

XX, the Chair will postpone further proceedings on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

RECORD votes may be taken in two groups, the first occurring after debate has concluded on H.R. 5118, and the second after debate has concluded on the remaining motions to suspend the rules.

CORPORATE FRAUD ACCOUNTABILITY ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5118) to provide for enhanced penalties for accounting and auditing improprieties at publicly traded companies, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5118

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 "Corporate Fraud Accountability Act of 2002".

SEC. 2. HIGHER MAXIMUM PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 of title 18, United States Code, is amended by striking "five" and inserting "20".

(b) WIRE FRAUD.—Section 1343 of title 18, United States Code, is amended by striking "five" and inserting "20".

(c) SECURITIES FRAUD.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1348. Securities fraud

"Whoever knowingly executes a scheme or artifice—

"(1) to defraud any person in connection with any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78l, 78o(d)) or section 6 of the Securities Act of 1933 (15 U.S.C. 77f); or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78l, 78o(d)) or section 6 of the Securities Act of 1933 (15 U.S.C. 77f), shall be fined under this title, or imprisoned not more than 25 years, or both."

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1348. Securities fraud."

SEC. 3. TAMPERING WITH A RECORD OR OTHERWISE IMPEDING AN OFFICIAL PROCEEDING.

Section 1512 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Whoever corruptly—

"(1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

"(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so,

shall be fined under this title or imprisoned not more than 20 years, or both."

SEC. 4. AMENDMENT TO THE FEDERAL SENTENCING GUIDELINES.

(a) REQUEST FOR IMMEDIATE CONSIDERATION BY THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission is requested to—

(1) promptly review the sentencing guidelines applicable to securities and accounting fraud and related offenses;

(2) expeditiously consider the promulgation of new sentencing guidelines or amendments to existing sentencing guidelines to provide an enhancement for officers or directors of publicly traded corporations who commit fraud and related offenses; and

(3) submit to Congress an explanation of actions taken by the Sentencing Commission pursuant to paragraph (2) and any additional policy recommendations the Sentencing Commission may have for combating offenses described in paragraph (1).

(b) CONSIDERATIONS IN REVIEW.—In carrying out this section, the Sentencing Commission is requested to—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of securities, pension, and accounting fraud and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) assure reasonable consistency with other relevant directives and with other guidelines;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements;

(4) ensure that guideline offense levels and enhancements for an obstruction of justice offense are adequate in cases where documents or other physical evidence are actually destroyed or fabricated;

(5) ensure that the guideline offense levels and enhancements under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) are sufficient for a fraud offense when the number of victims adversely involved is significantly greater than 50;

(6) make any necessary conforming changes to the sentencing guidelines; and

(7) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553 (a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The United States Sentencing Commission is requested to promulgate the guidelines or amendments provided for under this sections as soon as practicable, and in any event not later than the 120 days after the date of enactment of this Act, in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not expired.

SEC. 5. DEBTS NONDISCHARGEABLE IF INCURRED IN VIOLATION OF SECURITIES FRAUD LAWS.

Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking "or" after the semicolon;

(2) in paragraph (18), by striking the period at the end and inserting "; or"; and

(3) by adding at the end, the following:

"(19) that—

"(A) is a claim for—

"(i) the violation of any of the Federal securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), any of the State securities laws, or

any regulation or order issued under such Federal or State securities laws; or

"(ii) common law fraud, deceit, or manipulation in connection with the purchase or sale of any security; and

"(B) results, in relation to any claim described in subparagraph (A), from—

"(i) any judgment, order, consent order, or decree entered in any Federal or State judicial or administrative proceeding;

"(ii) any settlement agreement entered into by the debtor; or

"(iii) any court or administrative order for any damages, fine, penalty, citation, restitutionary payment, disgorgement payment, attorney fee, cost, or other payment owed by the debtor."

SEC. 6. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1349. Failure of corporate officers to certify financial reports

"(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chairman of the board, chief executive officer, and chief financial officer (or equivalent thereof) of the issuer.

"(b) CONTENT.—The statement required under subsection (a) shall certify that those financial statements fairly and accurately represent, in all material respects, the operations and financial condition of the issuer.

"(c) CRIMINAL PENALTIES.—Whoever—

"(1) knowingly violates this section shall be fined not more than \$1,000,000, or imprisoned not more than 10 years, or both; or

"(2) willfully violates this section shall be fined not more than \$5,000,000, or imprisoned not more than 20 years, or both."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1349. Failure of corporate officers to certify financial reports."

SEC. 7. ATTEMPTS AND CONSPIRACIES TO COMMIT CRIMINAL OFFENSES.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by inserting before section 2 the following:

"§ 1. Attempt and conspiracy

"Any person who attempts or conspires to commit any offense against the United States shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of title 18, United States Code, is amended so that the item relating to section 1 reads as follows:

"1. Attempt and conspiracy."

SEC. 8. INCREASED CRIMINAL PENALTIES UNDER SECURITIES EXCHANGE ACT OF 1934.

Section 32(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff(a)) is amended—

(1) by striking "\$1,000,000, or imprisoned not more than 10 years" and inserting "\$5,000,000, or imprisoned not more than 20 years"; and

(2) by striking "\$2,500,000" and inserting "\$25,000,000".

SEC. 9. TEMPORARY FREEZE AUTHORITY FOR THE SECURITIES AND EXCHANGE COMMISSION.

(a) IN GENERAL.—Section 21C(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3(c)) is amended by adding at the end the following:

“(3) TEMPORARY FREEZE.—

“(A) IN GENERAL.—

“(i) ISSUANCE OF TEMPORARY ORDER.—Whenever, during the course of a lawful investigation involving possible violations of the Federal securities laws by an issuer of publicly traded securities or any of its directors, officers, partners, controlling persons, agents, or employees, it shall appear to the Commission that it is likely that the issuer will make extraordinary payments (whether compensation of otherwise) to any of the foregoing persons, the Commission may petition a Federal district court for a temporary order requiring the issuer to escrow, subject to court supervision, those payments in an interest-bearing account for 45 days.

“(ii) STANDARD.—A temporary order shall be entered under clause (i), only after notice and opportunity for a hearing, unless the court determines that notice and hearing prior to entry of the order would be impracticable or contrary to the public interest.

“(iii) EFFECTIVE PERIOD.—A temporary order issued under clause (i) shall—

“(I) become effective immediately;

“(II) be served upon the parties subject to it; and

“(III) unless set aside, limited or suspended by a court of competent jurisdiction, shall remain effective and enforceable for 45 days.

“(iv) EXTENSIONS AUTHORIZED.—The effective period of an order under this subparagraph may be extended by the court upon good cause shown for not longer than 45 additional days, provided that the combined period of the order shall not exceed 90 days.

“(B) PROCESS ON DETERMINATION OF VIOLATIONS.—

“(i) VIOLATIONS CHARGED.—If the issuer or other person described in subparagraph (A) is charged with any violation of the Federal securities laws before the expiration of the effective period of a temporary order under subparagraph (A) (including any applicable extension period), the order shall remain in effect, subject to court approval, until the conclusion of any legal proceedings related thereto, and the affected issuer or other person, shall have the right to petition the court for review of the order.

“(ii) VIOLATIONS NOT CHARGED.—If the issuer or other person described in subparagraph (A) is not charged with any violation of the Federal securities laws before the expiration of the effective period of a temporary order under subparagraph (A) (including any applicable extension period), the escrow shall terminate at the expiration of the 45-day effective period (or the expiration of any extension period, as applicable), and the disputed payments (with accrued interest) shall be returned to the issuer or other affected person.”

“(b) TECHNICAL AMENDMENT.—Section 21C(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3(c)(2)) is amended by striking “This” and inserting “paragraph (1)”.

SEC. 10. AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3) is amended by adding at the end the following:

“(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b) or the rules or regulations thereunder, from acting as an officer or director of any issuer that has a class of securities registered pursuant to section, or that is re-

quired to file reports pursuant to section (d), if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.”

(b) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end of the following:

“(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) or the rules or regulations thereunder, from acting as an officer or director of any issuer that has a class of securities registered pursuant to section of the Securities Exchange Act of 1934, or that is required to file reports pursuant to section 15(d) of that Act, if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.”

SEC. 11. RETALIATION AGAINST INFORMANT.

(a) IN GENERAL.—Section 1513 of title 18, United States Code, is amended by adding at the end the following:

“(e) Whoever knowingly, with the intent to retaliate, takes any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, shall be fined under this title or imprisoned not more than 10 years, or both.”

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. 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. 5118, the bill currently under consideration.

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

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I also ask unanimous consent that an additional 20 minutes on the motion to suspend the rules be granted, and be equally divided between the chairman and the ranking minority member of the Committee on Financial Services.

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

There was no objection.

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

Mr. Speaker, Xerox, WorldCom, Global Crossing, Enron, and Tyco are among several of the U.S. elite corporations now in Wall Street's Hall of Shame. They have all apparently cooked the books and served their employees with a recipe for disaster with pink slips and lost pension funds.

Enron overstated its profits by over half a billion dollars in 1997. WorldCom

admitted that it had hidden a staggering \$3.50 billion in losses. Many Americans have been hurt badly by this irresponsible behavior, and tragically, everybody's 401(k) assets have tanked. Employees who receive stock options as part of their income package have lost their life savings, on top of losing their jobs.

Much of these shenanigans appear to have begun in the 1990s, the decade when personal accountability and responsibility became irrelevant. It appears that for some in corporate America, the incentives for fraud and ill-gotten gain outweigh the consequences of getting caught.

Well, maybe the potential penalties for these crimes are just not strong enough. Today, it is our duty to fix that. Mr. Speaker, these few bad actors have not only harmed the employees that depended on them, the public that invested in them, but also the integrity and reputation of all of corporate America, which is the backbone of the greatest economic machine the world has ever seen.

We must return this country to personal accountability and responsibility, and help rebuild America and the world's confidence in our markets. We must crack down on the corporate crooks, and reestablish the honor of the vast majority of men and women in corporate America who are hard-working and honest.

The best way to do that is to punish the corporate wrongdoers, and punish them harshly. The American public needs to know that under this bill, H.R. 5118, the Corporate Fraud Accountability Act of 2002, corporate criminals will do real time, real long time.

If they commit mail or wire fraud in the furtherance of their corporate crimes, which is often how prosecutors nail these criminals, they will face 20 years in jail, not the current 5 years, nor the 10 years called for in the other body's legislation.

In addition, a distinct securities fraud crime is established with a maximum penalty of 25 years in jail. Again, the other body only calls for a 10-year penalty.

Importantly, H.R. 5118 strengthens laws that criminalize document shredding and other forms of obstruction of justice, and provides a maximum penalty of 20 years. The other body calls for just 10 years.

H.R. 5118 also requires top corporate executives to certify that the financial statements of the company fairly and accurately represent the financial condition of the company. Violating this section can subject corporate executives to fines of up to \$5 million and up to 20 years in prison. Under the version passed by the other body, the maximum penalty a corporate officer would face is only a \$1 million fine and 10 years in prison.

The Corporate Fraud Accountability Act also increases the criminal penalties for those who file false statements with the Securities and Exchange Commission to a maximum

penalty of \$5 million and 20 years in prison. If a corporation files a false statement, those fines can increase up to a maximum of \$25 million.

The bill passed by the other body does not change the current penalties of a maximum fine of \$1 million and 10 years in prison, and corporations would still only face maximum fines of \$2.5 million.

By passing this bill today, the House is telling the American people that the law will make CEOs directly responsible for the integrity of their company's financial statements, and face severe financial and criminal penalties for falsifying such statements.

Under this legislation, top executives will not be allowed to pilfer the assets of the company by giving themselves huge bonuses and other extraordinary payments if the company is subject to an SEC investigation. Their pay and benefits are frozen when the investigation starts. Americans will know that corporate officers will no longer be able to misuse the bankruptcy laws to discharge liabilities based upon securities fraud, and the honest brokers of corporate America will know that those who abuse the law and tarnish corporate America's reputation will go to jail for a long, long time.

Finally, Mr. Speaker, this bill creates criminal sanctions against those who retaliate against corporate whistleblowers, similar to witness tampering in another context. The only thing the other body's bill does is provide for more lawsuits, a civil cause of action for the whistleblowers against the retaliators. Under the current bankruptcy law, if the whistleblower wins the civil lawsuit, the retaliator will be able to discharge that judgment in bankruptcy.

Mr. Speaker, H.R. 5118 is a tough bill that cracks down on the corporate crooks. It goes a long way to protecting the life savings of many Americans by making the price of theft too high.

Mr. Speaker, I urge my colleagues to support the bill, and I reserve the balance of my time.

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

Mr. Speaker, I greet the gentleman from Wisconsin (Mr. SENSENBRENNER), my chairman. Before I begin my comments, could I ask my friend and chairman of the committee, why is this bill coming up under suspension?

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

Mr. CONYERS. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I would tell the gentleman, it is because there is an urgency that we restore confidence in the markets that corporate wrongdoing is going to be dealt with firmly and severely, which the increased penalties in this bill do.

Last week, the minority leader, the distinguished gentleman from Missouri (Mr. GEPHARDT), on three occasions called on taking bipartisan action to

correct the problems now. At least insofar as weak criminal penalties are concerned, this bill meets the minority leader's call.

Mr. CONYERS. Mr. Speaker, I thank the gentleman for his response. Can he explain to me if this bill has been referred to the Committee on the Judiciary?

Mr. SENSENBRENNER. Mr. Speaker, if the gentleman will continue to yield, the bill was introduced yesterday. It was jointly referred to the Committee on the Judiciary and the Committee on Financial Services.

The leadership and I made a decision, together with the gentleman from Ohio (Chairman OXLEY) and the gentleman from Louisiana (Chairman TAUZIN), that it is really important that the bill be passed quickly, given the volatility in the stock market. Hopefully, we can provide some assurance that corporate wrongdoers will go to jail for a very long time, and this bill does that.

Mr. CONYERS. Mr. Speaker, I thank the gentleman. About what time was that yesterday that the bill was introduced?

Mr. SENSENBRENNER. If the gentleman will continue to yield, the bill was introduced at the time we cast our votes yesterday afternoon. The gentleman from Michigan (Mr. CONYERS) was given an opportunity to cosponsor the legislation, and I do not see his name on the list of cosponsors.

Mr. CONYERS. I know the gentleman does not see my name on the list. Did the gentleman tell me what time it was introduced, which was what my question was?

Mr. SENSENBRENNER. Yes, I did.

Mr. CONYERS. What time?

Mr. SENSENBRENNER. When we voted last night at 6:30.

Mr. CONYERS. It was 6:30 p.m. I thank the gentleman. Has the bill been changed since the bill was introduced at 6:30?

Mr. SENSENBRENNER. The motion to suspend the rules was.

Mr. CONYERS. Was it changed?

Mr. SENSENBRENNER. The motion to suspend the rules was as amended.

Mr. CONYERS. Was the bill changed?

Mr. SENSENBRENNER. The answer is yes.

If the gentleman will yield further, I will explain that the criminal penalties against those who retaliate against corporate whistleblowers was the addition, which was one loophole that was plugged, and the gentleman from Ohio (Chairman OXLEY) thinks this is a good amendment.

Mr. CONYERS. I am happy to learn of the zeal of the leadership in the House.

Now, let me just ask the gentleman, was there any consultation on the part of the Republican leadership with the Democratic leadership?

Mr. SENSENBRENNER. If the gentleman will yield further, I am not aware of whether it was or not. I am informed by staff, this is not personal knowledge, that there was a consulta-

tion; and furthermore, the majority staff on the Committee on the Judiciary consulted with the minority staff, and a few of the provisions that the minority suggested are contained in the bill.

Mr. CONYERS. In other words, what we have here today is a jacked-up version of a "let's-run-and-deal-with-an-emergency" that is so critical to the stabilization of the stock markets that the bill was introduced less than 24 hours ago, has never been before the Committee on the Judiciary, has never been consulted with the Democratic leadership, no consultations, and then has been amended in the process, and we now find ourselves under a suspension procedure in the House in which we are now told that this is very important that we do it, it is a very important piece of legislation, information on which there has never been a hearing in the Committee on the Judiciary.

Mr. Speaker, I do not mean to use up all my time with my friend, the gentleman from Wisconsin, but for my final question I would ask the gentleman from Wisconsin (Chairman SENSENBRENNER), are there any civil penalties for retaliation against whistleblowers in this bill?

Mr. SENSENBRENNER. If the gentleman will continue to yield, there are no civil penalties, but there are criminal penalties. People who retaliate against whistleblowers ought to go to jail rather than being allowed to file a lawsuit, which, if they win, would be dischargeable in bankruptcy.

Mr. CONYERS. In other words, the gentleman thought this out, or somebody, whoever put this bill together, and they have come to the conclusion that we do not want civil penalties, in other words, hitting these corporations and the crooked CEOs in the pocketbook, which is what motivates much of this malevolent corporate behavior; but the gentleman wants them to now go to jail, which was a provision that I had in the original bill that we proposed, I say to the gentleman from Wisconsin, that he and the Republicans voted against.

What newfound energies. This is really wonderful.

□ 1200

Mr. SENSENBRENNER. There are criminal fines in this bill that are \$250,000 or double the amount of ill-gotten gain, whichever is greater.

Mr. CONYERS. I am talking about the civil penalties now. I am not talking about the criminal penalties. I agree with the criminal penalties. But there must have been some profound legal reasoning that led to the omission of civil penalties.

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

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

Mr. Speaker, the gentleman from Michigan (Mr. CONYERS) must want to

have more lawsuits. The gentleman from Wisconsin (Mr. SENSENBRENNER) wants to have people who retaliated against whistleblowers being thrown in jail because that is a kind of form of witness tampering.

Now criminal penalties are not dischargeable in bankruptcy under the current law and under the proposal that has passed both Houses and is in conference. Civil judgments are dischargeable in bankruptcy. So under my plan, the bad folks who have stripped corporate issues of their assets and treated their employees are not going to be able to run to the bankruptcy court to get a discharge.

Under what the gentleman from Michigan is proposing, they can be sued civilly, they can lose the lawsuit. The court can enter a huge judgment against them, and then they are back in court, and they will get a discharge in bankruptcy, and as a result there will be no money that will be going out of their pocket. That is the difference between his complaint and my bill.

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

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Ohio (Mr. OXLEY) may proceed and then the gentleman from New York (Mr. LAFALCE). Each gentleman has 10 minutes.

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

Mr. Speaker, I rise in strong support of this legislation and commend the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary, for his excellent work.

This bill addresses corporate wrongdoing in a responsible and measured way. Specifically, the bill raises the criminal penalties for securities fraud under section 32 of the 1934 act by increasing the maximum fines and doubling of the potential jail time to a maximum of 20 years. It authorizes the SEC to place a temporary freeze on extraordinary payments to directors, officers, partners, or employees of public companies under investigation for a possible violation of securities fraud. Finally, it gives the SEC the authority to prohibit bad actors from ever serving as an officer or director in a public company.

I urge my colleagues to pass this tough measure. It is a good complement to the bipartisan legislation we passed in April with 119 Democrat votes in support to improve corporate responsibility, accounting practices, and the quality and timeliness of information to investors.

We need responsible measures to clean up corporate America, not measures that create loopholes for voracious trial lawyers. I again thank the gentleman for his leadership on this important issue. Our committee, the Committee on Financial Services, did not have jurisdiction over the criminal penalties side of the issue and so we welcome the complementary bill by

the chairman of the Committee on the Judiciary.

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

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

Mr. Speaker, I rise in support of this bill; but I do so with several, many, critical reservations. First of all the process. The bill was introduced at 6:30 last night. It is brought up on the Suspension Calendar. That means there is hardly a soul in the House of Representatives who has even had the time to read the bill, especially since it was amended after it was introduced. Secondly, for those of us who would like to offer strengthening amendments by bringing it up on the Suspension Calendar, we cannot offer one single amendment. That is what the Republicans decided to do: do not permit the Democrats to offer any amendments; this is as far as we want to go. On a scale of one to 10, this is a two. We want to make it a 10. You will not permit us an amendment to make it a 3, a 4, a 5, a 6, much less a 10. That is totally unacceptable.

Something else, too. The President wants a bill passed, and he wants a bill signed into law before we recess in August. The only way we will be able to do that, and you know this, is if we take the Senate bill that passed 97 to nothing. If President Bush really means what he says, he ought to say what he means, and that is take the Senate bill and pass it, and then we can come back in September and negotiate; but that should be the law of the land because 97 Members of the Senate, every Democrat who voted, every Republican who voted, voted for it. I hope this is not simply a tour de force.

Now, I am going to support this two out of 10, but there are an awful lot of things that it fails to do, that it omits to do. It omits critical safeguards contained in the Senate bill. For example, it fails to extend the time in which the victims of fraud may bring suit to recover their damages. For over 40 years, courts held that the statute of limitations for private securities fraud lawsuits brought under the Securities Exchange Act of 1934 was the statute of limitations determined under applicable State law. This rule provided adequate time for fraud victims to discover the fraud and bring a lawsuit against the perpetrators of the fraud.

Unfortunately, in a 1991 case in a 5-4 decision, the Supreme Court significantly shortened the period of time in which investors may bring securities fraud action: the earlier of 1 year from the discovery of fraud or 3 years from the fraudulent act. That Supreme Court decision, the *Lampf* case, adopting a shorter period, does not permit individual investors adequate time to discover and pursue violations of securities laws. We must change that.

Despite urging from the SEC, State securities regulators and experts, Congress failed to overturn *Lampf* when it adopted the Private Securities Litigation Reform Act of 1995.

The gentleman from Michigan (Mr. CONYERS) wants to change that. I want to change that. We ought to permit this body an opportunity to vote on that issue. The Republicans are saying no, we will not even permit you to vote on the issue.

The Senate has seen fit to protect investors by extending the time period to bring a suit for up to 2 years after the date in which the alleged violations were discovered or 5 years after the date in which the violation occurred. Why is that not in this bill?

This bill omits many of the other critical safeguards in the Senate bill, namely, the corporate whistleblower civil protections, a requirement for document retention, important sentencing guideline enhancements.

So I will vote for this bill today, but I hope that when the Congress sends the bill to the President, it will have the full arsenal of tools to fight securities fraud and corporate misconduct contained in the Senate bill, not merely the sprinkling few that the Republican leadership deems fit to bring to the floor of the House.

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

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

Mr. Speaker, the gentleman from New York (Mr. LAFALCE) says this bill is a two on a scale of 10. If this bill is a two, then the Senate bill is a one, because in most cases the penalties in this bill are double the penalties in the bill passed by the other body. And this bill creates two new crimes that were not created in the bill that was passed by the other body.

Secondly, at least on the Committee on the Judiciary side, the majority and minority staffs worked together beginning on Friday of last week on the provisions of this bill, which was the day after the agreement was reached in the other body on the provisions contained in their bill. And there are at least four provisions in this bill that are patterned after provisions in similar legislation offered by my friend from Michigan (Mr. CONYERS) H.R. 4098.

They are higher-maximum penalties for wire and mail fraud; an amendment to the Federal sentencing guidelines which pertain in cases where there is actual destruction or fabrication of evidence; and in fraud cases where a large number of victims are involved, the debt is nondischargeable, and bankruptcy, if incurred in violation of securities fraud laws; and, fourthly, tampering with records and otherwise impeding with official proceedings. There the language is a little bit different, but the thrust between the Conyers bill and this bill are the same.

Now the other complaint that I have heard from both the gentleman from Michigan (Mr. CONYERS) and the gentleman from New York (Mr. LAFALCE) is that we are speeding too fast on this bill. Well, I pulled up out of the records what the minority leader, Mr. GEPHARDT, had to say last week. On July 9,

the gentleman from Missouri said, "Now is the time to apply this lesson to corporate reform and go beyond the rhetoric and actually pass strong legislation to protect Americans and to improve cooperate responsibility and accountability."

Then the next day the gentleman from Missouri (Mr. GEPHARDT), the minority leader said, "Americans need financial reforms that are black and white. If we continue to practice corporate accounting in shades of gray, our economy will suffer. Failing to take action is not an option. We must take bipartisan action to correct these problems now." July 10.

Now, sometimes we are accused of being too partisan around here. We have listened to what the minority leader has to say. He wanted action taken now, and we are taking action now.

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

Mr. CONYERS. Mr. Speaker, how much remains?

The SPEAKER pro tempore. The gentleman from Michigan (Mr. CONYERS) has 13 minutes remaining. The gentleman from Wisconsin (Mr. SENSENBRENNER) has 9½ minutes remaining. The gentleman from Ohio (Mr. OXLEY) has 8½ minutes remaining. The gentleman from New York (Mr. LAFALCE) has 6 minutes remaining.

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

Mr. Speaker, it is this kind of legislative process that gives our body a bad name. Now, it must take a certain amount of chutzpah to say that this is a bipartisan bill. There has not been any bipartisan input on this bill whatsoever, and it is a very important bill. There is no way that, as the gentleman from New York (Mr. LAFALCE) pointed out, there is no way that we can amend this bill.

The curious thing is back in April when I introduced a motion to recommit, it was April 9, the bill was voted down by the Republicans. All these provisions that were rejected are now the ones that are being brought forth with great pride. And so I just want to point out that it may have had something to do with the Senate voting unanimously to include the provisions that both the chairman of the Committee on the Judiciary and I have introduced to bring real accountability to wrongdoers.

Now, maybe this move to criminalize but not have civil penalties might be due to the fact that the Attorney General has yet to bring one case in this area for prosecution against any individual. Has he changed his attitude? I do not know and I wonder if anyone in the House does.

So we come here in some shock, some disappointment that we are here doing this kind of a run and catch up; let us get cover to make sure we might be able to head off the work that is being done in the other body.

Now, I want to ask this question to anybody in the House. Is it true that

the whistleblowers language that is in this bill which was, I think, subsequently added, was that given any help or assistance from those in the securities industry?

You can answer that yes or no.

The criminal relief requires that an employee prove beyond a reasonable doubt to get a conviction; we are now eliminating the civil provisions which only require a preponderance of evidence. Are we aware of what we are doing here and why we are doing it?

So I am very disappointed in the way this is being done.

Mr. Speaker, I reserve my time at this point.

□ 1215

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

I would point out to my friend from Michigan that I suggest this will be a strong bipartisan vote when the vote is taken and it will be very much of a bipartisan effort in the House.

Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. BAKER), and pending that, I ask unanimous consent that the gentleman from Louisiana be allowed to control the time for our side.

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

There was no objection.

Mr. BAKER. Mr. Speaker, I thank the chairman for yielding me the time, and I wish to extend my appreciation to the gentleman from Wisconsin (Mr. SENSENBRENNER) as well as the gentleman from Ohio (Mr. OXLEY) for their good work on this most important matter.

Most Americans at home today are watching anxiously as the volatility of the stock market takes its toll in their personal savings or retirement plans, and they are looking to this Congress to take some action to stem the flow of capital away from those markets, to sit on the sidelines.

It is not only bad for corporations, it is not only bad for shareholders, it is bad for the economy when people are afraid to trust the CEO, the accountant, the analyst, anyone involved in the process, and failing to make that investment, curtail the ability to create jobs and provide opportunities. What they are saying to us is go get the bad guys, stop them from doing this in the future and make them pay a price.

The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Ohio (Mr. OXLEY) have before us a proposal which establishes new penalties for CEOs who fail to certify their financials or certify them knowing there is a material misstatement. They create a new penalty for failure to do so up to \$5 million. They require a criminal penalty be assessed to those individuals who file false statements with the Securities and Exchange Commission and create a new penalty of up to \$5 million. They provide for pen-

alties relating to mail and wire fraud. A person communicates a material fact that is incorrect, misleading or false, they go to jail, not for 5 years, for up to 25 years.

With regard to those extraordinary benefits that are granted these executives who have manipulated the books and benefited themselves, this requires the SEC to freeze extraordinary payments until appropriate investigation may be concluded to determine whether such payments were warranted or not. When there is a determination that a CEO has violated his fiduciary responsibility to the shareholders and the public, there is a lifetime prohibition on that individual from ever serving on a board in a corporate management responsibility ever again.

This is a first step. This is not the end. We all know the Senate has acted. The House has acted on important reforms. There will be a conference, I assume a conference, which will meet very soon of the Committee on Financial Services and all interested stakeholders in this matter to pass additional restraints on inappropriate corporate behavior with guarantees of recompense to those who have been fraudulently abused.

This work deals with the criminal statutes in establishing those criminal penalties which ought to be appropriate given the egregious statements that CEOs have made across this country relative to the financial condition of their corporation, and we gave. More than 50 percent of Americans have investments in the markets today through on-line investing, which was not possible six years ago. Now 800,000 trades a day occur with moms and pops investing \$100 at a time for their child's education, for their first home, for their own retirement.

This is no longer about institutional investors investing hundreds of millions of dollars at a time. It is no longer a question of sharks eating the sharks. It is the sharks after the minnows, and we are going to stop it.

Mr. LAFALCE. Mr. Speaker, I yield myself 2 minutes.

First of all, the allegation has been made that this is a bipartisan bill. My colleagues are going to get Democrats voting for this because we would rather vote for a 2 than a 0, although we prefer a 10, and that does not make it bipartisan.

I am the ranking Democrat on the House Committee on Financial Services. This morning I had a breakfast meeting with the former chairman, the gentleman from Iowa (Mr. LEACH), the president of Intra-American Development Bank, got to the office at 10 o'clock, discovered for the first time that a bill had been introduced and that we were going to be taking it up today, we thought later today. At about 11 o'clock we discover it is at 11:30. That is not bipartisanship.

When my colleagues do not include us in the drafting of the bill, in the introduction of the bill, in the formulation of the bill, when my colleagues

tell the ranking Democrat on the relevant committee an hour or a half an hour beforehand that something is coming to the floor, do not have the audacity to call that bipartisanship.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Mr. Speaker, I support this legislation and I applaud the leadership of this body for bringing this bill before us.

Let us not kid ourselves. Three months ago the gentleman from New York (Mr. LAFALCE) offered a substitute to the accounting reform bill that called for better corporate governance and it did not receive a single vote from the other side. Let me say that again. It did not receive a single vote from the other side.

Now we are considering a bill that would send CEOs to prison for up to 25 years for securities fraud or accountants to prison for 5 years for shredding their paperwork. We are making progress, but we have got a lot more work to do.

The gentleman from New York (Mr. LAFALCE) called for better corporate governance a long time ago. President Bush on March 2, that was 5 months ago, called for better corporate governance, and yet we have had no action from this body. So I applaud the leadership for bringing this bill forward, but we must also get to conference committee and put that on the President's desk by next week.

I urge my colleagues to support this measure.

Mr. BAKER. Mr. Speaker, I yield 2 minutes to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Speaker, recent news from the corporate world has been pretty grim. All too often we have seen headlines from corporations like Enron and WorldCom that reveal appalling abuse and fraud leading to layoffs and bankruptcies. From the magnitude of the problem, it looks as though corporate fines are simply not enough to discourage billions of dollars in fraud. It is time for stronger penalties such as those offered in this bill.

The workers in my district of West Virginia and everywhere else have concerns about their families' futures. Whether they are saving to educate their children, working to secure their own retirements, hardworking West Virginians do not want to see another corporate hocus-pocus act where they get the raw end of the deal.

I am proud to say that we passed legislation, CARTA, Corporate and Auditing Accountability, Responsibility and Transparency Act and the Pension Security Act, and today we are taking another step in the right direction.

This legislation strengthens laws that criminalize obstruction of justice, close gaping loopholes and requires top executives to certify that their financial statements of their companies are fairly and accurately representing the financial condition of their company.

Mr. Speaker, the workers in America want assurances that the dollars they are working for today and saving will be there when it is needed down the road. That is why it is imperative that our colleagues join together and continue to get tough on corporate crooks. I certainly support this legislation.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a distinguished member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from Detroit, the ranking member, for yielding me the time. I thank the chairman for what I know is a well-intended effort.

Mr. Speaker, many of us have been exposed to this issue and none of us can claim oneupmanship. Might I, however, claim at least the personal exposure to the pain of 5,000 employees and a continuing saga of trying to rebuild the crumbling remains of a company of which we had great respect for in my district. Having experienced that in Houston, Texas, I realized that this is systemic and that they are hurting people across the Nation.

I also realize that this Congress and this particular body, this House, in Texas lingo, started with a hurricane, blowing fury, and now has ended with a mere raindrop, some might call it a teardrop, because the process by which this legislation came to the floor denigrates and disrespects those of us who have both felt the pain but have also dealt with this from a legislative perspective.

My legislation, H.R. 5110, is an omnibus bill. I made a commitment to my constituents that I would not have a pride of authorship and would work with those in this House on a bipartisan basis on legislation proceeding to solve this problem of corporate responsibility and accountability. I am an original cosponsor of the Conyers bill, H.R. 4098, that speaks particularly and clearly to the issues of criminal penalties. That would have been a bipartisan bill inasmuch as it is destined for a hearing on Friday.

I am a supporter of the bill in the other body that we should, in fact, take up today in substitute of this particular legislation that falls short.

Mr. Speaker, if we are talking about serious legislation, I agree with the good ranking member and friend of the Committee on Financial Services bill, we have fallen short. We have fallen short of his work, fallen short of the gentleman from Michigan's (Mr. CONYERS) work, and let me tell my colleagues why.

This bill does not have in it, as the bill in the other body, a document retention requirement as it relates to auditors, the key element to part of the fall of Enron and many other places. If we willy-nilly suggest, because the United States Chamber of Commerce is pressing on the Members of the other party that we not have a

document destruction provision of which gives criminal penalties, then we are in trouble. If we do not protect whistleblowers like Sharon Watkins who came forward in the Enron case, we are in trouble.

We well know that the investment community is not interested in words. The President has given words and the market has fallen. They are not interested in Harvey Pitt's of the SEC's words and actions. The market has fallen.

The marketplace wants and corporate America wants clear delineation as to what we are doing in Congress so the market can regain confidence and we can expand on the corporate confidence and as well tell America that we stand behind capitalism, but we also stand behind integrity.

I would like a bill that I can support. I am considering what we have here, Mr. Speaker, but let me say this, it is a shame that we could not do this in a bipartisan way and put some teeth into this so that investors can know what Congress means and what Congress stands for.

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

I am really befuddled on how Members on the other side of the aisle can come up and say that this bill is inadequate on criminal penalties when the criminal penalties are double those that were passed by the other body, and that we have turned our back on whistleblowers, when this bill provides criminal sanctions against those who retaliate against corporate whistleblowers. If someone would retaliate against a corporate whistleblower, they go to jail. The other body does not do that at all.

We have heard comments about the fact that this bill really does not deal with the whole issue of document shredding and other forms of obstruction of justice. Twenty years in this bill, 20 years in jail, that is a pretty tough penalty, and it is drafted broadly enough so that those who do shred documents can be caught in other obstruction-of-justice prosecutions.

The bill which the gentleman from Michigan (Mr. CONYERS) has introduced is only talking about 5-year penalties for these types of offenses. So if this is just a little teardrop, I think my colleague has had a wrong choice of words, because people who violate the law and the crimes that are set forth in this bill are going to go to jail for the rest of their productive lives, and that is a pretty serious penalty.

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

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman for yielding me the time.

The bad news is that corporations cannot go to jail, and so there are no

civil penalties dealing with those particular issues.

I also would ask, if I had the time, but I will just pose the question, where in the bill that is on the floor has document retention requirements on auditors and where do we have the provision giving defrauded investors more time to seek relief? That is the question about helping these small investors, but we cannot send a corporation to jail. We need civil penalties in this legislation.

I thank the gentleman for yielding me the time.

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

This is the time for truth-telling. We put in 5 years and it was unanimously opposed by the other side. Where did the sudden legislative conversion take place? Over the weekend? Yesterday? Sometime before 6:30 when the bill was dropped by all of my colleagues? Five years was no good in April, May, June, July, but this morning that is nothing, we have got to get them.

Maybe it is because the Attorney General and the Department of Justice do not bring these kinds of cases, and I would like to ask the chairman and all of his lawyers and the other Members to tell us where there have been any cases brought like this. This is a sham, not against individuals, and that is why leaving out the civil penalties is a dead giveaway.

□ 1230

What about giving the defrauded investors more time to seek relief? Is that being covered? I do not think so. And my colleague has heard of sentencing enhancement, has he not? But they are not in the gentleman's bill.

So without trying to draw nitpicking distinctions, this bill is seriously flawed. I am voting against it. I know there may be Members that feel inclined to show that they are doing something rather than nothing. We are back to this scale of two versus 10. But this is a very flawed bill, and that is why we cannot bring it before the Committee on the Judiciary for hearings and the discussion it deserves.

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

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

We provide in our bill the sentencing commission the authority to have sentence enhancements, and it comes right out of the bill the gentleman introduced. And we are going to have a hearing on the gentleman's bill on Friday. That was the date that we agreed upon. So what is the beef?

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

Mr. BAKER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

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

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding me this time,

and I thank the chairman for his extraordinary leadership on this issue.

Mr. Speaker, I rise in strong support of the Corporate Fraud and Accountability Act of 2002. It was President Calvin Coolidge, Mr. Speaker, who said simply that "the business of America is business." And many people over the last century have used that term to denounce and deride those of us who believe in the free enterprise system in America.

The truth is that President Coolidge was a moralist. And when he said the business of America is business, he was fundamentally suggesting that American business relies on the integrity and the character of the people that occupy the chief executive officerships and the boards of directors rooms of America's corporations. It has always been the case; it will always be the case. But the backstop, Mr. Speaker, is and has ever been the law. Today, in the Corporate Fraud and Accountability Act of 2002, we raise the barrier of criminal law in the area of corporate fraud.

Now, some of our friends on the other side of the aisle may say that we are playing politics, that we are less than sincere; but the facts speak for themselves. As the chairman of the Committee on the Judiciary, on which I serve, just said, those who extol the bill passed in the other body in the last 24 hours apparently are prepared to vote against the bill that has two times the criminal penalties for corporate fraud.

This legislation increases the penalties for mail and wire fraud from 5 years to 25 years. There are \$25 million fines in this legislation when corporations file false statements. It increases criminal penalties for individuals who file false statements with the SEC to \$5 million, just to name a few.

Despite the best efforts of some on the other side of the aisle, Mr. Speaker, to politicize this issue, the truth is opposition to crime is a bipartisan position in this institution. All of us believe that righteousness exalts a nation. All of us believe in the rule of law. Let us vote in favor of this bill today.

Mr. LAFALCE. Mr. Speaker, I yield myself 1½ minutes.

The gentleman from Indiana referred to Calvin Coolidge. The difficulty is that President Bush has been playing the role of Calvin Coolidge for a year and a half, when the times demand a Teddy Roosevelt. A week ago he started to try to act like Teddy Roosevelt and, instead, he appeared to be Teddy Bear.

With respect to the bill before us today, I must make reference to what went on in the Committee on Financial Services and what went on on the floor of the House.

I offered a number of amendments, two in particular, one dealing with the question of substantial unfitness or unfitness to serve as an officer or director. The SEC had complained that the

bar was too high having to prove substantial unfitness. I said let us just make it fitness. The Republicans monolithically voted no. They have now had a conversion belatedly.

Secondly, I said let us legislatively require that CEOs and CFOs certify as to the accuracy and reliability of the financial statements. The Republicans voted no.

I included those two provisions, and those two provisions alone, in the motion to recommit with the accounting bill, the Oxley bill, word for word. Those were the only two changes. The Republicans monolithically voted no. I welcome their belated conversion.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume to note that the motion to recommit we found out about 15 minutes before it was offered. So that was a shorter period of time than this bill.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SMITH), the chairman of the Subcommittee on Crime.

Mr. SMITH of Texas. Mr. Speaker, I thank the full Committee on the Judiciary chairman for yielding me this time.

I want to say first of all that this is a good bill. It is an improvement over other bills that have either been introduced or considered on either side of the Capitol, and I hope all our colleagues will take the opportunity to vote for corporate responsibility by supporting this legislation.

Mr. Speaker, in the wake of the recent scandals involving such companies as Enron, WorldCom, Global Crossing, Arthur Andersen, and Tyco, we should reform our laws to restore confidence in our markets and hold accountable those corporations and their executives who have defrauded investors and harmed the American economic system.

H.R. 5118, the Corporate Fraud Accountability Act of 2002, will punish corporate wrongdoing and punish those who would tarnish the integrity and reputation of all corporate America. And I might say that the vast majority of individuals, the vast majority of companies, of business owners, of the heads of corporations are hard working and honest. The dishonest represent just a small fraction of the whole.

Mr. Speaker, we need to remind some of our colleagues that this bill does in fact increase the penalties for mail and wire fraud from 5 years to 20 years and creates a new securities fraud section that carries a maximum penalty of 25 years. It also strengthens laws that criminalize document shredding and other forms of obstruction of justice and provides a maximum penalty of 20 years for such violations. It also grants emergency authority to the U.S. Sentencing Commission to promulgate guidelines that reflect the serious nature of securities pension and accounting fraud.

The legislation closes loopholes by which corporate officers can use bankruptcy laws to discharge liabilities based on securities fraud. And it requires top corporate executives to certify that the financial statements of the company fairly and accurately represent the financial condition of the company. Violating this section can subject corporate executives to fines up to \$5 million and 20 years in prison.

Mr. Speaker, this bill provides additional tools to prosecutors to prosecute wrongdoing by corporate criminals who attempt and conspire to violate the law. This is a good piece of legislation; it should be supported by all Members who want to restore corporate responsibility to America.

Mr. CONYERS. Mr. Speaker, I yield myself 30 seconds.

Could I ask my distinguished chairman of the Subcommittee on Crime, has his committee held hearings on this bill?

Mr. SMITH of Texas. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Texas. This is a yes or no response.

Mr. SMITH of Texas. Mr. Speaker, as I understand it, there is a hearing scheduled on the gentleman's legislation this Friday.

Mr. CONYERS. Reclaiming my time, Mr. Speaker, I simply ask, has the gentleman had a hearing on the bill?

Mr. SMITH of Texas. Mr. Speaker, if the gentleman will continue to yield, there is a joint hearing by two subcommittees of the Committee on the Judiciary.

Mr. CONYERS. After this is passed, the gentleman is going to hold hearings. I thank the gentleman very much.

Mr. SMITH of Texas. I would say to the gentleman that that is on a different piece of legislation.

Mr. LAFALCE. Mr. Speaker, I yield 1 minute to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON of Indiana. Mr. Speaker, I thank the gentleman from New York for yielding me this time as well as the gentleman from Michigan (Mr. CONYERS).

Mr. Speaker, I will be very brief. I understand, in terms of listening to the debate, because I was not at a hearing when this bill was discussed, that the kind of action taken on this bill was quite similar to the shredding of documents by the Arthur Andersen company that gave rise to this whole debate at this time.

I was not a Member of Congress, but remember very well when, and, yes, it is political, when in 1994 there was a young man who was Speaker of the House that talked about a Contract With America. In fact, it turned out to be a contract on America. The Private Securities Litigation Reform Act of 1995 got us to where we are today. It repealed the civil RICO, thereby preventing defrauded investors from obtaining triple damages when they bring securities fraud claims.

This bill does nothing to address that problem. It is a cruel hoax. It is a farce. It should go back, perhaps on another midnight hour, and be fixed. It is broken.

Today, on the Suspension Calendar, with no opportunity to amend or improve it, the House Republican Leadership will offer up a so-called corporate responsibility bill. This bill eviscerates the bill that passed the Senate 97 to 0 and that the President said "shares [his] goals." Why?

The U.S. Chamber of Commerce, which is the second leading Republican donor in this cycle, and other corporate interests lobbied to roll back the Senate bill's prohibitions on document shredding, corporate whistleblower protection, increasing the time allotted for shareholders to seek relief in court, and to create a new enhanced securities fraud law.

Unlike the Senate, which sided with working families, the House Republican Leadership gave corporate fat cats everything they asked for.

Not one Senate Republican voted against any of the provisions dropped by the House Republican Leadership. Specifically, the Republican leadership bill excludes:

Document retention requirements on auditors. The bill passed yesterday by the Senate would require auditors to maintain all audit or review workpapers for a period of five years after the conclusion of an audit or review. This was part of the bipartisan Leahy-Hatch amendment, which passed the Senate 97 to 0. As has been exhaustively documented, Arthur Andersen impeded a Securities and Exchange Commission inquiry into Enron's finances last fall by destroying huge numbers of documents and e-mails. The Republican leadership bill drops these provisions.

Giving defrauded investors more time to seek relief. The bipartisan Leahy-Hatch amendment, which passed the Senate 97 to 0, reformed the unnecessarily restrictive statute of limitations governing private securities claims. Under current law, defrauded investors have one year from the date on which the alleged violation was discovered or three years after the date on which the alleged violation occurred. Because these type of violations are often successfully concealed for several years, the Senate increased the time period to 2 years after the date on which the alleged violation was discovered or 5 years after the date on which the alleged violation occurred. The Republican leadership bill drops these provisions.

Protecting Whistleblowers—The bill that passed yesterday in the Senate contained the Grassley amendment, which unanimously passed the Senate Judiciary Committee, extended whistleblower protections to corporate employees, thereby protecting them from retaliation in cases of fraud and other acts of corporate misconduct.

Sentencing Enhancements—The bill that passed in the Senate yesterday had bipartisan Leahy-Hatch sentencing enhancements when a securities fraud endangers to solvency of a corporation and for egregious obstruction of justice cases, where countless documents are destroyed. The Republican leadership bill drops these provisions.

Finally the Republican Leadership hides behind the penalties smokescreen, in the hopes that no one will notice everything that is missing from their bill. They mindlessly increase

penalties for mail fraud and other offenses to ten years greater than the Senate bill. In reality, in most of these cases, there are numerous counts of mail fraud and whatever penalty that is assigned to the offense is multiplied by the number of counts.

The difference between a ten and twenty year penalty is, therefore, negligible in these cases.

Mr. BAKER. Mr. Speaker, I yield 1 minute to the gentlewoman from Pennsylvania (Ms. HART), a member of the Committee on Financial Services.

Ms. HART. Mr. Speaker, I rise in support of the bill and stand here at a loss as to why anyone would not support this bill.

In light of the news that we have heard lately about corporate fraud and cries from the general public that people go to jail, this bill provides for that. This bill provides for up to a 25-year maximum prison term for securities fraud. It provides an increase from 5 years of a prison term.

Now, I am not sure, but it seems to me that 25 years is a lot more of a deterrent than 5. We are given a wonderful, very clear, to-the-point bill by the gentleman from Wisconsin (Mr. SENSENBRENNER), supported by the Committee on Financial Services.

We are telling the general public that we mean business when it comes to punishing people who defraud our investors and people who work for these corporations in the United States. I urge my colleagues to support this bill. It certainly is clear. It will certainly provide a good sentence, a reasonable serious sentence, to send a message to corporate officers in America that we mean business.

Mr. LAFALCE. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, we have heard a lot about crime this morning, but let us remember it was this very House of Representatives that gave the green light to corporate executives to lie to their boards and to their shareholders; and we provided them with a safe harbor. It was called the Private Securities Litigation Reform Act of 1995 that was part of the Contract on America. It was vetoed by President Clinton and his veto was overridden.

Anything we try to do in this bill regarding the punishing of criminals is just a legislative Band-Aid unless and until we restore shareholders' rights. We will not restore shareholders' rights or investors' confidence until we repeal the Private Securities Litigation Reform Act of 1995.

This bill is nothing more than a feel-good bill. It never strikes at the root of the problem, of corporate corruption and corporate fraud. We have to repeal the Private Securities Litigation Reform Act. There are bills out there, like the Shareholders and Employees Rights Restoration Act of 2002, and we cannot even get a hearing on it, let alone a vote on it.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 30 seconds.

The gentleman from Michigan says this is a feel-good bill. Anybody that is convicted of the fraud that is discussed in this bill and goes to jail for at least 20 years or 25 years I do not think is going to be feeling very good as they are sitting behind bars.

Mr. Speaker, I yield 1½ minutes to the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I commend the chairman of the Committee on the Judiciary for introducing this very important legislation to hold accountable those corporations and their executives who defraud the American public through manipulative accounting and other fraudulent practices.

President Bush has said that corporate America must be made more accountable to employees and stockholders. He was right in calling for tougher penalties for companies who use unethical accounting procedures to falsify profits at the expense of their employees and other investors.

As I travel through my district, I hear from many constituents whose confidence in the integrity of our markets has been shaken. Their faith in corporate management has been replaced with a fear of losing their retirement nest egg. They have demanded accountability from our corporate leaders, and we must ensure they have that accountability.

H.R. 5118 increases the penalties for activities like mail and wire fraud and provides additional tools for prosecutors to crack down on corporate criminals. This legislation is needed to restore confidence in our markets and hold corporate criminals accountable.

Hard-working Americans who save responsibly for their retirement should be able to have confidence in their retirement plans. Congress should enact meaningful reforms that provide safeguards for those who are saving for their retirement years.

As I listen to this debate, I see my colleagues on the other side of the aisle attempting to dance on the head of a pin. Instead, it is time to join us in passing this powerful new tool for prosecutors to crack down on crime.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. WATERS), who serves on both committees, incidentally.

□ 1245

Ms. WATERS. Mr. Speaker, this is precisely why the American public does not trust the Members of Congress. We passed a bill out of the Committee on Financial Services that was not good enough. It was weak. The chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), refused to take up a good corporate responsibility bill that was headed up by the gentleman from Michigan (Mr. CONYERS).

Now the Senate has passed out a pretty strong bill, and finally, this gentleman is a Johnny-come-lately with a

bill on the floor that we have never heard in the Committee of the Judiciary. Do not be tricked or fooled by this. There is no reason to be here. If there is some concern, go to the Conference Committee where we have a House bill and a Senate bill to be reconciled, and try to get additional concerns put in. But to do it this way does not make good sense. We are undermining the process and trying to jump on the bandwagon at the last minute when the gentleman should have been leading on this a long time ago.

Mr. SENSENBRENNER. Mr. Speaker, I yield 30 seconds to myself.

Mr. Speaker, the gentleman from Michigan (Mr. CONYERS) last week asked me to schedule a hearing on his corporate responsibility, H.R. 4098, and I agreed. It is an important issue. That hearing is going to be held this Friday. That was the date that we agreed on.

I guess the thanks I get for being bipartisan and agreeing to schedule the bill of the gentleman from Michigan is the attack that I just heard from the gentlewoman from California (Ms. WATERS). The gentlewoman should be more bipartisan in what is said on the floor.

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

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

Mr. Speaker, the Republicans have been having a deathbed conversion because they have voted against so many of the reforms that they now advocate. But they have to do a little bit of repentance. This bill is not adequate. They have determined their own penance. It is two Hail Marys. We deserve a bill that can be called a complete Rosary. That should be their penance.

Mr. CONYERS. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. Mr. Speaker, the Republicans have been caught with an embarrassing bill. They passed a securities bill to tell the American public they cared about their pensions and their financial well-being. Then the Senate took really tough action, and now the Republicans have been caught with egg all over their face.

What do they want to do? They want to put everybody in jail. Fine, we will vote for the bill. But it is the things that people do today that are legal that is causing the heartburn.

They pass an embarrassingly weak pension bill, and embarrassingly weak securities bill. It is not the things that they do that are illegal, it is the fact that people under the pension bill are still locked into that stock for 3 years. They still cannot have a representative of employees on the board of their pensions. They cannot have an independent representative of their employees on the board. They cannot be notified on a timely basis of inside sales. So the pensioners absorb all of the financial shock for the ill-doings, but they happen to be legal under the

law, just as many of the provisions that the Senate outlawed under their securities act continue to remain legal.

Now they come along and say if somebody engages in fraud, they should be put in jail. Where is the Attorney General today when they engage in fraud? The Republican bill is going to give it to the Attorney General to come up against these people on whistleblowers. Where does Sharon Watkins go to get her job back if she loses her job? Where does she go to be made financially whole? Nowhere. She goes to John Ashcroft and begs him to bring a case.

In the past 6 months as we have been having a meltdown in stock markets and peoples' pension plans where investors have lost over \$5 trillion, we have not heard a word from the Attorney General; not a word from the Attorney General. The Republican plan puts all of their eggs there. I know they are covering their tracks. They are like the cowboys that did the bank robbery, and now they are dragging the trees behind their horses to cover their tracks. Good try. It will not work.

Mr. BAKER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we know we are going to have to cut down some of the trees to see the facts. In the year in which Harvey Pitt was appointed chairman of the SEC in late August, September 11 followed only days behind with destruction of the New York SEC offices.

Despite that, in the first 7 months of his term, for officer and director bars sought, and that is to keep officers and directors from continuing in a professional responsibility, he has sought 71. In the entire year preceding his appointment, only 51.

Disgorgement of compensation, bonuses, and stock options sought, 17 in a 7-month period, versus 18 in the entire year preceding.

Temporary restraining orders in all categories, 42 sought in 7 months, 31 in the preceding year.

Asset freezes in all categories, 50 in 7 months, versus 43 in the entire preceding year.

Trading suspensions, 10 versus 2 in the entire preceding year.

Subpoena enforcement proceedings, 18 versus 13 in the preceding year. Chairman Pitt has not only acted, he has acted forcefully. Today this Congress will act. It is appropriate, and the people of America are waiting.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, this bill is too weak, too weak. The President gets to name three people to the Securities and Exchange Commission. Who has he named? Three accounting industry employees. That is it. That is his decision. This Republican majority opposed an independent accounting board oversight; opposed it. And now it is looking for a legislative get well card as though now they are converted to protecting the investor.

What does this bill not include? Well, it does not require these companies to preserve all their auditing records for 5 years. It does not extend from 3 years out to 5 years the period upon which people can sue if they have been defrauded. We are only finding out right now about fraud from 2 or 3 years ago. We need to stretch out the statute of limitations so they can sue. We need whistleblower protection. This is a bad bill. Vote no.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the gentleman from Massachusetts (Mr. MARKEY) has not read this bill. Apparently he wrote his speech before he read the bill. Now this bill is not too weak. It provides twice the criminal penalties than the bill that was passed by the other body. It provides criminal sanctions against those who retaliate against whistleblowers. The other body provides more lawsuits.

Every criminal penalty does allow the judge to enter a restitution order. Restitution orders are nondischargeable in bankruptcy. The huge fines in my bill are nondischargeable in bankruptcy. Corporate executives up to \$5 million in fines, nondischargeable. Corporations up to \$25 million in fines for filing a false statement, nondischargeable in bankruptcy.

So what we do is we provide jail terms for the bad actors, we provide nondischargeable fines for the bad actors, and we get tough on those that have looted the pensions and the savings of the employees that have worked dutifully for those corporations where the officers and the boards of directors have not fulfilled their fiduciary responsibility.

This is a tough bill because it puts people in jail for a long time. It ought to be passed, and passed now, as the gentleman from Missouri (Mr. GEPHARDT) has urged us to address this issue. I urge an aye vote.

Mr. BONIOR. Mr. Speaker, I rise to express my support for the Senate corporate accounting reform bill and applaud this long-overdue effort to punish those who break our securities laws.

We must hold those who break our securities laws responsible for their actions. Gone are the days when the threat of a fine or bad publicity is an effective deterrent for corporate fraud. It's time that corporate criminals get jail time when they ignore our securities laws and consumer protections. It's time that we put real teeth in our laws and the regulations of the SEC. We need to send the message loud and clear that corporate irresponsibility will not be tolerated by the Congress, by our courts, and by the American people.

In my home state of Michigan, thousands of public employees have watched as their pension funds have lost millions of dollars in the downfall of corporations like WorldCom and DCT, Inc. Investors and retirees have lost faith and confidence in a market that has been continuously shaken by reports of corporate irresponsibility and misleading financial statements. These workers have a right to know

that their wages, pensions, and benefits are secure. They have a right to financial security in their later years. It's time that we stand up for them and enact meaningful reforms that will prevent the kinds of corporate scandals we've seen in recent months and prohibit corporate inside deals and murky accounting that puts the pensions of hard-working Americans at risk.

The legislation before us today follows the Senate's lead and establishes stricter criminal penalties for securities fraud. I applaud this effort as a good first step, but I believe we should ultimately enact the even tougher penalties set forth in the Senate accounting and corporate responsibility reform bill. There should be no question that corporate fraud is a serious crime in the eyes of the law.

In the months ahead, I will continue to fight for the rights of our workers and retirees to be financially secure. I will continue to press the House Republican leadership to pass the strong corporate responsibility legislation that the Senate recently passed. We need to act swiftly to pass meaningful reforms that will reign in corporate abuse and protect the rights of workers and investors before any more retirement savings are lost.

Mr. FRELINGHUYSEN. Mr. Speaker, I rise in strong support of H.R. 5118, the Corporate Fraud Accountability Act of 2002.

You've heard that expression, "crime doesn't pay?" Well, Mr. Speaker, for too long, for some business executives in America, crime has paid, and it has paid them well! We've got to put an end to this now—punishment for corporate crimes should be paid by those who break the law, not by those who have invested their hard-earned incomes, or worked for years, only to see their jobs, pensions, health care and retirements disappear as some CEO's absconded with millions!

For months now, we've seen company heads testify before this Congress only to invoke the Fifth Amendment. Why? For fear of incriminating themselves.

To my mind, Mr. Speaker, these executives should be scared. They should fear jail time for lying to employees and investors, and for betraying our market-based economy.

And jail time is exactly what corporate criminals will get under the bill we now consider, the bill we must pass to provide the "teeth" behind the President's strong message of corporate responsibility.

These tough new criminal penalties and enforcement provisions to punish those who refuse to "play by the rules" and threaten to undermine the integrity of our financial markets will do what every American believes to be fair, just and necessary.

The Corporate Fraud Accountability Act, increases the penalties for mail and wire fraud, strengthens laws that criminalize document shredding, grants emergency authority to the U.S. Sentencing Commission to promulgate securities, pension and accounting fraud guidelines, closes loopholes by which corporate officers can use bankruptcy laws to discharge liabilities based on securities fraud, increases the criminal penalties for those who file false statements with the Securities Exchange Commission and requires corporate executives to certify their company's financial statements, freezes extraordinary payments to executives while the company is under SEC investigation, and finally it bans company executives who clearly abuse their power from

serving in any corporate leadership position. H.R. 5118 builds upon our efforts to hold corporations accountable contained in H.R. 3762, the Pension Security Act, and H.R. 3763, the Corporate and Auditing Accountability, Responsibility, and Transparency Act, passed by the House last April.

Specifically, the bipartisan Pension Security Act, H.R. 3762, bars company insiders from selling their own stock during "blackout" periods when workers can't make changes to their 401(k)'s, give workers new freedoms to sell their company stock within three years of receiving it in their 401(k) plans, fixes outdated Federal rules that discourage employers from giving workers access to professional investment advice, empowers workers to hold company insiders accountable for abuses, and requires that workers be notified 30 days before the start of any "blackout" period affecting their pensions.

The Corporate and Auditing Accountability, Responsibility, and Transparency Act, H.R. 3763, recognizes the need for corporate leaders to act responsibly, and holds them accountable if they fail to do so. It seeks to restore confidence in accounting standards, increases corporate disclosure and responsibility, better protects 401(k) plan participants, and reduces analyst conflicts of interests.

These legislative reforms, and the President's plan for corporate responsibility, will benefit small investors and employees and will help strengthen faith and confidence in the corporate community in our own backyard. In New Jersey, I am mindful of the personal tragedy encountered by countless citizens who have lost their jobs, investments, pensions and even health care benefits. And poor management decisions at companies like Lucent have resulted in millions of investors and 401(k) plans having catastrophic losses. Furthermore, we must remember those employees whose pension benefits decreased when employers, like AT&T and others, transitioned from a traditional pension plan to a cash balance pension plan. While these transitions were within current legal boundaries, such moves have had devastating effects on long-time, dedicated workers, especially those who thought themselves secure in their retirement.

Clearly, not all companies or their executives fall into the "bad apple" categories about which there's been so much news recently. To those who, without stricter rules and reforms, have lived to the highest standards of ethical behavior, I commend you. But to those who have ventured from the truth, and who have been overwhelmed by greed, the party's over.

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of H.R. 5118, the Corporate Fraud Accountability Act of 2002. I commend Chairman SENSENBRENNER for acting expeditiously to ensure that this important element of corporate responsibility, namely the strengthening of criminal penalties, is part of Congress' effort to eliminate corruption in corporate America. This bill tells corporate criminals that they are no longer "above the law." It holds those executives who have defrauded investors and harmed the American economic system accountable with tough new criminal penalties. It helps to close the loopholes that have allowed for continued offenses in America's corporate community.

The reckless actions of corporate wrongdoers have undermined trust in our markets and our economy. We must return confidence

back to the markets and to the accounting profession. Individual investors have to be certain that the information they are receiving is accurate and complete. House passage of the Corporate and Auditing Accountability, Responsibility and Transparency Act was a giant step in the right direction. CARTA includes important provisions to strengthen supervision and oversight of the accounting industry, increase the standard of corporate responsibility, and improve the quality of corporate disclosure and the auditing of publicly traded companies. Passage of H.R. 5118 will take us a step further.

This bill builds on CARTA by:

Increasing the penalties for mail and wire fraud.

Creating a new crime of "securities fraud."

Strengthening laws that criminalize obstruction of justice.

Granting emergency authority to the U.S. Sentencing Commission to promulgate guidelines that reflect the serious nature of securities, pension, and accounting fraud.

Closing loopholes that currently allow corporate officers to use bankruptcy laws to discharge liabilities.

Requiring top corporate executives to certify that financial statements of the company fairly and accurately represent the financial condition of the company.

Providing additional tools to prosecute wrongdoing by corporate criminals who attempt and conspire to violate the law.

Increasing the criminal penalties for those who file false statements with the Securities and Exchange Commission.

Freezing extraordinary payments to executives while the company is subject to an SEC investigation.

The bottom line is that criminals can steal more money with a briefcase than with a gun. Businessmen who extort the American public should be punished like the common criminals they are. This bill ensures that corporate wrongdoers go to jail for their crimes.

I am outraged by the fact that corporate executives consider themselves above the law and out of reach of the arm of justice. Some auditors and accountants have the impression that they have the right to skew numbers and reports, robbing hard-working Americans of their pension funds and stock investments. One of the pillars of our economy is confidence. And Americans are close to losing this confidence in our financial markets because of prominent corporate crooks. Passage of this bill is an important step toward restoring the confidence of the American people. I urge my colleagues to support it.

Further, I urge the leadership of the House and the Senate to act expeditiously to bring a final conference agreement back to this House on CARTA and the so-called Sarbanes bill, legislation that combines new corporate accounting reforms with tough new criminal penalties for corporate crooks.

Time is of the essence. Irresponsible corporate leaders have forced us to act. The American people expect us to act. The American economy needs us to act. We should not leave this Chamber next year having acted.

Mr. BLUMENAUER. Mr. Speaker, this bill brought before us is not the way in which Congress should craft legislation. While I'm supportive of increased criminal penalties for corporate misconduct, which this bill includes, it falls far short in other areas necessary to

bring needed changes to the corporate world—lack of whistleblower protection and extending the statute of limitations for investor lawsuits.

No time was provided to review and analyze this legislation. It did not go through the committee process where it could be debated and refined in a bipartisan manner and was brought to the floor in a manner that does not allow amendments to be offered. Therefore, I do not support this bill. The only reason to treat Congress and the American public this way is to provide political cover.

Mr. SENSENBRENNER. Mr. Speaker, 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 Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 5118, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. CONYERS. 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.

Pursuant to clause 8 of rule XX, this 15-minute vote on H.R. 5118 will be followed by two 5-minute votes on motions debated yesterday.

The vote was taken by electronic device, and there were—yeas 391, nays 28, not voting 15, as follows:

[Roll No. 299]

YEAS—391

Ackerman
Aderholt
Akin
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop
Blunt
Boehkert
Boehner
Bonilla
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr

Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
Delahunt

DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Ferguson
Flake
Fletcher
Foley
Forbes
Ford
Fossella
Frank
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gilchrest
Gillmor
Gilman

Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grucci
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilliard
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslie
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Kleczka
Knollenberg
Kolbe
LaFalce
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey

Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-
McDonald
Miller, Dan
Miller, Gary
Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce

Rush
Ryan (WI)
Ryan (KS)
Sanchez
Sandlin
Sawyer
Saxton
Schiff
Schrock
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Viscosky
Vitter
Walden
Walsh
Wamp
Watkins (OK)
Watson (CA)
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—28

Abercrombie
Baldwin
Blumenuer
Brady (PA)
Clay
Conyers
Davis (IL)
DeGette

Fattah
Filner
Hinchev
Honda
Jones (OH)
Kucinich
Lee
Markey

McDermott
McGovern
McKinney
Oberstar
Oliver
Paul

Sabo Schakowsky Stark
 Sanders Scott Waters

NOT VOTING—15

Allen Hilleary Nadler
 Blagojevich John Riley
 Bonior Lewis (GA) Roukema
 Gibbons Mascara Schaffer
 Hastings (FL) Morella Traficant

□ 1318

Ms. DEGETTE, Mr. McGOVERN, Mr. DAVIS of Illinois and Mrs. JONES of Ohio changed their vote from “yea” to “nay.”

Mr. TOWNS and Mr. WATT of North Carolina changed their vote from “nay” to “yea.”

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mrs. MORELLA. Mr. Speaker, on rollcall No. 299, I was unavoidably detained in the Capitol. Had I been present, I would have voted “yea.”

Mr. GIBBONS. Mr. Speaker, on rollcall No. 299, I was unavoidably detained. Had I been present, I would have voted “yea.”

ANNOUNCEMENT BY THE SPEAKER
 PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting on two additional motions to suspend the rules on which the Chair has postponed further proceedings.

HONORING TED WILLIAMS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 482.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and agree to the resolution, H. Res. 482, 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 418, nays 0, not voting 16, as follows:

[Roll No. 300]
 YEAS—418

Abercrombie Bartlett Bonilla
 Ackerman Barton Bono
 Aderholt Bass Boozman
 Akin Becerra Borski
 Andrews Bentsen Boswell
 Army Bereuter Boucher
 Baca Berkley Boyd
 Bachus Berman Brady (PA)
 Baird Berry Brady (TX)
 Baker Biggart Brown (FL)
 Baldacci Bilirakis Brown (OH)
 Baldwin Bishop Brown (SC)
 Ballenger Blumenauer Bryant
 Barcia Blunt Burr
 Barr Boehlert Burton
 Barrett Boehner Buyer

Callahan Greenwood
 Calvert Grucci
 Camp Gutierrez
 Cannon Gutknecht
 Cantor Hall (OH)
 Capito Hall (TX)
 Capps Hansen
 Capuano Harman
 Cardin Hart
 Carson (IN) Hastings (WA)
 Carson (OK) Hayes
 Castle Hayworth
 Chabot Hefley
 Chambliss Herger
 Clay Hill
 Clayton Hilliard
 Clement Hinchey
 Clyburn Hinojosa
 Coble Hobson
 Collins Hoeffel
 Combest Hoekstra
 Condit Holden
 Conyers Holt
 Cooksey Honda
 Costello Hooley
 Cox Horn
 Coyne Hostettler
 Cramer Houghton
 Crane Hoyer
 Crenshaw Hulshof
 Crowley Hunter
 Cubin Hyde
 Culberson Inslee
 Cummings Isakson
 Cunningham Israel
 Davis (CA) Issa
 Davis (FL) Istook
 Davis (IL) Jackson (IL)
 Davis, Jo Ann Jackson-Lee
 Davis, Tom (TX)
 Deal Jefferson
 DeFazio Jenkins
 DeGette Johnson (CT)
 Delahunt Johnson (IL)
 DeLauro Johnson, E. B.
 DeLay Johnson, Sam
 DeMint Jones (NC)
 Deutsch Jones (OH)
 Diaz-Balart Kanjorski
 Dicks Kaptur
 Dingell Keller
 Doggett Kelly
 Dooley Kennedy (MN)
 Doolittle Kennedy (RI)
 Doyle Kerns
 Dreier Kildee
 Duncan Kilpatrick
 Dunn Kind (WI)
 Edwards King (NY)
 Ehlers Kingston
 Ehrlich Kirk
 Emerson Kleczka
 Engel Knollenberg
 English Kolbe
 Eshoo Kucinich
 Etheridge LaFalce
 Evans LaHood
 Everrett Lampson
 Farr Langevin
 Fattah Lantos
 Ferguson Larson (WA)
 Filner Larson (CT)
 Flake Latham
 Fletcher LaTourette
 Foley Leach
 Forbes Lee
 Ford Levin
 Fossella Lewis (CA)
 Frank Lewis (KY)
 Frelinghuysen Linder
 Frost Lipinski
 Gallegly LoBiondo
 Ganske Lofgren
 Gekas Lowey
 Gephardt Lucas (KY)
 Gibbons Lucas (OK)
 Gilchrest Luther
 Gillmor Lynch
 Gilman Maloney (CT)
 Gonzalez Maloney (NY)
 Goode Manullo
 Goodlatte Markey
 Gordon Matheson
 Goss Matsui
 Graham McCarthy (MO)
 Granger McCarthy (NY)
 Graves McCollum
 Green (TX) McDermott
 Green (WI) McGovern

McHugh Sherman
 McInnis Sherwood
 McIntyre Shimkus
 McKeon Shows
 McKinney Shuster
 McNulty Simmons
 Meehan Simpson
 Meek (FL) Skeen
 Meeks (NY) Skelton
 Menendez Slaughter
 Mica Smith (MI)
 Millender Smith (NJ)
 McDonald Smith (TX)
 Miller, Dan Smith (WA)
 Miller, Gary Snyder
 Miller, George Solis
 Miller, Jeff Souder
 Mink Spratt
 Mollohan Stark
 Moore Stearns
 Moran (KS) Stenholm
 Moran (VA) Strickland
 Murtha Stump
 Myrick Stupak
 Napolitano Sullivan

Neal
 Nethercutt
 Ney
 Northup
 Norwood
 Nussle
 Oberstar
 Obey
 Olver
 Ortiz
 Osborne
 Ose
 Otter
 Owens
 Oxley
 Pallone
 Pascrell
 Pastor
 Paul
 Payne
 Pelosi
 Pence
 Peterson (MN)
 Peterson (PA)
 Petri
 Phelps
 Pickering
 Pitts
 Platts
 Pombo
 Pomeroy
 Portman
 Price (NC)
 Pryce (OH)
 Putnam
 Quinn
 Radanovich
 Rahall
 Ramstad
 Rangel
 Regula
 Rehberg
 Reyes
 Reynolds
 Rivers
 Rodriguez
 Larsen (WA)
 Roemer
 Rogers (KY)
 Rogers (MI)
 Rohrabacher
 Ros-Lehtinen
 Ross
 Rothman
 Roybal-Allard
 Royce
 Rush
 Ryan (WI)
 Ryun (KS)
 Sabo
 Sanchez
 Sanders
 Sandlin
 Sawyer
 Saxton
 Schakowsky
 Schiff
 Schrock
 Scott
 Sensenbrenner
 Serrano
 Sessions
 Shadeegg
 Shaw
 Shays

NOT VOTING—16

Allen
 Blagojevich
 Bonior
 Hastings (FL)
 Hilleary
 John

Lewis (GA)
 Mascara
 McCrery
 Morella
 Nadler
 Riley

Roukema
 Schaffer
 Thomas
 Traficant

□ 1328

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONGRATULATING DETROIT RED
 WINGS FOR WINNING 2002 STAN-
 LEY CUP CHAMPIONSHIP

The SPEAKER pro tempore (Mr. LAHOOD). The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 452.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. SHAYS) that the House suspend the rules and agree to the resolution, H. Res. 452, 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 410, nays 0, answered “present” 4, not voting 20, as follows:

[Roll No. 301]
 YEAS—410

Abercrombie Bentsen Brady (TX)
 Ackerman Bereuter Brown (FL)
 Aderholt Berkley Brown (OH)
 Akin Berman Brown (SC)
 Andrews Berry Bryant
 Army Biggart Burr
 Baca Bilirakis Burton
 Bachus Bishop Buyer
 Baird Blumenauer Callahan
 Baker Blunt Camp
 Baldacci Boehlert Cannon
 Baldwin Boehner Cantor
 Ballenger Bonilla Capito
 Barcia Bono Capps
 Barr Boozman Capuano
 Barrett Borski Cardin
 Bartlett Boswell Carson (IN)
 Barton Boucher Carson (OK)
 Bass Boyd Castle
 Becerra Brady (PA) Chabot