

together and we will not delay these veterans' checks as well as other checks that go to people in this country.

Mr. Speaker, this is a fine bill, and I ask support of the House.

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

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

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Arizona [Mr. STUMP] that the House suspend the rules and pass the bill, H.R. 2289, as amended.

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

A motion to reconsider was laid on the table.

#### REPORT ON INQUIRY INTO VARIOUS COMPLAINTS FILED AGAINST REPRESENTATIVE NEWT GINGRICH

Mrs. JOHNSON of Connecticut, from the Committee on Standards of Official Conduct, submitted a privileged report (Rept. No. 104-401) on the inquiry into various complaints filed against Representative NEWT GINGRICH, which was referred to the House Calendar and ordered to be printed.

#### STATEMENT ON REPORT OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, today, at the direction of the Committee on Standards of Official Conduct, I have introduced a resolution which eliminates one of the few exceptions to House Rules regarding outside earned income.

As you know, the Rules of the House now restrict the amount of outside income a Member or senior staffer may earn to \$20,040 per year. However, copyright royalties and book advances are exempted from this restriction. A Member may publish a book and receive a large cash advance and unlimited royalties.

The resolution introduced today would amend rule 47 of the Rules of the House of Representatives so as to prohibit advances and treat copyright royalties as earned income subject to the \$20,040 yearly cap. The new restriction would apply to royalties earned after December 31, 1995, for any book published after the beginning of House service, and would prohibit the deferral or royalties beyond the year in which earned.

It is the committee's hope that this resolution will be considered and approved this year.

As with our necessary reforms, this proposal may cause some momentary

financial hardship in individual cases, or even delay the communication of useful ideas. In the long run, however, this proposal, by preventing the perception that book contracts are offered or their terms altered in deference to a Member's position rather than as a reflection of the book's content, will bring added attention to whatever ideas we may put forth.

As has passage of the gift rule resolution and, hopefully, other reform initiatives, this change in our House rules will assure that our actions—both in fact and perception—merit public confidence.

#### BANK INSURANCE FUND AND DEPOSITOR PROTECTION ACT OF 1995

Mrs. ROUKEMA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1574) to amend the Federal Deposit Insurance Act to exclude certain bank products from the definition of a deposit.

The Clerk read as follows:

H.R. 1574

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

##### SECTION 1. SHORT TITLE.

This Act may be cited as the "Bank Insurance Fund and Depositor Protection Act of 1995".

##### SEC. 2 DEFINITION OF DEPOSIT.

Section 3(l)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(l)(5)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

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

"(C) any liability of an insured depository institution that arises under an annuity contract, the income of which tax deferred under section 72 of the Internal Revenue Code of 1986."

##### SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply to any liability of an insured depository that arises under an annuity contract issued on or after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New Jersey [Mrs. ROUKEMA] will be recognized for 20 minutes, and the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from New Jersey [Mrs. ROUKEMA].

##### GENERAL LEAVE

Mrs. ROUKEMA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1574.

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

There was no objection.

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

Mr. Speaker, as chairwoman of the Financial Institutions & Consumer

Credit Subcommittee I would like to commend you and my colleagues for considering H.R. 1574, The Bank Insurance Fund and Depositor Protection Act of 1995, on the suspension calendar.

H.R. 1574 is a bill with broad bipartisan support that would clarify that a bank product known as the retirement CD is not to be covered by Federal deposit insurance. We strongly believe these instruments could pose serious safety and soundness for banks that issue them.

Last year, certain banks received the authority to offer these retirement CDs. Banks that intend to offer them claim these instruments combine the tax-deferred income accumulation and lifetime annuity features of a traditional annuity with the Federal deposit insurance guarantee normally associated with bank certificates of deposits [CDs].

The problem is that the lifetime payment feature of the retirement CD exposes the issuing bank to a potential liability with an unknown duration raising safety and soundness issues. In addition, any deferred payments above the amount in the deposit account at maturity will not be federally insured. This is misleading to bank customers.

There is no reason for the Federal Government to forego currently taxing the income produced by an annuity product while at the same time guaranteeing the payment of the principal plus the untaxed interest. This would constitute an expansion of the Federal deposit insurance net and, once again, raises serious safety and soundness concerns. Furthermore, the FDIC has indicated that they are neutral on the matter and understand that expanding the insurance net to these or similar products could have some unknown consequences.

In addition, the Internal Revenue Service has raised other concerns about the instrument's tax-deferred status. After reviewing the components of the retirement CD, the IRS proposed to strip it of its tax-deferred status. Under U.S. tax law, the IRS believes that any favorable tax treatment for these instruments should be eliminated.

In addition, the Congressional Budget Office carefully scrutinized this product and noted, in particular, that, and I quote, that substantial uncertainty exists about its potential tax consequences. The CBO concluded that, taken as a whole, the enactment of H.R. 1574 should result in no significant budgetary impact, and therefore support the bill.

As I stated earlier, this legislation has strong bipartisan support to ban these questionable products. There is strong agreement that these instruments place the insurance industry at a competitive disadvantage, as well pose serious disclosure problems for bank depositors.

Finally, it is worth noting that this bill has companion legislation in the Senate, where it too, has broad support

on both sides of the aisle. Given the time constraints that the House is presently under, I appreciate the bipartisan support on this legislation, and urge its adoption.

Mr. Speaker, I include for the RECORD the memorandum I referred to earlier.

NOVEMBER 21, 1995.

Memorandum

To: Steve Johnson, House Banking Committee.

From: Mary Maginniss, Congressional Budget Office.

Subject: H.R. 1574.

As requested, I have reviewed H.R. 1574, the Bank Insurance Fund and Depositor Protection Act of 1995. The bill would amend the Federal Deposit Insurance Act to exclude certain bank products—retirement certificates of deposits—from the definition of a deposit. This exclusion would mean that a bank or thrift would not pay insurance premiums on these liabilities, but neither would the retirement certificate of deposits (CDs) be protected by deposit insurance if an institution were to fail. Based on this review, I would expect that enacting H.R. 1574 would not result in any significant budgetary impact.

Retirement certificates of deposits combine features of a traditional certificate of deposit (CD) with certain payment terms and tax advantages of an annuity contract. The market for annuities with a known maturity is substantial—over \$1.6 trillion is outstanding—and the retirement (CD) has been licensed to 12 banks. Nonetheless, the retirement CD has had very limited sales to date. In particular, substantial uncertainty exists about its potential tax consequences. The Internal Revenue Service has issued a proposed ruling that would limit the tax advantage of the retirement CD; a final decision is expected early next year.

Assuming that the final ruling is consistent with the proposed rule, demand for the product would be limited because without the tax advantage, sales of retirement CDs would be expected to have little appeal. CBO projects that the liabilities of banks and thrifts would include few retirement CDs, and only a negligible amount of the premiums such institutions pay for deposit insurance in the future would be to cover losses in retirement CDs. Similarly, I expect the deposit insurance funds to face minimal risk of reimbursing the few depositors who might own retirement CDs in the event of a future bank failure. As a result, enactment of H.R. 1574 should result in no significant budgetary impact.

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

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

Mr. Speaker, I, as a cosponsor of the legislation, rise in support of this measure and commend the gentlewoman from New Jersey [Mrs. ROUKEMA], our subcommittee chairwoman, for her effort on this matter. This is a bipartisan matter that would clarify that the bank products known as retirement CD's are not to be covered by Federal deposit insurance. We introduced this legislation earlier this year because of concerns that these financial savings instruments could pose real safety and soundness problems for the banks that issue them and thus a significant liability to the U.S. taxpayers.

As my colleagues may be aware, recently several bank and insurance experts collaborated on creating this new

type of financial instrument intended to combine the tax deferred income accumulation features of an annuity contract with the deposit insurance protection of a bank deposit. This has raised serious questions and concerns within the Congress, the Internal Revenue Service, and with those engaged in the business and enterprise providing retirement products without the benefit of Federal deposit insurance.

Mr. Speaker, this is a \$1 trillion industry. I think that most of us understand that it has been operating for years without deposit insurance. Those that engage and invest in such instruments take some risk in the process. I do not think it is necessary for the deposit insurance system to be involved in this particular enterprise. As a consequence, I think if we are going to do that, we ought to do it on an affirmative basis.

□ 1900

That we ought to, in fact, extend the deposit insurance and say we are now going to fold the insurance aspect of annuities into banks and give them that power and defer the taxation and deal with it on that basis. That, clearly, is not the decision that should be made on an ad hoc basis without the involvement of Congress.

I think most of us have in the background of our mind problems that financial institutions have experienced in recent years, which has involved, obviously, a significant outlay of taxpayers dollars to deal with the shortfalls in terms of deposit insurance funds.

With this in mind, and with the idea that we are working in collaboration and in coordination with, in fact, tax policies and laws, Mr. Speaker, I, of course, rise in support and ask Members to support this important measure.

I yield myself such time as I may consume. As a cosponsor of this legislation, I rise in support of H.R. 1574 and commend our subcommittee chairwomen MARGE ROUKEMA for her effort on this matter. H.R. 1574 is of course a bipartisan bill that would clarify that a bank product known as the retirement CD is not to be covered by Federal deposit insurance. We introduced this legislation earlier this year because of concerns that these financial savings instruments could pose real safety and soundness problems for the banks that issue them and thus, a significant liability to U.S. taxpayers.

As my colleagues may be aware, recently, several banking and insurance experts collaborated on creating this new type of financial instrument intended to combine the tax-deferred income accumulation features of an annuity contract with the deposit insurance protection of a bank deposit. This raised serious concerns within the Congress, the Internal Revenue Services and with those engaged in the business and enterprise of providing retirement products without the benefit of federal deposit insurance.

There is not a solid public policy basis for the Federal Government to forego currently taxing the income produced by an annuity product and at the same time guaranteeing the payment of the principal plus the untaxed interests in a differential manner to other re-

tirement annuities. The annuity market works without the need for Federal deposit insurance guarantees, and there is no reason for the Federal deposit insurance funds to be extended to cover the risk of this trillion dollar market. If it is the congressional policy and loan judgment to extend deposit insurance to such products, then that ought to be a positive decision not an ad hoc action by individual financial institutions.

I would note for the record that from the beginning, we have stressed that the language of the bill does not prevent anyone from offering this product. It simply provides that annuity contracts issued by insured depository institutions on which the income is tax deferred shall not be considered as deposits eligible to receive FDIC deposit insurance coverage.

The U.S. Internal Revenue Service has issued proposed rules making clear that certain bank-issued annuities are not entitled to Federal tax deferral. For products which are determined to be subject to such rules, H.R. 1574 should not have any effect. Unless the product receives tax deferral as an annuity, H.R. 1574 would not be applicable. Thus there is no conflict, duplication, or inconsistency between the prospective IRS ruling expected sometime in the spring of next year and the legislation before us today. The two policies should complement each other.

We need to enact this legislation now, before Deposit Insurance retirement CD's proliferate, thus exposing the FDIC deposit insurance to the potential of inordinate risk and expenditures in the future. I urge my colleagues to support this legislation and reserve the balance of my time.

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

Mrs. ROUKEMA. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CHRYSLER], a member of the committee.

Mr. CHRYSLER. Mr. Speaker, I rise in support of H.R. 1574, as a cosponsor of the Bank Insurance Fund and Depositor Protection Act. This bill, introduced by my colleague on the Committee on Banking and Financial Services, the gentlewoman from New Jersey, Congresswoman MARGE ROUKEMA, would amend the Federal Deposit Insurance Act to exclude from deposit insurance eligibility a select class of investments known as retirement certificates of deposit. This issue is not related to the banks selling insurance discussions, which are presently underway.

Mr. Speaker, I have no objections to banks offering this product. However, I believe these retirement CD's should not be covered under FDIC insurance. There is an uneven playing field when one entity can sell a product, for example the retirement CD's, with FDIC insurance, and another entity can only sell the products without taxpayer-backed insurance.

Mr. Speaker, I would like to commend the gentlewoman from New Jersey [Mrs. ROUKEMA] on her efforts to have this bill reach the floor. I also want to thank the majority leader for placing this bill on a very crowded congressional calendar. I have high hopes

that the other body will act on this important legislation in a timely manner.

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

Mrs. ROUKEMA. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CASTLE], a member of the committee.

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

Mr. CASTLE. Mr. Speaker, I thank the gentleman for yielding me time, and with due respect to her and to the gentleman from the other side, I have some questions, at least, about this legislation. I do not intend to oppose it at this time, but the bottom line is that I have looked at this with some degree of care, and I have learned some interesting facts about it.

For example, the Office of the Comptroller of the Currency, which, of course, is the regulatory agency for national banks, has confirmed that national banks have authority to issue the retirement CD under the expressed statutory powers of the National Bank Act, and the FDIC has ruled that the retirement CD qualifies as an insured deposit under the Federal Deposit Act.

It also has been supported, and I assume still is, by the American Bankers Association, the Independent Bankers Association of America, Independent Bankers Associations of various States, and America's community bankers. In fact, the small community banks have found this as a very good asset to be able to offer to their customers, and, as a result, are very supportive of it.

Mr. Speaker, I have heard the arguments here, and have heard them before, concerning the issue of deposit insurance. And while I do not know enough about that to be able to argue it vehemently with anybody, I would suggest that that is a bit of a gray area in terms of what could or could not be done.

Obviously, insurance companies and others who might issue annuities of a different sort might be opposed to this, but I am concerned that we are rushing forward. I must note this piece of legislation did not go through any subcommittee or committee markup at all. I do not even know if it went through any hearings at all at that level. So, as a result, I think we need to post on the RECORD someplace that there perhaps is another side to this and some questions that need to be raised.

So having said that, hopefully, before it is all said and done, whatever legislation comes out of this will be something which is correct and which is in the best interest of all aspects of the community dealing with it.

Mr. KANJORSKI. Mr. Speaker, as an original cosponsor of H.R. 1574, the Bank Insurance Fund and Depositor Protection Act, I rise in strong support of this legislation, and I urge all my colleagues to support it.

It is entirely appropriate that H.R. 1574 is on the Suspension Calendar today, because it is

genuinely bipartisan legislation, introduced by Congresswoman MARGE ROUKEMA, the chair of the Financial Institutions Subcommittee, along with the ranking Democratic member of the subcommittee, Congressman BRUCE VENTO, myself, and Congressman BILL MCCOLLUM of Florida.

I want to commend Chairwoman ROUKEMA, as well as full committee Chairman JIM LEACH and full committee and subcommittee ranking members HENRY GONZALEZ and BRUCE VENTO, for their bipartisan cooperation on this legislation. If all legislation considered by the 104th Congress was handled in such a cooperative, bipartisan fashion, we would not be facing gridlock on the budget and so many other issues.

H.R. 1574 is a very short, and simple bill. It is designed to permanently close a loophole which crafty lawyers attempted to use to create an insurance product, commonly known as a retirement CD, with both Federal deposit insurance and special tax-deferred status.

Fortunately, the effort to create this kind of unique retirement CD was largely thwarted by the eagle eyes of the Internal Revenue Service, which has correctly issued proposed rules stipulating that such instruments should not be allowed special tax-deferred status.

While the IRS' action has put a halt to the proliferation of these retirement CD's, there are other important policy reasons why their insurance should not be allowed.

First, they expose federally insured financial institutions to potential liabilities of unknown size which raises safety and soundness concerns for the institutions and the Federal Deposit Insurance Corporation's deposit insurance fund. If Federal deposit insurance for retirement CD's is allowed, the Federal Government would, in effect, become the guarantor of which is now a private pension system. The deposit insurance system should not take on this enormous contingent liability.

Second, the unusual hybrid nature of these instruments, which combine features of traditional uninsured insurance annuities with certificates of deposit, raises serious disclosure issues for consumers who may not understand what they are purchasing and the extent to which it is insured by the FDIC. The FDIC has determined, for example, that deposit insurance coverage would not extend to the lifetime payment feature of such products, because that could constitute a liability substantially in excess of the amount on deposit. This is the kind of nuance most consumers would not understand.

Third, the issuance of these certificates could create an unlevel playing field in which insurance companies are at a severe competitive disadvantage to banks because bank annuity products would be insured by the FDIC, while annuity products offered by insurance companies would not. The market for traditional annuities already exceeds \$1.5 trillion, and was \$125 billion in 1993 alone. This makes it clear that neither banks nor insurance companies need Federal deposit insurance to induce customers to purchase annuities.

It is for these reasons that the bipartisan leadership of the House Banking Committee believes that this loophole needs to be permanently closed. H.R. 1574 accomplishes this goal by specifically defining this kind of product as ineligible for Federal deposit insurance.

It is important to note, Mr. Speaker, that H.R. 1574 does not preclude anyone from of-

fering this kind of product for sale. It merely stipulates that annuity contracts issued by insured depository institutions on which the income is tax deferred are not simultaneously eligible for Federal deposit insurance.

Mr. Speaker, it is important that we act now, to clear the air, before these kinds of products proliferate. Companion legislation, S. 799, has been introduced by a bipartisan group in the other body, Senator AL D'AMATO, chairman of the Senate Banking Committee, and Senator CHRIS DODD. Consequently there is good reason to believe that if the House approves H.R. 1574 it will be favorably considered by the Senate.

Mr. Speaker, we all learned as children that you can't have your cake and eat it too. That is exactly what the creators of the retirement CD wanted to do, they wanted to create a tax-deferred annuity which also had Federal deposit insurance. H.R. 1574 simply tells them they have to choose one Federal benefit or the other, but they cannot have both. H.R. 1574 is fair, it is equitable, and it should be supported by all Members.

Mrs. ROUKEMA. Mr. Speaker, those who have requested time are not here on the floor at this moment, so I yield back the balance of my time.

Mr. VENTO. 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 New Jersey [Mrs. ROUKEMA] that the House suspend the rules and pass the bill, H.R. 1574.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### CONCURRENT RESOLUTION CONCERNING WRITER, POLITICAL PHILOSOPHER, HUMAN RIGHTS ADVOCATE, AND NOBEL PEACE PRIZE NOMINEE WEI JINGSHENG

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 117) concerning writer, political philosopher, human rights advocate, and Nobel Peace Prize nominee Wei Jingsheng, as amended.

The Clerk read as follows:

H. CON. RES. 117

Whereas Wei Jingsheng is a writer, political philosopher, and human rights advocate who is widely known and respected in China and throughout the world;

Whereas on November 21, 1995, the Government of the People's Republic of China announced the arrest of Wei Jingsheng and its intention to try him for "attempt[ing] to overthrow the government";

Whereas prior to this announcement Wei had been detained since April 1994 without formal charges or the opportunity to communicate with his family or with legal counsel, in violation of Article 9 of the Universal Declaration of Human Rights and other international standards prohibiting arbitrary arrest and detention;

Whereas the government had previously imprisoned Wei from 1979 until 1993 on a charge of "spreading counterrevolutionary propaganda" for his peaceful participation in the Democracy Wall movement;