr. LYNCH. Mr. Speaker, I rise today to join with Armenians throughout the United States, Armenia, and the world in commemorating the 87th anniversary of the Armenian genocide, one of the darkest episodes in Europe's recent past. This week, members and friends of the Armenian community gather to remember April 24, 1915, when the arrest and murder of 200 Armenian politicians, academics, and community leaders in Constantinople marked the beginning of an eight-year campaign of extermination against the Armenian people by the Ottoman Empire.

Between 1915 and 1923, approximately 1.5 million Armenians were killed and more than 500,000 were exiled to the desert to die of thirst or starvation. The Armenian genocide was the first mass murder of the 20th century, a century that was sadly to be marked by many similar attempts at racial or ethnic extermination, from the Holocaust to the Rwandan genocide to the recent ethnic cleansing in Yugoslavia.

In the 87 years since the beginning of this genocide, we have learned the importance of commemorating these tragic events. In 1939, after invading Poland and relocating most Jews to labor or death camps, Hitler cynically defended his own actions by asking, "Who remembers the Armenians?" Just a few years later, six million Jews were dead. Now is the time when we must answer Hitler's question with a clear voice: We remember the Armenians, and we stand resolved that genocide is a crime against all humanity. We must remember the legacy of the Armenian genocide and we must speak out against such tragedies to ensure that no similar evil occurs again.

While today is the day in which we solemnly remember the victims of the Armenian genocide, I believe it is also a day in which we can celebrate the extraordinary vitality and strength of the Armenian people, who have fought successfully to preserve their culture and identity for over a thousand years. The Armenian people withstood the horrors of genocide, two world wars, and several decades of Soviet dominance in order to establish modern Armenia. Armenia has defiantly rebuilt itself as a nation and a society—a triumph of human spirit in the face of overwhelming adversity.

It is my firm belief that it is only by learning from and commemorating the past can we work toward a future free from racial, ethnic, and religious hate. By acknowledging the Armenian genocide and speaking out against the principles by which it was conducted, we can send a clear message: never again.

Mr. DOOLEY of California. Mr. Speaker, I rise today to join my colleagues in remembrance of the Armenian Genocide.

This terrible human tragedy must not be forgotten. Like the Holocaust, the Armenian Genocide stands as a tragic example of the human suffering that results from hatred and intolerance.

The Ottoman Turkish Empire between 1915 and 1923 massacred one and a half million Armenian people. More than 500,000 Armenians were exiled from a homeland that their ancestors had occupied for more than 3,000 years. A race of people was nearly eliminated.

It would be an even greater tragedy to forget that the Armenian Genocide ever happened. To not recognize the horror of such events almost assures their repetition in the future. Adolf Hitler, in preparing his genocide plans for the Jews, predicted that no one would remember the atrocities he was about to unleash. After all, he asked, 'Who remembers the Armenians?'

Our statement today are intended to preserve the memory of the Armenian loss, and to remind the world that the Turkish government—to this day—refuses to acknowledge the Armenian Genocide. The truth of this tragedy can never and should never be denied.

And we must also be mindful of the current suffering of the Armenian, where the Armenian people are still immersed in tragedy and violence. The unrest between Armenia and Azerbaijan continues in Nagorno-Karabakh. Thousands of innocent people have already perished in this dispute, and many more have been displaced and are homeless.

In the face of this difficult situation we have an opportunity for reconciliation. Now is the time for Armenia and its neighbors to come together and work toward building relationships that will assure lasting peace.

Meanwhile, in America, the Armenian-American community continues to thrive and to provide assistance and solidarity to its countrymen and women abroad. The Armenian-American community is bound together by strong generational and family ties, an enduring work ethic and a proud sense of ethnic heritage. Today we recall the tragedy of their past, not to replace blame, but to answer a fundamental question, 'Who remembers the Armenians?'

Our commemoration of the Armenian Genocide speaks directly to that, and I answer, we do.

Mr. COSTELLO. Mr. Speaker, I rise today to pay tribute to the victims of one of history's most terrible tragedies, the Armenian Genocide.

April 24, 1915 is remembered and earnestly commemorated each year by the Armenian community as the day in which 300 Armenian leaders, intellectuals, and professionals were rounded up in Constantinople, deported, and killed. From 1915 through 1923, Armenians that lived under Ottoman rule were systematically deprived of their property, freedom, and dignity. In addition, one and a half million Armenians had been massacred and 500,000 more had been deported. The Armenian community saw its culture devastated and its people dispersed.

In my district, there is a significant population of Armenian survivors and their families that showed heroic courage and will to survive in the face of horrendous obstacles and adversities. These survivors are an important window into the past and an invaluable part of our

society. It is through their unforgettable tragedy that we are able to share in their history and strong heritage.

Mr. Speaker, it is difficult to fathom a greater evil than the massacre and willful destruction of a people. Denying the genocide that took place when there are recorded accounts of barbarity and ethnic violence is an injustice. This was a tragic event in human history, but by paying tribute to the Armenian community we ensure the lessons of the Armenian genocide are properly understood and acknowledged. I am pleased my colleagues and I have this opportunity in order to ensure this legacy is remembered.

Mr. McNULTY. Mr. Speaker, I join today with many of my colleagues in remembering the victims of the Armenian Genocide on this, its 87th anniversary.

From 1915 to 1923, the world witnessed the first genocide of the 20th Century. This was clearly one of the world's greatest tragedies—the deliberate and systematic Ottoman annihilation of 1.5 million Armenian men, women, and children.

Furthermore, another 500,000 refugees fled and escaped to various points around the world—effectively eliminating the Armenian population of the Ottoman Empire.

From these ashes arose hope and promise in 1991—and I was blessed to see it. I was one of the four international observers from the United States Congress to monitor Armenia's independence referendum. I went to the communities in the northern part of Armenia, and I watched in awe as 95 percent of the people over the age of 18 went out and voted.

The Armenian people had been denied freedom for so many years and, clearly, they were very excited about this new opportunity. Almost no one stayed home. They were all out in the streets going to the polling places. I watched in amazement as people stood in line for hours to get into these small polling places and vote.

Then, after they voted, the other interesting thing was that they did not go home. They had brought covered dishes with them, and all of these polling places had little banquets afterward to celebrate what had just happened.

What a great thrill it was to join them the next day in the streets of Yerevan when they were celebrating their great victory. Ninety-eight percent of the people cast their ballots in favor of independence. It was a wonderful experience to be there with them when they danced and sang and shouted, 'Ketse azat ankakh Hayastan'—long live free and independent Armenia! That should be the cry of freedom-loving people everywhere.

Mr. THOMAS. Mr. Speaker, I rise to recognize the fact that today is the 87th anniversary of the beginning of the Armenian genocide that began under the direction of the Ottoman Empire. From 1915 until 1923, 1.5 million Armenians were murdered and another 500,000 were forced into exile in Russia, ending a period of 2,500 years of an Armenian presence in their historic homeland. In addition, Armenian religious, political, and intellectual leaders from Istanbul were arrested and exiled—silencing the leading representatives of the Armenian community in the Ottoman Empire.

Today, we pause to remember and honor the victims of this terrible period in human history. Like the Jewish and Cambodian holocausts, and more recently, the Serbian ethnic cleansing in Kosovo, the Armenian genocide

was terrible and morally reprehensible. Thus, today I honor those Armenians who were killed, arrested, exiled, and otherwise mistreated, and I remind my colleagues and the world that we must never forget what happened during that terrible period in history. Furthermore, we must reaffirm our resolve to ensure that no people will ever again be the victims of such a mass genocide.

Mr. LEVIN. Mr. Speaker, I am proud to join my colleagues in Congress to commemorate the 87th anniversary of the Armenian Genocide.

Between 1915 and 1923, approximately two million Armenians were massacred, persecuted, and exiled by the Young Turk government of the Ottoman Empire. This campaign of murder and oppression was an attempt to systematically wipe out the Armenian population of Anatolia.

Even though there were numerous witnesses to the atrocities committed, including U.S. Ambassador Henry Morgenthau, Sr., and even though the Turk government itself held war crime trials and condemned to death the chief perpetrators of this heinous crime against humanity, the Turk government continues to deny the Armenian Genocide ever took place.

This denial cannot be allowed to stand. The failure of the Turkish government to acknowledge the sinful acts of its predecessors sent the wrong message to the leaders of Germany, Rwanda, and Bosnia. As Nobel Peace Prize winner Archbishop Desmond Tutu wrote:

"It is sadly true what a cynic has said, that we learn from the history that we do not learn from history. And yet it is possible that if the world had been conscious of the genocide that was committed by the Ottoman Turks against the Armenians, the first genocide of the twentieth century, then perhaps humanity might have been more alert to the warning signs that were being given before Hitler's madness was unleashed on an unbelieving world."

It is imperative that each of us works to ensure that our generation and future generations never again witness such inhuman behavior and suffering. Only through remembrance and recognition can we stop such acts of senseless cruelty and violence against humankind from happening again.

Ms. SOLIS. Mr. Speaker, I rise today as a Member of the Congressional Caucus on Armenian Issues to recognize the horrific Armenian Genocide.

Today we mark the 87th anniversary of the Armenian Genocide, where, in 1915, 1.5 million men, women and children died at the hands of the Ottoman Empire.

Another 500,000 Armenians were forcibly deported, deprived of their homes, their possessions and their homeland.

Many of these refugees made their way to the United States, and it is with pride that we recognize today the more than 1 million people of Armenian descent who live in our great nation.

However, it is with regret that we admit today that our nation, which has seen firsthand the effects of that brutal genocide, still refuses to acknowledge this crime against humanity.

This injustice must be corrected.

Today our children learn about other plights in our world's history, such as slavery and the Holocaust.

But our voices remain mute when it comes to the genocide of innocent Armenian men, women and children.

But our children need to learn that on April 24, 1915, hundreds of Armenian leaders were murdered in Istanbul after being summoned and gathered.

Soon, the rampage spread to the Armenian people who were led to slaughter across the Ottoman Empire.

It is imperative that these events be recognized as a genocide, and this recognition can only be realized if our government has the courage to stand up and proclaim the truth.

Unless this crime against humanity is acknowledged and compensated for, we run the risk of somehow repeating it.

I urge my colleagues and President Bush to do the right thing and join me this evening in affirming the existence of the Armenian Genocide.

Mr. TIERNEY. Mr. Speaker, I rise today to speak of one of the great horrors of our century: the Armenian genocide. As a member of the Congressional Caucus on Armenian Issues, I once again join my colleagues in recognizing the great tragedy of the Armenian people.

As we all know, the genocide of the Armenian people occurred in 1915, when the Ottoman Empire began to force Armenians from their homeland, and lasted until 1923. These eight years saw the deaths of 1.5 million innocent victims and 500,000 exiled survivors. Despite the tremendous magnitude of the genocide, the world stood by as families were torn asunder and millions of lives were taken.

There is no doubt that calling the events by their rightful name—genocide—is an important element of this recognition of responsibility, and I was pleased to sign a letter to the President urging him to do exactly that next week when we commemorate this tragic event. I would hope that all leaders would join me in denouncing this act of genocide.

Today, as I once again honor the victims of the Armenian genocide on behalf of the 6th district of Massachusetts, I also honor the commitment and perseverance of the Armenian-Americans who have tirelessly struggled to ensure that the great sorrow of their people becomes known to all people. It is the very least that this Congress can do to stand up and commemorate the Armenian Genocide, and I am pleased to join my colleagues in doing so.

Mr. RADANOVICH. Mr. Speaker, as I have every year since I was elected to this institution, I come before this chamber to honor my Armenian friends on the eve of the 87th anniversary of the Armenian Genocide.

As we all know, the 20th century was one of historic progress and horrible brutality. Unfortunately, as we enter into the 21st Century we have seen this brutality continue. America is often the first nation to combat brutality around the world. Our reaction was no different when we responded to the extermination of 1.5 million Armenians by the Ottoman Empire between 1915–1923. This horrific event that took place during those years has become to be known as the Armenian Genocide.

As members of this body, and as Americans, we have an obligation to educate and familiarize the world on the Armenian Genocide. In fact, we must ensure that the legacy of the Genocide is remembered, so that this human tragedy will not be repeated. As we have seen in recent years, genocide and ethnic cleansing continue to plague nations

around the world—and as a great nation—we must always be firm in standing against such atrocities. Part of standing against such brutal repression is making sure it is never forgotten or repeated. Therefore, it is critical that we educate people about the systematic and deliberate annihilation of 1.5 million Armenians.

As such, we make it clear that Americans do not and will not accept such atrocities or their denial. Silences, either out of indifference or as the result of political pressure, only serves to encourage others who would again use ethnic cleansing as a tool of government. By recognizing and learning from the past, we work toward a future free of genocide.

When I began the process of seeking affirmation of the voluminous record on the Armenian Genocide years ago, I did not on behalf of a united Armenian-American community who appropriately sought from this body recognition and affirmation of the truth regarding a horrible catastrophe that is so often forgotten. Having paid close attention to the views of those opposed to my efforts, I am now more committed to this effort—not for Armenian-Americans, but for all Americans.

If we are serious about learning the lessons from history—as painful as they sometimes are—then we must be willing to speak openly and honestly about this more serious violation of human rights. To shy away from recognizing genocide, or, even worse, to be complicit in any way in its denial would represent a retreat from our nation's historic commitment to human rights.

I say that we must affirm history—not bury it. We must learn from history—not reshape it according to the geo-strategic needs of the moment. And we must refuse to be intimidated. Otherwise, nations with troubled pasts will ask that the American record on their dark chapters be expunged.

During President Bush's campaign he pledged to properly commemorate the Armenian Genocide. Today, I have every reason to believe that he will honor that pledge and do what is right for both the Armenian people and for historical record. While President Bush used the textbook definition of genocide in his annual statement last year, I encourage him to take the final step and use the "G" word this year—"Genocide."

Mr. VISCLOSKEY. Mr. Speaker, I rise today in solemn memorial to the estimated 1.5 million men, women, and children who lost their lives during the Armenian Genocide. As in the past, I am pleased to join so many distinguished House colleagues on both sides of the aisle in ensuring that the horrors wrought upon the Armenian people are never repeated.

On April 24, 1915, over 200 religious, political, and intellectual leaders of the Armenian community were brutally executed by the Turkish government in Istanbul. Over the course of the next 8 years, this war of ethnic genocide against the Armenian community in the Ottoman Empire took the lives of over half the world's Armenian population.

Sadly, there are some people who still deny the very existence of this period which saw the institutionalized slaughter of the Armenian people and dismantling of Armenian culture. To those who would question these events, I point to the numerous reports contained in the U.S. National Archives detailing the process that systematically decimated the Armenian population of the Ottoman Empire. However,

old records are too easily forgotten—and dismissed. That is why we come together every year at this time: to remember in words what some may wish to file away in archives. This genocide did take place, and these lives were taken. That memory must keep us forever vigilant in our efforts to prevent these atrocities from ever happening again.

I am proud to note that Armenian immigrants found, in the United States, a country where their culture could take root and thrive. Most Armenians in America are children or grandchildren of the survivors, although there are still survivors amongst us. In my district in Northwest Indiana, a vibrant Armenian-American community has developed and strong ties to Armenia continue to flourish. My predecessor in the House, the late Adam Benjamin, was of Armenian heritage, and his distinguished service in the House serves as an example to the entire Northwest Indian community. Over the years, members of the Armenian-American community throughout the United States have contributed millions of dollars and countless hours of their time to various Armenian causes. Of particular note are Mrs. Vicki Hovanessian and her husband, Dr. Raffy Hovanessian, residents of Indiana's First Congressional District, who have continually worked to improve the quality of life in Armenia, as well as in Northwest Indiana. Three other Armenian-American families in my congressional district, Dr. Aram and Seta Semerdjian, Heratch and Sonya Doumanian, and Ara and Rosy Yeretsian, have also contributed greatly toward charitable works in the United States and Armenia. Their efforts, together with hundreds of other members of the Armenian-American community, have helped to finance several important projects in Armenia, including the construction of new schools, a mammography clinic, and a crucial roadway connecting Armenia to Nagorno Karabagh.

In the House, I have tried to assist the efforts of my Armenian-American constituency by continually supporting foreign aid to Armenia. This past year, with my support, Armenia received \$94.3 million in U.S. aid to assist economic and military development. In addition, on April 12, 2002, I joined several of my colleagues in signing the letter to President Bush urging him to honor his pledge to recognize the Armenian Genocide.

The Armenian people have a long and proud history. In the fourth century, they became the first nation to embrace Christianity. During World War I, the Ottoman Empire was ruled by an organization known as the Young Turk Committee, which allied with Germany. Amid fighting in the Ottoman Empire's eastern Anatolian provinces, the historic heartland of the Christian Armenians, Ottoman authorities ordered the deportation and execution of all Armenians in the region. By the end of 1923, virtually the entire Armenian population of Anatolia and western Armenian had either been killed or deported.

While it is important to keep the lessons of history in mind, we must also remain committed to protecting Armenia from new and more hostile aggressors. In the last decade, thousands of lives have been lost and more than a million people displaced in the struggle between Armenia and Azerbaijan over Nagorno-Karabagh. Even now, as we rise to commemorate the accomplishments of the Armenian people and mourn the tragedies they have suffered, Azerbaijan, Turkey, and other

countries continue to engage in a debilitating blockade of this free nation.

Consistently, I have testified before Foreign Operations Appropriations Subcommittee on the important issue of bringing peace to a troubled area of the world. I continued my support for maintaining of level funding for the Southern Caucasus region of the Independent States (IS), and of Armenia in particular. I also stressed the critical importance of revisiting Section 907 of the Freedom Support Act that restricts U.S. aid for Azerbaijan as a result of their blockade. However, I commend my colleagues on the Foreign Operations Appropriations Subcommittee for striking the appropriate balance last year regarding Section 907 of the Freedom Support Act, which will now allow Azerbaijan to do their part in the war against international terrorism. Unfortunately, Armenia is now entering its thirteenth year of a blockade and I must request that the Congress review the waiver to Section 907 on a yearly basis. The flow of food, fuel, and medicine continues to be hindered by the blockade, creating a humanitarian crisis in Armenia.

Mr. Speaker, I would like to thank my colleagues, Representatives JOE KNOLLENBERG and FRANK PALLONE, for organizing this special order to commemorate the 87th Anniversary of the Armenian Genocide. Their efforts will not only help bring needed attention to this tragic period in world history, but also serve to remind us of our duty to protect basic human rights and freedoms around the world.

Mr. KENNEDY of Rhode Island. Mr. Speaker, we recognize today, one of the most tragic atrocities that the twenty-first century has witnessed, occurring eighty-seven years ago. The Armenian Genocide, which began on April 24th, 1915 began with the systematic killings of 200 intellectual and spiritual Armenian leaders, and ended with a count of over 1.5 million dead and another half million deported. It was an attempt on ethnic cleansing that has marred the pasts of native Armenians, now living in their native country or residing in America.

As members of the international community, it is important for our nation to acknowledge this terrible act on the Armenian people. We must make sure that the voices of the Armenian people do not go unheard. Although the Republic of Turkey has continued to deny that the Genocide took place on its soil, those of us here today are aware of the truth.

We cannot allow the truth of the Armenian Genocide to linger in the shadows of this world's history. With information and education our world will be better equipped to tackle equally disturbing human rights atrocities that occur around the globe. Through education, commemoration and remembrance, we send a signal out that the United States does not condone human rights atrocities and we will not forget those that have occurred in the past. We must continue to recognize that the events of 1915–1923 in Armenia were indeed a genocide and in this recognition process, we may prevent incidents like this from occurring ever again. The special orders today on the House floor are testaments to that message and I hope that this annual effort will continue.

Mr. CAPUANO. Mr. Speaker, I rise today, for the fourth consecutive year, to commemorate a people who despite murder, hardship, and betrayal have persevered. April 24, 2002, marks the 8th anniversary of the Armenian Genocide; unbelievably, an event that many still fail to recognize.

Throughout three decades in the late nineteenth and early twentieth centuries, millions of Armenians were systematically uprooted from their homeland of three thousands years and deported or massacred. From 1894 through 1896, three hundred thousand Armenians were ruthlessly murdered. Again in 1909, thirty thousand Armenians were massacred in Cilicia, and their villages were destroyed.

On April 24, 1915, two hundred Armenian religious, political, and intellectual leaders were arbitrarily arrested, taken to Turkey and murdered. This incident marks a dark and solemn period in the history of the Armenian people. From 1915 to 1923, the Ottoman Empire launched a systematic campaign to exterminate Armenians. In eight short years, more than 1.5 million Armenians suffered through atrocities such as deportation, forced slavery and torture. Most were ultimately murdered.

I have had the privilege of joining my colleagues in a letter to the President asking that he acknowledge the Genocide in his April 24th commemoration statement. It is my hope that the President will stand by this pledge he made in 2000. It is my hope that this will be one more step toward official recognition of the Armenian Genocide by the United States.

Many of our companions in the international community have already taken this final step. The European Parliament and the United Nations have recognized and reaffirmed the Armenian Genocide as historical fact, as have the Russian and Greek parliaments, the Canadian House of Commons, the Lebanese Chamber of Deputies and the French National Assembly. It is time for America to join the chorus and acknowledge the Armenians who suffered at the hands of the Ottoman Empire. And let me stress that I am not speaking of the government of modern day Turkey, but rather its predecessor, overthrown and repudiated by the modern Turkish Republic.

As I have in the past, as a member of the Congressional Armenian Caucus, I will continue to work with my colleagues and with the Armenian-Americans in my district to promote investment and prosperity in Armenia. And, I sincerely hope that this year the U.S. will have the opportunity and courage to speak in support of the millions of Armenians who suffered because of their heritage.

Mr. FELINGHUYSEN. Mr. Speaker, I am pleased to participate once again in the annual remembrance of the Armenian genocide today, eighty seven years after this terrible tragedy which claimed the lives of over 1.5 million Armenians between 1915 and 1923.

The Armenian Genocide began in 1915 with the rounding up and killing of Armenian soldiers by the Turkish government. After that, the government turned its attention to slaughtering Armenian intellectuals. They were killed because of their ethnicity, the first group in the 20th Century killed not for their actions, but for who they were.

By the time the bloodshed of the genocide ended, the victims included the aged, women and children who had been forced from their homes and marched to relocation camps, beaten and brutalized along the way. In addition to the 1.5 million dead, over 500,000 Armenians were driven from their homeland.

It is important that we make the time, every year, to remember the victims of the Armenian genocide. We hope that, by remembering the bloodshed and atrocities committed against

the Armenians, we can prevent this kind of tragedy from repeating itself. Unfortunately, history continues to prove us wrong. That is why we must be so vigilant in remembering the past.

It is important to continue to talk about the Armenian genocide. We must keep alive the memory of those who lost their lives during the eight years of bloodshed in Armenia. We must educate other nations who have not recognized that the Armenian genocide occurred. And we must call this tragedy what it is: a genocide. That is why I joined my colleagues in sending a letter to President Bush earlier this year asking him to recognize the Armenians Genocide as that—genocide—in his annual statement.

Mr. Speaker, I commend Armenian-Americans—the survivors and their descendants—who continue to educate the world about the tragedy of the Armenian Genocide and make valuable contributions to our shared American culture. Because of their efforts, the world will not be allowed to forget the memory of the victims of the first 20th Century holocaust.

Mr. FERGUSON. Mr. Speaker, I am proud to stand with my colleagues today to remember a terrible chapter in human history, the Armenian genocide. April 24 holds as a reminder of the Armenian intellectuals and professionals in Constantinople who were first rounded up and deported or killed so many years ago. This action was a precursor to the attempted genocide of an entire people.

From 1915 to 1923, a million and a half Armenians were killed and countless others suffered as a result of the system and deliberate campaign of genocide by the rules of the Ottoman Empire.

Half a million Armenians who escaped death were deported to the Middle East. Some were fortunate enough to escape to the United States.

Mr. Speaker, I am thankful that more than a million Armenians managed to escape the genocide and establish a new life here in the United States. In the Seventh District of New Jersey, I am proud to represent a number of Armenian-Americans. They make incredible contributions to the area and enrich every aspect of New Jersey life, from science to commerce to the arts.

Our statements today are intended to preserve the memory of the Armenian loss and to honor those descendants who have overcome the atrocities that took their grandparents, their parents, their children, and their friends. We mark this anniversary each year to remind our Nation and to teach future generations about the horrors of genocide and oppression endured by the Armenian people.

Let us stand today, united in our remembrance of those who died and committed to ensuring that future horror as, like those faced by the Armenian people, never happen in our world again.

Mrs. LOWEY. Mr. Speaker, I rise today in commemoration of the Armenian Genocide, one of the ugliest periods in world history, which took the lives of 1.5 million Armenians and exiled the Armenian nation from its homeland.

My colleagues and I join with the Armenian-American community, and with Armenians throughout the world, in remembering one of humanity's darkest times, when senseless hatred and prejudice attempted to erase an historic people from the face of our earth.

We cannot turn our backs on history. We cannot ignore the atrocities perpetrated in the past, lest we repeat them. Now, more than ever, we must remain vigilant and steadfast in our defense of right and good. We have seen great horror in just the last year, and we know from history—from the Armenian Genocide and from other massacres—that letting fundamentalist aggression go unchecked and forgotten will come back to haunt us all.

We know this because the world has experienced it. The lessons of what results when hatred is left unchecked have been too slowly learned. Adolf Hitler looked to the Armenian Genocide before perpetrating the Holocaust, calculating that his plans to annihilate the Jewish people would encounter little opposition, just as the Armenian Genocide spurred no global outcry. In a year in which the seemingly unthinkable has happened time and again, we acknowledge that good people will be forever engaged in a battle against the evil in our world. In memory of those who perished in the Armenian Genocide, and in similar acts around the world and throughout the ages, we will never give up this fight.

As we remember the past, we must also pledge our support for ensuring the future of the Armenian nation. Our country must be vigilant in bringing about an end to the blockade of Armenia, helping the people of that nation to live secure and prosperous lives. Our yearly package of assistance to Armenia—economic and now military as well—is a signal of the United States' commitment to this goal. It must be maintained.

Mr. Speaker, the Armenian people have shown true resilience in confronting the obstacles they have faced in the last century. From the ashes of the Genocide, the Armenian nation has become strong, making invaluable contributions to our country, to Armenia, and to the world. I join my colleagues in remembering the atrocities of the past, but also in celebrating the hope of a better future.

Mr. MEEHAN. Mr. Speaker, I rise to commemorate the 87th anniversary of the Armenian Genocide and pay my solemn respects to those who lost their lives because of their ethnicity. The Armenian Genocide was a terrible tragedy that must never be forgotten.

On April 24, 1915, hundreds of Armenian leaders were murdered in Istanbul by order of the Young Turk regime of the Ottoman empire. The Young Turks were a dictatorial regime that orchestrated the systematic destruction of the Armenian people in the Ottoman empire. This genocide occurred through forced labor, concentration camps and death marches. By 1923, the Ottoman empire had killed 1.5 million Armenians and deported 500,000.

However, the present day Turkish government has not yet admitted its involvement in the Armenian Genocide. This denial disrespects the memories of the victims of the Armenian Genocide and compels its survivors and all of us to remind the world of this terrible tragedy every April 24th. Only by raising our voices together will these crimes be known, condemned forever, and—hopefully—never repeated.

Today, I beseech the Turkish government to finally acknowledge its role in the Armenian Genocide. In attempting the systematic annihilation of the Jews of Europe half a century ago, Adolph Hitler asked "Who today remembers the annihilation of the Armenians?" We

answer: we remember. And it is long past time for the Turkish government to join us in remembering.

I proudly represent a large and active Armenian community in my Congressional District in Massachusetts. Every year, survivors and their descendants make public and vivid the hidden details of the Armenian Genocide as they participate in commemoration ceremonies in Boston, Lowell, and other parts of Massachusetts's Merrimack Valley. The commemoration offers participants an opportunity to remind the world of the tragedy that befell Armenians of the Ottoman empire.

To conclude, I am honored to add my voice to those of my colleagues today in commemorating the Armenian Genocide. We will never forget the truth.

Mr. BERMAN. Mr. Speaker, today marks the 87th anniversary of the beginning of the Armenian Genocide. I rise today to commemorate this terrible chapter in human history, and to help ensure that it will never be forgotten.

On April 24, 1915, the Turkish government began to arrest Armenian community and political leaders. Many were executed without ever being charged with crimes. Then the government deported most Armenians from Turkish Armenia, ordering that they resettle in what is now Syria. Many deportees never reached that destination.

From 1915 to 1918, more than a million Armenians died of starvation or disease on long marches, or were massacred outright by Turkish forces. From 1918 to 1923, Armenians continued to suffer at the hands of the Turkish military, which eventually removed all remaining Armenians from Turkey.

We mark this anniversary of the start of the Armenian Genocide because this tragedy for the Armenian people was a tragedy for all humanity. It is our duty to remember, to speak out and to teach future generations about the horrors of genocide and the oppression and terrible suffering endured by the Armenian people.

We hope the day will soon come when it is not just the survivors who honor the dead but also when those whose ancestors perpetrated the horrors acknowledge their terrible responsibility and commemorate as well the memory of genocide's victims.

Sadly, we cannot say humanity has progressed to the point where genocide has become unthinkable. We have only to recall the "killing fields" of Cambodia, mass ethnic killings in Bosnia and Rwanda, and "ethnic cleansing" in Kosovo to see that the threat of genocide persists. We must renew our commitment never to remain indifferent in the face of such assaults on innocent human beings.

We also remember this day because it is a time for us to celebrate the contribution of the Armenian community in America—including hundreds of thousands in California—to the richness of our character and culture. The strength they have displayed in overcoming tragedy to flourish in this country is an example for all of us. Their success is moving testimony to the truth that tyranny and evil cannot extinguish the vitality of the human spirit.

The United States has an ongoing opportunity to contribute to a true memorial to the past by strengthening Armenia's emerging democracy. We must do all we can through aid and trade to support Armenia's efforts to construct an open political and economic system. I am very pleased that this year's foreign aid

bill earmarks \$94.3 million in aid for Armenia, including, for the first time, \$4.3 million in military assistance. This signifies a new stage in the U.S.-Armenia relationship.

Adolf Hitler, the architect of the Nazi Holocaust, once remarked "Who remembers the Armenians?" The answer is, we do. And we will continue to remember the victims of the 1915–23 genocide because, in the words of the philosopher George Santayana, "Those who cannot remember the past are condemned to repeat it."

Ms. ESHOO. Mr. Speaker, I rise today, as I have every year at this time, in a proud but solemn tradition to remember and pay tribute to the victims of one of history's worst crimes against humanity, the Armenian genocide of 1915 to 1923.

In 1915, 1.5 million women, children, and men were killed, and 500,000 Armenians were forcibly deported by the Ottoman Empire during an eight year reign of brutal repression. Armenians were deprived of their homes, their dignity, and ultimately their lives.

Yet, America, the greatest democracy in the world, has not made an official statement regarding the Armenian genocide and it is my hope that the Congress will have the courage to finally recognize the genocide.

It's fundamental that we learn from our past and never let this kind of tragedy happen again.

Opponents have argued that recognizing the genocide would severely jeopardize U.S.-Turkey relations.

Recognizing the genocide is not an indictment of the current Turkish government nor is it a condemnation of any former leader of Turkey.

The U.S. and Turkey can and will be able to continue its partnership should the Congress recognize the genocide.

Mr. Speaker, as one of two Members of Congress of Armenian descent, I'm very proud of my heritage.

Like many Armenians, I learned from my grandparents of the hardship and suffering endured by so many at the hands of the Ottoman Empire.

That is how I came to this understanding and this knowledge and why I bring this story to the House of Representatives.

I am very proud of the contributions which the Armenian people have made to our great nation.

They've distinguished themselves in the arts, in law, in academics, in every walk of life and they continue today to make significant contributions in communities across our country today.

It's essential to not only publicly acknowledge what happened, but also understand that we are teaching present and future generations about the Armenian Genocide.

We need to recognize the genocide to enlighten our young people and to remind ourselves that wherever anything like this occurs around the globe that we, as Members of the United States Congress, and as citizens of this great Nation, raise our voices.

Mr. DINGELL. Mr. Speaker, I rise today to recognize and remember the 1.5 million victims of the Armenian Genocide, who were systematically slaughtered solely because of their race. While there is never a justification for genocide, in this case there also regrettably has never been an apology, and the criminals were never brought to justice. Such

an unconscionable act, however, can never be forgotten.

Accordingly, it is our duty as elected officials to state in no uncertain terms that the Armenian Genocide is clearly and unambiguously defined as genocide. Repeatedly, many leaders, including the President, have called the Armenian Genocide everything but a genocide. Only when this term is understood will the tragic events that began on April 24, 1915, be placed in the correct historical context. The Armenian Genocide cannot be denied.

Mr. Speaker, I also rise in tribute to the Armenian people who have fully recovered from this atrocity by maintaining their proud traditions and culture, becoming an integral part of America, and nine years ago, forming the Republic of Armenia.

The Ottoman Empire's last, desperate act was one of profound cruelty, tragic and gruesome beyond description. During World War I—a tumultuous, revolutionary time of great societal transformations and uncertain futures on the battlefields and at home—desperate Ottoman leaders fell back on the one weapon that could offer hope of personal survival. It is a weapon that is still used today, fed by fear, desperation, and hatred. It transforms the average citizen into a zealot, no longer willing to listen to reason. This weapon is, of course, nationalism. Wrongly directed, nationalism can easily result in ethnic strife and senseless genocide, committed in the name of false beliefs preached by immoral, irresponsible, tyrannical leaders.

Today I rise not to speak of the present, but in memory of the victims of the past, who suffered needlessly in the flames of vicious, destructive nationalism. Exactly 87 years ago today, the leaders of the Ottoman government tragically chose to systematically exterminate an entire race of people. In this case, as in the case of Nazi Germany, nationalism became a weapon of cruelty and evil. Let us never forget the 1.5 million Armenians who died at the whim of wicked men and their misguided followers.

The story of the Armenian Genocide is in itself appalling. It is against everything our government—and indeed all governments who strive for justice—stands for; it represents the most wicked side of humanity. What makes the Armenian story even more unfortunate is history has repeated itself in all corners of the world, and lessons that should have been learned long ago have been ignored. We must not forget the Armenian Genocide, the Holocaust, Cambodia, Rwanda, or Bosnia. It is our duty that by remembering the millions who have been victims of genocide, we pledge ourselves to preventing such acts from repeating themselves.

It is an honor and privilege to represent a large and active Armenian population, many who have family members who were persecuted by their Ottoman Turkish rulers. Michigan's Armenian-American community has done much to further our state's commercial, political, and intellectual growth, just as it has done in communities across the country. And so I also rise today to honor to the triumph of the Armenian people, who have endured adversity and bettered our country.

The Armenian people have faced great trials and tests throughout their history. They have proved their resilience in the face of tragedy before, and I have no doubt that they will endure today's tragic occurrence, recognize that

a madman's bullet can never put an end to a people's dreams, and keep moving forward on the path of peace and freedom.

Mr. Speaker, let no one, friend or foe, ever deny that the Armenian Genocide occurred. Let us not forget the heinous nature of the crimes committed against the Armenian people. Let us promise to the world as American citizens and citizens of the world, that we will never again allow such a crime to be perpetrated, and will not tolerate the forces of misguided nationalism and hate.

Ms. WOOLSEY. Mr. Speaker, I rise today to honor those who died in the Armenian Genocide.

In the first part of the 20th century, a tremendous evil was done to the Armenian people. April 24, 1915 is a day that will forever live in infamy. A Turkish campaign to eliminate Armenians from the face of the earth began that day. In the end, that campaign killed 1.5 million people.

More than 200 religious, political and intellectual leaders were assassinated. 500,000 people were exiled from their homes. As a result of this violence, one of earth's oldest civilizations virtually ceased to exist.

Unfortunately this terrible chapter of history is not well known. Many Americans don't know much about the Armenian genocide, but it should stand as a constant reminder to all of us that we must be vigilant and stand firm against bigotry and hatred at every turn.

We must take the horrors of the past and transform them into compassion and hope. We must learn from the Armenian genocide—learn about perseverance and hope. We can't change the past, but we can prepare for the future.

While we remember with sorrow, we must also be heartened that eighty-five years later, Armenians remain a proud, dignified people. Their spirit lives in the independent republic of Armenia and in many communities around the United States, particularly in my home state of California.

Every one of these people is the product of generations of courage, perseverance and hope. Understanding what it is to struggle as a people motivates many Armenians to educate others about the atrocities committed in the past.

The bonds between Armenia and the United States are growing stronger all the time. Economic cooperation is growing. Democracy is blossoming. These are testaments of strength to the Armenian people.

While we did not do enough for the victims eighty-five years ago, we can honor their memory now, and ensure that nothing so horrendous happens again.

Mr. WAXMAN. Mr. Speaker, today we solemnly commemorate the 87th anniversary of the Armenian Genocide, when the Ottoman Government unleashed a campaign of devastation and destruction against its Armenian population.

Over the course of eight years, beginning in 1915, Armenian communities were systematically destroyed. One and a half million men, women, and children were murdered and nearly one million others were deported. From the ashes of destruction, the survivors rebuilt their lives and many established vibrant Armenian communities here in the United States, but the scars of the massacres are deeply embedded in their history and our conscience.

The world was silent during the bloodshed of Armenians. It was tragically just a short

number of years before this inaction degenerated into paralysis against Hitler's attempt to annihilate the Jews.

At a time when the flames of anti-Semitism are reigniting across Europe, we have a responsibility to redouble our efforts against the bigotry and intolerance that sparked the Armenian Genocide and later the Holocaust. At a time when there are still attempts to refute the Armenian Genocide and Holocaust denial is spreading rampantly through the Arab world, we have an obligation to resolve ourselves against the dangers of historical revisionism.

Today we mourn the victims, pay tribute to the survivors, and stand together with all who are committed to promoting awareness about this dark chapter of history. Today we remember to never forget.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized for 5 minutes.

(Ms. NORTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland (Mrs. MORELLA) is recognized for 5 minutes.

(Mrs. MORELLA addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. LIPINSKI) is recognized for 5 minutes.

(Mr. LIPINSKI addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### PREDICTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, our government intervention in the economy and in the private affairs of citizens and the internal affairs of foreign countries leads to uncertainty and many unintended consequences. Here are some of the consequences about which we should be concerned.

I predict U.S. taxpayers will pay to rebuild Palestine, both the West Bank and the Gaza, as well as Afghanistan. U.S. taxpayers paid to bomb these areas, so we will be expected to rebuild them.

Peace, of sorts, will come to the Middle East, but will be short-lived. There will be big promises of more U.S. money and weapons flowing to Israel and to Arab countries allied with the United States.

U.S. troops and others will be used to monitor the "peace."

In time, an oil boycott will be imposed, with oil prices soaring to historic highs.

Current Israeli-United States policies will solidify Arab Muslim nations in

their efforts to avenge the humiliation of the Palestinians. That will include those Muslim nations that in the past have fought against each other.

Some of our moderate Arab allies will be overthrown by Islamic fundamentalists.

The U.N. will continue to condemn, through resolutions, Israeli-U.S. policies in the Middle East, and they will be ignored.

Some European countries will clandestinely support the Muslim countries and their anti-Israel pursuits.

China, ironically assisted by American aid, much more openly will sell to militant Muslims the weapons they want, and will align herself with the Arab nations.

The United States, with Tony Blair as head cheerleader, will attack Iraq without proper authority, and a major war, the largest since World War II, will result.

Major moves will be made by China, India, Russia, and Pakistan in Central Asia to take advantage of the chaos for the purpose of grabbing land, resources, and strategic advantages sought after for years.

The Karzai government will fail, and U.S. military presence will end in Afghanistan.

An international dollar crisis will dramatically boost interest rates in the United States.

Price inflation, with a major economic downturn, will decimate U.S. Federal Government finances, with exploding deficits and uncontrolled spending.

Federal Reserve policy will continue at an expanding rate, with massive credit expansion, which will make the dollar crisis worse. Gold will be seen as an alternative to paper money as it returns to its historic role as money.

Erosion of civil liberties here at home will continue as our government responds to political fear in dealing with the terrorist threat by making generous use of the powers obtained with the Patriot Act.

The draft will be reinstated, causing domestic turmoil and resentment.

Many American military personnel and civilians will be killed in the coming conflict.

The leaders of whichever side loses the war will be hauled into and tried before the International Criminal Court for war crimes. The United States will not officially lose the war, but neither will we win. Our military and political leaders will not be tried by the International Criminal Court.

The Congress and the President will shift radically toward expanding the size and scope of the Federal Government. This will satisfy both the liberals and the conservatives.

Military and police powers will grow, satisfying the conservatives. The welfare state, both domestic and international, will expand, satisfying the liberals. Both sides will endorse military adventurism overseas.

This is the most important of my predictions: Policy changes could pre-

vent all of the previous predictions from occurring. Unfortunately, that will not occur. In due course, the Constitution will continue to be steadily undermined and the American Republic further weakened.

During the next decade, the American people will become poorer and less free, while they become more dependent on the government for economic security.

The war will prove to be divisive, with emotions and hatred growing between the various factions and special interests that drive our policies in the Middle East.

Agitation from more class warfare will succeed in dividing us domestically, and believe it or not, I expect lobbyists will thrive more than ever during the dangerous period of chaos.

I have no timetable for these predictions, but just in case, keep them around and look at them in 5 to 10 years. Let us hope and pray that I am wrong on all accounts. If so, I will be very pleased.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

#### LYNN LAUFENBERGER'S KIDNEY TRANSPLANT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 5 minutes.

Mr. GUTKNECHT. Mr. Speaker, today I rise to share a story of faith, hope, love, and incredible generosity. Lynn Laufenberger works in our district office back in Minnesota. She is a young woman full of courage and hope.

In 1995, Lynn's kidneys began to slow down. They no longer functioned well enough, and Lynn was placed on dialysis. For 6½ years she received dialysis every day, usually in her own home.

Earlier this year, Lynn's kidney disease became worse. She felt an increased sense of urgency to obtain a kidney transplant. Lynn spoke publicly of this need at her church, Elim Baptist, in Rochester, Minnesota. A friend, Heidi Stensland, approached her after she spoke and told her that she had already been praying about giving one of her kidneys to Lynn. Heidi had only known Lynn for a couple of months.

Heidi submitted herself for tests to determine if her kidney was healthy and a match for Lynn. The results showed that her kidney was indeed a match. This was no small feat, since Lynn's blood type is rare. Lynn had been on the active transplant waiting list for about 1 year.

The transplant surgery was performed February 21 at Rochester Methodist Hospital. Heidi, a home day care provider, took her yearly vacation

time to donate her kidney. She even postponed her own wedding to deliver this amazing gift of life to Lynn.

The surgery was immediately successful. The transplanted kidney began to work in Lynn's body right in the operating room. Lynn's parents from Wisconsin were able to come to Minnesota for her surgery, and they stayed afterward to provide much needed support. Her only sister was also able to be there.

The faith community of Elim Baptist Church was very supportive of both Lynn and Heidi. Church members provided transportation for their follow-up appointments. The church also brought much appreciated meals and assisted with some of the extra expenses.

When Heidi resumed providing day care in her home, church members were there to help her until she was able to handle it by herself. Heidi continues to provide day care in her home. Lynn has returned to her staff assistant's job in my office.

This is a beautiful story. I want to express my thanks and appreciation to Heidi Stensland for her generosity and her faith. I thank the members of the Elim Baptist Church for their prayers and support for Lynn and Heidi. And to Lynn, I want to wish all of the best for a very bright future, now full of hope. I commend her for her faith that God would provide an answer to her prayers.

To all those involved in this great story, I say, God bless.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. ESHOO) is recognized for 5 minutes.

(Ms. ESHOO addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. SOUDER) is recognized for 5 minutes.

(Mr. SOUDER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

Mr. SCHIFF. Mr. Speaker, Hagop Bekerjian, Hranoush Boghosian, Gohar Madoyan, the Partamian brothers from Adana, Knarik Davoudian, Mari Filian, Hripsime Stambolian, Asadour Stambolian, Haroutiun Stambolian, Grigor Stambolian.

These are a few, a precious few, of the 1.5 million men, women, and children that lost their lives at the hands of the Ottoman Empire between 1915 and 1923. Eighty-seven years ago, Armenian teachers, clergy, businessmen, writers, and doctors were rounded up and killed. The events of April 24, 1915,

set the stage for the first genocide of the 20th century.

Nikoghos Achabashian, Boghos Katchadourian, Mariam Katchadourian, Takouhi Katchadourian, Hovsep Katchadourian, Manoug Baronian, Pepruhi Baronian, Antaram Antaramian, Yeghsapert Vartabedian, Haroutune Antaramian, Ashod Antaramian, Naomi Antaramian, Anagule Antaramian.

They were fathers and sons, mothers and daughters, aunts, uncles, and grandparents. They were whole families. They were a people, and they were nearly wiped out.

Garabed Hovagimian, Mariam Hovagimian, Garabed Hovagimian, Jr., Siranoush Hovagimian, Boghos Hovagimian, Zarouhi Chavooshian Norsigian, Dickran Chavooshian, Arshalous Norsigian, Zabelle Norsigian, Zabelle Norsigian, Solomon Norsigian, Hatoon Chavooshian, Ardash Chavooshian.

□ 1600

You might imagine that after the passage of so much time and with the presence of so many Americans of Armenian origin, U.S. recognition of the events of April 24 and the genocide that followed would be routine and non-controversial. Instead, debate over the Armenian genocide has been an annual and bitter conflict.

Mac Norsigian, Nazely Norsigian Sarkisian, Serpouhi Norsigian Kloian, Poompul Norsigian Bazoian, Souren Sarkisian, Makrouhi Kapoian Norsigian, Nareg Norsigian Sarkisian, Nevart Arslanian Vartanian, Sarkis Vartanian.

Even though modern-day Turkey was established in 1923 out of the ashes of the Ottoman Empire and was not the actual perpetrator of the genocide, it spends millions of dollars each year on the best lobbyists, engages sympathetic allies on its behalf, and routinely threatens to sever diplomatic, military, and economic ties with the United States anytime the Armenian genocide is brought up.

Haig Kurkjian, Armen Kurkjian, Sultan Kurkjian, Savgul Kurkjian Bugdoian, Boghos Mergelian, Garabed Savulian, Zakar Savulian, Hagop Saroian, Sooren Saroian, Aslik Saroian, Goharik Saroian.

Despite this concerted effort, there is no serious academic dispute about the Armenian genocide. Some of the most notable Holocaust and genocide scholars, including Israel Charny, Deborah Lipstadt, and Robert J. Lifton, among many others, join in the call for recognition. International law scholar Raphael Lemkin, who coined the word genocide in 1943, cited the Armenian case as an example.

And all those people.

Toros Chaglassian, Haroutiun Keusseyan, Zabel Keusseyan, Loussin Keusseyan, Hovannes Keusseyan, Garabed Keusseyan, Boghos Sarkissian, Dickranouhi Sarkissian, Carmen Sarkissian.

They are not simply names. They were not simply part of the 1.5 million

number. They are people. They are children. They are mothers and fathers.

Our own National Archives housed diplomatic dispatches from U.S. Ambassador Henry Morgenthau and Consul Leslie Davis to the State Department, vividly describing the systematic destruction of an entire people. News accounts in the American press, most notably the New York Times, provide another trove of primary source evidence.

Who are they? They are:

Kasbar Jeboghlian, Toukhman Jeboghlian, Kevork Jeboghlian, Mariam Jeboghlian, Barkev Jeboghlian, Yeranig Deukmedjian, Haiganoush Deukmedjian, Rosa Deukmedjian, Hovhannes Deukmedjian, Arshalouys Deukmedjian, Kevork Deukmedjian, Mariam Jeboghlian.

Because of Turkey's important strategic role in NATO, America has been reluctant to speak out. But U.S.-Turkish relations are strong and can survive our recognition of the Armenian genocide.

Hagop Momjian, Nevart Sarkissian, Bedross Shemessian, Hovhannes Shemessian, Boghos Shemessian, Ester Shemessian, Lucia Shemessian, Takouhi Tejirian, Makrouhi Tejirian, Ashod Tejirian, Sahag Shamassian.

Euphemisms, vague terminology, or calls for discussions to get at the truth have been used to avoid discomfort with Turkey's Ottoman past. Let me just conclude by saying the United States is fighting an unconventional enemy in the war on terrorism. Winning that war requires a level of more clarity that can provide a vision for struggling people in nations everywhere. So let us call genocide genocide. Let us not minimize the deliberate murder of 1.5 million people. Let us have a moral victory that can shine as a light to all nations.

Hagop Berkerjian, Hranoush Boghosian, Gohar Madoyan, the Partamian Brothers from Adana, Knarik Davoudian, Mari Filian, Hripsime Stambolian, Asadour Stambolian, Haroutiun Stambolian, Grigor Stambolian. These are a few, a precious few, of the 1.5 million men, women, and children who lost their lives at the hands of the Ottoman Empire between 1915-1923.

Eighty-seven years ago today, Armenian teachers, clergy, businessmen, writers, and doctors were rounded up and killed. The events of April 24, 1915 set the stage for the first genocide of the 20th Century.

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Garabed Hovagimian, Mariam Hovagimian, Garabed Hovagimian, Jr., Siranoush Hovagimian, Boghos Hovagimian, Zarouhi Chavooshian Norsigian, Dickran Chavooshian,

Arshalous Norsigian, Zabelle Norsigian, Solomon Norsigian, Hatoon Chavooshian, Ardash Chavooshian.

You might imagine that after the passage of so much time, and with the presence of so many Americans of Armenian origin, United States recognition of the events of April 24th and the genocide that followed would be routine and non-controversial. Instead, debate over the Armenian Genocide has been an annual and bitter conflict.

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Despite this concerted effort, there is no serious academic dispute about the Armenian Genocide. Some of the most notable Holocaust and Genocide scholars, including Israel Charny, Deborah Lipstadt, and Robert Jay Lifton, among many others join the call for recognition. International law scholar Raphael Lemkin, who coined the word genocide in 1943, cited the Armenian case as an example.

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Some argue that recognition of the genocide has become even more problematic now, when the world is at war with terrorism and the United States cannot afford to offend the sensibility of our Turkish ally. In fact, the converse is true: At a time when the United States has been called on for a level of moral

leadership, vision and inspiration not seen since World War II, we cannot afford to dissemble about crimes against humanity.

Khatoun Jilizian, Lucia Jilizian, Alice Jilizian, Minas Serop Jilizian, Kevork Serop Jilizian, Haroutioun Aydabirian, Hagop Donabedian, Hripsimeh Bedoyan, Margaret Bedoyan.

Euphemisms, vague terminology or calls for discussions to get at the truth are just some of the dodges used to avoid Turkish discomfort with its Ottoman past. What is there to discuss about the Armenian Genocide? What facts are there left to discover? What is to be gained by referring to the systematic slaughter of an entire people without using the word most appropriate for those grotesque circumstances?

The short answer is that there is nothing to discuss, nothing to discover, nothing to be gained by denial—and much to be lost. The United States is fighting an unconventional enemy in the war on terrorism, and one against whom our overwhelming military might provides only one necessary weapon. Winning the war on terrorism will also require a level of moral clarity that can provide a vision for struggling people and nations everywhere. Only military force accompanied by an equally strong moral force will provide the essential combination to route out terrorism and prevent its reemergence.

So let us call genocide, genocide. Let us not minimize the deliberate murder of 1.5 million people. Let us have a moral victory that can shine as a light to all nations. These people lived. They dreamed of their futures, as we dream about ours. They loved their family and life. Their voices were silenced in the desert, but we can respect their memory. And we must.

Sarkis Dadaian, Varuhi Minassian, Miriam Derderian, Yeghsa Derderian.

#### COMMEMORATING THE ARMENIAN GENOCIDE

The SPEAKER pro tempore (Mr. FORBES). Under a previous order of the House, the gentleman from Michigan (Mr. BONIOR) is recognized for 5 minutes.

Mr. BONIOR. Mr. Speaker, I want to follow on the remarks of my distinguished colleague from California.

The Armenian genocide has been called the most “colossal crime of all ages.” It has been called a “campaign of race extermination,” similar to the Holocaust.

Every year on the 24th of April, the citizens of Armenia gather, as they did just this past day in Yerevan on top of a hill, to remember all of the people that perished, the 1.5 million. And although we are halfway around the world away, we remember with them today. Today we pause and we say, “never again.” We do so in order to prevent history from repeating itself as it has often done in our lifetime.

It happened in Armenia between 1915 and 1923. Ambassador Morgenthau told our government what was happening, and not a very good response was received. It happened during the Holocaust, and not a very good response in reaction to what was happening was received. It happened in Bosnia and

Rwanda and Cambodia. The world did not learn the harsh lessons of the past.

Today we stand up and we speak because silence betrays our principle as a freedom-loving people. One and a half million Armenian men, women, and children were victims of a brutal genocide at the hands of the Turkish Ottoman Empire from 1915 to 1923. The intent of the genocide was to destroy all traces of a thriving and cultured civilization over 3,000 years old.

On the 24th of April 1915, 300 Armenian leaders and intellectuals and professionals were rounded up, deported, and killed. Also on that day 5,000 of the poorest Armenians were slaughtered in the street. And the names that were read by my colleague, the gentleman from California (Mr. SCHIFF), they were real people with families. We must never forget.

Some think of the genocide in abstract terms, but it is not. We are here today speaking out on the House floor, Democrats and Republicans, because we know that 1.5 million men, women, and children killed in the genocide were husbands and wives and mothers and fathers and sons and daughters and friends. Those who survive them know this: They were innocent individuals. They were robbed of their dignity, of their humanity, and ultimately their lives.

A professor once observed that the denial of genocide strives to reshape history in order to demonize the victims and rehabilitate the perpetrators. Because of the work of historians, advocates, the Armenian American community, lawmakers and other people of conscience, this is not possible in the case of the Armenian genocide. It will never be possible because we will always be here, every April 24 and the week preceding it, speaking to the country, speaking to the world community about what happened. And make no mistake about it, those who are responsible, those who fight against recognizing this for what it was, a genocide, hear our voices.

While the attempts of denial continue to strengthen our resolve to remember and speak out, we recognize the anniversary of this massacre and condemn these crimes against an entire people in order to ensure that similar atrocities are not committed against any people or any civilization again. We must never forget. We recognize the anniversary in order to show our support for all Armenian Americans and the horrific suffering they or their families endured.

We recognize the anniversary in order to stand up for freedom and condemn injustice across the world. I have recently joined with 161 of my colleagues in asking President Bush to recognize the Armenian genocide for what it is: a genocide. And we will continue our collective efforts to achieve proper commemoration of the Armenian genocide because we must never forget.

#### ARMENIANS STILL SEEK JUSTICE FOR 1915 GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MCGOVERN) is recognized for 5 minutes.

Mr. MCGOVERN. Mr. Speaker, today Members of this House have come to the floor to remember and commemorate the 87th anniversary of the Armenian genocide.

On April 24, 1915, hundreds of Armenian religious, political, and intellectual leaders were rounded up, exiled, and eventually murdered by Turkish order in remote areas of Anatolia. Over the next 8 years, hundreds of thousands of Armenian men, women, and children perished at the hands of the Ottomans.

By recognizing and commemorating the Armenian genocide each year, this House helps ensure that the lessons of this terrible crime against humanity are not forgotten, cannot be denied and hopefully might help prevent future genocides of other peoples.

The single greatest obstacle to the official recognition of the Armenian genocide is the Republic of Turkey. In spite of overwhelming evidence documenting the genocide, most of it housed at the United States Archives, modern-day Turkey continues to pursue a campaign to deny and to ultimately erase from world history the 1.5 million victims of Ottoman Turkey's deliberate massacres and deportations of the Armenian people between 1915 and 1923.

Successive Turkish governments have also deliberately destroyed the immense cultural heritage of Armenians in Turkey, carrying out a systematic campaign to erase evidence of the historic Armenian presence in Eastern Anatolia.

Since 1982, successive U.S. administrations, reluctant to offend Turkey, have in effect supported the Turkish Government's revisionist campaign and opposed passage of the Congressional Armenian Genocide Resolution. These administrations have objected to the use of the word “genocide” to describe the systematic destruction of the Armenian people.

Rather than supporting Turkey's denials, Mr. Speaker, I hope that President Bush will officially recognize the Armenian genocide and encourage Turkey to come to terms with its past.

Rather than creating tension in the region, I believe such actions would decrease the tension and suspicions that have long inhibited cooperation in that region.

Thirty-one of our States, including my own State of Massachusetts, have recognized the Armenian genocide. And I want to thank the cochairs of the Congressional Caucus on Armenian Issues, the gentleman from Michigan (Mr. KNOLLENBERG) and the gentleman from New Jersey (Mr. PALLONE) for their outstanding work to ensure that we never forget those who perished and those who survived the Armenian genocide. In their names and in their memory, we must demand recognition.

Mr. Speaker, I enter into the RECORD an article by Jason Sohigian that appeared in my hometown newspaper, The Worcester Telegram and Gazette, describing why Armenians still seek justice for the 1915 genocide by the Ottomans.

Mr. Speaker, it is past time for the United States to recognize officially the Armenian genocide. There can be no justice without the truth. In the name of all humanity, let it happen now.

The article previously referred to is as follows:

[From the Worcester Telegram and Gazette, Apr. 23, 2002]

ARMENIANS STILL SEEK JUSTICE FOR 1915  
GENOCIDE BY OTTOMANS  
(By Jason Sohigian)

The Armenian genocide is still subject to a massive campaign of denial by modern Turkey and distortion by some of its allies, including Israel—much to the embarrassment of Jewish historians. While the rest of the world recognizes the systematic, premeditated nature of the Armenian genocide, Turkey continues to devote massive amounts of resources toward its policy of denial.

Often people wonder why the genocide, which happened so long ago, is still important to so many people so far away from the scene of the crime.

Why? Because Ottoman Turkey succeeded in annihilating more than half of the Armenian population of historic Armenia. Entire villages, towns and cities were wiped out. Families were killed and their property illegally confiscated. A 3,000-year-old indigenous culture was utterly disrupted and uprooted.

Not one Armenian family in the world remains untouched by this catastrophic event. Nearly every Armenian community leader, intellectual, and priest in the Ottoman Turkish capital, Istanbul, was rounded up on April 24, 1915, and massacred. That initiated the campaign of terror, and from that day forward nearly every Armenian family suffered losses throughout Ottoman Turkey.

My own grandfather witnesses the death of family members and lived as an orphan for many years until finally being reunited with the remnants of her family in the United States. My mother attempted to reconstruct my grandmother's story for the historical record while my grandmother was still able to remember what happened during those years.

Knowing that these few orphans managed to survive and regenerate into the Armenian community of today is truly an inspiration. I could not help but feel, both as an Armenian and as an heir to the tragedy, the tremendous sense of obligation to achieve justice for the Armenian people.

That is the meaning behind the efforts to achieve recognition for the Armenian genocide, 87 years after the fact. Armenians living in the diaspora ask their governments to recognize this event, and urge Turkey to do the same. Recognition of the genocide is a pan-Armenian concern, and following the independence of Armenia after the fall of the Soviet Union in 1991, even the Armenian government of today has made recognition a major part of its foreign policy agenda.

The issue of recognition has several aspects, among them a moral obligation, a political dimension and a legal component.

Because so much effort has been expended combating denial over the years, many related issues still have not been explored. Armenians worldwide are now raising the issue of reparations for land and other stolen Armenian property. Just recently, class-action

lawsuits were initiated against the New York Life and French Axa insurance companies, which sold policies in Ottoman Turkey to families and failed to pay the benefits to the heirs of those who were later massacred in the Armenian genocide.

Modern Turkey is the beneficiary of its Ottoman past, and it vigorously celebrates this fact—except when it comes to the Armenian genocide. Many of the Ottoman leaders who participated in the Armenian genocide went on to become officials of the modern Turkish state, and Turkey continues to profit from the confiscated land and property of the Armenian people.

Armenians will never forget. Nor will they forgive—until justice is served.

But governments and leaders, too, must speak out. Individuals, too, must raise their voices. Conscience must prevail.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. WOOLSEY) is recognized for 5 minutes.

(Ms. WOOLSEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

REMEMBERING THE ARMENIAN  
GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SHERMAN) is recognized for 5 minutes.

Mr. SHERMAN. Mr. Speaker, I join with my colleagues from the Armenia Issues Caucus to recognize the obvious and uncontested fact that during World War I and its aftermath, as many as 1.5 million Armenians died in the first genocide of the 20th century.

The question is not whether we should recognize this genocide, but why we have not done so already. The evidence is overwhelming. It has been set forth today by the previous speakers, as it has been set forth every April 24th, year after year, on the floor of this House.

Why do we not recognize that which is uncontested? We are told that there are geopolitical reasons why the truth must be shrouded. Well, Turkey would be a much better ally of America if Turkey recognized the truth. What kind of ally would Germany be if it had a government that denied the Holocaust? What kind of ally would America be if we denied that slavery occurred or claimed that we had not created great injustices to the Native American population, including, frankly, the genocide of certain Native American Tribes?

Turkey is an ally of America, but America has no greater ally than the truth. Nothing is more important than that America be recognized as being guided by the truth, and eternal truth, and not the geopolitics of the hour.

□ 1615

History will record that there are very few occasions in which the world consents or even a region of the world consents to the existence of a single superpower, and the world will not consent to our leadership unless that lead-

ership is guided by principle. We must put the truth first.

What if, for example, a new regime should arise in Germany and disclaim the Holocaust and demand that we here in Washington marched down to the Holocaust Museum and rip it apart brick by brick? The response should not be, oh, Germany, is an important and powerful country. The response should be that there is nothing more important to America than the truth. We must recognize the genocide, and we must recognize the needs of those who survived the genocide.

Last year when the President asked us for \$70 million in aid to Armenia, this Congress responded with \$90 million of aid, additional aid to help meet Armenia's security needs. Since its independence, this Congress has provided \$1.3 billion of aid to that new democracy, and this year again we must respond by providing the aid that Armenia needs, more than the President provides in his budget. We must make sure that we do not aid Azerbaijan as long as that country continues to blockade Armenia.

Finally, with regard to the proposed pipeline, the Baku-Ceyhan pipeline, we must make sure that is a pipeline of peace that unites Azerbaijan and Armenia as it flows through both of those countries into the Mediterranean Sea; and we must make sure that the Export-Import Bank does not risk our capital in creating a pipeline of war, a pipeline that deliberately circumvents Armenia and tries to create a new geopolitical situation in the Caucasus. We must recognize the truth. We must build toward peace, prosperity, and progress for Armenia and for the entire Caucasus region.

REMEMBERING THE VICTIMS OF  
THE ARMENIAN GENOCIDE

The SPEAKER pro tempore (Mr. FORBES). Under a previous order of the House, the gentleman from California (Mr. HORN) is recognized for 5 minutes.

Mr. HORN. Mr. Speaker, once again, I join my colleagues and the world in remembering those who suffered the horrifying events of the Armenian genocide. The tragedy of lost lives through ethnic cleansing must never be forgotten.

The Armenian genocide marked the beginning of a barbaric practice beginning in the 20th century. More than a million and a half Armenians were killed and forcibly departed. The Ottoman Turks brutally uprooted and systematically eliminated Armenians from their homeland. To this day, the Turkish Government continues to deny that millions of Armenians were killed simply because they were Armenian.

As an educator, I believe we must emphasize the role of education throughout the world. We must continue to forbid actions of racial intolerance and religious persecution which have led to so many cases of ethnic cleansing. The tragedies of the past 2

decades, including those in Cambodia, Rwanda, Kosovo, attest to this fact. We must continue teaching our children tolerance so the next generation is armed with the knowledge and the power to defeat racial and religious persecution wherever it arises.

We refuse to acknowledge and understand racial and religious intolerance. We are doomed to repeat the same tragedies again and again if we do not constantly use our voices and our prayers for a much better situation in the 21st century of this country.

Mr. Speaker, I thank the Chair for this opportunity to commemorate the Armenian genocide. I also want to thank the many Armenian American organizations throughout the Nation that make celebration of terror and hopeful that it is never done again, not only for Armenians, but for every group of people, particularly those in California for their tremendous work on behalf of the Armenian Army community which is an absolutely wonderful group of people throughout the State.

I must say to the Turkish Government, you were not there when this was done, why cannot you say it was wrong, we did the wrong thing of our ancestors and get it on the book and get up to bat, just to use a baseball analogy? It just makes us sick when the people do not go back in history and say that should not have been done and it will not be done again.

#### REMEMBERING THE VICTIMS OF SEPTEMBER 11, 2001

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) is recognized for 60 minutes as the designee of the majority leader.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, we recently observed the 7th-month anniversary of the terrorist attacks that devastated our Nation on September 11, 2001. Today, I would like to continue to remember, recognize and honor our fellow citizens who lost their lives as a result of the terrorist attacks on our Nation.

This list of over 3,000 names is comprised of many of the victims of the horrific attacks, including the firefighters and policemen who willingly gave their lives in an attempt to rescue others. This effort will continue until each name on this list has been read on the House floor and entered into the CONGRESSIONAL RECORD.

I urge my colleagues to join me in this important undertaking to show that this House and our Nation honors our fallen brothers and sisters.

Lars P. Qualben; Lincoln Quappe; Patrick J. Quigley, IV; Beth Ann Quigley; Michael Quilty; Ricardo Quinn; James Quinn; Carol Rabalais; Christopher Peter A. Racaniello; Leonard Ragaglia; Eugene J. Raggio; Michael Ragusa; Peter F. Raimondi; Lisa J. Raines; Harry Raines; Ehtesham U.

Raja; Valsa Raju; Edward Rall; Luke Rambousek; Maria Isabel Ramirez; Harry Ramos; Deborah Ramsaur; Lorenzo Ramzey; Alfred Todd Rancke; Adam David Rand; Jonathan C. Randall; Shreyas Ranganath; Faina Rapoport; Rhonda Rasmussen; Robert Arthur Rasmussen; Ameenia Rasool; Roger Mark Rasweiler; Marsha Dianah Ratchford; David Alan James Rathkey; William R. Raub; Gerard Rauzi; Alexey Razuvaev; Gregory Reda; Sarah Redheffer; Michele Marie Reed; Judith A. Reese; Donald J. Regan; Robert Regan; Thomas M. Regan; Christian Regenhard; Howard Reich; Gregory Reidy; James B. Reilly; Kevin Reilly; Timothy E. Reilly; Joseph Reina; Thomas Barnes Reinig; Frank B. Reisman; Joshua Scott Reiss; Karen C. Renda; John Armand Reo; Richard C. Rescorla; John Resta; Sylvia San Pio Resta; Martha Reszke; David Retik; Todd Reuben; Eduvigis "Eddie" Reyes; Bruce Reynolds; John Frederick Rhodes, Jr.; Francis S. Riccardelli; Rudolph N. Riccio; David Rice; Kenneth F. Rice, III; Eileen M. Rice; Vernon Richard; Cecelia E. Richard; Michael Richards; Claude "Dan" Richards; Venesha O. Richards; Gregory Richards; James Riches; Alan Jay Richman; John M. Rigo; James Riley; Frederick Rimmele; Theresa "Ginger" Risco; Rose Mary Riso; Moises N. Rivas; Joseph Rivelli, Jr.; Isaias Rivera; Linda I. Rivera; Carmen A. Rivera; Juan Rivera; David Rivers; Joseph R. Rivero; Paul Rizza; Stephen Louis Roach; Joseph Roberto; Michael Roberts; Michael Edward Roberts; Leo Roberts; Donald W. Robertson, Jr.; Catherina Robinson; Jeffrey Robinson; Michell Robotham; Donald Arthur Robson; Antonio Augusto Tome Rocha; Raymond J. Rocha; Laura Rockefeller; John M. Rodak; Roseann Rodgers-Lang; Antonio Jose Carrusca Rodrigues; Anthony Rodriguez; Richard Rodriguez; Carmen Rodriguez; Carlos Cortez Rodriguez; Gregory Rodriguez; Marsha A. Rodriguez; David B. Rodriguez-Vargas; Jose Rodriguez; Matthew Rogan; Jean Roger; Karlie Rogers; Scott Rohner; Keith Roma; Joseph M. Romagnolo; Elvin Santiago Romero; Efrain Franco Romero, Sr.; James A. Romito; Sean Rooney; Eric Thomas Ropiteau; Angela Rosario; Aida Rosario; Mark Harlan Rosen; Sheryl Lynn Rosenbaum; Brooke David Rosenbaum; Linda Rosenbaum; Lloyd D. Rosenberg; Mark Louis Rosenberg; Joshua Rosenblum; Andrew I. Rosenblum; Joshua Rosenthal; Richard David Rosenthal; Philip Rosenzweig; Richard Barry Ross; Daniel Rossetti; Norman Rossinow; Nicholas Rossomando; Michael Craig Rothberg; Mark Rothenberg; Donna Marie Rothenberg; James M. Roux; Nicholas Rowe; Edward Rowenhorst; Judy Rowlett; Timothy Roy; Behzad Roy; Paul Ruback; Ronald J. Ruben; Joanne Rubino; David M. Ruddle; James Ruffin; Bart J. Ruggiere; Susan Ann Ruggiero; Adam K. Ruhalter; Gilbert Ruiz; Obdulio Ruiz-Diaz; Stephen P. Russell; Robert E. Russell; Steven

Harris Russin; Michael Thomas Russo, Sr.; Wayne Alan Russo; William R. Ruth; John Joseph Ryan; Matthew L. Ryan; Edward Ryan; Jonathan Stephan Ryan; Tatiana Ryjova; Christina Sunga Ryook; Jason E. Sabbag; Thomas E. Sabella; Scott Saber; Charles E. Sabin; Joseph F. Sacerdote; Jessica Sachs; Francis John Sadocha; Joud Elie Safi; Brock Safronoff; Art Saiya; Edward Saiya; Kalyan K. Sakar; Marjorie C. Salamone; John Patrick Salamone; Juan Salas; Hernando R. Salas; Esmerlin Salcedo; John Salvatore Salerno; Rahma Salie; Richard L. Salinardi; Anne Marie Ferreira Sallerin; Wayne Saloman; Nolbert Salomon; Catherin Salter; Frank G. Salvaterra; Paul Salvio; Samuel R. Salvo; Rena Sam-Dinnoo; Carlos Samaniego; John Sammartino; Maryann Samone; James Kenneth Samuel, Jr.; Rena San Dinoo; Michael San Phillip; Hugo Sanay-Perafiel; Jesus Sanchez; Alva Jeffries Sanchez; Jacquelyn Sanchez; Eric Sand; Stacey Sanders; Herman S. Sandler; James Sands, Jr.; Angela M. Santana; Ayleen J. Santiago; Kirsten Santiago; Maria Theresa Santillan; Susan G. Santo; Christopher Santora; John Santore; Mario Santoro; Rafael Humberto Santos; Rufino Condrado F. Santos; Dominick Santos; Victor J. Saracini; Kalyan K. Sarkar; Chappelle Sarker; Paul F. Sarle; Deepika K. Sattaluri.

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Gregory Saucedo; Susan Sauer; Anthony Savas; Vladimir Savinkin; Jackie Sayegh; John Sbarbaro; Dawn Elizabeth Scala; David M. Scales; Robert Louis "Rob" Scandole; Thomas Scaracio; Michelle Scarpitta; Dennis Scauso; John Schardt; John Scharf; Fred Claude Scheffold, Jr.; Angela Scheinberg; Scott M. Schertzer; Sean Schielke; Steven Francis Schlag; Robert Allan Schlegel; Jon S. Schlissel; Ian Schneider; Thomas Schoales; Frank G. Schott; Gerard P. Schrang; Jeffrey Schreier; John T. Schroeder; Susan Kennedy Schuler; Edward W. Schunk; Mark Schurmeier; Mark Schwartz; Clarin Schwartz; John Burkhardt Schwartz; Adrienne Scibetta; Raphael Scorca; Janice Scott; Randolph Scott; Christopher Scudder; Arthur Warren Scullin; Michael H. Seaman; Margaret Seeliger; Carlos Segarra; Jason Sekzer; Mary Grace Selco; Matthew Carmen Sellitto; Michael L. Selves; Howard Selwyn; Larry J. Senko; Marc Seplin; Arturo Sereno; Frank Serrano; Marian Serva; Alena Sesinova; Adele Sessa; Situ Sewnarine; Karen Lynn Seymour-Dietrich; Davis G. "Deeg" Sezna, Jr.; Thomas J. Sgroi; Jayesh Shah; Khalid Mohammad Shahid; Mohammed Shajahan; Gary Shamay; Earl Richard Shanahan; Shiv Shankar; Dan Frederic Shanower; Huang Shaoxiang; Liang Shaozhen; Wang Shaozhang; L. Kadaba Shashikiran; Neil Shastri; Kathryn Anne Shatzoff; Barbara A. Shaw; Jeffery J. Shaw; Robert John Shay, Jr.; Daniel James Shea; Joseph Patrick

Shea; Kathleen Shearer; Michael Shearer; Linda Sheehan; Hagay Shefi; Terrance H. Sheffield; Antoinette "Toni" Sherman; John A. Sherry; Sean Shielke; Atsushi Shiratoro; Thomas Joseph Shubert; Mark Shulman; See-Wong Shum; Allan Schwartzstein; Carmen Sierra; Johanna Sigmund; Dianne T. Signer; Gregory Sikorsky; Stephen Siller; David Silver; Craig Silverstein; Nasima Simjee; Diane M. Simmons; George Simmons; Don Simmons; Bruce Edward Simmons; Michael John Simon; Weiser Simon; Kenneth Alan Simon; Arthur Simon; Paul Joseph Simon; Ken Simon; Marianne Simone; Barry Simonwitz; Jane Simpkin; Jeff Simpson; George Sims; Cherlye D. Sincok; Khamladai K. "Khami" Singh; Roshan R. "Sean" Singh; Thomas Edison Sinton, III; Mike Sinzi; Peter A. Siracuse; Muriel F. Siskopoulos; Joseph M. Sisolak; John P. Skala; Francis J. Skidmore, Jr.; Toyena C. Skinner; Paul Skrzypek; Christopher Paul Slattery; Vincent R. Slavin; Robert Sliwak; Paul K. Sloan; Stanley S. Smagala, Jr.; Wendy L. Small; Gregg Harold Smallwood; Kevin Smith; Leon Smith, Jr.; Moria Smith; Heather Lee Smith; Sandra Fajardo Smith; Gary F. Smith; Daniel Laurence Smith; James G. Smith; Jeffrey Randall Smith; Karl Trumbull Smith; Catherine T. Smith; Rosemary Smith; Joyce Smith; George Eric Smith; Bonnie Smithwick; Rochelle M. Snell; Laura Marie Snik; Christine Snyder; Dianne Snyder; Leonard J. Snyder; Astrid Elizabeth Sohan; Sushil Solanki; Ruben Solares; Naomi Solomon; Daniel W. Song; Mari-Rae Sopper; Michael C. Sorresse; Fabian Soto; Timothy Patrick Soulas; Gregory T. Spagnoletti; Donald Spampinato; Thomas Sparacio; Georgia Sparks; John Anthony Spataro; Robert W. Spear, Jr.; Robert Speisman; Maynard S. Spence; George E. Spencer, III; Robert Andrew Spencer; Mary Rubina Sperando; Frank J. Spinelli; William E. Spitz; Joseph P. Spor; Klaus Sprockamp; Saranya Srinuan; Fitzroy St. Rose; Michael F. Stabile; Lawrence T. Stack; Timothy Stackpole; Richard James Stadelberger; Eric A. Stahlman; Matthew Stairs, Jr.; Gregory Stajk; Corina Stan; Mary D. Stanley; Joyce Stanton; Patricia Stanton; Anthony M. Starita; Jeffrey Stark; Derek James Statkevics; Patricia J. Statz; Craig William Staub; William Steckman; Eric Thomas Steen; William R. Steiner; Alexander Robbins Steinman; Edna L. Stephens; Andrew Stergiopoulos; Andrew Stern; Norma Lang Steuerle; Malsin Steven; Martha Stevens; Richard H. Stewart, Jr.; Michael J. Stewart; Sanford "Sandy" M. Stoller; Douglas Stone; Lonny J. Stone; Jimmy Nevill Storey; Timothy C. Stout; Thomas S. Strada; James J. Straine, Jr.; Edward W. Straub; George J. Strauch, Jr.; Steven R. Strauss; Edward T. Strauss; Larry Strickland; Steven Strobot; Walwyn W. Stuart; Benjamin Suarez; Ramon Suarez; Xavier Suarez; David Scott Suarez; Yoichi Sugiyama; William C. Sugra; Daniel

Suhr; David Marc Sullins; Christopher P. Sullivan; Patrick Sullivan; Thomas Sullivan; Patty Sulva; Larry Sumaya; Yoichi Sumiyama; James Joseph Suozzo; Colleen Supinski; Robert Sutcliff, Jr.; Selina Sutter; Claudia Suzette Sutton; John F. Swaine; Valerie Swanson; Kristine Swearson; Brian Edward Sweeney; Brian D. Sweeney; Madeline Sweeney; Kenneth J. Swensen; Thomas F. Swift; Derek O. Sword; Kevin T. Szocik; Gina Szejnberg; Harry Taback; Joann Tabeek; Norma C. Taddei; Michael Taddonio; Keiichiro Takahashi; Keiji Takahashi; Phyllis Talbot; Robert R. Talhami; John Talignani; Sean Patrick Tallon; Paul Talty; Maurita Tam; Rachel Tamares; Hector Tamayo; Michael Andrew Tamuccio; Kenichiro Tanaka; Rhondelle Cherie Tankard; Michael Anthony Tanner; Dennis Taormina; Kenneth Joseph Tarantino; Allan Tarasiewicz; Michael C. Tarron; Ronald Tartaro; Leonard Taylor; Kip P. Taylor; Sandra C. Taylor; Hilda E. Taylor; Loris Ceylon Taylor; Donnie Brooks Taylor; Darryl A. Taylor; Michael M. Taylor; Sandra Teague; Karl W. Teepe; Paul Tegtmeier; Yesh Tembe; Anthony Tempesta; Dorothy Temple; Peter Tengelin; David Tengelin; Jody Tepedino Nichilo; Brian J. Terrenzi; Lisa Marie Terry; Goumatie Thackurdeen; Harshad Thatte; Michael Theodoridis; Thomas F. Theurkauf, Jr.; Saada Thierry; Rod Thomas; Lesley Thomas; Lesley Thomas-O'Keefe; William Harry Thompson; Glenn Thompson; Clive Thompson; Brian Thompson; Nigel Bruce Thompson; Vanavah Thompson; Perry Anthony Thompson; Eric R. Thorpe; Nichola A. Thorpe; Tamara C. Thurman; Sal E. Tieri, Jr.; John Patrick Tierney; William Randolph Tieste; Kenneth F. Tietjen; Stephen Edward Tighe; Scott C. Timmes; Michael Tinley; Jennifer Marie Tino; Robert Frank Tipaldi; John J. Tipping, II; Hector Tirado, Jr.; David Lawrence Tirado; Michelle Titolo; Alicia N. Titus; John J. Tobin; Richard J. Todisco; Otis Vincent Tolbert; Vladimir Tomasevic; Stephen K. Tompsett; Thomas Tong; Doris Torres; Luis Eduardo Torres; Amy E. Toyen; Esidro Tranfuro; Daniel Patrick Trant; Abdoul Karim Traore; Wallter "Wally" P. Travers; Glenn J. Travers; Felicia Traylor-Bass; Dorothy P. Tremble; Mary Trentini; James Trentini; Lisa L. Trerotola; Karamo Trerra; Michael Trinidad; Francis Joseph Trombino; Gregory J. Trost; Willie Q. Troy; William Tselepis; Zhanetta Tsoy; Michael Patrick Tucker; Pauline Tull-Francis; Lance Richard Tumulty; Ching Ping Tung; Simon Turner; Donald Joseph Tuzio; Robert T. Twomey; Jennifer Tzemis; John G. Ueltzhoeffer; Tyler Ugolyn; Michael A. Uliano; Jonathan J. Uman; Anil S. Umakar; Allen Upton; Diane Maria Urban; John Damien Vaccacio; Bradley H. Vadas; William Valcarcel; Mayra Valdes-Rodriguez; Felix Antonio Vale; Ivan Vale; Benito Valentin; Santos Vanentin, Jr.; Carlton F. Valvo;

Pendyala Vamsikrishna; Erica Van Acker; Kenneth W. Van Auken; Daniel M. Van Laere; Edward Raymond Vanacore; Jon C. Vandevander; Richard Vanhine; Frederick T. Varacchi; Gopalakrishnan Varadhan; David Vargas; Scott C. Vasel; Santos Vasquez; Azael Vasquez; Ronald James Vauk; Arcangel Vazquez; Peter Vega; Sankara Velamuri; Jorge Velazquez; Lawrence Veling; Anthony M. Ventura; David Vera; Loretta A. Vero; Christopher Vialonga; Matthew Gilbert Vianna; Robert Vicario; Celeste Torres Victoria; Joanna Vidal; Joseph Vigiano; John T. Vigiano, II; Frank J. Vignola, Jr.; Joseph B. Vilardo; Sergio Villanueva; Chantal Vincelli; Melissa Renee Vincent; Lawrence Virgilio; Francine Virgilio; Joseph G. Visciano; Ramsaroop Vishnu; Joshua Vitale; Goro Vosgarinon; Lynette Vosges; Garo H. Voskerjian; Alfred Vukuosa; Gregory Kamal Bruno Wachtler; Karen Wagner; Mary Wahlstrom; Honor Elizabeth Wainio; Courtney Wainsworth Walcott; Gabriela Waisman; Wendy Wakeford; Kenneth Waldie; Benjamin Walker; Glen James Wall; Robert F. Wallace; Mitchel Scott Wallace; Roy M. Wallace; Peter Guyder Wallace; Jean Marie Wallendorf; Matthew Blake Wallens; Meta Waller; John Wallace, Jr.; Barbara Walsh; James Walsh; Jeffrey Patrick Walz; Weibin Wang; Ching-Huei Wang; Michael Warchola; Stephen G. Ward; Timothy Ward; James A. Waring; Brian Gerald Warner; Derrick Christopher Washington; James T. Waters, Jr.

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Charles Waters; Kenneth Thomas Watson; Sandy J. Waugh; Michael H. Wayne; Walter E. Weaver; Todd C. Weaver; Nathaniel Webb; Glenn Webber; Dinah Webster; William Weems; Joanne Flora Weil; Michael T. Weinberg; Steven Jay Weinberg; Scott Jeffrey Weingard; Steven Weinstein; David Martin Weiss; David Thomas Weiss; Vincent Wells; Deborah A. Welsh; Timothy Welty; Chris Wemmers; Ssu-Hui "Vanessa" Wen; John Wenckus; Oleh D. Wengerchuk; Peter Matthew West; Whitfield West; Meredith Whalen; Eugene Whelan; Edward White; Maudlyn A. White; Sandra L. White; James Patrick White; Kenneth White; Adam White; Malissa White; Wayne White; Leonard Anthony White; John White; Leanne Marie Whiteside; Mark Whitford; Leslie A. Whittington; Michael T. Wholey; Mary Lenz Wieman; Jeffrey David Wiener; William Joseph Wik; Allison Marie Wildman; Glenn E. Wilkinson; Ernest M. Willcher; John Willett; Candace Lee Williams; Kevin Michael Williams; Dwayne Williams; David Lucian Williams; Crossley Williams, Jr.; Louie Anthony Williams; Louis Williams; Brian Patrick Williams; David Williams; Deborah Lynn Williams; John P. Williamson; William Eben Wilson; Donna Wilson; David H. Winton; Glenn J. Winuk; Thomas Francis Wise; Alan L. Wisniewski; Frank Thomas Wisniewski; David

Wiswall; Sigrid Charlotte Wiswe; Michael Robert Wittenstein; Christopher W. Wodenshek; Martin P. Wohlforth; Katherine S. Wolf; Yin Ping "Steven" Wong; Jennifer Y. Wong; Winnie Yuk Ping Wong; Siu Cheung Wong; Jenny Seu Kueng Low Wong; Brent J. Woodall; Marvin Woods; Patrick Woods; James J. Woods; Richard H. Woodwell; David Wooley; John B. Works; Martin M. Wortley; Rodney J. Wotton; William Wren; John Wright;

Neil Robbin Wright; Sandra Wright; Naomi Yajima; Jupiter Yambem; John Yamnicky; Suresh Yanamadala; Vicki C. Yancey; Shuyin Yang; Matthew D. Yarnell; Myrna Yaskulka; Shakila Yasmin; Olabisi Layeni Yee; Keven Wayne Yokum; Paul Yoon; Raymond R. York; Kevin Patrick York; Edward Phillip York; Suzanne Youmans; Edmond Young; Lisa Young; Donald McArthur Young; Barrington L. Young; Jacqueline Young; Elkin Yuen; Sheng Yuguang; Joseph Zaccoli; Adel A. Zakhary; Arkady Zaltsman; Robert Alan "Robbie" Zampieri; Mark Zangrilli; Christopher Rudolph Zarba; Ira Zaslow; Aurelio Zedillo; Kenneth Zelman; Abraham J. Zelmanowitz; Zhe "Zach" Zeng; March Scott Zeplin; Yuguang Zheng; Ivelin Ziminski; Michael Joseph Zinzi; Charles A. Zion; Julie Lynne Zipper; Salvatore J. Zisa; Prokopios "Paul" Zois; Joseph J. Zuccala; Andrew Steven Zucker.

Mr. Speaker, this completes the list of more than 3,000 names that have been read since September 11 on the House floor and entered into the CONGRESSIONAL RECORD. Again, I ask the families of those that are deceased to excuse me for any mispronunciations of their names.

Americans will forever remember September 11, 2001. It was the day that our parents, our children, our friends, and our neighbors were taken from us. It was the day that our heroes died.

I thank my colleagues who joined me in this important effort for the last 7 months, and I thank the families and friends of those who perished for their courage.

Mr. Speaker, our thoughts will forever be with the families and the loved ones that we lost.

#### HONORING HOLLAND CHRISTIAN SCHOOLS AND SAMUEL ADAMS

The SPEAKER pro tempore (Mr. FORBES). Under a previous order of the House, the gentleman from Michigan (Mr. HOEKSTRA) is recognized for 5 minutes.

Mr. HOEKSTRA. Mr. Speaker, this evening I rise to pay special tribute to a very special school, Holland Christian Schools, as they prepare to recognize and celebrate their centennial.

For a century, Holland Christian Schools, located in Holland, Michigan, has provided a quality, Christ-centered education for students from preschool to grade 12.

More than 11,000 students have graduated since its founding, and with a

current enrollment of approximately 2,400 students in grades K-12 representing more than 110 different churches, including more than 20 different church denominations, Holland Christian Schools is one of the largest, parent-governed Christian schools in our country.

Holland Christian Schools has a wonderful history of accomplishment and teaching. Holland Christian Schools' educational philosophy finds its basis in the words of Deuteronomy 6:6,7: "And these words which I command you this day shall be upon your heart and you shall teach them diligently to your children, and shall talk of them when you sit in your house, when you walk by the way, and when you lie down, and when you rise."

Mr. Speaker, I am a proud graduate of Holland Christian High School, as is my wife, Diane, and my daughter, Erin. My other two children, Allison and Bryan, are students there currently.

On the special occasion of their 100th-year anniversary, I am pleased to stand and recognize Holland Christian Schools and their fine tradition of academic excellence and commitment to Christian values.

Mr. Speaker, I would also like to address another topic this evening. This is taken from "Samuel Adams: The Character of Conviction."

Mr. Speaker, it was said by the American preacher, Dwight Moody, "If I take care of my character, my reputation will take care of itself."

America's founders were men and women who cared not so much for their reputations as they did for their character and the character of the Nation. Such was the case for an American who came to be known as the Father of the American Revolution, Samuel Adams of Boston.

He was respected because of his great character and strong Christian faith. Samuel Adams' passion and presence commanded not only the respect of his fellow citizens, but of the British authorities as well. It was his Christian faith that was the foundation of his character; and this character was the foundation of a reputation that enabled Samuel Adams to stand firm in the face of British opposition, as well as prepare a young Nation to secure the blessings of liberty. His quest began some 6 years before the Declaration of Independence when the seeds of revolution were being planted across the colonies.

Adams was the clerk of the Massachusetts court, but that did not stop him from leading an uprising against the Governor of Massachusetts, demanding the removal of British troops of Boston. The showdown left five colonists dead and quickly earned recognition as the Boston Massacre.

The other patriots had died for freedom, but the Boston Massacre became a rallying cry echoing through city streets and rural farms.

The citizens of Boston were enraged by the massacre and the stationing of

troops within the city limits. The morning after the massacre, the citizens of Boston met and appointed a committee, which included Samuel Adams. Their charge was clear: present to the acting Governor of Massachusetts their demand that the troops be removed from the city.

Governor Hutchinson equivocated, telling Samuel Adams that the troops were not subject to his command. Samuel Adams replied that unless the troops were removed from Boston, the blood of revolution would be on the Governor's hands.

The following morning preparations began for the troops' removal.

What led the Governor to bow to the demands of Samuel Adams and the citizens of Boston? Governor Hutchinson was in a difficult position: either face the angry mob outside of his gates or the angry British authorities across the sea.

But more than mobs and massacres, the Governor was influenced by the words and reputation of Samuel Adams. He was well aware of Adams' character and his wisdom as a loyal and upstanding citizen.

Years earlier, the British authorities had attempted to bribe a poor Adams with political power and wealth, if only he would join their cause. Governor Hutchinson had said of Adams, "Such is the obstinacy and inflexible disposition of the man that he can never be conciliated by any office or gift whatever."

Governor Hutchinson was wisely unwilling to test Adams in his demand for the removal of troops. This small, but important victory, inspired the colonists and began the erosion of British domination in the New World.

#### EDUCATION TAX CREDITS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2001, the gentleman from Colorado (Mr. SCHAFFER) is recognized for 60 minutes.

Mr. SCHAFFER. Mr. Speaker, I yield to the gentleman from Michigan (Mr. HOEKSTRA) to complete his statement.

SAMUEL ADAMS: THE CHARACTER OF CONVICTION

Mr. HOEKSTRA. Mr. Speaker, the story of Samuel Adams begs the question: Where did Adams find the strength of his character and the source of his conviction? Adams gave the answer a few years later when Hutchinson's successor, Governor Thomas Gage, not having learned from previous attempts, offered Adams anything that he desired so long as he ended his opposition to the British Crown.

Samuel Adams responded: "Go tell Governor Gage that my peace has long since been made with the King of kings, and that it is the advice of Samuel Adams to him, no longer to insult the feelings of an already exasperated people."

Adams' vigilance for the cause of freedom and his fellow Americans rested firmly on the peace he found not

within himself or any person, or even within the cause of freedom itself. Rather, it came in character firmly grounded in an eternal security found in knowing the King of kings, the God of ages.

It was his faith that served as his source of strength to stand for his cause, even when tempted with trappings of power and wealth.

Where do we find our peace? Where do we find our comfort? In the past few months, we have been reminded that the blessings of wealth and power cannot alone provide enduring peace, or lasting comfort. These come from a deeper, more permanent source. I believe, like Samuel Adams, that it comes from a Nation of good citizens, who embrace virtue and exercise their convictions, no matter what the cost.

Samuel Adams could have sold his character for peace and prosperity, but he did not. Adams knew that his reputation was more costly than gold, more influential than political position. And in his poverty of possessions, not spirit, he left us the richest of American legacies, a vigilance for freedom, a reputation of character, and a foundation of faith.

Mr. Speaker, I thank the gentleman from Colorado (Mr. SCHAFFER) for yielding, and look forward to spending the next hour talking about a very important subject, the topic of education.

Mr. SCHAFFER. Mr. Speaker, I would like to discuss a topic that is first and foremost on the minds of Americans when asked about their concerns for the country and their political objectives for the Nation, and certainly their expectations with respect to the actions of this Congress. That is perfectly understandable and explainable, particularly when we consider that most families in America regard as their most treasured possessions and objects of responsibility raising their children. And even those who are not engaged in that directly certainly are engaged indirectly, and view that as one of the most propound legacies for our country.

□ 1700

Before we really get started in the discussion, I would like to invite any of our colleagues who may be monitoring today's proceedings here on the floor in this Special Order if they would like to participate in a discussion on school choice as it relates to education tax credits, I would like to extend that invitation. I appreciate the gentleman from Michigan being here as well.

The exciting proposal that has come out of the White House most recently with respect to education involves really trying to help create more of a market approach to American schooling than we have known on a national basis for quite some time. That announcement from our President in support of an educational tax credit is really one that is consistent with various States. As we look around the country in the State legislatures and

observe some of the activity that is taking place in State houses today, we see that the proposals around and about education tax credits are appearing quite frequently.

Here is how a tax credit works essentially and how it helps education and why the President has given his commitment to an education tax credit and why it is becoming a high priority here in this House. An education tax credit is a way to allow American individuals to invest their own money, private money, into the business of American education and promoting it. In fact, through a tax credit, effectively reducing the tax burden on the American people by encouraging an equivalent contribution to a school or an education pursuit, what we can achieve nationwide is a massive cash infusion into the American education system, an infusion that is not discriminatory, an infusion of cash that does not favor one kind of institution over another institution, does not pit school building against school building or administrator against administrator or principal against principal, but does what, frankly, we should be doing all along with respect to education and, that is, focusing on the fairness in the relationship between children, so that all children, regardless of the academic setting that they find themselves in, are the beneficiaries of a massive cash infusion in American education. That is what this proposal is really all about.

And so while we have legislation that is still in the works, still on the drafting table, it is important enough to begin talking now about the concept of education tax credits, how these credits work, how they can help American children, how we can learn from the States that have passed education tax credits already, how we can learn from States that have engaged in this debate already and have drawn people together across partisan lines and begin discussing this in a way that I hope will result in Members from both parties here on the House floor working on this final draft of the legislation and aim it toward successful passage here in the House.

Our ultimate goal, of course, is to get a positive bill involving education tax credits to the President's desk. We feel very confident and optimistic about this. Again, I say that based on the experience of States where we see some of the most liberal Democrats joining with some of the most conservative Republicans, joining together for the distinct objective of trying to help America's schoolchildren.

Mr. HOEKSTRA. If the gentleman will yield, as we have gone around the country, the gentleman and I have been to a number of these places together. Whether it is Arizona, Minnesota, Pennsylvania, Florida, there has been a lot of excitement around the concept of tax credits. The gentleman is absolutely right. Number one, this is a focus on the children, making sure that every child in America has the op-

portunity to get a quality education, that they can go to a safe and drug-free school. And that one of the ways of doing this, and this is especially true when we introduce the concept of a tax credit at the Federal level, it does become a massive infusion of new money into our educational system.

But the difference between the money that is currently coming out of Washington and going to our local schools and the money that would be generated by a tax credit, the majority of the money that comes from Washington today that goes to your local school says, In exchange for this check, you will do this. As a matter of fact, in exchange for this check, you will not only do this but you will report back to us on a regular basis that you have actually done exactly what we have asked you to do.

What happens with a Federal tax credit is that people in a local community can write a check to their local public school, their local public or their private or parochial school, and that money then goes into that school's fund either for a designated cause which has been designated by the school saying, hey, we are going to do a fund-raiser for a new fine arts center, or we are going to do it for increasing and improving our technology or something else, but then the people within the local community can decide whether they want to make that additional investment into their local public school. And so what we have seen, I think, in the States that we have talked about, each of whom has crafted their proposal in a slightly different way, but it has generated more excitement and more enthusiasm for all kinds of education and it has created a new stream of money going into the schools, with the most important thing being that it provides the local school the opportunity of raising funds for some specific needs that maybe only that school has.

So this makes it very different than any of the other funding streams that currently come from Washington or that currently come from their State level. The gentleman is also absolutely right. As we take a look at how this has happened in the States, they have been bipartisan arrangements, so it has not been a group of Republicans or a group of Democrats who have pushed all the way through the process at the expense of the other party. It has been Republicans and Democrats coming together, suburbanites coming together with the folks living in our cities and saying this is a good way to go, this is a good way to structure an additional investment in education. I think we are all looking forward to putting that same kind of process together here that will lead us to a bill that this President can sign.

Mr. SCHAFFER. This focus you mention on local control and local priorities really is the most attractive feature, I think, in an education tax credit proposal.

Mr. HOEKSTRA. I think there are two features that make it especially attractive to our local schools. Number one, when we do this in Washington, it clearly is a new stream of money. It is not a diversion of money that would have been coming from Washington for education, anyway. It is a new stream of funds which I think can get to be a relatively significant amount of money into our local schools. The second thing is that it is nondesignated. It can be crafted and used in such a way to meet the needs of a local school district.

Mr. SCHAFFER. Honoring local priorities is something we have talked about a long time together and others in the House certainly have. That is what this tax credit proposal allows. As you mentioned, what we do right now in funding schools is really ludicrous in many ways. We have spent \$125 billion on the Federal portion of the K-12 education program over the last 25 years. Those are rather steep increases that we have seen over the last few years. Some of these funds are perfectly legitimate and well spent, there is no question about that. But many of them are not, frankly. We know that.

What essentially happens, if a taxpayer were to follow their education investment dollar, here is what they would see, that is, that the Federal Government taxes the hard-working taxpayer, those dollars are withheld from their wages, they come here to Washington, D.C., we meet in committee rooms around here on Capitol Hill and decide how to divvy up those dollars on education programs. Washington evaluates education spending almost on a State-by-State basis, sometimes on a program-by-program basis, but the reality is we have a bunch of people here in Washington who are trying as hard as they can to distribute other people's money back to the States on a basis that is fair to the States, and after it is filtered through the Treasury Department and the Department of Education and Congress earmarks those funds and ties all kinds of strings and red tape to them, those funds end up going then primarily back to all 50 States and to the State governments who distribute those dollars further. Each level of government, by the way, takes its cut out of your education dollar.

So that by the time these funds actually reach a child, there is just a fraction left. What we are trying to do is get around that. An education tax credit really bypasses this whole bureaucratic and political structure and allows the taxpayer, the donor, to invest in programs that seem to make sense in the local community. That is a refreshing and a very promising approach to school finance and one that I think is the reason there is so much excitement and support for a tax credit.

Mr. HOEKSTRA. I think the other reason that there is a high level of excitement is, and the gentleman and I have gone through this a number of

times over the last few years, you said when they watch what happens to their money here in Washington. We know that for quite a long time, when the money went to the Department of Education, we could not track it; that for 3 to 5 years, the Department of Education could not get a clean audit. We are excited by the work that, again, we did on a bipartisan basis during the Clinton administration to put pressure on the Department of Education to work towards getting to a clean audit. We are excited by the work that Secretary Paige and his staff are doing. It appears that many of these problems have been worked out.

But we have to recognize that for quite a while we had a laundry list of scandals within the Department of Education and failed audits. That again was one of the things, a lot of my local officials were saying, Just give us this money directly. This is what tax credits allow us to do. I think we also need to scale this. I am not sure exactly how we go after this, but the Department of Education spends about \$40 billion here and K-12 may make up a little bit more than half of that, \$24, \$25 billion per year. Our tax credit that we are talking about here is less than 10 percent of that. So this is not massive, something that says, this is the amount of money that is being driven by Washington and now we are going to match that by an amount that is being driven by local tax credits. We are talking about probably less than 10 percent of what is being driven by Washington actually entrusting a citizen in the local community to make a donation to their schools.

Mr. SCHAFFER. I would point out just to emphasize this point, that the tax credit proposal, since it is a change in Tax Code, rather than the education budget, really has no impact at all on the funds that have been proposed by this Congress and by the President with respect to education. I know some have expressed or at least raised questions about whether a tax credit takes funds from the rest of the government school budget. The answer is clearly no. It is a separate funding stream certainly for the same purpose of trying to improve education, but one does not have any effect on the other from the standpoint of the budget and how much money there is.

Mr. HOEKSTRA. Absolutely. It becomes a supplemental stream to the money that is already coming through Washington. We have significantly increased funding in K-12 education over the last 4 to 5 years and with the President's new Leave No Child Behind plan, those funding increases are going to continue. There will continue to be significant increases in education investment through the Department of Education. This now provides for those individuals in those communities that believe that they have some special needs or their schools have a special challenge or their schools have done a phenomenal job and they are saying,

hey, we really want to put a little more money into these schools. It allows them a vehicle and a mechanism to do that, and they get a dollar-for-dollar impact. You put a dollar in, and it does not come with a mandate, and you do not lose anything of going through the bureaucracy of a Lansing, Michigan, or of a Washington, D.C. That dollar goes into that school.

The decision as to how that dollar will be spent will be made locally, and it will benefit all of the children in that school. It is really a refreshing complement to the education funding that we already have in place. For a State like Michigan that has spent so much time and effort on leveling the funding so that across the State there is equal funding, this now provides an additional mechanism to now complement that because as we increase and level the funding in the State of Michigan, we also then attach a lot of mandates as it came back. School districts are struggling. They do not get enough unattached dollars, dollars that they have some discretion in how they are going to spend it for their local schools and to help their kids.

Mr. SCHAFFER. Talking about education spending within the context of freedom and liberty is very important for us, because we have not been able to do that too much in recent years. There are really strings and red tape and all kinds of parameters that are placed on Federal funds. This gives us a chance to get away from that.

Americans are really expecting and hoping that the Congress begins to talk about new and innovative ways and creative ways to improve schools across America.

□ 1715

What most Americans are dealing with right now, if they have children in school, are these mandatory tests. Almost every State is dealing with them right now. Mandatory tests that have been required by State legislatures, through State laws, and also the new mandatory requirements for testing that have come from the Federal level. That serves to achieve the accountability objectives that the President had outlined and that the Congress had focused on in the legislation we passed last year, and the outcome of that still remains to be seen. But what a tax credit really allows us to do is start speaking to the flexibility side, the decision-making side of locally elected school board members, superintendents, of principals and teachers, in identifying priorities in their own schools that they would go to the community for assistance on and would be made easier through a tax credit that we are proposing.

The other innovative side of a tax credit proposal is something that we are seeing in several States, and that is the creation of education investment organizations, little investment funds that provide direct assistance, usually to some of the neediest children and

communities. We are seeing that starting in Arizona now, which has I think 3 years of experience with their education tax credit; in the State of Pennsylvania; in the State of Florida. The proposals that we are seeing throughout the country are all around existing education investment organizations. In Arizona, they are called student tuition organizations. But what they exist to do is to raise funds from a community so that they can give scholarships to low-income children and the neediest children in communities to attend the school of their choice. It is providing just a remarkable relief valve for those who find themselves trapped in schools that are just not meeting the needs of children. Some of these schools are failing schools.

We have just received testimony from all across the country as we are reading newspaper articles about these opportunities, the testimony that is taking place in State legislatures, and we have also had some testimony right here in Congress during a hearing that we conducted just a week ago, and both of us were there. I wonder if the gentleman would comment on the 10-year-old boy that we met with; Joshua Holloway was his name. The whole panel of all of these experienced lobbyists were up there, but this kid, this 10-year-old from Denver, Colorado, he clearly exceeded the rest of them in effectiveness in reaching out to the committee and letting America know why these tax credits are so important.

Mr. HOEKSTRA. Mr. Speaker, what Joshua had to say was awesome. I mean, here we have a 10-year-old kid who is looking up at three rows of chairs and a row of Congress people up at the top, and very eloquently goes through his testimony and very eloquently answers the questions. His mom had passed away, so his grandfather was there with him at the hearing, talking about his mom's dream and his mom's vision that he attend a particular school, and that this school was providing him with all of the necessary training and skills to be successful in life. And I think it was one of her last requests to his grandfather to say, make sure that Joshua and, was it his brother or sister?

Mr. SCHAFFER. His brother.

Mr. HOEKSTRA. His brother. That they both have the opportunity to attend a particular school. And Joshua's grandfather saying, if it was not for the scholarships or these types of things, he would not be able to fulfill this wish and give Joshua and his brother the skills, put them in a school where they could get the skills that they would need to be successful, and that anything that would complement the current funding stream in education that would allow individuals to steer some money to the local public school or to steer it to an education investment fund, that that would be okay, and that would be really good for certain kids who maybe had specific needs or one school just was not work-

ing out for them, so that they could use that investment fund to perhaps transfer to another public school or to transfer to some other school. These things have been set up in a number of different ways around the country. Or, that they could be used to provide specific tutoring. But there are a number of different kinds of opportunities that these education investment funds could be set up for to help kids be successful.

I think that is where, when we talk about education, the important thing that we always have to keep the focus on is the kids. And the criteria that we as policymakers have to really embrace is we need to put together a system that enables every child to get a good education. We cannot afford, not from a monetary standpoint, but from a moral standpoint, we cannot leave a child behind. We have to reach out and do everything that we can to make sure that every child has the opportunity to go to a high-quality school where they can get the learning that they need.

Part of that is kids can only learn in safe schools. We cannot have kids going to schools where they are afraid to walk to their locker, where they are afraid to walk to their next class. The only fear that a kid should have while they are going to school is the fear of the next exam. That is the only fear that they should have: What is that teacher going to do to me now with the next exam, and am I ready? But other than that, it has to be a safe and drug-free school for every single one of our children.

Mr. SCHAFFER. Mr. Speaker, Americans want to help. I think most taxpayers are inclined to agree that investing in America's education system is a good idea and, if given the chance, they typically make the choice to do that. There are some tax hurdles in the way and we are trying to knock some of those down.

Mr. HOEKSTRA. Mr. Speaker, I think it is exactly what the people have found in the State of Arizona, where the numbers clearly indicate that there is an eager group of people who are willing to, and have a desire, and are willing not to be taxed, but to say, if I can steer that money to our local public schools without any strings attached to assist that public school, I will write the check. And there are others who are saying, I really want to go out and help some special kids, so I will steer my funds to an education investment fund. With that kind of flexibility, a State like Arizona is finding that they do not have to go to the legislature and raise taxes to get more money into education for all of our kids, or for all of their kids. They provide the tax credit and then people willingly go out, pay their taxes, and then willingly go out and voluntarily contribute an extra certain amount to their public schools and other funds.

Mr. SCHAFFER. Mr. Speaker, the tax burden on Americans is really unchanged through this tax credit pro-

posal. I know the gentleman and I as conservatives tend to be of the opinion that we ought to lower the tax burden, and we certainly should. This is really a different argument, though, about what happens after the effective tax rate is established.

The question is, do taxpayers wish to continue just sending bags of cash back to Washington so that all of the politicians that we work with here have the opportunity, and just hope, these taxpayers may just hope that we will spend it in a way they want. That is kind of a gamble to take and a little bit of a risk. There are 435 of us and we do not agree on every topic every day, let alone how to spend money on education. So that is the one option, is to continue paying high amounts of taxes as Americans do today and shovel those dollars here to Washington.

Or, the tax burden would be the same, but what we are suggesting through this proposed legislation is to allow taxpayers to take a certain portion of their Federal tax liability, their Federal tax bill, and self-direct that anywhere in the education industry they want. It might be for a scholarship fund that allows a low-income child to attend a school of his or her choice, really rescue that child from a failing school in some cases, or maybe invest in the priority that has been established by a local school board or superintendent.

I want to get back to Joshua here. First, I am very proud of him. He is from the State of Colorado, and he testified in committee, and it was just awesome.

Mr. HOEKSTRA. He not only testified, he not only read his statement, he also took questions and answered questions.

Mr. SCHAFFER. He sure did. He sure did. His testimony was only one page long, so I will not ask that it be submitted, but I will just read a couple of the most moving lines that he read to the committee.

He says, "My name is Joshua Holloway. I was born in Denver. My favorite subject is football," and he amended that later. He said that he wanted to be a lawyer, too, but football was just a hobby. He said, "I am 10 years old. My mother passed away last year. I have a brother who is 6. His name is Jeremiah. We go to church every Sunday. Before I go to school I read the Bible. I live with my grandfather. Sometimes my cousins come over and we play outside and play video games."

He says, "Before my mom passed away, she told my grandfather to bring us to Watch Care."

Watch Care Academy is a school I am somewhat familiar with that is in the metro area of Denver, and he goes on. This was just so compelling and I think really makes the case, almost single-handedly, as to why we need an education tax credit proposal. He says, "My grandpa could not afford to pay for me and my brother. So Mrs. Perry," who is the principal, told him about

the Ace scholarships. Ace is the name of one of these education investment organizations that provides scholarships for these low-income kids. So they applied to this organization.

He says, "My grandpa applied and we were awarded Ace scholarships. Jeremiah and I say thank you, Ace." He said, "It is with your help that my grandpa is able to bring us to this fantastic school. I know my mom is happy and thanks you also. When I grow up, I want to be a lawyer and then a football player," he says.

He says, "Thank you for helping all of the children who are getting such a good education through your program. I want to win," he told the committee. He says, "This will help my grandpa with the money for Jeremiah and me."

I just cannot state it anymore clearly than Joshua did. These scholarship organizations exist to help poor children achieve the education that they deserve, and what we want to do is make it easier for Americans to contribute to these kinds of organizations, and these exist all over the country. These scholarship organizations or these education investment organizations, they exist in all 50 States and, in fact, in the States that have established a State income tax credit for education like we are proposing on the Federal level, we have seen these kinds of organizations flourish.

So just imagine Joshua's testimony multiplied by thousands of children who I believe probably have equally compelling stories and dreams for their academic future, and they have these financial burdens that are being lifted through these organizations. We can make them even more powerful and more effective and rely on the ingenuity of private initiative in order to provide more, just to rescue more kids like Joshua and Jeremiah in Colorado.

Mr. HOEKSTRA. We have to make sure we always come back to the point that this is a balanced approach, that this is available for public schools and it is also available for education investment funds.

Mr. Speaker, I could talk about my home district where we have a lot of good schools, but what has happened with our superintendents, the money rather than being raised locally through the property tax is now raised statewide through a sales tax. It is a very positive thing. It has lowered our property taxes and it has created a consistent funding stream across the State.

Again, we have kind of taken out the differences between schools. But what the situation reduced many of our superintendents to do is to kind of become almost beggars to Lansing, to go to Lansing and make their case with their State reps and their State senators that they deserve more or they need money for this or they need money for that; or in this district they have a very specific need, and over here they have another specific need. They kind of feel like they have lost control

and their life now gets to be managing the rules and regulations that come from Washington and the rules and regulations that come from Lansing.

With a State tax credit, or if we did a Federal tax credit, it now allows them to supplement the income that they are getting from the State and get that money to go to some perhaps very targeted and specific needs that they may have identified. It is really exciting, because then the community who wants to embrace their schools because of the great job that they have done can now write that extra check to their local public school and build that public school.

□ 1730

In the States where they have adopted this, it is exactly what communities are doing. Communities are embracing their schools with the Ace program, they are embracing kids. So what this does is it gets to be, as I would say, a win-win. It increases the funding in education, but it makes, at least for this pot of educational expenditures, it makes it available to all of our kids. That I think is an exciting proposition.

We know that the idea is ripening here in Washington. As the gentleman and I did the survey of all the different types of tax credit legislation that has been introduced here in Washington in regard to education, there are a whole series of different ideas that are flourishing or are being proposed by both sides of the aisle.

I think what the gentleman and I and others are doing is to try to come up with a consensus piece of education tax credits that can be embraced by a diversity of Members here on the floor of the House to address some of the needs that we have identified in education. Will it be the total solution to everything? No. The President and this Congress has passed H.R. 1. That is a step forward. There will be increased funding as a result of H.R. 1, the No Child Left Behind Act. That is part of the puzzle. There is more testing.

The gentleman and I are not necessarily assured that that is part of the solution, but we hope it is. We hope that as it is implemented through the States, that it becomes a part of the solution package.

I really believe that as we lay these different things out, increased funding, the changes in the rules and regulations as a result of H.R. 1, the new testing protocol, then really the tax credits really fit with the President's vision, because what he really talked about was having accountability and more flexibility.

This tax credit component really now provides an additional opportunity for investment, but different than some of the other items that have been talked about for education funding, it does not take from one pot and say, okay, we thought we were going to give them this much, but they are going to get a little bit less and we are going to move it over here and give it to somebody else.

This pot, this educational investment area, is going to stay the same. It is probably going to grow, and it is probably going to grow significantly. And then over here there is going to be another one, but this one is going to be much more flexible as to where it is going to be used and who contributes, who does not.

When we put that whole package together, it actually gets to be a fairly comprehensive package of reforms that can be kind of exciting.

Mr. SCHAFFER. Madam Speaker, the management model that the gentleman described, that has become emblematic of public schools, is something that really needs to be changed. This tax credit proposal perhaps in a small way can really help achieve that.

Here is what I am talking about, specifically. The gentleman used really great language to describe what happens in schools, in schools today. That is, the administrators, the financial officers, and the business managers of America's schools have become proficient beggars to other governments.

There is a whole inside language that exists in American education today, and we see this on the Committee on Education and the Workforce here, as Members who serve on that committee. But also certainly we see that throughout the country. There is this inside language and all this technology that is only understood by the people who are on the inside of public school finance.

We have school board members who become very, very proficient at using the right words to appeal to other politicians at the State level and in State governments. They have their own code language that corresponds to requirements and rules that exist here in Washington. This works very nice within this little bureaucratic bubble, but it really alienates and abandons the rest of the community, in many cases, and certainly it alienates the children.

An education tax credit that provides an opportunity for the community to invest in real priorities of local schools begins to shift the focus, even if slightly, back toward the community. So now these school board members throughout the country have to become more proficient at appealing to me as a parent and to my child as a customer, and to the rest of the community, including corporate donors, in terms that make practical sense to those who are on the front line of American society and see the immediate impact of good schools.

Mr. HOEKSTRA. Madam Speaker, what we have is the evolution of our public schools, and they were called public because they reflected the community. The public schools evolved into government schools, okay, like the gentleman said, with the local school board now having to appeal to the State legislature for funds, and the State legislature appealing to the Federal Government, so they become kind of government schools.

What we have done is we have seen the breakdown in that critical link between superintendents and school boards and their local community. We have weakened that. It is not through any fault of the principals or the superintendents or the school boards. As a matter of fact, they want to focus on the parents. They want to focus on the kids.

But because of where the funding stream has gone, and the mandates and the directives, they have found that more and more of their time and attention has been pulled away from the children, has been pulled away from parents, has been pulled away from the community, and has been directed to the people in the State capital or the State board of education or the Department of Education.

This really now kind of moves it back a little bit more in balance. It says, keep that strong link with your community, the thing that has made you so successful, the thing that has always led people to say, there may be some problems with public education, but we have a good public school in our community. Now all my money goes to Lansing, but if I had an opportunity through a Federal tax credit, I will write another check to my local public school because I know the principal, I know the teacher, I know the school board, and these folks are doing a good job.

In other parts of the State or the country, they may say, we know that does not work for everybody, that some kids are not going to be successful there, so we are going to contribute to this education investment fund.

Mr. SCHAFFER. Madam Speaker, I think it can actually be even more profound than having an improved understanding of the management of the school or the academic objectives of school leaders. I think it comes down to people who really become part of the fan club for Joshua Holloway and other people like him, who really become Joshua's biggest supporter and promoter.

Joshua has real impact. When he testified in Congress, he had a pretty remarkable impact. But that is always true back in the State of Colorado, where people have read about Joshua, and they see this and they get inspired by it.

They think, here are schools, academic institutions, competing now to help Joshua, this 10-year-old poor child whose mother passed away last year. That is what we want to achieve. We want the American education system to fall all over itself trying to help Joshua succeed in life. And to the extent that occurs, I have to tell the gentleman, I think people are going to be very willing to open up their checkbooks and make the investment in little Joshua, and I think they will do it before they will trust people here in Washington to spend the money on Joshua. It is just a better bet. The tax credit really removes all the political

decision-making from it, and it really leaves that decision to local communities.

In the end, Joshua is going to succeed if we can accomplish this objective for him.

Mr. HOEKSTRA. Madam Speaker, if the gentleman will yield further, I will give this example. It was a year and a half or 2 years ago in my local community. There is a school, Lincoln School. This is a landlocked community, so they are suffering from a problem that, again, the technocrats call "declining enrollment." There are just not as many kids around.

This was a critical school in a critical part of the community. Because the enrollment was going down in the entire school district, the folks in Lansing said, sorry, this is the amount of money that you are going to get. Deal with it. Deal with it. And there was nothing that the local school board could do. They had to make some choices.

One of the choices that was not even on the table was, can we go to the community and can we appeal to them and say, we know that this is not the most efficient and effective decision if you are running the school as a business, all right? And maybe we really do not need that school. We can move some kids here and there, and that is a better and more effective and more efficient way to run it.

But they could not even go back and say, having that school there was right for the kids. It is not the most efficient, but it is the right thing to do. We do not want to take those kids out of their neighborhoods, and we want to leave that school open until maybe it gives us a little bit of time to deal with some other issues, or whatever.

They could not go and say, we are going to have a fundraising effort. Take your education tax credits and go to some of the corporations and say, hey, we need to raise X amount of dollars, and then the community could have had a say as to whether Lincoln School was going to stay open to help those kids because the community believed that that was the best educational investment that the community could make at that time, even though the green eyeshades people, the accountants, were saying, sorry, you have to cut.

Those are the kinds of decisions that we want to empower communities to make. We want to get cheerleaders, cheerleaders for our public schools to go out and say, this is what we need. We want to get cheerleaders for the education investment funds. We want to get cheerleaders saying that our educational system is so good, but we can make it better, and we want you to help. We want you to contribute to it. When you contribute to it, every dollar is going to find its way into a classroom and is going to help a Joshua or is going to help a child at Lincoln School, and is going to make a real difference.

Mr. SCHAFFER. Talking about funding schools from the standpoint of tax freedom, as opposed to just spending more money, I think makes eminent sense. That is the kind of discussion we have really needed here in Washington for a long, long time.

I am really proud of those States. I have mentioned there are a handful of States. There may be some who are curious about what States have already implemented tax credits with respect to their State taxes. Those States are Arizona, Minnesota, Iowa, Illinois, Florida, and Pennsylvania.

Mr. HOEKSTRA. Madam Speaker, I cannot believe Pennsylvania would have done it.

Mr. SCHAFFER. What is also important is that there are nine States that have no income tax, so they are really looking to the Federal Government to provide this kind of assistance and education funding through tax freedom in those States.

I might also add, these others that have already moved forward on tax credits on the State level, they are ahead of the curve. They are already, from an infrastructure standpoint, already equipped to really squeeze the greatest amount of buying power out of a Federal tax credit.

I think those six States that I mentioned already, they perhaps have the most to gain up front from an education tax credit that we can pass here. That is probably the reason why the Members of Congress from these States are some of the most enthusiastic supporters that we have seen so far, even at this stage of the discussions.

Mr. HOEKSTRA. The reason I made the comment about Pennsylvania was only because Madam Speaker tonight is from the great State of Pennsylvania, and the next time we have this discussion on where we are going with Federal tax credits, perhaps she can join us and talk about the success or the rationale for how the Pennsylvania legislature moved to embrace tax credits, and I believe do it in a bipartisan way, move forward and get that done, and how that would then complement what we would be doing here in Washington.

Mr. SCHAFFER. In the hearing we conducted last week on this topic, we had one opponent who was opposed to Joshua and his academic dreams. There was a group called Citizens for the American Way, and it was their representative.

Mr. HOEKSTRA. People for the American Way.

Mr. SCHAFFER. The lobbyist for that outfit was not particularly cogent when he was talking about the issue. But one of the tactics that he deployed in the committee was try to mislabel the education tax credit as a voucher.

The reality is, this is very, very different than a voucher proposal. It shares really nothing, nothing in common, except it has to deal with education. But the finance mechanism of this is nothing like a voucher at all. We have seen voucher proposals.

Mr. HOEKSTRA. I was going to say, we need to get that clear. In the State of Arizona, more than half of the money is going to public schools, and it is not following one student who may decide to go to another public school, so it is not even following that. That money is being given by parents to invest in that school, or a limited number of programs and ideas that the State has identified that that tax credit can be used for. So it is the farthest thing from the V word.

More than half the money in Arizona is going to local public schools because of the connection between the schools and their parents and their community at large saying, invest in our school. We have these kinds of needs, and people ante up and are saying, you are doing the job. You need these extra funds and we are going to help you out and support you.

Mr. SCHAFFER. A voucher entails government collecting cash from taxpayers and giving those same dollars back to taxpayers in the form of a voucher, a check that can only be spent at certain institutions, based on the rules that would be defined by the government when it issues and creates this voucher legislation.

□ 1745

We have seen that in some States, and some communities have fully put voucher legislation in place. And I guess when compared to what we have today in most places, which is a government-owned, unionized monopoly where there is no choice, a voucher represents a greater degree of choice, but it still involves government making decisions for Americans and for taxpayers. It also involves government money being appropriated as an expenditure in the voucher program.

The tax credit thing is nothing like that. This is not an appropriation, it is an academic investment, a massive cash infusion in American schools through tax freedom rather than through spending. So that is the key distinction between a tax credit proposal and a voucher proposal. I think this is an important distinction to make. I probably cannot make it often enough because there are some who do not support the idea of tax freedom and do not support the idea of Joshua being rescued; who tried to malign this whole discussion about Joshua's future by calling it a voucher, which it clearly is not.

Mr. HOEKSTRA. I think the gentleman becomes very, very clear when he says government money. I think that came up at the hearing. What exactly is government money? Government money is only that money we have claimed and taken from the American people. Once it gets to Washington, it is still the people's money, but they have entrusted it to us. But that is probably the clearest definition of what government money is when people have paid the taxes to us. That is exactly what a voucher is. A voucher

becomes government money, and we just redistribute it.

What we were talking about here is the people's money in its pure sense. Those folks have the opportunity to choose as to whether they are going to write that check for an educational purpose or whether they are going to go use it for something else.

Mr. SCHAFFER. It becomes an investment.

Mr. HOEKSTRA. It becomes an investment. Whether they want to invest it in education or whether they want to put it in a savings account, whether they want to go out and buy a personal watercraft, whatever. It becomes personal money that they have the discretion as to where it is going to go.

Also with government money, one can make the argument more effectively, well, if it is government money, then you are taking it from this pot and giving it to this pot. This is not. This is private money where people are making the decision as to whether they are going to invest more in education or whether they are going to spend it somewhere else, but it is the freedom for them to choose what they are going to do.

And what we have seen in the States that have done this, people choose to a certain extent to invest more money into education voluntarily, and that is a great direction to take.

Mr. SCHAFFER. These proposals have been studied. I am holding in my hand a study of the Arizona scholarship program that exists there. This study was done by Carrie Lips and Jennifer Jacoby. It is only a few months old. And what this study has found is that from 1998 to 2000, the time frame that was studied in this report, the Arizona tax credits generated \$32 million for children in Arizona, providing almost 19,000 scholarships for children in the State, and that is through about 30 different organizations that just sprung up after the Arizona legislation passed. But most of those scholarships, in fact, 80 percent of those scholarships were selected on the basis of financial need.

So think of that; \$32 million invested, a massive cash infusion in the Arizona school system within the State that provided assistance to 19,000 individuals in the State of Arizona. This is money that would not have occurred otherwise. It is money that did not come out of the Arizona school finance act.

In fact, that point was clarified at the hearing we had last week, too. These are new dollars. They do not replace, they are not taken from the Arizona school funds, just as our proposal would not take dollars out of the national education budget. But because this tax mechanism exists in another place in the law, it actually creates new money for American education. If we can do it for the country, which generates \$32 million over a very short time period for 19,000 individuals, and magnify that on a national basis, we

are talking about billions of dollars, really a massive cash infusion in America's education system.

Mr. HOEKSTRA. For two purposes.

Mr. SCHAFFER. And it is a remarkable goal. Hopefully, we can achieve it.

Mr. HOEKSTRA. For two purposes; again, for education investment funds and for investments in traditional public schools.

Mr. SCHAFFER. It does not discriminate. These investments will not be encumbered by the judgment of politicians or these internal political battles that take place between school buildings and school sites. It, rather, leaves the decisions to taxpayers to invest in children like Joshua, and without any regard to the kind of academic setting that Joshua might choose. It focuses on children rather than agencies and institutions, and from that standpoint really drops the discriminatory nature that we see in the Federal funding that we have today where politicians decide which States are going to win, which States are going to lose, which States are behaving the way the bureaucrats in Washington want them to behave, which States are charting their own course.

These kinds of discriminatory features really define how money gets back to our neighborhoods in America through Federal spending, and this tax credit gets rid of all that baloney, and, frankly, starts suggesting that Joshua is more important than the guy who hands out the grant down the street from here.

Mr. HOEKSTRA. Right. I think in fairness now to what is going on with H.R. 1, we are hoping that the results of H.R. 1 will be less focused on process and more focused on results, and so we will have much less of a process debate.

But this gets to be, again, it gets to be a wonderful commitment to the pieces that we are already putting in place in many ways. And this is why the President supports the concept of a tax credit and why he had it in the budget that he proposed that he wants to invest more money in education and he wants more flexibility and he wants children to have a range of options for education, recognizing that perhaps one size does not fit all of our kids. And when the focus continues to be on our kids, that is exactly where it needs to be.

So often we talk in the aggregate. But, again, you and I have been in schools around the country. We have been in inner-city New York, Detroit, Cleveland, Kentucky, Columbus, Cincinnati, Los Angeles, Phoenix.

Mr. SCHAFFER. Tampa.

Mr. HOEKSTRA. Tampa. We were down in Tampa. And we talked to a lot of parents and we talked to a lot of kids. And so we have seen hundreds and we have seen thousands of Joshuas around the country, and not everyone has an Ace scholarship, but what we see is thousands of Joshuas, many of them who are succeeding in traditional public schools, some who are succeeding in charter schools, and some

who are succeeding in private or parochial, and others who are succeeding as home schoolers. So there is not one model that does fits all.

The important thing is that every child be given an opportunity. This does not even come close to equating funding for one to the other. This really is, it will be the only pot of money that becomes available for all of our kids and does not discriminate against any of them.

Mr. SCHAFFER. Let me go back to the Arizona model because it has been studied heavily and it is probably the example of a State that has helped the greatest number of children through an education tax credit. It is useful and instructive for us to consider the Arizona model with respect to trying to project the potential impact for the company.

The analysis suggests that in Arizona, the tax credit is revenue-neutral when it comes to the existing expenditures for schools. That is critical, because I think that argument is one we are going to have to make in Washington here, too, for some that have some concerns about that.

But listen to this. It is estimated that by 2015 the scholarship credit in Arizona will be raising \$58 million per year, funding 35- to 61,000 scholarships annually, and helping send 11,000 to 37,000 students who otherwise would have to attend a government-defined school to attend the school of their choice. Sixty-one thousand scholarships; 37,000 students would be helped. And Arizona is not the largest State in the Union by any means.

So when we start talking about what can happen if we provide some leadership at the Federal level, establishing a basis for the Federal tax credit and seeing it carried out, seeing the State initiatives duplicated in more and more States, it becomes very, very exciting because it really does begin to create an education, an academic marketplace where there is no discrimination between schools and where children become the primary objective. I am so thrilled that we are seeing that kind of enthusiasm starting to build now.

Again, the bill has not been introduced yet, but the discussions we have had so far have been very, very positive, Republicans and Democrats. And I am very, very hopeful once this bill gets introduced in its final form, I have the drafts here, that we will see it come to the floor quickly. And we have the commitments to make that happen from the leadership and support from the President.

Mr. HOEKSTRA. Does that analysis also take into account or talk about how much money they are projecting will be invested into the public schools, not into the investment scholarship funds?

Mr. SCHAFFER. It does, but I do not have the summary in front of me.

Mr. HOEKSTRA. Was that number 59 million?

Mr. SCHAFFER. \$58 million.

Mr. HOEKSTRA. \$58 million. I think, going along the trend, you might be able to extrapolate that roughly the same if not more money will be flowing into traditional public schools. So that talks about the strength of this idea, \$160 million flowing voluntarily into the school systems that otherwise would not be there. And that is why this is a powerful idea; people having the freedom to invest more money into education that otherwise would not.

Mr. SCHAFFER. I appreciate the gentleman joining me on the floor tonight, and I think my time has expired.

RECESS

The SPEAKER pro tempore (Ms. HART). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 5 o'clock and 58 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1828

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SESSIONS) at 6 o'clock and 28 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3231, BARBARA JORDAN IMMIGRATION REFORM AND ACCOUNTABILITY ACT OF 2002

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 107-419) on the resolution (H. Res. 396) providing for consideration of the bill (H.R. 3231) to replace the Immigration and Naturalization Service with the Agency for Immigration Affairs, and for other purposes, which was referred to the House Calendar and ordered to be printed.

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. PALLONE) to revise and extend their remarks and include extraneous material:)

- Mr. PALLONE, for 5 minutes, today.
- Mr. LANGEVIN, for 5 minutes, today.
- Mr. HOYER, for 5 minutes, today.
- Mr. MALONEY of New York, for 5 minutes, today.
- Mr. WEINER, for 5 minutes, today.
- Ms. NORTON, for 5 minutes, today.
- Mr. LIPINSKI, for 5 minutes, today.
- Ms. KAPTUR, for 5 minutes, today.
- Ms. ESHOO, for 5 minutes, today.
- Mr. SCHIFF, for 5 minutes, today.
- Mr. BONIOR, for 5 minutes, today.
- Mr. MCGOVERN, for 5 minutes, today.
- Ms. WOOLSEY, for 5 minutes, today.
- Mr. SHERMAN, for 5 minutes, today.

(The following Members (at the request of Mr. KNOLLENBERG) to revise

and extend their remarks and include extraneous material:)

Mr. GUTKNECHT, for 5 minutes, today.

Mr. SOUDER, for 5 minutes, today.  
(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HOEKSTRA, for 5 minutes, today.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 861. An act to make technical amendments to section 10 of title 9, United States Code.

ADJOURNMENT

Mr. LINDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 29 minutes p.m.), the House adjourned until tomorrow, Thursday, April 25, 2002, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6361. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches [Docket No. FV02-916-1 IFR] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6362. A letter from the Administrator, Agriculture Marketing Service, Department of Agriculture, transmitting the Department's final rule—2001 Amendment to Cotton Board Rules and Regulations Adjusting Supplemental Assessment on Imports [CN-01-001] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6363. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Modifying Procedures and Establishing Regulations to Limit the Volume of Small Red Seedless Grapefruit [Docket No. FV01-905-2 IFR] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6364. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Pork Promotion, Research, and Consumer Information Order—Increase in Importer Assessments [No. LS-01-02] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6365. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Increase in Fees and Charges for Egg, Poultry, and Rabbit Grading [Docket No. PY-01-005] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6366. A letter from the Secretary of the Army, Department of Defense, transmitting a determination that the Nunn-McCurdy

Unit Cost thresholds for both Program Acquisition Unit Cost and Average Procurement Unit Cost have been breached, pursuant to 10 U.S.C. 2433(e)(1); to the Committee on Armed Services.

6377. A letter from the Assistant General Counsel for Regulatory Law, Department of Energy, transmitting the Department's final rule—Acquisition Regulation: Security Amendments to Implement Executive Order 12829, National Industrial Security Program (RIN: 1991-AB42) received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6368. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Washington: Final Authorization of State Hazardous Waste Management Program Revision [FRL-7168-8] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6369. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plan: Revision to the Alabama Department of Environmental Management (ADEM) Administrative Code for the Air Pollution Control Program [AL-058-200219(a); FRL-7169-1] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6370. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans: Kentucky: Nitrogen Oxides Budget and Allowance Trading Program [KY-123; KY-123-1; KY 137-200218(a); FRL-7169-7] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6371. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E airspace, Kanab, UT [Airspace Docket No. 01-ANM-04] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6372. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Revision of Class E airspace, Cedar City, UT [Airspace Docket No. 01-ANM-06] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6373. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Flint, MI [Airspace Docket No. 01-AGL-18] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6374. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Twentynine Palms, CA [Airspace Docket No. 01-AWP-30] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6375. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Mount Vernon, OH [Airspace Docket No. 01-AGL-15] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6376. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Portsmouth, OH

[Airspace Docket No. 01-AGL-16] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6377. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Washington Court House, OH [Airspace Docket No. 01-AGL-20] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6378. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Ashland, OH [Airspace Docket No. 01-AGL-19] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6379. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; Stanley, ND [Airspace Docket No. 00-AGL-28] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6380. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Hillsboro, ND [Airspace Docket No. 00-AGL-29] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6381. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Youngstown Warren-Regional Airport, OH [Airspace Docket No. 00-AGL-24] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6382. A letter from the Paralegal, FTA, Department of Transportation, transmitting the Department's final rule—Rail Fixed Guideway Systems; State Safety Oversight (RIN: 2132-AA69) received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6383. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30297; Amdt. No. 2095] received April 8, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

6384. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on the funds appropriated by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001; jointly to the Committees on Appropriations and International Relations.

6385. A letter from the Secretary and Attorney General, Department of Health and Human Services and the Department of Justice, transmitting a report entitled, "Health Care Fraud and Abuse Control Program Annual Report For FY 2001"; jointly to the Committees on Energy and Commerce and Ways and Means.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. OXLEY: Committee on Financial Services. Supplemental report on H.R. 3764. A bill to authorize appropriations for the Securi-

ties and Exchange Commission (Rept. 107-415 Pt. 2).

Mr. LINDER: Committee on Rules. House Resolution 396. Resolution providing for consideration of the bill (H.R. 3231) to replace the Immigration and Naturalization Service with the Agency for Immigration Affairs, and for other purposes (Rept. 107-419). Referred to the House Calendar.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SMITH of New Jersey (for himself and Mr. EVANS) (both by request):

H.R. 4559. A bill to amend title 38, United States Code, to establish a new Assistant Secretary to perform operations, preparedness, security and law enforcement functions, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. TAUZIN (for himself, Mr. UPTON, Mr. MARKEY, Mr. BARTON of Texas, Mr. WAXMAN, Mr. GILLMOR, Mr. HALL of Texas, Mr. GREENWOOD, Mr. BOUCHER, Mr. DEAL of Georgia, Mr. TOWNS, Mr. BURR of North Carolina, Mr. PALLONE, Mr. WHITFIELD, Mr. BROWN of Ohio, Mr. NORWOOD, Mr. GORDON, Mrs. CUBIN, Mr. RUSH, Mr. SHIMKUS, Ms. ESHOO, Mr. PICKERING, Mr. STUPAK, Mr. FOSSELLA, Mr. ENGEL, Mr. BLUNT, Mr. SAWYER, Mr. TOM DAVIS of Virginia, Mr. WYNN, Mr. BRYANT, Mr. GREEN of Texas, Mr. EHRlich, Ms. MCCARTHY of Missouri, Mr. BUYER, Mr. STRICKLAND, Mr. RADANOVICH, Ms. DEGETTE, Mr. BASS, Mr. BARRETT, Mr. PITTS, Mr. LUTHER, Mrs. BONO, Mrs. CAPPS, Mr. WALDEN of Oregon, Mr. DOYLE, Mr. TERRY, Mr. JOHN, Mr. FLETCHER, Ms. HARMAN, Mr. SHADEGG, and Mrs. WILSON of New Mexico):

H.R. 4560. A bill to eliminate the deadlines for spectrum auctions of spectrum previously allocated to television broadcasting; to the Committee on Energy and Commerce.

By Mr. BARR of Georgia (for himself, Mr. CHABOT, Mr. WATT of North Carolina, Mr. GEKAS, Mr. NADLER, Mr. GREEN of Wisconsin, and Mr. SHOWS):

H.R. 4561. A bill to amend title 5, United States Code, to require that agencies, in promulgating rules, take into consideration the impact of such rules on the privacy of individuals, and for other purposes; to the Committee on the Judiciary.

By Mr. BARTLETT of Maryland:

H.R. 4562. A bill to suspend temporarily the duty on upholstery leather; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4563. A bill to suspend temporarily the duty on pretanned bovine leather; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4564. A bill to suspend temporarily the duty on Astacin Finish PUM; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4565. A bill to suspend temporarily the duty on Bayderm Bottom 51-UD; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4566. A bill to suspend temporarily the duty on Bayderm Bottom DLV; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4567. A bill to suspend temporarily the duty on Relugan D; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4568. A bill to suspend temporarily the duty on Bayderm Bottom 10UD; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4569. A bill to suspend temporarily the duty on Basyntan MLB Powder; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4570. A bill to suspend temporarily the duty on SYNCUROL SE; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland:

H.R. 4571. A bill to suspend temporarily the duty on Luganil Brown NGT Powder; to the Committee on Ways and Means.

By Mr. DINGELL:

H.R. 4572. A bill to amend the Federal Water Pollution Control Act to increase certain criminal penalties, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DOGGETT (for himself, Mr.

EVANS, Mr. LANTOS, Ms. BROWN of Florida, Mr. CRAMER, Mr. DINGELL, Mr. EDWARDS, Mr. FILNER, Mr. FROST, Mr. GONZALEZ, Mr. GREEN of Texas, Ms. HART, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. KELLY, Mr. LAMPSON, Ms. LEE, Mr. LUTHER, Mr. MCGOVERN, Ms. MCKINNEY, Mr. MENENDEZ, Mr. GEORGE MILLER of California, Mr. ORTIZ, Mr. REYES, Ms. RIVERS, Mr. RODRIGUEZ, Mr. SANDERS, Ms. SANCHEZ, Mr. SANDLIN, Mr. SKELTON, Mr. STARK, Mr. TIERNEY, Mr. TOWNS, Mr. TURNER, and Ms. WOOLSEY):

H.R. 4573. A bill to provide for the adjudication of certain claims against the Government of Iraq and to ensure priority for United States veterans filing such claims; to the Committee on International Relations.

By Mr. ENGLISH (for himself, Mr.

REGULA, Ms. HART, Mr. ADERHOLT, Mr. GEKAS, and Mr. SHIMKUS):

H.R. 4574. A bill to facilitate the consolidation and rationalization of the steel industry, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FROST (for himself, Mr. REYES,

Mr. SKELTON, Mr. MENENDEZ, and Mr. ORTIZ):

H.R. 4575. A bill to amend the Immigration and Nationality Act to change the requirements for naturalization to citizenship through service in the Armed Forces of the United States; to the Committee on the Judiciary.

By Mr. GILCHREST:

H.R. 4576. A bill to decide the name of a creek in Queen Anne's County, Maryland; to the Committee on Resources.

By Mr. HOLDEN:

H.R. 4577. A bill to suspend temporarily the duty on Sella Fast Brown OM; to the Committee on Ways and Means.

By Mr. HOLDEN:

H.R. 4578. A bill to suspend temporarily the duty on Sella Fast Brown DS; to the Committee on Ways and Means.

By Mr. GEORGE MILLER of California

(for himself, Mr. PALLONE, Mr. ANDREWS, Mr. ALLEN, Ms. BALDWIN, Mr. BARRETT, Ms. BERKLEY, Mr. BERMAN, Mr. BLAGOJEVICH, Mr. BLUMENAUER,

Mr. BONIOR, Mr. BORSKI, Mr. BROWN of Ohio, Ms. CARSON of Indiana, Mr. CLAY, Mr. COYNE, Mr. CROWLEY, Mr. DAVIS of Illinois, Ms. DEGETTE, Mr. DELAHUNT, Ms. DELAURIO, Mr. DEUTSCH, Mr. DEFAZIO, Ms. ESHOO, Mr. FARR of California, Mr. FRANK, Mr. GUTIERREZ, Mr. HALL of Ohio, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HOEFFEL, Mr. HOLT, Mrs. JOHNSON of Connecticut, Mr. INSLEE, Mr. KILDEE, Mr. KUCINICH, Mr. LANTOS, Mr. LARSON of Connecticut, Ms. LEE, Mr. LEVIN, Mr. LEWIS of Georgia, Mrs. LOWEY, Mrs. MALONEY of New York, Mr. MALONEY of Connecticut, Mr. MARKEY, Ms. MCCARTHY of Missouri, Ms. MCCOLLUM, Ms. MCKINNEY, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCNUITY, Mr. MOORE, Mr. MORAN of Virginia, Mrs. MORELLA, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. OLVER, Mr. OWENS, Mr. PASCARELL, Mr. PAYNE, Ms. PELOSI, Mr. RAHALL, Ms. RIVERS, Mr. ROTHMAN, Mr. SABO, Mr. SANDERS, Ms. SCHAKOWSKY, Mr. SERRANO, Mr. SHAYS, Mr. SHERMAN, Ms. SLAUGHTER, Mr. SMITH of Washington, Mr. STARK, Mr. TIERNEY, Mr. UDALL of Colorado, Mr. WAXMAN, Mr. WEXLER, and Ms. WOOLSEY):

H.R. 4579. A bill to amend the Endangered Species Act of 1973 to ensure the recovery of our Nation's declining biological diversity; to reaffirm and strengthen this Nation's commitment to protect wildlife; to safeguard our children's economic and ecological future; and to provide assurances to local governments, communities, and individuals in their planning and economic development efforts; to the Committee on Resources, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MORELLA:

H.R. 4580. A bill to provide for reform relating to Federal employee career development and benefits, and for other purposes; to the Committee on Government Reform.

By Ms. NORTON:

H.R. 4581. A bill to amend title VI of the Elementary and Secondary Education Act of 1965 to include programs that encourage academic rigor in scientific education in elementary schools; to the Committee on Education and the Workforce.

By Mr. PETRI (for himself, Mr. GEORGE

MILLER of California, Mrs. ROUKEMA, Mr. KILDEE, Mr. GREENWOOD, Mr. TIERNEY, Mr. KIND, Mr. PLATTS, Mr. KUCINICH, Mrs. DAVIS of California, Mr. LEACH, Mr. FROST, Mr. KLECZKA, Mr. SMITH of Washington, Mr. NUSSLE, Mr. GREEN of Texas, Mr. BOSWELL, Mr. GANSKE, Mr. TURNER, Mr. SCHIFF, Mr. HORN, Mr. MURTHA, Mr. BARRETT, Mrs. MORELLA, Mr. ABERCROMBIE, Mr. MORAN of Virginia, Mr. COOKSEY, Mr. BROWN of Ohio, Mr. LEWIS of Georgia, Mr. FRANK, Mr. FATTAH, Ms. KAPTUR, Ms. SCHAKOWSKY, Mr. SHAYS, Mr. WAXMAN, Mr. GREEN of Wisconsin, Mr. MATHESON, Mr. LATOURETTE, Mr. MCDERMOTT, Mr. BALDACCI, Mr. SANDERS, and Mr. VITTER):

H.R. 4582. A bill to improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools, and for other purposes; to the Committee on Education and the Workforce.

By Mr. POMBO:

H.R. 4583. A bill to reduce the duty on certain straw hats; to the Committee on Ways and Means.

By Mr. UPTON (for himself, Mr. HALL of Texas, Mr. TAUZIN, and Mr. BILIRAKIS):

H.R. 4584. A bill to amend title XIX of the Social Security Act to extend the authorization of transitional medical assistance for 1 year; to the Committee on Energy and Commerce.

By Mr. UPTON (for himself, Mr. HALL of Texas, Mr. TAUZIN, and Mr. BILIRAKIS):

H.R. 4585. A bill to amend title V of the Social Security Act to extend abstinence education funding under maternal and child health program through fiscal year 2007; to the Committee on Energy and Commerce.

By Ms. VELAZQUEZ:

H.R. 4586. A bill to amend the Small Business Act and the Small Business Investment Act of 1958 to authorize grants and other assistance to promote the redevelopment of certain remediated sites; to the Committee on Small Business.

By Mr. YOUNG of Alaska:

H.R. 4587. A bill to establish the Joint Federal and State Navigable Waters Commission for Alaska; to the Committee on Resources.

By Mr. SMITH of New Jersey (for himself and Mr. FRANK):

H.J. Res. 89. A joint resolution posthumously proclaiming Andrei Dmitrievich Sakharov to be an honorary citizen of the United States; to the Committee on the Judiciary.

## MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

219. The SPEAKER presented a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 141 memorializing the Congress of the United States to fulfill the commitment of the Individuals with Disabilities Education Act by taking immediate action on legislation that would provide resources equal to 40% of the national average per pupil expenditure for special education students for each Pennsylvania student with special needs; to the Committee on Education and the Workforce.

220. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 233 memorializing the Congress of the United States to amend federal laws and regulations to address the issue of unopened prescription medications recovered from deceased patients; to the Committee on Energy and Commerce.

221. Also, a memorial of the Senate of the State of Wisconsin, relative to Senate Resolution 11 memorializing the United States Congress to endorse President Bush's commitment to undertake significant efforts in order to promote substantial progress towards a solution of the Cyprus problem in 2001, so that all in Cyprus may enjoy rights and freedoms regardless of their ethnic origins; to the Committee on International Relations.

222. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 314 memorializing the Congress of the United States and the Immigration and Naturalization Service to determine the appropriateness of increasing the number of visas for temporary agricultural workers; to the Committee on the Judiciary.

223. Also, a memorial of the General Assembly of the State of Vermont, relative to Joint Senate Resolution No. 217 memorializing the United States Congress to express its respect and admiration for our United States Flag and be it further that the General Assembly expresses its condemnation of all acts of flag desecration, and similar displays of disrespect for the United States Flag; to the Committee on the Judiciary.

224. Also, a memorial of the House of Representatives of the State of Maine, relative to H.P. 1649 Joint Resolution memorializing the President of the United States and the United States Congress to restore the federal highway funding commitment to states and municipalities and to pursue equitable and fair distribution of federal dollars for transportation ventures; to the Committee on Transportation and Infrastructure.

225. Also, a memorial of the House of Representatives of the State of Michigan, relative to House Resolution No. 192 memorializing the Congress of the United States to enact H.R. 2374 to amend the Internal Revenue Code to consider certain transitional dealer assistance related to the phase out of Oldsmobile as an involuntary conversion; to the Committee on Ways and Means.

226. Also, a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 128 memorializing the Congress of the United States to enact S. 1508, which increases the preparedness of the United States to respond to a biological or chemical weapons attack; jointly to the Committees on Ways and Means, Energy and Commerce, Education and the Workforce, and Financial Services.

227. Also, a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 137 memorializing the Congress of the United States to address the critical areas that will create economic stability and allow future growth; jointly to the Committees on Ways and Means, Energy and Commerce, Education and the Workforce, and Financial Services.

228. Also, a memorial of the Legislature of the State of Minnesota, relative to Resolution No. 6 memorializing the President of the United States and the United States Congress to extend its deepest sympathies to the people of New York City, Washington, D.C., and Northern Virginia, and to the many families in Minnesota and all across the country whose loved ones lost their lives on September 11, 2001; jointly to the Committees on Armed Services, Transportation and Infrastructure, Intelligence (Permanent Select), the Judiciary, Government Reform, and Energy and Commerce.

#### PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. FORBES introduced a bill (H.R. 4588) to provide for the liquidation or reliquidation of certain entries; which was referred to the Committee on Ways and Means.

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 68: Mr. BONIOR.  
 H.R. 218: Mr. EVANS.  
 H.R. 537: Mr. DAVIS of Illinois.  
 H.R. 595: Mr. INSLEE and Mr. GORDON.  
 H.R. 600: Mr. SIMMONS.  
 H.R. 744: Mr. MCINNIS.  
 H.R. 786: Mr. BACA.  
 H.R. 792: Mr. LAHOOD.  
 H.R. 831: Mr. ENGLISH, Mr. ISRAEL, Mr. REYNOLDS, and Mr. WALSH.  
 H.R. 1073: Mr. GOODLATTE.  
 H.R. 1111: Mr. DAVIS of Illinois, Ms. MILLENDER-MCDONALD, Mr. VISCLOSKEY, Mr. FATTAH, and Mr. DINGELL.  
 H.R. 1187: Mr. SABO.  
 H.R. 1212: Mr. THOMPSON of Mississippi.

H.R. 1305: Mr. BURTON of Indiana, Mr. PRICE of North Carolina, and Mr. PETERSON of Minnesota.

H.R. 1322: Mr. McNULTY.  
 H.R. 1362: Ms. CARSON of Indiana.  
 H.R. 1405: Mr. LAHOOD.  
 H.R. 1509: Mrs. DAVIS of California.  
 H.R. 1520: Mr. HOLT.  
 H.R. 1543: Mr. HALL of Ohio, Mr. BARCIA, and Mr. SMITH of Michigan.  
 H.R. 1556: Mr. LUCAS of Oklahoma, Mr. CARSON of Oklahoma, and Mr. SANDERS.  
 H.R. 1577: Mr. OXLEY, Mr. STENHOLM, Mr. DINGELL, and Mr. CONYERS.  
 H.R. 1581: Mr. JOHN and Mr. BARTLETT of Maryland.  
 H.R. 1609: Mr. LUCAS of Oklahoma, Mr. SANDERS, and Mr. HULSHOF.  
 H.R. 1624: Mrs. DAVIS of California, Mr. MEEKS of New York, Ms. MCCARTHY of Missouri, Mr. CLEMENT, Mr. UNDERWOOD, Mr. BACA, and Mr. SHERMAN.  
 H.R. 1759: Mr. BAIRD.  
 H.R. 1808: Mr. NEAL of Massachusetts.  
 H.R. 1887: Mr. DAVIS of Illinois.  
 H.R. 1908: Mr. HOSTETTLER.  
 H.R. 1919: Mr. BOEHLERT.  
 H.R. 1984: Mr. SHAYS.  
 H.R. 2035: Mr. CROWLEY and Mr. COSTELLO.  
 H.R. 2235: Mr. BOYD.  
 H.R. 2349: Mr. PHELPS.  
 H.R. 2405: Mr. FATTAH.  
 H.R. 2466: Mrs. MYRICK, Mr. SCHAFFER, Mr. REYNOLDS, Mr. BOYD, Mr. GIBBONS, Mr. WAMP, Mr. KINGSTON, Mr. FILNER, and Mr. HOSTETTLER.  
 H.R. 2570: Mr. BRADY of Pennsylvania and Mr. BERMAN.  
 H.R. 2683: Ms. BERKLEY, Mr. KELLER, Mr. THUNE, Mr. WAMP, and Mr. HASTINGS of Washington.  
 H.R. 2763: Mr. RILEY.  
 H.R. 2820: Mr. THOMPSON of Mississippi and Mrs. LOWEY.  
 H.R. 2829: Mr. THORNBERRY, Mr. SHADEGG, Mr. CALLAHAN, Mr. OSE, and Mr. JONES of North Carolina.  
 H.R. 2874: Mr. FILNER.  
 H.R. 3037: Ms. VELAZQUEZ.  
 H.R. 3113: Mr. GREEN of Texas.  
 H.R. 3130: Mr. BERMAN and Mr. BAIRD.  
 H.R. 3236: Mrs. MINK of Hawaii, Ms. MCCOLLUM, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. LEWIS of Georgia.  
 H.R. 3320: Mr. WU.  
 H.R. 3333: Mr. SXTON.  
 H.R. 3358: Mr. WATT of North Carolina.  
 H.R. 3382: Mr. ISRAEL.  
 H.R. 3388: Mr. HOBSON.  
 H.R. 3424: Ms. ROYBAL-ALLARD.  
 H.R. 3450: Mr. CUNNINGHAM, Ms. MILLENDER-MCDONALD, Mr. MCDERMOTT, and Mr. WU.  
 H.R. 3478: Mr. CRENSHAW and Mr. GREEN of Wisconsin.  
 H.R. 3482: Mr. DUNCAN.  
 H.R. 3493: Mr. UDALL of Colorado.  
 H.R. 3533: Mr. LATOURETTE and Mr. SCHROCK.  
 H.R. 3581: Mr. WAXMAN and Mr. EVANS.  
 H.R. 3597: Ms. CARSON of Indiana.  
 H.R. 3605: Mr. ROYCE.  
 H.R. 3681: Mr. LANGEVIN and Mr. FILNER.  
 H.R. 3686: Mr. BOOZMAN.  
 H.R. 3717: Mr. OSBORNE.  
 H.R. 3771: Mr. CARSON of Oklahoma and Ms. CARSON of Indiana.  
 H.R. 3781: Ms. VELAZQUEZ, Ms. RIVERS, Mr. FORD, and Mr. GRUCCI.  
 H.R. 3782: Mr. THOMPSON of California, Mr. LARSEN of Washington, Mr. DOOLEY of California, Mrs. BONO, and Mr. BLUMENAUER.  
 H.R. 3811: Mr. TANCREDO.  
 H.R. 3831: Mr. HILLEARY, Mr. COOKSEY, and Mr. DEFazio.

H.R. 3842: Mr. DAVIS of Illinois and Mr. BENTSEN.

H.R. 3882: Mr. LATOURETTE, Ms. HART, Mr. MCINNIS, Mr. LANGEVIN, Mr. MATHESON, Mr. GOODE, Mr. WELDON of Florida, Mr. MCHUGH, and Mr. EVANS.  
 H.R. 3884: Mr. LIPINSKI and Mr. SKELTON.  
 H.R. 3887: Mr. BENTSEN, Mr. LANTOS, Ms. CARSON of Indiana, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CAPUANO, Mr. INSLEE, and Mr. BARRETT.  
 H.R. 3897: Mr. HORN, Mr. GOODE, and Mrs. KELLY.  
 H.R. 3911: Mr. LARSON of Connecticut.  
 H.R. 3915: Mr. BONIOR.  
 H.R. 3916: Ms. CARSON of Indiana.  
 H.R. 3940: Mr. HILLEARY.  
 H.R. 3974: Mr. MCHUGH and Mr. FOLEY.  
 H.R. 3990: Mr. GEKAS.  
 H.R. 4008: Mr. BALDACCI, Ms. CARSON of Indiana, Ms. NORTON, Mr. ENGLISH, and Mr. BONIOR.  
 H.R. 4010: Mr. PENCE and Mr. SULLIVAN.  
 H.R. 4013: Mr. PLATTS, Ms. VELAZQUEZ, Mr. KIND, Mrs. JOHNSON of Connecticut, Mr. BONIOR, Mr. WEXLER, and Ms. NORTON.  
 H.R. 4014: Mr. BONIOR, Mr. WEXLER, and Ms. NORTON.  
 H.R. 4025: Mr. GORDON, Mr. PICKERING, Mr. BLUNT, Mr. WEXLER, Mr. ISRAEL, and Mr. KLECZKA.  
 H.R. 4043: Mr. JEFF MILLER of Florida.  
 H.R. 4060: Mr. DICKS, Ms. RIVERS, Mr. HOLT, Mr. ROTHMAN, Mr. FRANK, and Ms. MCKINNEY.  
 H.R. 4066: Mr. DINGELL, Mrs. WILSON of New Mexico, and Mr. WU.  
 H.R. 4071: Mr. MCINNIS.  
 H.R. 4018: Mr. KINGSTON.  
 H.R. 4152: Mr. PUTNAM, Mrs. MINK of Hawaii, Mr. JONES of North Carolina, and Mrs. THURMAN.  
 H.R. 4373: Mr. DAVIS of Illinois.  
 H.R. 4483: Mr. TERRY, Mr. GILMAN, Mr. SOUDER, Mr. LOBIONDO, Mr. HAYWORTH, Mr. GRUCCI, Mr. LATOURETTE, Mr. SCHROCK, Mr. ROTHMAN, Mr. CANTOR, Mr. DIAZ-BALART, Mr. ISRAEL, Mr. DEUTSCH, Mr. HOEFFEL, Mr. HASTINGS of Florida, Mr. CROWLEY, Mr. MARKEY, and Ms. BERKLEY.  
 H. Con. Res. 99: Ms. SLAUGHTER, Mr. TOWNS, Mr. ABERCROMBIE, and Mr. HOLDEN.  
 H. Con. Res. 309: Mr. WAXMAN, Mr. MENENDEZ, Mr. DINGELL, Mr. STARK, Mrs. MINK of Hawaii, Mrs. NAPOLITANO, Ms. PELOSI, and Ms. CARSON of Indiana.  
 H. Con. Res. 315: Mr. BACHUS, Mr. PHELPS, and Mr. TAYLOR of North Carolina.  
 H. Con. Res. 349: Mrs. JONES of Ohio, Mrs. MINK of Hawaii, Mr. MCGOVERN, Mr. FARR of California, Ms. BROWN of Florida, Mr. JEFFERSON, Mr. HASTINGS of Florida, Ms. WATSON, Mr. SNYDER, Mr. LIPINSKI, Mr. HONDA, Mrs. NAPOLITANO, Mr. CUMMINGS, Mr. SANDERS, Mr. PITTS, Mr. WATT of North Carolina, and Ms. CARSON of Indiana.  
 H. Con. Res. 350: Mr. JEFF MILLER of Florida.  
 H. Con. Res. 359: Mr. FILNER.  
 H. Con. Res. 366: Mr. ACKERMAN and Mr. LANTOS.  
 H. Con. Res. 368: Mr. CONYERS and Mrs. MINK of Hawaii.  
 H. Res. 355: Ms. JACKSON-LEE of Texas.

#### DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3113: Ms. RIVERS.