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No. 125

## House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. HEFLEY).

### DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,  
September 23, 1999.

I hereby appoint the Honorable JOEL HEFLEY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,  
*Speaker of the House of Representatives.*

### PRAYER

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

Give us we pray, O gracious God, the vision to see Your will for righteousness in our world and give us attentive hearts to see the need for reconciliation and respect in our communities and in our institutions. We pray that Your good spirit will enlighten us with love in our own lives so that we will be the people You would have us be and do those works of justice that benefit every person. As we are open to Your spirit and armed with Your grace, may we then be empowered to be Your people in our daily lives. Bless us, O God, this day and every day, we pray. Amen.

### THE JOURNAL

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

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

### PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Idaho (Mrs.

CHENOWETH) come forward and lead the House in the Pledge of Allegiance.

Mrs. CHENOWETH 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.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 15 one-minutes on each side.

### WHO IS TO BLAME FOR DO-NOTHING CONGRESS?

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

Mr. SENSENBRENNER. Mr. Speaker, I rise today to thank the distinguished minority leaders of both the House and the other body for settling what to me has long been a confusing issue.

In spite of all the legislation the Republican Congress has passed so far, the Social Security lockbox, tax relief, and debt reduction, the Ed-Flex bill, and the military readiness bill, to name just a few, we have listened for months to Democrats bluster about the do-nothing Congress.

When I picked up my copy of The Hill yesterday, I finally began to understand what they mean by a do-nothing Congress. They mean themselves. On the front page, the distinguished minority leader of the other body proclaimed his disappointment that the first session of the 106th Congress was not more productive, while only a few lines of newsprint away the distinguished minority leader of the House claimed that the Democrats have dominated the Congressional agenda since 1994.

So, Mr. Speaker, if the Democrats are in control and nothing is being done, then I ask the Members, who is to blame?

### GUN SAFETY LEGISLATION

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

Ms. DELAURO. Mr. Speaker, for 5 months many of us in this body have urged the Republican leadership to help us enact common-sense gun safety measures that will keep guns out of the hands of kids and criminals. But at every turn we have been stalled and stymied, we have been told that we are rushing, that we need to wait.

Waiting means more lives are lost. Every day that passes takes a toll of 13 children, 13 youngsters killed every day by guns. Hundreds of children have been killed just in the time since the tragedy at Columbine High School.

Today I join my colleagues in continuing to pay tribute to some of those children and urge the Congressional leadership to pass gun safety legislation in their memory.

Paulette Peak, age 8, killed by gunfire on July 31, 1999, Chicago Illinois;

Reginald McClaine, age 16, killed by gunfire on August 4, 1999, Bronx, New York;

Aaron Thomas, age 16, killed by gunfire on August 5, 1999, St. Louis, Missouri;

Tamara Seline, age 17, killed by gunfire on August 6, 1999, West Palm Beach, Florida.

### GUN CONTROL LAWS

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

Mrs. CHENOWETH. Mr. Speaker, most people who know me know that I

□ 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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am never really inclined to praise The Washington Post. But The Washington Post, to their credit, ran a very fine story this past Sunday about gun control that surprised me quite a bit.

Apparently, my friends on the other side of the aisle missed that article or have decided to merely misrepresent this whole issue. The article points out that none of the gun control bills debated by Congress this year if passed into law would have stopped any of the recent shootings which have taken so many of our children's lives.

The reason is quite simple. All of the killers had either bought their guns legally or found an easy way to get around State and Federal laws. The article went through each shooting and each killer, the killers at Columbine; Mike Barton in Atlanta; Buford Furrow, Jr., in Los Angeles; Benjamin Nathaniel Smith in Illinois and Indiana; and Larry Geen Ashbrook in Fort Worth, Texas; and it traced the steps through which the purchase of the guns occurred before those shootings.

Again, no gun control laws so passionately advocated by those on the other side would have had any impact on these killers.

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#### CAPTIVE ELEPHANT ACCIDENT PREVENTION ACT

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

Mr. FARR of California. Mr. Speaker, I rise today, first of all, to thank game show host Bob Barker for coming to Washington, D.C. in support of the bill I am introducing today and sorry that he had to have emergency surgery. We all wish him well as he recovers from this.

Today I am introducing the Captive Elephant Accident Prevention Act, H.R. 2929, to make circuses more humane for animals and safer for spectators. I am not interested in seeing the circus industry unduly hindered or encumbered. My bill is a practical, reasonable bill that addresses a fundamental wrong in the entertainment industry.

The problem is that we have to break the will of wild beasts, big beasts that are 10 feet tall, weigh several tons, in order for them to perform stunts at circuses. They use high-powered electric prods. They tie them up. And we can see that when an animal goes wild, as this one did in Honolulu, that the only way to stop them from injuring people is to shoot them. That is what happened in this case where an animal had 57 rounds shot into him before he was brought down.

Animals like elephants are not horses or dogs. They cannot be trained for those purposes. I urge my colleagues to join me in cosponsoring H.R. 2929.

#### FALN TERRORISTS RELEASED FROM PRISON

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

Mr. PITTS. Mr. Speaker, it is the practice in our Nation that victims of crime and their families be consulted before criminals who have perpetrated the crimes against them are released from prison.

Well, it just so happens that the victims of the FALN terrorist attacks were never even consulted; they were never even notified that these terrorists were about to be set free from prison, another injustice against the American people and victims of crime by our President.

Yet, the Clinton-Gore Administration took months talking to the terrorists and their representatives as they made their decision. We know that the First Lady was consulted. She first agreed, and then she said she changed her mind. We are told that the Vice President is consulted about everything. I wonder what his response or his role was in granting the terrorists their freedom.

Why were not 139 bombings, 6 people killed, dozens maimed enough to keep terrorists off of our streets? The American people and the victims of crime deserve answers to these questions, not silence through executive privilege.

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#### CONGRESS TURNS OTHER CHEEK

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

Mr. TRAFICANT. Mr. Speaker, FBI agents testified that the Justice Department blocked their investigation of illegal campaign contributions to the Democrat National Committee in the last campaign.

FBI agents also said, under oath, Justice Department lawyers actually impeded and delayed and obstructed any investigation.

Beam me up, Mr. Speaker. Whether we are a Republican or a Democrat or an Independent, this is wrong. This may in fact be criminal. And the Justice Department warrants a thorough investigation by an independent counsel, not one of their own peers.

The trouble is, Mr. Speaker, Congress turns the other cheek. Shame, Congress.

I yield back China Gate. I yield back Travel Gate. I yield back Ruby Ridge. I yield back Waco. And I yield back more to come.

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#### DEMOCRATS WANT TO SPEND MORE—REPUBLICANS WANT TO SPEND LESS

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

Mr. STEARNS. Mr. Speaker, as we move to the end of the closure for our budget this year, on almost every single bill, on almost every single amendment to every bill, this dispute between the Republicans and the Democrats comes down to the same thing. The Democrats want to spend more and more around here. Republicans want to spend less and provide accountability.

In fact, any attempt by Republicans to limit spending is met by outrage, accusations by the Democrats that Republicans are mean-spirited.

Yet, for 40 years while they were in the majority there was hardly a Government program they did not support, a Government program they did not expand, or a Government program they did not dream about building. Yet, now Democrats are actually trying to portray themselves as a party of fiscal responsibility.

Please spare us, the American people, this rhetoric. Republicans were elected in 1994, and they forced the President to sign a balanced budget despite loud protests from the left that it would require savage cuts. The Republicans believe in fiscal accountability, and they are trying hard to value the taxpayers' money.

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#### REMEMBERING FIREFIGHTER STEPHEN MASTO

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

Mrs. CAPPS. Mr. Speaker, I rise today with a heavy heart to honor the service and pay tribute to Stephen Joseph Masto. Stephen died in late August while helping to battle a wildfire in Los Padres National Forest in my district.

At the young age of 28, Stephen had already devoted his career to public safety. He spent his career fighting fires all over Southern California and the central coast. We can never repay Stephen or his family for his dedication, hard work, and ultimate sacrifice. Rather, we must honor him by being especially mindful of the brave men and women firefighters he has left behind.

These individuals have committed themselves to protecting the lives and safety of their neighbors in times of need. Like Stephen, they are true heroes in every sense of the word.

I know that I speak for my entire community when I extend my most heartfelt condolences to Stephen's families and loved ones who will miss him so terribly. We honor him when we honor the people he has left behind.

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#### IT IS TIME TO CLEAN HOUSE AT THE JUSTICE DEPARTMENT

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

Mr. CHABOT. Mr. Speaker, it seems that rarely does a day go by when we

do not learn of more allegations of mismanagement, stonewalling, and cover-ups at the Department of Justice.

Yesterday, during the testimony before the Senate committee, FBI agents assigned to investigate the Clinton White House's involvement in the widespread campaign financial scandal said that Justice Department officials blocked their efforts to carry out the investigation.

At one point during the investigation, the special agent in charge of the Little Rock FBI office personally wrote to FBI Director Louis Freeh to express his concern about Justice's role in hampering the investigation, maintaining that the team leading the investigation, at best, simply was not up to the task.

Mr. Speaker, the Justice Department continues to lose confidence of the law enforcement community, confidence of the Congress, and confidence of the American people. It is time to restore that confidence. It is time to clean House at the Justice Department. It is time for Attorney General Janet Reno to step down.

#### GUN VIOLENCE IN AMERICA

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

Mrs. MALONEY of New York. Mr. Speaker, while this Congress delays, while this Congress continues to look the other way, America's children are falling victim to gun violence at an alarming rate. The American people are demanding that this House take action to protect our young people from gun violence.

□ 1015

That is why I am so proud to stand here with my colleagues in reading the rollcall of children who have been victims of gun violence since Columbine. The child safety locks could have prevented many of these accidental deaths. This Congress should pass this legislation and stop delaying, delaying, delaying.

Richard Stanley, age 15, killed by gunfire on August 6, 1999, West Palm Beach, Florida; Erik Kraemer, age 17, killed by gunfire on August 7, 1999, Turtle Lake, Wisconsin; Halley Finch and many more that I will place in the RECORD.

#### LET US PASS THE INTERSTATE CLASS ACTION JURISDICTION ACT TODAY

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

Mr. BARTLETT of Maryland. Mr. Speaker, this week of September 19 to 25 marks Lawsuit Abuse Awareness Week. I commend members of the Western Maryland Citizens Against Lawsuit Abuse, WMCALA, for joining

thousands of Americans in informing the general public of the high price we all pay for frivolous lawsuits and excessive jury awards.

Today this House has the opportunity to reduce lawsuit abuse by passing the Interstate Class Action Jurisdiction Act. This bill will discourage frivolous class action claims.

I urge my colleagues on both sides of the aisle to vote yes and pass this sensible and important legislation.

Frivolous lawsuits and excessive jury awards exact a heavy price from all Americans in the form of higher prices for goods and services, fewer jobs, loss of safety improvements and product innovations, and delays in compensation for citizens with legitimate claims. Please pass the Interstate Class Action Jurisdiction Act today.

#### LET US PASS REAL GUN SAFETY REFORM NOW

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I stood here yesterday and I will stand here many more days, if it takes our presence on the floor to cause this Congress to pass real gun safety reform.

I stand here to continue the rollcall of dead children who have been killed by gunfire since Columbine. Mr. Speaker, it is important that we close the gun show loopholes that will disallow criminals and others who should not have guns from getting guns. It will disallow those who would kill our children or would put guns in the hands of our children that they might accidentally shoot each other.

Mr. Speaker, are my colleagues aware that unlike our movie theaters where one must be accompanied by an adult for certain type movies, that children can randomly go through gun shows with no supervision? Yes, Mr. Speaker, we need real gun safety reform, the elimination of automatic clips. We need to protect our children, and it is for that reason I stand here today to read the rollcall of our dead children who died by gunfire:

Timothy Rodriguez, age 16, killed by gunfire on August 7, 1999, Peoria, Arizona; Preston Posey, age 14, killed by gunfire on August 8, 1999, Louisville, Kentucky; Jaire Soler, age 15, killed by gunfire on August 8, 1999, Bronx, New York.

#### AMERICA HAS OVERPAID THE COST OF GOVERNMENT

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

Mr. TIAHRT. Mr. Speaker, imagine going to McDonald's and ordering a nine-piece chicken nuggets and a large drink. The cost is \$4.50. You give the clerk a \$5 bill. The clerk takes your

money, gives you the chicken and the drink but no change. So you ask, where is my fifty cents? And the clerk says, well, I could give you the fifty cents, but then I would have to trust you to spend it right.

Well, you would be appalled. You would be angry. It is your money. But, Mr. Speaker, that is exactly what will happen if the President vetoes the tax cut.

America has overpaid the cost of government. We locked up all Social Security. We have protected all of Medicare payments. We are even paying down the publicly held debt, and still we have money left over. We have overpaid the cost of government. The change is ours.

Well, the President does not trust us to spend it right. He has even publicly said so. But I trust you, the Republicans trust you, and I hope the President will change his mind and trust America and give us back our change and sign the tax relief law.

#### CHILDREN KILLED BY GUNFIRE

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

Ms. SLAUGHTER. Mr. Speaker, I would like to continue to read the names of children killed by gunfire since the April 20 Columbine massacre: Anthony Joseph Stroud, age 12, killed by gunfire in July 1999, Houston, Texas; Reginald McClaine, age 16, killed by gunfire on August 4, 1999, Bronx, New York; Aaron Thomas, age 16, killed by gunfire on August 5, 1999, St. Louis, Missouri; Erik Kraemer, age 17, killed by gunfire on August 7, 1999, Turtle Lake, Wisconsin; Halley Finch, age 5, killed by gunfire on August 7, 1999, Gary, Indiana; Jeremy Lee Gearon, age 16, killed by gunfire on August 7, 1999, Gary, Indiana; DeJuan Williams, age 17, killed by gunfire on August 9, 1999, St. Louis, Missouri; Alexande Durrive, age 14, killed by gunfire on August 10, 1999, Miami, Dade County, Florida.

#### EVERY CHILD IN AMERICA IS NOW SADLY A TARGET OF CHINESE MISSILES, COURTESY OF TECHNOLOGY TRANSFERS

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

Mr. HAYWORTH. Mr. Speaker, I note with interest the recitation of names by my colleagues on the left. I think it is a tragedy when any child dies. I think it is likewise a tragedy when we can add to the rollcall the names of the living, Nicole Irene Hayworth, Scottsdale, Arizona; Hannah Lynn Hayworth, Scottsdale, Arizona; John Mica Hayworth, Scottsdale, Arizona; and every child in America now sadly a target of Chinese missiles, courtesy of transfers of technology, curiously supported by campaign donations from

Chinese interests to the Democratic National Committee.

Yes, it is a tragedy when any child dies, but the answer is not in abridging constitutional rights. It is in enforcing existing laws on the books. Just as current laws for campaign finance have not been enforced, just as current laws for firearms have not been enforced, the lawlessness, Mr. Speaker, comes from those who are elected to faithfully execute the laws.

**WE DO NOT NEED ANOTHER MONTH IN OUR CALENDAR TO CONTINUE DOING NOTHING**

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

Mr. DOGGETT. Mr. Speaker, with only 6 congressional working days remaining in this Federal fiscal year, only one of the 13 appropriations bills necessary for the continued operation of our Government has actually been signed into law. This is the kind of record of inattention to duty, of inaction that brought us the costly Republican government shutdowns in the all-too-recent past.

It is perhaps most symbolic of this Congress that one of the few bills that has been approved was a commemorative medal for the great explorers Lewis and Clark, for I think that not even such great explorers could find any accomplishment in this Congress. In the words of the majority leader, the gentleman from Texas (Mr. ARMEY), "We have sort of bumped into a wall."

With this Congress, America is bumping into a wall of inaction.

Now the Republican leadership is even considering the creation of a thirteenth month on the Federal calendar. If they worked more than halftime during the first 12 months, we would not need such nonsense.

**CLINTON-GORE ADMINISTRATION HAVE TURNED BLIND EYE TO RUSSIAN CORRUPTION**

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

Mr. ROYCE. Mr. Speaker, over the last 7 years, the IMF, with the backing of the Clinton administration, has loaned the Russian Government \$20 billion. All the while, the administration assured Congress and the American people that they were working with Russia to facilitate reforms. Yet as details of the vast money laundering out of Russia unraveled this month, Deputy Secretary of State Strobe Talbott said, quote, "calm down, world. We have been aware from the beginning that crime and corruption are a huge problem in Russia and a huge obstacle to Russian reform."

Indeed, in 1995, the CIA met with Vice President Gore to present evidence on the personal corruption of Prime Minister Victor Chernomyrdin with whom Vice President Gore led a

joint American-Russian commission. According to the New York Times, Mr. Gore rejected that report.

It is time that the Clinton-Gore administration tell Congress and the American people what else they have rejected and why they have turned a blind eye for so long.

**THE PRESIDENT SHOULD RECONSIDER HIS VETO OF THE TAXPAYER RELIEF ACT**

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

Mr. SCHAFFER. Mr. Speaker, the President's penchant for raising taxes on America's working-class families, to fund costly, unproven and inefficient government programs for special interest groups, his expected veto today of the Taxpayer Relief Act is neither surprising nor unexpected. However, one would think this President would care to leave a better legacy than having created the most costly and overbearing bureaucracy in the history of our Nation.

If and when the President uses his veto pen later today, he will effectively eliminate the best opportunity we have ever had to protect Social Security and Medicare, while paying down the massive debt our country has accrued after 40 years of liberal spending.

There is more, Mr. Speaker. In addition to offering broad relief for middle-class taxpayers, including the repeal of the death tax, an across-the-board reduction in income and capital gains tax rates, marriage tax penalty relief and education, health care and dependent care assistance, the Taxpayer Refund and Relief Act contains provisions specifically designed to assist America's farmers and ranchers currently enduring the worst farm economy since the Great Depression.

The President's harmful treatment of agriculture is nothing new either. His affinity for campaign-style rhetoric, broken promises and outright hostility toward agriculture has resulted in record numbers of farmers and ranchers facing defaults, foreclosures, and farm auctions.

**STAND FIRM FOR THE BENEFITS EVERY AMERICAN DESERVES: JUSTICE UNDER THE LAW**

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, let me just say that we put together a \$792 billion tax relief package for the people of the United States of America. There is a tax savings for every American. There is tax savings for education.

We tried to put America back on track. Guess what the President is going to do today? He is going to veto that legislation and put a \$792 billion tax increase on every American person in this country.

Furthermore, to try to offset the stench of Waco that is going around today, this White House has the audacity to try to sue an American industry, the tobacco companies. They are legal operations. The idea is to take the pressure off of Waco.

We must have justice in this Nation. We are a Nation of justice. We must stand firm for the benefits that every American deserves, and that is justice under the law.

**THE MARRIAGE TAX PENALTY WILL CONTINUE**

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

Mr. KINGSTON. Mr. Speaker, today's theme team is proud to present to the President of the United States the smoke and mirror award for vetoing the middle-class tax cut. The middle class in America, the President says, deserves a break. Of course, a couple of years ago, remember, he was asking these same middle class people to invest in government and yet today he refused to invest in them by letting us keep our own money.

Therefore, in Savannah, Georgia, Marilyn and Robert Johnson will continue to pay the marriage tax penalty that they are having to pay ever since they were married, because this President does not want to give them relief.

□ 1030

Ms. C.C. Jones in Brunswick, Georgia who works out of her house will continue to not have the 100 percent deduction for buying her health care, because the President will not give it to her. And then, a good friend of mine named Jimmy, I am not going to say his last name, because he is in an income bracket that is not necessarily something the President cares about, he would have gotten a 7 percent tax reduction today, but the President says, no, Jimmy, you keep on working those 50 to 60 hours a week, because Washington is going to grow, not the American taxpayers. They are not going to keep their money.

To you, Mr. President, I proudly present the Smoke and Mirror Award. Job well done for government bureaucrats. One more victory for Washington, one less for middle-class taxpayers.

**TAX BILL DOES NOT PLAN FOR THE FUTURE OF OUR COUNTRY**

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

Mr. GREEN of Texas. Mr. Speaker, I am proud to stand here today and say that I am glad the President is going to veto that tax cut bill, because talk about smoke and mirrors, over the next 10 years, they expect to have a \$3 trillion surplus if the economy stays as

good as it is today, and \$2 trillion of that is Social Security receipts. The Republicans passed a \$790 billion bill for a tax cut. That does not leave anything for Medicare; it does not leave anything for education.

Of course, why should we expect them to plan for 10 years from now? Right now, the last appropriations bill we have on this floor, it is not even here yet, is the education funding bill. It should be first and not last. They are going to cut Federal aid to education dramatically to meet their caps, and that is what is wrong.

That is why I am glad the President is vetoing that tax bill, because it does not plan for the future of our country.

#### REPUBLICANS WANT AMERICANS TO SPEND THEIR OWN MONEY

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

Mr. LINDER. Mr. Speaker, the last person in the well made the case very clearly as to what the debate is about. The Republican's \$792 billion tax cut gives money back to the people who earned it. The Democrats want to spend it. It is just that simple.

We heard the gentleman say we did not have enough money for education and for the programs he wants to spend it on.

We want you to spend it; they want to spend it for you. It is a very, very simple issue.

The one thing that we are very clear on is that we passed the Social Security lockbox. Not one penny of Social Security surpluses will go for spending or for tax relief; it will go for Social Security. I will repeat it again. We want you to spend it; they want to spend it for you.

#### HOUSE NEEDS TO PASS GOOD GUN SAFETY LEGISLATION TO KEEP OUR CHILDREN SAFE

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

Ms. MILLENDER-McDONALD. Mr. Speaker, how long? How long will our children have to wait before we can pass good gun safety legislation? How long will our parents, who are petrified to send their children to school for fear of that fatal call that they will get? How long, Mr. Speaker, must this House wait to ensure our children the safety that they deserve when they are in school or in church?

I suggest to my colleagues, Mr. Speaker, my bill, the child safety lock bill that was introduced in the 105th Congress and in the 106th Congress that has not passed this House yet, would have perhaps prevented Andre Holmes, age 15, killed by gun fire on September 1, 1999 in Atlanta, Georgia; Larry N. Perry, age 17, killed by gun fire on September 1, 1999 in Omaha, Nebraska; Kyla Washington, age 1, killed by gun

fire on September 4, 1999, Dolton, Illinois; Christopher Fogleman, age 12, killed by gun fire on September 4, 1999, Wilmington, North Carolina.

Mr. Speaker, the list goes on and on. Let us not forget, the children are watching.

#### ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 1501, JUVENILE JUSTICE REFORM ACT OF 1999

Mr. DOOLITTLE. Mr. Speaker, pursuant to clause 7C of rule XXII, I hereby announce my intention to offer a motion to instruct conferees on H.R. 1501 tomorrow.

Mr. Speaker, the form of the motion is as follows:

Mr. DOOLITTLE moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendments to the bill H.R. 1501 be instructed to insist that the conference report—

(1) recognize that the primary cause of youth violence in America is depraved hearts, not inanimate weapons;

(2) recognize that the second amendment to the Constitution protects the individual right of American citizens to keep and bear arms; and

(3) not impose unconstitutional restrictions on the second amendment rights of individuals.

#### REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2558

Mr. FROST. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2558.

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

There was no objection.

#### PROVIDING FOR CONSIDERATION OF H.R. 1875, INTERSTATE CLASS ACTION JURISDICTION ACT OF 1999

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 295 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

#### H. RES. 295

*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. 1875) to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions. The first reading of the bill shall be dispensed with. 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 the Judiciary. 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 na-

ture of a substitute recommended by the Committee on the Judiciary now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII and except pro forma amendments for the purpose of debate. Each amendment so printed may be offered only by the Member who caused it to be printed or his designee and shall be considered as read. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

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

Mr. Speaker, House Resolution 295 a modified, open rule providing for consideration of H.R. 1875, the Interstate Class Action Jurisdiction Act of 1999.

Mr. Speaker, H. Res. 295 provides one hour of general debate, equally divided and controlled by the chairman and the ranking minority member of the Committee on the Judiciary. The rule provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill be considered as an original bill for the purpose of amendment.

House Resolution 295 also provides that the amendment in the nature of a substitute shall be open to amendment by section. The resolution provides for the consideration of pro forma amendments and those amendments printed in the CONGRESSIONAL RECORD which may be offered only by the Member who caused it to be printed or his designee, and shall be considered as read.

The rule also allows the Chairman of the Committee of the Whole to postpone recorded votes and to reduce to 5 minutes the voting time on any postponed question, provided voting time on the first in the series of questions is not less than 15 minutes.

Finally, the rule provides one motion to recommit with or without instructions, as is the right of the minority.

Mr. Speaker, this bill is intended to eliminate the abuse of the current class action rules. Today, an attorney can devise a theoretical case, write it as a class action, and argue that he is pursuing the claim on behalf of millions of people, none of which solicited that attorney's assistance. Using this practice, hundreds of frivolous lawsuits are filed in favorable State courts and used as high-stakes, court-endorsed blackmail devices against companies which usually settle rather than face a long and arduous court battle.

The Advisory Committee on Civil Rules of the Federal Judicial Conference has reported that class actions have increased 300 to 1,000 percent per company in the last 3 years. This explosion of class actions, done in the name of the consumer, has cost businesses and consumers billions of dollars in legal fees and higher prices. Even worse, legitimate legal claims have been collusively resolved by lawyers in back rooms while the real victims have gotten, at best, a handful of coupons for their favorite laundry detergent.

One of the rules that allows the attorneys to abuse the class action process is the "diversity" requirement. Foreseeing the possibility that attorneys that would seek the most favorable State court to hear their case, the Founding Fathers included a provision in article III of the Constitution that cites numerous situations in which Federal courts would have jurisdiction when a case included different parties from different States.

Since that time, however, the threshold for removal of a Federal case to Federal court has been significantly raised to require that the claim by each member of the class exceed \$75,000 and members of the class are of different States. These new standards have promoted "venue shopping" by attorneys, who go looking for States that would be particularly favorable to their claim.

Mr. Speaker, H.R. 1875 would end this abuse. Under new rules included in the bill, interstate class actions could be returned to the proper venue, the Federal courts, where both plaintiff and defendant have an equal standing. Either a plaintiff or a defendant could have the right to remove the case to the Federal level. Further, attorneys would have less of an incentive to file frivolous claims when the venue could be changed from their favorable State courtroom to a more balanced Federal bench.

Mr. Speaker, H.R. 1875 also protects the jurisdictions of State courts by ensuring that class actions involving less than \$1 million in claims or fewer than 100 people could still be heard at the State level. Cases in which State officials or agencies are the primary defendants would also be left to State courts.

Unfortunately, some will argue today that this bill will prevent Americans from getting justice. Do not be fooled. What they really mean is that trial lawyers will not be able to fill their coffers in State courts at the expense of both the businesses they sue and the citizens that they supposedly represent. Under current rules, if two lawyers have entered competing class actions in court, the first to be decided gets all of the relief and the other action is moot, which leaves the members of the other action without any recourse in court. H.R. 1875 would allow plaintiffs to remove their case to Federal court, where these similar actions would be coordinated into a single action, benefiting the people seeking redress and not the trial lawyers.

H.R. 1875 also includes provisions to ensure that these new rules will not place unreasonable burdens on the Federal judiciary. While CBO estimates that H.R. 1875 would have only a minimal impact on the Federal bench, the bill requires the GAO to complete a study on the effect that the changes in diversity rules would have on the Federal judiciary and report to Congress no later than 1 year after the bill's enactment.

I applaud my friend from Virginia (Mr. GOODLATTE) and the gentleman from Illinois (Mr. HYDE), the chairman of the Committee on the Judiciary, for their good work on this action, which returns our class action system to the fundamental principles intended by our founders when they created the Federal judiciary. This bill is fair to all parties and restores the impartial venue of the Federal courts to class actions. I encourage every Member to support this fair rule and the underlying rule.

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

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

Mr. Speaker, I rise in strong opposition to this bill. H.R. 1875 has an innocuous title, the Interstate Class Action Jurisdiction Act, but its content is destructive.

Mr. Speaker, this bill makes it harder for the little guy to have his day in court. It seriously limits the ability of Americans to seek redress for injuries caused by large corporations. This legislation also represents an unwarranted incursion into State court prerogatives and by doing so will further clog the already backlogged and overloaded Federal court system. This legislation does nothing to curb abuses of the class action system, but it will ensure that legitimate claims will be harder to pursue, will be more expensive to pursue, and will take far longer in the courts than they already are.

In short, Mr. Speaker, this is a very bad bill, and it deserves to be defeated.

H.R. 1875 flies directly in the face of the notion of States' rights that my Republican colleagues are so often heard to extol. The bill removes every class action from State court, unless all of the primary defendants are incor-

porated, or have their principal place of business in the State where the case is filed, or unless virtually all of the plaintiffs are citizens of that State.

□ 1045

The Attorneys General of New York and Oklahoma have written to the Speaker raising objections to this bill based on the very notion of States' rights. They write, "Such a radical transfer of jurisdiction in cases that most commonly raise questions of State law would undercut State courts' ability to manage their own court systems and consistently interpret State laws."

The President of the Conference of Chief Justices wrote to the chairman of the Committee on the Judiciary to say, and again I quote, "We believe that H.R. 1875 in its present form is an unwarranted incursion on the principles of Federalism underlying our system of government."

Mr. Speaker, some proponents of this legislation say that it is a simple procedural fix. Others contend that it was designed to fix abuses of the class action system. But Mr. Speaker, there are those of us who ask, how could an unwarranted incursion on the principles of judicial Federalism represent a simple procedural fix?

There are others of us who ask why, if the intent is to address abuse, are there no specific remedies for specific problems embodied in this bill?

Mr. Speaker, this bill faces a certain veto. It is opposed by the Justice Department, the Judicial Conference of the United States, the Conference of Chief Justices, the Attorneys General of New York, Oklahoma, Connecticut, Florida, Idaho, Iowa, Kansas, Massachusetts, Minnesota, New Hampshire, Oregon, Pennsylvania, Vermont, Tennessee, and West Virginia. It is opposed by a wide range of consumer groups, health groups, social justice groups, and the trial lawyers.

They are all rightly concerned that H.R. 1875 will remove class actions from forums which are most convenient for victims of wrongdoing. They are all rightly concerned that passage of this legislation would deny class action relief which could remedy fraudulent behavior, discriminatory practices, or negligence.

I share these concerns, Mr. Speaker, and urge the defeat of this bill.

Mr. Speaker, I yield 6 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, for the great tobacco companies; the health maintenance organizations, for which so many people are asking that this Congress pass a Patients' Bill of Rights, as this Congress sits on its hands in inactivity, about abuses of patients in managed care; for the gun manufacturers and their role in gun violence; for the great insurance companies; for all of those

who believe that personal responsibility is a wonderful, basic, moral concept for everyone except for themselves, this is a great piece of legislation.

It is based on the concept that personal responsibility is for someone else, but for some who engage in wrongdoing, Congress must step in and insulate and protect them from the consequences of that wrongdoing. This bill is based on the concept that if you are big enough and bold enough, and if you lubricate the system of government at campaign time enough, and if you just steal a little bit from everyone, that you are entitled to not be held accountable for the consequences of your wrongdoing.

That is why over 70 public health and consumer organizations, groups like the American Lung Association, the American Women's Medical Association, the National Council of Senior Citizens, have said, well, if personal responsibility is such a basic American concept, how about applying it to these entities in this country that are content to just take a little bit from everyone?

I join them in opposing this misguided legislation. For some reason, our Republican colleagues are always eager to protect State wrongs. If a State neglects its citizens, if it is not meeting their needs, Republicans object to the Federal Government playing any role. That is the position that Republicans took, for example, with reference to the creation of Social Security and Medicare, and with reference to Federal support for education. But if a State has true States' rights, the Republicans are not a bit reluctant to interfere and take away those rights.

This bill would take all class actions filed in State courts and rip them out of the hands of the State judiciary and take them into Federal courts. Of course, these are Federal courts that are already overburdened and clogged and unable to meet the responsibilities they already have.

As my colleague, the gentleman from Texas (Mr. FROST) just pointed out, that is why many within the Federal judiciary oppose this legislation. The same is true of our State judges, an independent State judiciary being very fundamental to the organization of our country. Since most of these class action suits are based upon the law of an individual State, Mr. Speaker, it is that State judiciary that is most familiar with the substantive law involved in these various class action suits.

If a health maintenance organization in Texas abuses a Texas citizen, I have confidence in the Texas judiciary within our State to examine State law and determine whether our State deceptive practices act or other provision of our Insurance Code has been violated, not just with regard to one Texan, but with regard to many Texans, rather than shifting that into the Federal judiciary.

I believe that Texas ought to have the right to establish its own law to protect its consumers in health maintenance organizations, as it took the lead in doing, and have those actions disposed of by our Texas judiciary.

This legislation would destroy that right and shift into a crowded and overwhelmed Federal judiciary the job of policing the wrongdoing of the few against the many. It is the taking away of States' rights that, as my colleague, the gentleman from Texas, has rightfully noted, has caused the attorneys general of these States, has caused State judges, to say, do not interfere with what we are doing.

There has been no case made that our State courts are abusing their responsibilities, are not fulfilling their responsibilities, to justify this amazing assumption of power by the Federal courts, a right they do not want in the Federal judiciary, and which, at the same time, will cut out the heart of the right of the States to decide cases interpreting State law as it affects the citizens of their State.

The only justification for this legislation is for those who have committed some of the greatest wrongs in this country, the tobacco companies that continue to addict 3,000 children a day to nicotine addiction, the insurance companies and the health maintenance organizations that continue to have a stranglehold on this Congress, to not pass a Patients' Bill of Rights.

Other wrongdoers in our society are now influencing this Congress to take away one of the only effective remedies that our citizens have. That is to come together in an efficient way in the court system, when the Congress will not act, to turn to the courts and seek a remedy there in front of a jury of their peers. If someone has taken a little from the many, not to bar the courthouse door, the way citizens have been blocked out of this Congress, but permitting Americans to join together before a local State judge and proceed in the State judiciary and seek some remedy for wrongdoing that has occurred, which this Congress would not address.

Now that same crowd of special interests, which has encouraged this as an inactive do-nothing Congress, is saying, close off the one remedy the people have to join together in their individual States. It is wrong. This bill should be rejected.

Mr. LINDER. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Texas (Mr. SESSIONS), my colleague on the Committee on Rules.

Mr. SESSIONS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today in support of the rule for consideration of the Interstate Class Action Jurisdiction Act of 1999. The underlying legislation will streamline the ability of courts to deal with class action lawsuits. This is very important for Americans, and as my colleague from Texas has argued, it

is important for people who live in States and local jurisdictions.

However, we believe that it is important for us to make sure that people who do need remedy in class action lawsuits are handled properly. Today we offer this change in the law to ensure that multiple litigants who reside outside of a particular State who wish to become a party to a class action lawsuit must file that action within Federal court.

Our Founding Fathers did not intend for one State to judge class action lawsuits involving many other States. The Federal courts are better equipped with not only resources but also the staff to handle class action lawsuits involving citizens of diverse States.

This rule makes in order any germane amendments to exempt industries from class action reform. These amendments, however, should be rejected. Such amendments go against the underlying principles of this bill, that Federal courts are the appropriate venues to try large class action lawsuits involving citizens of diverse States, and that applies no less to tobacco, guns, or HMO litigation.

Since there are no specific reasons to carve out a specific industry, any amendment to do so can only be intended to derail the bill or apply a political correctness test to what should be neutral rules of civil procedure.

Mr. Speaker, these are contentious issues. They are important issues to our entire Nation, and as such, should be treated properly at the Federal level. This is a proper way to handle contentious national problems. It is important to recognize that this rule has been crafted to accommodate amendments that are objectionable to many Members of this body, including myself.

But what we are trying to do is to make sure that we craft a rule that allows open debate, to allow other people who disagree with us to be able to bring these amendments, such as they are, to try and carve out these three areas. I simply disagree with them.

Therefore, this rule sponsored by the gentleman from Georgia (Mr. LINDER) I believe is fair, it deserves the support of this body, and it is, I believe, important for our colleagues to recognize that we should not carve out three areas that are contentious political debates in this country to put them to specific State district courts within a State and expect a State to not only have the burden of that cost, but also to where we take it outside of where a Federal remedy is necessary.

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

Mr. Speaker, this legislation ignores a fundamental fact about the way the judiciary is organized in the United States.

In the Federal court system, the same Federal judges hear both civil and criminal cases. In the State court system, as in my State of Texas, there is a complete separate set of judges

that hear civil cases and a separate set of judges that hear criminal cases.

What the Republican majority has done during the last 5 years is vastly increase the number of crimes that are now heard in Federal court, so that they have overburdened the Federal court system by adding additional cases that must be heard by Federal judges, and now they want to further overburden the Federal court system by bucking almost all class actions to the Federal court level.

They ignore the fact that our State courts are structured with two separate types of courts, one for civil jurisdiction and one for criminal jurisdiction, and our Federal judiciary must hear both civil and criminal cases before the exact same judges. They are putting an inexcusably difficult burden on the Federal judiciary.

I had the opportunity as a very young man right out of law school to clerk for a Federal judge. I do have some understanding of the way the Federal judiciary in this country operates. We are now piling so many cases on the backs of Federal judges that we are going to make it impossible for real justice to be achieved through the Federal system.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

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

□ 1100

Mr. DOGGETT. Mr. Speaker, is the gentleman from Texas (Mr. FROST) familiar with the record of this Congress on appointments and vacancies in the Federal judiciary in Texas and across the country as to whether or not, over the last several years, there have been literally dozens of vacancies left in our Federal trial courts and in our Federal appellate courts, which are the very ones that will now have shifted to them significant and expansive new litigation?

Mr. FROST. Mr. Speaker, I am happy to respond. In fact, I very much am. There is an article in today's Washington Post describing that exact situation about how slow the current Congress, the members of the other body have been to fill Federal vacancies during the last several years.

Mr. DOGGETT. Mr. Speaker, so will not the effect of this legislation be to shift the rights of those who have been wronged to Federal courthouses where the bench and the office is empty because the same Republican Congress that is proposing this legislation will not approve judges to sit in the seats to deal with the business that those courts have that they are overburdened with today?

Mr. FROST. Mr. Speaker, that is exactly the case. As I indicated, this same Congress has been adding jurisdiction to the Federal courts on the criminal side so that more and more time is taken up with hearing criminal cases. Now they want to increase the civil jurisdiction of the Federal court

system and, as the gentleman has pointed out, not fill those judgeships so that all those matters can be handled in a prompt way.

Mr. Speaker, I am prepared to yield back in just a moment. I would urge that the rule be defeated. I would urge that the bill be defeated. This is a bad piece of legislation that is going to substantially harm the Federal judiciary and substantially harm the rights of litigants in this country.

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

Mr. LINDER. Mr. Speaker, I yield such time as he might consume to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules, for the closing arguments on a very fair rule.

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

Mr. DREIER. Mr. Speaker, I thank the gentleman from Atlanta, Georgia (Mr. LINDER), the distinguished chairman of the Subcommittee on Rules and Organization of the House, for his fine leadership on the Committee on Rules and his management of this and his moving it so expeditiously.

I am not going to take a long period of time other than to say I cannot believe that the gentleman from Texas (Mr. FROST) would advocate opposing an open rule which simply had a pre-filing requirement for the CONGRESSIONAL RECORD. I mean, it is a modified open rule. Seven amendments have been filed.

We are going to see what obviously will be a free-flowing debate, I suspect not unlike the exchange we saw between the two gentlemen from Texas, Mr. DOGGETT and Mr. FROST, just now.

This bill is not about attorney bashing. I mean, the trial lawyers are often criticized around here. But that is really not the issue. The fact of the matter is, in my State of California, we have often seen judge shopping take place. That is what is going on right now all around the country.

What has that done? It has unfortunately increased cost to consumers, and it has created an amazing burden. That is the reason that the gentleman from Virginia (Mr. GOODLATTE) and others are going to be moving forward with what I believe to be a very fair and balanced measure which will have a free and open debate. It is the right thing for us to do. We want to make sure that people do, in fact, have their day in court.

I will tell both of the gentlemen from Texas, Mr. DOGGETT and Mr. FROST, that I am looking forward to superb judicial appointments coming from the next administration. I am looking forward to a United States Senate which will, at the speed of light, confirm those spectacular appointments.

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

The previous question was ordered.

The SPEAKER pro tempore (Mr. HEFLEY). The question is on the resolution.

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

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

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 241, nays 181, not voting 11, as follows:

[Roll No. 437]

YEAS—241

Aderholt	Frank (MA)	Miller, Gary
Archer	Franks (NJ)	Moore
Armey	Frelinghuysen	Moran (KS)
Bachus	Gallegly	Moran (VA)
Baker	Ganske	Morella
Ballenger	Gekas	Murtha
Barr	Gibbons	Myrick
Barrett (NE)	Gilchrest	Nethercutt
Bartlett	Gillmor	Ney
Barton	Gilman	Northup
Bass	Goode	Norwood
Bateman	Goodlatte	Nussle
Bereuter	Goodling	Ose
Biggert	Goss	Oxley
Bilbray	Graham	Packard
Bilirakis	Granger	Paul
Bliley	Green (WI)	Pease
Blumenauer	Greenwood	Peterson (MN)
Blunt	Gutknecht	Peterson (PA)
Boehler	Hall (TX)	Petri
Boehner	Hansen	Phelps
Bonilla	Hastings (WA)	Pickering
Bono	Hayes	Pitts
Boucher	Hayworth	Pombo
Boyd	Hefley	Pomeroy
Brady (TX)	Herger	Porter
Bryant	Hill (MT)	Portman
Burr	Hilleary	Pryce (OH)
Burton	Hobson	Quinn
Buyer	Hoekstra	Radanovich
Callahan	Horn	Ramstad
Calvert	Hostettler	Regula
Camp	Houghton	Reynolds
Campbell	Hulshof	Riley
Canady	Hunter	Rogan
Cannon	Hutchinson	Rogers
Castle	Hyde	Rohrabacher
Chabot	Isakson	Ros-Lehtinen
Chambliss	Istook	Roukema
Chenoweth	Jenkins	Ryan (WI)
Coburn	John	Ryun (KS)
Collins	Johnson (CT)	Salmon
Combest	Johnson, Sam	Sanford
Condit	Jones (NC)	Saxton
Cook	Kasich	Schaffer
Cooksey	Kelly	Sensenbrenner
Cox	King (NY)	Sessions
Cramer	Kingston	Shadegg
Crane	Knollenberg	Shaw
Cubin	Kolbe	Shays
Cunningham	Kuykendall	Sherwood
Davis (VA)	LaHood	Shimkus
Deal	Largent	Shuster
DeLay	Latham	Simpson
DeMint	LaTourette	Sisisky
Dickey	Lazio	Skeen
Dooley	Leach	Smith (MI)
Doolittle	Lewis (CA)	Smith (NJ)
Doyle	Lewis (KY)	Smith (TX)
Dreier	Linder	Souder
Duncan	LoBiondo	Spence
Dunn	Lucas (KY)	Stearns
Ehlers	Lucas (OK)	Stenholm
Ehrlich	Manzullo	Strickland
Emerson	Martinez	Stump
English	McCollum	Sununu
Eshoo	McCrery	Talent
Everett	McHugh	Tancredo
Ewing	McInnis	Tauzin
Fletcher	McIntosh	Taylor (NC)
Foley	McKeon	Terry
Forbes	Metcalf	Thomas
Fossella	Mica	Thornberry
Fowler	Miller (FL)	Thune

Tiaht	Wamp	Wicker
Toomey	Watkins	Wilson
Traficant	Watts (OK)	Wolf
Upton	Weldon (FL)	Young (AK)
Vitter	Weldon (PA)	Young (FL)
Walden	Weller	
Walsh	Whitfield	

NAYS—181

Abercrombie	Hastings (FL)	Oberstar
Ackerman	Hill (IN)	Obey
Allen	Hilliard	Olver
Andrews	Hinchev	Ortiz
Baird	Hinojosa	Owens
Baldacci	Hoeffel	Pallone
Baldwin	Holt	Pascrell
Barcia	Hooley	Pastor
Barrett (WI)	Hoyer	Payne
Becerra	Inslee	Pelosi
Bentsen	Jackson (IL)	Pickett
Berkley	Jackson-Lee	Price (NC)
Berman	(TX)	Rahall
Berry	Johnson, E. B.	Reyes
Bishop	Jones (OH)	Rivers
Blagojevich	Kanjorski	Rodriguez
Bonior	Kaptur	Roemer
Borski	Kennedy	Rothman
Boswell	Kildee	Roybal-Allard
Brady (PA)	Kilpatrick	Rush
Brown (FL)	Kind (WI)	Sabo
Brown (OH)	Kleccka	Sanchez
Capps	Klink	Sanders
Capuano	Kucinich	Sandlin
Cardin	LaFalce	Sawyer
Carson	Lampson	Schakowsky
Clay	Lantos	Scott
Clayton	Larson	Serrano
Clement	Lee	Sherman
Clyburn	Levin	Shows
Conyers	Lewis (GA)	Skelton
Costello	Lipinski	Slaughter
Coyne	Lofgren	Smith (WA)
Crowley	Lowey	Snyder
Cummings	Luther	Spratt
Danner	Maloney (CT)	Stabenow
Davis (FL)	Maloney (NY)	Stark
Davis (IL)	Markey	Stupak
DeFazio	Mascara	Tanner
DeGette	Matsui	Tauscher
Delahunt	McCarthy (MO)	Taylor (MS)
DeLauro	McCarthy (NY)	Thompson (CA)
Deutsch	McDermott	Thompson (MS)
Dicks	McGovern	Thurman
Dingell	McIntyre	Tierney
Dixon	McKinney	Towns
Doggett	McNulty	Turner
Edwards	Meehan	Udall (CO)
Etheridge	Meek (FL)	Udall (NM)
Evans	Meeks (NY)	Velazquez
Farr	Menendez	Vento
Fattah	Millender-	Visclosky
Filner	McDonald	Watt (NC)
Ford	Miller, George	Waxman
Frost	Minge	Weiner
Gejdenson	Mink	Wexler
Gephardt	Moakley	Weygand
Gonzalez	Mollohan	Wise
Gordon	Nadler	Woolsey
Green (TX)	Napolitano	Wu
Gutierrez	Neal	Wynn

NOT VOTING—11

Coble	Holden	Scarborough
Diaz-Balart	Jefferson	Sweeney
Engel	Rangel	Waters
Hall (OH)	Royce	

□ 1127

Messrs. DELAHUNT, SPRATT, TAYLOR of Mississippi and RODRIQUEZ changed their vote from "yea" to "nay."

Mr. HALL of Texas changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES ON H.R. 1501, JUVENILE JUSTICE REFORM ACT OF 1999

The SPEAKER pro tempore (Mr. HEFLEY). The unfinished business is the question of agreeing to the motion to instruct on the bill (H.R. 1501) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide grants to ensure increased accountability for juvenile offenders; to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide quality prevention programs and accountability programs relating to juvenile delinquency; and for other purposes, offered by the gentlewoman from California (Ms. LOFGREN), on which the yeas and nays were ordered.

The Clerk will designate the motion.

The text of the motion is as follows:

Ms. Lofgren 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. 1501, be instructed to insist that the committee of conference recommend a conference substitute that—

(1) includes a loophole-free system that assures that no criminals or other prohibited purchasers (e.g. murderers, rapists, child molesters, fugitives from justice, undocumented aliens, stalkers, and batterers) obtain firearms from non-licensed persons and federally licensed firearms dealers at gun shows;

(2) does not include provisions that weaken current gun safety law; and

(3) includes provisions that aid in the enforcement of current laws against criminals who use guns (e.g. murderers, rapists, child molesters, fugitives from justice, stalkers and batterers).

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from California (Ms. LOFGREN) on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 305, nays 117, not voting 11, as follows:

[Roll No. 438]

YEAS—305

Abercrombie	Buyer	Diaz-Balart
Ackerman	Calvert	Dickey
Allen	Camp	Dicks
Andrews	Campbell	Dixon
Baird	Canady	Doggett
Baldacci	Capps	Dooley
Baldwin	Capuano	Doolittle
Ballenger	Cardin	Doyle
Barrett (WI)	Carson	Dreier
Bartlett	Castle	Duncan
Barton	Chambliss	Dunn
Bateman	Clay	Edwards
Becerra	Clayton	Ehlers
Bentsen	Clement	Ehrlich
Bereuter	Clyburn	English
Berkley	Combust	Eshoo
Berman	Condit	Etheridge
Biggett	Conyers	Evans
Billbray	Cook	Ewing
Billirakis	Coyne	Farr
Blagojevich	Crane	Fattah
Blumenauer	Crowley	Filner
Blunt	Cummings	Foley
Boehkert	Cunningham	Forbes
Bonior	Davis (FL)	Ford
Bono	Davis (IL)	Fossella
Borski	Davis (VA)	Fowler
Boswell	Deal	Frank (MA)
Boyd	DeFazio	Franks (NJ)
Brady (PA)	DeGette	Frelinghuysen
Brady (TX)	Delahunt	Frost
Brown (FL)	DeLauro	Galleghy
Brown (OH)	Deutsch	Ganske

Gejdenson	Maloney (CT)	Rothman
Gephardt	Maloney (NY)	Roukema
Gilchrest	Manzullo	Roybal-Allard
Gillmor	Markey	Rush
Gilman	Martinez	Ryan (WI)
Gonzalez	Mascara	Sabo
Goss	Matsui	Salmon
Granger	McCarthy (MO)	Sanchez
Green (WI)	McCarthy (NY)	Sanders
Greenwood	McCollum	Sawyer
Gutierrez	McDermott	Saxton
Gutknecht	McGovern	Schaffer
Hastings (FL)	McHugh	Schakowsky
Hefley	McInnis	Scott
Herger	McKeon	Sensenbrenner
Hilleary	McKinney	Serrano
Hinchev	McNulty	Shaw
Hinojosa	Meehan	Shays
Hobson	Meek (FL)	Sherman
Hoeffel	Meeks (NY)	Simpson
Hoekstra	Menendez	Skeen
Holt	Metcalf	Slaughter
Hooley	Mica	Smith (NJ)
Horn	Millender-	Smith (WA)
Houghton	McDonald	Snyder
Hoyer	Miller (FL)	Spratt
Hunter	Miller, Gary	Stabenow
Hutchinson	Miller, George	Stark
Hyde	Minge	Stearns
Inslee	Mink	Stupak
Isakson	Moakley	Sweeney
Jackson (IL)	Mollohan	Tancredo
Jackson-Lee	Moore	Tauscher
(TX)	Moran (VA)	Tauzin
John	Morella	Taylor (MS)
Johnson (CT)	Nadler	Terry
Johnson, E. B.	Napolitano	Thomas
Jones (OH)	Neal	Thompson (CA)
Kanjorski	Nethercutt	Thompson (MS)
Kaptur	Northup	Thurman
Kasich	Nussle	Tierney
Kelly	Obey	Towns
Kennedy	Olver	Traficant
Kildee	Ose	Udall (CO)
Kilpatrick	Owens	Udall (NM)
Kind (WI)	Oxley	Upton
King (NY)	Packard	Velazquez
Kleccka	Pallone	Vento
Klink	Pascrell	Visclosky
Knollenberg	Pastor	Walden
Kolbe	Payne	Walsh
Kucinich	Pelosi	Waters
Kuykendall	Pelosi	Watt (NC)
LaFalce	Pomeroy	Waxman
Lantos	Porter	Weiner
Larson	Portman	Weldon (FL)
Latham	Price (NC)	Weldon (PA)
LaTourette	Pryce (OH)	Weller
Lazio	Quinn	Wexler
Leach	Radanovich	Weygand
Lee	Ramstad	Wilson
Levin	Regula	Wise
Lewis (CA)	Reyes	Wolf
Lewis (GA)	Reynolds	Woolsey
Linder	Rivers	Wu
Lipinski	Rodriguez	Wynn
LoBiondo	Roemer	Young (AK)
Lofgren	Rogan	Young (FL)
Lowe	Rohrabacher	
Luther	Ros-Lehtinen	

NAYS—117

Aderholt	Danner	Jones (NC)
Archer	DeLay	Kingston
Armey	DeMint	LaHood
Bachus	Dingell	Lampson
Baker	Emerson	Largent
Barcia	Everett	Lewis (KY)
Barr	Fletcher	Lucas (KY)
Barrett (NE)	Gekas	Lucas (OK)
Bass	Gibbons	McCreary
Berry	Goode	McIntosh
Bishop	Goodlatte	McIntyre
Bliley	Goodling	Moran (KS)
Boehner	Gordon	Murtha
Bonilla	Graham	Myrick
Boucher	Green (TX)	Ney
Bryant	Hall (TX)	Norwood
Burr	Hansen	Oberstar
Burton	Hastings (WA)	Ortiz
Callahan	Hayes	Paul
Chabot	Hayworth	Pease
Chenoweth	Hill (IN)	Peterson (MN)
Coburn	Hill (MT)	Peterson (PA)
Collins	Hilliard	Phelps
Cooksey	Hostettler	Pickering
Costello	Hulshof	Pickett
Cramer	Jenkins	Pitts
Cubin	Johnson, Sam	Pombo

Rahall	Sisisky	Taylor (NC)
Riley	Skelton	Thornberry
Rogers	Smith (MI)	Thune
Ryun (KS)	Smith (TX)	Tiahrt
Sandlin	Souder	Toomey
Sanford	Spence	Turner
Sessions	Stenholm	Vitter
Shadegg	Strickland	Wamp
Sherwood	Stump	Watkins
Shimkus	Sununu	Watts (OK)
Shows	Talent	Whitfield
Shuster	Tanner	Wicker

## NOT VOTING—11

Cannon	Hall (OH)	Rangel
Coble	Holden	Royce
Cox	Istook	Scarborough
Engel	Jefferson	

□ 1137

Messrs. BURTON of Indiana, NEY, DELAY, SHOWS, WHITFIELD, ADERHOLT, STRICKLAND, LARGENT, and KINGSTON changed their vote from "yea" to "nay."

Mr. RADANOVICH changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Mr. YOUNG of Alaska. Mr. Speaker, I mistakenly voted in favor of the motion to instruct conferees on H.R. 1501 offered by Ms. LOFGREN. My vote should have been recorded as a vote in opposition to the motion.

## GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 1875, the bill to be considered in the Committee on the Whole shortly.

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

There was no objection.

INTERSTATE CLASS ACTION  
JURISDICTION ACT OF 1999

The SPEAKER pro tempore. Pursuant to House Resolution 295 and rule XVIII, the Chair declares the House in the Committee of the Whole on the State of the Union for the consideration of the bill, H.R. 1875.

The Chair designates the gentleman from Utah (Mr. HANSEN) as chairman of the Committee of the Whole, and requests the gentleman from Colorado (Mr. HEFLEY) to assume the chair temporarily.

□ 1138

## 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. 1875) to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, with Mr. HEFLEY (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

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

Under the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

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

Mr. Chairman, this much-needed bipartisan legislation corrects a serious flaw in our Federal jurisdiction statutes. At present, those statutes forbid our Federal courts from hearing most interstate class actions, the lawsuits that involve more money and touch more Americans than virtually any other litigation pending in our legal system.

Mr. Chairman, the class action device is a necessary and important part of our legal system. It promotes efficiency by allowing plaintiffs with similar claims to adjudicate their cases in one proceeding. It also allows claims to be heard in cases where there are small harms to a large number of people, which would go otherwise unaddressed because the cost to the individuals suing could far exceed the benefit to the individual. However, class actions have been used with an increasing frequency and in ways that do not promote the interests they were intended to serve.

In recent years, State courts have been flooded with class actions. As a result of the adoption of different class action certification standards in the various States, the same class might be certifiable in one State and not another or certifiable in State court but not in Federal court. This creates the potential for abuse of the class action device, particularly when the class involves parties from multiple States or requires the application of the laws of many States.

For example, some State courts routinely certify classes before the defendant is even served with a complaint and given a chance to defend. Other State courts employ very lax class certification criteria rendering virtually any controversy subject to class action treatment.

There are instances where a State court, in order to certify a class, has determined that the law of that State applies to all claims, including those of purported class members who live in other jurisdictions. This has the effect of making the law of that State applicable nationwide.

The existence of State courts which broadly apply class certification rules encourages plaintiffs to forum shop for the court which is most likely to certify a purported class. In addition to forum shopping, parties frequently exploit major loopholes in the Federal jurisdiction statutes to block the removal of class actions that belong in Federal court.

For example, plaintiffs' counsel may name parties that are not really relevant to the class claims in an effort to destroy diversity. In other cases, counsel may waive Federal law claims or shave the amount of damages claimed to ensure that the action will remain in State court.

Another problem created by the ability of State courts to certify class actions which adjudicate the right of citizens of many States is that oftentimes more than one case involving the same class is certified at the same time. In the Federal court system, these cases involving common questions of fact may be transferred to one district for coordinated or consolidated pretrial proceedings.

When these class actions are pending in State courts, however, there is no corresponding mechanism for consolidating the competing suits. Instead, a settlement or judgment in any of the cases make the other class actions moot. This creates an incentive for each class counsel to obtain a quick settlement of the case and an opportunity for the defendant to play the various class counsel against each other and drive the settlement value down. The loser in this system is the class member whose claim is extinguished by the settlement at the expense of counsel seeking to be the one entitled to recovery of fees.

Our bill is designed to prevent these abuses by allowing large interstate class action cases to be heard in Federal court. It would expand the statutory diversity jurisdiction of the Federal courts to allow class action cases involving minimal diversity. That is when any plaintiff and any defendant are citizens of different States to be brought in or removed to Federal court.

Article 3 of the Constitution empowers Congress to establish Federal jurisdiction over diversity cases, cases between citizens of different States. The grant of Federal diversity jurisdiction was premised on concerns that State courts might discriminate against out-of-state defendants.

In a class action, only the citizenship of the named plaintiff is considered for determining diversity, which means that Federal diversity jurisdiction will not exist if the named plaintiff is a citizen of the same State as the defendant regardless of the citizenship of the rest of the class.

□ 1145

Congress also imposes a monetary threshold, now \$75,000, for Federal diversity claims. However the amount in controversy requirement is satisfied in a class action only if all of the class members are seeking damages in excess of the minimum required by the statute.

These jurisdictional statutes were originally enacted years ago, well before the modern class action arose, and they now lead to perverse results. For example, under current law a citizen of

one State may bring in Federal court a simple \$75,001 slip-and-fall claim against a party from another State. However, if a class of 25 million product owners, each having a claim of \$10,000 living in all 50 States, brings claims collectively worth \$250 billion against the manufacturer, the lawsuit cannot be heard in Federal court.

This result is certainly not what the framers had in mind when they established Federal diversity jurisdiction. Our bill offers a solution by making it easier for plaintiff class members and defendants to remove class actions to Federal court where cases involving multiple State laws are more appropriately heard. Under our bill, if a removed class action is found not to meet the requirements for proceeding on a class basis, the Federal court would dismiss the action without prejudice, and the action could be refiled in the State court.

This legislation does not limit the ability of anyone to file a class action lawsuit. It does not change anybody's rights to recovery. Our bill specifically provides that it will not alter the substantive law governing any claims as to which jurisdiction is conferred. Our legislation merely closes the loophole allowing Federal courts to hear big lawsuits involving truly interstate issues while ensuring that purely local controversies remain in State courts. That is exactly what the framers of the Constitution had in mind when they established Federal diversity jurisdiction.

I urge each of my colleagues to support this very important bipartisan legislation.

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

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

Mr. Chairman, this is a measure, H.R. 1875, that will remove class actions involving State law issues from State courts, the forum most convenient for victims of wrongdoing to litigate and most familiar with the substantive law involved, to the Federal courts where the class is less likely to be certified and the case will take longer to resolve.

Now why is this being done in the face of all the arguments for States rights, the concern about the Tenth Amendment to the Constitution that reminds us that all powers not explicitly delegated to the Federal system is reserved to the States? Why are we here with a bill that would now take this power from the State courts and subject it to Federal rule?

Although this bill is described by its proponents as a simple procedural fix, in actuality it rewrites a major rewrite of the class action rules that would bar most forms of State class actions. That is right; it would bar most forms of State class actions. H.R. 1875 is appropriately opposed by the Department of Justice, both the State and Federal courts, by consumer interest groups, and public interest groups as well.

Now class action procedures offer a valuable mechanism for aggregating small claims that otherwise might not warrant individual litigation. This legislation will undercut that important principle by making it far more burdensome, expensive and time consuming for injured persons to obtain access to justice in the State courts.

In doing so, it will make it more difficult to protect our citizens against violations of consumer health, safety and environmental laws, to name but a few important ones. Thus, the bill will benefit only one class of litigants, corporate wrongdoers. The most obvious examples of corporate defendants that have been susceptible to State class actions are, as we know, tobacco, gun, and managed care industries.

H.R. 1875 will also damage both the Federal and State courts. As a result of Congress' increasing propensity to federalize State crimes and the Senate, the United States Senate's, unwillingness to confirm judges, the Federal courts are already facing a dangerous work-load crisis. By forcing resource-intensive class actions into Federal court, H.R. 1875 will effectively further aggravate those problems and cause victims to wait in line even longer, as much as 3 years or more, to obtain trial. Moreover, to the extent class actions are remanded to State court, the legislation effectively only permits case-by-case adjudications, potentially draining away precious State court resources as well.

Now finally, the legislation raises constitutional issues because H.R. 1875 does not merely operate to preempt an area of State law, which is onerous enough, but rather it unilaterally strips the State courts of their ability to use class actions' procedural device to resolve State law disputes. The courts have previously indicated that efforts by the Congress to dictate such State court procedures implicate important Tenth Amendment issues and should be avoided. These powers that are not explicitly granted the Federal system are reserved to the States, and we are taking this very important judicial tool away from the States.

So H.R. 1875's incursion into State court prerogatives is no less dangerous to the public than many of the radical forms of tort reform that were rejected of court stripping that was rejected by both the Congress and the administration, and thus I urge that H.R. 1875, Interstate Class Action Jurisdiction Act of 1995, likewise be rejected.

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

Mr. GOODLATTE. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. BOUCHER), one of the lead cosponsors of this legislation, a member of the Committee on the Judiciary and my friend.

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

Mr. BOUCHER. Mr. Chairman, I rise today in strong support of H.R. 1875,

which I am pleased to be co-authoring with my friend and Virginia colleague, the gentleman from Roanoke (Mr. GOODLATTE). Our measure makes a much needed reform in an area that has been subjected to substantial abuse.

Increasingly, lawsuits that are truly national in scope are being filed as State class actions, and a range of problems attends this growing practice. Some State judges employ an almost anything-goes approach that renders virtually any controversy subject to certification as a State class action.

Some State courts routinely engage in a practice that is best described as drive-by class certifications in which the decision to certify the class is made before the defendant is even served with the complaint and given an opportunity to contest the class certification. In such an environment, defendants and even plaintiffs are being denied the most routine of rights as there is a rush to certify classes and a rush to settle the cases.

For example, in order to prevent removal of cases to Federal courts, the amount that is sued for is sometimes kept artificially below the \$75,000 jurisdictional threshold for Federal court actions, and that is done even though in many of these instances the plaintiffs would be entitled to recover more than \$75,000. In the same vein, class action complaints in many cases will not raise Federal causes of action that could legitimately be raised; also, for the purpose of denying the defendants the opportunity to remove the cases to Federal court.

These practices are clearly not in the interests of the plaintiffs on whose behalf the class actions have been filed, and neither are the quick settlements that often follow and that yield large fees for the plaintiff's attorneys and negligible returns for the plaintiffs themselves.

Another major problem arises from the inability of States to consolidate class action proceedings that often are filed in more than one State and that involve the same issues of law and fact, that involve the same causes of action, and that involve the same class members on both the plaintiff's side and also the same defendants.

Frequently, these parallel cases proceed in numerous States at the same time to the disadvantage of all parties concerned. This circumstance sometimes leads to competition among the States in order to get the certification first and to achieve the first settlement, whatever the cost of that settlement to the plaintiffs on whose behalf the class action has been filed. In the Federal courts, of course, multidistrict litigation can be consolidated, thereby eliminating and avoiding all of these problems.

The legislation that is before the House today seeks to address these concerns by permitting cases that are truly national in scope to be removed to Federal court even if the traditional

diversity requirements are not met. Today, the target defendant is almost always a large out-of-state corporation. To prevent removal under current rules an in-state defendant, such as a retailer or distributor of the product that is the subject of the action against whom recovery is generally not sought, will be joined as a party defendant simply to prevent there being complete diversity and to prevent the removal of the case to Federal court.

Our legislation would permit removal in that instance if the center of gravity of the case is truly national in scope. The legislation is carefully drafted to provide that cases which are local, and we refer to these as interstate cases, will not be entertained in the Federal courts unless the traditional removal rules are met. If the defendant and the majority of the plaintiffs are in-state parties, and if the law of that State will govern disposition of the proceedings, then the Federal judge will be required to remand that case for proceedings in State court.

Some of the opponents of this legislation claim that it essentially federalizes all class actions. That simply is not the case. If the case is local in nature, if the majority of the plaintiffs, if the defendant are residents of the State in which the class action is filed, and if the law of that State would be dispositive of the proceeding, then the Federal judge under this legislation would be required to return that case as a class action to the State courts, and so State class actions can proceed under those arrangements where the cases are, in fact, purely local.

The legislation sensibly improves our legal system without limiting anyone's right to file a class action or to receive recovery; and I am pleased to be joined in co-authoring this measure with the gentleman from Virginia (Mr. GOODLATTE), the gentleman from Virginia (Mr. MORAN), the gentleman from Tennessee (Mr. BRYANT). And this morning I am pleased to strongly urge its adoption by the House.

Mr. CONYERS. Mr. Chairman, I yield myself 1 minute before yielding to the gentleman from Ohio (Mr. KUCINICH) because both the previous speakers supporting the bill have talked about the ability of courts to allow the certifying of class actions before the defendants have had an opportunity to respond, and I would like to point out that not only is this barred by the Constitution, that there is a Supreme Court case on it preventing it; and the two Alabama State court cases have both held that classes may not be certified without notice and full opportunity for defendants to respond, and the class certification criteria must be rigorously applied.

So I just want to lay that chestnut to rest as the debate goes on.

Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Chairman, I thank the gentleman from Michigan

(Mr. CONYERS) for yielding this time to me.

□ 1200

Mr. Chairman, I rise in opposition to H.R. 1875, the Interstate Class Action Jurisdiction Act. As someone who has served as a State Senator in Ohio, I am here to confirm that the purpose of State courts should not be diminished. State courts exist to assure the people of the State access to justice, equal protection under the law, right to due process and right to redress for injuries.

Now, I represent the people of the United States through being a Member of this Congress, but I also represent the people of the State of Ohio. The people of my State will not yield their legal rights to H.R. 1875. The fact that a legal issue may have national implications should not and does not mean that the State does not have an abiding interest in the legal architecture which has been set up to provide the people of a State with access to the justice system, and this legislation constitutes an attack on the legal right, not only of the people of the State but of the State itself.

It protects the makers of dangerous products by taking away the rights of consumers to get their day in court. It will give the makers of dangerous products the special right to shop for a court they believe will favor them.

How many other accused can choose the judge that will judge them? We should not give those who make dangerous products advantage over our constituents in that way. It will delay justice for injured consumers. Makers of dangerous products will be able to choose courts that are seriously backlogged. We should not delay justice for injured consumers. It would deprive consumers of the right to have their case heard by State court judges and, as such, represents a manipulation of the jurisdictions and a depriving of people the right of due process at a State level.

I believe that economic rights and the right to justice are interconnected. This law would be an attempt to deconstruct those rights simultaneously and individually. This legislation ought to be defeated, and I urge my colleagues to vote against H.R. 1875.

Mr. GOODLATTE. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. MORAN), another of our lead cosponsors on this legislation.

Mr. MORAN of Virginia. Mr. Chairman, I thank my distinguished colleague, the gentleman from Virginia (Mr. GOODLATTE), for yielding me time.

Mr. Chairman, this is good legislation. It is needed legislation. So I rise in strong support of this legislation, because it will correct a statutory anomaly that conflicts with the original intent of the Framers of our Constitution. When the Framers drafted the Constitution, they created so-called diversity jurisdiction to protect

parties against bias in State courts and to allow interstate lawsuits to be heard in Federal court. Diversity jurisdiction was codified in statute with individual lawsuits in mind.

Mr. Chairman, I am a strong supporter of the class action device, and I believe that it is an important tool in our legal system to provide justice for injured parties. Class actions improve the efficiency of our legal system and are often the best way to fairly adjudicate claims.

With that said, though, we must also recognize the jurisdictional flaw in our system and the abuses that stem from it. We have a responsibility to ensure that plaintiff's and defendant's rights are both fairly protected.

In 1966, the Advisory Committee on Civil Rules created rule 23 of the Federal Rules of Civil Procedure. It allowed similar claims to be heard together. No one at that time considered the unique nature of class actions and that the diversity jurisdiction statute did not make sense for class actions.

The result of all of this is an historical anomaly that prevents interstate class actions, exactly the type of cases that should be heard in Federal court, from being heard in Federal court where they belong. It was never intended that State court justices in one State should be able to overturn the laws of other States. That does not make sense. It was never intended that that be the case by the Framers of the Constitution.

Under current law, though, most interstate class action lawsuits cannot be heard in Federal court because they do not meet the technical requirements of diversity jurisdiction, or too often due to gaming of the system by plaintiffs' attorneys oftentimes. A plaintiff's attorney will find someone in a State where the defendant is located and as soon as they can do that it goes right into State court. That was not the original intent of the Framers. A case may be worth billions of dollars but a Federal court cannot hear it if each plaintiff's damages are not at least \$75,000. It may involve millions of plaintiff class members across the country, but if there is one named plaintiff from the same State as one defendant then that case cannot be heard in Federal court.

Recently, there was a case in Alabama and the attorney for the plaintiff said if anybody wants to claim more than \$75,000 then they have to opt out.

They are gaming the system. If somebody has a claim worth more than that then they should be able to get that claim and not be used as pawns to manipulate class action lawsuits.

Most of the recent class action lawsuits filed in State courts are not single State cases. Plaintiffs' attorneys generally file these as nationwide actions, to create the most leverage to force defendants to settle, and that is what the game is all about, forcing large settlements because they know they have nationwide costly implications.

The result of all of this is that one State or county court judge in a forum hand picked by plaintiff's counsel ends up dictating what the law is for the other 49 States.

I do not want Virginia to have its laws decided by a judge in Texas or California or Illinois or New York. My colleagues should not want a State or county court judge in some other State adjudicating their constituents' rights without any accountability to the people of their own State, but that is what is happening today.

This year in a House Committee on the Judiciary hearing, former Clinton administration Solicitor General, and the famous Duke Law School constitutional scholar Walter Dellinger, described what is going on as false federalism, because instead of having a Federal judge decide for all 50 States, a judge of one State is deciding for the other 49 States.

It does not make sense. This false federalism is made worse by the rampant abuses that have been going on in some State courts and the lax certification standards that those courts apply.

It is not right. It should not continue. We need to change it. It is important to recognize this is not a radical change to our legal system. This is only to correct an anomaly that should have been corrected and that until it is corrected will lead to wide scale abuse that is not acceptable.

I strongly urge support for this contrusive corrective legislation.

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

Mr. Chairman, I would point out to my distinguished friend, the gentleman from Virginia (Mr. MORAN), that the limit was raised from \$50,000 to \$75,000 for diversity jurisdiction by the Federal court system itself. They were trying to make it a higher level to prevent gaming, not to encourage gaming.

Then I should point out to the gentleman that the Judicial Conference of the United States, the chief justice himself presiding, pointed out that 1875 creates a couple of problems. One is that, in effect, they do not have the ability to deal with increased caseload. And they expressed opposition to these class action provisions and also the conflict between these provisions of the bills and longest recognized principles of federalism, and they encourage further deliberate study of the complicated issues raised.

So although the gentleman thinks this is new material, it has been very carefully considered by the Federal judiciary.

Mr. Chairman, I yield 1 minute to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Chairman, I appreciate the gentleman from Michigan (Mr. CONYERS) yielding me the time.

Mr. Chairman, I rise to voice my strong opposition to H.R. 1875. This is a classic example of a solution looking

for a problem. Worse, it is an ill-conceived solution that actually creates a problem. Class action suits are not clogging State courts as proponents assert, but H.R. 1875 would virtually assure that Federal courts get clogged.

The real problem is that children, families, communities, and small businesses are being injured by dangerous, even reckless, corporate behavior. They need access to our civil justice system. While most businesses take care to sell safe products, some do not. Consider families whose children became ill or died after eating E. coli tainted hamburgers, small businesses and consumers who were overcharged on electric rates, communities whose drinking water was contaminated by pesticides, drivers whose auto insurance policies were unfairly canceled. All of them joined together in class action suits. If H.R. 1875 had been in effect, they would have all found it far more difficult, if not impossible, to get their fair day in court.

I join with consumer groups and senior groups in opposing this legislation.

Mr. GOODLATTE. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. DAVIS).

(Mr. DAVIS of Virginia asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Virginia. Mr. Chairman, let me just address some of the comments my colleagues made. Contrary to the assertion that H.R. 1875 would not take away any authority from State courts or otherwise offend well-established principles of federalism, this particular legislation, I think, recognizes that the expansion of Federal diversity jurisdiction over interstate class actions envisioned in this legislation is entirely consistent with the current concept of such jurisdiction.

At present, the statutory gatekeeper for Federal diversity jurisdictions is 28 U.S.C. 1332, which essentially allows Federal courts to hear cases that are large in terms of the amounts in controversy and that have interstate implications in terms of involving citizens from multiple jurisdictions.

By their nature, though, these class actions typically fulfill these requirements. Class actions normally involve so many people and so many claims, that they invariably put huge dollar sums into dispute and implicate parties from multiple jurisdictions. Yet, because section 1332 was originally enacted before the rise of the modern day class actions, it does not take account of the unique circumstances presented by class actions.

As a result, as interpreted by Federal courts, that section has served to potentially exclude class actions from Federal courts while allowing Federal courts much smaller cases having few, if any, interstate ramifications.

That technical problem would be corrected by this legislation. I think it was put together by former solicitor general Walter Dellinger, as he testi-

fied before the House Committee on the Judiciary hearing on the bill that if Congress were to rewrite completely the Federal diversity legislation statute, there would be really little legitimate debate that interstate class actions should be the first and foremost type of case to be included within the scope of this statute. So I think the implication there is clear.

I want to thank my friend, the gentleman from Virginia (Mr. GOODLATTE), for introducing this legislation. We have worked together on so many legal reforms and technology-related pieces and to bring it to where it is today, where I think it is on the verge of passage.

This particular legislation implements procedural reforms for interstate class action lawsuits. I think it reduces costs to consumers. It solidifies the rights of plaintiffs, of plaintiffs, by ensuring that they and not their lawyers receive the majority of compensation when they have proven their claims in the court.

Now, what does this bill do? It is intended to correct a technical flaw in the current Federal diversity of citizenship jurisdiction which tends to prevent interstate class actions from being adjudicated in Federal courts. Federal courts will be able to handle class action lawsuits that truly involve interstate issues. This legislation makes it easier for plaintiff class members and defendants to remove cases to Federal court where multiple State laws are more appropriately heard.

Interstate class actions filed in State court could be removed to Federal court using existing removal procedures with three new features. Unnamed class members who are plaintiffs may remove to Federal court class actions in which their claims are being asserted within 30 days after formal notice. Any party, any party whose name can be removed, the consent of the other parties is not required. So plaintiffs' rights are protected in this case and the bar on removing cases to Federal court after one year would not apply to class actions, although removal would still be required within 30 days of the first notice.

If a removed class action is found to not meet the requirements for proceeding on a class basis, the Federal court would dismiss the action without prejudice. Plaintiffs could then refile their claims in the State court, and the statute of limitations on individual class members' claims in such a dismissed class action will not run during the period of action that it was pending in the Federal court.

What could be fairer to all concerned? The act applies only to claims that are filed after the date of enactment.

I think this is good legislation. I think when we look back at the history, that most interstate class actions cannot be heard in Federal court today due to the Federal diversity jurisdiction statutes that allow attorneys to

literally, as my friend, the gentleman from Virginia (Mr. MORAN) said, game the system, or making statements about the amounts in controversy and then reversing those statements later on.

This legislation is needed. I hope my colleagues will vote to adopt it.

□ 1215

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), who serves on the Committee on the Judiciary and who has worked very vigorously on this subject.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank him for his leadership. I thank the gentleman from Virginia (Mr. GOODLATTE), my good friend, Mr. Chairman, who has offered this legislation in good faith and good intentions.

The previous speaker and I have shared a common training in law school, and so it certainly causes me stress to rise in opposition to his position. However, I would argue vigorously that rather than ease the burden of litigants going into the court system, in fact, Mr. Chairman, this represents a sealed, locked, closed and forever impenetrable door to justice in the United States. I say that with a good deal of documentation.

First of all, albeit the testimony in our hearings, there is no concrete evidence that State courts are not doing justice in class action lawsuits; that there is no bias toward the defendant or bias against the defendant, or bias for the plaintiff, or bias against the plaintiff.

We realize that class actions were initially created in State courts based on equity and common law, and I certainly do not want to drain our interests in defining both of those, but it simply means that one comes into a court of equity and we balance the rights and try to be fair for those who would petition the court for justice. It was a way for the common person, common law, to get inside the courthouse and to find justice.

With this legislation that creates partial diversity, what we are saying is, one is blocked from going into the courthouse. Any iota of diversity, that means if one has a class action that inquires or incorporates thousands of Texans, and by the way, the Texas State courts have handled class action lawsuits very ably. But if one has a diversity case or a class action case, this particular statute allows one lone person, a citizen of a State different from the defendant, to add or confuse the mix, if you will, and move this case immediately to the Federal court.

What a shock to those plaintiffs who have organized around an issue, and more importantly, Mr. Chairman, what a shock to the Federal courts who, more often than not, do not certify class action cases and have already indicated to us that they are over-

whelmed and overworked with not enough Federal courts, not enough Federal judges, and not enough opportunity to do justice to the cases that they are already in.

Might I say that many of us who have joined in this overload of the Federal courts, many times who have federalized drug laws, and some are very much concerned about the overload, we federalize any number of cases, and now we find, particularly in the State of Texas, I will tell my colleagues that our Federal courts, particularly in the southern district, are overwhelmed with drug cases.

They do drug cases maybe 80 percent of the time, criminal drug cases. We may disagree with the fact that those cases are there and we are criminalizing the smallest amount of drug cases; we are not getting the kingpins, we are just throwing any Tom, Dick and Harry in jail and not solving the problem, but these courts are overwhelmed.

Now, this particular statute offering itself as a justice statute is everything but that. What it does is, it takes the class action lawsuits like a tobacco case lawsuit that is smoothly running through the courts in the State system and throws it into the deadlock of the Federal system; one, they might not have even gotten there, but more importantly, more importantly, most of these cases will not be certified.

This statute would also diversify or throw it to the Federal courts if a citizen of a State is different from any defendant, a foreign state or citizen of a foreign state and any defendant is a citizen of a state, or a citizen of a state and any defendant is a citizen or subject of a foreign state. So this is seeking to implode the class action litigation. It is seeking to imbalance the rights of an individual citizen who would join in a class action against a conglomerate, Mr. Chairman.

I would simply say to my colleagues that this particular Interstate Class Action Jurisdiction Act should not be supported. The President intends to veto this particular statute, and I would hope that we would find a better compromise to serve the scales of justice in the United States.

Mr. Speaker, I have had the privilege to listen to the testimony of many distinguished witnesses when this measure came before the full Committee on the Judiciary. I had hoped that the supporters of this bill in its present form could have persuaded me otherwise, but I simply cannot approve of this measure in its present form as it contains too many potential problems. I am sympathetic to the proponents of this legislation's desire to ensure that class actions are used for their intended purposes. This bill, H.R. 1875, the "Interstate Class Action Jurisdiction Act of 1999," as drafted goes too far.

As you may well be aware, class action suits were initially created in State courts based on equity and common law. In 1849, class action suits became statutory under the Field Code. In 1938, a Federal class action rule was first enacted in the form of Federal

Rule of Civil Procedure 23, and in 1966, Rule 23 was amended to grant more flexibility with regard to class actions, particularly with respect to actions seeking monetary damages.

Thirty-six States have adopted the amended Federal Rule 23. Seven States still use class action rules modeled on the original Federal Rule 23. Four States use the Field Code-based class rules. Three States still permit class action suits at common law have no formal class rules.

Article III of Constitution provides for "limited federal court jurisdiction court based upon diversity." Currently, disputes may reach Federal court where the plaintiffs and defendants are residents of different States and the amount in controversy exceeds \$75,000. The status quo allows action suits only if every plaintiff is diverse with respect to the defendant. Given the sheer number of plaintiffs in a class action suit, diversity often cannot be achieved.

By amending 28 U.S.C. 1332 (the diversity statute), this bill provides Federal jurisdiction as long as any member of a proposed plaintiff class is (1) a citizen of a State different from any defendant; (2) a foreign state or citizen of a foreign state and any defendant is a citizen of a State; or (3) a citizen of a State and any defendant is a citizen or subject of a foreign state.

This creation of partial diversity, then, drastically changes the nature of Federal jurisdiction. While this measure would provide some sense of uniformity to class actions, I am afraid that this contravenes the Supreme Court's requirement of complete diversity between all named plaintiffs and defendants as articulated in *Strawbridge v. Curtiss*, 3 Cranch 267 (1806).

I am concerned that this measure is not driven by the desire to streamline the Federal justice system, but instead by the want to protect large corporations. Corporations want Federal jurisdiction as they perceive this arena as more favorable. This bill would funnel class action suits into Federal courts, which has the potential to permit corporations to avoid more stringent State laws.

As currently drafted, the bill's partial diversity standard that likely would result in an explosion in the number of civil cases extending well beyond the capacity of the Federal courts. Congress has been increasingly federalizing State law in general, and State criminal law in particular. In 1997, alone, 22,603 civil cases were pending for 3 years or more. More importantly, the Senate has failed to fill a number of Federal vacancies (over 10 percent of the Federal judicial positions remain vacant).

In addition, H.R. 1875 could result in less efficient litigation. Since Federal courts would still require complete diversity in all other Federal diversity cases, plaintiffs likely would seek to formulate class action suits simply to satisfy the partial diversity requirement created for class action claims. Again, this situation likely would drive more cases into Federal court and increase the burden on the courts.

This legislation simply raises too many questions and presents too many quandaries. Unless these problems are rectified, I cannot support this measure.

Mr. GOODLATTE. Mr. Chairman, I yield myself 1 minute to respond to a couple of points.

First of all, the President has not indicated that he intends to veto this

legislation. There have been communications from his representatives that they might recommend that to him, but that is not the same thing as a veto threat.

Secondly, I would point out to my colleague from Michigan that while the diversity amount, the amount in controversy was raised from \$50,000 to \$75,000 by the Federal judiciary, the purpose of that is to screen out small lawsuits from going into Federal court. But that is not the case here at all. This is about bringing large lawsuits to Federal court.

The legislation requires a minimum of \$1 million in controversy to bring a diversity case class action into Federal court, so we eliminate the anomaly of a situation where somebody with a \$75,000 claim can get into Federal court, but somebody who has a class action suit with 100,000 plaintiffs and an amount in controversy of \$10,000 each, or a \$1 billion claim, cannot get into Federal court today because they do not meet that diversity requirement. This changes that discrepancy in the law and allows big, diverse cases to come into Federal court.

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. SCOTT), who is opposed to the bill and who serves on the Committee on the Judiciary.

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

Mr. Chairman, this is a radical response to a handful of court decisions that some disagree with. The response is to use political clout just to change the system.

Now, this is not the first time that we have changed the system when we disagree with a court decision. Even pending cases, for example, in the Oklahoma bombing case, we changed the law right in the middle of the case and forced the judge to reverse a preliminary ruling. After an airline case just a couple of years ago, we changed the law after the crash to enable some plaintiffs to get increased damages. The Committee on Education and the Workforce, Mr. Chairman, has already reported a bill which will have the effect of reversing a lower court decision. The case is now on appeal. That bill, if passed, would reverse the lower court decision. We even enacted legislation about a year or two ago which had the effect of entering final judgment in a child custody case that was pending.

So, Mr. Chairman, if one has the political clout, one can come to Congress and change the system to one's advantage and receive special treatment, rather than being relegated to going through the regular court process. That is not fair.

This is also a bad bill, Mr. Chairman, because it is not good policy to continually federalize court proceedings. The Federal judiciary has already complained, the Chief Justice has complained about cases being transferred to Federal court. We have even now

street crimes, juvenile crimes being more and more handled by Federal courts. Those are supposed to be handled by the State courts and here we are again federalizing cases.

Now, the proponents complain that the State courts rule on interests of out-of-state parties. That has always been the case and it will always be the case, and this bill does not change it. In fact, if one has multiple defendants of large corporations, multiple plaintiffs, but not technically a class, State courts can continually hear these cases. One can have billion dollar cases, complex, multi-State, but if one has a plaintiff and a defendant both from the same State, the Federal court will not hear that case, but the State court will rule on other State laws, other State interests.

Mr. Chairman, the only people that will be denied the access to State courts will be those who are consumers that need the procedure of a class action to actually hear their cases. Those are cases which are small and cannot be brought as individual cases, so the consumers will be denied, but the large corporations will not.

This bill does not reform; it just transfers the cases of consumers into Federal courts and denies them State access. For those consumers who are affected, this bill will cause confusion, because if a State case is filed, this bill allows anybody who alleges that they are affected by the case to start filing motions. The person is not a plaintiff; the person is not a defendant, just a stranger, so that if one is talking about gaming the system, let us have a defendant that does not like being in State court, finds a friend from out of State, brings them in, and starts filing motions in Federal court.

Now, the person who is filing, if they do not like being in the class, they can opt out of the class, so they have no legitimate purpose other than to add confusion to the case. So rather than having the plaintiff and the defendant proceeding with the trial or with settlement, this bill allows strangers to come in and delay the proceedings, adding expense and making it less likely that the merits of the case will ever be considered.

Mr. Chairman, this bill is unneeded and it is unfair to consumers. It only benefits corporate wrongdoers who want to delay and complicate the cases and, therefore, should be defeated.

Mr. GOODLATTE. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee (Mr. BRYANT), another lead cosponsor of the legislation.

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

Mr. Chairman, I am pleased to join with a bipartisan group of Members of this House to sponsor this change in this law that is very much needed. As my predecessor, the gentleman from Virginia (Mr. SCOTT) said, sometimes it is necessary to change a law, and that is what we are doing here.

Over the past several years there has been an outburst of the filing of a number of class action lawsuits in State courts. Now, this is proper under law, but the system is also being gamed in doing that by using the principle of diversity and defeating that principle of diversity to end up in State court and prevent the proper removal or possibility of removal to a Federal court. This bill simply corrects this.

Because of the amount of exposure that sometimes these defendants face in a class action lawsuit, the economics of the situation, the expense of having to go through a lengthy trial, the number of claimants involved, very often the defendants have to settle the case out of court. The trial lawyers know this and that is why they file the case like they do, and they do this.

In many of those cases, unfortunately, these class action lawsuits, the plaintiffs, the people who have actually sustained the injuries that the lawsuit is all about, receive very little. I know we have heard a lot about that already, anything from certificates to actually, in some cases, owing money back, whereas the lawyers are the main ones that benefit from this system in terms of receiving enormous fee awards.

That is simply not right. That is part of the gaming of the system where they go out and forum shop and select, rather than a Federal court which is better prepared to handle these types of cases. They select a particular State court around the country that probably is lacking in many ways the ability to handle these lawsuits.

The Federal judges, I understand, will complain that they are overburdened already, and unquestionably, they are. But we hear those same comments from the State judges in the State courts. Everybody in the judicial system today is overburdened. That is because there are an awful lot of criminal cases out there, and there are an awful lot of civil cases out there. So it is not a question of who is the busiest. But I would say that the Federal judges have United States magistrate judges that help them dispose of cases; they have a number of law clerks that help them that do research and help them, but in most cases where we are talking about a State judge, these are simply not assets that are available to a State judge.

In most cases, State judges lack the experience in handling complex, complicated class-action lawsuits, so in terms of actually getting a forum that is best suited, that is most appropriate to give fair justice, there is no question that the Federal courts are better suited to handle these class-action lawsuits.

□ 1230

But again, because of the current law that deals with diversity, that it can easily be affected by adding one party to that to defeat that diversity, this is not occurring, the fact that the Federal courts are not hearing the class

action lawsuits as they should because they are being sent to the State courts and being kept there.

Under our bill, nothing changes about the substantive law, the law that will govern this case. The law that whatever judge that hears this case will apply is still the same. This is simply a matter of correcting the venue, the forum, the place that the trial would be held.

In terms of dealing with a company that perhaps does business across the country, in terms of dealing with plaintiffs, alleged victims of this company or these companies that live in all 50 States that could very well make up the members of that class, it simply is unfair that one State court, whether it is Tennessee, that I represent, or Alabama, or Oregon, should be able to hear that type of case.

Originally, I believe the forefathers put this in our Constitution in terms of setting up the trial system, and our law evolved over the years to create a diversity, so when we had citizens from different States, that we could avoid the home cooking that sometimes occurs when one does not belong to that State, they are sued there, and they have to go in and defend themselves.

The courts recognized that. The Congress has recognized that by creating this diversity so they can have a level playing field, they can be treated fairly. In some cases that was not always the situation because, again, they went into a home cooking environment.

I would suggest that is happening in some of these cases. That is basically the reason that we are here. We are trying to ensure that fair justice is there for all parties. Even though they might be tobacco, firearms, or big corporations, we are all entitled to equal justice, and I think this is a big first step to ensure that occurs.

Mr. CONYERS. Mr. Chairman, I yield 5½ minutes to the distinguished gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, let me make several points, as many points as my time will allow me to make, about this bill, and encourage my colleagues to vote against this proposal.

First of all, I practiced law for a number of years before I ever thought about running for Congress. There is just a basic fairness argument that I think we all need to be aware of.

If a plaintiff is injured, he goes and hires a lawyer, they cultivate, research, put together a case, decide where the appropriate place is to litigate that case, spend months and months preparing for the case, file the case. Two days later somebody who has done absolutely nothing to get that case to trial under this bill has the ability to walk in and move that case to another forum. There is something patently unfair about that. I just want us to focus on that.

The second point I would make is that in 1994, when my Republican colleagues came riding into the House, one of the principles that they gave major lip service to was the whole notion that there was too much going on at the Federal level, that we needed to decentralize government, that our whole system of Federalism was in jeopardy, and we needed to return power to the States.

Time after time after time since 1994 we have seen our Republican colleagues say, well, we do not like the result that we got at the State level, so let us federalize this and let us just take it over, an absolute erosion of States' rights in the criminal law area.

In the area of tort reform they have tried to do it, in the area of juvenile law they have tried to do it. We do not even have a juvenile court, a juvenile judge, a juvenile counselor, and yet, we have tried to federalize juvenile law, and the people who are behind that are the very same people who in 1994 were railing and rhetorically saying, this is terrible, to federalize all this stuff. We need to be returning rights and responsibilities to the most local level, to the State level, the local level, the individual level. Here we are again in this matter trying to bring something else into a Federal court.

The third point I want to make, the Federal courts are hopelessly backlogged. They cannot handle the business that they are doing now. We cannot get the Senate to confirm enough people to fill the vacancies that exist on the Federal bench. Even if they did fill them, there would not be enough judicial power to handle all of these cases.

Yet, here we are in our infinite wisdom saying that the Federal courts know better; the State law, the Federal law, we know everything at this level. This is absolutely contrary to the horse that my colleagues rode into this House on, the States' rights horse. We should not sanction this. It is just a bad idea.

The final point I want to make, and I will talk about this a little bit more in the context of an amendment that I have to offer, is that even if this were a good idea, this bill is so badly drafted, there are some irrationalities in the drafting of the bill, that we are going to try to correct some of them during the course of the debate, and hopefully we will get some of those things worked out.

But there are some just severe unintended, or maybe they are intended. I never know whether my colleagues are accomplishing things that they intend or accomplishing things they do not intend, since they told me they intended to preserve States' rights, and they keep cutting the legs from under it.

Mr. SCOTT. Mr. Chairman, I yield 2½ minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Chairman, I rise against this bill because it is part of a two-part pincers movement aimed at the heart of impartial justice.

Part one, represented by this bill, shifts to the Federal bench most important class action lawsuits. Part two, the other part of the pincer, is to make sure those Federal benches are empty or overburdened with other work.

We know that additional work has been shifted to the Federal judiciary. We know most of the judicial appointments of the President have been held up. But we had a right to think that the other body would in due time act on those judicial appointments. Now I want to commend the chairman of the Committee on Rules for revealing the previously secret part of the Republican plan. It is to keep the Federal judicial benches empty until such time as there is a Republican president.

So what does this bill do? It says you cannot go to a State judge, and you cannot have a Federal judge, unless appointed by a Republican president. So the only judges that can hear class action lawsuits are those that pass a Republican litmus test, and they have the gall to complain about forum shopping.

This takes forum shopping to a new level, because the second part of this pincers movement is nationwide forum tampering, politicizing the Federal courts. The least we could do in this body is to suspend action on this bill until the other body acts upon the President's judicial appointments, confirming those who are qualified, rejecting those who are not qualified, not on the basis of a political litmus test but on the basis of judicial qualifications.

The small in our society will be able to demand justice from the powerful only if we defeat this bill.

Mr. Chairman, I get all wound up on this and then I realize it is time to calm down, because we are not really legislating here. This bill, if it passes both bodies, is going to be vetoed by the President. This is never going to become law. This is political pontificating. This is not real legislating. We are simply here wasting time in the guise of addressing a serious problem.

I look forward to the day when we work out a genuine bipartisan solution that has wide support, not narrow support, wide support on both sides of the aisle, and deal with tort reform.

Mr. GOODLATTE. Mr. Chairman, in that regard, it is my pleasure to yield 2 minutes to the gentleman from Alabama (Mr. CRAMER), yet another Member from the other side.

Mr. CRAMER. Mr. Chairman, I appreciate the gentleman yielding time to me.

Mr. Chairman, I join with my colleagues on this side of the aisle and rise in support of H.R. 1875, the Interstate Class Action Jurisdiction Act of 1999.

I will repeat some of the things that have already been said today. I bring to this debate maybe a unique perspective. I am a lawyer and I am from Alabama. My State has been the butt of many class action jokes. We have seen the proliferation of class actions, frivolous actions, in our State courts.

We have all heard about drive-by certifications, in which classes were certified on the same day that classes were filed, sometimes even before the defendants were notified about the lawsuits. People have heard about the judge who certified I think in a 2-year period of time more class actions than all of the Federal judiciary combined.

Some say if Alabama has a problem, Alabama ought to settle that problem or deal with that problem. We in fact have. The Alabama Supreme Court, the Alabama legislature, they have taken actions to end same-day certifications. We have now made clear that we follow Federal rule XXIII.

It is a good step, but that does not end the problem. These interstate class action lawsuits do not belong in State and county courts in the first place. I do not want a judge in New York determining the rights of citizens in Alabama, and I do not think judges in Alabama should do the same thing for people who live in New York.

There is an important constitutional issue at stake here. I think interstate class actions are meant for the Federal diversity jurisdiction. The Framers of the Constitution intended for large interstate lawsuits to be heard in Federal court.

Members have heard a lot today about what the bill does do. I want to close with what it does not do. This is not a broad tort reform bill. It does not preempt any State laws or change the laws under which a claim will be heard. It does not prevent any claim from being heard, or close the courthouse doors.

This in fact makes sense, and we should pass H.R. 1875, the Interstate Class Action Jurisdiction Act of 1999.

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

We have many points that will be made during the amendments, Mr. Chairman. I would just respond to the suggestion that this will clear up the situation where complex cases will have to be heard in Federal court.

Mr. Chairman, if we have 10 corporations suing 18 different corporations from a number of States, if one plaintiff corporation and one defendant corporation are from the same State, that case involving many different States, involving many different State laws, would be heard in State court.

However, if there is a corporation that is systematically ripping off consumers, a simple systematic theft, not complicated, they cannot use the State court. They are relegated to Federal court by this bill.

□ 1245

Now, it would only serve to complicate the litigation for the consumers trying to get justice against a wrongdoing corporation.

Mr. Chairman, this bill is a bad bill. It serves no constructive purpose. There is no need for it. It is unfair to consumers and, therefore, should be defeated.

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

Mr. GOODLATTE. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, this is very good legislation that serves very good practical purposes, and let me point out two of them.

First of all, it ends the abuse of nationwide forum shopping to find the one judge in the one court in the one State that thinks that anything goes with regard to class actions. We have seen those abuses.

The gentleman from Alabama (Mr. CRAMER) cited the fact that his State has seen class action abuse in the past. There are 4,700 different court jurisdictions in this country. When one has a class action, it is unlike a case where an individual might have two or three different jurisdictions where they can bring their own personal injury suit or contract action. In a nationwide class action suit, they can often choose from all 4,700 different jurisdictions. They should not have the opportunity to do that. There should be more standardized procedures, and we accomplish that by allowing the removal of truly nationwide class action suits to Federal court.

Secondly, the most diverse cases in this country involving millions and even billions of dollars are currently unable to be brought in the court that can best handle them, the Federal courts. This legislation cures this.

Mr. Chairman, I urge my colleagues to support this legislation and oppose the amendments.

Mr. POMEROY. Mr. Chairman, I rise in reluctant opposition to H.R. 1875, the Interstate Class Action Jurisdiction Act of 1999. I believe strongly that action must be taken to address the widespread abuse of class action rules. This legislation, however, would have the effect of removing the vast majority of class action lawsuits to the already overburdened federal courts and denying plaintiffs in legitimate class actions their right to due process.

There is little dispute that in recent years the class action device has resulted in serious and rampant abuses of our legal system. Federal rules of civil procedure currently make it exceedingly difficult for defendants to remove a class action case to federal court, even when a case is clearly interstate in nature. Federal "complete diversity" rules have allowed endless forum shopping to keep class action cases out of the federal courts. In some cases, plaintiffs are named in class action cases based only on their state of residence, simply to destroy complete diversity.

Such legal maneuvers have even been conducted at the expense of plaintiffs involved. In one recent state court class action settlement, consumer class members actually ended up losing money—each one was required to pay \$91.13—while the lawyers who brought the lawsuit made \$8.5 million. Other such examples abound in which class members received virtually no compensation. Action must be taken to protect both consumers and corporations from such abuses of the legal system.

Although I believe strongly in the need for class action tort reform, I reluctantly oppose H.R. 1875 in its current form. By establishing

"minimal diversity" rules of jurisdiction, H.R. 1875 would shift jurisdiction of most class action lawsuits from state court to federal court. This would have the practical effect of overburdening the already understaffed federal courts, while further delaying and possibly denying justice for injured plaintiffs.

Mr. Chairman, although I do not support this particular vehicle for class action tort reform, I remain committed to correcting the abuses of our legal system. I am hopeful that my concerns with H.R. 1875 can be resolved as the bill moves through the Senate, so that I may support the conference report for this legislation.

Mr. STARK. Mr. Chairman, I rise today in opposition to H.R. 1875, the Interstate Class Action Jurisdiction Act of 1999. This so-called "tort reform" measure proposes to create a huge new roadblock to justice for class action litigants.

If enacted, H.R. 1875 will harm consumers and benefit corporate defendants—among them managed care plans, gun manufacturers and tobacco companies. Although ERISA does not permit injured enrollees to sue their HMO under state malpractice laws, recently some class actions have been successfully filed alleging violations of state consumer fraud and unfair trade practice laws. These class actions are being used to require HMOs to provide needed treatments, access to specialists, and continuity of care.

Yet H.R. 1875 would reverse these gains by making it far easier for managed care plans to force removal of cases filed under state consumer fraud laws to federal court—where outcomes could be inconsistent and unfair.

Currently, most class actions are brought under state law with state court judges interpreting and applying the standards litigants must meet. H.R. 1875 would divest state courts of many of these cases, requiring federal judges to interpret and apply state law. This opens the door to inconsistent interpretation by judges not familiar with state law.

Our current class action system is a win-win-win—for the courts, for litigants, and for society. Class actions are now heard by judges knowledgeable in the area and familiar with the law. The federal bench lacks the resources to handle these cases in its already overburdened docket.

Under present guidelines, class actions may be heard by federal judges when the damage amount involved is more than \$75,000 per plaintiff and other requirements are met. In state courts, class actions can be brought when the amount of damage per plaintiff is modest.

H.R. 1875 eliminates the \$75,000 figure and the other requirements. Thus, corporate defendants could easily request removal of many state class actions to federal court—over the objections of all plaintiffs or co-defendants.

If this bill is enacted, it will essentially deny a forum to thousands who have been injured by exposure to tobacco products, asbestos and other unsafe products, and thwart reforms that benefit society as a whole. In effect, the class action device itself would be destroyed.

If H.R. 1875 becomes law, dozens of class action lawsuits that could help thousands will simply never be heard. Consumers will again become victims—this time, of a massive federal judicial logjam.

Tobacco companies, asbestos makers, drug manufacturers, and HMOs are lobbying

strongly for H.R. 1875. The Interstate Class Action Jurisdiction Act of 1999 gives them relief at the expense of justice that consumers deserve.

A "yes" vote for H.R. 1875 is fundamentally a vote against consumers' rights. It should be quickly rejected.

The CHAIRMAN pro tempore (Mr. BURR of North Carolina). 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 by section as an original bill for the purpose of amendment, and each section is considered read.

No amendment to that amendment shall be in order except those printed in the portion of the CONGRESSIONAL RECORD designated for that purpose and pro forma amendments for the purpose of debate. Amendments printed in the RECORD may be offered only by the Member who caused it to be printed or his designee and shall be considered as read.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

Mr. GOODLATTE. Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

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

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

#### SECTION 1. SHORT TITLE AND REFERENCE.

(a) **SHORT TITLE.**—This Act may be cited as the "Interstate Class Action Jurisdiction Act of 1999".

(b) **REFERENCE.**—Whenever in this Act reference is made to an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

#### SEC. 2. FINDINGS.

The Congress finds that—

(1) as recently noted by the United States Court of Appeals for the Third Circuit, interstate class actions are "the paradigm for Federal diversity jurisdiction because, in a constitutional sense, they implicate interstate commerce, invite discrimination by a local State, and tend to attract bias against business enterprises";

(2) most such cases, however, fall outside the scope of current Federal diversity jurisdiction statutes;

(3) that exclusion is an unintended technicality, inasmuch as those statutes were enacted by Congress before the rise of the modern class action and therefore without recognition that interstate class actions typically are substantial controversies of the type for which diversity jurisdiction was designed;

(4) Congress is constitutionally empowered to amend the current Federal diversity jurisdiction statutes to permit most interstate class actions

to be brought in or removed to Federal district courts; and

(5) in order to ensure that interstate class actions are adjudicated in a fair, consistent, and efficient manner and to correct the unintended, technical exclusion of such cases from the scope of Federal diversity jurisdiction, it is appropriate for Congress to amend the Federal diversity jurisdiction and related statutes to allow more interstate class actions to be brought in or removed to Federal court.

#### SEC. 3. JURISDICTION OF DISTRICT COURTS.

(a) **EXPANSION OF FEDERAL JURISDICTION.**—Section 1332 is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following:

"(b)(1) The district courts shall have original jurisdiction of any civil action which is brought as a class action and in which—

"(A) any member of a proposed plaintiff class is a citizen of a State different from any defendant;

"(B) any member of a proposed plaintiff class is a foreign state and any defendant is a citizen of a State; or

"(C) any member of a proposed plaintiff class is a citizen of a State and any defendant is a citizen or subject of a foreign state.

As used in this paragraph, the term 'foreign state' has the meaning given that term in section 1603(a).

"(2)(A) The district courts shall not exercise jurisdiction over a civil action described in paragraph (1) if the action is—

"(i) an intrastate case,

"(ii) a limited scope case, or

"(iii) a State action case.

"(B) For purposes of subparagraph (A)—

"(i) the term 'intrastate case' means a class action in which the record indicates that—

"(I) the claims asserted therein will be governed primarily by the laws of the State in which the action was originally filed; and

"(II) the substantial majority of the members of all proposed plaintiff classes, and the primary defendants, are citizens of the State in which the action was originally filed;

"(ii) the term 'limited scope case' means a class action in which the record indicates that all matters in controversy asserted by all members of all proposed plaintiff classes do not in the aggregate exceed the sum or value of \$1,000,000, exclusive of interest and costs, or a class action in which the number of members of all proposed plaintiff classes in the aggregate is less than 100; and

"(iii) the term 'State action case' means a class action in which the primary defendants are States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief.

"(3) Paragraph (1) shall not apply to any claim concerning a covered security as that term is defined in section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934.

"(4) Paragraph (1) shall not apply to any class action solely involving a claim that relates to—

"(A) the internal affairs or governance of a corporation or other form of business enterprise and that arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(B) the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder)."

(b) **CONFORMING AMENDMENT.**—Section 1332(c) (as redesignated by this section) is amended by inserting after "Federal courts" the following: "pursuant to subsection (a) of this section".

(c) **DETERMINATION OF DIVERSITY.**—Section 1332, as amended by this section, is further amended by adding at the end the following:

"(f) For purposes of subsection (b), a member of a proposed class shall be deemed to be a citizen of a State different from a defendant corporation only if that member is a citizen of a State different from all States of which the defendant corporation is deemed a citizen."

#### SEC. 4. REMOVAL OF CLASS ACTIONS.

(a) **IN GENERAL.**—Chapter 89 is amended by adding after section 1452 the following:

##### "§ 1453. Removal of class actions

"(a) **IN GENERAL.**—A class action may be removed to a district court of the United States in accordance with this chapter, but without regard to whether any defendant is a citizen of the State in which the action is brought, except that such action may be removed—

"(1) by any defendant without the consent of all defendants; or

"(2) by any plaintiff class member who is not a named or representative class member of the action for which removal is sought, without the consent of all members of such class.

"(b) **WHEN REMOVABLE.**—This section shall apply to any class action before or after the entry of any order certifying a class.

"(c) **PROCEDURE FOR REMOVAL.**—The provisions of section 1446(a) relating to a defendant removing a case shall apply to a plaintiff removing a case under this section. With respect to the application of subsection (b) of such section, the requirement relating to the 30-day filing period shall be met if a plaintiff class member who is not a named or representative class member of the action for which removal is sought files notice of removal no later than 30 days after receipt by such class member, through service or otherwise, of the initial written notice of the class action provided at the court's direction.

"(d) **EXCEPTIONS.**—

"(1) **COVERED SECURITIES.**—This section shall not apply to any claim concerning a covered security as that term is defined in section 16(f)(3) of the Securities Act of 1933 and section 28(f)(5)(E) of the Securities Exchange Act of 1934.

"(2) **INTERNAL GOVERNANCE OF BUSINESS ENTITIES.**—This section shall not apply to any class action solely involving a claim that relates to—

"(A) the internal affairs or governance of a corporation or other form of business enterprise and that arises under or by virtue of the laws of the State in which such corporation or business enterprise is incorporated or organized; or

"(B) the rights, duties (including fiduciary duties), and obligations relating to or created by or pursuant to any security (as defined under section 2(a)(1) of the Securities Act of 1933 and the regulations issued thereunder)."

(b) **REMOVAL LIMITATIONS.**—Section 1446(b) is amended in the second sentence—

(1) by inserting ", by exercising due diligence," after "ascertained"; and

(2) by inserting "(a)" after "section 1332".

(c) **TECHNICAL AND CONFORMING AMENDMENTS.**—The table of sections for chapter 89 is amended by adding after the item relating to section 1452 the following:

"1453. Removal of class actions."

(d) **APPLICATION OF SUBSTANTIVE STATE LAW.**—Nothing in this section or the amendments made by this section shall alter the substantive law applicable to an action to which the amendments made by section 3 of this Act apply.

(e) **PROCEDURE AFTER REMOVAL.**—Section 1447 is amended by adding at the end the following new subsection:

"(f) If, after removal, the court determines that no aspect of an action that is subject to its jurisdiction solely under the provisions of section 1332(b) may be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, it shall dismiss the action. An action dismissed pursuant to this subsection may be amended and filed again in a State court, but any such refiled action may be removed again if

it is an action of which the district courts of the United States have original jurisdiction. In any action that is dismissed pursuant to this subsection and that is refiled by any of the named plaintiffs therein in the same State court venue in which the dismissed action was originally filed, the limitations periods on all reasserted claims shall be deemed tolled for the period during which the dismissed class action was pending. The limitations periods on any claims that were asserted in a class action dismissed pursuant to this subsection that are subsequently asserted in an individual action shall be deemed tolled for the period during which the dismissed class action was pending.”

**SEC. 5. APPLICABILITY.**

The amendments made by this Act shall apply to any action commenced on or after the date of the enactment of this Act.

**SEC. 6. GAO STUDY.**

The Comptroller General of the United States shall, by not later than 1 year after the date of the enactment of this Act, conduct a study of the impact of the amendments made by this Act on the workload of the Federal courts and report to the Congress on the results of the study.

AMENDMENT NO. 4 OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. NADLER:  
Page 6, line 5, strike the quotation marks and second period.

Page 6, insert the following after line 5:  
“(5)(A) Paragraph (1) shall not apply to any class action that is brought for harm caused by a firearm or ammunition.

“(B) As used in this paragraph, the term ‘firearm’—

“(i) has the meaning given that term in section 921(3) of title 18; and

“(ii) includes any firearm as defined in section 5845 of the Internal Revenue Code of 1986.”

Page 8, line 16, strike the quotation marks and second period.

Page 8, insert the following after line 16:  
“(3) FIREARMS OR AMMUNITION.—(A) This section shall not apply to any class action that is brought for harm caused by a firearm or ammunition.

“(B) As used in this paragraph, the term ‘firearm’—

“(i) has the meaning given that term in section 921(3) of title 18; and

“(ii) includes any firearm as defined in section 5845 of the Internal Revenue Code of 1986.”

Mr. NADLER. Mr. Chairman, this amendment would, in effect, exempt from this bill and allow the existing laws governing class action lawsuits to continue to apply to cases brought against gun and ammunition manufacturers.

We have spent months in this House debating how best to combat the rising tide of gun violence in this country, and we still have nothing to show for it. Week after week after week after week we hear horror stories from all over the country of mass murderers, of people walking into schools and churches and shops and opening fire on innocent people.

How does the leadership of this House propose to address this problem? With this legislation that will actually protect gun makers from the consequences of their actions and will not protect the victims of gun violence.

Mr. Chairman, guns kill almost twice as many Americans every year, as all other household and recreational products combined. Despite this grim fact, the gun industry is the last unregulated manufacturer of a consumer product. All other manufacturers are regulated, not the gun manufacturers.

Currently, citizen lawsuits serve as practically the only safety regulation, if we can call it that, of the firearms industries. Lawsuits have been the only way to force manufacturers to make their guns safer. A 1995 class action suit against Remington Arms, which settled for \$31.5 million, led to the implementation of greater safety protections for owners of shotguns.

Look at what is happening all across the country. The victims of gun violence are beginning to sue gun manufacturers for their injuries as a consequence of the negligence of the gun manufacturers. Over 20 American cities, as well as the NAACP, have filed lawsuits against gun manufacturers to hold them accountable for the millions of dollars that the public sector must spend coping with the consequences of gun violence.

Gun plaintiffs, like tobacco plaintiffs and others, must sue the gun manufacturers in class action lawsuits because suing as single plaintiffs is almost invariably prohibitively expensive. We should not handicap these important civil suits just as they are beginning.

As my colleagues know, in addition to expanding Federal jurisdiction over class actions, this bill would give gun manufacturers a tremendous advantage in these cases by allowing them to remove these cases to Federal court.

These cases are, of course, determined on the basis of State tort law. The Federal courts that would decide these cases are bound by Federal law to apply, not Federal law, but the State law. But the Federal courts are always going to be much more hesitant to expand the State law from previous decisions than the State courts will, because their expertise is Federal law, not State law.

So by taking these cases from the State forum, where the States can apply and interpret their own laws, to a Federal forum, which are going to be more hesitant to interpret them in new ways and to realize the full implications of the law, we are saying to the defendants they have a much easier forum. To the plaintiffs, to the victims of gun violence, we are going to stack the decks against them.

Now, I think this is a terrible bill in general for a lot of different reasons. But even assuming we want to pass this bill, why not just allow victims of gun violence to continue to bring their cases in State courts? Why bring them before a Federal judge who will have less expertise on the State law, will have to divert his or her attention from cases involving, for example, violence against women or access to clinic or multijurisdiction interstate cases? Are not our Federal judges busy enough?

We know that the average case, if removed to Federal court, will take 6 to 8 years to reach trial; whereas, in most State courts, it will get there in a year or two. Gun victims often cannot wait that extra time. Do we really need the Federal courts to take on thousands of new cases for their dockets?

We should support the victims of gun violence in their efforts to hold the firearms industry accountable when its products cause injury or death and when they are responsible through their negligence, because that obviously is something that has to be proven, when they were negligent and who they sell the guns to and making unsafe products and not putting safety standards or guns or whatever. When that can be proven, we should not stack the decks against the victims of gun violence by pushing this out of the local courts and into the Federal courts.

Victims of gun violence, the American people, deserve comprehensive legislation to get the guns off the streets and protect our children in the schools and protect our people in our churches and day-care centers.

They do not deserve this almost contemptuous treatment in which we say we are not doing anything to protect them, but we are going to make it harder for them if they are injured to prove the negligence of the gun manufacturers. We are going to make it more expensive. We are going to make it farther in time. We are going to make it farther in distance. We do not trust the State courts. We do not believe in States rights. We do not believe in local government despite the rhetoric on this floor. We think State courts are too generous to people. They know the people, the situation a little better than some far-off Federal court. So, therefore, let us move it to a far-off Federal court to make it harder for the plaintiffs in gun violence cases.

Mr. Chairman, I urge my colleagues, if we are going to pass this malevolent bill, at least let us exempt from it cases alleging negligence resulting in violence to victims of gun violence. We should not make it easier for the malefactors of the gun industry. We should make it harder. I urge the adoption of this amendment.

Mr. GOODLATTE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am strongly opposed to this amendment and what may prove to be a series of so-called carve-out amendments. Principled Members, whether they support the underlying legislation or not, will oppose this amendment and other amendments that attempt to pour their views about any particular issue that faces this Congress or any particular litigation that may go before our courts into this procedural debate about how all litigation should be considered in the form of class actions and whether or not one believes they should be removed to Federal court or not, my colleagues

should not support carving out individual sectors of our economy or individual types of lawsuits.

That is exactly how this amendment was treated in a bipartisan fashion by the Committee on the Judiciary in the markup of this bill when this particular amendment or one very like it was defeated by a bipartisan 16 to 6 vote. There are good reasons why it was rejected there, and there are good reasons why it should be rejected here.

This industry-specific exemption from Federal jurisdiction makes no sense. It is like a bill of attainder. It irrationally singles out one industry and slams the Federal courthouse door in its face.

All of us strive to be sure that justice is blind. But when one identifies one group of people and says they are not entitled to the same treatment under the law that everyone else is, justice is not blind.

The amendment is wholly inconsistent with what the Framers had in mind in establishing diversity jurisdiction in Article III of our Constitution. They wanted to allow interstate businesses to have claims against them heard in Federal court so as to avoid local biases. Nowhere in this concept is the idea that certain industries should be exempted from this right, that certain kinds of businesses are less entitled to Federal court protection.

One may not like gun manufacturers, but think of the things that one does like and consider whether if a similar amendment were offered to single out something that is important to one and say that those who promote and support that particular idea, that particular industry, whatever the case might be, that they are not entitled to sit in the same forum of justice that everyone else in this country is entitled to.

The amendment clearly is designed to single out the firearms industry because, in some quarters, it is unpopular. But that is exactly what the Framers of the Constitution were trying to avoid. They are trying to ensure a fair, evenhanded Federal court forum for defendants that may otherwise be hailed into a local court less concerned about protecting the rights of an out-of-State company.

It is very interesting that in the committee report, the additional dissenting views submitted by the gentleman from New York (Mr. NADLER) and others on the gun issue, makes a big point of the fact that the NAACP has filed a class action against the gun industry, seeking to recover for money that the public sector must pay for the consequences of gun violence.

The report goes on to say that we should not handicap such important civil suits before they have even begun.

What I find very interesting about that point is that the NAACP filed their lawsuit in Federal court, not State court. That choice presumably was made because the lawyers filing the NAACP suit know that the Federal

courts are more appropriate for dealing with these interstate issues presented by these cases.

This bill would make it easier for groups like the NAACP to bring such cases in Federal court because it works both ways. It expands the rights of plaintiffs to bring interstate cases in Federal court as well as expanding the ability of defendants to remove interstate cases to Federal court.

For all of these reasons, I urge my colleagues to oppose this amendment.

Mr. SCOTT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is a bad policy to carve out exceptions in a bill like this because it creates one system for those that are popular with political clout, another system for those without political support that are unpopular.

As the gentleman from Virginia (Mr. GOODLATTE) pointed out, the constitutional principle of equal protection is violated when we have those that get one system and those in another. That principle of equal protection and constitutional protection is particularly needed when we have unpopular individuals. Those are the ones that really need the constitutional protection.

Whatever reason that this carve-out might make sense, those arguments should have been made to the bill in general. But to carve out and have a special exemption I think is wrong, and the carve-out and the amendment, therefore, should be defeated.

□ 1300

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

Mr. SCOTT. I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, this is a bad bill. Now, as a general idea, I do not think it is a good idea to have specific carve-outs from legislation. But if we are going to enact egregious legislation, then we can mitigate the damages in the most obvious situations.

And for the gentleman on the other side who got up and said it is terrible, we should not carve out, let me read some of the carve-outs supported by the Republicans for similar legislation. The Biomaterials Access Insurance Act of 1997 passed into law and carves out an exception for breast implant lawsuits. It also carves out an exception for lawsuits by health care providers.

In the 104th Congress, the Common Sense Product Liability Legal Reform Act carved out an exception from the bill's provisions for lawsuits for commercial losses. This very bill carves out an exception from the bill's provisions for lawsuits for commercial losses.

The Senate version of a similar bill, S. 2236, had specific carve-outs for negligence actions involving firearms or ammunitions in negative entrustment actions.

So, Mr. Chairman, the real issue is not should there be carve-outs, because the people on the other side sponsoring this legislation have supported carve-

outs. Indeed, this bill contains a carve-out. The question is which carve-outs.

And I would submit that if this bill is going to carve out an exception for lawsuits brought under the Securities Act of 1933, or the Securities and Exchange Act of 1934, as well as corporate government actions, all of which are carved out of this bill, we can carve out an exception so as not to rip the lawsuits started by States and local governments and individuals in class actions out of the State courts into Federal courts for gun manufacturers and ammunition manufacturers when they can prove negligence resulting in death or injury.

The question, as I said, is not are carve-outs a good idea. The question is, as long as we are going to have carve-outs and pass legislation in this bill, should gun manufacturers be subject to carve-outs they do not want, or should we only carve out protections for people accused of violations of securities laws.

Mr. SCOTT. Mr. Chairman, reclaiming my time, I would agree with my colleague that there should not have been carve-outs in those previous bills, there should not have been carve-outs in this bill; and, therefore, this amendment should be defeated.

The CHAIRMAN pro tempore (Mr. BURR of North Carolina). The question is on the amendment offered by the gentleman from New York (Mr. NADLER).

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

Mr. NADLER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 295, further proceedings on the amendment offered by the gentleman from New York (Mr. NADLER) will be postponed.

AMENDMENT NO. 3 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment that has been made in order by the rule.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. JACKSON-LEE of Texas:

Page 6, line 5, strike the quotation marks and second period.

Page 6, insert the following after line 5:  
“(5)(A) Paragraph (1) shall not apply to any class action that is brought for harm caused by a tobacco product.

“(B) As used in this paragraph, the term ‘tobacco product’ means—

“(i) a cigarette, as defined in section 3 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332);

“(ii) a little cigar, as defined in section 3 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332);

“(iii) a cigar, as defined in section 5702(a), of the Internal Revenue Code of 1986;

“(iv) pipe tobacco;

“(v) loose rolling tobacco and papers used to contain that tobacco;

“(vi) a product referred to as smokeless tobacco, as defined in section 9 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4408); and

"(vii) any other form of tobacco intended for human consumption."

Page 8, line 16, strike the quotation marks and second period.

Page 8, insert the following after line 16:

"(3) TOBACCO PRODUCTS.—(A) This section shall not apply to any class action that is brought for harm caused by a tobacco product.

"(B) As used in this paragraph, the term 'tobacco product' means—

"(i) a cigarette, as defined in section 3 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332);

"(ii) a little cigar, as defined in section 3 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332);

"(iii) a cigar, as defined in section 5702(a) of the Internal Revenue Code of 1986;

"(iv) pipe tobacco;

"(v) loose rolling tobacco and papers used to contain that tobacco;

"(vi) a product referred to as smokeless tobacco, as defined in section 9 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4408); and

"(vii) any other form of tobacco intended for human consumption."

Ms. JACKSON-LEE of Texas. Mr. Chairman, I started this debate by acknowledging that the class-action procedure had begun historically with a desire to give equity and justice to the people of the United States of America. I am delighted that over the years we have kept that promise to the American people. We have provided them State courts that have given us equity, given us justice, and provided the opportunity for the individual, the less-of-a-giant person, to go against the giant and prevail.

And, Mr. Chairman, whether it has been in improving car safety in America; whether it has been in providing greater assistance for efforts against manufacturers who would make defective products that would injure large numbers of people; whether it has been in health care, to improve health policy in America, the individual has been protected by the vehicle of a class action and allowing that individual to go into the State court.

Today, I offer an amendment to protect that individual again. Because I am concerned that if this bill is left unamended, it would, for the first time, give Federal courts jurisdiction over all of the State class-action claims, even those involving primarily interstate disputes over State law.

This bill will allow tobacco companies to take State class-action claims away from State courts and put them into Federal courts over the objection of plaintiffs. And, Mr. Chairman, let me tell my colleagues why that is a problem. All of the class-action lawsuits that we have heard of, and that the American people have participated in and have welcomed in getting relief for the heinousness of tobacco and its impact on health in America, would not have been allowed into the Federal courts because the Federal courts had the opportunity to certify class-action tobacco cases and they refused.

Now, in giving some deference to the Federal courts, I have already said they are overwhelmed and over-

saturated. In fact, let me tell my colleagues that the Judicial Conference of the United States, Federal judges themselves, have written and said,

I want to inform you that the executive committee of the conference voted to express its opposition to class action provisions in H.R. 1875, the Interstate Class Action Jurisdiction of 1999.

These are the Federal judges.

Mr. Chairman, they do that because they too believe in justice, and they realize that they are overwhelmed and understaffed. There are not enough judges and not enough courts. So by permitting the transfer from State courts to the Federal courts, this legislation will cause indeterminable delay for class-action cases against the tobacco industry, both increasing the cost of suing the industry and in delaying justice for the individual plaintiffs.

This amendment, offered by myself and the gentleman from California (Mr. WAXMAN), would ensure that this bill does not apply to any class action that is brought for harm caused by a tobacco product. And let me say that this effort is not new. Members of Congress, the gentleman from California (Mr. WAXMAN) and others have been working on this fight for years. And out of their efforts we have seen the opportunity for the individual victim to come forward, and we have seen the tobacco industry exposed for its efforts toward promoting its product, knowing that it was dangerous to our health.

This legislation, as currently worded, would allow tobacco companies to remove class actions involving State causes of action to Federal Court involving tobacco cases, it seems. In fact, since the tobacco companies are principally domiciled in States where class actions are not being brought, minimal diversity, as defined by this bill, will always exist between the plaintiffs and the tobacco companies. And unlike the Florida case, which was rendered by the State court, which showed the devastation to those plaintiffs there, those plaintiffs' rights would be violated by moving them to a Federal Court who might ultimately not certify the case. Mr. Chairman, is this justice?

So I urge my colleagues to look seriously at the facts and to understand that the President has indicated that this is an unbalanced law; to understand that Save Lives and Not Tobacco, an organization that has worked with the victims of tobacco, has indicated that this is a bad bill; and the American Heart Association has said this is a bad bill. The Conference of Chief Justices have said this, Mr. Chairman.

These are the State court chief justices:

With regular communication and cooperative effort, State and Federal courts have developed a delicate, complimentary role in class action jurisprudence. H.R. 1875 would radically alter this relationship.

I tell my business friends that they have relief. I would ask that we work together between the State and the

Federal system to find relief for them, but I would ask my colleagues to support this amendment and not to extinguish the rights of the victims of all of these tragedies in America. I ask my colleagues to support this amendment.

Mr. GOODLATTE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in strong opposition to this amendment, as I did to the previous amendment that was offered. This is another carve-out amendment. It is wrong for the same reasons I cited previously. It singles out a particular group of people, a particular industry, for unfair treatment under our judicial system, and we should not establish that type of principle.

The principal position, whether we are in favor of this legislation or we are opposed to this legislation, is to oppose this amendment because we should not carve out individual groups of people.

It is true that Congress has expanded Federal jurisdiction to encompass cases involving certain subject matters, civil rights, antitrust, environmental, consumer warranty, but those are exercises of Federal question jurisdiction. There is no basis and no precedent for carving out an industry from diversity jurisdiction and extinguishing its right to have cases subject to Federal jurisdiction heard in Federal Court.

Contrary to the premise of this amendment, H.R. 1875 would not turn tobacco litigation upside down. Most money obtained through tobacco litigation has come in State attorneys general cases. These are not class actions and will not be affected by this legislation. Most other tobacco cases are individual actions which, likewise, are unaffected by this legislation.

H.R. 1875 is also prospective only. It would not affect any pending cases, be they class action or otherwise.

Contrary to another premise of this amendment, there is no evidence that tobacco cases are less likely to succeed in Federal Court. Tobacco classes have been certified by both Federal and State courts. Tobacco classes have been rejected by both Federal and State courts.

There is no evidence that class members will get better treatment in State court. Indeed, the evidence is to the contrary. In the only tobacco class action to reach conclusion, the Broin case, that case ultimately settled in State court. But the class members received no money at all. Under the terms of the settlement, they obtained only a right to sue individually. Meanwhile, the class counsel, the lawyers, were awarded \$49 million. One law professor assessed the settlement as follows: "Is the system just when it allows the plaintiffs' lawyers to make \$49 million for making the class worse off?"

There is no evidence that tobacco cases would get tried more quickly in State courts. It took 6 years to get the first tobacco class action to trial in

State court; the second took over 4 years. The average time to trial in Federal Court is shorter.

No matter where we may stand on the tobacco issue, we should strongly oppose this amendment. And for all the reasons I just cited, I urge my colleagues to defeat this amendment.

Mr. BOUCHER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, in opposing the amendment, I would make the broad point that industry-specific denials of access to the judicial process at either the State or the Federal levels are simply not appropriate. Over the entrance to the United States Supreme Court are words which, in a phrase, define our basic belief in the rule of law. That phrase says, "Equal justice under the law." To honor that principle, any attempt to close the courthouse door to any specific litigant, whether an individual, a specific corporation, or an entire industry should be defeated.

The amendment would close the door to the courthouse to any company within the tobacco industry that seeks to use the removal provisions of this legislation. That simply is not the American way. That approach violates our basic principles of fairness and our principles of equal justice. By a wide bipartisan majority the amendment was rejected by the House Committee on the Judiciary, and I strongly urge the committee here on the floor of the House today to reject this amendment as well.

Mr. SCOTT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, for the same reasons that the last carve-out was bad policy, this carve-out is a bad policy. It sets up one system for the popular, another for the unpopular. It violates the principle of equal protection.

And whatever arguments are being made for why this carve-out makes sense should have been made against the bill. The carve-outs, all of the carve-outs, should be defeated, and the bill should be defeated.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, if this legislation is enacted, it will provide the tobacco industry with unprecedented legal protection. It is nothing less than a back door immunity from class-action lawsuits, the Holy Grail of the tobacco industry.

□ 1315

This bill reminds me of the attempt last Congress to give the tobacco industry a \$50-billion tax break. This motion, which was slipped into a massive budget bill, was only repealed when Democrats discovered the provision and the public outcry began. This legislation, too, is a gift for the big tobacco.

Today, most tobacco class action litigation occurs in State courts, but this bill would allow tobacco companies to remove these cases from the State

courthouses all over the country. This is exactly what the industry has long sought to do. The industry knows that the rules for certifying and maintaining class actions are far more favorable to corporate defendants in Federal courts. They know that they have been able to defeat class action cases in Federal courts on procedural grounds.

This legislation will make it virtually impossible for Americans to successfully bring class action lawsuits against the tobacco companies. It is designed to create barriers, to raise hurdles, to wear down plaintiffs so that they will give up in frustration and despair.

All across America, people know about the outrageous behavior of tobacco companies. They now know how the companies target our kids, try to addict our teenagers, and have lied to the American people for 4 decades. And this House, in light of all this information, has repeatedly failed to respond to the public health crisis from cigarette smoking in this Nation.

This Congress has failed to pass comprehensive tobacco control legislation. It has failed to pass even narrow tobacco control legislation. It has turned over billions of Federal dollars to the States, dollars recovered from the tobacco settlements, without insisting that even a small portion be spent to protect our kids from tobacco. Instead, this Congress has done nothing. But now it is considering passing legislation that will actually give the tobacco companies special liability protection.

This legislation is a gift to the tobacco industry rendered at the expense of those who wish to hold that industry accountable.

Now, some will argue and have argued that this legislation simply treats tobacco like any other business in America. But it is important to remember three facts.

First, tobacco companies are selling a lethal and addictive drug. Second, the product sold by the tobacco companies are the only consumer product in America that kills when used as directed. And third, the tobacco companies have lied to and deceived the public for over 40 years. These companies have operated for decades with utter disregard to the hundreds of thousands of Americans that are killed each year.

We should put public health first and not make it more difficult to hold the tobacco companies accountable for their actions. They deserve no reward. This is a public health issue. It is about fairness for the victims of tobacco. It is time for Congress to protect our children and public health, not big tobacco.

I urge my colleagues to support the Jackson-Lee amendment.

The CHAIRMAN pro tempore (Mr. BURR of North Carolina). The time of the gentleman from California (Mr. WAXMAN) has expired.

(By unanimous consent, Mr. WAXMAN was allowed to proceed for 1 additional minute.)

Mr. WAXMAN. Mr. Chairman, I yield to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for joining me on this amendment.

I wanted to add to the statement of the gentleman that there have been a number of carve-outs. In fact, we will find that there is a corporate governance carve-out that was requested. I think my colleague raised the issue that some of these were dealing with Federal questions, but some of these were dealing with the fact that the individual State interests wanted a carve-out.

In particular, in Delaware, the corporate governance was carved out because they like what is going on in State courts in Delaware.

It seems to me, with so many carve-outs, like the securities, this begs the question on a Federal issue. This is life or death. These lawsuits are life or death.

The Castano case would have never come if it had not come to the State court system. People are dying. It is important that this legislation, if passed, does not affect the ability of people who have died or are dying their day in court.

I ask my colleagues to accept this amendment because we are dealing with life or death.

Mr. WAXMAN. Mr. Chairman, reclaiming my time, a lot of people are for States' rights in this House. Except when it comes to the question of whether tobacco companies say they do not want States' rights, they want it to be a Federal issue, and then they are willing to go along with big tobacco against the chance of people who have a legitimate lawsuit to bring their case on a class action basis.

I, too, urge support for the amendment.

Mr. GOODE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am opposed to this amendment. I do not think that we should exempt our carve-out to tobacco industry from other business, corporations, and industries across this country. They should be treated just like any other entity under the provisions of 1875.

It is going to impact tobacco companies negatively if this carve-out is allowed. Tobacco growers in my area have already suffered greatly. In the flue-cured tobacco country, we have had a quota cut of 35 percent over the last 2 years. What does that mean? That means that they have a reduction of 35 percent of their gross income and their expenses stay about the same.

This year prices are down all across the old belt tobacco market, and growers are suffering. Many tobacco farmers are going out of business. They cannot continue along the course that has been thrust upon them.

If we single out the tobacco industry for different treatment than the rest of the businesses and companies in this

country, we will be driving a further nail in the coffin of the tobacco companies. If we do not have them, we will not have buyers. Then the tobacco that is utilized in this country by those adults who choose to use it will come from China, it will come from Zimbabwe, it will come from Brazil.

I want us to be fair to the American tobacco grower, be fair to the American tobacco industry. And I hope that those that want to utilize tobacco in this country will have the opportunity to always purchase American tobacco instead of foreign tobacco. We do not need this unfair treatment for American businesses.

Mr. MEEHAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Jackson-Lee amendment. If passed and enacted, the class action bill is going to provide significant protections to corporate defendants against class action lawsuits and no industry will benefit more than the tobacco industry.

I think it is somewhat ironic that here we are today and the Justice Department has announced that they are filing a civil lawsuit seeking billions and billions of dollars' worth of damage for the taxpayers of this country, the attorneys general from around the States have negotiated a settlement worth another \$250 billion, the courts are going in the direction of holding the tobacco companies accountable for decades of duplicity; and what are we doing in this House? We are going in the opposite direction. We are saying, that is okay when it comes to big tobacco.

The tobacco companies win whenever there is a debate in this House, but the people in America lose. And when we go into the courts, the only place where we have been able to level the playing field, the sponsors of this legislation want to give a special carve-out to the tobacco industry.

Currently, most tobacco class action litigation occur in State court since the plaintiffs' claims against the industry typically involve State law claims. However, this bill would allow the tobacco companies to remove these cases from State courthouses all across the country, giving the industry back-door immunity from lawsuits.

Not surprisingly, the tobacco industry has long sought to remove State class actions from Federal court. The industry knows the rules of the games of certifying classes and maintaining class actions are more favorable to corporate defendants in Federal courts than in State courts. So the tobacco companies want to have their way. They want to be able to go into Federal court and defeat class actions on procedural grounds.

Now, in the last Congress, the tobacco industry sought a complete ban on class actions and these provisions were widely criticized by the public health community and rejected in the Senate. By severely limiting State

class actions, this bill will provide the tobacco industry with special protection from civil class action liability, which is exactly what the Congress and the health community has already rejected. Even if we support the changes to the class action laws that are in this bill, it makes sense to make sure that the tobacco industry is held accountable.

We are at a pivotal point in time in our history in terms of holding the tobacco company accountable. It is the leading preventable cause of death in the United States. Over 400,000 people a year die as a result of tobacco-related illnesses. The least we can do, the least we can do, is give the American people who have been victims through negligence of the tobacco companies their opportunity to join together and fight big tobacco.

The fight against big tobacco is not going to be won, unfortunately, on the floor of this House. But Americans across this country, at a minimum, should have the ability and the right to go into court and State class actions to hold these tobacco companies accountable.

Mr. Chairman, I yield to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman very much for yielding.

Mr. Chairman, I want to emphasize another case. I thank the gentleman for recounting this whole problem of getting into courts. If we had not had the opportunity to go into State courts, cases like Engle versus R.J. Reynolds Tobacco Company, a successful class action case in Florida, as I mentioned, would not have had the opportunity for trial. Broin versus Philip Morris, which considered the claims of some 60,000 flight attendants harmed by secondhand smoke, would not have been allowed into the courthouse.

So I want to see a balance between business interests and individual interests, but in this instance the scales of justice are weighed heavily in the opposite direction without this carve-out.

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

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

Mr. DOGGETT. Mr. Chairman, before coming to this body, I served as a justice on the Texas Supreme Court; and I know that on our courthouse and courthouses across Texas, and I expect in the State of my colleague, as well, there are the scales of justice. We expect that every litigant will be treated fairly and that those scales will be in balance.

When we apply those scales of justice in this body on this Jackson-Lee amendment, on one side we have every public health organization, some 70 consumer groups, State judges, Federal judges, the State attorneys general, I am sure other law enforcement groups, and on the other side of that scale we have got the big tobacco lobby.

Would not my colleague say it is easy to draw the appropriate balance as be-

tween the opponents and supporters of the Jackson-Lee amendment?

Mr. MEEHAN. Mr. Chairman, reclaiming my time, I would say that that is very easy.

Mr. DOGGETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, for the last several years, this Republican Congress has stood idle as each day some 3,000 of our children across America have had the opportunity to be introduced to nicotine. Many of them, perhaps as many as a thousand per day, will die prematurely because of their nicotine addiction.

Secret tobacco documents discovered in the course of class action litigation indicate that these tobacco giants targeted children as young as 12 years old with their propaganda about the joys of smoking.

Before Congress grants this tobacco industry special protection, we need to weigh the heavy consequences of the deplorable history of targeting our youngest Americans to take up smoking, proven in industry documents discovered in these class action suits in State court.

I believe that we must place a high priority on the deadly relationship between children and nicotine. We have to protect our children from the tobacco companies that spend over \$5 billion a year, almost \$14 million every single day of every single year, to promote their products because they need to replace the thousands of smokers that die off from using their products with new young victims.

This legislation is truly back-door immunity for the tobacco industry. I commend my colleague from Texas (Ms. JACKSON-LEE) for her courage in taking on that industry and declining to give them that back-door immunity.

□ 1330

These are the same tobacco giants that sought to ban class actions in 1997, that have known about the deadly consequences of their product for decades, and that are now back here again asking for special treatment.

As my colleagues know, the relationship between the Republicans in this Congress and the tobacco industry runs very deep and constant. The only thing this House has ever done in response to this vital public health issue in the last two sessions was to approve a \$50 billion tax loophole for the tobacco industry.

And when people discovered it tucked in under a title called "Small Business Protection", the House Republican leadership got so embarrassed, Mr. Chairman, that they withdrew the whole matter. Just when we thought perhaps the Republican leadership had learned the lesson of that misdeed, they again have stood with the tobacco industry to offer them this major break from responsibility.

Oh, yes, the Republican leadership talks about personal responsibility, but

they do not mean personal responsibility for those who have produced the leading cause of preventable death in this country today, the tobacco industry. The victories that have been won in so many of these important States have occurred in our State courts. The States' attorneys general have played a critical role in exposing tobacco industry wrongdoing. In their pursuit of cases at the State level, they have been invaluable allies of the public health community.

If this bill had been law, we would still be waiting for an answer because our Federal courts are overwhelmed and backlogged in too much of the country. Florida citizens would not know as they learned through the litigation that, "tobacco companies have engaged in a persistent pattern of fraud, of conspiracy to commit fraud and intentional infliction of emotional distress."

If this bill had been law, Minnesota State courts would never have had the chance to tell Americans around the country that the tobacco companies set out, "get smokers as young as possible" and that our own children were purposefully targeted for nicotine addiction. For these tobacco companies children "represent tomorrow's cigarette business . . . and will account for the key share of total cigarette volume for at least the next 25 years." Those are the words right out of the secret tobacco documents discovered in state court proceedings.

The Congress is not the only body, of course, that has considered changing its class action procedures. The same forces, the tobacco industry and its allies, that are attempting to destroy this useful remedy in this Congress came before the State capitol in the city I represent in Austin, Texas. They sought through other devices, along with their allies—the health maintenance organization and the insurance companies—to bar the doors of the courthouses of the State of Texas. Fortunately, the Texas Legislature had the wisdom to reject their entreaties, and I hope this Congress will do the same thing.

As my colleagues know, a Federal civil lawsuit in too many jurisdictions is little more than a ticket to delay.

The CHAIRMAN pro tempore (Mr. BURR of North Carolina). The time of the gentleman from Texas (Mr. DOGGETT) has expired.

(By unanimous consent, Mr. DOGGETT was allowed to proceed for 2 additional minutes.)

Mr. DOGGETT. Should this bill pass, Mr. Chairman, the delay will not only be for those involved in tobacco class-action suits. Certainly they will be damaged, but every litigant, be it corporate, individual, governmental, that has a claim pending, a legitimate claim in our Federal court system throughout this country, will find the already overwhelmed Federal courts to be logjammed even more.

There are over 4,000 State courts that can handle State class actions com-

pared to a much smaller number of our Federal district courts. If Congress today adds to these cases, the noise we will hear in the background will be the wheels of justice coming to a screeching halt. Tobacco companies will have successfully avoided any real threat of being held accountable, of being personally responsible for the damages resulting from their purposeful deceit.

This Congress failed the American people by failing to approve comprehensive tobacco legislation. Let us not fail the American people once again by trampling on their rights to turn to the courthouse in their own State, in their own locality, when the Congress would not respond.

Mr. Chairman, I would add one further note to my colleagues. Because of the stranglehold, and it is a strong stranglehold, that results from their having well oiled the machinery of Government here in Washington, the tobacco companies really face little threat in this Congress. We will not be able to get to the floor of this Congress meaningful legislation to reduce youth smoking; and my colleagues need to know that this vote on the amendment offered by the gentlewoman from Texas will probably be the only vote this year by which the American people and the constituency in each district of the Members of Congress will have an opportunity to judge them as to whether they stand with big tobacco and its wrongdoing or they stand with the children and the public health organizations of America to have an effective remedy for such wrongdoing.

I urge approval of the Jackson-Lee amendment.

Mr. ETHERIDGE. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. ETHERIDGE. Mr. Chairman, I rise to oppose this amendment. I do not understand why we are considering carving out tobacco when this legislation simply ensures that the Federal courts are available to parties involved in massive and complex class-action lawsuits. This amendment, by singling out the tobacco industry, I think establishes a very dangerous precedent. What politically incorrect industry will be singled out next? Will it be alcohol? Fatty foods? Or will it be big oil? Such a precedent, that threatens all legal businesses whose products may be considered controversial by some person or political parties.

But let me make my point very clear today. My main concern lies not necessarily with the manufacturers, but they are important because last time I checked, they are the only people who buy any tobacco from our farmers. It really lies with the tobacco farmers.

Mr. Chairman, farmers in my district have born the brunt of this nationwide campaign against tobacco. Sharecroppers, not shareholders. Let me repeat that. Sharecroppers, not share-

holders, are the ones who are paying the heavy price, and they continue to pay. The shareholders are getting their money; the sharecroppers are being punished. Tobacco families, tobacco farmers and their communities have been severely harmed by the ongoing campaign. Over the past 2 years these farmers have lost 35 percent of their gross income. My colleagues can imagine what that has done to their net income, and their communities are suffering.

A recent study by VPI and NC State University in North Carolina clearly demonstrates that the tobacco farmers are bearing the burden of the anti-campaign. The study concluded that these lawsuits are particularly punishing to farmers because they are unable to recoup the losses through price increases, as the manufacturers have done. Instead of punishing manufacturers, we are punishing the very people that we want to help, the farmers, and their communities and their families. If we adopt this amendment and single out tobacco industry, tobacco farmers, Mr. Chairman, not the manufacturers, will continue to carry the heaviest load that we are talking about.

And people stand here and say they want to help. They are punishing the people they want to help. The people in my district, Mr. Chairman, are on their backs right now from a hurricane. They cannot stand any more help from this Congress. They need real help in funding that will go to help them get back on their feet. I oppose this amendment, and I urge my colleagues to do the same.

Mr. BRYANT. Mr. Chairman I move to strike the requisite number of words.

Mr. Chairman, it is interesting to stand here on the floor of this House and listen to the debate and especially on an issue like this that should be dwelling on the issue of fairness versus the very emotional issue on the political incorrectness of tobacco; and some would say, I have heard repeated several times today, that some here on this side of the aisle came to Washington to talk about moving many of the rights back to the States and how this is just the opposite of that. But many of those very same people believe in bigger government, and yet today they are saying that, well, we do not think the Federal Government ought to have a role in this, that it ought to be back in the States.

Mr. Chairman, I say this simply to point out to the public that no one has a monopoly on hypocrisy, if that is what we are talking about here. I think each case has to be decided by its merits, and this case, given the history of our law on diversity and given the statute on class-action lawsuits, and that concept that even big businesses and even big unpopular businesses ought to be treated fairly, and especially if they are interstate, they ought to have that right to avoid the local biases that often come out in local courts, and

they have been able to go into court, into Federal court and Federal courts are scattered all throughout the country, it is almost like somehow we are talking about we are denying anyone the right to go to court.

We are not doing that. The Federal courts are open; the State courts remain open, and if they are removed to Federal court, it is a local court in their State, every State has Federal courts; and as I point out in my opening statement, they are probably better equipped to handle these class-action lawsuits because they have law clerks; they have U.S. magistrate judges and all kinds of assistance; they have the experience in complex litigation.

But in the end what we are talking about on this amendment is a carve out, and some have said, Well, you've carved out for securities litigation. Well, the reason we carved out for securities litigation was that we enacted a bill in this Congress a year or two ago that reformed that, that made those changes, so there is no reason to bring this into play as to that subject and cause conflict.

But the last speaker, I want to close my remarks by saying he was familiar with the courthouse, and how the scales of justice is there and how it should be balanced; but I think the key of the lady of justice holding the scales of justice is that she is wearing a blindfold, not that the scales are balanced, and if my colleagues vote for this amendment and carve out a politically unpopular entity such as tobacco and treat them unfairly, different than the rest of them, you have got that lady of justice peeking out from that blindfold, and no longer is justice blind, no longer is justice fair.

Vote against this amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Tennessee, and I appreciate both his tone and his work, but I think that if my colleagues might, let me cite for them again from the Conference of Chief Justices who have indicated there is a very fine balance of relationship that they have developed between the Federal court system and the State court system on class actions, and we are not here to try to create an imbalance between large companies or unpopular industries. Frankly my colleagues have already carved out a carve-out for the securities industry, and what we are saying is we do not want to implode the opportunities of victims who have been the victims of tobacco usage and tobacco companies.

Mr. BRYANT. Reclaiming my time, as I explained earlier, we carved out the securities litigation because we have already acted on that. There is no sense in passing something that would be inconsistent or cause any problems.

But, again, I think the point we have got to look at here we are making ex-

ception, we are singling out something that is not popular; and again under our system of justice, under our lady of justice, justice should be blind. Even though it is tobacco, even though it is firearms, it should be treated the same as any other company; and we certainly are not closing the doors to the courthouse.

In fact, I have complete confidence in the Federal court system to adjudicate this type of litigation and, in fact, would prefer this type of litigation if this type of court venue, if it is a complex case like a class-action lawsuit.

Mr. Chairman, I think both the plaintiffs and defendants deserve this type of treatment.

Mr. WATT of North Carolina. I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Jackson-Lee amendment, but both the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) and Mr. NADLER's amendment really point up the problem with this legislation and what happens when we do not have a central principle that controls when you are going to be in Federal court and when you are going to be in State court and opens you up to efforts to try to pick out one industry or the other and exempt them or not exempt them.

The problem is that there is no central core principle here. We have left the central core principle that our constitutional framework gave to us.

□ 1345

That principle says if there is not something in the Constitution that gives a matter to the Federal Government, that matter is reserved to the States. That is what the constitutional principle is. Once we start to stray away from that constitutional principle, then we do not have a central principle that we are operating from anymore and then we get subjected to this kind of let us make this exception because we do not like this industry or make that exception because we do not like that industry. And we end up with a hodgepodge of jurisdictional standards for when one can get in the State court and when one can get in the Federal court.

Now we have had a long-standing diversity jurisdiction principle that has been at play for years and years and years. It says when someone can get into Federal court; and because the supporters of this legislation do not like that, they start to make exceptions to that principle. And because then people who do not like particular industries do not like that exception then they start making exceptions to the exception, and that is what we are engaged in right now.

The underlying bill is an exception to a long-standing principle. The amendments of the gentlewoman from Texas (Ms. JACKSON-LEE) and the gentleman from New York (Mr. NADLER) want to make an exception to the exception,

and none of it makes sense. So what we ought to do is reject the exception to the exception, the Jackson-Lee and the Nadler amendments and any other carve-outs that somebody comes to the floor with during the course of this debate.

More importantly, we ought to reject the underlying bill which is an exception to the generally-accepted rules that we are operating under because then we do not have a central principle if we do not reject the underlying bill.

That is really where we ought to end up on this piece of legislation. So that is why I am rising in opposition to the exception to the exception, but I am also rising in opposition to the bill which is an exception to the rule, and that rule is that if we did not give it to the Federal Government then it is reserved to the State governments, and that is the principle that we ought to be controlled by.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

The CHAIRMAN pro tempore (Mr. BURR of North Carolina). Is there objection to the request of the gentlewoman from Texas?

There was no objection.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I know this debate is coming to a close. I could not agree more with my colleague from North Carolina on opposition to the underlying bill, and as well I think it is important to note that this is not a popularity contest. There is no attempt here to select unpopular industries.

I would have hoped that my colleagues had not carved out originally the securities carve-out. I would have hoped they had not carved out the corporate governance carve-out because representatives from the State of Delaware were interested in making sure that those actions stayed in State courts in Delaware developing the massive corporate law of America.

I think in this instance we have a situation where we need to be aware that one-third of high school age adolescents in the United States smoke or use smokeless tobacco, and smoking prevalence still exists among our teenagers. We need to realize that children are being attracted to smoking. What we are simply saying here is not to create an imbalance between unpopular industries and popular, or to create an imbalance between any litigant going into the court of justice, but what we are saying is this legislation will allow one diverse litigant, one, to move a massive class action that has been filed in a State court to a Federal court of which the Conference of Judges in the Federal system have indicated we cannot take it.

In fact, Mr. Chairman, it literally locks the courthouse door because our Federal courts are overwhelmed and understaffed, and we have already seen where tobacco cases have not been certified in the Federal court. And we would not have had the cases that we

have had that were filed in Florida and the one filed on behalf of the airline stewards for secondhand smoke. We would have been in an abyss or a crisis or a limbo or a bottomless hole where individual litigants who get their strength from a class action to allow themselves to be able to access, the equity court, the court of justice in State courts, would be denied.

So I would ask my colleagues to consider this not as a bias toward an unpopular industry but a creating of a balance of the scales of justice for those victims who have been closed out of the Court system because they are alone, they are by themselves, they are frail, they have less money and they are not able to access justice.

Class actions are the access for that and this amendment would help those victims of tobacco usage, and I ask my colleagues to support it and to vote against the underlying bill.

Mr. Chairman, I am offering the following amendment to H.R. 1875, The Interstate Class Action Jurisdiction Act of 1999. I am concerned that this bill if left unamended would for the first time, give federal courts jurisdiction over almost all state class action claims, even those involving primarily intra-state disputes over state law. This bill will allow tobacco companies to take state class action claims away from state courts and put them into federal courts over the objections of plaintiffs.

By permitting the transfer from state courts to the federal courts, this legislation will cause indeterminable delay for class action cases against the tobacco industry, both increasing the costs of suing the industry and delaying justice.

My amendment would ensure that this bill does not apply to any class action that is brought for harm caused by a tobacco product. This legislation as currently worded would allow tobacco companies to remove class actions involving state causes of action to federal court. In fact, since the major tobacco companies are principally domiciled in states where class actions are not being brought, "minimal diversity" as defined by this bill will always exist between the plaintiffs and the tobacco companies.

The legislation, therefore, can be said to effectively grant the tobacco industry a free pass to federal court where it will be more difficult for plaintiffs to prevail in class action cases.

My amendment responds to the concerns that many of us have and I urge my colleagues to support this measure.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to House Resolution 295, further proceedings on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE) will be postponed.

AMENDMENT NO. 7 OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. WATT of North Carolina:

Page 7, line 10, strike "before or".

Mr. WATT of North Carolina. Mr. Chairman, I have already expressed my opposition to this bill for a number of reasons, and in the opening debate I also alluded to some internal drafting concerns that I have about the bill. One of those drafting concerns is that the bill allows someone who purports to be a member of a class to come in and remove a case to Federal court before that person is even determined to be a member of the class; before there is a class certification.

The purpose of this amendment is simply to strike two words from the bill. The relevant provision in the bill says this section shall apply to any class action before or after the entry of any order certifying a class. All my amendment would seek to do is to strike two words, "before or," so that at least a person would have to be determined to be a member of the class before that person could pick the lawsuit up and move it to the Federal court.

I am not sure what the objective was to give somebody who is not even determined to be a party to the litigation the right to pick a lawsuit up and move it when they have not even had any role in the case up to that point. So I would encourage my colleagues to support this amendment, although I understand that there may be a substitute for it which I hope I can be supportive of.

AMENDMENT OFFERED BY MR. BOUCHER AS A SUBSTITUTE FOR AMENDMENT NO. 7 OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. BOUCHER. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The CHAIRMAN pro tempore. The Clerk will report the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment Offered by Mr. BOUCHER as a substitute for Amendment No. 7 Offered by Mr. WATT of North Carolina:

Page 7, line 11, insert ", except that a plaintiff class member who is not a named or representative class member of the action may not seek removal of the action before an order certifying a class of which the plaintiff is a class member has been entered" before the period.

Mr. BOUCHER (during the reading). Mr. Chairman, I ask unanimous consent that the substitute amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BOUCHER. Mr. Chairman, the amendment of the gentleman from North Carolina (Mr. WATT) would permit a plaintiff to remove a State-filed class action to Federal court only after

the State court had entered an order certifying the class.

In my view, the removal opportunity should arise at an earlier time for plaintiffs who are named or representative class members. These plaintiffs should be able to remove at some point before the State court actually enters the certification order.

The substitute to the gentleman's amendment that I am offering would permit named or representative class members to remove prior to the State order certifying the class. Other plaintiff class members could remove only after the certification order is entered.

I want to thank the gentleman from North Carolina (Mr. Watt) for his work with the sponsors of the legislation on this aspect of the removal process. I am hoping that the substitute that we are offering will be acceptable to the gentleman in addressing his concerns, and I would be happy to yield to him for his comments.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. BOUCHER. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman from Virginia (Mr. BOUCHER) for yielding.

Mr. Chairman, I want to tell the gentleman from Virginia how much of a pleasure it has been to try to work toward something that accommodates his concerns and accommodates my concerns. I believe that this amendment, while it does not go all the way to the point that I was trying to get us to, reaches a reasonable balance between the two approaches. It at least does not allow somebody to walk in off the street, unknown to the litigation, and pick it up and move it. One has to be a named class representative or a named plaintiff to move it before they have the right to remove, and I think this accomplishes that purpose.

I would encourage my colleagues to support the substitute; and if the substitute passes, then obviously that would take precedence over the underlying amendment which I have offered.

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from North Carolina (Mr. WATT) for his remarks. I would be pleased to yield to the prime sponsor of the underlying bill, the gentleman from Virginia (Mr. GOODLATTE).

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

Mr. BOUCHER. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, I thank the gentleman from Virginia (Mr. BOUCHER) for yielding.

Mr. Chairman, I want to commend the gentleman from Virginia (Mr. BOUCHER) for what I think is a very appropriate secondary amendment to the amendment of the gentleman from North Carolina (Mr. WATT), and commend both gentlemen for working this out. We can certainly accept this amendment, and we urge our colleagues to vote for it.

Mr. BOUCHER. Mr. Chairman, I thank the gentleman from Virginia

(Mr. GOODLATTE) for his support, and I would encourage the committee to approve the substitute.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. BOUCHER) as a substitute for the amendment offered the gentleman from North Carolina (Mr. WATT).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from North Carolina (Mr. WATT), as amended.

The amendment, as amended, was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. FRANK of Massachusetts:

Page 9, strike line 6 and all that follows through page 10, line 2, and insert the following:

(e) PROCEDURE AFTER REMOVAL.—Section 1447 is amended by adding at the end the following new subsection:

“(f) If, after removal, the court determines that any aspect of an action that is subject to its jurisdiction solely under the provisions of section 1332(b) may not be maintained as a class action under Rule 23 of the Federal Rules of Civil Procedure, it shall remand that aspect of the action to the State court from which it was removed. In such event, that State court may certify the action or any part thereof as a class action pursuant to its State law and such action cannot be removed to Federal court unless it meets the requirements of section 1332(a).”.

Mr. FRANK of Massachusetts. Mr. Chairman, this is the truth in labeling amendment. This bill was originally presented to me in the previous Congress as an effort to have more rationality as to whether or not a particular action ought to be tried at the Federal or the State level, and I agreed with that.

Indeed if this amendment were adopted, I could be supportive of the bill, would be supportive of the bill. I had been a sponsor before, until this particular piece of it evolved. I am not sure where it came in, but here is the problem: We now have very technical rules about what gets someone in a Federal court and what gets someone in a State court. I think it makes sense to change that so that where the bulk of the plaintiffs and the bulk of the defendants and the bulk of the issues are in one State it stays in the State court, and where there is genuine factual diversity it goes to Federal court. That was the legislation I was prepared to support.

There is a piece of this, however, that I think is, to many of the sponsors, a central part of the legislation and it says this: If a class action is filed in State court and can be, under the terms of this bill, removed, even

though it did not meet the old technical terms for removal but would meet our new more substantive test for going into Federal court, if a Federal judge found that this particular class action did not meet the rules for class action under the Federal rules it could not be brought as a class action.

□ 1400

It could then be returned to the State, but not as a class action. In other words, this piece of the bill is not to see that certain class actions are litigated at the Federal level rather than the State level. I am aiming at a piece of the bill that seeks to prevent certain class actions from being heard at all.

What came out of the debate is this: some Members of the majority are disappointed in some States. I guess they are kind of like parents whose kids have gone bad. I know they are all for States' right. I know they talk about how much they support States' rights and do not want to see a Federal override. But the problem is, those darn States will not always do what they are told. Some of those States actually allow class-action suits that some businesses do not like, and there is unhappiness over the willingness of some States to do this.

Mr. Chairman, I will say this. There is a certain delicacy on the part of my colleagues, they do not like to mention the States. It is one thing to condemn the States; it is another thing to actually mention which ones. So you probably will not hear during the course of the debate any actual States mentioned. There are a few. Off the floor maybe we can whisper some names.

But the problem they have is, they believe some States are too lax and too willing to allow class actions, so part of the purpose of this bill is not simply to get class actions litigated in Federal court rather than State court, but to keep them from being litigated as class actions at all. That seems to me to be a grave error.

This amendment is very simple. This amendment says that if one gets it removed under the general provisions of this bill, and this bill will make it easier to remove from State to Federal court, and I support that part of it, the amendment says if one gets it removed and a Federal judge says, no, one cannot have it as a class action, then one can go back to State court and have it as a class action in State court. In other words, one's choice is one wants it to be a Federal class action or a State class action, and that I think the bill addresses correctly. But using this as a way to prevent class actions at all is an error, and only this amendment will keep this from happening.

What the amendment says is that if a Federal judge rules that it cannot be a class action, one has the opportunity of going back to the State from which it was removed and maintaining it as a class action. I do not think it is appropriate for us to simply say, as this bill

otherwise will after this amendment, hey, some of you States have not gotten it right and you States are allowing class actions that should not be class actions and we, the Federal Government will step in.

This is a proposal to substitute the wisdom and discretion of the Federal courts for State courts as to whether or not class actions ought to be maintained at all.

As I said, and I want to be very clear, to a bill whose purpose it is to have certain actions tried in the Federal rather than a State court because it makes more sense for the class action to be tried there, I am supportive. But a bill whose purpose it is to prevent any class action at all, and that is part of the purpose of this bill, that, I think, is in error.

This amendment would return the bill to what it was advertised as to me: an effort to put class actions where they ought to be, but it would remove from the bill that provision that says, some States have been imprudent in allowing class actions that should not be allowed. I do not think that is a wise decision for the Federal Government to make. We certainly have had no record for it and if, in fact, we are going to have legislation passed that rules that some States have been imprudent, let us have hearings. Let us give those States a chance to defend themselves.

This is a gravely mistaken assault on States who have not been given a chance to defend themselves.

Mr. GOODLATTE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment would defeat the whole purpose of H.R. 1875. I must strongly disagree with the gentleman from Massachusetts (Mr. FRANK), with regard to the issue of States' rights. It is not a States' rights issue to allow one State court judge to determine the law in 20 or 30 or 40 other States, and that is what happens now when nationwide class-action lawsuits with tens or hundreds of thousands of plaintiffs cannot be removed to Federal court because of this flaw that has existed in our diversity rules that says that a \$75,000 slip and fall involving parties between two States can be removed to Federal court, but a multimillion dollar or multibillion dollar lawsuit involving tens of thousands of parties cannot be removed to Federal court.

To allow one State court judge in one county in one State to determine the laws of a multitude of other States; to allow a judge in the State of Alabama to interpret the laws of New York and New Jersey and Pennsylvania and California and Texas is wrong, and that is what this bill is designed to do.

If the gentleman's amendment passes, the effect will be to say, once the matter is removed to Federal court, if the Federal court does not believe that the legislation constitutes a class action and refuses to certify it as a class action, then it would go right back to the State court and they could

proceed with their lawsuit just as if nothing had ever happened. It would defeat the entire purpose of eliminating forum shopping and it would defeat the entire purpose of making sure that State court judges do not interpret the laws of a multitude of other States.

The whole purpose is to allow the removal of more interstate class actions to Federal courts where they are most appropriately heard. This amendment would make that change worthless.

The amendment would constitute a full endorsement, not a correction, of the rampant class-action abuse that is occurring in State courts. When a Federal court denies class certification in a case, it is typically because litigating the case on a class basis would likely result in a denial of a class member's or a defendant's due process rights or basic fairness principles. This amendment would invite State courts to overrule such Federal court determinations; it would invite State courts to advance class actions that a Federal court has determined would deny due process rights or be unfair to unnamed class members.

The amendment is based on the myth that most States have class-action rules radically different from the Federal class-action rule, and that if a Federal judge judges that a class case may not proceed as a class action under the Federal rule, counsel should be able to take their case back to State court and try their luck under the State rule. In reality, the vast majority of States have class action rules that track the Federal court class-action rule, or have held that the Federal court precedence should guide State courts in making class certification determinations. The problem is that when the rules are largely the same, local judges in many States do not rigorously follow these rules, and their misguided class certification determinations are not readily subject to proper review.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. GOODLATTE. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman for that statement, because I think that makes it clear what we are talking about.

The gentleman has just said that the problem is that the rules are the same but a lot of local, i.e. State, judges, are misguided. So this is not a statement that the Federal judges have superior wisdom; and it is, as the gentleman said, an effort to prevent the misguided actions of State judges who cannot be trusted to carry out their own State laws.

Mr. GOODLATTE. Mr. Chairman, reclaiming my time, the legislation does not make any distinction between the wisdom of State court judges in general or Federal court judges in general; it says that State court judges should not be determining the law of other States.

Mr. FRANK of Massachusetts. Mr. Chairman, if the gentleman would continue to yield, the gentleman just referred to misguided State judges. He acknowledges that the rules are largely the same, and what he is saying is, the Federal judges will be guided and they will have to guide those misguided State judges. It is okay to think that.

Mr. GOODLATTE. Mr. Chairman, again reclaiming my time, all I am saying to the gentleman is that we should not allow anybody to have two bites of the apple, and that is what the gentleman's amendment provides for.

The amendment would create enormous inefficiencies and a parade of abuses. In particular, if a defendant fights to defeat class certification and wins in Federal court, it will have to turn around and mount the fight all over again.

The amendment is premised on the false assumption that class proponents will not get a full opportunity to obtain class certification under the current bill. They will. As presently drafted, the legislation will allow litigants multiple chances to obtain certification of proposed classes after removal to Federal court. If the first class proposal in a removed action fails, nothing in this bill precludes the class representatives from making revised class proposals to the Federal court.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. GOODLATTE) has expired.

(By unanimous consent, Mr. GOODLATTE was allowed to proceed for 1 additional minute.)

Mr. GOODLATTE. Mr. Chairman, even after the case is dismissed in Federal court, it can be refiled in State court. After the class certification fails, it would not preclude the plaintiff from offering additional class proposals. They just cannot go back in with the same class proposal, because that class has not been certified in Federal court.

Suggestions that H.R. 1875 would federalize all class action rules ignore the current situation, and it ignores the situation that I referred to earlier. It has been suggested that this amendment would prevent H.R. 1875 from federalizing class action rules. In reality, the amendment would perpetuate the federalization of class action rules that is occurring now. At present, a handful of State courts dictate Federal class action policy.

By taking an "anything goes" approach to class actions, those few State courts have become a magnet for class actions. Such courts hear a disproportionate number of multi-State and nationwide class actions because they are very lax about what they will certify for class treatment. Passing this bill will standardize the process and make sure that no one State court drives the policy.

Oppose this amendment and support the bill.

Mr. BOUCHER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will be brief in stating my opposition to this amendment. If the amendment is adopted, the basic reform that we are seeking in this legislation simply would not be achieved. Some cases simply should not be certified as class actions, either in State or in Federal courts. Federal Rule of Civil Procedure 23 is narrowly drawn so as to protect the normal rights of both plaintiffs and defendants. Under rule 23, cases that are overly broad will not be certified as class actions.

When cases are denied class action status, all of the individual members of the purported class are then free to file their individual actions for damages. And so, in the failure of class certification, absolutely no one is denied the opportunity to seek recovery for whatever damages they may have incurred.

If the amendment of the gentleman from Massachusetts is adopted, any case which, because of its broad scope, fails to meet the class certification requirements of rule 23 of the Federal rules, and therefore, is dismissed as a class action in Federal court, could then be certified as a class action in the State that has looser certification standards. That State would then be the final arbiter of whether or not the class would be certified, because removal to the Federal court would then no longer be allowed.

The national cases that involve the residents of many States that are our concern and that underlie this legislation would, under this amendment, still be heard in State courts, and so our basic purpose would not be achieved. The reform that we are seeking would not be put into effect, and for that reason, I urge the defeat of the amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. BOUCHER. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman for yielding, because I want to straighten something out now.

The previous speaker said that some of us were operating under a myth, but the myth was just propagated by my friend from Virginia, not by us. I would say to my other friend from Virginia, he accused the sponsor of this amendment of holding the view that there were different State and Federal standards for certifying, and he said that was not the case, it is just that the Federal Government is better at this than the State judges. But as the gentleman from Virginia now standing who graciously yielded to me just said that some of the States have looser standards.

So I do want to point out that there appears to be some difference between the two gentlemen from Virginia here.

Mr. BOUCHER. Mr. Chairman, reclaiming my time, let me say that it is true that most of the States have standards that are roughly coincident with rule 23 of the Federal Rules of Civil Procedure, but there are some

States that have not adopted that rule. There are some States that, in fact, do have broader and looser standards than Federal rule 23; and in many of the instances where abuses have arisen, it is because of those somewhat broader standards.

We have a whole series of cases that the gentleman and I discussed when this matter was in the committee where the State that is certifying a class will be applying its law in such a way as to bind all of the Members of the class and make sure that that particular State's law dominates the decision, notwithstanding the fact that in the State of the residents of many of those individuals, the law is very different. That reversed federalism, which does enormous damages to our traditional principles of federalism is yet another abuse that we are seeking to remedy.

Mr. FRANK of Massachusetts. Mr. Chairman, if the gentleman will again yield, I just wanted to point out that that argument, that there are some States with different standards, is contrary to the argument given by our other colleague from Virginia. I just wanted to point that out. He said we were operating under the myth that there were these States with different standards, and that, in fact, the standards detract from each other.

The gentleman from Virginia (Mr. BOUCHER) is now acknowledging that there are some States with different standards, and I think that is frankly a better way to go than to have the argument that we previously heard that there were these misguided State judges who were misapplying the rules.

In any case, I would say this. I would like to have a hearing and call forward officials from those States; I think it would be useful. Which States are we talking about? Which are the States that are abusive? We ought to be able to know which States we are talking about, and I think we ought to give those States, because I do not remember hearing where we asked those States to come and justify their loose procedures.

□ 1415

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

Mr. BOUCHER. I yield to the gentleman from Virginia.

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

Would it not be possible that both facts are true; that in some States the certification process is different than the standards followed in the Federal courts and followed by most of the other States, and it could also be true that in some States some judges do not follow standards that are loosely applied?

Mr. BOUCHER. Reclaiming my time, Mr. Chairman, I think the gentleman from Virginia is precisely right. Even in those States that have standards that approximate Federal rule XXIII, there is a divergence oftentimes in the

courts of that very State in terms of how those standards are applied.

Oftentimes, the States do not offer the right of interlocutory appeal on the pure question of class certification. So for the defendants to have an opportunity to challenge the application of that particular State's certification rules, the entire process of the trial has to be undertaken, has to be concluded. That is a waste of time, resources, and money for all parties concerned.

Mr. FRANK of Massachusetts. Mr. Chairman, if the gentleman will yield further, I agree that intellectually both can be true.

I would simply point out to the gentleman from Virginia, he is one who referred to one of those truths as a myth. The gentleman from Virginia first declared it was a myth, and then announced it was true. I am willing to wait for his judgment as to which he means.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to point out that as we weigh the intelligence and ability of the Federal judges versus the State judges, it is the Federal judges and the Judicial Conference of the United States that do not want this bill.

They have used the most delicate language imaginable: "Concern was also expressed about the conflict between these provisions of the bill and long-recognized principles of Federalism." Get it? That is what they are saying: Please do not give us this. They demean the State court judges, but the Federal judges to whom they are giving this do not want it.

But since they insist on giving it to them, the Frank-Conyers-Berman-Meehan amendment, this amendment, merely gives the State court the opportunity to reject or accept a class certification determination.

The debate that has been going on here assumes that anything that comes back to the State court is going to automatically be certified as a class action. The State court has the option of determining whether there will be a certification. They may well turn it down. What it does do, this amendment, is to stop the merry-go-round effect of always allowing any State court determination to be removed to the State court.

So this amendment provides simply that if, after removal, the Federal court determines that no aspect of an action that is subject to its jurisdiction may be maintained as a class action under rule 23, the court shall remand the class action to the State court, without the opportunity to be removed again to the Federal court. The State could then proceed with a class certification determination.

After the determination, if the district court determines that the action subject to its jurisdiction does not satisfy the rule 23 requirements, then the court must dismiss the action. This has

the effect of striking the class action claim. While the class action claim may be refiled again, any such refiled action may be remanded again if the district court has original jurisdiction.

Therefore, even if a State court would subsequently certify the class, it could be removed again, creating a revolving door between the Federal and State court.

Mr. Chairman, all we are doing is stopping the revolving door action. It is a modest improvement to a measure that is likely not to be kindly received by the administration. This would make it a little bit better.

This provision unfairly prohibits class action lawsuits from being certified by State courts under the State class action rules, which could be more lenient than Federal rule 23. As a result, individual actions could be the only recourse for the plaintiff, and this will eliminate the benefits of a class action in the first place. This is why class actions were created, to seek compensation as a class from the industry because individual lawsuits are too costly.

I urge my colleagues to support the amendment, which will allow the Federal courts the first opportunity to review a class action, but not cut off other class action rights in the State courts.

Mr. MEEHAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think this amendment addresses, really, the central point of this debate: Is this a bill about banning all kinds of class actions, or is this debate really about making a change in the diversity rules?

The proponents of this bill argue that this bill represents a minor change in the rules of civil procedure and has no impact on the meritorious class action lawsuits. The way the bill is drafted, however, belies that claim. Instead, it would prohibit the formation of almost all State class actions.

This amendment would correct that problem by only permitting the defendant to remove a class action suit to Federal court once. If it is removed and does not receive Federal certification, then the class can go forward with their class action on the State level if and only if they succeed in receiving certification under the rules of that particular State.

By ending the possibility of repeated removals, this amendment ends the merry-go-round of removals and preserves meritorious State claims actions. Without this amendment, almost no class actions would be able to form on the State level without defendants being able to repeatedly whisk them away to Federal court.

The goal of this legislation is supposed to be a technical change to the diversity jurisdiction rules, not a preclusion of all class action lawsuits. Unfortunately, the way this bill is drafted clearly demonstrates that it intends to preclude class actions, not simply correct diversity jurisdiction problems.

Mr. Chairman, I urge support for this amendment.

Mr. MORAN of Virginia. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, on the face of it, this may seem to be a corrective measure. The problem is that this is a classic loophole. There are a handful of States that have lax certification standards.

Some might argue that that is what this legislation is all about, that there are certain States that are havens for frivolous class action lawsuits. What this does is to say, you play by the rules, you go to the Federal court, the Federal court finds that your suit is without sufficient merit, and then if you lose, you have the recourse to go right back to the States with the most lax certification standards and start the case over again.

That is the problem with this. If we were talking about having an opportunity to appeal to a Federal court, that would be a more legitimate alternative and one that I think would have merit, personally. I cannot speak for the other sponsors, but I think that might have had merit. This, what this does is to open up a loophole. It is a loophole that in fact will become the standard course of action on the part of plaintiff's attorneys who have figured out how to best abuse the existing system.

So that is why I have to oppose this legislation. Even though my very good friends and people whose judgment I highly respect have offered this amendment, I am afraid that perhaps unwittingly, I am sure unwittingly, they are offering legislation that will open up a loophole that will really nullify the intent of this corrective reform legislation. For that reason, I really think our colleagues should oppose it.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I would just ask my friend, in his experience, has he ever heard himself or any other Member refer flatteringly to a Member whose amendment he intended to support?

Mr. MORAN of Virginia. Actually, not. We offer the most ungenerous flattery to those who we intend to oppose most vigorously. But that does not mean that I did not mean it when I say that the gentleman is a friend and a very credible and respected colleague, I say to the gentleman from Massachusetts. It is just that the gentleman's legislation does not make sense.

Mr. FRANK of Massachusetts. In the future, I would trade three compliments for one vote.

Mr. MORAN of Virginia. The gentleman will not get that. He will have all the compliments he wants, but I certainly would not vote for this legislation. I would not encourage any of my colleagues to vote for it, either.

The CHAIRMAN. The question is on the amendment offered by the gen-

tleman from Massachusetts (Mr. FRANK).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. FRANK of Massachusetts. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 295, further proceedings on the amendment offered by the gentleman from Massachusetts (Mr. FRANK) will be postponed.

AMENDMENT NO. 6 OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Ms. WATERS:  
Page 10, line 4, strike "The" and insert "(a) IN GENERAL.—The".

Page 10, lines 5 and 6, strike "date of the enactment of this Act" and insert "date certified by the Judicial Conference under subsection (b)".

Page 10, insert the following after line 6:  
(b) CERTIFICATION BY JUDICIAL CONFERENCE.—The Judicial Conference of the United States shall certify in writing to the Congress the first date on or after the date of the enactment of this Act which the number of vacancies of judgeships authorized for the United States courts of appeals, the United States district courts, and the United States Court of Federal Claims, is less than 3 percent of all such judgeships.

Ms. WATERS. Mr. Chairman, this amendment provides that this bill, H.R. 1875, would take effect only once the Judicial Conference of the United States has certified in writing that fewer than 3 percent of Federal judgeships remain unfilled.

I remain firm in my opposition to H.R. 1875 because the bill as designed will dramatically increase the workload of the Federal judiciary. The bill's very purpose is to transfer to the Federal courts a large portion of class action lawsuits currently handled by State courts.

The current workload of the Federal judiciary is already hampered by the backlog of cases, largely due in part because of low-level drug crimes prosecuted under the ill-conceived mandatory minimum drug sentence. The over-federalization of crimes, coupled with the judicial vacancies on the Federal bench, results in meritorious civil claims not being heard.

I come from a people who are all too familiar with the maxim, "Justice delayed is justice denied." On May 11, 1998, the conservative Supreme Court Chief Justice Rehnquist noted that the Senate is "moving too slowly in filling the vacancies on the Federal bench." He also criticized the Congress and the President for "their propensity to enact more and more legislation, which brings more cases into the Federal court system."

He said, "We need more vacancies to deal with the cases arising under existing laws, but if Congress enacts and the President signs new laws allowing more cases to be brought into Federal

courts, just filling the vacancies will not be enough. We need additional judgeships."

Mr. Chairman, allow me to detail the judicial vacancy crisis. Currently, there are 68 Federal judicial vacancies, or approximately 8.5 percent of the Federal judicial positions. On average, Federal District Court judges have 398 civil filings pending.

The Senate in 1999 has confirmed only seven judges. Forty more await action, either on the floor or in the Committee on the Judiciary. Yet, Mr. Chairman, Senator TRENT LOTT has clearly indicated that filling judicial vacancies is not a priority. Last week, in regard to the nomination of a judiciary candidate, the Senator stated, "There are not a lot of people saying, give us more Federal judges." He further said, "I am trying to move this thing along, but getting more Federal judges is not what I came here to do."

Meanwhile, 23 vacancies are categorized by the Judicial Conference as judicial emergencies, meaning either that the court in question is facing a burdensome caseload, or that the slot has been vacant for 18 months. As of June 1, fully one-fourth of the positions on the Ninth U.S. Circuit Court of Appeals had not been filled. The Third Circuit has a whopping 20.3 percent judicial vacancy.

Mr. Chairman, the failure of movement on the judicial nominations to the Federal court borders on malpractice.

□ 1430

Clearly, the majority has decided to play political football with the President's nominees at the expense of the American people who have cases that are in need of resolution.

I understand that this body does not have the power to order the other body to confirm the judicial nominees. However, this amendment would provide that the judiciary not undertake additional cases unless there are enough judges to address the suits before the courts.

This amendment is reasonable and is one that should be supported. Mr. Chairman, these numbers speak for themselves. I urge my colleagues to support this amendment.

Let me just conclude by saying I do not have to make a further case. We all know this. The gentleman from Virginia (Mr. GOODLATTE) on the other side of the aisle is even smiling because the case is so clear.

Here we are talking about putting an additional burden on our Federal courts, and we cannot fill the vacancies, and we have no movement from the very people who claim that this must be done in the interest of fairness.

Well, I do not think they can make a case for this. I do not think anybody believes this. They do not even believe it. They know that the courts are backed up, and they know that even those in their own party have spoken

about this terrible problem that we have with these vacancies.

Do not try and overburden these courts even more and back up the cases. If they really want to do something, they will get in their conference, and they will urge Senator LOTT and the others on the other side of the aisle to move these judgeships so we can take care of the cases that are already there.

Mr. GOODLATTE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I must say to the gentlewoman from California (Ms. WATERS) the reason I was smiling is because, to state it kindly, this amendment is sort of a sneak attack on the bill, because it has the effect of gutting the bill.

What her amendment provides for is the bill does not go into effect until the Federal court vacancies are below 3 percent. Well, guess what? In the last 15 years, the Federal court vacancies have never been below 3 percent, including a number of instances where there have been Democratically controlled U.S. Senates and Republican Presidents.

So I do not think we should inject ourselves into that debate going on over in the Senate. In fact, the time that the vacancy rate was the highest was just before when President Bush went out in 1991. Instead of the over 8 percent vacancy rate that the gentlewoman cited that exists today, the vacancy rate in 1991 was 16.4 percent.

So there is no doubt that the purpose of this amendment is simply to defeat the legislation; and, therefore, I strongly oppose it.

Ms. WATERS. Mr. Chairman, will the gentleman yield?

Mr. GOODLATTE. I am delighted to yield to the gentlewoman from California.

Ms. WATERS. Mr. Chairman, would the gentleman from Virginia like to substitute the 3 percent for any number that he thinks is fair and reasonable?

Mr. GOODLATTE. No, Mr. Chairman. Reclaiming my time, I must say that I do not want to inject us into that dispute going on between the Senate and the President for this legislation or any other legislation we have on the floor. This legislation should stand on its own merits, and it does.

One of the concerns addressed is that somehow we are overloading the Federal judiciary. But let me point out that the concern fails to look at our judicial system as a whole.

One of the reasons we need this bill is that many of our State courts are not equipped to deal with these massive complicated class action cases. Indeed, many State courts have crushing case loads and far less staffing, such as magistrate judges and law clerks and other staff, available to manage such cases.

Civil filings in State courts of general jurisdiction have increased 28 percent since 1984 versus only 4 percent increase in our Federal courts. By bar-

ring interstate class actions from Federal court one is not solving any problem. One is just keeping these cases before courts that cannot deal with them effectively and fairly.

This concern also ignores the fact that the number of diversity jurisdiction cases being filed in Federal court is going down dramatically. During the 12-month period ending March 31, 1998, diversity jurisdiction case filings in Federal courts fell 6 percent. Through the end of 1998, the decrease is even more dramatic.

This concern also ignores the fact that, since 1990, the number of Federal district court judgeships that Congress has authorized to deal with the workload has increased 12.3 percent to 646 judgeships and that the number of senior judges with staff who are now assisting with the case load is up 64 percent, now 276 judges since 1985.

This concern also fails to take account of the fact that this bill actually has the potential to reduce judicial workload. At present, when identical class actions are filed in Federal and State courts all over the country, as often occurs, there is no mechanism for consolidating those cases before one judge for efficient uniform treatment. So numerous different judges are dealing with the same cases, processing the same issues, and all dealing with the same problems.

However, if these cases were in Federal court, all of those cases would be consolidated before one judge who could deal with the issues once and be done with it.

The opponents' arguments also do not take account of the fact that many completely frivolous lawsuits are being filed because attorneys know they can get away with it before certain State courts. I doubt that many of these wasteful suits would be filed if the attorneys know that they will be facing a Federal district court judge.

Finally, I note that this amendment effectively states that we will let interstate class actions into Federal court if they have the time. That is horrible policy.

What we are talking about here is a right conferred to those engaged in interstate commerce by Article III of the Constitution to have access to our Federal courts to avoid the biases that might be encountered in State courts.

When it comes to criminal rights issues, we do not say to defendants they can have them if the court has time. When it comes to civil rights cases, we do not say that plaintiffs can have access to Federal courts if they have time. Why should this be any different?

Mr. Chairman, I urge opposition to this amendment.

Mr. MORAN of Virginia. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the problem with this legislation, and it is not a problem with the intent whatsoever, and I respect the intent that we do not want to overburden Federal judges so that they

cannot judiciously consider every case before them, but the problem is that we are passing legislation that is intended to pass the test of time. We are passing it presumably for generations to come.

So we can very well have a situation where we might double, triple, quadruple the number of Federal judges. We could have more Federal judges than we would ever need. But if 97 percent of those judges are the maximum slots that we can fill, if at any time we have a 3 percent vacancy, no matter what the total number of judges is, then we would say no class actions can be filed at the Federal court in terms of the class actions that we are trying to deal with. It has no set number.

So we could deal with the situation where we could have twice, three times the number of Federal judges we have today, and still this amendment would be operable, and one would not be able to implement this amendment because one did not have 97 percent of the slots filled even though many of those slots might one day be in excess of the need that was actually required.

That is the problem with the legislation, not the intent, but the possibility that this might create a situation that, in fact, was irrational and that, in fact, would undermine the intent of the legislation.

Ms. DEGETTE. Mr. Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I am happy to yield to the gentlewoman from Colorado.

Ms. DEGETTE. Mr. Chairman, does the gentleman from Virginia (Mr. MORAN) ever know of a situation where we have added more Federal judges when we did not need them in our Federal system? Have we ever actually added Federal judges when the case loads did not warrant it?

Mr. MORAN of Virginia. Mr. Chairman, I would say to the gentlewoman from Colorado that we are not passing legislation to serve the interests of the past. We are passing legislation to serve the interests of the future. So what has been the case in the past is not as relevant as what might be the case in the future.

It is very well possible that we may substantially increase the number of Federal judges and then, just because we have a 3 percent vacancy, the intent of this legislation is essentially null and void. That is not a situation that I am sure my colleague would want to create.

Ms. WATERS. Mr. Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I am happy to yield to the gentlewoman from California.

Ms. WATERS. Mr. Chairman, the question was asked, but let me just frame it a little bit differently. Has there ever been a time in the history of this Nation that the gentleman from Virginia can identify when we were overstaffed in the Federal court?

Mr. MORAN of Virginia. Mr. Chairman, again, I would say to the gentlewoman from California, my friend and

respected colleague, that what has happened in the past, while it might be precedent, is not as relevant to this legislation as what will happen in the future. We are not passing legislation to apply to the past. We are passing legislation to apply to the future.

I would hope that this Congress, in concert with the Senate, would in fact increase the number of Federal judiciary slots to meet the need. Even if it exceeded the need, if in fact it was a 3 percent vacancy which might be rational at some point in time, then it would nullify this legislation. That is not a situation I am sure that my colleague would want to create.

Ms. WATERS. Mr. Chairman, will the gentleman yield further?

Mr. MORAN of Virginia. I yield to the gentlewoman from California.

Ms. WATERS. Mr. Chairman, certainly the gentleman does not believe that we are attempting to pass legislation for the past.

Mr. MORAN of Virginia. That is right.

Ms. WATERS. Mr. Chairman, we refer to the history of the court, the fact that it has never been overstaffed, that the vacancy problem has grown because we have the documentation that shows that we need more and more judges to take care of the case loads that they are now confronted with.

So the idea of the legislation is not to legislate for the past, but certainly documentation and information that indicate the path that it has traveled in the past would be relevant to the legislation that we are attempting to pass today.

Mr. MORAN of Virginia. Mr. Chairman, reclaiming my time, if the gentlewoman wants to propose legislation to substantially increase the number of Federal judiciary positions, I would co-sponsor that legislation in a New York minute or a Los Angeles minute. I certainly think we ought to increase the number of Federal judges, but I do not think we should pass this legislation.

Ms. WATERS. Mr. Chairman, will the gentleman yield?

Mr. MORAN of Virginia. I yield to the gentlewoman from California.

Ms. WATERS. Mr. Chairman, rather than legislation that would increase the number of judgeships, could the gentleman kindly say to the people he is supporting on this legislation to urge the Senate and the Republican leadership to simply do their job.

Mr. MORAN of Virginia. Mr. Chairman, I represent the people of the United States presumably. I appreciate the gentlewoman's comments.

Mr. BRYANT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. I think it is not a good idea to tie the receipt by the Federal court of cases based on the number of judges that they have.

It has been pointed out just in some discussions about this here that, what

happens if we have pending cases and the percent rises above the 3 percent, is that then that we have to move those cases out? It just is very complicated and most unusual.

But what I would like to do at this point is simply bring some context to this debate on Federal judges. The United States district judges are the judges that these cases first come to. We have appellate judges beyond that up to the Supreme Court.

But we are talking about the district court judges that would hear these cases. Currently, there are 636 United States district judges across the country generally broken down among 93, I think it is 93 districts. We have 93 U.S. attorneys. It is 93 or 94, somewhere in that number. We have 636 district judges of which there are 30 district judges pending in the Senate. There are 12 vacancies where the President has not submitted any names. So roughly 42 pending and 636 in place.

If we average that out, again this is purely an average over the 93 districts, we see somewhere between six and seven judges per district, and something less than one-half a judge short in each district.

So the numbers are not quite as dramatic as one might argue here. We are at roughly 95 percent right now. It looks like there is enough blame to go around on both sides, with the President not submitting names and the Congress not acting to account for the 42 different judges.

But, again, the underlying law, the underlying amendment itself is not good, and I urge my colleagues to vote against that.

Ms. DEGETTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the legislation before us would take another step in overwhelming our Federal court system. The legislation will also serve to weaken the ability of consumers to enforce consumer health and safety, environmental, and civil rights laws.

□ 1445

For these reasons and others, I will oppose the legislation. But if we are going to pass the legislation, the very least we can do is pass this important amendment to protect the Federal court system from being further taxed.

Congress' responsibility vis-a-vis the courts is funding the judiciary, creating the appropriate number of Federal courts, and filling Federal vacancies, and maintaining a delicate balance between what should be a Federal issue and what should properly be addressed in the State courts. Now, how are we doing on these issues? Contrary to what we have just heard, the House, for example, provided the Federal court system with around \$240 million less than that requested by the administration. With reduced funding, the court certainly cannot handle additional caseloads, as this bill calls for.

What happens in the Federal courts, as someone who was just practicing in

them as recently as 3 years ago, and rightly so because of speedy trial concerns, criminal cases take precedence to civil cases. So all of these civil cases we are moving to the Federal courts will simply languish if we do not have Federal judges to hear them.

As we have heard, the Federal court system has 64 vacancies currently and anticipates 17 more vacancies shortly. Regrettably, many of these vacancies are concentrated in districts where, as my colleagues have also heard, we have judicial emergencies. What does this mean? At its March 1999 session, the Judicial Conference of the United States said that judicial emergency means as follows: any vacancy in a district court where the waited filings are in excess of 600 per judgeship, or any vacancy in existence more than 18 months where the waited filings are between 430 to 600 per judgeship. And it goes on.

Six hundred per judgeship. And all of the proponents of this bill are saying, well, we need to move the more complex cases to Federal Court because the judges will have time to hear them. If we do not fill these open judgeships, we will not have time to hear these complex cases.

In my own district of Colorado, not the largest judicial district in this country, we have one open judgeship that has been open for almost 2 years. We have two more coming up, and we have another coming up in the 10th Circuit. This is in a very small judicial district. And this plays havoc with the ability to hear any case whatsoever.

We can put the blame on whoever we want. We can put the blame on the White House. We can put the blame on the Senate or whoever, but the point is the people who are constitutionally required in this country to appoint judges need to do so before we can have true justice for anybody in either a civil or a criminal case, but most especially in the civil cases that are languishing now in our courts, the civil rights cases, the consumer cases, the complex environmental cases. We need to fill these judgeships before we can put even more cases into those courts.

So I urge my colleagues, let us put some impetus into filling these vacancies. Let us pass this amendment, at the very least, if we are going to pass this legislation.

Mr. BONIOR. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment by the gentlewoman from California (Ms. WATERS) and the gentleman from Massachusetts (Mr. DELAHUNT).

We have heard in this discussion that the vacancy rate in Federal courts is approximately 9 percent today. And of course when that happens, we end up with a stacking of cases. So what we have here is the Republicans blocking appointments to fill the vacancies, to lessen the burden of the workload. And as a result of that blocking, we have stacking. We have blocking and stacking, blocking and stacking.

And now, on top of all of that, the proposal in the bill seeks to stack even further against those who need a place where they can raise their issues of social conscience, of economic justice, of environmental concerns, and consumer concerns.

Mr. Chairman, some years ago, hundreds of people in the State of Washington fell ill, seriously ill. Many of them began to convulse uncontrollably, others suffered from kidney failure and, in fact, three children died. The public health officials searched frantically to find the cause of this epidemic, and they soon found it. The culprit, of course, was deadly E. Coli bacteria in undercooked hamburger that was sold at the Jack in the Box restaurants.

Well, I do not think there is anybody in this chamber or watching who would argue with the fact that the giant corporation that runs this chain should be held responsible, should be held accountable for what happened here. They should be responsible for their negligence because of what happened to these people and because of the death of these three children. Under current American law, those who have been wronged or have been injured have a right to seek restitution. That is the way the system works. And under the current law they can join together to seek this justice. And in the case of the contaminated hamburgers, they did just that. Unfortunately, under this legislation that we are considering today, these victims would have little recourse.

Under this legislation, they would have had no choice but to choke down this toxic meat. And under this legislation, consumers would find it much, much harder to come together, to join together as a group to fight some of the most powerful, strongest institutions or organizations in this country. That is what class action is all about, organizations that sometimes, unfortunately, abuse their trust, our trust, rip consumers off, or put, in this case of the E. Coli bacteria, put their lives at risk.

The current tort system may have its flaws, Mr. Chairman, but at its core it still offers Americans the best and, in many cases, their only shot at justice. So I want to urge my colleagues to support the amendment offered by the gentlewoman from California and the gentleman from Massachusetts. I want to urge my colleagues to vote "yes" on that amendment and to cast a vote for accountability, a vote for justice, a vote for environmental concerns, a vote for economic justice concerns and consumer concerns, and vote "no" on this legislation.

Mr. BERMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, among the many benefits of this procedure of clustering votes after the debate on a number of amendments, in addition to the far better use of a Member's time, is the fact

that a Member who comes in too late to debate the amendment he wanted to debate, gets a chance to debate that amendment on the next amendment. So I rise in support of the Waters amendment but also in support and speaking on behalf of the Frank amendment.

We have heard a lot about the problems of judicial vacancies in the context of this particular amendment. I think it cannot be disputed that as a result of what this bill seeks to do, with its very open and permissive abilities to remove class-action suits to Federal court, the vast majority of class action suits, which raise State law issues and only State law issues, will end up being heard in the Federal courts. This in a system bogged down with large backlogs; bogged down with a number of judicial vacancies.

I am sure no one could have put it better than the gentleman from Massachusetts (Mr. FRANK), whom I missed in terms of his debate on his amendment, the relative absurdity of the situation where now, with very permissive removal rules, a class-action case involving a State law is removed to a Federal court, and the Federal judge determines that, applying his notions of the law, that that class is not appropriately certified. At that particular point one would normally expect that it could be remanded back to the State level for a determination by the State courts of whether under State law it is appropriate to certify the class. Without the Frank amendment, such an action will then again, with the new lawsuit, be removed back to Federal Court. And we will never get out of this revolving door.

So the amendment of the gentleman from Massachusetts, which makes it clear that once a Federal judge has refused to certify the class, that action may be brought in State court, cannot be removed, and it will be up to the State justice system to decide whether there is an appropriate class to certify makes a little bit of sense out of this otherwise both, I think, damaging and somewhat senseless proposal that, in effect, will deprive huge numbers of people of class action remedies in State courts or in Federal courts on matters that are essentially matters of State law.

I support the Frank amendment; I support the Waters amendment. If those amendments do not pass, I urge this bill be defeated.

Mr. DELAHUNT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me echo the words expressed by the gentlewoman from Colorado. This is not about blame. This is not about blaming the Senate or blaming the White House. This is really about justice for the American people. I do not think there is any debate that justice delayed is justice denied. And that is happening now. That is happening every day in our court system now.

Now, this amendment provides that the bill would take effect only once the judicial conference of the United States has certified in writing that fewer than 3 percent of the Federal judgeships remain unfulfilled. The purpose of the amendment is to ensure that the depleted ranks of the Federal branch are restored to their full strength before the courts are asked to take on a new massive workload that this bill would generate.

There should be no doubt that 1875 will have a dramatic impact on the workload of the Federal courts, because its very purpose is to transfer to the Federal system a large proportion of the class-action cases that are currently handled at the State level. The Federal courts, if the underlying bill should pass, will be swamped at a moment when they are already overwhelmed by mounting caseloads.

Since 1990, the number of civil cases filed in Federal court have increased by 22 percent, criminal cases by 25 percent, and appeals by more than 30 percent. In response to this judicial crisis, the Judicial Conference has asked Congress to authorize an additional 69 judgeships, yet not one new judgeship has been authorized or created since 1990, for almost 10 years. And of the 843 judgeships that currently exist, 65, more than 8 percent, are currently vacant. Many have remained unfulfilled for more than a year and a half.

Last year, the Chief Justice himself took the unprecedented step of publicly chastising the Senate for its failure to act on pending nominations and warned of the consequences if Congress continues to enact legislation, exactly like the bill that is before us now, that expands the jurisdiction of the Federal courts. His concerns have been echoed by the Justice Department, the American Bar Association, and the Judicial Conference. Let us listen to those who have to deal with the problem every day. Every day.

Just yesterday, a nonpartisan organization known as Citizens for Independent Courts issued a report which found that the average time it takes to nominate and confirm a Federal judge has increased dramatically over the past 20 years. And at the same time, here we are considering a bill that would impose a major new burden on the Judiciary without regard to its impact on that branch of Government, and without giving our courts the resources they need to do the job.

I daresay, Mr. Chairman, if there was an impact statement that was mandated to be filed with this legislation, it would never be here on the floor of the House. It would not happen.

□ 1500

I believe and suggest and submit that this is irresponsible on those grounds alone. I urge support for the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California (Ms. WATERS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. DELAHUNT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 295, further proceedings on the amendment offered by the gentlewoman from California (Ms. WATERS) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 295, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 4 offered by the gentleman from New York (Mr. NADLER), Amendment No. 3 offered by the gentlewoman from Texas (Ms. JACKSON-LEE), Amendment No. 2 offered by the gentleman from Massachusetts (Mr. FRANK), and Amendment No. 6 offered by the gentlewoman from California (Ms. WATERS).

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

AMENDMENT NO. 4 OFFERED BY MR. NADLER

The CHAIRMAN. The pending business is the demand for a recorded vote on Amendment No. 4 offered by the gentleman from New York (Mr. NADLER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 152, noes 277, not voting 4, as follows:

[Roll No. 439]  
AYES—152

Abercrombie	Deutsch	Kennedy
Ackerman	Dicks	Kildee
Allen	Dixon	Kilpatrick
Andrews	Doggett	Klink
Baird	Doyle	Kucinich
Baldacci	Engel	Lantos
Baldwin	Eshoo	Larson
Barrett (WI)	Evans	Lee
Becerra	Farr	Levin
Berkley	Fattah	Lewis (GA)
Berman	Filner	Lipinski
Blagojevich	Ford	Lofgren
Blumenauer	Frank (MA)	Lowey
Bonior	Ganske	Luther
Borski	Gejdenson	Maloney (CT)
Brady (PA)	Gephardt	Maloney (NY)
Brown (FL)	Gonzalez	Markey
Brown (OH)	Green (TX)	Martinez
Capps	Gutierrez	Matsui
Capuano	Hall (OH)	McCarthy (MO)
Cardin	Hall (TX)	McCarthy (NY)
Carson	Hastings (FL)	McDermott
Clay	Hinchee	McGovern
Clayton	Hinojosa	McKinney
Clement	Hoeffel	McNulty
Clyburn	Holt	Meehan
Conyers	Hoyer	Meek (FL)
Coyne	Inslie	Meeks (NY)
Crowley	Jackson (IL)	Menendez
Cummings	Jackson-Lee	Millender-
Davis (IL)	(TX)	McDonald
DeFazio	Johnson, E. B.	Miller, George
DeGette	Jones (OH)	Minge
Delahunt	Kanjorski	Mink
DeLauro	Kaptur	Moakley

Moran (VA)	Rivers
Nadler	Rodriguez
Napolitano	Rothman
Neal	Roybal-Allard
Neerstar	Rush
Oliver	Sanchez
Owens	Sanchez
Pallone	Sawyer
Pascarell	Schakowsky
Pastor	Serrano
Paul	Sherman
Payne	Slaughter
Pelosi	Smith (WA)
Porter	Stabenow
Price (NC)	Stark
Rangel	Stupak
Reyes	Tauscher

NOES—277

Aderholt	Forbes
Archer	Fossella
Armey	Fowler
Bachus	Franks (NJ)
Baker	Frelinghuysen
Ballenger	Frost
Barcia	Galleghy
Barr	Gekas
Barrett (NE)	Gibbons
Bartlett	Gilchrest
Barton	Gillmor
Bass	Gilman
Bateman	Goode
Bentsen	Goodlatte
Bereuter	Goodling
Berry	Gordon
Biggett	Goss
Bilbray	Graham
Bilirakis	Granger
Bishop	Green (WI)
Bliley	Greenwood
Blunt	Gutknecht
Boehert	Hansen
Boehner	Hastings (WA)
Bonilla	Hayes
Bono	Hayworth
Boswell	Hefley
Boucher	Herger
Boyd	Hill (IN)
Brady (TX)	Hill (MT)
Bryant	Hilleary
Burr	Hilliard
Burton	Hobson
Buyer	Hoekstra
Callahan	Hooley
Calvert	Horn
Camp	Hostettler
Campbell	Houghton
Canady	Hulshof
Cannon	Hunter
Castle	Hutchinson
Chabot	Hyde
Chambliss	Isakson
Chenoweth	Istook
Coburn	Jenkins
Collins	John
Combest	Johnson (CT)
Condit	Johnson, Sam
Cook	Jones (NC)
Cooksey	Kasich
Costello	Kelly
Cox	Kind (WI)
Cramer	King (NY)
Crane	Kingston
Cubin	Klecza
Cunningham	Knollenberg
Danner	Kolbe
Davis (FL)	Kuykendall
Davis (VA)	LaFalce
Deal	LaHood
DeLay	Lampson
DeMint	Largent
Diaz-Balart	Latham
Dickey	LaTourrette
Dingell	Lazio
Dooley	Leach
Doolittle	Lewis (CA)
Dreier	Lewis (KY)
Duncan	Linder
Dunn	LoBiondo
Edwards	Lucas (KY)
Ehlers	Lucas (OK)
Ehrlich	Manzullo
Emerson	Mascara
English	McCollum
Etheridge	McCrery
Everett	McHugh
Ewing	McInnis
Fletcher	McIntosh
Foley	McIntyre

Thompson (MS)	Sununu
Tierney	Sweeney
Towns	Talent
Udall (CO)	Tancredo
Udall (NM)	Tanner
Velazquez	Tauzin
Vento	Taylor (MS)
Waters	Taylor (NC)
Waxman	Terry
Weiner	Thomas
Wexler	Thompson (CA)
Weygand	Thornberry
Woolsey	Thune
Wu	
Wynn	

Thurman	Watts (OK)
Tiahrt	Weldon (FL)
Toomey	Weldon (PA)
Trafficant	Weller
Turner	Whitfield
Upton	Wicker
Visclosky	Wilson
Vitter	Wise
Walden	Wolf
Walsh	Young (AK)
Wamp	Young (FL)
Watkins	
Watt (NC)	

NOT VOTING—4

Coble	Jefferson
Holden	Scarborough

□ 1523

Messrs. UPTON, KNOLLENBERG and GILMAN changed their vote from "aye" to "no."

Mr. ENGEL, Mrs. JONES of Ohio and Mr. CLYBURN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 295, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 3 OFFERED BY MS. JACKSON-LEE OF TEXAS

The CHAIRMAN. The pending business is the demand for a recorded vote on Amendment No. 3 offered by the gentlewoman from Texas (Ms. JACKSON-LEE) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 162, noes 266, not voting 5, as follows:

[Roll No. 440]  
AYES—162

Abercrombie	Carson	Ford
Ackerman	Clay	Frank (MA)
Allen	Clement	Franks (NJ)
Andrews	Conyers	Frost
Baird	Coyne	Ganske
Baldacci	Crowley	Gejdenson
Baldwin	Cummings	Gephardt
Barcia	Davis (IL)	Gonzalez
Barrett (WI)	DeFazio	Green (TX)
Becerra	DeGette	Gutierrez
Berkley	Delahunt	Hall (OH)
Berman	DeLauro	Hall (TX)
Bilbray	Deutsch	Hansen
Blagojevich	Dicks	Hastings (FL)
Blumenauer	Dingell	Hinchee
Bonior	Dixon	Hinojosa
Borski	Doggett	Hoefel
Boswell	Doyle	Holt
Brady (PA)	Engel	Hoyer
Brown (FL)	Eshoo	Inslie
Brown (OH)	Evans	Jackson (IL)
Capps	Farr	Jackson-Lee
Capuano	Fattah	(TX)
Cardin	Filner	Johnson, E. B.

Jones (OH) Meeks (NY) Sanchez  
 Kanjorski Menendez Sanders  
 Kaptur Millender- Sawyer  
 Kennedy McDonald Schakowsky  
 Kildee Miller, George Serrano  
 Kilpatrick Minge Sherman  
 Klink Mink Shows  
 Kucinich Moakley Slaughter  
 Lantos Moran (VA) Smith (WA)  
 Larson Nadler Stabenow  
 Lee Napolitano Stark  
 Levin Neal Stupak  
 Lewis (GA) Oberstar Tauscher  
 Lipinski Olver Taylor (MS)  
 Lofgren Owens Tierney  
 Lowey Pallone Towns  
 Luther Pascrell Traficant  
 Maloney (CT) Pastor Udall (CO)  
 Maloney (NY) Paul Udall (NM)  
 Markey Payne Velazquez  
 Martinez Pelosi Vento  
 Mascara Pomeroy Visclosky  
 Matsui Porter Waters  
 McCarthy (MO) Rangel Waxman  
 McCarthy (NY) Reyes Weiner  
 McDermott Rivers Wexler  
 McGovern Rodriguez Weygand  
 McKinney Roemer Woolsey  
 McNulty Rothman Wu  
 Meehan Roybal-Allard Wynn  
 Meek (FL) Rush

NOES—266

Aderholt Duncan Kuykendall  
 Archer Dunn LaFalce  
 Arney Edwards LaHood  
 Bachus Ehlers Lampson  
 Baker Ehrlich Largent  
 Ballenger Emerson Latham  
 Barr English LaTourette  
 Barrett (NE) Etheridge Lazio  
 Bartlett Everrett Leach  
 Barton Ewing Lewis (CA)  
 Bass Fletcher Lewis (KY)  
 Bateman Foley Linder  
 Bentsen Forbes LoBiondo  
 Bereuter Fossella Lucas (KY)  
 Berry Fowler Lucas (OK)  
 Biggert Frelinghuysen Manzullo  
 Bilirakis Gallegly McCollum  
 Bishop Gekas McCrery  
 Bliley Gibbons McHugh  
 Blunt Gilchrest McClinnis  
 Boehlert Gillmor McIntosh  
 Boehner Gilman McIntyre  
 Bonilla Goode McKeon  
 Bono Goodlatte Metcalf  
 Boucher Goodling Mica  
 Boyd Gordon Miller (FL)  
 Brady (TX) Goss Miller, Gary  
 Bryant Graham Mollohan  
 Burr Granger Moore  
 Burton Green (WI) Moran (KS)  
 Buyer Greenwood Morella  
 Callahan Gutknecht Murtha  
 Calvert Hastings (WA) Myrick  
 Camp Hayes Nethercutt  
 Campbell Hayworth Ney  
 Canady Hefley Northup  
 Cannon Herger Norwood  
 Castle Hill (IN) Nussle  
 Chabot Hill (MT) Obey  
 Chambliss Hilleary Ortiz  
 Chenoweth Hilliard Ose  
 Clayton Hobson Oxley  
 Clyburn Hoekstra Packard  
 Coburn Hooley Pease  
 Collins Horn Peterson (MN)  
 Combest Hostettler Peterson (PA)  
 Condit Houghton Petri  
 Cook Hulshof Phelps  
 Cooksey Hunter Picketing  
 Costello Hutchinson Pickett  
 Cox Hyde Pitts  
 Cramer Isakson Pombo  
 Crane Istook Portman  
 Cubin Jenkins Price (NC)  
 Cunningham John Price (OH)  
 Danner Johnson (CT) Quinn  
 Davis (FL) Johnson, Sam Radanovich  
 Davis (VA) Jones (NC) Rahall  
 Deal Kasich Ramstad  
 DeLay Kelly Regula  
 DeMint Kind (WI) Reynolds  
 Diaz-Balart King (NY) Riley  
 Dickey Kingston Rogan  
 Dooley Kleczka Rogers  
 Doolittle Knollenberg Rohrabacher  
 Dreier Kolbe Ros-Lehtinen

Royce Smith (NJ) Thurman  
 Ryan (WI) Smith (TX) Tiahrt  
 Ryun (KS) Snyder Toomey  
 Sabo Souder Turner  
 Salmon Spence Upton  
 Sandlin Spratt Vitter  
 Sanford Stearns Walden  
 Saxton Stenholm Walsh  
 Schaffer Strickland Wamp  
 Scott Stump Watkins  
 Sensenbrenner Sununu Watt (NC)  
 Sessions Sweeney Watts (OK)  
 Shadegg Talent Weldon (FL)  
 Shaw Tancredo Weldon (PA)  
 Shays Tanner Weller  
 Sherwood Tauzin Whitfield  
 Shimkus Taylor (NC) Wicker  
 Shuster Terry Wilson  
 Simpson Thomas Wise  
 Sisisky Thompson (CA) Wolf  
 Skeen Thompson (MS) Young (AK)  
 Skelton Thornberry Young (FL)  
 Smith (MI) Thune

NOT VOTING—5

Coble Jefferson Scarborough  
 Holden Roukema

□ 1531

Mr. LOBIONDO changed his vote from "aye" to "no."

Mr. ROEMER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 2 OFFERED BY MR. FRANK OF MASSACHUSETTS

The CHAIRMAN. The pending business is the demand for a recorded vote on Amendment No. 2 offered by the gentleman from Massachusetts (Mr. FRANK) on which further proceedings were postponed and on which the noes prevailed by a voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 202, noes 225, not voting 6, as follows:

[Roll No. 441]

AYES—202

Abercrombie Clayton Evans  
 Ackerman Clement Farr  
 Allen Clyburn Fattah  
 Andrews Conyers Filner  
 Baird Costello Ford  
 Baldacci Coyne Frank (MA)  
 Baldwin Crowley Frost  
 Barcia Cummings Ganske  
 Barrett (WI) Danner Gejdenson  
 Becerra Davis (FL) Gephardt  
 Bentsen Davis (IL) Gonzalez  
 Berkley DeFazio Gordon  
 Berman DeGette Green (TX)  
 Berry Delahunt Greenwood  
 Bishop DeLauro Gutierrez  
 Blagojevich Deutsch Hall (OH)  
 Blumenauer Diaz-Balart Hall (TX)  
 Bonior Dicks Hastings (FL)  
 Borski Dingell Hilliard  
 Boswell Dixon Hinchey  
 Brady (PA) Doggett Hinojosa  
 Brown (FL) Dooley Hoeffel  
 Brown (OH) Doyle Holt  
 Campbell Duncan Hooley  
 Capps Edwards Hoyer  
 Capuano Ehrlich Inslee  
 Cardin Engel Isakson  
 Carson Eshoo Istook  
 Clay Etheridge Jackson (IL)

Jackson-Lee Meeks (NY) Sanders  
 (TX) Menendez Sandlin  
 Johnson, E. B. Millender- Sawyer  
 McDonald Schakowsky  
 Jones (OH) Minge Scott  
 Kanjorski Mink Serrano  
 Kaptur Moakley Sherman  
 Kennedy Moakley Shows  
 Kildee Mollohan Skelton  
 Kilpatrick Moore Slaughter  
 Kind (WI) Nadler  
 Kleczka Napolitano Smith (WA)  
 Klink Neal Snyder  
 Kucinich Oberstar Spratt  
 LaFalce Obey Stabenow  
 Lampson Olver Stark  
 Lantos Ortiz Strickland  
 Larson Owens Stupak  
 Lee Pallone Taylor (MS)  
 Levin Pascrell Thompson (MS)  
 Lewis (GA) Pastor Thurman  
 Lipinski Paul Tierney  
 Lofgren Payne Towns  
 Lowey Pease Traficant  
 Luther Pelosi Turner  
 Maloney (CT) Phelps Udall (CO)  
 Maloney (NY) Porter Udall (NM)  
 Martinez Price (NC) Velazquez  
 Mascara Pryce (OH) Vento  
 Matsui Rahall Visclosky  
 McCarthy (MO) Rangel Waters  
 McCarthy (NY) Reyes Watt (NC)  
 McDermott Rivers Waxman  
 McGovern Rodriguez Weiner  
 McIntyre Roemer Wexler  
 McKinney Rothman Weygand  
 McNulty Roybal-Allard Wise  
 Meehan Rush Woolsey  
 Meek (FL) Sabo Wu  
 Sanchez Sanchez Wynn

NOES—225

Aderholt Emerson LaTourette  
 Archer English Lazio  
 Arney Everrett Leach  
 Bachus Ewing Lewis (CA)  
 Baker Fletcher Lewis (KY)  
 Ballenger Foley Linder  
 Barr Forbes LoBiondo  
 Barrett (NE) Fossella Lucas (KY)  
 Bartlett Fowler Lucas (OK)  
 Barton Franks (NJ) Manzullo  
 Bass Frelinghuysen McCollum  
 Bateman Gallegly McCrery  
 Bereuter Gekas McHugh  
 Biggert Gibbons McClinnis  
 Bilbray Gilchrest McIntosh  
 Bilirakis Gillmor McKeon  
 Bliley Gilman Metcalf  
 Blunt Goode Mica  
 Boehlert Goodlatte Miller (FL)  
 Boehner Goodling Miller, Gary  
 Bonilla Goss Moran (KS)  
 Bono Graham Moran (VA)  
 Boucher Granger Morella  
 Boyd Green (WI) Myrick  
 Brady (TX) Gutknecht Nethercutt  
 Bryant Hansen Ney  
 Burr Hastings (WA) Northup  
 Burton Hayes Norwood  
 Buyer Hayworth Nussle  
 Callahan Hefley Ose  
 Calvert Herger Oxley  
 Camp Hill (IN) Packard  
 Canady Hill (MT) Peterson (MN)  
 Cannon Hilleary Peterson (PA)  
 Castle Hobson Petri  
 Chabot Hoekstra Picketing  
 Chambliss Horn Pickett  
 Chenoweth Hostettler Pitts  
 Condit Houghton Pombo  
 Cook Hulshof Pomeroy  
 Cooksey Hunter Portman  
 Costello Hutchinson Quinn  
 Cox Hyde Radanovich  
 Cramer Jenkins Ramstad  
 Crane John Regula  
 Cubin Johnson (CT) Reynolds  
 Cunningham Johnson, Sam Riley  
 Davis (VA) Jones (NC) Rogan  
 Deal Kasich Rogers  
 DeLay Kelly Rohrabacher  
 DeMint King (NY) Ros-Lehtinen  
 Dickey Kingston Roukema  
 Dooley Knollenberg Royce  
 Doolittle Kolbe Ryan (WI)  
 Dreier Kuykendall Ryun (KS)  
 Dunn LaHood Salmon  
 Ehlers Largent Sanford  
 Latham Latham Saxton

Schaffer  
Sensenbrenner  
Sessions  
Shadegg  
Shaw  
Shays  
Sherwood  
Shimkus  
Shuster  
Simpson  
Sisisky  
Skeen  
Smith (MI)  
Smith (NJ)  
Smith (TX)  
Souder  
Spence

## NOT VOTING—6

Coble  
Holden

## □ 1538

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 6 OFFERED BY MS. WATERS

The CHAIRMAN. The pending business is the demand for a recorded vote on Amendment No. 6 offered by the gentlewoman from California (Ms. WATERS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

## RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 185, noes 241, not voting 7, as follows:

[Roll No. 442]

AYES—185

Abercrombie  
Ackerman  
Allen  
Andrews  
Baird  
Baldacci  
Baldwin  
Barcia  
Barrett (WI)  
Becerra  
Bentsen  
Berkley  
Berman  
Berry  
Bishop  
Blagojevich  
Blumenauer  
Bonior  
Borski  
Boswell  
Brady (PA)  
Brown (FL)  
Brown (OH)  
Capps  
Capuano  
Carson  
Clay  
Clayton  
Clement  
Clyburn  
Conyers  
Costello  
Coyne  
Crowley  
Cummings  
Davis (FL)  
Davis (IL)  
DeFazio  
DeGette  
Delahunt  
DeLauro

Deutsch  
Dicks  
Dingell  
Dixon  
Doggett  
Doyle  
Edwards  
Engel  
Eshoo  
Etheridge  
Evans  
Farr  
Fattah  
Filner  
Ford  
Frank (MA)  
Frost  
Gejdenson  
Gephardt  
Gonzalez  
Green (TX)  
Hall (OH)  
Hall (TX)  
Hastings (FL)  
Hill (IN)  
Hilliard  
Hinchev  
Hinojosa  
Hoeffel  
Holt  
Hooley  
Hoyer  
Insee  
Jackson (IL)  
Jackson-Lee  
(TX)  
Johnson, E. B.  
Jones (OH)  
Kanjorski  
Kaptur  
Kennedy

Toomey  
Upton  
Vitter  
Walden  
Walsh  
Wamp  
Watkins  
Watts (OK)  
Weldon (FL)  
Weldon (PA)  
Weller  
Whitfield  
Wicker  
Wilson  
Wolf  
Young (AK)  
Young (FL)

Murtha  
Miller, George  
Scarborough

Nadler  
Napolitano  
Neal  
Oberstar  
Oberman  
Ortiz  
Owens  
Pallone  
Pascarell  
Pastor  
Payne  
Pelosi  
Phelps  
Pomeroy  
Price (NC)  
Rangel  
Reyes  
Rivers  
Rodriguez  
Rothman  
Roybal-Allard

Rush  
Sabo  
Sanchez  
Sanders  
Sandinlin  
Sawyer  
Schakowsky  
Scott  
Serrano  
Sherman  
Shows  
Skelton  
Slaughter  
Smith (WA)  
Snyder  
Spratt  
Stabenow  
Stark  
Strickland  
Stupak  
Tauscher  
Thompson (MS)

## NOES—241

Aderholt  
Archer  
Army  
Bachus  
Baker  
Ballenger  
Barr  
Barrett (NE)  
Bartlett  
Barton  
Bass  
Bateman  
Bereuter  
Biggett  
Bilbray  
Bilirakis  
Bliley  
Blunt  
Boehlert  
Boehner  
Bonilla  
Bono  
Boucher  
Boyd  
Brady (TX)  
Bryant  
Burr  
Burton  
Buyer  
Callahan  
Calvert  
Camp  
Campbell  
Canady  
Cannon  
Cardin  
Castle  
Chabot  
Chambliss  
Chenoweth  
Coburn  
Collins  
Combest  
Condit  
Cook  
Cooksey  
Cox  
Cramer  
Crane  
Cubin  
Cunningham  
Danner  
Davis (VA)  
Deal  
DeLay  
DeMint  
Diaz-Balart  
Dickey  
Dooley  
Doolittle  
Dreier  
Duncan  
Dunn  
Ehlers  
Ehrlich  
English  
Everett  
Ewing  
Fletcher  
Foley  
Forbes  
Fossella  
Fowler  
Franks (NJ)  
Frelinghuysen

Thurman  
Tierney  
Towns  
Traficant  
Turner  
Udall (CO)  
Udall (NM)  
Velazquez  
Vento  
Visclosky  
Waters  
Watt (NC)  
Waxman  
Weiner  
Wexler  
Weygand  
Wise  
Woolsey  
Wu  
Wynn

Upton  
Vitter  
Walden  
Walsh  
Wamp  
Watkins

Watts (OK)  
Weldon (FL)  
Weldon (PA)  
Weller  
Whitfield  
Wicker

## NOT VOTING—7

Coble  
Emerson  
Gutierrez

Holden  
Jefferson  
Radanovich

## □ 1546

So the amendment was rejected.

The result of the vote was announced as above recorded.

## □ 1545

The CHAIRMAN. Are there other amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Accordingly, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. HANSEN, 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. 1875) to amend title 28, United States Code, to allow the application of the principles of Federal diversity jurisdiction to interstate class actions, pursuant to House Resolution 295, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

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

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute 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 the engrossment and third reading of the bill.

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

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

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

## RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 222, noes 207, not voting 4, as follows:

[Roll No. 443]

AYES—222

Aderholt  
Archer  
Army  
Bachus  
Baker  
Ballenger  
Barcia  
Barr

Barrett (NE)  
Bartlett  
Barton  
Bass  
Bateman  
Bereuter  
Biggett  
Bilbray

Bilirakis  
Bliley  
Blunt  
Boehlert  
Boehner  
Bonilla  
Bono  
Boucher

Boyd	Hilleary	Quinn	Kildee	Mink	Schakowsky
Brady (TX)	Hobson	Radanovich	Kilpatrick	Moakley	Scott
Bryant	Hoekstra	Ramstad	Kind (WI)	Mollohan	Serrano
Burr	Horn	Regula	King (NY)	Moore	Sherman
Burton	Hostettler	Reynolds	Klecza	Morella	Shows
Buyer	Houghton	Riley	Klink	Murtha	Skelton
Callahan	Hulshof	Rogan	Kucinich	Nadler	Slaughter
Calvert	Hunter	Rogers	LaFalce	Napolitano	Smith (WA)
Camp	Hutchinson	Rohrabacher	Lampson	Neal	Snyder
Canady	Hyde	Ros-Lehtinen	Lantos	Nethercutt	Spratt
Cannon	Isakson	Roukema	Larson	Oberstar	Stabenow
Castle	Istook	Royce	Lee	Obey	Stark
Chabot	Jenkins	Ryan (WI)	Levin	Olver	Strickland
Chambliss	John	Ryun (KS)	Lewis (GA)	Ortiz	Stupak
Coburn	Johnson (CT)	Salmon	Lipinski	Owens	Tauscher
Collins	Johnson, Sam	Sanford	Lofgren	Pallone	Terry
Combest	Jones (NC)	Saxton	Jones	Pascrell	Thompson (CA)
Condit	Kasich	Schaffer	Luther	Pastor	Thompson (MS)
Cook	Kelly	Sensenbrenner	Maloney (CT)	Paul	Thurman
Cooksey	Kingston	Sessions	Maloney (NY)	Payne	Tierney
Cox	Knollenberg	Shadegg	Markey	Pelosi	Towns
Cramer	Kolbe	Shaw	Martinez	Phelps	Traficant
Crane	Kuykendall	Shays	Mascara	Pickett	Turner
Cubin	LaHood	Sherwood	Matsui	Pomeroy	Udall (CO)
Cunningham	Largent	Shimkus	McCarthy (MO)	Price (NC)	Udall (NM)
Danner	Latham	Shuster	McCarthy (NY)	Rahall	Velazquez
Davis (VA)	LaTourette	Simpson	McDermott	Rangel	Vento
Deal	Lazio	Sisisky	McGovern	Reyes	Visclosky
DeLay	Leach	Skeen	McIntyre	Rivers	Waters
DeMint	Lewis (CA)	Smith (MI)	McKinney	Rodriguez	Watt (NC)
Dickey	Lewis (KY)	Smith (NJ)	McNulty	Roemer	Waxman
Dooley	Linder	Smith (TX)	Meehan	Rothman	Weiner
Dreier	LoBiondo	Souder	Meek (FL)	Roybal-Allard	Wexler
Duncan	Lucas (KY)	Spence	Meeks (NY)	Rush	Weygand
Dunn	Lucas (OK)	Stearns	Menendez	Sabo	Wise
Ehlers	Manzullo	Stenholm	Millender-	Sanchez	Woolsey
Ehrlich	McCollum	Stump	McDonald	Sanders	Wu
Emerson	McCrery	Sununu	Miller, George	Sandlin	Wynn
Everett	McHugh	Sweeney	Minge	Sawyer	
Ewing	McInnis	Talent			
Fletcher	McIntosh	Tancredio			
Fossella	McKeon	Tanner			
Fowler	Metcalfe	Tauzin			
Franks (NJ)	Mica	Taylor (MS)			
Frelinghuysen	Miller (FL)	Taylor (NC)			
Galleghy	Miller, Gary	Thomas			
Gekas	Moran (KS)	Thornberry			
Gibbons	Moran (VA)	Thune			
Gilchrest	Myrick	Tiahrt			
Gillmor	Ney	Toomey			
Goode	Northup	Upton			
Goodlatte	Norwood	Vitter			
Goodling	Nussle	Walden			
Gordon	Ose	Walsh			
Goss	Oxley	Wamp			
Granger	Packard	Watkins			
Green (WI)	Pease	Watts (OK)			
Gutknecht	Peterson (MN)	Weldon (FL)			
Hall (TX)	Peterson (PA)	Weldon (PA)			
Hansen	Petri	Weller			
Hastings (WA)	Pickering	Whitfield			
Hayes	Pitts	Wicker			
Hayworth	Pombo	Wilson			
Hefley	Porter	Wolf			
Henger	Portman	Young (AK)			
Hill (MT)	Pryce (OH)	Young (FL)			

## NOES—207

Abercrombie	Clyburn	Ford
Ackerman	Conyers	Frank (MA)
Allen	Costello	Frost
Andrews	Coyne	Ganske
Baird	Crowley	Gejdenson
Baldacci	Cummings	Gephardt
Baldwin	Davis (FL)	Gilman
Barrett (WI)	Davis (IL)	Gonzalez
Becerra	DeFazio	Graham
Bentsen	DeGette	Green (TX)
Berkley	Delahunt	Greenwood
Berman	DeLauro	Gutierrez
Berry	Deutsch	Hall (OH)
Bishop	Diaz-Balart	Hastings (FL)
Blagojevich	Dicks	Hill (IN)
Blumenauer	Dingell	Hilliard
Bonior	Dixon	Hinchev
Borski	Doggett	Hinojosa
Boswell	Doolittle	Hoefel
Brady (PA)	Doyle	Holt
Brown (FL)	Edwards	Hooley
Brown (OH)	Engel	Hoyer
Campbell	English	Inslee
Capps	Eshoo	Jackson (IL)
Capuano	Etheridge	Jackson-Lee
Cardin	Evans	(TX)
Carson	Farr	Johnson, E. B.
Chenoweth	Fattah	Jones (OH)
Clay	Filner	Kanjorski
Clayton	Foley	Kaptur
Clement	Forbes	Kennedy

Kildee	Mink	Schakowsky
Kilpatrick	Moakley	Scott
Kind (WI)	Mollohan	Serrano
King (NY)	Moore	Sherman
Klecza	Morella	Shows
Klink	Murtha	Skelton
Kucinich	Nadler	Slaughter
LaFalce	Napolitano	Smith (WA)
Lampson	Neal	Snyder
Lantos	Nethercutt	Spratt
Larson	Oberstar	Stabenow
Lee	Obey	Stark
Levin	Olver	Strickland
Lewis (GA)	Ortiz	Stupak
Lipinski	Owens	Tauscher
Lofgren	Pallone	Terry
Jones	Pascrell	Thompson (CA)
Luther	Pastor	Thompson (MS)
Maloney (CT)	Paul	Thurman
Maloney (NY)	Payne	Tierney
Markey	Pelosi	Towns
Martinez	Phelps	Traficant
Mascara	Pickett	Turner
Matsui	Pomeroy	Udall (CO)
McCarthy (MO)	Price (NC)	Udall (NM)
McCarthy (NY)	Rahall	Velazquez
McDermott	Rangel	Vento
McGovern	Reyes	Visclosky
McIntyre	Rivers	Waters
McKinney	Rodriguez	Watt (NC)
McNulty	Roemer	Waxman
Meehan	Rothman	Weiner
Meek (FL)	Roybal-Allard	Wexler
Meeks (NY)	Rush	Weygand
Menendez	Sabo	Wise
Millender-	Sanchez	Woolsey
McDonald	Sanders	Wu
Miller, George	Sandlin	Wynn
Minge	Sawyer	

## NOT VOTING—4

Coble	Jefferson
Holden	Scarborough

## □ 1604

Mr. TAYLOR of North Carolina changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 1501, JUVENILE JUSTICE REFORM ACT OF 1999

Mr. DOOLITTLE. Mr. Speaker, pursuant to clause 7(c) of rule XXII, I hereby announce my intention to offer a motion to instruct conferees on H.R. 1501 tomorrow.

The form of the motion is as follows:

Mr. DOOLITTLE moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendments to the bill H.R. 1501 to be instructed to insist that the conference report not include Senate provisions that—

(1) do not recognize that the second amendment to the Constitution protect the individual right of American citizens to keep and bear arms; and

(2) impose unconstitutional restrictions on the second amendment rights of individuals.

#### SUNDRY MESSAGES FROM THE PRESIDENT

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

#### MOTION TO INSTRUCT CONFEREES ON H.R. 1501, JUVENILE JUSTICE REFORM ACT OF 1999

Mrs. MCCARTHY of New York. Mr. Speaker, I rise to offer a privileged motion to instruct conferees on the bill (H.R. 1501) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide grants to ensure increased accountability for juvenile offenders; to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide quality prevention programs and accountability programs relating to juvenile delinquency; and for other purposes.

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

The Clerk read as follows:

Mrs. MCCARTHY of New York 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. 1501, be instructed to insist that—

(1) the committee of conference should this week have its first substantive meeting to offer amendments and motions, including gun safety amendments and motions; and

(2) the committee of conference should meet every weekday in public session until the committee of conference agrees to recommend a substitute.

The SPEAKER pro tempore. Pursuant to clause 7, rule XXII, the gentleman from New York (Mrs. MCCARTHY) and the gentleman from Illinois (Mr. HYDE) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I offer a motion to instruct the conferees on H.R. 1501 to meet publicly, beginning this week, and every weekday until we reach a conference agreement.

Stated more simply, my colleagues and I are asking that we move forward with the conference on the juvenile justice bill. The motion is not offered as a criticism. I understand that the chairman and the ranking member of the Committee on the Judiciary have met in an attempt several times to reach a compromise on the gun provisions in the juvenile justice bill.

The chairman and the ranking member have worked very hard on this important legislation, and we do appreciate all the efforts that they have made.

However, we cannot afford to wait for the completion of behind-closed-door negotiations while the threat of gun violence hangs over the heads of our schoolchildren throughout America. Every day Congress fails to advance juvenile justice legislation is another day that we lose 13 children to gun violence.

Despite the assurances of the chairman and the ranking member, a number of my colleagues and I remain concerned about the outcome of the juvenile justice bill. Since the April 20

shooting at Columbine High School mobilized the American people to pressure Congress into addressing the issues of children's access to guns, we have faced a number of roadblocks and delays. I fear the delays we have faced have been caused by the congressional leadership's reluctance to enact meaningful gun safety legislation.

Our motion today is offered as an incentive to move forward and complete our legislation. Let us listen to the American people and protect our children.

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

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

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

Mr. HYDE. Mr. Speaker, I do not disagree with the gentlewoman from New York. I am a little puzzled by the formulation in the motion to instruct, because we have nothing to do with the calling of the meetings of the conferees. The chairman is the Senator from Utah, and he has the gavel. He can call the formal meetings.

But we have been having informal meetings every day, every morning and every afternoon. We have had two today. We are working with all dispatch to try and resolve our difficulties.

There were many difficulties, many differences, when we started out. We have them down to about one or two now. If people want to continue to breathe down our neck and push us, that is fine, we are all adults and we can take it. But we are working as expeditiously, as effectively, as we can. These are complicated, difficult, emotional issues. Many considerations have to be borne in mind.

Mr. Speaker, I would like us to meet I suppose every day in public, but I can assure the gentlewoman, if she wants a bill, let us continue to move as we are. I wish it could have been done yesterday, but I can assure the gentlewoman that nobody is at fault, other than the complexity, the difficulties of the issues we are dealing with.

I am convinced to a moral certitude that everybody wants a bill. Nobody wants this to fail. So we are working the best we can. I wish the gentlewoman would give some credence to our good faith, as I certainly do to the gentlewoman's.

I just do not know what to do on this. I want to vote for it because I like the gentlewoman, and I do not like to be negative. On the other hand, it just seems pointless for us to be requiring the conference to meet this week so that motions, including gun safety amendments, could be offered. We are working those out informally, but they are being worked out.

Then, we should meet every weekday in public session? I would hope that we will have an agreement, a text, very soon. I do not know when. But the process is working. It is fermenting.

We will get a text, and then we can all study it and decide whether it is something we can support or not, and move forward.

But we are doing our best. There may be others who could do better. Unfortunately, they are not in positions of authority. I am very satisfied that the gentleman from New York (Mr. CONYERS) is serious and working and trying to be helpful, and is helpful, and I believe he feels the same about our side.

I will vote no on this, simply because I think it sets out to do something that is not within our competence; that is, to tell the Senator to call meetings every day. I am sure he will call them when we are ready to offer something that can be voted on, and I just assure the gentlewoman, we are inching closer and closer and closer. I do not think it is going to be a matter of days, even, until we are ready with a product that we can all vote up-or-down on.

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

Mrs. MCCARTHY of New York. Mr. Speaker, I yield myself 30 seconds to respond to the previous speaker.

Mr. Speaker, I would say to the gentleman from Illinois (Mr. HYDE), my respect for the gentleman is tremendous, and this is nothing personal towards the gentleman whatsoever. It is actually towards, unfortunately, I feel, some people on the other side.

There have been a lot of quotes in the newspaper, one on June 19 after we had our defeat. "The defeat of the gun safety bill in the House is a great personal victory for me," from the gentleman from Texas (Mr. DELAY).

My job is to try and bring this bill forward. If we can put any pressure, certainly even on the Senate side, then that is what I have to try and do. As far as the gentleman goes, the gentleman is a gentleman and I am always privileged to work with him.

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

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

Mr. Speaker, in response to the very generous comments of the gentlewoman from New York, I appreciate them. My admiration for her is multiplied by her admiration for me.

But I would say that the gentleman from Texas (Mr. DELAY), who happens to be the Whip, is a person of strong feelings on this issue. He is entitled to them as an elected Member. But he speaks for himself, not for the entire Republican side on this issue.

This is an issue that is locally difficult for some and easy for others. But I can assure the gentlewoman, with all due respect to our distinguished Whip, that I can muster, he does not make the sole determination, and we are proceeding, I think, effectively and efficiently.

I want to assuage her worries that the gentleman from Texas (Mr. DELAY) speaks for all of us. He does not on this issue. He speaks for me on a lot of issues, but not this one.

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

Mrs. MCCARTHY of New York. Mr. Speaker, I yield 3½ minutes to the gentlewoman from California (Ms. LOFGREN).

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

Ms. LOFGREN. Mr. Speaker, the conference committee on this item has met just once, formally. That was on August 3. I am a member of that conference committee, as is my colleague, the maker of the motion here today.

At that meeting, and this is only the second time I have been on a conference committee, but we made statements at this meeting. I did, too; we all did. At the conclusion of the statements made by all the Members of the Senate and all the Members of the House who were present, I tried to offer a motion that we would continue to work and to try and get something substantive done.

□ 1615

It was ruled that that motion was out of order. We could not even vote on whether we should actually begin work. What was told to me at that time was that it was necessary for the staff to meet and that they would meet throughout the recess; and, therefore, we could get this to a resolution.

There was a lot of hope expressed that, by the time, roughly, that school started, we would have something ready to go. It is now September 23, and we are still not ready.

I have listened to the discussion here today. I am aware and do readily believe that there have been discussions between the ranking member and the chairman, and I commend those discussions. But there is an aura of mystery around this.

The other conferees, or at least I will speak for myself, I am not aware of the substance of what is being discussed. I hear various things from the press that concern me greatly. I have no way of knowing whether those press reports are accurate or inaccurate.

But I am aware that there are some things that really do need to be in the final product, which is why I think this motion to instruct is a good one.

The first part of the motion directs that we should have a substantive meeting. It has been nearly 2 months since we had our first meeting, and so I think to have our first substantive meeting is not too much to ask so that we could make motions. There is one motion that I would like to make, and it is a necessary one, and it has to do with high capacity clips for assault weapons.

As we know, the Senate had a provision in their bill, and we of course became grid locked and did not have anything on that subject. Subsequent to all of that, on really a technicality type of thing, the Senate's provision was deemed inappropriate since it raised revenue. So there needs to be

some kind of motion for that to be reinstated.

I mention this in particular because I think it is one thing that really does need that attention. I am aware, as a matter of fact, I am proud that the amendment here on the House side was the Hyde-Lofgren amendment. I know the gentleman from Illinois (Chairman HYDE) certainly does not oppose the substance of this. I think that we need to do this.

Certainly the loophole that was created when Senator FEINSTEIN and others pursued this a number of years ago turned out to be nothing that was anticipated. Millions of these high capacity clips are coming in from foreign providers.

I would just say that the TEC-DC9 that was used in Columbine could not have been effective if the ammo was not available. So let us get on it. Let us do it in public. I believe in sunshine laws, being from California. I think, if we have a little sunshine on this process, it will be hard for those opposed to hold their heads up high.

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

Mr. Speaker, I just want to say in response to the remarks of the gentlewoman from California (Ms. LOFGREN) that I certainly share her zeal for banning the large clips, cartridge clips. It was her motion and mine that passed on the floor; but, unfortunately, the bill to which it was attached was not passed. But it is a part of what we are talking about, and I do not think that is in serious dispute.

I just would like to remind the folks on the other side, the gentlewoman from New York (Mrs. MCCARTHY) and the gentlewoman from California (Ms. LOFGREN) that this overriding part of this is juvenile justice, the H.R. 1501, juvenile justice reform. We have been working on that 4½ years. It is that difficult. It has that much emotion involved, that much philosophy, that much concern. So to expect us to stam pede to a resolution now is just ill-advised. In good faith, we are doing our best. We are going to succeed, in my opinion.

I have talked to the gentleman from Michigan (Mr. CONYERS) at some length twice today. I met with him once. We are closer than ever. Please do not push us off the cliff with partisanship. I know how easy it is. I know how strongly my colleagues feel, how passionately they feel. I share that passion.

But compromises are difficult. One does not get everything one wants. One has to make concessions. But those concessions have to be prudent. We understand that. That is true of both sides.

I can only say my colleagues can continue to berate us, and I know they put a soft face on it, but they are. There is a predicate to what they are doing, and that is somehow we are foot dragging. Keep it up. It is all right. We will be here to respond. One of our Members

has one tomorrow. It is kind of becoming a habit. But we are doing our best, and we are going to succeed.

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

Mrs. MCCARTHY of New York. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, yesterday I joined with my Democratic women colleagues to call the role of children who have died from gunfire since the tragedy at Columbine on April 20. We cannot even get through the lists. Too many children have lost their lives to senseless gun violence.

Five months since Columbine, and, still, the Republican leadership has failed to take common-sense steps to keep guns out of the hands of children and criminals. Yes, that is the bipartisan compromise that was agreed to in the Senate. What are we in the House waiting for?

We have all watched children fleeing scenes at Columbine High School, a Los Angeles day care center, and now a church in Fort Worth. Just this week we saw a report of a teenage girl in Florida who plotted to murder her entire family but was stopped by a child safety lock.

But the tragedies on the news are only the most prominent. Single killings or accidental shootings where a child kills his brother or sister with a gun thought to be hidden safely in the closet happen with sickening regularity. It all adds up to 13 American children each day dying due to gunfire.

Yesterday morning, one of my Republican colleagues suggested that efforts to keep kids and crooks from getting guns were an insult to the wisdom of our Founding Fathers. Well, this Children's Defense Fund poster captures my response to that notion. It reads, "This can't be what our Founding Fathers had in mind. Children in the United States aged 15 and under are 12 times more likely to die from gunfire than children in 25 other industrialized countries combined. This is a statistic that no one can live with. It is time to protect children instead of guns. With freedom comes a price. That price should not be our children."

Vote for this motion to instruct. Let us pass the common-sense compromise that was passed in the Senate.

Mrs. MCCARTHY of New York. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, I thank the gentlewoman from New York for her courageous work on this issue.

I rise in strong support of this motion, and I am outraged that, once again, the stalling tactics of the majority have forced us to the floor to address gun safety.

My colleagues and I have come together countless times over the past several months with the same simple message: Congress must pass meaningful gun safety legislation. Today, we

repeat that message with added urgency.

When the conferees met this week, and when they continue to meet, they must return with loophole-free substantive measures to combat the gun violence that is killing our children and turning our schools into war zones.

The American people are demanding action. Throughout my district, mothers approach me, children in tow, and ask me why on earth this Congress has not done more to stop the scourge of gun violence attacking our communities. They are afraid to go out on to the streets of their own neighborhoods. They are afraid to send their kids to school. They are afraid to go to church or synagogue. They are searching for courageous leadership from this Congress.

Instead of providing that leadership, Congress has stalled and stonewalled as, week after week, the death toll from gun violence rises. Who can forget Littleton, Paducah, Jonesboro, Springfield, Conyers, Los Angeles, and Fort Worth? How many cities and towns across this country need to be hit with tragedy before something is done?

The Senate passed a gun safety bill which would have prevented felons from buying guns at gun shows, ban the importation of high capacity ammunition clips, and kept guns away from children. But the House took a different route. We had a choice between the public interest and special interest, and the public lost.

Our bill is hollow legislation which ignores the cries of victims of gun violence and their families. We have an opportunity starting today to change our ways. We have a real opportunity to save lives. The conferees must work hard to include strong gun safety measures.

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

Mr. Speaker, I want to respond to the gentlewoman (Mrs. LOWEY) for whom my admiration is boundless. I know she does not want to be unfair; I am convinced of that. When she talked about our stalling tactics, I am somewhat bewildered. I wish the gentlewoman would talk to the gentleman from Michigan (Mr. CONYERS) and talk to her staff, her committee staff. There is no stalling going on.

These are complicated, tough issues. It may be clear to a committed liberal the way to go. I am sure it is clear to committed conservatives the way to go. But they are in different directions. We are trying to bring those together. We are trying to work something out. We are doing it with all diligence, all possible diligence.

May I suggest, if the gentlewoman is interested, and I know she is, in helping the gun situation throughout our country, spend some time on urging her administration to enforce existing gun laws. In the last 3 years, there has been one prosecution of a Brady Act violation. We have had a lot of sound and fury for only one prosecution. So there are things that we can do.

But meanwhile, we are not stalling. The word is foreign to us. We are moving ahead. I would have liked to have solved this 2 weeks ago. I can assure the gentlewoman from New York (Mrs. LOWEY) nobody is stalling.

Mrs. LOWEY. Mr. Speaker, will the gentleman would yield?

Mr. HYDE. With pleasure I yield to the gentlewoman from New York.

Mrs. LOWEY. Mr. Speaker, I have worked with the gentleman from Illinois, and I know he is a gentleman, and I have great respect for his commitment to moving this bill. But I would just like to remind my friend and the gentleman that we have been asking for the commonsense gun safety legislation that passed the Senate to come before this House before Memorial Day. It has been quite a while. Look at the lives that have been lost.

I understand that the legislation is complex. I would be delighted to work with the gentleman to call on the Justice Department to enforce the laws. But the commonsense gun legislation that passed the Senate could have been brought to the floor, could have been called from the desk at any time as a separate package.

For me, as for the gentleman from Illinois, we understand how complex this is. But we also understand that there is a madness in this country, and that parents are afraid to send their kids to school.

We have to do what we can to prevent felons from getting through that loophole at gun shows, for example, and getting their hands on guns.

So I wish the gentleman Godspeed. I wish him good luck. I would hope that the juvenile justice bill could pass.

But I would just like to say in conclusion to the gentleman from Illinois, my good friend, that way before Memorial Day, we have been asking for the common-sense legislation to be brought to the floor and to pass. We know it is not the whole answer. Unfortunately, that has not happened, and more lives have been taken. The gentleman's constituents and mine are just afraid.

This is the United States of America, 1999. We know the guns are not the whole answer. But let us begin by making it tougher to get one's hands on a gun.

Mr. HYDE. Mr. Speaker, I do not disagree with much that the gentlewoman from New York (Mrs. Lowey) has said. But there is an expectation that passing another law is going to make a great difference.

Now, I do not deny that there is merit in additional gun laws. I think we can do some more things. I think we are on the verge of doing that. I think the bill that passed the Senate was an excellent one but for one aspect of it, and that is the gun show aspect.

□ 1630

I believe, and we believe, there was some unreasonable aspects to that, and that is a sticking point that we have

been working on and working on and working on.

But I want to remind the gentlewoman, I do not know how many young people were killed in automobile accidents in the period of time that she had reference to with guns, but I daresay more people were killed in automobile accidents. That does not mean we should stop people driving, but it is just a fact of life.

Sixteen Federal laws were violated at Littleton. Sixteen. Nine State laws were violated. So what is our response? Let us heap another law on the fire. But, look, I am for it, notwithstanding the futility, perhaps, of another law. I am working to get one, but I am just suggesting to the gentlewoman these are not easy.

And the Senate operates differently than we do. I think it took the Vice President's vote to get that bill out. Happily, he cannot vote in this body. But we are doing our best.

Mr. Speaker, if the gentleman would continue to yield, I would just like to comment on the gun show loophole, because I know my good colleague, the gentleman from New York (Mrs. MCCARTHY), has been a leader on that, and I just do not understand why that issue is so difficult when we know that 90 percent of the people are cleared.

Mr. HYDE. Ninety-five percent.

Mrs. LOWEY. Ninety-five percent. So what we are saying, and what the legislation in the Senate is saying, 3 business days, that is just for the 5 percent of the people who do not get through. So what is wrong with that, when 95 percent get cleared in the first 24 hours or less? So let us do that.

Mr. HYDE. I would just say to the gentlewoman that I have no problem with her formulation; unfortunately, the Lautenberg amendment does much more than that. Much more than that. And therein lies the problem.

I am happy to yield further if the gentlewoman is going to say something generous. I yield whatever time she wants.

Mrs. LOWEY. I have no doubt that the chairman's intentions are very noble and that he is a wise gentleman, as always.

Mr. HYDE. There is a well-known road paved with good intentions, I am aware of it.

Mrs. LOWEY. However, the gentleman has talked about car registration. I would like to see gun registration as well.

Mr. HYDE. Not in this Congress, though, I would advise the gentlewoman.

Mrs. LOWEY. Unfortunately, that may be the case, my dear friend. I would also like to say that although lives may be lost unfortunately as a result of gun accidents, the gentleman and I are terribly pained for every mother, every father, every family that loses a child, and every day we delay another 13 lives are lost. Every day.

So I would just encourage my good friend, and I am delighted I am on my

good friend's time, I would encourage my good friend to work as expeditiously as he can because, and I really mean this, whether I am in the supermarket or I am in the street, people are afraid. This is the United States of America, and people are afraid to go to school, afraid to go to church, afraid to go to synagogue, afraid to walk the streets. We have the power to do something. Let us make sure the Justice Department enforces the laws, but if we have the power to close some loopholes and pass common sense gun legislation, let us do it.

Mr. HYDE. I am all for that. We are working on common sense gun legislation, and I am confident we will pass something that will better the present situation. It will not be everything the gentlewoman wants. It probably will not be everything I would like. But it will be useful. It will contain a clip ban for those large clips; it will contain safety devices, trigger locks. It will contain a juvenile Brady. It will contain a prohibition for minors for possessing assault weapons. It will have mandatory background checks that are reasonable, including at gun shows. So, if the gentlewoman would let us do our work, we will do it.

I would say, by the way, that I think the gentlewoman would have made a great Senator.

Mrs. LOWEY. Mr. Speaker, I would be delighted to yield back to the gentleman his time so that other people on his side can continue this discussion, and I thank the gentleman.

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

Mrs. MCCARTHY of New York. Mr. Speaker, I yield 2½ minutes to the gentleman from Illinois (Mr. BLAGOJEVICH).

Mr. BLAGOJEVICH. Mr. Speaker, let me just associate myself with all the wonderful things that were said by my colleagues on this side of the aisle about the chairman.

Having said that, let me say I do not believe that criminals should get guns and we should do everything we possibly can to prevent criminals from having access to guns. We should close loopholes where they exist that allow criminals to get guns.

And with regard to the issue of gun shows, last year in America there were 54,000 guns that were confiscated in crimes. Criminals purchased them originally at gun shows. And the reason that that happened is because there is a gaping loophole in gun shows.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

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

Mr. HYDE. The current law forbids criminals from acquiring guns. If we could enforce the current law, we might make some progress. I thank the gentleman.

Mr. BLAGOJEVICH. Reclaiming my time, Mr. Speaker, let me reiterate again my great respect for the chairman, the gentleman from Illinois (Mr.

HYDE); and let me say I agree with him, we should certainly do everything we possibly can to enforce existing laws. Let me also say this Congress has not been generous with regards to providing funds to the Bureau of Alcohol, Tobacco and Firearms in its effort to fight gun violence.

But having said that, there are loopholes in the existing law that allows for criminals to go to gun shows and buy guns, as many as they want, with no questions asked. That is why 54,000 of those crime guns were confiscated last year that were originally purchased at gun shows.

The effort in the Senate that passed last May simply applies the Brady law to gun shows. So if I want to go buy a gun at a retail gun show, the same background requirements that I would submit to if I went to a retail store would be applied to me at gun shows. It is very basic and very simple, and I believe all of us who believe the Brady law has been successful, over 400,000 proscribed people were denied the right to buy guns because of that, ought to be for the Lautenberg version that passed the Senate.

And while there is a sense that delay abounds in this chamber and that we have not been able to do what the Senate did in a timely fashion, I think if we are going to heed the lessons of history, we need to keep the pressure on the well-intentioned Members who want to try to achieve what the Senate tried to do in the conference committee.

So let me just close by saying that in view of the history in this chamber and our inability to pass the Senate version here in the House, I think it is reasonable to suggest that we want to talk about this on a daily basis to keep the pressure on and let the American people keep focused on this issue. Because absent that, we probably will not get it done.

Since this Congress began, we have had shootings in Columbine, we have had shootings in Indiana and Illinois, we have had shootings most recently in Fort Worth, Texas. I think it is incumbent upon us to heed what the American people want us to do, and that is to act. The Senate did so, we have not done so.

Mrs. MCCARTHY of New York. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio (Mrs. JONES).

(Mrs. JONES of Ohio asked and was given permission to revise and extend her remarks.)

Mrs. JONES of Ohio. Mr. Speaker, I am back. Yesterday, on a motion to instruct conferees to craft juvenile justice legislation that would be loophole free so that guns would not reach the hands of those excluded by law from having guns; today, to instruct the conferees, as I said yesterday, to get it on.

Yesterday, I spoke of delay and was chastised. But if as a Member of Congress I am talking about delay, I take part of that responsibility. Today, I

speak of all deliberate speed. I speak to the desire of this Nation to see this issue through and to encourage the conferees to work openly.

I do not want to breathe down the necks of the conferees. I want to be the wind beneath their wings. I want to be the engine that could. Make no mistake. I do not question the good faith of the conferees. I do not question anyone's intentions. It is the intentions of those who choose to defeat gun safety legislation, the spokespersons who continue to carry the NRA banner, those are the ones I am worried about.

We believe that the conferees should meet in public session, that they be allowed to offer motions and amendments and meet substantively and recommend a substitute. We agree that it is the overriding purpose of this bill to do juvenile justice reform to protect our children.

Mr. Speaker, my colleagues and I simply wish to pick up the conferees, to push them along, to encourage them, to urge them, to get them to understand that the time is now. Our children's lives rest in their hands.

And by the way, Mr. Chairman, automobiles were not made to kill, guns were.

Mrs. MCCARTHY of New York. Mr. Speaker, may I inquire about the time remaining?

The SPEAKER pro tempore (Mr. HANSEN). The gentlewoman from New York (Mrs. MCCARTHY) has 16½ minutes remaining, and the gentleman from Illinois (Mr. HYDE) has 14 minutes remaining.

Mrs. MCCARTHY of New York. Mr. Speaker, I yield 2¼ minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I want to publicly state, as I have before, my great admiration for her commitment to gun control legislation. It comes from personal experience, and I think we all attest to her courage.

I am rising in support of the amendment that she offered to instruct the conferees to meet publicly every weekday until they reach agreement. This is really setting priorities.

I know the chairman of this committee, and I was listening to the discussion. I know he works very diligently. He is a man of great credibility. I have great respect for the chairman of the committee. But I do think it is important, and America is looking at us in terms of are we moving with deliberate speed, do we have open meetings, and do we have them all the time.

One of the reasons I want this, of course, is I hope to achieve the goal that we would close that gun show loophole, the Brady bill, and I would just point out a couple of reasons why I feel strongly.

A joint study by the Departments of Justice and Treasury that was released earlier this year, in January, found that, "Gun shows provide a large mar-

ket where criminals can shop for firearms anonymously. Unlicensed sellers have no way of knowing whether they are selling to a violent felon or someone who intends to illegally traffic guns."

A gun show dealer, quoted in the Lexington, Kentucky, Herald-Leader observed: "A criminal could come here and go booth to booth until he or she finds an individual to sell him or her a gun. No questions asked." It just makes no sense that any person today can walk into a gun show and make a purchase without any precautions whatsoever. Moreover, illegal purchasers know they can go to a gun show without worrying about being denied a purchase.

An Illinois State police study demonstrated that 25 percent of illegally trafficked firearms used in crimes originate at gun shows. In Florida, an inmate escaping from detention, stopped at a gun show to make a purchase while fleeing law enforcement authorities.

Maybe these are some exceptions, but these exceptions indicate that we do need to tighten up the law and to close that loophole. No background check was required, no waiting period. Simply absurd. So this loophole needs to be closed, and I urge the conferees to do just that.

Mrs. MCCARTHY of New York. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, I would like to thank my colleague from New York for her dedication to this issue, and I would also like to thank the chairman, particularly for his dedication to the issue of making sure that the multiple-round ammunition magazines are banned, which is an issue that is in my bill in the House and that he worked with me and the gentlewoman from California (Ms. LOFGREN) and so many other people to pass. But we do have to pass this. It has not passed.

I have to be honest, I have been very skeptical about the probability of the juvenile justice conferees reporting a bill with any child gun safety legislation. So far it looks like this skepticism is not misplaced, because the conferees have not had a substantive meeting since we returned from the August recess. And they did not work substantively over the recess. So I am here to say, let us not have this foot-dragging; let us pass this legislation.

It is true we have existing laws, and it is true we should enforce those existing laws. But the truth is there is no gun show law in effect that we could have enforced to stop the killers at Columbine, which is four blocks from my district, from buying those guns at a gun show. There is no existing law to stop the multiple-round ammunition magazines which allow people to shoot scores of people before they can be stopped. And there is no existing law to require gun safety locks to be put on guns.

□ 1645

We need common-sense child gun safety locks. The majority of Americans understand this. And my colleague from New York (Mrs. LOWEY) is exactly right. People from Jefferson County, Colorado, not a Democratic district, Republicans, Independents, and Democrats, come to me on the streets of Denver and they beseech me to do something, to pass common-sense child gun safety legislation. It is not a partisan issue. And the gentleman from Illinois (Mr. HYDE) has amply demonstrated this. But I fear that there are others in the leadership of this House who are not letting this happen.

Please pass this motion to instruct.

Mrs. McCARTHY of New York. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman from New York for yielding me the time, and I thank her for her leadership, and I am delighted to join her on the conference committee.

I want to speak to the chairman. I appreciate his presence and his acknowledgment that we can work together. But I think these are two very viable points in this motion to instruct.

First of all, Mr. Speaker, I believe we should meet this week. Secondly, I believe that it is important that we have public meetings, and I will tell my colleagues why.

First of all, the chairman of the Committee on the Judiciary, along with so many of us, as the previous speaker from Colorado has mentioned, that many of us are supporting the high-capacity ammo clips, the prohibition on those, which were the cause of the sin, if you will, on several recent shootings, including the tragic shooting in California with the Jewish Community Center and, of course, the shootings just this past week in Fort Worth, Texas, my own State, the shootings in Illinois, all generated because of these automatic clips. Yet there are some on the conference and some Republicans who are trying to classify it as a tax bill which would delay and stymie its being part of our gun safety reform.

I think the other aspect of what I would like to speak to, Mr. Speaker, is why I am standing here today. For, as I go into my communities, many of them will acknowledge that for years many inner-city poor neighborhoods were besieged by gun violence. Many mothers in inner cities for years had "Saturday Night" and "Friday Night Specials." And what were they? The tragedy of the burial of their young children, gun violence and gang violence.

So many of my constituents in inner-city Texas districts asked why all of a sudden are we raising our eyes and our ire about gun violence? Public hearings will let them know that we distinguish between no one. The death of a child is still the death of a child. And we ac-

knowledge the years and years that this Congress stood and watched as there was inner-city violence with "Saturday Night Specials" and probably did nothing. So the fact that we open these to public hearings is valuable.

Then secondarily, I think it is important to note what we are talking about with gun shows. It is absolutely hypocritical and outrageous for the National Rifle Association to say that we are trying to put gun shows out of business.

Frankly, I do not find them entertaining. We have had one every week in the State of Texas. But what we are saying is there is a loophole as big as a truck that they can go to a gun show and go to one licensed dealer over here and have an official Brady check and go to an unlicensed dealer over there and get no check, and we are simply saying that the unlicensed dealer should use the same process of going through an official process and a 3-day wait period so that we do not have the tragedies of what we have had with the shooting in the Jewish Community Center.

I am really trying to, hopefully, have dialogue with the National Rifle Association, which pitches all of us as wanting to come and take guns out of people's homes and close down gun shows. Well, we may not like gun shows, but we have no intent of closing them down.

What we do want to do, as the Lautenberg effort wants to do in amendment, is to ensure that there is a consistency in every single person that comes in there to buy a gun so an anonymous criminal cannot come out and shoot someone.

The additional thing that I hope my colleagues will respond to is that, unlike movie theaters where a child must be accompanied by an adult who goes into an X-rated or an R-rated movie, children can go into gun shows with no supervision, we need to make sure that an adult accompanies a child to a gun show if they go.

Let us pass this motion to instruct and pass real gun safety reform for all of our children in America.

Mrs. McCARTHY of New York. Mr. Speaker, may I inquire how much time I have remaining?

The SPEAKER pro tempore (Mr. HANSEN). The gentlewoman from New York has 9¼ minutes remaining. The gentleman from Illinois (Mr. HYDE) has 14 minutes remaining.

Mrs. McCARTHY of New York. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

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

Ms. SCHAKOWSKY. Mr. Speaker, I thank my colleague the gentlewoman from New York (Mrs. McCARTHY), who is really an inspiration to all of us on this issue, for yielding me the time.

Mr. Speaker, say to the chairman, I need to tell him that the most com-

monly asked question in the Ninth Congressional District, which borders on the district of the chairman, is why can the House not do something about guns?

My constituents asked me that after Columbine and they asked me after there was the shooting in my district of the worshippers going home from the synagogue who were shot on the street and the murder of Ricky Birdsong in Skokie, which is in my district, and they asked me if the shootings at the Jewish Community Center in California were going to be enough finally for us to ask. And when the mad gunman was in Atlanta, they thought, well, this has got to be it, that is going to tip the scales. And then Fort Worth, where even the church was a dangerous place.

And when I go home, they look at me and they scratch their head and they look in my face and they want to know an answer. They want to know what is it going to take, how many children are we going to bury, how many school shootings are there going to be. And I really do not have an answer.

So why do we not open up the process? Why do we not let the people of America in on the mystery of how Congress addresses issues like gun violence?

The chairman spoke about inching closer, inching closer. But inching closer is not a consolation when I go to the funerals in my district, and I have been to three in the last recent months, of children who were killed by gun violence. Inching closer does not satisfy. They want to know when.

Let us do it now. Let us open the process. Let us restore confidence in people that this Congress can act, that we can do something, that there is an orderly process, that there is real debate, that there is real movement.

If we pass the motion of the gentlewoman, we can at least include the American people who want action in on this process and, hopefully, we can resolve this issue before another incident, which I guarantee, my colleagues, will occur if we do not act and do not act now.

So I rise in support of the motion.

Mrs. McCARTHY of New York. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. LOFGREN).

(Ms. LOFGREN asked and was given permission to speak out of order.)

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 1501, JUVENILE JUSTICE REFORM ACT OF 1999

Ms. LOFGREN. Mr. Speaker, pursuant to clause 7 of rule XX, I hereby announce my intention to offer a motion to instruct conferees on H.R. 1501. The form of the motion is as follows:

Ms. LOFGREN moves that the managers on the part of the House on the conference on the disagreeing votes of the two houses on the Senate amendment to the bill, H.R. 1501, be instructed that the committee on the conference recommend a conference substitute that includes provisions within the scope of conference which are consistent with the

Second Amendment to the United States Constitution (e.g., (1) requiring unlicensed dealers at gun shows to conduct background checks; (2) banning the juvenile possession of assault weapons; (3) requiring that child safety locks be sold with every handgun; and (4) a Juvenile Brady bill.)

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

Mr. Speaker, this has been interesting. Yesterday's motion was interesting, and today's motion, and tomorrow's, and then next week's, every day, I am sure.

We have a nice discussion, a serious discussion about these problems; and that is all to the good. But something is missing.

Guns are important. Guns are the instruments by which these killings occur. But at the same time, there is so much more to this problem that is not being discussed by anybody and that is the violence that our children are being fed in the entertainment industry, in the movies, in the music, in the Internet games that are played.

Violence is a staple. It has desensitized, it has calloused people's sensitivities. And nobody seems to get exercised about that. I got exercised about it. I thought that, since obscenity is not protected by the First Amendment, violence, the purveying of violence ought to not be protected because it is a form of obscenity.

I got overwhelmed because the lobbyists came out and said, gee, you are going to hurt the retailers that are retailing this stuff. And so, nobody really cares about that, it is guns that are the problem.

I say we are filling our children with a culture of death and we are worrying about the guns, the instruments of some of this death. I worry about it, too, and I do not disregard that. But I would like to see some sensitivity on the liberal side for the climate that we are raising our kids in, that is at the day-care centers, where the socialization of our children develops according to the law of the jungle, where parents cannot find the time to spend with their children.

There are profound problems with our culture that are not getting better. "Deviancy" is being defined down in the famous phrase of the famous Senator from New York. But we are talking about guns. That is okay. Guns are a serious problem. They are dangerous instrumentalities.

There is a Second Amendment, however, that I respect. Most of the constitutional scholars that exist that talk about protecting the Constitution kind of gloss over the Second Amendment. But it is there. It is in the Constitution, and it serves a very useful purpose. Because I would not like to see Americans disarmed because the government sometimes in some cultures and histories becomes the adversary, and I think a protection of freedom is that people can maintain arms.

But I also believe, as in freedom of speech, that reasonable regulation is appropriate. Freedom of speech is not

unregulated. We condition yell "fire" in the proverbial crowded theater. There are laws against obscenity, slander, libel, copyrights, all sorts of restrictions on free speech. That does not diminish the significance of it, but it just says it is constitutionally possible to have restrictions.

The same thing is true of the Second Amendment. I think everyone should have the right if they are otherwise normal and qualified to own a gun if they want to. There are hunters. There are sportsmen. There is a right to protect our homes. But, at the same time, I believe reasonable restrictions are possible.

I do not think criminals should have guns. I do not think young children should have guns. There are all sorts of reasonable restrictions. Assault weapons, by definition, do not belong in the civilian community. I am willing to support those. But I think we have to be honest, and I think that the intellectual community ought to understand that entertainment and advertising and music and culture today is at the bottom of a lot of this problem.

Something fills the heart and souls of our kids other than hope and love. There is hate. There is fear. There is a culture of death animating the kids who pull those guns, put them up against the little girl's head and says, Do you believe in God? And she said yes, and then he pulled the trigger.

The gun did not go off by itself. That kid pulled that trigger because there was something inside him that was terribly wrong. I think we ought to start addressing this broad picture, not just focusing on the instrumentality of assassination. A knife in the hands of a surgeon is one thing. A knife in the hands of an assassin is another thing.

□ 1700

The knife is neutral. It is what animates the user that is really the root problem here, which nobody wants to address because we bump into the entertainment industry, and God forbid we get between a buck and the industry.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, as usual the gentleman from Illinois has made an extremely passionate and eloquent and very persuasive argument.

I do not pretend to stand and represent the liberal element of this Congress. I do not know if anyone has designated me as such. But I might remind the gentleman that when we were doing the telecommunications bill, there were many of us, Democrats and Republicans alike, who joined on an obscenity-prevention amendment or provision with respect to the Internet, and we ultimately, Mr. Chairman, were ruled unconstitutional or at least ruled out of order, if my colleague will, by the Supreme Court.

I would say to the gentleman that his point about cultural violence is a strong point, but I would also raise the fact that, if we look statistically, the young people will tell us that 95 percent of our youth are good and the 5 percent may be the ones that are caught up in some of these heinous acts. At the same time they are caught so we are concerned about what they get in school and in music. We have adults that have already gone past our training.

We have got the very deranged individual who went into the Jewish Community Center and did it out of hate, but what happened is he did not use a knife. The hateful gentleman in Illinois did not use a knife. They used guns, and I have said over and over to my friends in Texas:

I am in a very difficult position, coming from the State of Texas because they hold on to their weapons very strongly, and I have been consistently a person who believes in gun regulation, and I am not alone with the gentleman from Illinois (Mr. HYDE) asking to pierce the sanctity of someone's home to take their guns out that they legally own or to close down gun shows in which I do not like, frankly; but what I am saying, that the Second Amendment can live consistently and constitutionally with gun regulation.

Mr. HYDE. Mr. Speaker, I agree with the gentlewoman.

Ms. JACKSON-LEE of Texas. So, Mr. Speaker, I think we are not in disagreement. I believe there have been many of us who have risen to the floor of the House to speak against the heinous violent music or violent words or Internet violence, but we must admit that guns do kill and they are in the hands of individuals who use them to kill.

Mr. HYDE. Guns are the instrumentality, but the spirit of killing is the person who pulls the trigger, and we ought to take a look at that.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I join the gentleman from Illinois in that. I hope we can do both together.

Mr. HYDE. I do, too.

Let me just say in closing, this interesting philosophical seminar the gentleman from Chicago (Mr. BLAGOJEVICH) commented that we did not fund the Bureau of Alcohol, Tobacco and Firearms adequately for their job. During the last 5 years the Justice Department's funding has doubled; it is about 14.7 billion now, and gun prosecutions by the Justice Department have dropped almost in half. So we can look there, too, as long as we are exercising the searching gaze of the House of Representatives.

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

Mrs. MCCARTHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the reason that we are doing this motion is because, and I am glad we have this conversation today

and the debate going back and forth because it reminds me of the debate that we had on June 19 when we were talking about only the amendments that we are trying to get passed. I think people have to stop, think, and hopefully actually read what the amendment says. There is nothing in the amendment on trying to close the gun show loophole that will affect someone's Second Amendment rights. We have to make that extremely clear.

Right now, if someone wants to buy a gun, when they go to a gun store, they have a federally licensed dealer. When they go to a gun show, 45 percent of those selling guns there are federally licensed dealers. All we are saying is that those that come into gun shows and are not federally licensed should not be able to sell a gun to someone because the criminals know where to go get the guns; that is the problem. The criminals do know where to go get the guns.

So all we are saying is if someone is going to sell a gun at a gun show, that person should have to go under the same rules and regulations as those legal dealers at the gun show. That is all we are saying.

As was mentioned, 95 percent of the people that go to gun shows get their guns instantly through the check. We are dealing with a very, very small percentage, very, very small percentage of people that might have to wait a couple of hours. Then we even go further to a smaller percentage that actually might have to wait 24 hours.

This is what I am saying: How can I stand here and not fight to do whatever I can to make sure that guns do not get in the wrong hands? How can I stand here and make sure that what we do here in the House will be the right thing? Because if we pass a bill and that bill is not strong enough to stop the criminal from getting the gun, and then God forbid someone buys a gun at a gun show, goes to one of our schools, goes to one of our churches, goes to one of our synagogues and does their killing, how can we live with each other? How can we even face the victims of those crimes? That is what we have to do.

I am someone that actually supports the Second Amendment. I happen to believe in the Second Amendment, and I have to tell my colleagues I know of an awful lot of gun owners that are coming up to me more and more and more, even saying, and actually they are very proud when they come up to me and say, Mrs. MCCARTHY, I am an NRA member, and I do believe that I have a right to own a gun. But I also believe that we have to take a little more responsibility for our guns.

All we are asking for our citizens and for everybody that wants to buy a gun: Are you willing to take 3 business days, 3 business days, to make sure that a criminal or a child does not get their hand on a gun? The majority of Americans are saying yes to that. Unfortunately, that sound has not gotten in here, inside of Washington.

We have to have good standards. That is why we are all here. We set the laws of the land, and we are certainly going to have disagreements, and I understand that. The majority of us know that we always have to compromise, and we accept that also. But there comes a point when that compromise could cause a lot of loss of lives, and we have to be very clear on that, very, very clear on that.

Mr. Speaker, I hope between now and when the bill comes up for a vote again that the clear information will be out there. As my colleagues know, there is a part in the amendment where they talk about tracing. They do not like the idea of tracing. Mr. Speaker, I have to tell my colleagues every successful police department throughout this country that really works with the ATF on tracing, they are the ones that have the lowest crime rates because they are able to find those illegal gun dealers. Traces are an extremely important part of the bill. We cannot let that go.

Mr. Speaker, we do need more funding for that so that the Boston project that has worked so wonderfully, has cut down murders in Boston, especially among the young people; it is a project that works, and we are seeing it work throughout the country. We are supposed to support those things. That is tracing.

Here it was brought up earlier that gun shows do not really have guns go to criminals. Well, we have a report, and I offer this which includes the letters from police organizations that support the original bills, as they were, and I want to submit this, the ATF report, so this can go into the RECORD so people can look at this when they want more information.

The materials referred to are as follows:

POLICE FOUNDATION,  
WASHINGTON, DC,  
September 16, 1999.

Hon. ORRIN G. HATCH,  
U.S. Senate, Washington, DC.

DEAR CHAIRMAN HATCH: The Police Foundation is a private, independent, non-partisan, and nonprofit organization dedicated to supporting innovation and improvement in policing. Established in 1970, the foundation has conducted seminal research in police behavior, policy, and procedure, and works to transfer to local agencies the best new information about practices for dealing effectively with a wide range of important police operational and administrative concerns. On behalf of the Police Foundation, I am writing today in strong support of the gun-related provisions adopted by the Senate as part of S. 254. These measures are crucial in reducing access to guns by children and criminals.

As you and other conferees meet, the Police Foundation urges you to focus on an issue of importance to law enforcement—the need for at least three business days to conduct background checks at gun shows. This is the same period of time currently required when a firearm is purchased from a licensed gun dealer.

We believe it is critical to have at least three business days to do a thorough background check, especially to access records that may not be available on the Federal Na-

tional Instant Check Background System (NICS), such as a person's history of mental illness, domestic violence, or recent arrests. For law enforcement officials, it is not how fast a background check can be done but rather how thorough the check is conducted. Without a minimum of three business days, the risk increases that guns will be sold to criminals or others prohibited from purchasing guns.

The Police Foundation is concerned that neither the 24-hour or 72-hour requirements allow for an adequate background check. The FBI has analyzed NICS background check data for the last six months and estimates that if the law had required all background checks to be completed in 72 hours, 9,000 people found to be disqualified would have been able to obtain a weapon. If there had been a 24-hour background check time limit, 17,000 prohibited purchasers would have obtained weapons in the last six months. The FBI also found that a gun buyer who could not be cleared by NICS in under two hours was twenty times more likely to be a prohibited purchaser.

We strongly believe that all gun sales—be they in gun stores or at gun shows—should be subject to a three-business-day background check requirement; without such standards, gun shows will continue to be a major source of weapons for violent felons, straw purchasers, the dangerously unstable, and others who threaten our communities. Despite being convicted of multiple felonies, Hank Earl Carr was able to purchase multiple guns at gun shows—guns he used to murder his stepson and three police officers in Florida in 1998.

The Police Foundation supports other Senate-passed provisions, including requiring child safety locks with every handgun sold; banning all violent juveniles from buying guns when they turn eighteen; banning juvenile possession of assault weapons; enhancing penalties for transferring a firearm to a juvenile; and banning the importation of high capacity ammunition magazines.

In order to protect the safety of our families and our communities, it is important to adopt the Senate-passed, gun-related provisions. The Police Foundation is committed to working with you and your colleagues in the Congress in supporting and enacting sensible measures to protect all Americans and most especially our children.

Sincerely yours,

HUBERT WILLIAMS.

INTERNATIONAL ASSOCIATION OF  
CHIEFS OF POLICE,

Alexandria, VA, September 14, 1999.

Hon. ORRIN G. HATCH,  
U.S. Senate, Washington, DC.

DEAR CHAIRMAN HATCH: On behalf of the more than 18,000 members of the International Association of Chiefs of Police (IACP), I am writing to express our strong support for several vitally important firearms provisions that were included in S. 254, the Violent and Repeat Juvenile Offender Accountability Act of 1999.

As conference work on juvenile justice legislation begins, I would urge you to consider the views of our nation's chiefs of police on these important issues. Specifically, the IACP strongly supports provisions that would require the performance of background checks prior to the sale or transfer of weapons at gun shows, as well as extending the requirements of the Brady Act to cover juvenile acts of crime.

The IACP has always viewed the Brady Act as a vital component of any comprehensive crime control effort. Since its enactment, the Brady Act has prevented more than 400,000 felons, fugitives and others prohibited from owning firearms from purchasing firearms. However, the efficacy of the Brady Act

is undermined by oversights in the law which allow those individuals prohibited from owning firearms from obtaining weapons, at events such as gun shows, without undergoing a background check. The IACP believes that it is vitally important that Congress act swiftly to close these loopholes and preserve the effectiveness of the Brady Act.

However, simply requiring that a background check be performed is meaningless unless law enforcement authorities are provided with a period of time sufficient to complete a thorough background check, law enforcement executives understand that thorough and complete background checks take time. The IACP believes that to suggest, as some proposals do, that the weapon be transferred to the purchaser if the background checks are not completed within 24 hours of sale sacrifices the safety of our communities for the sake of convenience.

Requiring that individuals wait three business days is hardly an onerous burden, especially since allowing for more comprehensive background checks ensures that those individuals who are forbidden from purchasing firearms are prevented from doing so.

Finally, the IACP believes that juveniles must be held accountable for their acts of violence. Therefore, the IACP also supports modifying the current Brady Act to permanently prohibit gun ownership by an individual, while a juvenile, commits a crime that would have triggered a gun disability if their crime had been committed as an adult.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me at 703/836-6767.

Sincerely,

RONALD S. NEUBAUER,  
*President.*

INTERNATIONAL BROTHERHOOD OF  
POLICE OFFICERS,  
*Alexandria, VA, September 15, 1999.*

Hon. ORRIN G. HATCH,  
*Senate Committee on the Judiciary, Washington, DC.*

DEAR CHAIRMAN HATCH: The International Brotherhood of Police Officers (IBPO) is an affiliate of the Service Employees International Union, AFL-CIO. The IBPO is the largest police union in the AFL-CIO.

On behalf of the entire membership of the IBPO I wish to express our strong support of the gun-related provisions adopted by the Senate as part of S. 254. The IBPO knows that passage of these measures will keep guns away from children and criminals.

The IBPO requests that the conferees continue to focus on the need for adequate time to conduct background checks at "gun shows." As I am sure that you are aware, the Federal Bureau of Investigation has estimated that over 17,000 disqualified individuals would have been able to purchase a gun if a twenty-four hour time limit was required for a background check. Accordingly, if such time requirement is legislated 17,000 more felons will be able to purchase guns.

The IBPO is also in support of extending the requirements of the Brady Act to cover juvenile acts of crime. Our union has supported legislation which seeks to comprehensively control crime. The Brady Act is a major part of such efforts.

Thank you for your consideration of these issues that are significant to all law enforcement officers and the citizens of the United States of America.

Sincerely,

KENNETH T. LYONS,  
*National President.*

ARAPAHOE COUNTY  
SHERIFF'S OFFICE,  
*Littleton, CO, September 15, 1999.*

Chairman ORRIN HATCH,  
*Senate Judiciary Committee,  
Washington, DC.*

DEAR CHAIRMAN HATCH: As you and other conferees meet to craft juvenile justice legislation, I urge you to adopt the gun-related provisions adopted by the Senate as part of S. 254, The Violent and Repeat Juvenile Offender Accountability and Rehabilitation Act of 1999. We at the National Sheriffs' Association (NSA) appreciate your efforts to curb violent juvenile crime.

We feel that S. 254 combines the best provisions of each legislative attempt to reform and modernize juvenile crime control. As you know, sheriffs are increasingly burdened with juvenile offenders, and they present significant challenges for sheriffs. The so-called core mandates requiring sight and sound separation, jail removal and status offender mandates are so restrictive, that even reasonable attempts to comply with the mandates fall short. We welcome modest changes to the core mandates to make them flexible without jeopardizing the safety of the juvenile inmate. We agree that kids do not belong in adult jail and therefore we appreciate the commitment to find appropriate alternatives for juvenile offenders.

Additionally, NSA supports the Juvenile Accountability Block Grant program. S. 254 sets aside \$4 billion to implement the provisions of the bill and this grant funding will enable sheriffs to receive assistance to meet the core mandates. NSA is also hopeful that the prevention programs in the bill will keep juveniles out of the justice system. Kids that are engaged in constructive activities are less likely to commit crimes that those whose only other alternative is a gang. We applaud the focus on prevention, and we stand ready to do our part to engage America's youth.

In addition, you may be asked to consider the following amendments that I support.

Four ways to close loopholes giving kids access to firearms:

1. The Child Access Loophole: Adults are prohibited from transferring firearms to juveniles, but are not required to store guns so that kids cannot get access to them. This Child Access Prevention (CAP) proposal would require parents to keep loaded firearms out of the reach of children and would hold gun owners criminally responsible if a child gains access to an unsecured firearm and uses it to injure themselves or someone else.

2. The Gun Show Loophole: So-called "private collectors" can sell guns without background checks at gun shows and flea markets thereby skirting the Brady Law which requires that federally licensed gun dealers initiate and complete a background check before they sell a firearm. No gun should be sold at a gun show without a background check and appropriate documentation.

3. The Internet Loophole: Similar to the Gun Show Loophole: Many sales on the internet are performed without a background check, allowing criminals and other prohibited purchasers to acquire firearms. No one should be able to sell guns over the internet without complying with the Brady background check requirements.

4. The Violent Juveniles Purchase Loophole: Under current law, anyone convicted of a felony in an adult court is barred from owning a weapon. However, juveniles convicted of violent crimes in a juvenile court can purchase a gun on their 21st birthday. Juveniles who commit violent felony offenses when they are young should be prohibited from buying guns as adults.

The National Sheriffs Association and I welcome passage of this legislation. We look

forward to working with you to ensure swift enactment of S. 254.

Respectfully,

PATRICK J. SULLIVAN, Jr., *Sheriff.*

NATIONAL ASSOCIATION OF  
SCHOOL RESOURCE OFFICERS,  
*September 16, 1999.*

Chairman HATCH,  
*Senate Judiciary Committee, Washington, DC.*

DEAR CHAIRMAN HATCH: The National Association of School Resource Officers (NASRO) is a national organization that represents over 5000 school based police officers from municipal police agencies, county sheriff departments and school district police forces. On behalf of our entire membership nationwide, I am writing today in strong support of the gun-related provisions adopted by the Senate as part of S. 254. These measures are crucial in reducing child and criminal access to guns.

As you and other conferees meet to craft juvenile justice legislation, NASRO urges you to focus on an important issue to law enforcement—the need for at least three business days to conduct background checks at gun shows. This is the same period of time currently allowed when a firearm is purchased from a licensed gun dealer.

As law enforcement officials we know from experience that it is critical to have at least three business days to do a thorough background check. Law enforcement officials need time to access records that may not be available on the federal National Instant Check Background System (NICS) such as a person's history of mental illness, domestic violence or recent arrests. What is important to law enforcement is not how fast a background check can be done but how thorough it is conducted. Without a minimum of three business days this will increase the risk that criminals will be able to purchase guns.

NASRO is concerned that 72 or 24 hours is not an adequate amount of time for law enforcement to do an effective background check. The FBI analyzed all NICS background check data in the last six months and estimated that—if the law had required all background checks to be completed in 72 hours—9,000 people found to be disqualified would have been able to obtain a weapon. If the time limit for checks had been set at just 24 hours, 17,000 prohibited purchasers would have gotten guns in just the last half year. The FBI also found that a gun buyer who could not be cleared by the NICS system in under 2 hours was 20 times more likely to be a prohibited purchaser than other gun buyers.

It is impossible to tell precisely how many lives will be saved by applying the same background check system that now applies to gun store sales to gun shows. We know, however, that without such equivalent treatment gun shows will continue to be the purchase points of choice for murderers, armed robbers and other violent criminals like Hank Earl Carr, who was a frequent gun show buyer despite being a multiple convicted felon. Carr's crimes didn't stop until 1998, when he shot his stepson and three police officers before turning a gun on himself.

On June 23, 1999 a Colorado man shot and killed his three daughters, ages 7, 8 and 10 just hours after purchasing a gun from a licensed dealer. The dealer completed a NICS check, but the check failed to reveal that the man had a domestic abuse restraining order against him. If law enforcement had consulted local and state records using both computerized and non-computerized data bases than the man probably would have never been able to purchase the gun.

The other Senate passed provisions NASRO supports include requiring that child safety locks be provided with every handgun sold; banning all violent juveniles from buying

guns when they turn 18; banning juvenile possession of assault rifles; enhancing penalties for transferring a firearm to a juvenile; and banning the importation of high capacity ammunition magazines.

It is important to adopt the Senate-passed gun-related provisions in order to protect the safety of our families and our communities. The police officer on the street understands that this legislation is needed to help keep guns out of the hands of children and violent criminals.

Sincerely,

CURTIS LAVARELLO,  
*Executive Director.*

NATIONAL ORGANIZATION OF  
BLACK LAW ENFORCEMENT EXECUTIVES,  
*September 15, 1999.*

Hon. ORRIN HATCH,  
*Chair, Senate Judiciary Committee, U.S. Senate,  
Washington, DC.*

DEAR SENATOR HATCH: The National Organization of Black Law Enforcement Executives (NOBLE) representing over 3500 black law enforcement managers, executives, and practitioners strongly urge you to support the gun related provisions adopted by the Senate as a part of S. 254. These measures are crucial in reducing child and criminal access to guns.

As you and other conferees meet to craft juvenile justice legislation, NOBLE urges you to focus on an important issue to law enforcement—the need for at least three business days to conduct background checks at gun shows. This is the same period of time currently allowed when a firearm is purchased from a licensed dealer.

NOBLE is concerned that 24 hours is not an adequate amount of time for law enforcement to do an effective background check. The FBI analyzed all National Instant Check Background System (NICS) data in the last 6 months and estimated that—if the law had required all background checks to be completed in 72 hours, 9000 people found to be disqualified would have been able to obtain a weapon. If the time limit for checks had been set for 24 hours, 17,000 prohibited purchasers would have gotten guns in just the last half year. The FBI also found that a gun buyer who could not be cleared by the NICS system in under 2 hours was 20 times more likely to be a prohibited purchaser than other gun buyers.

It is impossible to tell precisely how many lives will be saved by applying the same background check system that now applies to gun store sales to gun shows. We know, however, that without such equivalent treatment gun shows will continue to be the purchased points of choice for murders, armed robbers and other violent criminals like Hank Earl Carr, who was a frequent gun show buyer despite being a multiple convicted felon. Carr's crimes did not stop until 1998, when he shot his stepson and three police officers before turning the gun on himself.

The other Senate passed provisions NOBLE supports include requiring that child safety locks be provided with every handgun sold; banning all violent juveniles from buying guns when they turn 18; banning juvenile possession of assault rifles; enhancing penalties for transferring a firearm to a juvenile; and banning the importation of high capacity ammunition magazines.

It is important to adopt the Senate passed gun related provisions in order to protect the safety of our families and our communities. The police officer on the street understands that this legislation is needed to help keep guns out of the hands of children and violent criminals.

Sincerely,

ROBERT L. STEWART,  
*Executive Director.*

HISPANIC AMERICAN POLICE COMMAND OFFICERS ASSOCIATION, THE RONALD REAGAN BUILDING & INTERNATIONAL TRADE CENTER,  
*Washington, DC, September 15, 1999.*

Chairman HATCH,  
*Senate Judiciary Committee, Washington, DC.*

DEAR CHAIRMAN HATCH: The Hispanic American Police Command Officers Association (HAPCOA) represents 1,500 command law enforcement officers and affiliates from municipal police departments, county sheriffs, and state and federal agencies including the DEA, U.S. Marshals Service, FBI, U.S. Secret Service, and the U.S. Park Police. On behalf of our entire membership nationwide, I am writing today in strong support of the gun-related provisions adopted by the Senate as part of S. 254. These measures are crucial in reducing child and criminal access to guns.

As you and other conferees meet to craft juvenile justice legislation, HAPCOA urges you to focus on an important issue to law enforcement—the need for at least three business days to conduct background checks at gun shows. This is the same period of time currently allowed when a firearm is purchased from a licensed gun dealer.

As law enforcement officials we know from experience that it is critical to have at least three business days to do a thorough background check. Law enforcement officials need time to access records that may not be available on the federal National Instant Check Background System (NICS) such as a person's history of mental illness, domestic violence or recent arrests. What is important to law enforcement is not how fast a background check can be done but how thorough it is conducted. Without a minimum of three business days this will increase the risk that criminals will be able to purchase guns.

HAPCOA is concerned that 72 or 24 hours is not an adequate amount of time for law enforcement to do an effective background check. The FBI analyzed all NICS background check data in the last six months and estimated that—if the law had required all background checks to be completed in 72 hours—9,000 people found to be disqualified would have been able to obtain a weapon. If the time limit for checks had been set at just 24 hours, 17,000 prohibited purchasers would have gotten guns in just the last half year. The FBI also found that a gun buyer who could not be cleared by the NICS system in under two hours was 20 times more likely to be a prohibited purchaser than other gun buyers.

It is impossible to tell precisely how many lives will be saved by applying the same background check system that now applies to gun store sales to gun shows. We know, however, that without such equivalent treatment gun shows will continue to be the purchase points of choice for murderers, armed robbers and other violent criminals like Hank Earl Carr, who was a frequent gun show buyer despite being a multiple convicted felon. Carr's crimes didn't stop until 1998, when he shot his stepson and three police officers before turning a gun on himself.

On June 23, 1999 a Colorado man shot and killed his three daughters, ages 7, 8 and 10 just hours after purchasing a gun from a licensed dealer. The dealer completed a NICS check, but the check failed to reveal that the man had a domestic abuse restraining order against him. If law enforcement had consulted local and state records using both computerized and non-computerized data bases than the man probably would have never been able to purchase the gun.

The other Senate passed provisions HAPCOA supports include requiring that child safety locks be provided with every handgun sold; banning all violent juveniles

from buying guns when they turn 18; banning juvenile possession of assault rifles; enhancing penalties for transferring a firearm to a juvenile; and banning the importation of high capacity ammunition magazines.

It is important to adopt the Senate-passed gun-related provisions in order to protect the safety of families and our communities. The police officer on the street understands that this legislation is needed to help keep guns out of the hands of children and violent criminals.

Sincerely,

JESS QUINTERO,  
*National Executive Director.*

POLICE EXECUTIVE RESEARCH FORUM,  
*Washington, DC, September 14, 1999.*

Hon. ORRIN G. HATCH,  
*Chairman, Senate Committee on the Judiciary,  
Washington, DC.*

DEAR CHAIRMAN HATCH: The Police Executive Research Forum (PERF) is a national organization of police professionals dedicated to improving policing practices through research, debate and leadership. On behalf of our members, I am writing today in strong support of the gun-related provisions adopted by the Senate as part of S. 254. These measures are crucial in reducing children's and criminals' access to guns.

As you and other conferees meet to craft juvenile justice legislation, PERF urges you to focus on an important issue to law enforcement—the need for at least three business days to conduct background checks at gun shows. This is the same period of time currently allowed when a firearm is purchased from a licensed gun dealer.

As law enforcement officials, we know from experience that it is critical to have at least three business days to do a thorough background check. While most checks take only a few hours, those that take longer often signal a potential problem regarding the purchaser. Without a minimum of three business days, the risk that criminals will be able to purchase guns increases. The FBI analyzed all NICS background check data in the last six months and estimated that, if the law had required all background checks to be completed in 72 hours, 9,000 people found to be disqualified would have been able to obtain a weapon. If the time limit for checks had been set at just 24 hours, 17,000 prohibited purchasers would have obtained guns in just the last half year. The FBI also found that a gun buyer who could not be cleared by the NICS system in under two hours was 20 times more likely to be a prohibited purchaser than other gun buyers.

PERF also strongly supports measures that impose new safety standards on the manufacture and importation of handguns requiring a child-resistant safety lock. PERF helped write the handgun safety guidelines—issued to most police agencies more than a decade ago—on the need to secure handguns kept in the home. Our commitment has not wavered. I also urge you to clarify that the storage containers and safety mechanisms meet minimum standards to ensure that the requirements have teeth.

PERF also encourages the enactment of proposals that prohibit the sale of an assault weapon to anyone under age 18 and to increase the criminal penalties for selling a gun to a juvenile. PERF also supports banning all violent juveniles from buying any type of gun when they turn 18, and supports banning the importation of high-capacity ammunition magazines. PERF knows we must do more to keep guns out of the hands of our nation's troubled youth.

PERF supports strong, enforceable "Child Access Prevention" laws. Once again, we have witnessed the carnage that results when children have access to firearms. PERF has supported child access prevention bills in

the past because we have seen first hand the horror that can occur when angry and disturbed kids have access to guns.

We must do more to keep America's children safe—not just because of recent events, but because of the shootings, accidents and suicide attempts we see with frightening regularity. It is important to adopt the Senate-passed gun-related provisions in order to protect our families and our communities. The police officer on the street understands that this legislation is needed to help keep guns out of the hands of children and violent criminals. Thank you for considering the views of law enforcement. We applaud your efforts to help make our communities safer places to live.

Sincerely,

CHUCK WEXLER,  
*Executive Director.*

GUN SHOWS: BRADY CHECKS AND CRIME GUN TRACES—JANUARY 1999, EXECUTIVE SUMMARY

More than 4,000 shows dedicated primarily to the sale or exchange of firearms are held annually in the United States. There are also countless other public markets at which firearms are freely sold or traded, such as flea markets. Under current law, large numbers of firearms at these public markets are sold anonymously; the seller has no idea and is under no obligation to find out whether he or she is selling a firearm to a felon or other prohibited person. If any of these firearms are later recovered at a crime scene, there is virtually no way to trace them back to the purchaser.

The Brady Handgun Violence Prevention Act (Brady Act) provides crucial information about firearms buyers to Federal firearms licensees (FFLs), but does not help nonlicensees to identify prohibited purchasers. Under the Brady Act, FFLs contact the Federal Bureau of Investigation's National Instant Criminal Background Check System (NICS) to ensure that a purchaser is not a felon or otherwise prohibited from possessing firearms. Until the Brady Act was passed, the only way an FFL could determine whether a purchaser was a felon or other person prohibited from possessing firearms was on the basis of the customer's self-certification. The Brady Act supplemented this "honor system" with one that allows licensees to transfer a firearm only after a records check that prevents the acquisition of firearms by persons not legally entitled to possess them. Since 1994, the Brady Act has prevented well over 250,000 prohibited persons from acquiring firearms from FFLs.

The Brady Act, however, does not apply to the sale of firearms by nonlicensees, who make up one-quarter or more of the sellers of firearms at gun shows. While FFLs are required to maintain careful records of their sales and, under the Brady Act, to check the purchaser's background with NICS before transferring any firearm, nonlicensees have no such requirements under current law. Thus, felons and other prohibited persons who want to avoid Brady Act checks and records of their purchase buy firearms at these shows. Indeed, a review of criminal investigations by the Bureau of Alcohol, Tobacco and Firearms (ATF) reveals a wide variety of violations occurring at gun shows and substantial numbers of firearms associated with gun shows being used in drug crimes and crimes of violence, as well as being passed illegally to juveniles.

On November 6, 1998, President Clinton determined that all gun show vendors should have access to the same information about firearms purchasers.<sup>1</sup> He directed the Secretary of the Treasury and the Attorney General to close the gun show loophole.

President Clinton was particularly concerned that felons and illegal firearms traffickers could use gun shows to buy large quantities of weapons without ever disclosing their identities, having their backgrounds checked, or having any other records maintained on their purchases. He asked the Secretary of the Treasury and the Attorney General to provide him with recommendations to address this problem.

In developing recommendations for responding to the President's directive, the Department of the Treasury and the Department of Justice sought input from United States Attorneys, FFLs, law enforcement organizations, trade associations, and a wide range of other groups interested in firearms issues. The suggestions of these disparate groups ranged from doing nothing to establishing an outright ban on all sales of firearms at gun shows or by anyone other than an FFL. The United States Attorneys expressed particular concern with the complexity of the statutory definition of "engaged in the business" of dealing in firearms and noted that this made unlicensed firearms traffickers unusually difficult to prosecute.

The recommendations in this report build upon existing systems and expertise to achieve the President's goals of preventing sales to prohibited persons and better enabling law enforcement to trade crime guns.

First, "gun show" would be defined to include not only traditional gun shows but also flea markets and others similar venues where firearms are sold.

Second, ATF would register all persons who promote gun shows. Promoters would be required to notify ATF of the time and location of each gun show, provide ATF with a list of vendors at the show, indicate whether the vendors are FFLs, ensure that all vendors are provided with information about their legal obligations, and require that vendors acknowledge receipt of this information. If a registered promoter fails to fulfill these obligations, ATF would consider revoking or suspending the promoter's registration or imposing a civil monetary penalty. Criminal penalties would also be available in certain circumstances.

Third, if any part of a firearms transaction, including display of the weapon, occurs at a gun show, the firearm could be transferred only by, or with the assistance of, an FFL. Therefore, if a nonlicensee sought to transfer a firearm, an FFL would be responsible for positively identifying the purchaser, conducting a Brady Act check on the purchaser, and maintaining a record of the transaction. This is the same system that has been used successfully for many years when someone wishes to transfer a firearm to a nonlicensee in another State.

Fourth, FFLs would be responsible for submitting strictly limited information concerning all firearms transferred at gun shows (e.g., manufacturing/importer, model, and serial number) to ATF's National Tracing Center (NTC). No information about either the seller or the purchaser would be given to the Government (with the exception of instances in which multiple sales are required.<sup>2</sup> Instead, the licensees would maintain this information in their files, as is done with all firearms sold by FFL today. The NTC would request this information from an FFL only in the event that the firearm subsequently became the subject of a law enforcement trace request.

Fifth, the Department of the Treasury and the Department of Justice will review the definition of "engaged in business" and make recommendations for legislative or regulatory changes to better identify and prosecute, in all appropriate circumstances, illegal traffickers in firearms and suppliers of guns to criminals.

Sixth, the Federal Government should commit additional resources to combat the illegal trade of firearms at gun shows. Without a commitment to financially support this initiative, the effectiveness of this proposal would be limited.

Seventh, in conjunction with the firearms industry, a campaign should be undertaken to encourage all firearms owners to take steps when selling or otherwise disposing of their weapons to ensure that they do not fall into the hands of criminals, unauthorized juveniles, or other prohibited persons.

Taken together, these recommendations will address the President's goals of preventing firearms sales to prohibited persons at gun shows and better enabling law enforcement to trace crime guns. Whenever any part of a firearms transaction takes place at a gun show, the requirements of the Brady Act will apply, and records will be kept to allow the firearm to be traced if it is later used in crime. If unlicensed individuals wish to sell their personal collections of firearms at gun shows, they will now have the obligation—and the means—to ensure that they are not selling their guns to felons or other prohibited persons. The recommended steps impose reasonable obligations in connection with firearms transactions at gun shows while significantly enhancing law enforcement's ability to prevent criminals from getting guns and to apprehend those who use firearms in the commission of crimes.

#### 1. DESCRIPTION OF GUN SHOWS

##### *Sponsorship and Operation of Gun Shows*

Shows that specialize primarily in the sale and exchange of all types of firearms are frequent and popular events.<sup>3</sup> According to the periodical "Gun Show Calendar" (Krause Publications), 4,442 such shows were advertised for calendar year 1998. The following are the 10 States where shows were conducted most frequently in 1998:

State	Number of shows
Texas .....	472
Pennsylvania .....	250
Florida .....	224
Illinois .....	203
California .....	188
Indiana .....	180
North Carolina .....	170
Oregon .....	160
Ohio .....	148
Nevada .....	129

Most of the shows were promoted by approximately 175 organizations and individuals. Most promoters are State and local firearms collector organizations with large memberships, including one group that has 28,000 members. The remainder of the gun shows were promoted by individual collectors and businesspeople. Ordinarily, gun shows are held in public arenas, civic centers, fairgrounds, and armories, and the vendor rents a table from the promoter for a fee ranging from \$5 to \$50. The number of tables at shows varies from as few as 50 to as many as 2,000.

Most of the shows are open to the public, and individuals generally pay an admission price of \$5 or more to the promoter. In rare instances, public access is limited by invitation only. Most gun shows occur over a 2-day period, generally on weekends, and draw an average of 2,500-5,000 people per show.<sup>4</sup>

Both FFLs and nonlicensees sell firearms at these shows. FFLs make up 50 to 75 percent of the vendors at most gun shows. The majority of vendors who attend shows sell firearms and associated accessories and other paraphernalia. Examples of accessories and paraphernalia include holsters, tactical gear, knives, ammunitions, clothing, food, military artifacts, books, and other literature. Some of the vendors offer accessories and paraphernalia only and do not sell firearms.

<sup>1</sup>Footnotes follow this text.

Public markets for the sale of firearms are not limited to the specialized firearms shows. Large quantities of firearms are also sold by nonlicensees at flea markets and other organized events. As some flea markets, FFLs have established permanent premises from which they conduct their business.

Both the specialized firearms shows and the broader commercial venues such as flea markets are collectively referred to as "gun shows" in the remainder of this report.

#### *Types of Firearms Sold*

The types and variety of firearms offered for sale at gun shows include new and used handguns, semiautomatic assault weapons,<sup>5</sup> shotguns, rifles, and curio or relic firearms.<sup>6</sup> In addition, vendors offer large capacity magazines<sup>7</sup> and machinegun parts<sup>8</sup> for sale.

The "high-end" collector and antique shows and the sporting recreational shows are generally produced by the sporting organizations or avid collectors and enthusiasts. The overall knowledge of the Federal firearms laws and regulations by these promoters is good, and the weapons offered for sale are mostly curios or relics or higher quality modern weapons. At other shows, vendors may be less knowledgeable about the Federal firearms laws, and many of the guns sold are of lower quality and less expensive.

#### *Atmosphere*

The casual atmosphere in which firearms are sold at gun shows provides an opportunity for individual buyers and sellers to exchange firearms without the expense of renting a table, and it is not uncommon to see people walking around a show attempting to sell a firearm. They may sell the firearms to a vendor who has rented a table or simply to someone they meet at the show. Many nonlicensees entice potential customers to their tables with comments such as, "No background checks required; we need only to know where you live and how old you are." Many of these unlicensed vendors actively acquire firearms from other vendors to satisfy a buyer's request for a specific firearm that the vendor does not currently possess. Some unlicensed vendors replenish and subsequently dispose of their inventories within a matter of days, often at the same show. Although the majority of people who visit gun shows are law-abiding citizens, too often the shows provide a ready supply of firearms to prohibited persons, gangs, violent criminals, and illegal firearms traffickers.

Many Federal firearms licensees have complained to ATF about the conduct of nonlicensees at gun shows.<sup>9</sup> These licensees are understandably concerned that the casual atmosphere of gun shows, combined with the absence of any requirement that an unlicensed vendor check the background of a firearms purchaser, provides an opportunity for felons and other prohibited persons to acquire firearms. Because Federal law neither requires the creation of any record of these unlicensed sales nor places any obligations upon gun show promoters, information is rarely available about the firearms sold should they be recovered in a crime.

#### *Gun Shows and Crime*

It is hardly surprising, therefore, that a review of ATF's recent investigations indicates that gun shows provide a forum for illegal firearms sales and trafficking. In preparing this report, the Department of the Treasury, the Department of Justice, ATF, and outside researchers<sup>10</sup> reviewed 314 recent investigations that involved gun shows in some capacity.<sup>11</sup> The investigative reports came from each of ATF's 23 field divisions throughout the country<sup>12</sup> and involved a wide range of criminal activity by FFLs, un-

licensed vendors, and felons conspiring with FFLs.<sup>13</sup> The investigations also involved a wide variety of firearms, including handguns, semiautomatic assault rifles, and machineguns.

Together, the ATF investigations paint a disturbing picture of gun shows as a venue for criminal activity and a source of firearms used in crimes. Felons, although prohibited from acquiring firearms, have been able to purchase firearms at gun shows. In fact, felons buying or selling firearms were involved in more than 46 percent of the investigations involving gun shows.<sup>14</sup> In more than a third of the investigations, the firearms involved were known to have been used in subsequent crimes.<sup>15</sup> These crimes included drug offenses, felons in possession of a firearm, assault, robbery, burglary, and homicide.<sup>16</sup>

Firearms involved in the 314 reviewed investigations numbered more than 54,000.<sup>17</sup> A large number of these firearms were sold or purchased at gun shows. More than one-third of the investigations involved more than 50 firearms, and nearly one-tenth of the investigations involved more than 250 firearms. The two largest investigations were reported to have involved up to 7,000 and 10,000 firearms, respectively. These numbers include both new and used firearms.<sup>18</sup>

The investigations reveal a diversity of Federal firearms violations associated with gun shows.<sup>19</sup> Examples of these violations include straw purchases,<sup>20</sup> out-of-State sales by FFLs, transactions by FFLs without Brady Act checks, and the sale of kits that modify semiautomatic firearms into automatic firearms. Engaging in the business without a license was involved in more than half of all the investigations. Nearly 20 percent involved FFLs who were selling firearms "off-the-book."<sup>21</sup> The central violation in approximately 15 percent of the investigations was the transfer of firearms to prohibited persons such as felons or juveniles not authorized to possess firearms. Nearly 20 percent of the investigations involved violations of the National Firearms Act (NFA), which regulates the possession of certain firearms such as machineguns.<sup>22</sup>

An examination of individual cases illustrates how gun shows are connected to criminal activity.

In 1993, ATF uncovered a Tennessee FFL who purchased more than 7,000 firearms, altered the serial numbers, and resold them to two unlicensed dealers who subsequently transported and sold the firearms at gun shows and flea markets in North Carolina. The scheme involved primarily new and used handguns. All three pled guilty to Federal firearms violations. The FFL was sentenced to 15 months' imprisonment; the unlicensed dealers were sentenced to 21 and 25 months' imprisonment, respectively.

In 1994, ATF recovered two 9mm firearms and the NTC traced them to an FFL in Whittier, California. The FFL had sold over 1,700 firearms to unlicensed purchasers over a 4-year period without maintaining any records. Many of the sales occurred at swap meets in California. The firearms were then sold to gang members in Santa Ana and Long Beach, California. Many of the firearms were recovered in crimes of violence, including homicide. Of the five defendants charged, two were convicted—the FFL and one of his unlicensed purchasers. Each was sentenced to 24 months' imprisonment.

In 1995, an ATF inspector in Pontiac, Michigan, discovered a convicted felon who used a false police identification to buy handguns at gun shows and resold them for profit. Among the firearms purchased were sixteen new and inexpensive 9mm and .380 caliber handguns. Detroit police recovered several of the firearms while investigating a

domestic disturbance. The defendant pled guilty to numerous Federal firearms violations and was sentenced to 27 months' imprisonment.

In addition to analyzing the ATF investigations, ATF supplemented the information with data from the NTC. Approximately 254 individuals identified in the ATF gun show-related investigations were checked against data in the Firearms Tracing System and related data bases. Of these, 44 appeared in the multiple purchase records with an average of 59 firearms per person. Of the 44 individuals, 15 were associated with 50 or more multiple sale firearms; these individuals had a total of 188 crime guns traced to them, an average of approximately 13 firearms each. The largest number of multiple sales firearms associated with one individual was 472; this individual had 53 crime guns traced to him. These patterns are not in and of themselves proof of trafficking. Rather, they are indicators investigators use to assist in trafficking investigations.

It is difficult to determine the precise extent of criminal activities at gun shows, partly because of the lack of obligations upon unlicensed vendors to keep any records. Nevertheless, the information obtained from the ATF investigations demonstrates that criminals are able to obtain firearms with no background check and that crime guns are transferred at gun shows with no records kept of the transaction.

#### 2. CURRENT LAW AND REGULATION OF GUN SHOWS

The gun show loophole results both from the existing legal framework governing firearms transactions and the limits on the application of existing laws to gun shows. Gun shows themselves are not subject to Federal regulation. Instead, only transfers by FFLs at gun shows are regulated. Few limitations apply to sales by nonlicensees at gun shows or elsewhere. The Federal legal framework governing gun shows and firearms vendors, as well as the State legal framework governing gun shows, is summarized below.

##### *The Federal Framework*

##### Federal Regulations of Firearms Vendors

##### *Licensed firearms dealers*

The GCA requires that those seeking to "engage in the business" of importing, manufacturing, or dealing in firearms must obtain a Federal firearms license from the Secretary of the Treasury.<sup>23</sup> The Federal firearms license entitles the holder to ship, transport, and receive firearms in interstate or foreign commerce.<sup>24</sup> The bearer of that license, the FFL, must comply with the obligations that accompany the license. In particular, FFLs must maintain records of all acquisitions and dispositions of firearms and comply with all State and local laws in transferring any firearms.<sup>25</sup> They must positively identify the purchaser by inspecting a Government-issued photographic identification, such as a driver's license. FFLs must also complete a multiple sales report if they sell two or more handguns to the same purchaser within 5 business days. FFLs may not transfer firearms to felons, persons who have been committed to mental institutions, illegal aliens, or other prohibited persons.<sup>26</sup> FFLs also may not knowingly transfer firearms to underage persons or handguns to persons who do not reside in the State where they are licensed.<sup>27</sup>

FFLs must also comply with the provisions of the Brady Act prior to transferring any firearm to a nonlicensee. The Brady Act requires licensees to contact NICS prior to transferring a firearm to any nonlicensed person in order to determine whether receipt of a firearm by the prospective purchaser would be in violation of Federal or State

law.<sup>28</sup> FFLs must maintain a record but need not contact NICS when they sell from their personal collection of firearms. Federal law requires licensees to respond to requests for firearms tracing information within 24 hours.<sup>29</sup> Moreover, ATF has a statutory right to conduct warrantless inspections of the records and inventory of Federal firearms licensees.<sup>30</sup> An FFL who willfully violates any of the licensing requirements may have his or her license revoked and is subject to imprisonment for not more than 5 years, a fine of not more than \$250,000, or both.<sup>31</sup>

The obligations imposed upon FFLs serve to implement the crime-reduction goals of the GCA. For example, the recordkeeping requirements, interstate controls, and other requirements imposed on licensees are designed to allow the tracing of crime guns through the records of FFLs and to give States the opportunity to enforce their firearms laws.<sup>32</sup>

#### *Licensed firearms collectors*

The GCA also requires persons to obtain a license as a collector of firearms<sup>33</sup> if they wish to ship, transport, and receive firearms classified as "curios or relics" in interstate or foreign commerce.<sup>34</sup> For transactions involving firearms other than curios or relics, the licensed collector has the same status as a nonlicensee. "Curio or relic" firearms generally are firearms that are of special interest to collectors and are at least 50 years old or derive their value from association with a historical figure, period, or event.<sup>35</sup> A licensed collector may buy and sell curio or relic firearms for the purpose of enhancing his or her personal collection, but may not lawfully engage in a firearms business in curio or relic firearms without obtaining a dealer's license.<sup>36</sup> Recordkeeping requirements are imposed on licensed collectors, and ATF has a statutory right to conduct warrantless inspections of the records and inventory of such licensees.<sup>37</sup> Licensed collectors, like other licensees, are required to respond to requests for firearms trace information within 24 hours.<sup>38</sup> However, licensed collectors are not subject to the requirements of the Brady Act.<sup>39</sup>

#### *Nonlicensed firearms sellers*

In contrast to licensed dealers, nonlicensees can sell firearms without inquiring into the identity of the person to whom they are selling, making any record of the transaction, or conducting NICS checks.<sup>40</sup> Because nonlicensed gun show vendors are not subject to the Brady Act and indeed cannot now conduct a NICS check under Federal law, they often have no way of knowing whether they are selling a firearm to a felon or other prohibited person. The GCA does, however, prohibit nonlicensed persons from acquiring firearms from out-of-State dealers and prohibits nonlicensees from shipping or transporting firearms in interstate or foreign commerce.<sup>41</sup> Nonlicensees are also prohibited from transferring a firearm to a nonlicensed person who the transferor knows or has reasonable cause to believe does not reside in the State in which the transferor resides.<sup>42</sup> A nonlicensee also may not transfer a firearm to any person knowing or having reasonable cause to believe that the transferee is a felon or other prohibited person.<sup>43</sup> Finally, nonlicensed persons may not transfer handguns to persons under the age of 18.<sup>44</sup> Of course, because nonlicensees are not required to inspect the buyer's driver's license or other identification, they may never know that the buyer is underage.

#### *"Engaged in the Business"*

Whether an individual seeking to sell a firearm will be regulated as an FFL or nonlicensee depends on whether that individual is "engaged in the business" of importing,

manufacturing, or dealing in firearms. When Congress enacted the GCA in 1968, it did not provide a definition of the term "engaged in the business." Courts interpreting the term supplied various definitions,<sup>45</sup> and upheld convictions for engaging in the business without a license under a variety of factual circumstances.<sup>46</sup>

In 1986, the law was amended to provide the following definition:

(21) The term "engaged in the business" means—

\* \* \* \* \*

(C) as applied to a dealer in firearms, . . . a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms, but such term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms. . . .<sup>47</sup>

The 1986 amendments to the GCA also defined the term "with the principal objective of livelihood and profit" to read as follows:

(22) The term "with the principal objective of livelihood and profit" means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection; *Provided*, That proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism. . . .<sup>48</sup>

Unfortunately, the effect of the 1986 amendments has often been to frustrate the prosecution of unlicensed dealers masquerading as collectors or hobbyists but who are really trafficking firearms to felons or other prohibited persons.

#### *Federal Regulation of Gun Shows*

Current Federal law does not regulate gun shows. The GCA does regulate the conduct of FFLs who offer firearms for sale at gun shows. Although the GCA generally limits licensees to conduct business only from their licensed premises,<sup>49</sup> in 1984, ATF issued a regulation allowing licensees to conduct business temporarily at certain gun shows located in the same State as their licensed premises.<sup>50</sup> The regulatory provision was codified into the law as part of the 1986 amendments to the GCA. To qualify for the exception, the gun show or event must be sponsored by a national, State, or local organization devoted to the collection, competitive use, or other sporting use of firearms; and the gun show or event must be held in the State where the licensee's premises is located.

As a result, an FFL may buy and sell firearms at a gun show provided he or she otherwise complies with all the GCA requirements governing licensee transfers. Nonlicensees, however, may freely transfer firearms at a gun show without observing the recordkeeping and background check requirements imposed upon licensees.

#### *State Statutory and Regulatory Framework*

More than half of the States impose no prohibition on the private transfer of firearms among nonlicensed persons and do not regulate the operation of gun shows. In some States, the only restrictions imposed on the private sales or transfers of firearms are similar to certain prohibitions set forth by the GCA. For example, Arkansas, Oklahoma, Texas, Louisiana, and Mississippi prohibit the transfer of certain firearms to felons; minors (or minors without parental consent);

or persons who are intoxicated, mentally disturbed, or under the influence of drugs. Some States require permits to obtain a firearm and impose a waiting period before the permit is issued (e.g., 14 days in Hawaii). Other States impose additional requirements (such as completion of a firearms safety course in California) to obtain a license or permit. Some impose a waiting period for all firearms (e.g., Massachusetts), others only for handguns (e.g., Connecticut). Maryland directly regulates the sale of firearms by nonlicensees at gun shows, requiring nonlicensees selling handguns or assault weapons at a gun show to undergo a background check to obtain a temporary transfer permit, and limits individuals to five such permits per year.

Exhibit 2 provides an overview of the laws of those States that regulate the transfer of some or all firearms by persons not licensed as a dealer, and of those States that directly regulate gun shows. None of the solutions proposed in this report will affect any State law or regulation that is more restrictive than the Federal law.

#### *3. EARLIER LEGISLATIVE PROPOSALS AND COMMENTS FROM INTERESTED PARTIES*

In developing the recommendations of this report, prior legislative proposals addressing gun shows were considered along with results of surveys of United States Attorneys, interest groups, and individuals concerned with firearms issues. Comments from FFLs and law enforcement officials were also considered.

#### *Legislative Proposals*

In the 105th Congress, Representative Rod Blagojevich introduced legislation addressing gun shows, H.R. 3833. Senator Frank Lautenberg introduced a similar bill, S. 2527. The proposed bills generally required any person wishing to operate a "gun show" to obtain a license from the Secretary of the Treasury and to provide 30 days' advance notice of the date and location of each gun show held. The gun show licensee would be required to comply with the provisions applicable to dealers under the Brady Act, the general recordkeeping provisions of the GCA, and the multiple sales reporting requirements. These requirements would apply only to transfers of firearms at the gun show by unlicensed persons. Unlicensed vendors would be required to provide the gun show licensee with written notice prior to transferring a firearm at the gun show. The gun show licensee would also be required to deliver to the Secretary of the Treasury all records of firearms transfers collected during the show within 30 days after the show.

#### *Responses to Surveys*

##### *United States Attorneys*

The Department of Justice requested information from United States Attorneys regarding their experience prosecuting cases involving illegal activities at gun shows or in the "secondary market."<sup>51</sup> Those United States Attorneys who reported cases were asked to describe any particular problems of proof that arose in the cases and whether the existing levels of prosecutorial and investigative resources are adequate to address the violations that are identified. Finally, they were asked for their proposals on how to curtail illegal activity at gun shows.

Some United States Attorneys' offices have had significant experience investigating and prosecuting cases involving illegal activities at gun shows, while others reported no experience with these cases at all. Several common themes emerge from the responses.

There was widespread agreement among United States Attorneys that it can be difficult to prove that a nonlicensed person is

"engaging in the business" of firearms dealing without a license under current law. The definitions create substantial investigative and proof problems.<sup>52</sup> Significant undercover work and follow-up by ATF required to prepare a case against someone for "engaging in the business."

The United States Attorneys were virtually unanimous in their call for additional resources. The number of ATF agents available to investigate cases in many judicial districts falls far below the number required to mount effective enforcement activities at gun shows. United States Attorneys also noted that it will be difficult to devote scarce prosecutorial resources to gun show cases, so long as a number of the offenses remain misdemeanors.

United States Attorneys offered a wide range of proposals to address the gun show loophole. These include the following: (1) allowing only FFLs to sell guns at gun shows so that a background check and a firearms transaction record accompany every transaction; (2) strengthening the definition of "engaged in the business" by defining the terms with more precision, narrowing the exception for "hobbyists," and lowering the intent requirement; (3) limiting the number of private sales permitted by an individual to a specified number per year; (4) requiring persons who sell guns in the secondary market to comply with the recordkeeping requirements that are applicable to FFLs; (5) requiring all transfers in the secondary market to go through an FFL; (6) establishing procedures for the orderly liquidation of inventory belonging to FFLs who surrender their license; (7) requiring registration of non-licensed persons who sell guns; (8) increasing the punishment for transferring a firearm without a background check as required by the Brady Act; (9) requiring the gun show promoters to be licensed and maintain an inventory of all the firearms that are sold by FFLs and non-FFLs at a gun show; (10) requiring that one or more ATF agents be present at every gun show; and (11) insulating unlicensed vendors from criminal liability if they agree to have purchasers complete a firearms transaction form.

A small number of United States Attorneys suggesting that existing laws are adequate even though the resources available to enforce these laws are not. While gun shows do not appear to be a problem in every jurisdiction, the majority of United States Attorneys agreed that gun shows are part of a larger, pervasive problem of firearms transfers in the secondary market.

#### Law Enforcement Officials

Of the 18 State law enforcement officials who responded to the survey, only 1 opposed new restrictions on gun shows. Seventeen officials share the President's concern with the sale of firearms at gun shows without a background check or other recordkeeping requirements and support changes to make these requirements for all gun show transfers. The majority of respondents urged that any changes apply not only to gun shows but to flea markets, swap meets, and other venues where firearms are bought and sold. Several respondents suggested limits on the number of gun shows or caps on the quantities of guns sold by nonlicensees. Others urged increased cooperation with the United States Attorneys to assist in the prosecution of those individuals who violate Federal firearms laws. Finally, the National Sheriffs Association suggested that gun show operators be required to obtain a permit and notify ATF of any gun show.

#### FFLs

FFLs submitted 219 responses, of which approximately 30 percent requested additional regulations to prevent unlawful activities at

gun shows. Many of these FFLs supported a ban on firearms sales by unlicensed persons or, if permitted, urged that Brady checks be required to prevent prohibited persons from acquiring firearms. Other FFLs expressed frustration that unlicensed persons were able to sell to buyers without any paperwork (and advertise this fact), leaving the FFL at a competitive disadvantage. Others suggested that all vendors, licensed or not, should follow the same requirements whether at gun shows, flea markets, or other places where guns are sold. Many of the FFLs recommending additional regulations provided suggestions, some quite detailed, for closing the gun show loophole. These suggestions included registering all firearms owners, licensing promoters, restricting attendance at gun shows, conducting surprise raids at gun shows, requiring that all transfers go through an FFL, and requiring a booth for law enforcement to conduct background checks for all firearms purchases.

A number of the FFLs who responded believed that the problems at gun shows could be solved if current laws were more strictly enforced. Several of these respondents noted that ATF is already "spread too thin" to enforce additional laws. Others suggested that courts need to do a better job of enforcing the existing laws. Many others preferred stiffer sentences for violators of existing law. More than half, however, stated that new laws or restrictions are not the answer. Of this group, many stated that they do not see any illegal activity at gun shows and concluded that no new laws are necessary. Others expressed their belief that sales of private property should not be federally regulated, or they expressed distrust of the Government in general. Also included in this group were FFLs who reported that they do not sell at gun shows for a variety of reasons but oppose new regulations nonetheless.

#### Interest Groups, Trade Groups, and Other Responses

Eight responses were received from firearms interest or trade groups. The National Rifle Association (NRA) opposes any changes to existing laws, contending that only 2 percent of firearms used by criminals come from gun shows. The NRA suggested that regulating the private sale of firearms would create a vast bureaucratic infrastructure and that ATF should instead continue to prosecute those who illegally trade in firearms. The NRA also suggested that many of the current unlicensed dealers would be under ATF scrutiny had they not been discouraged from holding a firearms license. The NRA expressed willingness to publicize the licensing requirements for those who deal in firearms. Similarly, Gun Owners of America recommended no changes to existing law, but suggested a "stop to this insidious ongoing Federal government assault on American citizenry and to return to the rule of law."

By contrast, the National Alliance of Stocking Gun Dealers (NASGD), a trade association consisting of firearms dealers, suggested that every firearm sale at a gun show be regulated and that the purchaser undergo a NICS check. In addition, NASGD suggested: (1) licensing all gun show promoters, auctioneers, and exhibitors; (2) limiting the number of times an FFL may sell at gun shows in a given year; (3) having non-licensed comply with the same standards as FFLs; (4) requiring promoters to provide ATF and other authorities with the list of vendors at a gun show; and (5) having promoters maintain firearms transaction records and NICS transaction records for all firearms sold at a gun show.

Handgun Control, Inc. (HCI), suggested that gun show promoters be licensed and that they be authorized to conduct a NICS

check on every firearms transfer by an unlicensed dealer. HCI also suggested that a 30-day temporary license be issued (limited to one per year) to any individual wishing to sell at a gun show. The proposed license would permit the sale of no more than 20 handguns, the serial numbers of which would be included in the license application. HCI suggested that "engaged in the business" be defined to limit the number of handguns sold from a "personal collection" to no more than 3 in a 30-day period. This restriction would not apply to sales to licensees or within one's immediate family. The Coalition to Stop Handgun Violence suggested licensing promoters, requiring a background check on all gun purchases, additional recordkeeping, a limit on the number of firearms purchased by any one person at a gun show, and increased enforcement resources and penalties.

The Trauma Foundation of San Francisco recommended requiring a background check for all firearms sales, licensing promoters, permitting only FFLs to sell at gun shows, and limiting the number of firearms purchased at a gun show. The United States Conference of Mayors supported one-gun-a-month legislation, background checks on all purchases, and increased funding for law enforcement.

Finally, in reply to open letters posted on the Internet, ATF received 274 responses. The vast majority of these responses either opposed any new restrictions on gun shows or favored enforcement of existing law. Approximately 5 percent favored new laws, usually suggesting a background check for firearms purchasers.

#### 4. RECOMMENDATIONS

##### *Summary of the Recommendations*

These recommendations close the gun show loophole by adding reasonable restrictions and conditions of firearms transfers at gun shows.<sup>53</sup> The recommendations also ensure that there are adequate resource to enforce the law and that all would-be sellers of firearms at gun shows understand the law and the consequences of illegally disposing of guns. Each recommendation will be discussed in detail, but they may be summarized as follows:

1. Define "gun show" to include specialized gun events, as well as flea markets and other markets outside of licensed firearms shops at which 50 or more firearms, in total, are offered for sale by 2 or more persons.

2. Require gun show promoters to register and to notify ATF of all gun shows, maintain and report a list of vendors at the show, and ensure that all vendors acknowledge receipt of information about their legal obligations.

3. Require that all firearms transactions at a gun show be completed through an FFL. The FFL would be responsible for conducting a NICS check on the purchaser and maintaining records of the transactions. The failure to conduct a NICS check would be a felony for licensees and nonlicensees.

4. Require FFLs to submit information necessary to trace all firearms transferred at gun shows to ATF's National Tracing Center. This information would include the manufacturer/importer, model, and serial number of the firearms. No information about either an unlicensed seller or the purchaser would be given to the Government. Instead, as today with all firearms sold by licensees, the FFLs would maintain this information in their files.

5. Review the definition of "engaged in the business" and make recommendations within 90 days for legislative or regulatory changes to better identify and prosecute, in all appropriate circumstances, illegal traffickers in firearms and suppliers of guns to criminals.

6. Provide additional resources to combat the illegal trade of firearms at gun shows.

7. In conjunction with the firearms industry, educate gun owners that, should they sell or otherwise dispose of their firearms, they need to do so responsibly to ensure that they do not fall into the hands of felons, unauthorized juveniles, or other prohibited persons.

#### *Explanation of the Recommendations*

##### *Definition of Gun Show*

There would be a new statutory definition of "gun show."<sup>54</sup> The definition would read as follows: "Gun Show. Any event (1) at which 50 or more firearms, 1 or more of which has been shipped or transported in interstate or foreign commerce, are offered or exhibited for sale, transfer or exchange; and (2) at which 2 or more persons are offering or exhibiting firearms for sale, transfer, or exchange."

This definition encompasses not only events at which the primary commodities displayed and sold are firearms but qualifying flea markets, swap meets, and other secondary markets where guns are sold as well. Requiring there to be two or more persons offering firearms exempts from the definition FFLs selling guns at their business location, as well as the individual selling a personal gun collection at a garage or yard sale. In addition, the legislation requires a minimum of 50 firearms to be offered for sale in order for an event to become a gun show that is subject to the other new requirements. This minimum quantity ensures that private sales of a small number of firearms can continue to take place without being subject to the new requirements.

##### *Gun Show Promoters*

Any person who organizes, plans, promotes or operates a gun show, as newly defined, would be required to register with ATF. Gun show promoters would complete a simple form which entitles the promoter to operate a gun show. The registration requirement would go into effect 6 months after the enactment of the legislation to allow time for gun show promoters to comply.

Thirty days before any gun show, a promoter would be required to inform ATF of the dates, duration, and estimated number of vendors who are expected to participate. This information serves four purposes: First, it advises ATF that a gun show will be taking place. If ATF is in the process of investigating individuals who are violating the law at gun shows in a particular field division, the advance notice will assist ATF in determining whether the target of the investigation might appear at the gun show. Second, the information gives ATF a good idea about the scope and scale of the gun show to enable the agency to make the determination whether ATF should allocate resources to the show for the purpose of investigating possible crimes there. Third, it allows ATF to notify State and local law enforcement about the show, as suggested by the National Sheriffs Association. Finally, the notice involves the promoter at an early stage in identifying who is participating at the gun show.

Next, by no later than 72 hours before the gun show, the promoter would provide a second notice to ATF identifying all the vendors who plan to participate at the show. The promoter's notice would include the names and licensing status, if any, of all those who have signed up to exhibit firearms. The primary benefits of this notification are twofold. First, the notice gives ATF specific information about vendors who plan to participate at the gun show, along with their status as an FFL or nonlicensee. For any open investigations, this information would prove extremely useful in ATF's enforcement activities. Second, promoters will

learn the identities of the vendors so that they can plan for the show. For example, the promoter can determine which of the FFLs will conduct background checks for non-licensees and, if a significant number of non-licensees plan to participate in the show, the promoter can plan to have enough "transfer" FFLs<sup>55</sup> present to meet the demand for NICS checks.

Although vendors who do not sign up for the gun show by the time that the promoter submits the 72-hour notice may still sign up to participate at the show, they will be required to sign the promoter's ledger acknowledging their legal obligations before they may transact business. The promoter will be required to submit the ledger to ATF within 5 business days of the end of the show. All vendors will also be required to present to the promoter a valid driver's license or other Government-issued photographic identification.

A gun show promoter who fails to register or comply with any of these requirements would be subject to having his or her registration denied, suspended, or revoked, as well as being subject to other civil or administrative penalties. Certain violations would be subject to criminal penalties. Vendors who sell at gun shows without signing the promoter's ledger would be similarly subject to civil and criminal penalties. In addition, if the vendor provides false information to the promoter in the ledger, the vendor would be liable for making a false statement.

Imposing these requirements on gun show promoters will make them more accountable for controlling their shows and ensuring that only vendors who comply with the law participate at gun shows. Although promoters will not be directly responsible for the performance of NICS background checks at gun shows, it will be in the promoter's interest to make sure that background checks are being performed in connection with each and every firearms transfer that takes place in whole or in part at the gun show. Gun show promoters profit greatly from the gun sales that take place at gun shows. However, until now, the Federal Government has not imposed any obligations on the promoter to encourage compliance with the law by all of the participants at the gun show. Placing an affirmative obligation on gun show promoters to notify vendors of their legal obligations will go a long way toward ensuring that only lawful transactions take place at gun shows.

Requiring vendors to sign the ledger and acknowledge that they have received information about and understand their legal obligations will prevent vendors from claiming that they did not know that they were required to complete all firearms transactions at a gun show through an FFL.

##### *NICS Checks*

No gun would be sold, transferred, or exchanged at a gun show before a NICS background check is performed on the transferee. The Brady Act permit exception would apply to firearms sales at gun shows. FFLs who participate in the gun show would be required to request NICS checks for all buyers, whether the FFL sells firearms out of the FFL's inventory or the FFL's personal collection. Nonlicensed sellers at the gun show must arrange for all purchasers to go to a transfer FFL to request a NICS check. Any FFL attending a gun show may act as a transfer FFL to facilitate nonlicensee sales of firearms. However, FFLs will not be required to perform this service; they will do so only voluntarily. FFLs may choose to charge a fee for providing this service. By having the FFL request the background check, the proposal takes full advantage of the existing licensing scheme for FFLs, the

FFLs' knowledge of firearms, and the FFLs' access to NICS.

The unlicensed seller may not transfer the firearm to the purchaser until the seller receives verification that the transfer FFL has performed a NICS background check on the purchaser and learned that there is no disqualifying information. The FFL's role is limited to facilitating the transfer by performing the NICS check and keeping the required records. Any FFL or non-FFL who transfers a firearm in whole or in part at a gun show without completing a NICS check on the purchaser to determine that the transferee is not prohibited could be charged with a felony.<sup>56</sup>

Prohibiting any firearms from being sold, transferred, or exchanged in whole or in part at a gun show until the transferee has been cleared by a background check establishes parameters that encompass all vendors, regardless of whether they are licensed. No FFL may claim that a background check is not required because the firearm is being sold out of the FFL's personal collection, nor will the distinction between FFLs and non-licensed dealers make any difference for NICS checks. When any part of the transaction takes place at a gun show,<sup>57</sup> each and every vendor at a gun show will require a transferee to undergo a background check before the firearm can be transferred.<sup>58</sup>

##### *Records for Tracing Crime Guns*

Before clearing a transfer of any firearm by a nonlicensee, the transfer FFL would complete a form similar to the firearms transaction record currently used by FFLs. This firearms transaction record would be maintained in the FFL's records, along with the other records of firearms transferred directly by the FFL.

In addition, FFLs would be responsible for submitting to the NTC strictly limited information concerning firearms transferred at gun shows, whether the FFL is the seller or merely the transfer FFL. The information would consist of the manufacturer/importer, model, and serial number of the firearm. No personal information about either the seller or the purchaser would be given to the Government. Instead, as today with all firearms sold by FFLs, the licensees would maintain this information in their files. The NTC would request this information from an FFL only in the event that the firearm subsequently becomes the subject of a law enforcement trace request. In addition, FFLs would complete a multiple sale form if they record the sale by a nonlicensee of two or more handguns to the same purchaser within 5 business days, as is currently required for transactions by FFLs.

This requirement provides a simple and easy-to-administer means of reestablishing the chain of ownership for guns that are transferred at gun shows. If the firearm appears at a crime scene and there is a legitimate law enforcement need to trace the firearm, ATF will be able to match the serial number of the crime gun to the record and identify the FFL who is maintaining the firearms transaction form. ATF can then go to the FFL who submitted the information on the firearm and review the record that is on file with the FFL. This form will contain information about the transferor and transferee, and ATF can trace the firearm using that information. It is important to emphasize that ATF traces guns according to specific protocols and requirements, ensuring that the firearms information will not be used to identify purchasers of a particular firearm except as required for a legitimate law enforcement purposes.

##### *Definition of "Engaged in the Business"*

Not surprisingly, significant illegal dealing in firearms by unlicensed persons occurs at

gun shows. More than 50 percent of recent ATF investigations of illegal activity at gun shows focused on persons allegedly engaged in the business of dealing without a license. Unfortunately, the current definition of "engaged in the business" often frustrates the prosecution of people who supply guns to felons and other prohibited persons. Although illegal activities by unlicensed traffickers often become evident to investigators quickly, months of undercover work and surveillance are frequently necessary to prove each of the elements in the current definition and to disprove the applicability of any of the several statutory exceptions.

To draw a more distinct line between those who are engaged in the business of firearms dealing and those who are not, and to facilitate the prosecution of those who are illegally trafficking in guns to felons and other prohibited persons—at gun shows and elsewhere—the GCA should be amended. Accordingly, the Department of the Treasury and the Department of Justice will review the definition of "engaged in the business" and make recommendations within 90 days for legislative or regulatory changes to better identify and prosecute, in all appropriate circumstances, illegal traffickers in firearms and suppliers of guns to criminals.

#### Need for Additional Resources

To adequately enforce existing law as well as the foregoing proposals, more resources are needed. There are more than 4,000 specialized gun shows per year, and enforcement and regulatory activity must also occur at the other public venues where firearms are sold.

All of the previous recommendations will help close the existing gun show loophole, but they will not completely eradicate criminal activity at gun shows and in the rest of the secondary market. As the review of ATF investigations and United States Attorney prosecutions revealed, a substantial number of the crimes associated with gun shows are committed by FFLs who deal off the book and ignore their legal obligations. While a requirement that all gun show transactions be recorded and NICS checks completed will make it somewhat easier to identify off-the-book dealers, a markedly increased enforcement effort will be required to shut down these illegal markets. Further, ATF will need to focus on preventive educational initiatives, as described below. To accomplish all of these goals, significant resources will be required for more criminal and regulatory enforcement personnel, as well as prosecutors.

Without a commitment to financially support his initiative, its effectiveness will be limited. The Departments of Justice and the Treasury will submit budget proposals to fund this initiative at an appropriate level.

#### Educational Campaign

Finally, a campaign should be undertaken in conjunction with the firearms industry to educate firearms owners that, should they sell or otherwise dispose of their firearms, they need to do so responsibly to ensure that the weapons do not fall into the hands of felons, unauthorized juveniles or other prohibited persons. The vast majority of firearms owners are law-abiding and certainly do not want their firearms to be used for crime but, under the current system, they can unwittingly sell firearms to prohibited persons.

The educational campaign could involve setting up booths at gun shows to explain the law, encouraging unlicensed sellers to "know their buyer" by asking for identification and keeping a record of those to whom they sell their firearms; developing videos and news articles for promoters, dealers, trade groups, and groups of firearms owners describing legal obligations and liability and

the need to exercise personal responsibility; and distributing posters and handouts with tips for identifying and reporting suspicious activity.

#### 5. CONCLUSION

Although Brady Act background checks have been successful in preventing felons and other prohibited persons from buying firearms from FFLs, gun shows leave a major loophole in the regulation of firearms sales. Gun shows provide a large market where criminals can shop for firearms anonymously. Unlicensed sellers have no way of knowing whether they are selling to a violent felon or someone who intends to illegally traffic guns on the streets to juveniles or gangs. Further, unscrupulous gun dealers can use these free-flowing markets to hide their off-the-book sales. While most gun show sellers are honest and law-abiding, it only takes a few to transfer large numbers of firearms into dangerous hands.

The proposals in this report strike a balance between the interests of law-abiding citizens and the needs of law enforcement. Specifically, the proposals will allow gun shows to continue to provide a legal forum for the sale and exchange of firearms and will not prevent the sale or acquisition of firearms by sportsmen and firearms enthusiasts. At the same time, this initiative will ensure background checks of all firearms purchasers at gun shows and assist law enforcement in preventing firearms sales to felons and other prohibited persons, as well as inhibiting illegal firearms trafficking. The proposals also ensure that gun show promoters run their shows responsibly, that all firearms purchases at gun shows are subject to NICS checks, and that all firearms sold at the shows can be traced if they are used in crime. Further, these recommendations will guarantee that everyone selling at gun shows understands the legal obligations and the risks of disposing of firearms irresponsibly and that law enforcement has the resources necessary to investigate and prosecute those who violate the law. In short, as requested by President Clinton, the proposals will close the gun show loophole.

#### FOOTNOTES

<sup>1</sup> See exhibit 1.

<sup>2</sup> As required by the Gun Control Act, FFLs must complete multiple sales records whenever two or more handguns are sold to the same purchaser within 5 business days.

<sup>3</sup> ATF interviewed promoters, made field observations, and reviewed data obtained over a 5-year period to provide information for this report.

<sup>4</sup> This information was provided by officials from the National Association of Arms Shows, which represents many of the gun show promoters.

<sup>5</sup> Semiautomatic assault weapons may be legally transferred in unrestricted commercial sales if they were manufactured on or before September 13, 1994. Weapons manufactured after that date may be transferred to or possessed by law enforcement agencies, law enforcement officers employed by such agencies for official use, security guards employed by nuclear power plants, and retired law enforcement officers who are presented the weapons by their agencies upon retirement. (See 18 U.S.C. §922(v).)

<sup>6</sup> Curios or relics are firearms of special interest to collectors by reason of some quality other than those associated with firearms intended for sporting use or as offensive or defensive weapons. Curios or relics include firearms that are at least 50 years old, are certified by the curator of a Government museum to be of museum interest, or are other firearms that derive a substantial part of their value from the fact that they are novel, rare, or bizarre or because of their association with some historical figure, period, or event. (See 27 CFR 178.11.)

<sup>7</sup> Magazines with a capacity of more than 10 rounds may be transferred or possessed without restriction if they were manufactured on or before September 13, 1994. Large capacity magazines manufactured after that date may be transferred to or possessed by law enforcement agencies, law enforcement officers employed by such agencies for official use, security guards employed by nuclear power plants, and re-

tired law enforcement officers who are presented the magazines by their agencies upon retirement. (See 18 U.S.C. §922(w).)

<sup>8</sup> The National Firearms Act (NFA), 26 U.S.C. Chapter 53, regulates machineguns, which are defined as any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term also includes the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person. (See 26 U.S.C. 5845.) Machineguns must be registered with the Secretary of the Treasury, and those manufactured on or after May 19, 1986, are generally unlawful to possess. (See 18 U.S.C. §922(o).) Parts for machineguns that do not fall within the statutory definition of machinegun (e.g., they are not conversion kits or frames or receivers) may be legally sold without restriction.

<sup>9</sup> When appropriate, ATF investigated these complaints and took action ranging from warning letters explaining the need for a license to engage in the business of dealing in firearms, to referring a case to the United States Attorney for prosecution.

<sup>10</sup> David M. Kennedy and Anthony Braga, both of the John F. Kennedy School of Government, Harvard University.

<sup>11</sup> See Appendix, table 1. The large majority of the investigations reviewed for this report were from 1997 and 1998. The remainder of the investigations was from the years 1994 through 1996, with one investigation each from 1991 and 1992. Forty-one investigations involved what may be described as flea markets, and three investigations involved firearms sales at auctions. The methodology of the review and a more detailed analysis of the results are set forth in the appendix.

<sup>12</sup> See Appendix, table 2.

<sup>13</sup> See Appendix, table 3. Current and former FFLs were the subject of a significant number of investigations.

<sup>14</sup> See Appendix, table 3.

<sup>15</sup> See Appendix, table 4.

<sup>16</sup> See Appendix, table 4.

<sup>17</sup> See Appendix, table 5.

<sup>18</sup> See Appendix, table 6. Because tracing a firearm generally requires an unbroken chain of dispositions from manufacturer to first retail purchaser, used guns—including those sold at gun shows—have rarely been traceable.

<sup>19</sup> See Appendix, table 7.

<sup>20</sup> A "straw purchase" occurs when the actual buyer of a firearm uses another person, the "straw purchaser," to execute the paperwork necessary to purchase a firearm from an FFL. Specifically, the actual buyer uses the straw purchaser to execute the firearms transaction record, purporting to show that the straw purchaser is the actual purchaser of the firearm. Often, a straw purchaser is used because the actual purchaser is prohibited from acquiring the firearm because of a felony conviction or another disability.

<sup>21</sup> "Off-the-book" sales are those made by FFLs without conducting Brady Act background checks and without recording the sale as required by the law and regulations.

<sup>22</sup> Under the NFA, certain firearms and other weapons must be registered. (See 26 U.S.C. chapter 53.) Table 8 shows the types of weapons involved in the investigations involving NFA violations. For example, more than half of the NFA investigations involved machineguns, while 11 percent involved grenade launchers.

<sup>23</sup> 18 U.S.C. §§922(a)(1) and 923(a).

<sup>24</sup> See id.

<sup>25</sup> See 18 U.S.C. §§922(a)(1), (a)(3), (a)(5), (b)(2), and 923(g).

<sup>26</sup> See 18 U.S.C. §922(d). The 1986 amendments to the GCA also made it unlawful for any person to transfer any firearm to any person knowing or having reasonable cause to believe that such person is a prohibited person.

<sup>27</sup> See 18 U.S.C. §§922(b)(1), 922(b)(3), and 922(x).

<sup>28</sup> See 18 U.S.C. §922(t). A NICS check is not required if the buyer represents to the FFL, a valid permit to possess or acquire a firearm that was issued not more than 5 years earlier by the State in which the transfer is to take place, and the law of the State provides that the permit is to be issued only after a Government official verifies that the information available to the official, including a NICS check, does not indicate that the possession of the firearm by the person would violate the law.

<sup>29</sup> See 18 U.S.C. §923(g)(7).

<sup>30</sup> See 18 U.S.C. §923(g)(1)(B). Warrantless inspections are limited to those conducted (1) in the

course of a criminal investigation of a person other than the licensee, (2) during an annual compliance inspection, and (3) for purposes of firearms tracing. Id. Inspections may also be conducted pursuant to a warrant issued by a Federal magistrate upon demonstration that there is reasonable cause to believe that a violation of the GCA has occurred and that evidence of such violation may be found on the licensee's premises. See 18 U.S.C. §923(g)(1)(A).

<sup>31</sup> See 18 U.S.C. §923(e) and 924(a)(1)(D). Under current law, an FFL's failure to perform a NICS check is a misdemeanor.

<sup>32</sup> S. Rep. No. 1501, 22, 25 (1968).

<sup>33</sup> See 18 U.S.C. §923(b).

<sup>34</sup> See 18 U.S.C. §§922(a)(2), (a)(3).

<sup>35</sup> See 7 C.F.R. §178.11.

<sup>36</sup> See 18 U.S.C. §§922(a)(1), and 923(a).

<sup>37</sup> See 18 U.S.C. §§923(g)(2), (g)(1)(C).

<sup>38</sup> See 18 U.S.C. §923(g)(7).

<sup>39</sup> See 18 U.S.C. §922(t)(1).

<sup>40</sup> See 18 U.S.C. §§922(t), and 923(g)(1)(A).

<sup>41</sup> See 18 U.S.C. §922(a)(3). An exception to this rule is provided for sales of rifles or shotguns by licensed dealers to nonlicensed persons if the purchaser appears in person at the dealer's licensed premises and the sale, delivery, and receipt comply with the legal conditions of sale in both the seller's State and the buyer's State. See 18 U.S.C. §922(b)(3).

<sup>42</sup> See 18 U.S.C. §922(a)(5). Exceptions to this prohibition are provided for transfers of firearms made to carry out a bequest or intestate succession of a firearm and for the loan or rental of a firearm for temporary use for lawful sporting purposes. Id.

<sup>43</sup> See 18 U.S.C. §922(d).

<sup>44</sup> See 18 U.S.C. §922(x). A number of exceptions apply to this prohibition, including temporary transfers in the course of employment, for ranching or farming, for target practice, for hunting, or for firearms safety instruction. These exceptions all require that the juvenile to whom the handgun is transferred obtain prior written consent from a parent or guardian and that the written consent be in the juvenile's possession at the time the juvenile possesses the handgun. Id.

<sup>45</sup> Compare *United States v. Gross*, 451 F.2d 1355, 1357 (7th Cir. 1971) (one engages in a firearms business where one devotes time, attention and labor for the purpose of livelihood or profit) with *United States v. Shirling*, 572 F.2d 532, 534 (5th Cir. 1978) (profit motive not determinative where one has firearms on hand or ready to procure them for purpose of sale).

<sup>46</sup> See *United States v. Hernandez*, 662 F.2d (5th Cir. 1981) (30 firearms bought and sold over a 4-month period); *United States v. Perkins*, 633 F.2d 856 (8th Cir. 1981) (three transactions involving eight firearms over 3 months); *United States v. Huffman*, 518 F.2d 80 (4th Cir. 1975) (more than 12 firearms transactions over "a few months"); *United States v. Ruisi*, 460 F.2d 153 (2d Cir. 1972) (codefendants sold 11 firearms at a single gun show); *United States v. Gross*, 451 F.2d 1355 (7th Cir. 1971) (11 firearms sold over 6 weeks); *United States v. Zeidman*, 444 F.2d 1051 (7th Cir. 1971) (six firearms sold over 2 weeks).

<sup>47</sup> 18 U.S.C. §921(a)(21)(C).

<sup>48</sup> 18 U.S.C. §921(a)(22).

<sup>49</sup> 18 U.S.C. §923(a).

<sup>50</sup> T.D. ATF-191, 49 Fed. Reg. 46,889 (November 29, 1984).

<sup>51</sup> The "secondary market" refers to the sale and purchase of firearms after FFLs sell them at retail.

<sup>52</sup> A recent case of an unlicensed individual who bought and sold numerous firearms illustrates the difficulty involved with prosecuting defendants charges with engaging in the business of dealing in firearms without a license. ATF agents discovered that an unlicensed person had purchased 124 handguns and 27 long guns from an FFL, as well as additional firearms from flea markets and garage sales. When questioned, the defendant admitted that he intended to resell them. At trial, the defendant contended that buying and selling guns was his hobby. The court, relying on the statutory definition, instructed the jury that a person engages in the business of dealing in firearms when it occupies time, attention, and labor for the purpose of livelihood and profit, as opposed to as a pastime, hobby, or being a collector. When the jury asked for a definition of "livelihood," the court explained that the term was not defined in the law and that the jury needed to rely on its common understanding of the term. The jury acquitted the defendant for engaging in the firearms dealing business. However, the jury convicted the defendant for falsely stating on the firearms transaction record executed at the time of purchase that he was the actual buyer, when in fact, he had intended to resell them.

<sup>53</sup> All of the recommendations except number 7 and part of number 5 would require legislation.

<sup>54</sup> Although the GCA does not define "gun show," the GCA does refer to "gun shows" in 18 U.S.C. §923(j), the exception that permits FFLs to sell firearms away from their business premises under certain circumstances, including "gun shows."

<sup>55</sup> The transfer FFL does not act as the seller, but rather acts voluntarily in connection with a transfer by a nonlicensee or licensed collector.

<sup>56</sup> The legislative proposal would elevate the gravity of the offense of not conducting a NICS check for FFLs from a misdemeanor—which is presently contained in the Brady Act—to a felony regardless of the venue of the transaction.

<sup>57</sup> Requiring a NICS check when "any part of the transaction takes place at a gun show" ensures that buyers and sellers do not attempt to avoid the requirement by completing only a part of the sale, exchange, or transfer at the gun show. For example, if a nonlicensed vendor displays a gun at a gun show but the actual transfer occurs outside the gun show in the parking lot, the vendor is prohibited from transferring the gun without a NICS check on the purchaser.

<sup>58</sup> The recommendations made in this report would be in addition to any requirements imposed under State or local law.

[Exhibit 1]

THE WHITE HOUSE,

OFFICE OF THE PRESS SECRETARY,

Highfill, AR, November 6, 1998.

Memorandum for the Secretary of the Treasury

The Attorney General

Subject: Preventing Firearms Sales to Prohibited Purchasers.

Since 1993, my Administration has worked hand-in-hand with State and local law enforcement agencies and the communities they serve to rid our neighborhoods of gangs, guns, and drugs—and by doing so to reduce

crime and the fear of crime throughout the country. Our strategy is working. Through the historic Violent Crime Control and Law Enforcement Act of 1994, we have given communities the tools and resources they need to help drive down the crime rate to its lowest point in a generation. Keeping guns out of the hand of criminals through the Brady Handgun Violence Prevention Act's background checks has also been a key part of this strategy. Over the past 5 years, Brady background checks have helped prevent a quarter of a million handgun sales to felons, fugitives, domestic violence abusers, and other prohibited purchasers—saving countless lives and preventing needless injuries.

On November 30, 1998, the permanent provisions of the Brady Law will take effect, and the Department of Justice will implement the National Instant Criminal Background Check System (NICS). The NICS will allow law enforcement officials access to a more inclusive set of records than is now available and will—for the first time—extend the Brady Law's background Law's background check requirement to long guns and firearm transfers at pawnshops. Under the NICS, the overall number of background checks conducted before the purchase of a firearm will increase from an estimated 4 million annually to as many as 12 million.

We can, however, take additional steps to strengthen the Brady Law and help keep our streets safe from gun-carrying criminals. Under current law, firearms can be—and an untold number are—bought and sold entirely without background checks, at the estimated 5,000 private gun shows that take place across the country. This loophole makes gun shows prime targets for criminals and gun traffickers, and we have good reason to believe that firearms sold in this way have been used in serious crimes. In addition, the failure to maintain records at gun shows often thwarts needed law enforcement efforts to trace firearms. Just days ago, Florida voters overwhelmingly passed a ballot initiative designed to facilitate background checks at gun shows. It is now time for the Federal Government to take appropriate action, on a national level, to close this loophole in the law.

Therefore, I request that, within 60 days, you recommend to me what actions our Administration can take—including proposed legislation—to ensure that firearms sales at gun shows are not exempt from Brady background checks or other provisions of our Federal gun laws.

WILLIAM J. CLINTON.

EXHIBIT 2.—DIGEST OF SELECTED STATES WITH LAWS REGULATING TRANSFERS OF FIREARMS BETWEEN UNLICENSED PERSONS OR GUN SHOWS (12/21/98)

State	Regulation of gun shows?	Regulation of all firearms transfers?
Pennsylvania: 18 Pa. Stat. Ann. § 6111; § 6113.	NO.	YES. Nonlicense wishing to transfer firearm to nonlicense must do so through licensee or at county sheriff's office. The licensee must conduct background check as if he or she were the seller. Exclusions apply for certain firearms, family member transfers, law enforcement, or where local authority certifies that transferee's life is threatened.
California: Cal. Penal Code § 12071.1; § 12082.	YES. Must receive state certificate of eligibility to operate gun show.	YES. All transfers for firearms must be through a licensed dealer who must conduct a background check.
Illinois: 430 Ill. Comp. Stat. Ann. §§ 65/2(a)(1), 65/3.	NO.	YES. No one may lawfully possess any firearm without possessing a Firearms Owner's Identification Card (FOIC) issued by the State police. Each transferee of any firearm must possess a valid FOIC. Transferor must keep record of transaction for 10 years.
Virginia: Va. Code Ann. §§ 52-8.4:1, 54.1-4200, 54.1-4201.1.	YES. Promoter of firearm show must provide 30 days' notice, and provide pre- and post-show list of each vendor's name and business address.	NO.
District of Columbia: D.C. Code Ann. § 6-2311.	NO.	YES. It is unlawful to possess any firearm that is not registered.
Virgin Islands: V.I. Code tit. 23, § 461.	NO.	YES. No transfer of a firearm is lawful without prior approval by Commissioner of Licensing and Consumer Affairs.
Florida:	NO.	Under Art. VIII, Sec. 5 of Florida Constitution, counties are now free to impose waiting periods and background checks for all firearm sales in places where public has the right of access; "sale" requires consideration.
Puerto Rico: P.R. Laws Ann., tit. 25, §§ 429, 438, 439.	NO.	YES. All firearms must be registered and transfers must be through a licensed dealer.
North Carolina: N.C. Gen. Stat. § 14-402.	NO.	NO. However, no transfer of a pistol is lawful without the transferee first obtaining a license from the county sheriff.
Hawaii: Haw. Rev. Stat. §§ 134-2, 134-3, 134-4.	NO.	YES. No person may acquire ownership of a firearm until the person first obtains a permit from the local police chief. A separate permit is required for each handgun or pistol; a shotgun or rifle allows multiple acquisitions up to one year.
Iowa: Iowa Code Ann. § 724.16.	NO.	NO. However, it is unlawful to transfer a pistol or revolver without an annual permit to acquire pistols and revolvers.
Minnesota: Minn. Stat. Ann. §§ 62A.7131, 62A.7132.	NO.	NO. However, it is unlawful to transfer a pistol or semiautomatic assault weapon without executing a transfer report, signed by transferor and transferee and presented to the local police chief of the transferee, who shall conduct a background check.

EXHIBIT 2.—DIGEST OF SELECTED STATES WITH LAWS REGULATING TRANSFERS OF FIREARMS BETWEEN UNLICENSED PERSONS OR GUN SHOWS (12/21/98)—Continued

State	Regulation of gun shows?	Regulation of all firearms transfers?
Maryland: 27 Md. Code Ann. §§ 442, 443A(a)	YES. Nonlicensed persons selling a handgun or assault weapon at a gun show must obtain a transfer permit; a background check is conducted on the applicant. An individual is limited to five permits per year.	NO.
Missouri: Mo. Rev. Stat. Ann. § 571.080	NO.	YES. It is unlawful to buy, sell, exchange, loan, or borrow a firearm without first receiving a valid permit authorizing the acquisition of the firearm.
South Dakota: S.D. Codified Laws §§ 23-7-9, 7-10	NO.	NO. However, it is unlawful to transfer a pistol to a person who has purchased a pistol until after 48 hours of the sale. Exceptions apply for holders of concealed pistol permit.
New York: NY Penal Law § 400.00(16) and §§ 265.11-13	NO.	YES. As a general matter, no person may possess, receive, or sell a firearm without first obtaining a permit or license from the State. Thus, all lawful firearms transfers in New York, including those at gun shows, would be between licensees or permittees.
New Jersey: N.J. Stat. Ann. § 2C: 39-3; 58-3	NO.	YES. It is unlawful to sell a firearm unless licensed or registered to do so. No unlicensed person may acquire a firearm without a purchase permit or firearms purchaser identification card.
New Hampshire: N.H. Rev. Stat. Ann. § 159	NO.	NO. However, it is unlawful for a nonlicensee not engaged in the business to transfer a pistol to a person who is not personally known to the transferee.
Connecticut: Connecticut General Statute §§ 29-28 through 29-37	NO.	YES. Anyone who sells 10 or more handguns in a calendar year must have a FFL or a State permit. Nonlicensees wishing to transfer a firearm must receive from the prospective purchaser an application which is then submitted to local and State authorities. Exceptions are for licensed hunters purchasing long guns and members of the Armed Forces.
Massachusetts: Mass. Gen. Laws Ann. Ch. 140 § 129C; § 128A; § 128B	NO.	NO. However, State law provides that any person may transfer up to four firearms to any nonlicensed person per calendar year without obtaining a State license, provided seller forwards name of seller, purchaser, and information about the firearm to State authorities.
Rhode Island: R.I. Gen. Laws §§ 11-47-35, 36, 40	NO.	YES. No person may sell a firearm without purchaser completing application which is submitted to State police for background check. Seller obligated to maintain register recording information about the transaction, such as date, name, age and residence of purchaser.
Michigan: Mich. Comp. Laws §§ 750.223; 750.422	NO.	NO. However, no transfer of a pistol is lawful without the transferee first obtaining a handgun purchase permit from the local CLEO.
Nevada: Nev. Rev. Stat. Ann. § 202.254	NO.	NO. However, a private person wishing to transfer a firearm may request a State background check on the prospective transferee.

APPENDIX  
METHODOLOGY

The following analyses are based on a survey of ATF special agents reporting information about recent investigations associated with gun shows. The investigations reflect what ATF has encountered and investigated; they do not necessarily reflect typical criminal diversions of firearms at gun shows or the typical acquisition of firearms by criminals through gun shows. Furthermore, they do not provide information about the significance of diversion associated with gun shows with respect to other sources of diversion. Nevertheless, they suggest that the criminal diversion of firearms at and through gun shows is an important crime and public safety problem.

The analyses use data from investigations referred for prosecution and adjudicated, and investigations that have not yet been referred for prosecution. Thus, not all violations described will necessarily be charged as crimes or result in convictions. As a consequence, the exact number of offenders in the investigation, the numbers and types of firearms involved, and the types of crimes associated with recovered firearms may not have been fully known to the case agents at the time of the request, and some information may be underreported. For example, it is likely that the number of firearms involved in the investigations could increase, as could the number and types of violations, as more information is uncovered by the agents working the investigations.

Information generated as part of a criminal investigation also does not necessarily capture data on the dimensions ideally suited to a more basic inquiry about trafficking and trafficking patterns. For example, investigative information necessary to build a strong case worth of prosecution may provide very detailed descriptions of firearms used as evidence in the case but may not even estimate, much less describe in detail, all the firearms involved in the trafficking enterprise.

Information was not provided with enough consistency and specificity to determine the number of handguns, rifles, and shotguns trafficked in a particular investigation. Likewise, special agents may not have information on trafficked firearms subsequently used in crime. Such information is not always available. Comprehensive tracing of crime guns does not exist nationwide and, until the very recent Youth Crime Gun Interdiction Initiative, most major cities did not trace all recovered crime guns. The fig-

ures on new, used, and stolen firearms reflect the number of investigations in which the traffickers were known to deal in these kinds of weapons. The figures on stolen firearms are subject to the usual problems associated with determining whether a firearm has been stolen. Many stolen firearms are not reported to the police. Such limitations apply to much of the data collected in this research.

Finally, except where noted, the unit of analysis in the review of investigations is the investigation itself. The data show, for example, the proportion of investigations that were known by agents to involve new, used, and stolen firearms, but these figures do not represent a proportion or count of the number of new, used, or stolen firearms being trafficked at gun shows. The data show what proportion of investigations were known to involve a firearm subsequently used in a homicide, but not how many homicides were committed by firearms trafficked through gun shows. It was not possible to gather more specific information within the short timeframe of the study.

It was, for the most part, not possible to review and verify all of the information provided in the survey responses. However, ATF Headquarters personnel took a random sample of 15 cases each from the 31 investigations reported to have involved 101-250 firearms and from the 30 investigations reported to have involved 251 or more firearms, and reviewed with ATF field personnel the information leading to those reports. A breakdown of the results of this review showing the basis for reporting the firearms volume is provided below. Based on this review, ATF concludes that the numbers of firearms reported in connection with the investigations have a reasonable basis.

Procedure	N = 32 <sup>1</sup>	
	Number	Percent
Firearms seized/purchased/recovered and reconstruction of dealer records	10	31.2
Reconstruction of dealer records	9	28.1
Firearms seized/purchased/recovered	6	18.8
Reconstruction of dealer records and confidential information	3	9.4
Firearms seized and admission by defendant(s)	2	6.2
ATF NTC compilation and confidential information	1	3.1
Unknown	1	3.1

<sup>1</sup>This breakdown includes, in addition to the basis for the numbers of firearms reported in the randomly selected cases, the basis for the numbers of firearms reported in the two investigations involving the largest volumes of firearms, 10,000 and 7,000 firearms respectively. The case involving 7,000 firearms used a combination of an audit of firearms seized and the reconstruction of dealer records, while the case involving 10,000 firearms used a combination of NTC records and information from confidential informants.

TABLE 1.—INITIATION OF INVESTIGATION

Reason	N=314	
	Number	Percent
Confidential informant	74	23.6
Referred from another Federal, State, or local investigation	60	19.1
ATF investigation at gun show (e.g., gun show task force)	44	14.0
Trace analysis after firearms recovery	37	11.8
Review of multiple sales forms	34	10.8
Licensed dealers at gun shows reported suspicious activity	26	8.3
Tip or anonymous information	18	5.7
Field interrogation after firearm recovery	4	1.3
Gun show promoter reported suspicious activity	2	0.6
Analysis of out-of-business records	1	0.3
Unknown	14	4.4

TABLE 2.—INVESTIGATIONS SUBMITTED BY FIELD DIVISIONS

Field division	N=314	
	Number of investigations	Percent
Dallas	43	13.7
Houston	42	13.1
Detroit	41	13.1
Philadelphia	34	10.8
Miami/Tampa	20	6.3
Kansas City	19	6.1
Nashville	16	5.1
Columbus	15	4.8
Seattle	11	3.5
St. Paul	10	3.2
Louisville	9	2.9
New Orleans	9	2.9
Phoenix	8	2.5
Washington, DC	8	2.5
Charlotte	8	2.5
Los Angeles	6	1.9
Atlanta	6	1.9
Chicago	5	1.6
San Francisco	1	0.3
Baltimore	1	0.3
Boston	1	0.3
New York	1	0.3

TABLE 3.—MAIN SUBJECT OF INVESTIGATION

Subject	N=314	
	Number of investigations	Percent
Unlicensed dealer	170	54.1
Unlicensed dealer (never FFL)	118	37.6
Former FFL	37	11.8
Current FFL and former FFL	8	2.5
Unlicensed dealer and former FFL	2	0.6
Current FFL and Unlicensed dealer	4	1.3
Current FFL/Former FFL /unlicensed	1	0.3
Current FFL	73	23.2
Felon purchasing firearms at gun show	33	10.5
Straw purchasers at gun show	20	6.4

TABLE 3.—MAIN SUBJECT OF INVESTIGATION—Continued

Subject	N=314	
	Number of investigations	Percent
Unknown gun show source .....	18	5.7

Note.—Overall, 46.2 percent of the investigations involved a felon associated with selling or purchasing firearms. This percentage was derived from aggregate investigations in which trafficked firearms were recovered from felons; unlicensed dealers' criminal histories included felony convictions; felons had purchased firearms at gun shows, and a licensed dealer had a convicted felon as an associate. When only a licensed dealer was the main subject of the investigation, a convicted felon was involved in 6.8 percent (5 of 73) of the investigations as an associate in the trafficking of firearms. When the investigation involved an unlicensed dealer or a former FFL, 25.3 percent (43 of 170) of the investigations revealed that he/she had at least one prior felony conviction.

TABLE 4.—FIREARMS ASSOCIATED WITH GUN SHOW INVESTIGATIONS KNOWN TO HAVE BEEN INVOLVED IN SUBSEQUENT CRIMES

[34.4 percent of the investigations (108 of 314) had at least one firearm recovered in crime]

Crime	N=108	
	Number <sup>1</sup>	Percent
Drug offense .....	48	44.4
Felon in possession .....	33	30.6
Crime of violence .....	47	43.5
Homicide .....	26	24.1
Assault .....	30	27.8
Robbery .....	20	18.5
Property crime (burglary, B&E) .....	16	14.8
Criminal possession (not felon in poss.) .....	15	13.9
Juvenile possession .....	13	12.0

<sup>1</sup> Number of investigations with at least one category.  
Note.—Since firearms recovered in an investigation may be used in many different types of crime, an investigation can be included in more than one category.

TABLE 5.—NUMBER OF FIREARMS RECORDED IN GUN SHOW INVESTIGATIONS

Number of firearms	N=314	
	Number of investigations	Percent
Less than 5 .....	70	22.3
5 to 10 .....	37	11.8
11 to 20 .....	22	7.0
21 to 50 .....	47	15.0
51 to 100 .....	47	15.0
101 to 250 .....	31	9.9
251 or greater .....	30	9.6
Unknown .....	30	9.6

Note.—For further details about this information, see the Methodology section of this report.

TABLE 6.—NEW, USED AND STOLEN GUNS KNOWN TO BE INVOLVED IN GUN SHOW INVESTIGATIONS

Type of firearm	N=314	
	Number of investigations	Percent
Used firearms .....	167	53.2
New firearms .....	156	49.7
Stolen firearms .....	35	11.1
unknown .....	75	23.9
MUTUALLY EXCLUSIVE CATEGORIES		
New firearms and used firearms .....	80	25.5
Used firearms only .....	62	19.7
New firearms only .....	61	19.4
Used firearms and stolen firearms .....	13	4.1
New firearms, used firearms, and stolen firearms .....	12	3.8
Stolen firearms only .....	7	2.2
New firearms and stolen firearms .....	3	0.9
unknown .....	75	23.9

Note.—Since more than one type of firearm can be recovered in an investigation, an investigation can be included in more than one category.

TABLE 7.—VIOLATIONS IN THE MAIN INVESTIGATIONS

Violation	N=314	
	Number of investigations	Percent
Engaging in the business of dealing without license .....	169	53.8
Possession and receipt of firearm by convicted felon .....	76	24.2
Illegal sales and/or possession of NFA weapons .....	62	19.7
Licensee failure to keep required records .....	60	19.1
Providing false information to receive firearms .....	54	17.2
Transfer of firearm to prohibited person .....	46	14.6

TABLE 7.—VIOLATIONS IN THE MAIN INVESTIGATIONS—Continued

Violation	N=314	
	Number of investigations	Percent
Straw purchasing .....	36	11.5
False entries/fraudulent statements in license records .....	27	8.6
Illegal transfer of firearms to resident of another State by nonlicensee .....	27	8.6
Illegal transfer of firearms to resident of another State by licensee .....	21	6.7
Receipt and sale of stolen firearms .....	15	5.8
Obliterating firearms serial numbers .....	14	4.5
Drug trafficking .....	11	3.5
Trafficking of firearms by licensee (unspecified violation) .....	9	2.9
Transfer of firearm in violation of 5-day waiting period .....	7	2.2
Illegal out of state sales by nonlicensee .....	7	2.2
Licensee doing business away from business premises .....	5	1.6
Illegal manufacture and transfer of assault weapon .....	3	1.0
Sales by a prohibited person .....	2	0.6
Forgery or check fraud to obtain firearms .....	2	0.6

Note.—Since an investigation may involve multiple violations, an investigation can be included in more than one category.

TABLE 8.—WEAPONS ASSOCIATED WITH NFA VIOLATIONS IN GUN SHOW INVESTIGATIONS

NFA violation	N=62	
	Number <sup>1</sup>	Percent
Machine guns .....	33	53.2
Converted guns .....	19	30.6
Silencers .....	9	14.5
Explosives (e.g., grenades) .....	8	12.9
Grenade launchers .....	7	11.3
Conversion kits/parts .....	7	11.3
Other (short barrel) .....	5	8.1

<sup>1</sup> Number of NFA investigations with at least one category.  
Note.—Since investigations may involve different types of NFA violations, an investigation can be included in more than one category. However, "converted guns" have not been included in the "machinegun" count.

The SPEAKER pro tempore (Mr. HANSEN). The time of the gentlewoman from New York (Mrs. MCCARTHY) has expired.

Without objection, the previous question is ordered on the motion to instruct.

There was no objection.  
The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentlewoman from New York (Mrs. MCCARTHY).

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

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

TAXPAYER REFUND AND RELIEF ACT OF 1999—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

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

To the House of Representatives:

I am returning herewith without my approval H.R. 2488, the "Taxpayer Refund and Relief Act of 1999," because it ignores the principles that have led us to the sound economy we enjoy today and emphasizes tax reduction for those who need it the least.

We have a strong economy because my Administration and the Congress have followed the proper economic course over the past 6 years. We have focused on reducing deficits, paying down debt held by the public, bringing down interest rates, investing in our people, and opening markets. There is \$1.7 trillion less debt held by the public today than was forecast in 1993. This has contributed to lower interest rates, record business investment, greater productivity growth, low inflation, low unemployment, and broad-based growth in real wages—and the first back-to-back budget surpluses in almost half a century.

This legislation would reverse the fiscal discipline that has helped make the American economy the strongest it has been in generations. By using projected surpluses to provide a risky tax cut, H.R. 2488 could lead to higher interest rates, thereby undercutting any benefits for most Americans by increasing home mortgage payments, car loan payments, and credit card rates. We must put first things first, pay down publicly held debt, and address the long-term solvency of Medicare and Social Security. My Mid-Session Review of the Budget presented a framework in which we could accomplish all of these things and also provide an affordable tax cut.

The magnitude of the tax cuts in H.R. 2488 and the associated debt service costs would be virtually as great as all of the on-budget surpluses the Congressional Budget Office projects for the next 10 years. This would leave virtually none of the projected on-budget surplus available for addressing the long-term solvency of Medicare, which is currently projected by its Trustees to be insolvent by 2015, or of Social Security, which then will be in a negative cash-flow position, or for critical funding for priorities like national security, education, health care, law enforcement, science and technology, the environment, and veterans' programs.

The bill would cause the Nation to forgo the unique opportunity to eliminate completely the burden of the debt held by the public by 2015 as proposed by my Administration's Mid-Session Review. The elimination of this debt would have a beneficial effect on interest rates, investment, and the growth of the economy. Moreover, paying down debt is tantamount to cutting taxes. Each one-percentage point decline in interest rates would mean a cut of \$200 billion to \$250 billion in mortgage costs borne by American consumers over the next 10 years. Also, if we do not erase the debt held by the public, our children and grandchildren will have to pay higher taxes to offset the higher Federal interest costs on this debt.

Budget projections are inherently uncertain. For example, the Congressional Budget Office found that, over the last 11 years, estimates of annual deficits or surpluses 5 years into the future erred by an average of 13 percent

of annual outlays—a rate that in 2004 would translate into an error of about \$250 billion. Projections of budget surpluses 10 years into the future are surely even more uncertain. The prudent course in the face of these uncertainties is to avoid making financial commitments—such as massive tax cuts—that will be very difficult to reverse.

The bill relies on an implausible legislative assumption that many of its major provisions expire after 9 years and all of the provisions are repealed after 10 years. This scenario would create uncertainty and confusion for taxpayers, and it is highly unlikely that it would ever be implemented. Moreover, this artifice causes estimated 10-year costs to be understated by about \$100 billion, at the same time that it sweeps under the rug the exploding costs beyond the budget window. If the tax cut were continued, its budgetary impact would grow even more severe, reaching about \$2.7 trillion between 2010 and 2019, just at the time when the baby boomers begin to retire, Medicare becomes insolvent, and Social Security comes under strain. If the bill were to become law, it would leave America permanently in debt. The bill as a whole would disproportionately benefit the wealthiest Americans by, for example, lowering capital gains rates, repealing the estate and gift tax, increasing maximum IRA and retirement plan contribution limits, and weakening pension anti-discrimination protections for moderate- and lower-income workers.

The bill would not meet the Budget Act's existing pay-as-you-go requirements which have helped provide the discipline necessary to bring us from an era of large and growing budget deficits to the potential for substantial surpluses. It would also automatically trigger across-the-board cuts (or sequesters) in a number of Federal programs. These cuts would result in a reduction of more than \$40 billion in the Medicare program over the next 5 years. Starting in 2002, they would also lead to the elimination of numerous programs with broad support, including: crop insurance, without which most farmers and ranchers could not secure the financing from banks needed to operate their farms and ranches; veterans readjustment benefits, denying education and training to more than 450,000 veterans, reservists, and dependents; Federal support for programs such as child care for low-income families and Meals on Wheels for senior citizens; and many others.

As I have repeatedly stressed, I want to find common ground with the Congress on a fiscal plan that will best serve the American people. I have profound differences, however, with the extreme approach that the Republican majority has adopted. It would provide a tax cut for the wealthiest Americans and would hurt average Americans by denying them the benefits of debt reduction and depriving them of the certainty that my proposals for Medicare

and Social Security solvency would provide as they plan for their retirement.

I hope to work with Members of Congress to find a common path to honor our commitment to senior citizens, help working families with targeted tax relief for moderate- and lower-income workers, provide a better life for our children, and improve the standard of living of all Americans.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *September 23, 1999.*

□ 1715

The SPEAKER pro tempore (Mr. HANSEN). The objections of the President will be spread at large upon the Journal, and the message and bill will be printed as a House document.

MOTION OFFERED BY MR. ARCHER

Mr. ARCHER. Mr. Speaker, I move that the message, together with the accompanying bill, be referred to the Committee on Ways and Means.

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

Mr. ARCHER. Mr. Speaker, I yield the customary 30 minutes to the gentleman from New York (Mr. RANGEL), the ranking minority member, pending which I yield myself such time as I may consume.

Mr. Speaker, I just listened to the veto message that has been read to the House; and I am stunned by the hyperbolic rhetoric and failure to relate to the facts of the situation. And I use the word stunned advisedly.

Simply translated, the President's message means I know better how to spend the money than you do. He said that in Buffalo, New York, the day after his State of the Union address this year when he commented to an assemblage of roughly 20,000 people: Now we have this interesting new situation of a surplus. What should we do with it? Well, one alternative would be to give the money back to you. But who would know if you would spend it right? That is quote/unquote from the President of the United States.

All of the verbiage that we heard in the veto message is simply cover to keep the money in Washington because he believes that Washington knows best how to spend the people's money.

He vetoed this tax relief plan today, a plan which would downsize the power of Washington and upsize the power of people. He vetoed a plan that protects Social Security and Medicare; pays down the debt by \$2 trillion; improves education and gives taxpayers only a small portion of their money back.

Make no mistake, it is their money; not ours. We did not earn it here in Washington. In doing so, the President said no to new school construction. He said no to helping parents save for their children's education. He said no to marriage penalty relief for 42 million married Americans. He hurt baby-boomers who are saving for their retirement by blocking IRA expansions. By his veto, he has prolonged the confiscatory, unfair death tax.

He has made it especially tough on those caring for elderly relatives in their own homes who would get tax relief, by blocking health and long-term care tax relief for all American citizens. Since the President has vetoed this tax relief plan and said no to the American people, I challenge him to say no also to the special interests in Washington who cannot wait to get their hands on the people's money.

I have always said that if we do not get this tax overcharge out of Washington, Washington will most surely spend it; and now we are going to find out if I am right.

In fact, today I ask the American people to watch very closely what happens to their money over the next 60 days. What will happen to the projected \$14.5 billion surplus in the general treasury next year? And that is the non-Social Security surplus. Unfortunately, my guess is that Washington will spend the people's tax dollars like some Hollywood movie star on a Rodeo Drive spending spree, but unlike the movie stars who use their own money Washington will be using your credit card, your checkbook and your wallet, and, worse still, your Social Security money.

After this spending spree, Americans should ask themselves if they are happy with the way it was spent. Do they think the money was spent wisely or would they rather have had that extra \$1,000 a year in their own family budget? Because in the end, that is what this debate is all about. Do the people trust Washington to know better how to spend their money as the President says, or do they feel that they know best how to spend the money in their own budgets?

Do they want their excess money going for \$200 hammers or do they want it to go to their children's education and their own IRAs? We all know the answer to those questions, so I again ask the President to join with us and find a way to return this tax overcharge to the workers of the country.

President Clinton has once again put the needs of Washington above the needs of the American people, and I think that is sad. I think this is a sad moment for this country.

Republicans believe strongly that refunding excess tax dollars to American families and workers is a matter of principle. Taxes are too high. Government does not need all of the money that is coming in to pay government's bills, and the taxpayers should get a refund. Since President Clinton killed this reasonable tax relief plan, he has given himself a license to spend; and spend he will. Americans should know that the big blank check in Washington is drawn on their own checkbook, is coming out of their family's budget, is coming out of their opportunity to see investment to create better jobs; and they will get stuck with the bill.

I will fight the brewing explosion of government spending and instead use

every chance available to cut taxes and create more opportunity for all Americans, because I continue to put my faith and trust in the hard work and values of the American people, and I believe that they know best how to spend their own hard-earned dollars.

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

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

Mr. Speaker, the President of the United States has the right and obligation to veto any bill that an abusive Congress sends to his desk if he or she believes that the bill, the legislation, is not in the interest of the American people.

The President of the United States has reviewed this piece of Republican legislation and has vetoed the bill.

Now, the Congress on the other hand, has the opportunity to override the veto. All they have to do is to indicate that they think the President is wrong and then ask for a vote and override the veto.

Now, the Republican majority obviously do not want a vote to override the veto. They would like to make a comment or two but they want to avoid having a debate on the floor and exercising their constitutional right to say that the President is wrong.

Now, why would they use this political or legislative tactic? One, it could be that they believe the President is right and they do not want a vote on this because they have changed their mind. They recognize the legislation was abusive. They went home. They tried to sell it to the American people, and the American people said they do not want it.

Or maybe it is two. Maybe they just counted the votes, and they found out that all of the Republicans really do not believe in this political rhetoric, so they do not have the votes to override the President. Maybe that is one of the reasons why they are not exercising their constitutional right.

Mr. Speaker, I really think that the reason that they do not want the override is because they never intended to have a legislative package. Why would they have worked so hard in the vineyards for a whole day among just Republicans in putting together this enormous \$792 billion tax cut and not send it to the President? Why did they carry this bill throughout the hills and valleys of their congressional districts to try to sell this political document?

What they were saying is, we cannot vote for anything in the Congress. We do not have the ability to get a bill out for Social Security. We cannot get a bill out for Medicare, not for prescription drugs, not for patients' rights, not for school construction, not for gun safety. Listen, we just do not know how to shoot straight. But there is one thing we can say that we want to do and that is reduce your taxes. So, Mr. President, please veto the bill so that we can go home and say that you were the one that knocked down the Christ-

mas tree that we put together in the House Republican leadership and the Senate Republican leadership.

□ 1730

All I am saying is this: Either you believe in the President by not wanting to override the veto, either you do not have the votes to override the veto, or either you do not believe in this document that you put together anyway.

Meanwhile, we will await to see what you want to do. We are here, and we are not in the majority; and we laud your efforts to attempt to convince the American people that you are right. But believe me, the American people want legislation, they want it on the floor, and they want votes. If you do not like what the President did, for God's sake, show it, and let us get a vote and let us try to override. If you do like what he has done, but you do not have the guts to say that he has it right, sit there, let the hour pass, and then we will move on to something else. I hope it is Social Security. I hope it is Medicare. I hope it is prescription drugs, but then again, I hope for too much from the majority party.

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

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank the chairman of the committee, and I thank the ranking member for offering a very interesting illustration: When one cannot talk facts and policy, let us return to process, and I welcome that attempt at rhetorical subterfuge.

I would say to the gentleman from New York, and to my colleagues on the left, we stand ready. Indeed, Mr. Speaker, I would remind this House that we have reserved H.R. 1 for a plan from the President of the United States to help save and strengthen Social Security, but a funny thing, and really a tragic thing, has happened down Pennsylvania Avenue.

Indeed, Mr. Speaker, I think it is important to remind this House that aside from certain budgetary measures required under the Budget Act, this administration has failed to send up any of its proposals in legislative language since the attempt to socialize medicine. Perhaps that is the reason why they have never sent anything back to us in detail.

So let me say to my colleague, in the best spirit of bipartisanship, we welcome you putting your plans on the table. We encourage you, as did our Democratic colleague, the gentleman from California (Mr. MATSUI) to then Under Secretary of the Treasury Larry Summers, to have the President bring forth his plan to save Social Security; not rhetoric from the rostrum in a State of the Union message, but a true legislative plan.

So let me first respond to that.

Now, Mr. Speaker, let me explain why I must object in the strongest

terms possible to the veto of our tax relief and tax fairness legislation by the President of the United States. First, Mr. Speaker, every Member of this House and every American should know that in wielding his veto pen, President Clinton today extinguished the hopes and dreams of small business owners for quality health insurance for themselves and their employees in terms of 100 percent tax deductibility. Had this President signed the legislation into law, that would have taken effect. The President said no. And in essence, I say to my colleagues, what transpired, not content with the largest tax increase in American history foisted upon the American people in the 103d Congress when those who would claim to be such intrepid policymakers on this floor, gave us the largest tax increase in American history. Not content with that, today the President of the United States has, in essence, raised our taxes in excess of \$790 billion over the next 10 years.

Mr. Speaker, he said "yes" to a tax increase, "no" to health care deductibility for small business. He said "yes" to a tax increase, "no" to reducing the marriage penalty. He said "yes" to a tax increase and more spending, and "no" to an end to the death tax. He said "yes" to a tax increase and "no" to families who sought tax relief to care for an elderly member of the family in their home. He said "yes" to higher taxes, and he said "no" to the American people.

No, you should be punished for succeeding, for investing. How dare we reduce the rate of capital gains taxation, even though a noted Democratic President earlier in this century said that a rising tide lifts all boats in terms of tax relief. This President said no to the American people. He said no to the people of rural America and the inner city.

Mr. Speaker, he said "no" to the people of the inner city, with our American renewal package, incidentally, a bipartisan piece of legislation in stand-alone form that curiously was opposed once it became part of this overall plan.

The bottom line is, the President of the United States has again said "no" to the American people, "no" to their hopes and dreams and aspirations, and a resounding "yes" to what is, sadly, flawed logic.

There are many honest disagreements we have in this chamber, and I delight and revel in the fact that as free people, we have a chance to continue to thoughtfully debate the different philosophical dispensations we may have.

But one thing that cannot seem to be accepted as fact by the liberal minority on the Hill or by the President of the United States is the notion that the money belongs to the people who earn it, not to the Government itself, not to the Washington bureaucrats. The money belongs to the people. That is the message we reaffirm today, and as we went through a litany where the

President of the United States had a choice to empower the people who work and earn and pay taxes, and to use the terminology, Mr. Speaker, of the President of the United States, who often says he wants to help people who work hard and play by the rules, there was no better opportunity to do so than in signing this legislation into law. But now, the President says he wants to veto the legislation.

So, again it sets up this choice, and as he has enacted this veto he, in essence, has again raised our taxes. It is worth noting that we have two divergent paths here; and indeed, we can harken back to the State of the Union address by the President when we welcomed him into this chamber, again to hear his legislative priorities, although as we noted earlier, Mr. Speaker, curiously, words that come forth in a speech are never followed through with legislative language, for whatever reason.

We again await some sort of tangible product from the administration. Every school child learns in civics class: the President proposes, the Congress disposes. And we still look for some meaningful relationship, some meaningful leadership from the other end of Pennsylvania Avenue.

So it is in that spirit today, on behalf of the American people who work hard, who play by the rules, who understand inherently that the money they earn belongs to them and not to the Washington bureaucrats, that we say in this chamber, Mr. Speaker, the President of the United States was wrong to veto this legislation. We object to that veto in the strongest possible terms, and even as we object to this veto, we eagerly await tangible legislation offered in a truly bipartisan sense from the President of the United States to this body with the active help of those members of his party; and together, we will move to work out a credible, tangible, productive legislative program that will benefit the American people.

But we fail to benefit the American people, Mr. Speaker, when we hear the rhetoric that we heard from this President one day after he spoke here in his State of the Union message. He went the Buffalo, New York, and there was a statement there that was actually quite candid.

The President of the United States quoted in the press, saying, and I quote now, "We could give it," referring to the surplus that exists, "We could give it back to you and hope that you spend it right. But," close quote.

Well, the "but," Mr. Speaker, is the fact that there is an inherent distrust, sadly, that this President has for the American people and their ability to spend their own money. Indeed, Mr. Speaker, as I have heard my friend, the ranking member on many national broadcasts in recent days even attempt to defend a recent action by this President, I find it curious that in the fullness of time, it has been exposed that this President not only, not only can-

not trust the American people with their own money, but yet, he would trust the promises of convicted terrorists from Puerto Rico to whom he granted clemency.

It is interesting, Mr. Speaker, as we hear on the other side derisive laughter. How sad and how shameful that our Commander in Chief would trust the word of convicted terrorists over the ability of the American people to save, spend, and invest their money themselves. This may be honest disagreement, and we come to this chamber expressing that honest disagreement, and again, it is in that spirit when I state in the strongest possible terms that I must object to the veto of this tax fairness legislation by the President of the United States.

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

The SPEAKER pro tempore. The gentleman used 5½ minutes of the time allocated to the gentleman from Texas (Mr. ARCHER).

Mr. RANGEL. Mr. Speaker, I would like to inquire as to the time remaining.

The SPEAKER pro tempore. The gentleman from New York (Mr. RANGEL) has 25 minutes remaining; the gentleman from Texas (Mr. ARCHER) has 14 minutes remaining.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN), a member of the Committee on Ways and Means.

Mr. CARDIN. Mr. Speaker, let me thank my friend from New York for yielding me this time.

Mr. Speaker, let me thank the President for vetoing this reckless tax bill. It was not easy for us to get the deficit down and to get our economy growing at a very strong rate. The issue is not whether we are going to be spending more money here in Washington. The issue is what is our priority, whether our priority is to cut taxes, or whether our priority is to reduce the deficit in order to preserve Social Security and Medicare so we can meet our obligations in the future.

When we passed this tax bill over a month ago, many of us said that we would be spending the projected surplus before we even produced the surplus, and that is still true. We said that the bill would explode in costs in the outyears, that we did not pay for it, adding to the potential deficits of our Nation. That is still true. We said we had a choice, but when those deficits explode, we would not have the money to pay for the baby boomer generation, and we would not be able to preserve Social Security and Medicare. That is still true. The choice is whether we want the tax cut, whether we want to pay down the deficit and protect Social Security and Medicare.

The President made the right choice for the American people. I agree with the President.

Now, the projected surplus was based upon us adhering to the spending caps in our appropriation bills, and we were

told when we passed this tax bill that we were going to adhere to those caps. Well, now, the majority has conceded that we are not going to adhere to those spending caps. We do not even have the projected surplus that was projected when this bill was passed. This irresponsible tax bill was based upon adhering to those spending caps.

So what is going to happen? It is a formula for large deficits. The public understands that. That is why there has been no support for this tax bill that the Republicans hoped to generate during the August recess. Instead, they are looking for gimmicks to meet the spending bills of this session. They are calling "emergency spending" things like the census. They are advancing funding over and over again, knowing full well you are just taking from next year to pay for this year and having a bigger problem next year.

And now, the suggestion on using the welfare money. We are going to take the money away from the governors this year, but we will give it back to you next year when the caps are even more difficult, while what we should be doing is reaching a bipartisan agreement with the President to put deficit reduction first, preserving Social Security and Medicare, and then we can deal with the tax issues and have an adequate amount of money to meet the spending needs of this Nation.

□ 1745

We can do it all if we want to be reasonable about it. But we first must be honest with the American people. This irresponsible tax bill was not honest with the American people. I applaud the President in vetoing it. I ask my colleagues to sustain the veto so that we can get to a bipartisan agreement.

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

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN), the senior member of the committee.

Mr. LEVIN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the Republican majority here delayed sending this bill for over a month so they could go back and sell it. They went home. They did not sell this package. The American people spoke by their reaction, and they said to the Republicans, keep to the path of fiscal responsibility that Democrats started this institution on many years before. Do not spend, the Americans said, a surplus not likely to occur in a way not helpful to most Americans.

But the Republicans, as evidenced by what they have said here, they do not hear. They are not listening. So, where are we? The Republicans cannot even put together a budget and appropriation bills for 1 year, the year 2000. How can the American people trust the majority here to put together a fiscally responsible bill over 10 years?

The chairman of the Committee on Ways and Means earlier today said

this: "Since President Clinton killed this responsible," that is his word, "tax relief plan, he has given himself a license to spend, and spend he will."

But we all know the President cannot spend a dime without the approval of this Congress. Who is in control of this Congress? I think it is the Republican majority. Their message has been, help save me from myself. I will go recklessly.

Well, they are in the majority. They should now react by putting together, with the President and with the Democratic minority, a new package. But they are not doing that. What are they going to do? Instead, tomorrow, as we understand it, we get this somewhat by rumor, in the Committee on Ways and Means the Republican majority is going to put up a bill. It is going to cost, we are told, over \$50 billion over 5 years. It will be paid for at best for 1 year. That is another example of fiscal irresponsibility.

Mr. Speaker, I am proud to have voted for previous fiscally responsible bills, deficit responsible bills; to have stood with all the Democrats in 1993 for fiscal responsibility.

This Democratic Party once again says to the Republican majority, begin to listen to the American people. They want us to sustain the path of fiscal responsibility that has brought low inflation and low interest rates. The President vetoed the bill because it would have moved us away from fiscal responsibility to irresponsibility.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. NEAL).

(Mr. NEAL of Massachusetts asked and was given permission to revise and extend his remarks.)

Mr. NEAL of Massachusetts. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, at the beginning of August, the strategy of the Republican Conference was to return home to their respective districts and make an attempt to convince the American people of the merits of this tax cut proposal. When they returned from the August break, they collectively, I think, would agree that the American people said, we prefer fixing social security and Medicare first, then paying down the national debt.

What this journey proves, I think, to the Republican party at this time is that they simply cannot sell a bad idea. The American people responded overwhelmingly to the message, in this instance, of President Clinton and the Democratic Caucus suggesting that, as we flip the last pages on this century, we have the rarest of opportunities, the opportunity to repair and fix social security, and listen to this number, for the next 75 years, and to repair and to fix Medicare for the next 35 years.

We would be hard-pressed to find or discover a responsible economist across this country who has suggested once that the Nation desired or needed or the current economic growth that we

have had would benefit from a \$1 trillion tax cut.

The wealthiest businesspeople that I know back in Massachusetts have not been clamoring for a tax cut. They argue, instead, and I think accurately so, that they prefer and that we prefer low interest rates, so that those who are getting into the homebuyer market for the first time can purchase a 30-year fixed mortgage at 7½ to 8 percent, or a 15-year fixed mortgage at 7 percent. They want stability and predictability as they forecast economic growth.

Let me state another, I think, compelling statistic here. When we used that suggestion of a \$3 trillion surplus over the next 15 to 20 years, let us emphasize on this occasion that it is a projected surplus, heavy emphasis on the word "projected." Then let me deflate the argument that we have \$3 trillion to toy with by suggesting that of the \$3 trillion, \$2 trillion comes from social security.

How can we argue honestly to the American people that we really desire this rarest of opportunity, to fix social security for generations to come, and in the next breath say that we are going to gamble with a projection of a surplus which might not even materialize 15 years out?

The President did the right thing on this. I hope that we will sustain the President's veto.

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

Mr. Speaker, I would remind the gentleman from Massachusetts who is just now leaving the floor that H.R. 7 was reserved by the Speaker for the President to submit a social security bill to this House. H.R. 1, H.R. 1 is still vacant.

I would also remind the gentleman, and I think that he is well-versed in the Archer-Shaw plan, it does save social security for 75 years and beyond. I would hope to tell the gentleman that we will be sure they are marking this bill up, and it is certainly within the limitations.

If we do nothing on social security over the next 75 years, we are looking at a \$20 trillion deficit. We desperately need the lead from the White House that we have not received. We need to get the bipartisan support from the minority side, which we have not received. We need to get a bill started. I can assure the gentleman that that is exactly what is going to happen.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). The Chair would inform the Members that the motion to instruct conferees will be voted on tomorrow. There will be no further votes.

Mr. SHAW. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. MCINNIS).

Mr. MCINNIS. Mr. Speaker, how dare this president go out to the common working Joe and common working Jane in this country and veto this tax bill, and then go out and spend \$42 mil-

lion, \$42 million for his little trip to Africa?

Mr. Speaker, the liberal Democrats are back to the same old tax and spend policies. For 40 years they had control of this House. For 40 years they ran up the national debt. Now all of a sudden here come the Democrats, the liberal Democrats. They like to act as if they are the guardian angels of debt reduction.

Guess what, Mr. Speaker? We had a marriage, a marriage penalty out there. It is their Tax Code. They put it in when they had control of this House. We, the Republicans, say it is unfair to penalize people because they are married. We think we should encourage marriage in this country.

So what does the President do? What does the President and the liberal Democrats do? They veto, so now the people who are married can expect another marriage penalty for 1 more year of marriage.

What about the death tax? It is important to the liberal Democrats that the day we visit the undertaker, we also visit the tax collector. If Members do not think it happens, take a look. Do they call these tax and spend policies something they can stand up here and be proud about? My gosh, look what they are doing to the American working person. Sure, they put out a lot of spin. Oh, we do not need a tax cut. But President Clinton should travel to Africa for \$42 million, or to China for \$40 million. But they do not need a tax cut, folks. The working slobs should just get back out and work and just keep sending money to Washington, D.C., because the liberal tax and spend Democrats want and think they ought to be working for them. It is finders, keepers.

Take a look at what Members are doing out here. If we could put spending and make it a person, I guarantee that spending would be affiliated with the Democratic Party. It would be a Democrat. We on this side of the aisle, and frankly some conservative Democrats, happen to think that the working man is entitled to more than what they have given him today by vetoing the marriage penalty, by vetoing the death tax, and by justifying the trips of the President to spend \$42 million to go to Africa, \$40-some million to go to China.

I do not know what he is going to spend in the next few months while he has his last year. He is going to spend that money every time and not even think of the taxpayer.

Mr. Speaker, it is time for us to take a look at marriage in this country, to encourage it, and to quit penalizing it. I am urging the Members, and I have heard some very politely say, let us work in a very bipartisan fashion. What more bipartisanship do they want than let us get together and get rid of the marriage penalty?

What about the death tax? Let us say to our president, Mr. President, in a time that we are trying to give married

people a break, we do not need to make \$42 million trips to Africa. Mr. President, pitch in with something other than a veto.

Then why do Members not stand up and admit who is really the party of principles as far as that debt reduction? It does not belong on that side of the aisle, it belongs on this side of the aisle.

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

Mr. Speaker, I can understand how so many Members want to deal with the President's right to grant clemency or his trips to Africa, but I wish they would put their outrage and emotion to override the veto. Other than that, then I think what they are saying is either they have not got the votes, or they agree with the President.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. DOGGETT), a member of the Committee on Ways and Means.

Mr. DOGGETT. Mr. Speaker, this kind of tired old sloganeering that we have just heard is a lot of what is wrong with Washington, the unwillingness to come together in a truly bipartisan fashion and try to address the issue of appropriate tax relief, but to do it in a way that does not harm our economy.

Tax and spend Democrats? That old tax and spend Democrat Alan Greenspan, appointed by Ronald Reagan as chairman of the Federal Reserve Board, told these Republicans time and time again that he thought their tax cut was a mistake, that it would threaten our economic prosperity, and the longest running span of economic prosperity we have had in this country in a long time.

They turned a tin ear to him. Fortunately, the American people did not turn a tin ear, they listened to that. They recognized that when the Sun is shining, as we have it in this great economic prosperity today, that is the time to repair the roof, not to borrow more on the credit card.

So it is today that the President has taken his pen out and vetoed, yes, this irresponsible tax bill, but it was really the American people that vetoed this bill when they had it presented to them because they recognized how truly irresponsible it was, that we cannot have it all. We cannot have a big tax break benefiting special interests, benefiting those at the top of the economy, and save Social Security and Medicare and meet the basic needs of the country.

So we Democrats have proposed that we pay down the national debt, that we reduce the debt that has been incurred, and act in a fiscally responsible way to provide some targeted tax relief that is paid for, but that we meet our social security and Medicare needs.

Mr. Speaker, I think as Americans look at this Congress, they probably recognize that Hurricane Floyd was not the only natural disaster to afflict the East Coast in recent days. This House Republican leadership has truly

been spinning out of control talking about this irresponsible tax break.

□ 1800

Meanwhile, the fiscal year, the Federal fiscal year, we have got 6 working days yet to conclude it. We have one of the 13 appropriation bills necessary to the operations of the government. After next weekend, one of those 13 has been signed into law.

Mr. RANGEL. Mr. Speaker, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Speaker, if the Republicans really thought that the President's veto was outrageous and they really thought that their \$792 billion tax cut made a lot of sense, why would they not demonstrate this by moving to override the President's veto?

Mr. DOGGETT. Mr. Speaker, that would be the only appropriate action if they had the courage behind the rhetoric. But I think, as a practical matter, they recognize they would do nothing but embarrass many of their own Members, many who have only voted for this measure because they were told it would never become law. They recognized and said in their own comments that it was irresponsible, but they would hold their nose as Republicans and follow their leadership because they knew it would never become law. The American people and this President would properly reject it.

Mr. SHAW. Mr. Speaker, may I ask the Chair how much time is remaining on each side.

The SPEAKER pro tempore (Mr. TANCREDO). The gentleman from Florida (Mr. SHAW) has 10 minutes remaining. The gentleman from New York (Mr. RANGEL) has 12½ minutes remaining.

Mr. SHAW. Mr. Speaker, perhaps the gentleman from New York would like to yield time, and I reserve the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind all Members to address their remarks to the Chair and not to the President.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL) for yielding me this time.

Mr. Speaker, the President was right to veto the Republican tax bill today. The President was right to put Social Security, Medicare, and pay down the national debt ahead of a tax break for the rich. The President was right. The Republican tax bill was wrong, dead wrong. It was a step in the wrong direction.

We must use this historic opportunity to save Social Security and Medicare and to pay down our national debt. We should not be wasting it on huge tax breaks for America's wealthiest people.

The Republican tax bill did nothing to save Social Security, nothing to strengthen Medicare, nothing to reduce our national debt. It was a huge windfall for the rich, pocket change for working Americans. It was a mistake. It was irresponsible. It was not the right thing to do. I thank the President for vetoing the Republican tax bill.

Mr. SHAW. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. COLLINS), a respected member of the Committee on Ways and Means.

Mr. COLLINS. Mr. Speaker, there he goes again. President Clinton has imposed more total taxes on the American taxpayer than any President in history.

In 1993, with the help of the Democratic majority in the House, he gave the American taxpayer the largest tax increase, in total dollars, in this country's history.

Today, he has been able to impose yet another huge tax hike, \$792 billion, over the next 10 years.

But my colleagues ask how can this be. Well, as of this morning, the Congress had cut taxes on working people. But by the afternoon, with the stroke of a pen, President Clinton raised them again.

I regret that the President has today raised taxes on American workers by increasing marginal income tax rates, taxing those who choose to purchase health care insurance for themselves and families, and by taxing those who choose to buy long-term care insurance. He has also reinstated the confusing alternative minimum tax on individuals.

I further regret that the President has decided to increase taxes on American families by reimposing the marriage penalty on married couples, taxing educational savings accounts, which we wanted to set up for children and grandchildren, and by punishing, through taxes, those families who wanted to provide in-home care for senior relatives.

I also regret that the President has decided to endanger jobs through hiking taxes on American employers, by increasing the capital gains tax, by complicating retirement programs rules, and, finally, by reinstating the death tax which forces the sale of many family farms and businesses.

But, Mr. Speaker, the President believes he knows best what to do with the people's money. So he has decided to raise those taxes again.

He may talk about Social Security, but what he means is bureaucrats' job security. We Republicans have done the hard work in protecting Social Security and Medicare. Our tax bill not only set aside all Social Security and Medicare tax income, but our budget put aside \$870 billion in additional revenues for Medicare.

The truth is the President wants to spend the positive cash flow. His own budget would have busted the caps by \$30 billion and turned this year's positive cash flow into more debt. That is

why we wanted to return the money to the safety of the taxpayers' pocket. As it stands, it is a \$792 billion temptation to spenders, spenders on both sides of the aisle.

I regret that we shall see in the next few weeks and months to come spending schemes come out one by one at orchestrated "program of the day" press conferences. That is no way to treat the hard-earned money of America's families.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MATSUI) to deal specifically with the question of Social Security.

Mr. MATSUI. Mr. Speaker, I would like to thank the gentleman from New York (Mr. RANGEL), the Ranking Democrat on the Committee on Ways and Means, for yielding me this time.

Mr. Speaker, I think what we are seeing now is an example of the Republicans trying to get themselves out of a hole that they created back in February and March and April in this year when they came up with their budget. The budget was inconsistent. That is why, with the fiscal year ending on Wednesday or Thursday of next week, we only have one appropriations bill signed by the President.

They are struggling. They want us to work this weekend, but then they change their mind because some of their folks had fund raisers. So as a result of that, now we are going to find ourselves in a crunch in the middle of next week. That is exactly what is going on.

So they are really relieved that the President vetoed this bill, because now the gentleman from Texas (Mr. ARCHER) and the gentleman from Florida (Mr. SHAW) want to bring up a Social Security bill sometime before we recess this year. That bill, as we all know, or we will find out very soon when they start to move that bill, is about \$1.1 trillion over the next 10 years. It would wipe out the entire tax cut.

What is also interesting, the gentleman from Florida (Mr. SHAW) said earlier that their Social Security bill will balance out in 75 years. I hope all of us are alive in 75 years.

But in the next 35 years, by the year 2035, and I hope that the Republican Members know this when they vote for this bill, they will have a general fund transfer of money to the Social Security fund of \$11.7 trillion which, in 35 years, will be in constant dollars only about \$3 trillion, about twice the Federal budget today.

So what we can really do is, my colleagues can lament about the fact that the President vetoed this, but they are privately very happy because then, in the next month or so, they are going to bring up Social Security. They will bring that to the floor.

That will go down in flames because they do not have 218 votes. After all, they are in charge of this institution. They should be able to pass legislation. But it will fail. Then they will say, well, we tried to do all of these things.

But the only accomplishment, unfortunately, will be to pass these appropriations bills. I do not even know if they are going to be able to do that. But I hope they are going to be able to do that because we cannot afford to have social security checks in the next 2 months be delayed because of the incompetence of the leadership.

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

Mr. Speaker, I would ask the gentleman from California (Mr. MATSUI), does he have a plan to save Social Security, and does it save Social Security for 75 years? Is he prepared to vote for a plan that would save Social Security?

Mr. MATSUI. Mr. Speaker, will the gentleman yield?

Mr. SHAW. For a short answer, I yield to the gentleman from California.

Mr. MATSUI. Mr. Speaker, the President of the United States has a plan in which will reduce the debt, will actually not cut benefits.

Mr. SHAW. Mr. Speaker, that is not my question.

Mr. MATSUI. Will the gentleman from Florida let me finish? He asked the question.

Mr. SHAW. Mr. Speaker, reclaiming my time, the gentleman from California knows the rules of the House.

Mr. MATSUI. Mr. Speaker, will the gentleman not allow me to answer the question?

The SPEAKER pro tempore. All time is yielded. The gentleman from Florida (Mr. SHAW) has requested his time back.

Mr. MATSUI. Was the gentleman from Florida asking a rhetorical question or asking me an honest question?

Mr. SHAW. Mr. Speaker, I would hope that the gentleman's trespassing on my time would not count against the time that I have.

I would say to the gentleman, who is the ranking member on the committee that I chair, that he does not have a plan that would save Social Security for all time. The President's plan does not save Social Security for all time. We have reached out across the aisle in order to try to formulate such a plan; but so far, we have not received that cooperation.

The Archer-Shaw plan does save Social Security for all time, and it has been scored by the Social Security Administration for doing that. It does it by preserving existing benefits without cutting one single benefit and preserving all of the COLA's. It does not raise the payroll taxes. As a matter of fact, it saves the \$20 trillion deficit that we would be leaving our kids over the next 75 years.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. WELLER).

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

Mr. WELLER. Mr. Speaker, first I want to thank the gentleman from Florida (Mr. SHAW) for yielding me some time. But I want to express my disappointment that the President who

gave our country the biggest tax increase in history has now vetoed meaningful tax relief for all Americans. Why? Because Bill Clinton and AL GORE want to go on a spending spree. That is what this is all about.

Mr. Speaker, the Republican balanced budget sets aside 100 percent of the Social Security Trust Fund, payroll taxes, and interest on the Trust Fund for Social Security and Medicare. The President only wants to set aside 62 percent because he wants to spend 38 percent of Social Security on other things. It is about spending.

The Republican balanced budget sets aside \$2.2 trillion over the next several years to pay down the national debt, \$200 billion more than the President calls for. Why? Because the President wants to spend more.

Mr. Speaker, our balanced budget takes one-quarter out of every dollar for tax relief. In fact, over the next 5 years, we pay down \$861 billion of the national debt while providing \$156 billion in tax relief.

One of the biggest concerns I often hear in the district that I represent in Chicago in the south suburbs is the issue of fairness, particularly tax fairness. People are frustrated that taxes are so high, but they are also frustrated how complicated they are and how unfair they are.

I have often asked this question, is it right, is it fair that, under our Tax Code, married working couples pay more in taxes just because they are married? Is it right, is it fair that 21 million married working couples on average pay \$1,400 more in higher taxes?

I happen to have with me today a photo of a couple from Joliet, Illinois, two public school teachers, Michelle and Shad Hallihan who, by the way, just had a baby boy named Benjamin just the other day. They are celebrating the birth of that child. They are a typical couple that pays the marriage tax penalty.

My friends on the other side, they call Michelle and Shad a special interest because we are trying to help them. But these are folks who suffer the average marriage tax penalty. And \$1,400 is a lot of money in Joliet, Illinois. It is 1 year's tuition at a local community college, several months worth of day care. It is real money for people like Michelle and Shad Hallihan.

Now, President Clinton says he would much rather spend their money here in Washington because he could do it better than they can. That is really what this issue is all about. Do we spend Michelle and Shad's money, or do we eliminate that marriage tax penalty?

Of course the President vetoed that effort to eliminate their marriage tax penalty today. If my colleagues think about it, their little boy Benjamin just born just in the last few weeks, if they were able to take advantage of the education savings account tax relief that was included in this, which would allow them to set up to \$2,000 a year in a special account for Benjamin's education,

Michelle and Shad, if we were to eliminate their marriage tax penalty, could put that marriage tax penalty into that account and, in 18 years, be able to pay for much of Benjamin's college education.

That is a choice we are making here today. Do we follow President Clinton's lead and spend it here in Washington, or do we let Michelle and Shad Callahan keep it by eliminating the marriage tax penalty? That is what we should be doing.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. STENHOLM).

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

Mr. STENHOLM. Mr. Speaker, how many times have I stood in this well and have been reminded by others, as I remind tonight, Presidents do not spend money. Congress spends money. All of the rhetoric that I have heard about spending will only occur if a majority of this House votes to spend the money.

I have reached out in the hand of friendship to the gentleman on the other side, as he knows, regarding Social Security. I can honestly say we do have a plan.

□ 1815

My disappointment, and why I very strongly support the President's veto of this bill today, is that Congress has chosen not to lead on Social Security. It was our responsibility. It was the responsibility of the Committee on Ways and Means, in my opinion, obviously not shared by the majority, to come up and fix Social Security and Medicare and Medicaid first and then deal with the question of marriage tax relief, of capital gains tax relief.

And I have said it many, many times. I am for tax cuts. I am for tax cuts. There are many good proposals in the bill which is vetoed which I support philosophically. But I do not support tax cuts when they are the equivalent of taking candy from a baby, and that is what we are talking about today.

It is true that these dollars that we hear talked about are the American taxpayers' dollars, American people, all of us, but it is also true that the \$5.6 trillion debt is our debt. And I believe very strongly the President is correct in saying we should pay down that debt first before we spend additional dollars for any purpose. That debt will need to be paid back to the Social Security program. We should not be carelessly spending Social Security dollars.

And as we have discussed many times on the floor of this House, and why I have said in my opinion this bill that is vetoed today is the most fiscally irresponsible bill, because what it proposed to do in the second 10 years, precisely at the time Social Security was going to need some additional help, this bill proposed to take money from our children and grandchildren. If responsible tax cuts are brought for a vote, tax

cuts which are paid for by today's dollars, I will gladly consider their merits. But I will not steal from children and senior citizens.

The President is right to veto this irresponsible bill, and I support his action today. And I am glad to hear that finally, after September 22, we will have serious discussion of Social Security and Medicare and Medicaid, and I will certainly reach out and accept the hand from the other side. But in the meantime, let us stop this debate and this ceaseless rhetoric regarding this tax cut and openly acknowledge that if we are truly concerned about the future of Social Security and Medicare and Medicaid, do it first and then do these other things, that amount to what most of us would call the dessert.

That is why I support this veto, and I think now let us get on with doing what we should have been doing at the first of this year, and that is fixing Social Security, Medicare and Medicaid.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. SANCHEZ).

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

Ms. SANCHEZ. Mr. Speaker, first of all, I want to thank the gentleman from New York (Mr. RANGEL) for yielding me this time.

My colleagues, President Clinton vetoed the Republican tax plan for one simple reason. It uses the surplus on special interest tax cuts instead of investing it in the future of America. I call on the Republicans to go back to the drawing board and to produce a bipartisan tax and budget plan, one that addresses the needs of all Americans.

Mr. Speaker, as we debate how to divide up this budget surplus that is being projected, our primary goal should be to maintain the strong and growing economy that has benefited millions of Americans. Reducing the national debt is clearly the best long-term strategy for our U.S. economy, and, in fact, not only Mr. Greenspan but many economists from all political spectrums have said let us reduce the national debt.

There is a plan to do that. It is called the Blue Dog Budget. Imagine this: We are projected to spend about 15 cents of every dollar next year on interest for the national debt. Fifteen cents. That is 15 percent. If a family had a credit card and they were paying 15 percent or 18 percent or 19 percent interest rates, and all of a sudden they had more money than they thought they had at the end of the month, what should they do with it? If they are smart, they would pay down that credit card debt. Why? Because when they do not, the debt gets more and more and more.

This is the time to pay the debt down. The Blue Dog Budget saves the entire Social Security surplus for Social Security, and it locks up half of the on-budget surplus for debt reduction. This approach will help ensure

that our economy remains strong today and for our future.

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

Before we hear from our next Speaker on this subject, I would like to reiterate that if the Republicans are so outraged about this veto, I hope when the arguments are closed that they will explain to the American people, and some of the young students of the Constitution, why they are forfeiting their right to override the veto. When we do not like what a President has done in terms of legislation, either we accept it or we override it.

I am afraid what we are going to find, however, with this Social Security plan, is that perhaps the money that is going to be used in their plan for Social Security would be the very same money that they would have used for the tax cut. But who knows.

I think they are going to spend the rest of the time wondering when the President is going to come forward with a plan. And I think the gentleman from Texas pointed out, it is the Congress that legislates and it is the President that executes. If there is going to be any legislative plan, do not be running around howling at the moon asking for the President's bill.

They are part of the majority. They should assume the majority and legislate. Not that they have had a great history for it so far this session. But maybe they should try it. They might like it. It may work. Something may happen. But I cannot think of anything that has been done to give any evidence that they have appeared to lead. They did not lead in the tax bill, they did not lead in Social Security, they do not lead in Medicare, they do not lead in a patient's bill of rights, they do not lead in gun safety, and they do not lead in education.

So I do not know how much time they have to close, but I will be glad to yield some time to them.

Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Mr. Speaker, I thank the gentleman for yielding me this time. I have been over in my office listening to some of this rhetoric, and I was not going to come over here, but let me just say this.

I could agree with almost everything that the Republicans have said were it not for the fact that there is not a \$3 trillion projected surplus. There is only a \$1 trillion projected surplus. Because all of us have agreed that \$2 trillion of that \$3 trillion is Social Security money and ought to stay in the Social Security System or retire the national debt.

I could agree with almost everything that has been said were it not for the fact that we have a \$5.6 trillion debt, a \$3.8 trillion hard debt. Now, to ask us to take 80 percent of the on-budget projected surplus over the next 10 years and obligate it now is something that I do not think any prudent business person in this country would do.

And, furthermore, I was thinking about this. This bill, if we want to call it that, is asking basically for me to say to my children, I am going to go buy a new car, but, Mr. Banker, when I borrow the money from you for that car, I am only going to pay the interest on it. And when my children become 21, send them the bill for the car. Or I am going to buy a house, but, Mr. Banker, I am only going to pay the interest on it. Send the price of the house, the money that I borrowed to buy the house, send the bill for it to my children when they get to be 21.

We are not against tax cuts. We had in our budget a \$250 billion piece. That is a pretty sizable sum. But let me tell my colleagues how irresponsible I think this is and how far the American people are ahead of us on this. When they have got an \$800 billion tax package that has got something for almost every citizen in this country in it, and they cannot sell it and they cannot override it, they know it is irresponsible. The American people know that it is irresponsible, and that is why I am glad the President did what he did.

The SPEAKER pro tempore (Mr. TANCREDO). Time of the gentleman from New York (Mr. RANGEL) has expired.

Mr. SHAW. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky (Mr. LEWIS), a member of the committee.

Mr. LEWIS of Kentucky. Mr. Speaker, it is really humorous tonight to listen to this debate. For 40 years the liberal spending Democrats had majority in this House. When I got here, in 1994, we had a \$5 trillion debt. Now, they had control of spending for 40 years. How did we get a \$5 trillion debt?

For 40 years they did not mind spending out of the Social Security Trust Fund for every kind of program they could think of. They did not worry about balancing the budget then. They did not worry about paying down the debt. Now, all of a sudden, they are worried about it. That is very, very funny. Very strange.

Well, our plan, the Republican plan, sets aside \$1.9 trillion, 100 percent of the Social Security Trust Fund surplus money, to protect Social Security. One hundred percent. What are they setting aside? Twenty-seven trillion dollars is going to come into the Federal Government over the next 10 years. What is wrong with allowing the American people to have \$792 billion back of their money?

Mr. SHAW. Mr. Speaker, as I understand, all time has expired on the minority side?

The SPEAKER pro tempore. The gentleman is correct.

Mr. SHAW. Mr. Speaker, I yield myself the balance of my time, and I say to my friend from New York (Mr. RANGEL), who has asked several times why we do not move to override the veto, that he knows as well as I do the very simple fact is that we do not have enough Democrats to go in with the

Republicans to raise the two-thirds majority necessary to give the American people the relief from the marriage tax penalty, relief from the death tax, and relief from so many of the other taxes that we have.

I think, too, that the Members on the other side are well aware of the fact that we have got locked away, as the gentleman from Kentucky just said, locked away sufficient dollars from the Social Security surplus in order to more than repair Social Security, more than take care of the problems that we are facing in Medicare. Indeed, it would be irresponsible to be spending that money, and that is why we passed the lockbox legislation, and that is why we have this in our budget, that was passed by the House, in order to prevent this type of spending.

But putting all this aside, and Members can say anything on this floor and it goes out like it is the truth, but the facts and the figures are there and they are there for all of us to see. But what I want to see is what is going to happen now next week as the spending bills, the appropriation bills, come to the floor. Are my friends on the other side of the aisle going to vote against them because we do not spend enough? I suggest that they will. Will the President veto them because we do not spend enough? I suggest that he will. And I wonder, when he does that, and as they vote and explain their votes on the other side of the aisle, how they will explain how they are saving this money for Social Security and saving Medicare.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ARCHER).

The motion was agreed to.

A motion to reconsider was laid on the table.

#### COMMUNICATION FROM THE HONORABLE PHIL ENGLISH, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable Phil English, Member of Congress:

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, September 21, 1999.

Hon. J. DENNIS HASTERT,  
Speaker, U.S. House of Representatives,  
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule VIII of the Rules of the House that my office has received a subpoena for documents issued by the United States District Court for the Western District of Pennsylvania.

After consultation with the Office of General Counsel, I have determined to comply with the subpoena.

Sincerely,

PHIL ENGLISH,  
Member of Congress.

#### PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 106-131)

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

#### To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c), and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa-9(c), I transmit herewith a 6-month periodic report on the national emergency with respect to the Iran that was declared in Executive Order 12957 of March 15, 1995.

WILLIAM J. CLINTON.

THE WHITE HOUSE, September 23, 1999.

□ 1830

#### NATIONAL MONEY LAUNDERING STRATEGY FOR 1999—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. TANCREDO) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on the Judiciary and the Committee on Banking and Financial Services:

#### To the Congress of the United States:

As required by the provisions of section 2(a) of Public Law 105-310 (18 U.S.C. 5341(a)(2)), I transmit herewith the National Money Laundering Strategy for 1999.

WILLIAM J. CLINTON.

THE WHITE HOUSE, September 23, 1999.

#### PRESIDENT CLINTON VETOES TAX RELIEF PACKAGE

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

Mr. GIBBONS. Mr. Speaker, today President Clinton vetoed the much-needed tax relief package passed by this Congress. President Clinton has permanently cemented his legacy as a tax raiser and sworn enemy of tax cuts.

By vetoing this legislation, the President is denying the average middle-class family relief from the marriage tax penalty. The President is robbing millions of workers the opportunity to obtain health insurance benefits who cannot afford to do so now. He is making it more difficult for parents to save for their children's education. He is making it more difficult for people to pass on the family farm or the family

business after a lifetime of toil, sacrifice, and devotion to building a great enterprise. The President is making it more difficult for people to save for their future and provide for their own retirement.

This vetoed tax relief legislation would have been a step toward more fairness in the Tax Code and it would have reduced the burden on people who are carrying the load, paying the taxes, and trying to live the American dream.

This veto is irresponsible and dangerous. Once again, Government wins and the taxpayer loses.

REPORT ON RESOLUTION WAIVING A REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO THE SAME-DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED BY THE COMMITTEE ON RULES

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 106-330) on the resolution (H. Res. 300) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported by the Committee on Rules, which was referred to the House Calendar and ordered printed.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. TANCREDO). Under the Speaker's announced policy of January 6, 1999, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES of North Carolina addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

AFFORDABLE PRESCRIPTION DRUGS ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, last week the Office of Personnel Management announced that premiums for the Federal Employees Health Plan would increase by 9 percent next year, the third straight year of large increases.

On January 1, Medicare managed care plans in this country planned to drop 395,000 senior citizens from their plans. Last year 400,000 were dropped. Most of the remaining plans are cur-tailing or terminating prescription drug benefits.

Those are the numbers. Here are the stories.

Last month I received a letter from a 71-year-old widow in Sheffield Lake,

Ohio, who had taken a part-time job to help pay for her prescription drugs.

Until United Health Care pulled out of her county and left her without a health plan, she had some drug coverage. But just one of her medications, lipitor, absorbed most of her entire benefit.

I recently spoke with a woman in Elyria, Ohio, who spends \$350 out of her \$808 a month Social Security check on prescription drugs.

What is the common thread here? The high cost of prescription drugs.

Prescription drug spending in the U.S. increased 84 percent in the last 5 years. We have spent \$51 billion in 1993. Last year we spent \$93 billion.

According to the Office of Personnel Management, two factors caused the steep FEHB premium increases. One of those factors is technology. The other is the mushrooming cost of prescription drugs.

According to GAO, HCFA, and market analysts, one of the key reasons Medicare HMOs fail to turn a profit and drop so many seniors is they underestimated how much it would cost to cover the cost of prescription drugs.

I receive letters every day from seniors who cannot stretch their Social Security check far enough to cover prescribed medications. Some of the increased spending derives from expanding use of prescription medicines. But according to most analyses, two-thirds of the increases are attributable to price inflation.

The American public is right to wonder why is Congress not doing something about that. The simple reason is our threats from the drug companies. The drug companies say, if you do not leave drug prices alone, we will not produce any new drugs anymore.

I believe it is time that we use market forces, by that I mean good old-fashioned American competition, to challenge that threat. We can introduce more competition in the prescription drug market and still foster medical innovation. We need information from the drug companies to go explore industries' claim that U.S. prices are where they need to be.

The bill I introduced today, the Affordable Prescription Drug Act, lays out the groundwork we need to do both. Drawing from intellectual property laws already in place in the United States for other products in which access is an issue, pollution control devices under the Clean Air Act are one example, this legislation would establish product licensing for essential prescription drugs.

If a drug price is so outrageously high that it bears no resemblance to pricing norms for other industries, the Federal Government could require drug companies to license their patent to generic drug companies. The generic companies could then sell competing products before the brand name patent expires, paying the patent holder significant royalties for that right. The patent holder would still be amply re-

warded for being the first in the market, but Americans would benefit from competitively driven prices when there would be two or three or four sellers in the marketplace.

Alternatively, a prescription drug company could in fact lower their prices, which would preclude the Federal Government from finding cause for product licensing. Either way, high drug prices come down.

The bill requires drug companies to provide audited detailed information on drug company expenses.

This is not some brand new, untried proposal. Product licensing is done in France. It has been done in Canada. It is done in Germany. It is done in Israel. It is done in England.

Let me leave my colleagues with this: Through the National Institutes of Health, American taxpayers finance 42 percent of the research and development that generates new drugs, 42 percent. The private foundation and State and local governments and other non-industry sources kick in another 11 percent. That means prescription drug companies account for half the money in research and development of new drugs.

The Congress has given drug companies generous tax breaks on the R&D dollars that they do shell out. And yet, we pay the highest prices in the world in this country, sometimes two or three or four times the price for prescription drugs that people pay in any other country in the world.

Drug companies, and luck for them, drug companies score a triple-double. Congress gives the drug companies huge tax breaks. Taxpayers pay most of the cost for research and development. And yet, the drug companies charge Americans the highest price in drug world. Go figure. Drug company profits outpace those of every other industry by at least five percentage points.

Mr. Speaker, I ask the Congress to pass the Prescription Drug Affordability Act.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. DIAZ-BALART) is recognized for 5 minutes.

(Mr. DIAZ-BALART addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

BALTIMORE REGIONAL CITIZENS AGAINST LAWSUIT ABUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. EHRLICH) is recognized for 5 minutes.

Mr. EHRLICH. Mr. Speaker, I rise to acknowledge a group of citizens in my district who are working hard to address an issue affecting every citizen in our State, lawsuit abuse.

Throughout my district and all over the greater Baltimore area, local citizens are volunteering their time and

energy to inform the public about the cost associated with the excessive numbers and types of lawsuits filed in today's litigious society.

The men and women of the Baltimore Regional Citizens Against Lawsuit Abuse have a simple goal, to create a greater public awareness about abuses of our civil justice system.

This type of citizen activism has had a positive impact on perceptions and attitudes towards abuses of our legal system, a problem most folks do not consider as they go about their daily routine.

While the overall mission of Baltimore Regional Citizens Against Lawsuit Abuse is to curb lawsuit abuse and abuse of our legal system, the organization's main focus is on education. Every time these dedicated Marylanders speak out about lawsuit abuse, ordinary citizens are educated on the statewide and indeed nationwide impact our civil legal system has on our daily lives.

The cost of lawsuit abuse includes higher costs for consumer products, higher medical expenses, higher taxes, higher insurance rates, and lost business expansion and product development, a serious problem in the United States of America.

I worked hard to reform our legal system at the State level during my days as a member of the Maryland General Assembly. During my tenure in Congress, I have supported efforts with respect to product liability reform, securities litigation reform, and reform of our Federal Superfund program.

More specifically, Mr. Speaker, as a member of the House Committee on Banking and Financial Services during the 105th Congress, I sponsored bipartisan legislation that has helped reduce frivolous class-action lawsuits brought against small-business people employed as mortgage brokers.

Mr. Speaker, legal reform is a complex issue, as we have seen actually today on the floor of this House and in the past 5 years from the 104th Congress and the 105th Congress, as well. The legal system must function to provide justice to every American.

When our open access to the courts is abused or used to the detriment of innocent parties who happen to have money or happen to have insurance coverage, this system must be reviewed and reformed, sometimes in State legislatures, sometimes on this floor.

Let me acknowledge the board of the Baltimore Regional Citizens Against Lawsuit Abuse for giving of their valuable time and energy: The Honorable Phillip D. Bissett, Vicki L. Almond, Joseph Brown, Dr. William Howard, Sheryl Davis-Kohl, Gary O. Prince, and the Honorable Joseph Sachs.

Mr. Speaker, the Baltimore Regional Citizens Against Lawsuit Abuse has declared September 19-25 as Lawsuit Abuse Awareness Week in Maryland.

I want to commend these citizens and all involved in this worthwhile effort, for their dedication and commitment,

and to acknowledge this week as a time of public awareness regarding the serious issues associated with abuse of our civic legal system.

EUROPEAN UNION SHOULD WITHDRAW UNFAIR, DISCRIMINATORY REGULATION RESTRICTING HUSH-KITTED AND REENGINEED AIRCRAFT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. LIPINSKI) is recognized for 5 minutes.

Mr. LIPINSKI. Mr. Speaker, I rise tonight to join my colleagues, the gentleman from Pennsylvania (Chairman SHUSTER) the gentleman from Tennessee (Chairman DUNCAN) and the gentleman from Minnesota (Mr. OBERSTAR), the ranking member, in supporting a resolution expressing the sense of Congress that the administration should act swift and decisively if the European Union does not withdraw its unfair, discriminatory regulation restricting hush-kitted and reengineed aircraft.

In particular, the resolution strongly urges the administration to file an Article 84 complaint with the International Civil Aviation Authority, ICAO, so that it can be objectively determined whether the EU regulation violates international standards.

□ 1845

On April 29, 1999, the European Council of Ministers adopted a resolution that will in effect ban the operation of former Stage 2 aircraft that has been modified either with hushkits or new engines to meet the Stage 3 international noise standards. The Europeans claim that the hushkit regulation is needed to provide noise relief to residents living around airports in crowded European cities. However, the European Union has not provided any technical evidence that would demonstrate and improve noise or emissions climate around airports as a result of this rule.

This is not an environmental regulation, as the Europeans suggest. Rather, this re-regulation is an unfair unilateral action that discriminates against U.S. products and severely undermines international noise standards set by ICAO. By unilaterally establishing a new regional standard for noise, the EU is taking local control over an international issue. In addition, the EU has done this in such a way that the regulation most adversely impacts U.S. carriers, U.S. products and U.S. manufacturers.

The House of Representatives has already expressed its strong opposition to this misguided regulation by passing H.R. 661, the bill introduced by my good friend and colleague, the gentleman from Minnesota (Mr. OBERSTAR), which would ban the operation of the Concorde in the U.S.A. Passage of H.R. 661, I believe, showed the Europeans that the United States is serious

about protecting U.S. aviation interests against unfair unilateral trade actions. As a result, the effective date of the EU regulation was postponed until May 2000 in an attempt to accommodate the concerns of the United States.

Yet although the implementation date was delayed for a year, the regulation was adopted and is now law. As a result, the regulation is already having a negative economic impact on U.S. aviation. The regulation has raised serious doubts about the future market for hushkitted and re-engineed aircraft, which in turn has already lessened the value of these aircraft and has put a halt to new hushkit orders. This is why the EU regulation must be completely withdrawn.

My understanding is that the European Parliament will not consider withdrawing the regulation until significant progress is made on Stage 4, the next generation noise standard. The U.S. is already working with the EU through ICAO on defining and implementing a Stage 4 noise standard. Let me state for the RECORD that the United States is fully committed to the development of a Stage 4 noise standard, however it is difficult to move forward towards a new noise standard while the EU hushkit regulation is still on the books. With its hushkit regulation the EU ignores its priority agreements with ICAO and has developed its own regional restrictions. Given this, it will be nearly impossible to convince the 185 countries of ICAO to agree to a new noise requirement on aircraft. Why would any carrier in any country want to invest in Stage 4 aircraft if any country in the world can also impose its own restrictions on aircraft? It simply does not make sense.

Nevertheless the U.S. is working patiently with the Europeans on developing a Stage 4 noise standard. However, the ongoing discussions and negotiations could continue for weeks, if not months. Yet each day that the EU hushkit regulation remain on the books costs the U.S. aviation industry more money.

For this reason the U.S. must challenge the EU regulation in an international forum. The United States must send a clear signal that it will now allow Europe to set international standards on its own. In particular, the U.S. Government should use the Article 84 process provided by the Chicago convention to resolve disputes between two or more States. The U.S. should file an Article 84 complaint at ICAO asking the international organization to determine whether the EU hushkit regulation violates its standards. This would demonstrate how serious the U.S. considers the issue. It would also show the EU that the United States has the support of the rest of the world on this very important aviation issue.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico (Mr. UDALL) is recognized for 5 minutes.

(Mr. UDALL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### IN SUPPORT OF A MINIMUM WAGE INCREASE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Nevada (Ms. BERKLEY) is recognized for 5 minutes.

Ms. BERKLEY. Mr. Speaker, I rise today to voice my strong support for an increase in America's minimum wage. The current minimum wage pays \$10,712 a year for full-time work. That is not even enough to lift a family of three above the poverty line.

America needs families earning a decent living, wages good enough to afford a home and a car and a quality education for our children. That is how we grow the American economy.

This year my colleagues are proposing to increase the minimum wage by \$1 over a period of 2 years. In my home State of Nevada more than 60,000 workers would benefit from this increase.

Opponents say that a minimum wage increase would be bad for the economy. I do not believe that. The last time we raised the minimum wage, the job market boomed, and unemployment fell to a historically low 4.2 percent. That is what we enjoy now, and our economy has never been stronger.

Keeping minimum wage workers below the poverty lines means that taxpayers everywhere are in effect picking up the tab for the costs of that poverty, Mr. Speaker, whether it be through food stamps, hospital emergency room visits or the social consequences of children neglected by their parents who work excessively long hours just to get by.

An increase in minimum wage benefits businesses, families, women, children, minorities, every aspect of our communities. It benefits all of us.

Congress just gave itself a \$4600 pay increase, more than two times the pay raise that the minimum wage bill proposes. Yet here we are still debating the merits of a pay raise for the people who serve our food, care for our children, clean our office buildings and perform countless other jobs that our economy depends on and are vital to the daily functions of our society.

Americans deserve a decent day's pay for a hard day's work. Let us do the right thing in this Congress. Let us pass the minimum wage increase. America's working families need it, they deserve it, and they should have it.

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.)

#### TECHNOLOGY IN OUR SOCIETY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from Washington (Mr. SMITH) is recognized for 60 minutes as the designee of the minority leader.

Mr. SMITH of Washington. Mr. Speaker, I rise tonight to discuss the issue of technology in our society and how it effects us. We have all heard a lot about it. There are a lot of stories about technology companies booming and how it is changing our lives in everything from the information we get to the entertainment that we choose. But one has to wonder sometimes, as my colleagues know, just exactly how much does high tech effect all of us. We certainly read about the people who are making millions on it in Silicon Valley or elsewhere throughout our country, but how does it effect the rest of us? And that is a question I want to answer tonight because the other part of it is there is a lot of policies that we are advancing here in Congress aimed at helping the high tech industry, and in advancing those policies a lot of people wonder, as my colleagues know, why should we push something that is simply targeted out of narrow industry. Should we not look at the broader good of the country?

The argument I want to make tonight is that we are looking at the broader good of the country when we talk about advancing policies to help the high tech industry, and in fact technology and its growth and the economic opportunity that it creates is one of the most important things for all of us in this country as we face the future.

As a Democrat and, more specifically, as a member of the new democratic coalition, creating opportunity for me is supposed to be what this place, Congress and government, is all about. I grew up in a blue collar family on the south end of Seattle down by the airport and was very pleased to grow up in a society that gave me the opportunity to do a little hard work to achieve whatever I wanted in life. No one in my family had ever gone to college before. I went to college, went on to law school and basically created the life for myself that I wanted. I did not do it alone; I did it because of the society that we have created here, to make sure that that sort of opportunity is available to as many people as possible.

As we look towards the 21st century, one of the key issues in making sure that that opportunity continues to be available to everybody is technology. As my colleagues know, there is no such thing anymore as a low tech area of this country. Technology effects all of us regardless of what our business or what our interests are, and it can have a positive effect. The unemployment rate, the economic growth that we enjoy right now at 30-year low for the unemployment rate, 30-year high for the economic growth is driven in large

part by technology, and again that benefits all of us.

It also benefits us as consumers. We are finally creeping towards a situation where consumers will have that level of information that is really required for a free market to work. No longer, for instance, do you have to go down to the local car dealership and hope that you are better at arguing than the car dealer who you are going to deal with to get the best price on a car. You can look it up on the Internet, get the price, get an offer, go down and get your car. You can find the lowest price without having to go through that negotiating session, Mr. Speaker, and the same is true for products across the board. That empowers consumers and enables every single family out there to stretch their budget farther.

More importantly, I think, is the information that is available, the education that is available to all of us through the use of technology over the Internet. As my colleagues know, you do not necessarily have to go off and get a four-year degree somewhere anymore to learn a skill that is going to enable you to be employable or maybe improve your current job situation. That information, Mr. Speaker, is out there for all of us.

So the big point I want to try to make tonight is that when we talk about technology policy, when we talk about, as my colleagues know, making the telecommunications infrastructure available to everybody, increasing exportation of computers and encryption software, investing in research and development, we are not just talking about, gosh, as my colleagues know, there happens to be a company in my district that would benefit from this so let us go ahead and help them out so we can employ a few people maybe in central Texas or in northern Massachusetts. What we are talking about is policies that are going to benefit our economy across the board.

That is why we in this body should be supportive of this agenda, this agenda that is moving towards trying to make sure that America continues to be the leader in these high tech areas that are going to be so critical to our economic future, Mr. Speaker. Are those policies that we have been advancing include certainly education at the top end of that, investments in making sure that we educate our work force and educate our children and implement the life-long learning plans that we know are going to be necessary, are critical to reaping the benefits?

It is also critical that we build the telecommunications infrastructure necessary to make sure that this high tech economy can flow. In the 19th century building railroads was critical to economic development. In the 20th century building highways was. In the 21st century building a telecommunications infrastructure is going to be critical to our economic health. We need to advance the policies that make that happen.

Now there is a lot of debate back here about winners and losers, various telecommunications companies maneuvering for advantages or to disadvantage opponents, but for all of us in this body the Number 1 goal ought to be to build the infrastructure, set up the policies that make it happen, and I guess the biggest thing about high tech for me is that, as I mentioned, being a Democrat, a new Democrat, is about creating opportunity. But that opportunity does not always come through a government program. In fact, the best place that opportunity is created is in a strong economy where the government does not have to get involved, and that is what technology does for us. By enabling businesses to grow in the fast-growing sector of technology we create jobs, we create economic growth that benefits all of us across the board.

And I would like to, I guess, conclude by making it specific to my district. As my colleagues know, a lot of people know that I am from the Seattle area, and there is assumption that the only reason I care about technology is because, well, Microsoft just happens to be from that area. They happen to actually be from an area quite different from my district. I represent the district south of Seattle, a blue-collar suburb, mostly Boeing workers, some at Weyerhaeuser, a blue-collar area that is about as far away from Microsoft, at least psychologically, as Boston is from it geographically. It is a different area. It is folks who do not necessarily work directly in that tax sector. But I know that those people, the people that I grew up with and now represent, are the ones who are going to most benefit from policies that help America maintain its leadership role in technology. Because the folks at Microsoft, the folks in silicon valley, they have got it, okay? They have got it, and then some. We do not really need to worry about taking care of them. We need to make sure that our economy continues to expand in a way to include people like the people I represent, and these policies that will help technology grow will do just that. They will create more and better jobs and a stronger economy so that opportunity gets spread, and it is not locked into just a few folks.

I really hope that in this country we can understand that this talk about the digital divide really misses the point. There has always been divisions between people who have knowledge and people who do not. What technology gives us the opportunity for is to shrink that divide, not increase it. All you have to have these days to get access to the same information that everybody else in the world has is a relatively cheap PC, which is down to like almost \$500, and a telephone, dial-up service access to the Internet. Technology can be the great equalizer if we build that telecommunications infrastructure that I was talking about. It can create opportunity, not just for the

richest of the rich, but most importantly for the poorest of the poor.

That is why we need to be smart about these policies and advance them. We also need to be smart and realize that in advancing any industry, but certainly in the technology industry, we need access to overseas markets.

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Ninety-six percent of the people in the world live some place other than the U.S. That means if we are going to sell stuff we are going to need access to those other markets. We currently consume 20 percent of what the world produces and that is great, but that means the rest of the world is where our markets are available. We need to get access to those things.

I really believe that we have the opportunity to succeed and provide opportunity for the people we represent in this country as we never have before. We are already doing that. I think we can do even better, but we have got to be smart about embracing the policies and recognize that technology is not just about what is going on between Microsoft and AOL or NetScape or anybody. What it is about is creating opportunity for everybody in this country and showing that we can use technology to be that great equalizer, to help lift folks up out of poverty or wherever they want to go to realize these opportunities.

So when people hear us down here talking about these policies about research and development, telecommunications, patent reform, encryption, exports, whatever, understand that it is not just about talking about some specific company. It is talking about the new economy and the direction that our economy is headed; in fact, in many ways is already at. We need to be there, keep up and make sure that we advance the policies that will make sure that that opportunity spreads to all of us, not just to a select few.

I am committed to doing that. The new Democratic coalition that I am proud to be a part of is doing that, and we understand the importance that technology companies and technology policy will play in that. I urge every American to recognize that as well and work hard to advance these policies so we can continue to create the type of opportunity that we have been creating in recent years.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HOLDEN (at the request of Mr. GEPHARDT) for today and the balance of the week on account of medical reasons.

#### 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. BROWN of Ohio) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Mr. UDALL of New Mexico, for 5 minutes, today.

Ms. BERKLEY, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. EHRlich) to revise and extend their remarks and include extraneous material:)

Mr. EHRlich, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, September 24.

Mr. BEREUTER, for 5 minutes, September 24.

#### ADJOURNMENT

Mr. SMITH of Washington. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 2 minutes p.m.), the House adjourned until tomorrow, Friday, September 24, 1999, at 9 a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

4389. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Sweet Cherries Grown in Designated Counties in Washington; Change in Pack Requirements [Docket No. FV99-923-1 FIR] received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4390. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Irish Potatoes Grown in Modoc and Siskiyou Counties, California, and in All Counties in Oregon, Except Malheur County; Temporary Suspension of Handling Regulations and Establishment of Reporting Requirements [Docket No. FV99-947-1 FIR] received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4391. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—2,6-Diisopropyl-naphthalene; Temporary Exemption from the Requirement of a Tolerance [OPP-300918; FRL-6381-7] (RIN: 2070-AB78) received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4392. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Spinosaad; Pesticide Tolerance [OPP-300920; FRL-6381-9] (RIN: 2070-AB78) received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4393. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Sulfentrazone; Pesticide Tolerances for Emergency Exemptions [OPP-300903; FRL-6097-8] (RIN: 2070-

AB78) received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4394. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Tebuconazole; Extension of Tolerances for Emergency Exemptions [OPP-300919; FRL-6381-6] (RIN: 2070-AB78) received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4395. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Tebufenozide; Benzoic Acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl) hydrazide; Pesticide Tolerance [OPP-300914; FRL-6380-1] (RIN: 2070-AB) received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4396. A letter from the Secretary of Defense, transmitting a response to Section 1072 of the National Defense Authorization Act for Fiscal Year 1998, titled: "Study of Investigative Practices of Military Criminal Investigative Organizations Relating to Sex Crimes," pursuant to Pub. L. 85 section 1072(c)(2) (111 Stat. 1899); to the Committee on Armed Services.

4397. A letter from the Secretary of Defense, transmitting an update on Department of Defense efforts to comply with Section 1237 of the National Defense Appropriations and Authorization Act of 1999; to the Committee on Armed Services.

4398. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Final Determination to Extend Deadline for Promulgation of Action on Section 126 Petition [FRL-6437-2] received September 10, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4399. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Delaware; Control of Emissions from Existing Municipal Solid Waste Landfills [DE037-1015a; FRL-6439-2] received September 10, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4400. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Virginia; New Source Review in Nonattainment Areas [VA 022-5040; FRL-6436-8] received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4401. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Maricopa County [AZ 086-0017a; FRL-6438-1] received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4402. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Santa Barbara County Air Pollution Control District; Kern County Air Pollution Control District; Ventura County Air Pollution Control District [CA201-169a; FRL-6436-2] received September 17, 1999, pursuant to 5

U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4403. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Oregon [Docket No. OR55-7270; FRL-6438-5] received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4404. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Interim Final Determination that State has Corrected the Deficiency State of Arizona; Maricopa County [AZ 086-0017c; FRL-6438-3] received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4405. A letter from the Acting Chief, Network Services Division, Common Carrier Bureau, Federal Communications Commission, transmitting the Commission's final rule—Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Provision of Directory Listing Information under the Telecommunications Act of 1934, As Amended [FCC No. 99-227; CC Docket No. 96-115, CC Docket No. 96-98, CC Docket No. 99-273] received September 14, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4406. A letter from the Deputy Assistant Administrator for Fisheries, NMFS, Department of Commerce, transmitting the Department's final rule—Fisheries of the Northeastern United States; Northeast Multispecies and Atlantic Sea Scallop Fisheries; Northeast Multispecies and Atlantic Sea Scallop Fishery Management Plans [Docket No. 990830239-9239-01; I.D. 082499A] (RIN: 0648-AM99) received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4407. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; LET Aeronautical Workers Model L-13 "Blanik" Sailplanes [Docket No. 99-CE-16-AD; Amendment 39-11320; AD 99-19-33] (RIN: 2120-AA64) received September 20, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4408. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pilatus Aircraft Ltd. Models PC-12 and PC-12/45 Airplanes [Docket No. 98-CE-119-AD; Amendment 39-11319; AD 99-19-32] (RIN: 2120-AA64) received September 20, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4409. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Sikorsky Aircraft Corp. Model S76A, B, and C Helicopters [Docket No. 99-SW-44-AD; Amendment 39-11317; AD 99-19-30] (RIN: 2120-AA64) received September 20, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4410. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A340 Series Airplanes [Docket No. 99-NM-175-AD; Amendment 39-

11318; AD 99-19-31] (RIN: 2120-AA64) received September 20, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4411. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Lawrence, KS [Airspace Docket No. 99-ACE-35] received September 20, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4412. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; North Platte, NE [Airspace Docket No. 99-ACE-33] received September 20, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4413. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Sheridan, IN Correction [Airspace Docket No. 99-AGL-31] received September 20, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4414. A letter from the Acting Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Neuse River Bridge Dedication Fireworks Display; Neuse River, New Bern, North Carolina [CGD 05-99-079] (RIN: 2115-AE46) received September 20, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4415. A letter from the Acting Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Hackensack River, NJ [CGD01-99-162] (RIN: 2115-AE47) received September 20, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4416. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 737-100, -200, -300, -400, and -500 Series Airplanes [Docket No. 98-NM-251-AD; Amendment 39-11314; AD 99-19-27] (RIN: 2120-AA64) received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4417. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A300 and A300-600 Series Airplanes [Docket No. 98-NM-249-AD; Amendment 39-11313; AD 99-19-26] (RIN: 2120-AA64) received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4418. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Airbus Model A340 Series Airplanes [Docket No. 99-NM-159-AD; Amendment 39-11312; AD 99-19-25] (RIN: 2120-AA64) received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4419. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 767 Series Airplanes [Docket No. 98-NM-278-AD; Amendment 39-

11316; AD 99-19-29] (RIN: 2120-AA64) received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4420. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dassault Model Mystere-Falcon 900, Falcon 900EX, and Falcon 2000 Series Airplanes [Docket No. 99-NM-11-AD; Amendment 39-11311; AD 99-19-24] (RIN: 2120-AA64) received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4421. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-120RT and -120ER Series Airplanes [Docket No. 98-NM-261-AD; Amendment 39-11315; AD 99-19-28] (RIN: 2120-AA64) received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4422. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Series Airplanes [Docket No. 98-NM-220-AD; Amendment 39-11310; AD 99-19-21] (RIN: 2120-AA64) received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4423. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Airport Name Change and Revision of Legal Description of Class D, Class E2 and Class E4 Airspace Areas; Barbers point NAS, HI [Airspace Docket No. 99-AWP-11] received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4424. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Removal of Class E Airspace; Arlington, TN [Airspace Docket No. 99-ASO-16] received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4425. A letter from the Attorney, Office of Chief Counsel, Research and Special Programs Administration, Department of Transportation, transmitting the Department's final rule—Hazardous Materials: Limited Extension of Requirements for Labeling Materials Poisonous by Inhalation (PIH) [Docket No. HM-206D] (RIN: 2137-AD37) received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4426. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Special Local Regulations; Biscayne Bay, Miami, Florida [CGD07-99-063] (RIN: 2115-AE46) received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4427. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Special Local Regulations for Marine Events; Chincoteague Power Boat Regatta, Assateague Channel, Chincoteague, Virginia [CGD 05-99-076] received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4428. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operating Regulation; Upper Mississippi River, Iowa & Illinois [CGD08-99-056] (RIN: 2115-AE47) received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4429. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zone: Movie Production, Gloucester, MA [CGD01-99-161] (RIN: 2115-AA97) received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4430. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Airspace Designations; Incorporation by Reference [Docket No. 29334; Amendment No. 71-31] received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4431. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 29734; Amendment No. 1949] received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4432. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; BRYAN, OH [Airspace Docket No. 99-AGL-38] received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4433. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Modification of Class E Airspace; Escanaba, MI. Correction [Airspace Docket No. 99-AGL-34] received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4434. A letter from the Program Analyst, Office of the Chief Counsel, FAA, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Winfield/Arkansas City, KS [Airspace Docket No. 99-ACE-44] received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4435. A letter from the Deputy Assistant Administrator, Office of Oceanic and Atmospheric Research, NOAA, Department of Commerce, transmitting the Department's final rule—NOAA Climate and Global Change, Program Announcement [Docket No. 990513129-9129-01] (RIN: 0648-ZA65) received September 9, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

4436. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Interest on Underpayment, Nonpayment or Extensions of Time for Payment of Tax [Rev. Ru. 99-40] received September 17, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on 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. TALENT: Committee on Small Business. H.R. 2392. A bill to amend the Small Business Act to extend the authorization for the Small Business Innovation Research Program, and for other purposes (Rept. 106-329 Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 300. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 106-330). Referred to the House Calendar.

#### DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X, the Committee on Science discharged H.R. 2392; referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

#### TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 2392. Referral to the Committee on Science extended for a period ending not later than September 23, 1999.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. GEKAS (for himself and Mr. SMITH of Michigan):

H.R. 2922. A bill to extend for 6 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted; to the Committee on the Judiciary.

By Mr. ARCHER:

H.R. 2923. A bill to amend the Internal Revenue Code of 1986 to extend expiring provisions, to fully allow the nonrefundable personal credits against regular tax liability, and for other purposes; to the Committee on Ways and Means.

By Mr. BAKER (for himself, Mr. KANJORSKI, Mr. LEACH, Mr. MCCOLLUM, Mr. CASTLE, Mr. RILEY, Mr. JONES of North Carolina, Mr. HINCHEY, and Mr. CAPUANO):

H.R. 2924. A bill to require unregulated hedge funds to submit regular reports to the Board of Governors of the Federal Reserve System, to make such reports available to the public to the extent required by regulations prescribed by the Board, and for other purposes; to the Committee on Banking and Financial Services, and in addition to the Committees on Commerce, and Agriculture, 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. BILIRAKIS (for himself, Mr. PETERSON of Minnesota, and Mr. FLETCHER):

H.R. 2925. A bill to amend the Public Health Service Act to finance the provision of outpatient prescription drug coverage for low-income Medicare beneficiaries and to provide stop-loss protection for outpatient prescription drug expenses under qualified Medicare prescription drug coverage; to the Committee on Commerce, 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 Mr. BOEHNER (for himself, Mr. ARMEY, Mr. GOODLING, Mrs. NORTHUP, Mr. MCCREERY, Mr. GREEN of Wisconsin, Mr. TALENT, Mr. OXLEY, Mr. PORTMAN, Mr. HOBSON, Mr. BALLENGER, and Mr. SALMON):

H.R. 2926. A bill to provide new patient protections under group health plans and through health insurance issuers in the group market; to the Committee on Commerce, and in addition to the Committees on Education and the Workforce, Ways and Means, and 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. BROWN of Ohio (for himself, Mr. BERRY, Mr. STARK, Mr. ALLEN, Ms. SCHAKOWSKY, Mr. SANDERS, Mr. KUCINICH, Mr. STRICKLAND, Mr. BARRITT of Wisconsin, and Mr. WYNN):

H.R. 2927. A bill to amend title 35, United States Code, to provide for compulsory licensing of certain patented inventions relating to health; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DEMINT (for himself and Mr. STENHOLM):

H.R. 2928. A bill to amend the Fair Labor Standards Act of 1938 to provide an exemption to States which adopt certain minimum wage laws; to the Committee on Education and the Workforce.

By Mr. FARR of California (for himself, Ms. PELOSI, Mr. LIPINSKI, Mr. STARK, Mr. LANTOS, Mr. BLUMENAUER, Mr. LEWIS of California, Mr. YOUNG of Florida, Mr. TRAFICANT, Mr. WEINER, Mr. BOUCHER, Mr. MORAN of Virginia, Ms. WOOLSEY, Mr. WHITFIELD, Mr. GALLEGLY, Mr. HALL of Ohio, and Mr. TANCREDO):

H.R. 2929. A bill to amend title 18, United States Code, to prohibit certain conduct relating to elephants; to the Committee on the Judiciary.

By Ms. DUNN:

H.R. 2930. A bill to amend title XVIII of the Social Security Act to increase Medicare payment for pap smear laboratory tests; to the Committee on Commerce, 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 Mr. GREEN of Wisconsin:

H.R. 2931. A bill to direct the Secretary of Housing and Urban Development to carry out a 3 year pilot program to assist law enforcement officers purchasing homes in locally-designated high-crime areas; to the Committee on Banking and Financial Services.

By Mr. HANSEN:

H.R. 2932. A bill to authorize the Golden Spike/Crossroads of the West National Heritage Area; to the Committee on Resources.

By Mr. LARSON (for himself, Mr. UDALL of Colorado, Mr. BONIOR, Mr. BOUCHER, Mr. SHOWS, Mr. FROST, Mrs. THURMAN, Mr. ETHERIDGE, Mr. CAPUANO, Ms. WOOLSEY, Ms. DELAURO, Mr. BROWN of Ohio, Mr. WU, Mr. ROMERO-BARCELÓ, Mr. COSTELLO, Mr. OWENS, Ms. BERKLEY, and Mr. HOLT):

H.R. 2933. A bill directing the Secretary of Education to propose a comprehensive approach to providing technologically competent teachers to our Nation's schools, and

for other purposes; to the Committee on Education and the Workforce.

By Mr. LARSON (for himself, Mr. UDALL of Colorado, Mr. BONIOR, Mr. FROST, Mr. DOOLEY of California, Mr. ETHERIDGE, Mr. CAPUANO, Ms. WOOLSEY, Ms. DELAURO, Mr. BROWN of Ohio, Mr. WU, Mr. ROMERO-BARCELÓ, Mr. COSTELLO, Mr. OWENS, and Mr. HOLT):

H.R. 2934. A bill to amend the Domestic Volunteer Service Act of 1973 to provide for the establishment of a National Youth Technology Corps program, using VISTA volunteers who are highly proficient in computer technologies to recruit and organize youth to implement and maintain computer systems for public schools, community centers, public senior centers, and libraries and to teach students, teachers, senior citizens, and other persons how to use these technologies and systems; to the Committee on Education and the Workforce.

By Mr. MCHUGH:

H.R. 2935. A bill to amend title 49, United States Code, to permit the Secretary of Transportation to waive noise restrictions on certain aircraft operations; to the Committee on Transportation and Infrastructure.

By Mr. NEAL of Massachusetts (for himself, Mr. HOUGHTON, Mr. RANGEL, Mr. COYNE, Mrs. JOHNSON of Connecticut, and Mr. MATSUI):

H.R. 2936. A bill to extend the temporary waiver of the minimum tax rules that deny many families the full benefit of nonrefundable personal credits, pending enactment of permanent legislation to address this inequity; to the Committee on Ways and Means.

By Ms. RIVERS:

H.R. 2937. A bill to repeal the War Powers Resolution; to the Committee on International Relations, and in addition to the Committee on Rules, 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. ROEMER (for himself, Mr. BURTON of Indiana, Mr. VISCLOSKEY, Mr. HILL of Indiana, Ms. CARSON, Mr. SOUDER, Mr. MCINTOSH, Mr. PEASE, Mr. HOSTETTLER, and Mr. BUYER):

H.R. 2938. A bill to designate the facility of the United States Postal Service located at 424 South Michigan Street in South Bend, Indiana, as the "John Brademas Post Office"; to the Committee on Government Reform.

By Mr. SAXTON (for himself and Mr. KUCINICH):

H.R. 2939. A bill to provide the highly indebted poor countries with relief from debts owed to the International Monetary Fund, to end United States participation in and support for the Enhanced Structural Adjustment Facility of the International Monetary Fund, and to require certain conditions to be met before the International Monetary Fund may sell gold, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. STUPAK:

H.R. 2940. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to provide liability relief for small parties, innocent landowners, and prospective purchasers; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, 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. BONIOR:

H. Res. 301. A resolution provide for the consideration of H.R. 325; to the Committee on Rules.

By Mr. HERGER (for himself, Mr. CONDIT, Mr. RYAN of Wisconsin, Mr. PETERSON of Minnesota, Mr. CAMPBELL, Mr. FOSSELLA, Mr. SHIMKUS, Mr. GARY MILLER of California, and Mr. SHAYS):

H. Res. 302. A resolution expressing the desire of the House of Representatives to not spend any of the budget surplus created by Social Security receipts and to continue to retire the debt held by the public; to the Committee on the Budget, 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 Mr. PITTS:

H. Res. 303. A resolution expressing the sense of the House of Representatives urging that 95 percent of Federal education dollars be spent in the classroom; to the Committee on Education and the Workforce.

#### ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 72: Mr. MCCOLLUM.  
 H.R. 354: Mr. ROTHMAN.  
 H.R. 534: Mr. RAMSTAD, Mr. RODRIGUEZ, Mr. KLECZKA, Mr. HINOJOSA, and Mr. STENHOLM.  
 H.R. 601: Mr. CUNNINGHAM, Mr. GOODLATTE, and Mr. GOODLING.  
 H.R. 670: Mr. DUNCAN.  
 H.R. 684: Mr. WEINER.  
 H.R. 750: Mr. METCALF and Mr. DIXON.  
 H.R. 776: Mr. DIXON.  
 H.R. 832: Mrs. KELLY.  
 H.R. 860: Mr. BONIOR.  
 H.R. 870: Mr. BRADY of Texas.  
 H.R. 960: Mr. MARTINEZ.  
 H.R. 963: Mrs. FOWLER and Mrs. THURMAN.  
 H.R. 976: Mr. RUSH, Mr. OBERSTAR, Mr. FLETCHER, Mr. CAPUANO, and Mr. SMITH of New Jersey.  
 H.R. 980: Mr. GANSKE.  
 H.R. 1006: Mr. CAPUANO.  
 H.R. 1046: Mr. WU.  
 H.R. 1068: Mr. ISAKSON.  
 H.R. 1115: Mr. WELDON of Florida, Mr. WICKER, Mr. THORNBERRY, Mr. BISHOP, Mr. STUMP, Mr. LAHOOD, Mr. RILEY, Mr. BACHUS, Mr. DOOLITTLE, Mr. STUPAK, and Mr. METCALF.  
 H.R. 1145: Ms. PELOSI and Mr. DOYLE.  
 H.R. 1193: Mr. TALENT.  
 H.R. 1221: Mr. MCCOLLUM.  
 H.R. 1228: Mr. GARY MILLER of California and Ms. CARSON.  
 H.R. 1248: Mrs. TAUSCHER.  
 H.R. 1275: Mr. UDALL of Colorado, Mr. LEWIS of Georgia, Mr. CASTLE, Mr. MATSUI, Mr. SMITH of New Jersey, Mr. GREENWOOD, Mr. LUTHER, Mr. WEINER, Ms. RIVERS, Mr. COBURN, Mr. HEFLEY, Mr. LANTOS, and Mr. LEACH.  
 H.R. 1303: Mr. SALMON.  
 H.R. 1304: Mr. WATKINS and Mr. VISCLOSKEY.  
 H.R. 1333: Mr. NEY.  
 H.R. 1344: Mr. GORDON, Mr. HINOJOSA, and Ms. STABENOW.  
 H.R. 1446: Mr. ISAKSON.  
 H.R. 1522: Mr. STEARNS.  
 H.R. 1523: Mr. KNOLLENBERG and Mr. HASTINGS of Washington.  
 H.R. 1535: Ms. WOOLSEY, Mr. RADANOVICH, and Mr. SANDLIN.  
 H.R. 1592: Mr. TAYLOR of North Carolina, Mr. SHERWOOD, Mr. WATKINS, and Mr. BOEHNER.

H.R. 1598: Mr. MATSUI, Mr. WATT of North Carolina, Mr. BARTLETT of Maryland, and Mr. DEMINT.

H.R. 1606: Mr. MALONEY of Connecticut.

H.R. 1621: Mrs. KELLY, Mr. NEY, Mr. PRICE of North Carolina, and Mr. GOODLING.

H.R. 1622: Mr. LEWIS of Georgia.

H.R. 1624: Mr. STARK.

H.R. 1629: Mr. BALDACCI.

H.R. 1650: Mr. REGULA.

H.R. 1689: Mr. CARDIN.

H.R. 1732: Mr. ABERCROMBIE, Mr. HILL of Indiana, Mr. HILLIARD, and Mrs. JONES of Ohio.

H.R. 1857: Mr. HUTCHINSON and Mrs. MALONEY of New York.

H.R. 1887: Mr. BENTSEN, Mr. JENKINS, Mr. KILDEE, Mr. DIXON, and Mr. NEAL of Massachusetts.

H.R. 1890: Mr. WU.

H.R. 1917: Mr. HINOJOSA.

H.R. 1926: Mr. METCALF and Mr. ISAKSON.

H.R. 1932: Mr. CALLAHAN, Ms. PRYCE of Ohio, Mrs. EMERSON, Mr. MANZULLO, Mrs. WILSON, Mr. BASS, Mr. FRANKS of New Jersey, and Mr. RADANOVICH.

H.R. 2000: Mr. CUNNINGHAM, Mrs. EMERSON, Mr. WALDEN of Oregon, Mr. LAMPSON, Mr. TALENT, and Mr. GOODLING.

H.R. 2066: Mr. REYNOLDS, Mr. DINGELL, Mr. BERRY, and Mr. MARTINEZ.

H.R. 2087: Mr. DIAZ-BALART.

H.R. 2200: Mr. MCHUGH and Mrs. MINK of Hawaii.

H.R. 2205: Mr. SALMON and Mr. KOLBE.

H.R. 2244: Mr. BILIRAKIS and Mr. RADANOVICH.

H.R. 2247: Mr. NETHERCUTT.

H.R. 2252: Mr. INSLEE.

H.R. 2260: Mr. SHADEGG.

H.R. 2267: Mr. SHAW, Mr. TRAFICANT, Mr. KLECZKA, and Mr. GILCREST.

H.R. 2289: Mr. NETHERCUTT and Mr. POMBO.

H.R. 2314: Mr. TANNER.

H.R. 2365: Mr. MCDERMOTT, Mr. BROWN of Ohio, and Mr. BISHOP.

H.R. 2376: Mr. WALDEN of Oregon.

H.R. 2392: Mr. UDALL of New Mexico.

H.R. 2418: Mr. GANSKE, Mr. SPENCE, Mr. CLYBURN, Mr. FLETCHER, Ms. BALDWIN, and Mr. WATKINS.

H.R. 2420: Mr. MARTINEZ, Mr. THORNBERRY, Mr. LAMPSON, and Mr. SANDLIN.

H.R. 2423: Mr. GILCREST.

H.R. 2463: Mr. LEWIS of Kentucky.

H.R. 2464: Mr. RAHALL.

H.R. 2491: Mr. ROHRBACHER.

H.R. 2498: Mr. BLUNT.

H.R. 2505: Mr. WAXMAN, Mr. CONYERS, and Mr. CAPUANO.

H.R. 2534: Mr. REYES and Mrs. MINK of Hawaii.

H.R. 2539: Mr. MARTINEZ.

H.R. 2592: Mr. BARTON of Texas and Mr. COBURN.

H.R. 2602: Mr. SAWYER.

H.R. 2608: Mr. GILLMOR.

H.R. 2631: Mr. FARR of California, Mr. PICKETT, Ms. PELOSI, Mr. SUNUNU, and Mr. BECERRA.

H.R. 2638: Mr. HUTCHINSON, Mr. HOSTETTLER, and Mr. SUNUNU.

H.R. 2640: Mr. SMITH of Michigan.

H.R. 2655: Mr. DUNCAN and Mr. DOOLITTLE.

H.R. 2659: Ms. MCCARTHY of Missouri and Mr. OWENS.

H.R. 2680: Mr. WYNN, Mr. MEEKS of New York, and Mr. MCDERMOTT.

H.R. 2687: Mr. WU.

H.R. 2698: Mr. LARGENT.

H.R. 2709: Mr. GREEN of Wisconsin, Ms. DANNER, Mr. EHRLICH, Mr. BLILEY, Mr. WYNN, Mr. MCINNIS, Mr. BILBRAY, and Mr. LEWIS of California.

H.R. 2719: Mr. OWENS.

H.R. 2734: Mr. BARRETT of Wisconsin.

H.R. 2735: Mr. BLUNT.

H.R. 2750: Mr. COBURN and Mr. HILL of Montana.

H.R. 2764: Mr. PASTOR and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 2783: Mr. LARGENT and Mrs. CUBIN.

H.R. 2784: Mr. LAFALCE.

H.R. 2790: Mrs. KELLY.

H.R. 2809: Mr. BLUMENAUER, Ms. LEE, Mr. GUTIERREZ, Mr. TALENT, Mr. ABERCROMBIE, Mr. WU, and Mr. DEFAZIO.

H.R. 2810: Mr. ROTHMAN.

H.R. 2825: Mr. LARGENT.

H.R. 2890: Ms. VELÁZQUEZ, Mr. GEORGE MILLER of California, Mr. MENENDEZ, Mr. GUTIERREZ, and Mr. RAHALL.

H.R. 2895: Mr. NADLER, Mr. ROHRBACHER, Mr. KUCINICH, Mr. ABERCROMBIE, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. WALSH, and Ms. SCHAKOWSKY.

H.R. 2896: Mr. FORBES and Mr. MOORE.

H.J. Res. 65: Mr. SPENCE, Mr. BARRETT of Wisconsin, Mr. BERUTER, and Mr. WOLF.

H. Con. Res. 30: Mr. LAHOOD.

H. Con. Res. 134: Mr. FOLEY.

H. Con. Res. 186: Mr. HAYWORTH, Mr. BILIRAKIS, Mr. GOODLING, Mr. MILLER of Florida, Mr. DOOLITTLE, and Mr. CRANE.

H. Res. 41: Mr. MALONEY of Connecticut, Mr. MORAN of Virginia, and Mr. PORTER.

H. Res. 109: Mr. GEJDESON, Mr. MORAN of Kansas, and Mr. LOBIONDO.

H. Res. 269: Mr. LARGENT, Mr. STEARNS, Mr. KNOLLENBERG, and Mr. BROWN of Ohio.

H. Res. 287: Mr. SMITH of Texas, Mr. LIPINSKI, Ms. EDDIE BERNICE JOHNSON of Texas, and Ms. PELOSI.

H. Res. 292: Mr. GILLMOR.

H. Res. 297: Mr. FALEOMAVAEGA, Mr. HILLIARD, Mr. WEXLER, Mr. BLILEY, Mr. GOODE, Mr. EHRLICH, Mr. CUMMINGS, Mr. BATEMAN, Mr. BURTON of Indiana, Mr. CASTLE, Mr. WYNN, and Mr. SALMON.

H. Res. 298: Mr. BECERRA, Mr. GOODLING, Mrs. MYRICK, Ms. LOFGREN, Mr. FRANKS of New Jersey, and Mr. STARK.

## AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 2506

OFFERED BY: MR. ANDREWS

AMENDMENT NO. 12: Page 16, after line 15, insert the following subsection:

(c) CERTAIN LINKAGES REGARDING HEALTH INFORMATION.—Initiatives under subsection (a) shall include the establishment, through a site maintained by the Director on the telecommunications medium known as the World Wide Web, of linkages that enable

users of the site to obtain information from consumer satisfaction agencies or other entities that perform evaluations regarding the quality of health care, including more than one link to entities that evaluate health maintenance organizations, and including a link to the National Committee for Quality Assurance.

H.R. 2506

OFFERED BY: MR. MCGOVERN

AMENDMENT NO. 13: Page 12, after line 14, insert the following subparagraph:

(C) The conduct of research to develop recommendations for a national strategy to alleviate the shortage of licensed pharmacists.

Page 12, line 15, strike “(C)” and insert “(D)”.

H.R. 2506

OFFERED BY: MR. STEARNS

AMENDMENT NO. 14: Page 21, after line 8, insert the following subsection:

(d) CERTAIN TECHNOLOGIES AND PRACTICES REGARDING SURVIVAL RATES FOR CARDIAC ARREST.—The innovations in health care technologies and clinical practice that are promoted under subsection (a) shall include promoting the placement in public buildings of automatic external defibrillators as a means of improving the survival rates of individuals who experience cardiac arrest in such buildings. Activities under the preceding sentence shall include the development of recommendations regarding the placement of such devices in Federal buildings, including recommendations on training, maintenance, and medical oversight, and on coordinating with the system for emergency medical services.

H.R. 2506

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 15: Page 46, after line 2, insert the following section:

### SEC. 4. BUY AMERICAN PROVISIONS.

(a) COMPLIANCE WITH BUY AMERICAN ACT.—No funds authorized pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the “Buy American Act”).

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary of Transportation shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.