may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the further consideration of H.R. 5025, and that I may include tabular material on the same.

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

There was no objection.

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2005

The SPEAKER pro tempore. Pursuant to House Resolution 770 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5025.

□ 1518

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5025) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes, with Mr. BOOZMAN (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Wednesday, September 15, 2004, the amendment by the gentleman from Virginia (Mr. MORAN) had been disposed of.

Pursuant to the order of the House of that day, the order of the House of September 14, 2004, was amended to strike any provision for the amendment by the gentleman from Arizona (Mr. FLAKE) regarding Cuba.

The reading has progressed to page 166, line 3.

AMENDMENT NO. 5 OFFERED BY MR. SANDERS

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

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

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. SANDERS:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. _____. None of the funds appropriated by this Act may be used to assist in overturning the judicial ruling contained in the Memorandum and Order of the United States District Court for the Southern District of Illinois entered on July 31, 2003, in the action entitled Kathi Cooper, Beth Harrington, and Matthew Hillesheim, Individually and on Behalf of All Those Similarly Situated vs. IBM Personal Pension Plan and IBM Corporation (Civil No. 99–829–GPM).

The CHAIRMAN pro tempore. Pursuant to the order of the House of Tuesday, September 14, 2004, the gentleman from Vermont (Mr. SANDERS) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, this tripartisan amendment is cosponsored by the gentleman from Minnesota (Mr. GUTKNECHT), the gentleman from California (Mr. GEORGE MILLER), the gentleman from New York (Mr. HINCHEY), and the gentleman from Illinois (Mr. EMANUEL). This amendment also has the strong support of the AARP, the largest senior citizen group in this country, representing over 35 million Americans; the AFL–CIO, representing all of organized labor; and the Pension Rights Center.

Mr. Chairman, last year, this amendment passed the House by a vote of 258 to 160. Two years ago, a similar amendment passed by a vote of 308 to 121. By voting for this amendment today, we will be protecting the retirement benefits of some 8 million American workers who have seen their pensions slashed by as much as 50 percent through age discriminatory cash balance pension schemes and the 14 million more American workers who still have traditional, defined benefit plans that could be converted to cash balance schemes. That is the issue today: standing up for those workers and protecting the pensions that they have been promised.

The reason that this amendment is coming up again today is, despite the very strong, tripartisan support that we have seen in the House, this bill has yet to be implemented into law, and it is imperative that we keep fighting and keep standing with American workers who want us to do that.

Mr. Chairman, this amendment is simple and straightforward. In July of 2003, a Federal court ruled that IBM's cash balance pension plan violates Federal anti-age discrimination law. The judge in this case is expected to award damages to IBM employees any day now, after which the company will appeal to the Seventh Circuit Court of Appeals.

Our amendment today would simply prohibit the Federal Government from assisting in overturning this pro-worker court decision. IBM deserves its day in court, like every other litigant, but taxpayer money should not be used to support an age-discriminatory cash balance plan. And this amendment gives Congress the opportunity to make that very clear.

Mr. Chairman, let us be very clear. While this particular lawsuit involves IBM's conversion to a cash balance plan, there are hundreds of other companies that have done exactly the same thing. This is not just IBM; it is hundreds of companies, companies like AT&T, Duke Energy, CBS, Bank of America, Enron, WorldCom and many others. It is not only IBM employees who are hurting but millions of workers from one end of this country to the other who have also been affected, people whose retirement dreams have been shattered when companies change the rules of the game and slash the retirement benefits that were promised to their employees.

This precedent-setting court ruling against cash balance plans confirms what American workers have been saying for years: Cash balance pension conversions discriminate against workers based on age, are illegal and, without adequate protections for older workers, must be stopped. And that is what we are here to do today.

Mr. Chairman, let me just read a brief excerpt from the ruling of Judge Murphy: ''In 1999, IBM opted for a cash balance formula. The plan's actuaries projected that this would produce annual savings of almost $500 million by 2009. These savings would result from reductions of up to 47 percent in future benefits that would be earned by older IBM employees. The 1999 cash balance formula violates the literal terms of the Employee Retirement Income Security Act. IBM's own age discrimination analysis illustrates the problem.'' That was Judge Murphy.

Mr. Chairman, I became involved in this issue several years ago when hundreds of IBM employees in Vermont contacted my office and told me that the pensions that they had been promised by the company had been cut by 20 to 50 percent. In fact, the largest town meeting that I have ever held in Vermont, and I have held many, was for some 700 IBM workers who came out to demand that the company rescind the changes that had been made in their pension plan.

Mr. Chairman, think about it. Think about workers staying at a company through good times and bad times, providing loyalty to their employers because, among other reasons, they expect to receive certain agreed-upon pensions when they retire. And then, Mr. Chairman, one day, out of nowhere, the company sends a document, maybe it is an e-mail, which says, in so many words: Thank you, employees, for your dedicated service to the company, but forget about the promises that we made to you regarding the retirement that you and your family were anticipating. Forget about it. That is gone.

And, in many instances, while pulling the rug out from under their employees, we are seeing older workers, years of service to a company, suddenly find that the pensions that they had been planning on, the retirement dreams that they had been expecting, slashed by up to 50 percent.

Mr. Chairman, for those Members who will tell us that cash balance conversions are good things and should be supported, and there will be some today, I would remind them of a report from the Congressional Research Service that I requested. And very simply, what I asked the CRS to tell me is, what impact would a conversion to cash balance mean for Members of Congress, because I hear over and over again, Members of Congress, they want the American people to have what they have.

Well, surprise, surprise. What the CRS reported was that, if Congress converted to cash balance payment plans, our retirement benefits would go down, down, down. So, if any Member today thinks that it is a great idea to force cash balance payment plans on the workers of America, I hope that they will do the same thing for the Members of Congress and cut their pensions by up to 50 percent.

Mr. Chairman, all over this country today, there is enormous pension anxiety. People who have worked for decades are wondering whether the promises made to them will be kept. That is the issue today. Let us vote for this tripartisan amendment.

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

Mr. ISTOOK. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Oklahoma (Mr. ISTOOK) is recognized for 20 minutes.

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

Mr. Chairman, maybe people do not realize what we are actually debating. We are not debating pension plans. We are not debating conversion of pension plans from one type to another. We have before us the amendment by the gentleman from Vermont to this Transportation and Treasury appropriation bill, and maybe people do not realize what the amendment says.

The amendment says that you cannot use any of the money appropriated in this bill to assist in overturning the judicial ruling on a particular court case. That case, which was in the Southern District of Illinois, decided last year, was the action of Kathi Cooper, Beth Harrington and Matthew Hillesheim, Individually and on Behalf of All Those Similarly Situated v. IBM.

The amendment says, do not use any of the money in this appropriations bill to assist in overturning a court case to which the United States Government is not even a party. It is a case between IBM and some workers at IBM. Not only that, this bill does not contain funding for the judicial system, nor do I believe it is the role of this Congress to say, when I like a court decision, I am going to come here with a bill that says, nobody can overturn this court decision. If I do not like a court decision, I am going to come here with a bill that says, we must overturn the court decision.

Now, we can change underlying law. That is our job. But it is not our job to say, we are going to decide a particular court case. If we want to change the law that governs the entire country, we ought to do it, but not come with a bill that has nothing to do with the judicial system and say, you cannot use this to overturn a court case between IBM and some of its workers.

Now, there is a lot of controversy, we know, about types of pension plans and conversions of pension plans. We have legislation that is being considered. We have the Treasury Department, which is working on potential regulations relating to those conversions. And the Treasury Department works with every company in the country and every individual covered by a pension plan in the country, and you cannot say you do not communicate with each other.

□ 1530

But, again, that is not what this says. It says, do not help somebody overturn a court case to which you are not a party. Come on, get real. Besides which, there has been other litigation on this case, and other courts came down on the other side. I think there have been four cases around the country. Three went one way; this one went the other.

If we want to talk about the issues, let us bring legislation to talk about what pension laws should be generally, not try to say we are going to overturn a court case with an action before this Congress in the amendment.

One final thing just because I know that the proponents of the amendment are getting into the merits of the case. Basically, that case said, well, it is age discrimination if somebody is going to work for a company longer and so their benefits earn more interest than somebody that works for a shorter period of time. And this court decided that was age discrimination. If money accrues more interest because it is invested longer, they call that age discrimination. I do not. I do not think most people who apply common sense would think that.

But this amendment does not belong on this bill. This is not changing the law of the land. This is trying to change the outcome of a lawsuit that is now on appeal to which the United States is not even a party. We should not be doing that.

I ask for opposition to this amendment.

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

Mr. SANDERS. Mr. Chairman, I yield 4 minutes to the gentleman from Minnesota (Mr. GUTKNECHT), a gentleman who has been very active in supporting workers on pension issues.

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

I want to agree in most part with what the chairman said about this issue. It probably is not the appropriate time to have a big debate about pension policy, but I come to a completely different conclusion.

He said this amendment does not belong on this bill. It is a shame that we have to talk about this amendment on this bill, because it really is about pension policy, and it is about age discrimination, and it is about one company in particular. Now, I do disagree with the gentleman from Vermont (Mr. SANDERS). I do not think all of these cash balance plans are inherently evil. And, frankly, there have been a number of companies that have converted their pension plans working with the collective bargaining units, working with their employees, giving employees their choice that have done things the right way. So these are not inherently evil things in terms of pension.

As we go forward as a society, as people change jobs more often, the idea of a cash balance plan may make some sense; but it does not make sense when you have a system that works the way it did in the IBM employees' case, and that is where they were given no choice, they were given no say. These were people with vested benefits.

Let me remind Members about what vested says about things. This is the quotation from Webster's Collegiate Dictionary. It says: ''Fully and unconditionally guaranteed as a legal right, benefit, or privilege.''

Now, these employees showed up for work one day, and they thought they had a pension benefit plan that was vested, that was theirs, that was fully and unconditionally guaranteed; and all of the sudden they found out that day that vested does not mean what they thought it meant. And they finally wound up getting this case before a Federal judge in a Federal court. And the Federal court, and I believe the Federal court in this case was absolutely right, said, wait a second. You cannot do this because the way pensions accrue value is you get most of the benefit.

There is sort of an ascending curve in pension benefits, and it is toward the end of your working career when you get the most benefit. So people who had worked for IBM for 20 years and were going to retire in 5 or 6 years, and I will say that IBM under enormous pressure did rescind the original package that they put in front of the employees, they made it a little better for older workers.

But it did not change the basic facts. First of all, the employees were given no choice even if they were vested. What it did and the reason why IBM and a lot of other employees wanted to convert to these cash balance plans is because they understood that it was a way to shave off those benefits for older workers in the last 5 or 6 years that they might be working for the company.

The bottom line is this: what they were really trying to do is get their hands in the pension funds, because they realized and their actuaries realized that most of these pension funds were overfunded, and they could literally move that money from the pension fund to their bottom line by making these conversions.

Companies are now coming and saying, gee whiz, this is going to cost us billions of dollars. Well, yes, it is going to cost billions of dollars because that was the employees' money. It did not belong to the employer. In fact, in some respects pension funds do not belong to the employee or employer. It is money being held in trust. And one company broke that trust, and the

Federal courts have come down on them very heavily.

I agree with the chairman, we should not have to be offering this amendment today because it is just outrageous for us to think that our own Federal Government would attempt to intervene in a case in which they are not a party to try and overturn a hard-won victory for the employees of IBM. This is an outrage. This is where we, whether Republicans or Democrats, ought to stand together and say it is wrong to steal from pension funds.

Support the Gutknecht-Sanders amendment.

I come to the floor as a cosponsor of this important amendment. IBM employs about 5000 people in my district and there are close to 5000 IBM retirees across the state of Minnesota. Their employees are also my constituents and I, therefore, have a vested interest in ensuring IBM employees are treated fairly.

Fifty years ago a salary was the most important thing to workers. Times have changed. today pensions and other benefits are the main reasons workers choose a particular company. It is important we encourage employers to keep their promises to their employees and not change their pension plans in midstream.

When an employee becomes vested in a pension plan he or she expects to receive those benefits. ''Vested'' according to my Webster's Collegiate Dictionary means ''fully and unconditionally guaranteed as a legal right, benefit, or privilege.'' These expected benefits should not be taken away.

Unfortunately, IBM did just that. Perhaps IBM received bad business advice, but the method by which IBM went about switching to a cash balance pension plan was far from exemplary. Let me remind you we're not talking about a company in dire fiscal straits. We're talking about a very healthy company.

Originally IBM offered only those employees within five years of retirement a choice between the old and new pensions plans. While I am pleased they expanded this choice to cover more employees after the employees rightly expressed their outrage, I believe the court case brought against IBM should proceed without intervention by the U.S. Treasury Department.

I wish IBM had adopted models used by other companies when they switched to alternatives to traditional defined benefit pension plans.

For example, Honeywell, another company with many employees in Minnesota, across America, and around the world, switched to a pension equity plan in 2000. Honeywell offered all their employees a choice between remaining in the old plan and switching to the new plan. This is the model of how I feel companies should proceed in this area.

The Director of Benefits for Eaton Corporation, Ellen Collier, testified in front of the House Education and Workforce Committee this year that her company has given employees the choice between two retirement plans. Motorola, Deloitte & Touche, Northern States Power, Eastman Kodak and many other companies have all given their employees choice between old and new plans.

I understand that cash balance plans are a reality of the modern world and we should not discourage companies from offering them. I, however, do feel there are right and wrong ways to go about converting from one plan to another.

IBM handled this inappropriately and I believe the court case should proceed without federal government involvement.

This amendment overwhelmingly passed the House last year by a vote of 258 to 160 with strong support from both sides of the aisle. It is supported by the AARP. I urge my colleagues to support the Sanders/Gutknecht Amendment.

Hon. GIL GUTKNECHT,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE GUTKNECHT: AARP supports the Gutknecht-Sanders amendment to the Transportation, Treasury and Independent Agencies Appropriations Act for Fiscal Year (FY) 2005 to ensure that the Internal Revenue Service (IRS) does not use any funds in contravention of current law prohibitions on age discrimination in pension plan funds and to specifically prohibit the IRS from issuing regulations or implementing any other measure that would conflict with the July 31, 2003, federal court ruling in Kathi Cooper, et al. v. IBM Personal Pension Plan, et. al.

AARP has long been concerned with the legal basis for the hybrid cash balance formula and the significant age discriminatory issues that arise when employees convert defined benefit pension plans to a cash balance formula. We believe that a careful review of the legal distinction between defined benefit and defined contribution plans such as was conducted by the federal court in Cooper makes clear that the most common designs for hybrid cash balance plans do not fit within the current legal framework of the Internal Revenue Code (IRC), the Age Discrimination in Employment Act (ADEA), and the Employee Retirement Income Security Act (ERISA).

As the court concluded in Cooper, the cash balance plan formula discriminates against older workers, and older workers are particularly disadvantaged when an employer converts from a defined benefit pension plan to a cash balance plan. These longer-term employees have given up wages and accepted a lower pension in the early years of their employment in exchange for the larger future benefits from their employer's traditional defined benefit pension plan. Without adequate protection, older workers will now lose some of the benefits they were promised. Older workers generally have less time to accumulate benefits under a new cash balance formula, have a harder time leaving their current job if compensation and benefits are cut, will have fewer prospects of finding a new job, and are less able to adjust to the changes that may dramatically reduce their retirement security (for example, they have less time to adjust by increasing their savings for retirement).

In September 1999, the IRS imposed a moratorium on corporate plans that convert traditional defined benefit plans to a cash balance formula so the agency could review the matter. The moratorium suspended consideration of approximately 300 pending applications submitted by corporations to convert an existing plan to a cash balance formula. The Treasury initially proposed regulations in December 2002 that would have lifted the moratorium and permitted corporations to establish cash balance plans. However, the IRS withdrew the proposed regulations in July of this year.

In its FY 2005 budget, the Administration proposed legislation that would have addressed some of the concerns related to cash balance plan conversions. AARP was pleased that the legislative proposal recognized the problem with so called ''wear-away'' and recommended a ban on the wear-away of any benefits at any time after a cash balance plan conversion. In recognition of the transition problem faced by workers, the Administration's proposal also included a five-year ''hold harmless'' period after each cash balance plan conversion.

While the proposal is a step in the right direction, it does not go far enough. More can be done to ensure that older workers are adequately protected from the impact of a ''pension pay cut'' in any conversion to a cash balance plan. In fact, many of the recent pension conversions—recognizing the harm to older workers—have provided older and longer-service workers with more generous transition relief, including a choice to remain in the old plan rather than move to the new cash balance plan. This is further confirmation that business can and should do the right thing for their older, longer-service employees.

AARP believes that Treasury should not take any action that would encourage companies to change their pension plans in a manner that is contrary to the age discrimination laws and the federal court ruling. Rather, Congress should act to ensure that older workers are protected in any cash balance conversion. We urge adoption of this amendment.

Thank you for your leadership and dedication to strengthening the private pension system and protecting the pension benefits of workers. Please let me know, or have your staff call Frank Toohey (202–434–3760) of our Federal Affairs office, if we can be of further assistance.

Sincerely,

MICHAEL NAYLOR,
Director of Advocacy.

Mr. SANDERS. Mr. Chairman, does the gentleman have additional speakers?

Mr. ISTOOK. Mr. Chairman, I have another speaker that may be arriving, but they are not here at this time; and other than that, I know of no other Members seeking time.

Mr. SANDERS. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois (Mr. EMANUEL).

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

I would like to commend the gentleman from Vermont (Mr. SANDERS), the gentleman from Minnesota (Mr. GUTKNECHT), the gentleman from California (Mr. GEORGE MILLER), the gentleman from New York (Mr. HINCHEY) for their leadership on this issue.

We have been down this road before. We dealt with this earlier where a bipartisan group of Members of Congress came together and sent a clear message as it relates to retirement and pensions that you cannot do what IBM and other corporations tried to do. And Congress in that issue was not left versus right. As my colleague from Minnesota (Mr. GUTKNECHT) always says, it is about right versus wrong. And a bipartisan group came together as it relates to the retirement plans of Americans who negotiated a deal and woke up in the middle of the night and had that deal abrogated, and that is not right.

Now, as my colleague from Minnesota said, there is a right way and a wrong way and you can create a win-

win situation. For the older workers who have a defined benefit plan, we are going to honor that. And for younger workers, we are going to get you into a 401(k) or what is called typically a defined contribution, that can happen as well. But you cannot wholesale change something people negotiated in good faith, won at the negotiating table and try in a backhanded way to take that money away. And if we had done that, and as my colleague from Vermont (Mr. SANDERS) has shown, if Members of Congress had opposed all of the sudden a cash balance type of retirement system, people here with 18, 20 years would lose hundreds of thousands of dollars in their retirement plan. They would not think it is right. And if it is not right for a Congressman, it should not be right for people who are employees of companies who agreed to something. That would be wrong.

Now, we are dealing with two cases here: the particular case of IBM and the general issue of retirement plans. On the IBM case, I think it is appropriate for this amendment because to date the Treasury Department has consistently tried to find a way, and this is the latest vehicle to get involved in this IBM case as it relates to the retirement plan and IBM's attempt to go to a cash balance retirement plan which would cheat older workers of many years of their retirement savings that they agreed to and have knowledge that they have when they retire.

We need to stop Treasury from doing what they have been trying to do for 2 years. I do compliment them for their resourcefulness. They have never missed an opportunity to try to figure out a back door to imposing cash balance as a retirement plan.

Now, in general, the larger subject, and, unfortunately, we in this Congress have not gotten to dealing with retirement plans yet as I in my city, we have United Airlines, we have a crisis in people's retirement plans, but we have a subject here. We as a society have told people, save for your retirement outside of Social Security. It is important for you to save and not just rely on Social Security. And here you have a case of workers who have saved outside of Social Security, done everything they have been told to do, and then corporate America is allowed to walk away and cheat them of that.

You cannot tell people on one hand, you need to save for your retirement, and on the other hand let corporate America steal from it or cheat them of it. You either tell them one thing and have the laws of the land follow it, or you tell them another thing and have the laws of the land follow it.

And the deal we are having here on this, because we have no other venue in dealing with the retirement crisis in America, is that we have to tell people, you are going to save outside of retirement and the laws of the land are going to respect what you have done for your life, which is to plan for you and your spouse's retirement and so you can retire with dignity, with Social Security, health care as well as the retirement plan you have in the private sector. And our laws are not going to undercut what you have done your whole life. And we are not going to allow management, I understand the pressure management is under, but we are not going to allow them to walk away with what they agreed to.

You can create, as Secretary of Treasury John Snow did at CSX when he was in private sector, he went to a cash balance, and did right. He did right to older workers. He did right to younger workers, and he did right to his bottom line and his shareholders; and he did not cheat anybody.

It is high time the folks in the Treasury Department get their greedy little hands off and stop trying to figure out every way to undermine working men and women in this country and retirees from what they have earned rightfully at the negotiating table.

Mr. SANDERS. Mr. Chairman, does the gentleman's status remain the same?

Mr. ISTOOK. Mr. Chairman, I just received a note that there is a Member that is on his way.

Mr. SANDERS. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Chairman, I thank the gentleman from Vermont (Mr. SANDERS) for yielding me time.

This amendment is, in fact, about fairness. It is fairness to the American workers. A Federal court ruled in 2003 in the IBM case a conversion to cash balance plan, in that instance, which would have reduced pensions for older workers by 47 percent was a violation of Federal age discrimination rules.

Now, even though that provision has become law, it has not stopped consultants from trying to convince the Treasury Department to issue new guidance that would overturn that rule and other Court rulings in favor of employees.

By prohibiting the Federal Government from assisting in overturning these judicial rulings, this amendment protects millions of people. Those people stand the risk of having their pensions from hard work and long hours taken away from them by the conversion. It is only right and fair and just that we pass this amendment. More than 8 million employees and retirees have lost $334 billion in benefits as a result of pension plans being shifted to cash balance plans inappropriately.

A large number of older Americans, in this case defined by people 40 years and older, have lost up to 50 percent of the values of their plans. So I think what is even worse about this is the fact that President Bush's administration has supported treating these workers unfairly by backing cash balance plans.

In December of 2002, the IRS proposed lifting the 1999 moratorium on cash balance plan conversion. This year, the administration's budget proposed to give corporations a green light to violate pension age discrimination laws, while providing inadequate protection to workers affected in the future. These threats by the administration to workers' pensions demonstrate the importance of passing this amendment.

By voting for this amendment, Congress will be taking another important step toward protecting the rights of workers. I urge my colleagues to do just that. Support this amendment and stand up for America's workers.

Mr. SANDERS. Mr. Chairman, how much time is left on both sides?

The CHAIRMAN pro tempore (Mr. THORNBERRY). The gentleman from Vermont (Mr. SANDERS) has 3 minutes remaining. The gentleman from Oklahoma (Mr. ISTOOK) has 16 minutes remaining.

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

Mr. Chairman, I think it is important to remind people what this amendment is and what this amendment is not.

This amendment is not determining the question of what types of pension plans are permitted by law. This amendment does not determine the question about whether you can convert, if you are a company, from one type of pension plan to another. That is not what we are talking about. This amendment says specifically that you cannot overturn a particular court case between IBM and its workers that is in contradiction of multiple other court cases about whether a retirement plan is age discriminatory or not.

□ 1545

That case is on appeal. That case is going to be decided under the law as it existed at the time. We are not changing the underlying law. We are not being asked to create a uniform standard for all companies. We are being asked to help people make sure that they do not lose their case on appeal, even if that appeal is contrary to other court decisions, even if that is not a proper role of this Congress. That is what the amendment is about. It is about stopping the overturning of a particular court case.

Mr. Chairman, yes, there is a large part of other issues that are out there that relate to pension plans, and most of the speakers have been talking about those issues. There are many companies that will tell us they made some bad decisions in years past, and because of it, they and their workers are in a tough spot. They may not be able both to pay the benefits they promised to workers in years past and stay in business.

Many companies have gone into bankruptcy because of this; and in bankruptcy court, if it is a reorganization procedure, they can abrogate, or in other words, they can do away with, or change the terms of, prior pension plans. It is a conflict often between people who worked for a company and received certain promises, and they

want those promises fulfilled and people who currently work for a company, and the company is not going to be able to stay in business if it is stuck with the old pension plan rules.

That is why so many companies want options in this. That is why we are looking at legislation to give companies options. It is a bona fide, honest debate that we need to be having, but it is not what this amendment is about.

This amendment, says, well, you cannot use any money in this particular appropriations bill to help overturn this one case with one set of workers and one company. We should not even be considering an amendment like this, and I oppose it.

Mr. Chairman, I yield 4 minutes to the gentleman from Texas (Mr. SAM JOHNSON).

(Mr. SAM JOHNSON of Texas asked and was given permission to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Chairman, I rise today to oppose the amendment by the Representative from Vermont.

The gentleman from Ohio (Chairman BOEHNER) and I are working on legislation to reform the pension system, and this ill-timed amendment will undermine our efforts. I ask my colleagues to refrain from using the appropriations process to undermine our comprehensive reform efforts in the committee of jurisdiction.

The various sponsors of this amendment have had a problem with the conversion of the IBM pension plan 5 years ago. Despite the fact that IBM gave its employees everything they were asking for, the sponsors of this amendment now want to continue pushing this issue past its logical conclusion.

They now want to enshrine in law a flawed court case. The court case essentially found that the time value of money is age discriminatory.

An example might explain this crazy logic. Let us say a 25-year-old and a 52-year-old were hired on the same day to do the same job at the same pay. Their company would make an equal contribution to each employee's pension account.

The Cooper case found that the equal pension contribution is age discriminatory. Why? Because the 52 year old has less time to accumulate interest before retiring.

Yes, the logic of the case is that interest or the time value of money is age discriminatory. It is flawed logic, and it has been found to be flawed in every other court that has reviewed this issue.

Thousands of cash balance pension plans cover millions of Americans.

To the extent that the flawed logic of this amendment is given any support in Congress, it will undermine pension plans. Given the growing reluctance of businesses to sponsor traditional defined benefit pension plans, this amendment is just one more reason for companies to walk away from this type of pension and our constituents who need them.

We need to oppose this flawed amendment.

Mr. SANDERS. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Chairman, I hate to rise and oppose two of my good friends, but I thank the gentleman from Texas (Mr. SAM JOHNSON), who has just given a speech; and I just want to contradict a couple of things he said.

First of all, if the IBM company had given IBMers all they wanted, they would not be in court; and if there were not age discrimination, they would not have won; and if it were not for the IRS and the Department of Treasury wanting to get involved in this case, we would not have to offer this amendment.

This is wrong. As my friend said, this is not a matter of right versus left. It is right versus wrong. It is wrong for employers to steal from pension funds. It is that simple.

The reason we are here today is to try and keep this administration from doing something incredibly stupid, and that is, getting involved in this case which the workers have already won, and they are right, because it is the age discrimination.

Cash balance plans are not intrinsically evil. I said that earlier; but when you do it in such a way so that you shave off the end where people really accrue benefits, the courts have correctly ruled.

Mr. SANDERS. Mr. Chairman, I would inquire as to the amount of time left both on sides.

The CHAIRMAN pro tempore (Mr. THORNBERRY). The gentleman from Vermont (Mr. SANDERS) has 2 minutes remaining. The gentleman from Oklahoma (Mr. ISTOOK) has 11 minutes remaining, and he has the right to close.

Mr. ISTOOK. Mr. Chairman, I intend to reserve the balance of my time for closing.

Mr. SANDERS. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. OLVER).

Mr. OLVER. Mr. Chairman, I applaud the gentleman from Vermont (Mr. SANDERS) and the gentleman from Minnesota (Mr. GUTKNECHT) for their leadership and work on this issue.

The gentleman from Vermont's (Mr. Sanders) amendment is very clear. It would prohibit the Federal Government from assisting in overturning or, for that matter, in taking any role thereby in overturning the court decision in this case.

Now, the chairman has characterized this amendment as saying that this court decision cannot be overturned. That is not true at all. IBM and the workers for IBM can contest that, and it can be overturned. The amendment merely says that the U.S. Government cannot take part in the overturning.

The gentleman from Texas has said that this amendment would undermine pension reform. Whatever the chairman's views on the appropriateness of this amendment for this bill, last year this amendment passed this House on this very same bill by a vote of 258 to 160. The chairman was the chairman then. Two years ago, a similar amendment passed the predecessor subcommittee, the Subcommittee on Treasury, Postal Service and General Government, which the chairman was the chairman of also, by a 308 to 121 vote.

So it has been applied to this bill at previous times; and here again, the only issue is that taxpayer money should not be used to support IBM's age discriminatory cash balance plan, as the court decided. It would be an insult to workers if their own Federal dollars were used to cut their own pension plans, and we should overwhelmingly adopt this amendment today as we have done on two previous occasions to the exact same bill in previous years.

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

This amendment is not necessary for us to intervene in a lawsuit that is on appeal. Even if we did, we would be intervening against the weight of what other courts have ruled, and we would also threaten the efforts that this body and many people in it are undertaking, trying to resolve the tricky issues of pension plans, conversions of other pension plans between defined benefit and defined contribution plans.

This does not belong on this bill, and I ask Members to oppose the amendment.

Mr. GEORGE MILLER of California. Mr. Chairman, I rise in support of the Sanders Amendment.

The Sanders amendment would ensure that the Treasury Department does not use any of its funds to undermine the Federal court decision in Cooper v. IBM that held that cash balance conversions violate Federal pension and age discrimination law.

We've been here many times before.

In fact, this is the fourth time that the House is voting to protect older workers' pensions under cash balance pension plan conversions. The last two times the amendment passed by 308–121 and 258–160.

Instead of voting to prevent the Treasury Department from undermining workers' pensions, I wish we were voting affirmative legislation to set standards for cash balance plans.

This issue has been going on since 1999.

In 1999, IBM converted its pension plan to a cash balance plan. Luckily, its computer savvy workers quickly figured out that the conversions would reduce their expected pensions. The workers mobilized and got Congress to hold hearings.

The Clinton administration imposed a moratorium on approvals of conversions in September 1999. But then, the new Bush administration tried to issue regulations lifting the moratorium and permit conversions without any worker protections.

Immediately 218 Members of Congress wrote to the President urging him to revise the regulations and protect older workers.

Four times the House and Senate have voted to require Treasury to withdraw its regulations and protect older workers.

Finally, this year, in 2004, the Bush administration relented and withdrew the regulations. The administration even sent up a revised legislative proposal that contained a modicum of older worker protections through it did not go far enough to protect older workers.

But, still the issue is not resolved. Either Congress or the courts must set standards for cash balance plans and conversions to such plans.

The Republican Congress has done nothing on this issue for almost 6 years. If anything, Republican leader would defer to employer lobbying and simply permit cash balance conversions without any protections for older workers.

That's why the courts may have to be the body that resolves some of these issues.

One court, the Federal district court for the State of Illinois, determined that conversions are illegal. Other courts have disagreed. These cases and others still waiting to be heard will take years to resolve.

This amendment makes clear that the Treasury Department shall not interfere in these cases.

Today worker pension security is in crisis. This administration has done nothing to protect worker's pensions and done everything to undermine them.

They didn't protect workers after Enron and Worldcom from employers loading pension plans with employer stock and letting the executive protect themselves while leaving the workers stuck with worthless stock.

They didn't protect participants in 401(K) plans from a broad range of mutual fund abuses that have decimated retirement nest eggs.

And they are not protecting workers now from rampant pension underfunding. The PBGC, the agency that insures traditional pensions, has a $10 billion deficit. And if the airlines go under, the deficit will increase by another $30 billion. Over 1,000 pension plans are more than $50 million underfunded. And workers don't even know because the PBGC is required to keep the information secret.

The administration and the Republican majority are doing nothing to protect worker pensions.

I urge my colleagues to vote once again and remind the majority that it is the will of the Congress that older workers be protected in cash balance pension plan conversions.

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

The CHAIRMAN pro tempore. All time for debate has expired. The question is on the amendment offered by the gentleman from Vermont (Mr. SANDERS).

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

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

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Vermont (Mr. SANDERS) will be postponed.

AMENDMENT NO. 11 OFFERED BY MR. VAN HOLLEN

Mr. VAN HOLLEN. Mr. Chairman, I offer an amendment.

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

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. VAN HOLLEN:

At the end of the bill (before the short title), insert the following:

SEC.____. None of the funds made available by this Act may be used to implement the revision to Office of Management and Budget Circular A–76 made on May 29, 2003.

The CHAIRMAN pro tempore. Pursuant to the order of the House of Tuesday, September 14, 2004, the gentleman from Maryland (Mr. VAN HOLLEN) and the gentleman from Oklahoma (Mr. ISTOOK) each will control 10 minutes.

The Chair recognizes the gentleman from Maryland (Mr. VAN HOLLEN).

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

Mr. Chairman, this amendment deals with the process that we now have in place for contracting out work that is being performed by Federal employees, in other words, the rules that govern the privatization of Federal Government jobs.

That process, which is known as the A–76 process, named after the OMB circular, is now a broken process. In fact, both Federal Government employees and private contractors have serious, legitimate complaints about the existing competitive sourcing process.

This amendment would, in effect, encourage OMB to go back to the drawing board and develop a competitive sourcing process that makes sense and is fair to all parties.

It is an amendment that is identical word for word to the amendment that the House passed on a bipartisan basis last year as part of the Transportation-Treasury appropriations bill.

We passed this amendment last year for a very simple reason. We recognized that the existing contracting-out process is unfair and that it needs to be fixed, and that has not changed from last year to this.

Indeed, already this year, the Committee on Appropriations and this House have acknowledged that the process is inadequate because we have passed both appropriations and authorization bills that change the competitive sourcing process as it applies to specific government agencies.

For example, the Defense appropriations bill that we passed, and which the President has already signed, changes the existing rules for Department of Defense Federal employees in a number of ways.

That bill ensures that Federal employees of the Defense Department are always given an opportunity to compete to keep their jobs by forming what is known as The Most Efficient Organization.

The Defense appropriations bill, again signed by the President already this year, requires that whatever entity is seeking to take over the work, to bid on the work, whether it be a private contractor or a group of Federal employees, must demonstrate that they will save the taxpayer dollars through a procedure known as ''minimal cost differential,'' or the ''10 percent savings rule.'' It makes sense that we would ask as part of the competitive process that we save the taxpayers money.

The Defense appropriations bill also prevents private contractors from gaining an advantage by contributing less to health insurance for their employees or by stripping people of their health benefits.

Those are provisions that have already passed the House, the Senate, and signed by the President as part of the Defense appropriations bill. They make sense and they are fair. If the current process is working, why did we change them as part of this year's Defense appropriations bill?

Why should those rules which we now have applied to DOD employees regarding contracting out not also apply to Federal employees at the Department of Transportation, Treasury Department, and other Government agencies? Why should those other Federal employees be treated as second-class citizens?

We also passed the Defense authorization bill this year. That legislation contains changes to the contracting-out process that requires that Federal employees and private contractors have the same rights to appeal an adverse decision. If they get a bad decision, they appeal.

□ 1600

We should make sure that right applies equally to both parties. That is simple fairness.

Then there are the Homeland Security appropriation bills and the Interior appropriation bills that have already passed this House. Those bills also have specific little changes to the contracting-out process. If it is so fair as it is, why did we as a body already change it this year with respect to those agencies?

And, indeed, the bill we are on today, the Transportation-Treasury appropriation bill, as it came out of committee, contained the Hoyer-Wolf language that also would have made the process more fair, that was taken out on a procedural motion earlier. But the pattern is clear: The Committee on Appropriations and this House, through the actions we have already taken this year on numerous appropriations and authorization bills, have recognized serious problems in the contracting-out process. The only problem is we have responded on an ad hoc piecemeal fashion.

We now have four different sets of rules in different appropriation bills, and we keep changing the rules year to year. The result is we have a patchwork of different rules that apply to different agencies. It is unfair to Federal employees, it is unfair to the private contractors. We should address this issue in a uniform comprehensive manner.

That is what this amendment is all about. It does not get rid of the competitive sourcing rules. The rules in effect before May 2003 will apply until OMB gets its act together and addresses the inadequacies in the process and addresses the kind of issue that this House has addressed this year in its appropriation bill. That is what this is about; sending it back to OMB and telling them to start from scratch and get a fair process in place. Then we will not have to deal with this issue year after year on this appropriation bill, Mr. Chairman.

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

Mr. ISTOOK. Mr. Chairman, I claim the time in opposition to the gentleman's amendment, and I yield myself such time as I may consume.

Mr. Chairman, I think there are many Members of this body who would object to any form of competitive sourcing of work that is currently being done by government workers. It is not a case of the specifics of any particular framework for doing that, they just want to make sure that people that have government jobs are the ones that do the work, despite inefficiencies, despite work that may be outside of the core work of a government agency.

For example, a government agency that may be involved with health care does not have expertise in cleaning its facilities or landscaping its facilities or copying services, or many of the myriad of things that are outsourced or competitively sourced frequently. They may have their own cafeteria workers rather than hiring a company that has expertise in running an employee cafeteria. There is a multitude of instances where it makes sense for the government to do what the private sector has done, and that is to take government functions that are performed by government workers that are not inherently governmental and find someone else that can do it better and cheaper.

The goal of so many Members of this body is to shut down any effort to make the Federal Government more competitive and more efficient because they want to make sure that people are on the government payroll, even if it costs more to do the work, and even if it is less efficient. If it uses more of the taxpayers' money, they do not care. They want to preserve government employees' jobs.

Well, this is not even a question about whether those people will get the jobs. If they go through the process of competitively sourcing it, and maybe letting someone else come in, typically they will hire the same people to do it, but under a new management. Moreover, when we have competitive sourcing competitions between government workers and the private sector, then government workers have to become more competitive; government workers have to become more responsive.

In fact, in these competitions, typically the government employees retain 90 percent of the work. They are not outsourced. This amendment is just trying to stop government efficiency because we have some Federal employee unions and others that insist that the people that do the work have to be members of their unions. That should not be the issue. The issue ought to be making the most of the taxpayers' money.

Now, the administration has already sent us what is called the Statement of Administrative Policy that tells us if this language gets in this bill, it is headed for a veto. We do not need that. We do not need to hurt the taxpayers and we do not need to slow down the legislative process by having a veto on a bill that needs to be adopted and needs to be passed.

The administration has acted to try to streamline what is called the A–76 process, the competitive sourcing process. They are trying to make it more efficient. They are trying to make it fairer to everybody involved. They have tried to make sure that instead of taking 4 years, 4 years, Mr. Chairman, as it often takes to manage these competitions under some old rules, they say you ought to be able to do it in 12 months. That is common sense where I come from, and it is common sense to most people. This amendment, though, wants to shut it down. The amendment wants to block the Committee on Government Reform. It wants to block savings for the taxpayers.

Mr. Chairman, I oppose this bill and I ask other Members to oppose the amendment also.

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

Mr. VAN HOLLEN. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Chairman, I thank the gentleman for yielding me this time, and I do have to comment that I think this amendment does not want to shut down the process that the gentleman from Oklahoma talks about. In fact, he wants to revise the 2003 process to make improvements that have already been recommended by the General Accounting Office, that have been recommended by congressional lawmakers and, in fact, have been recommended by the Office of Management and Budget from the administration. It is an opportunity for them to get it right.

This amendment would give lawmakers in the OMB an opportunity to revise this privatization process along the lines that Congress has already done in the other instances that my colleague from Maryland has mentioned. So it is not a process of shutting it down, but it is a process of hoping that it will be done fairly and will get the taxpayers the best solution and also treats the Federal employees fairly on this.

This administration has been relaxing health and safety protections, has been scaling back overtime rules, and has been enacting new regulations designed to weaken unions. This administration has been, in fact, waging an all-out assault on the American worker. And now they are shifting it over, to make matters worse, and extending those attacks on the benefits and protections of workers who have chosen public service as a career.

Those people who pursue a career in Federal Government are one of the greatest resources that we have and they are some of the very best in this country. They make our system work and they do their job with skill and, many times, without any recognition. Mr. Chairman, there has been no good reason and no evidence of poor performance to lead this attack on the Federal workforce and no reason to have it come under assault on that basis.

We can have the competition people talk about if it is done properly and it is done on a level playing field. The President has already attempted to curtail the collective bargaining rights of some 180,000 workers in the Department of Justice and in the Department of Homeland Security and threatening to do it in the Department of Defense.

In addition to those legislative reforms, there are proposed revisions in the regulations about outsourcing to private contractors, even trying to redefine the type of work to be considered inherently governmental.

Without this amendment, the changes will affect too many people in an unfair way. Mr. Chairman, I suggest this is not pragmatic public policy. We ought to move and do what this amendment says we should do. I urge my colleagues to support the Van Hollen amendment.

Mr. VAN HOLLEN. Mr. Chairman, may I inquire about the balance of time on each side?

The CHAIRMAN pro tempore (Mr. THORNBERRY). The gentleman from Maryland (Mr. VAN HOLLEN) has 3 minutes remaining, and the gentleman from Oklahoma (Mr. ISTOOK) has 6 minutes remaining.

Mr. VAN HOLLEN. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

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

Mr. DAVIS of Illinois. Mr. Chairman, I rise in support of the Van Hollen amendment to prohibit the use of funds in the Transportation-Treasury and Independent Agencies appropriation bill for fiscal year 2005, which would implement revisions made in 2003 to the Office of Management and Budget's long-standing rules that govern Federal agencies' outsourcing of work.

Given the fact we have lost more than 2 million jobs since 2001, we should present a more thoughtful approach to Federal contracting that is fair to both the Federal and private sectors. I am not convinced that the rush to privatization is a cure-all for all of the workplace issues that we need to deal with. Therefore, I am not

sure it is going to necessarily save taxpayers money.

We should accept the Van Hollen amendment. I urge support for it. Let us go back to the drawing board and get it right.

Mr. ISTOOK. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, this is not about whether we keep or do not keep jobs in the United States of America. We are going to keep those jobs. The question is: Does certain work within government agencies have to be performed by a government worker or do they have the ability in a government agency to find the best deal for the taxpayers; the most effective and economical way to accomplish the task?

If it is cheaper to pay a private service to do some work that otherwise you would have to hire a government worker to do, why not hire that private service? Look about us, businesses that have proliferated, for example take the copying business, things like FedEx, Kinkos, and the UPS stores, who do copying over and over. Because they do the same thing and they do it repetitively, for that reason it costs everybody less. Are my colleagues telling me that if we have a big load of copying to do in a government office, and believe me, that happens all the time, are we saying the only way we should be permitted to do it is with a government copying machine, with a government worker standing at that, rather than sending it out where the same thing can be done for less and done quicker and cheaper?

That is a simple example, but it makes the point. There are lots of things the Federal Government does that do not need to be done by the Federal Government. They do not involve people interpreting Federal laws, they do not involve people making a judgment call, they are not law enforcement issues, they are not privacy issues, and they are not confidential information. They are just everyday things that can be done in the private sector as well as in the government sector.

If we competitively source those and give other people the chance to do it, what is wrong with that? What do some people say is wrong? Well, for goodness sakes, then it is not done by somebody that is a member of that government workers' union. And that is the essence of the challenge. That is what the amendment is about. Let us save the taxpayers money and vote against the amendment.

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

Let me just say that this amendment is not, with due deference to the subcommittee chairman, about whether competitive sourcing is a good idea or not, or whether we are going to continue to do competitive sourcing. We have, as a U.S. government, done that, we will continue to do that, and it is a good thing when it is done in a fair and balanced manner. That is what this amendment is about.

I would ask the subcommittee chairman why he would object to a provision that says when we do competitive sourcing the contractor seeking the work has to show that they are going to save taxpayers money. That is one of the things this House has included in appropriation bills that have passed this year, so we can make sure the taxpayer gets a better deal. That is not part of the existing rules.

I would ask the subcommittee chairman why the Committee on Appropriations in this House have already passed four different bills through this House this year, one signed by the President, that already changed the contracting-out rules with respect to certain agencies to make the process more fair? That is what this amendment is about.

This amendment is designed to make sure we have a more even playing field, that we are not here in Congress trying to correct the unfairnesses every year, but we send OMB back to the drawing board, have them use the old rules until they establish a new set of contracting-out, competitive-source rules that are fair to Federal and Government employees, fair to contractors, and get a good deal for the taxpayer.

Mr. Chairman, I urge adoption of the amendment.

Mr. ISTOOK. Mr. Chairman, I yield the balance of my time, which I believe is 4 minutes, to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Chairman, I rise to speak against this amendment. The amendment would eliminate many of the contract reforms that we have worked so hard, so very hard to pass in order to increase the efficiency of government operations.

Contrary to statements of supporters of this amendment, competitive outsourcing is not outsourcing or privatization. I do not know why the supporters of this amendment oppose demanding the most for our taxpayer dollars because that is what we are doing when we talk about competitive sourcing. These contracting reforms create an environment where Federal employees can compete against each other and the private sector to provide services for the government. This is much of what our the government reform efforts are about in this Congress.

Competitive sourcing allows the commercial functions of the government to be contracted out to whomever offers the best deal for the taxpayer. That is called getting the most bang for your buck.

Mr. Chairman, that is what my constituents constantly talk about, is having government work efficiently, having it meet our needs, and having it do so making the best possible use of that taxpayer dollar; being the best steward that we can possibly be of the taxpayer dollar.

□ 1615

If this body adopts the Van Hollen amendment, the progress we have made in eliminating waste in the Federal bureaucracy, much of that will be undone and millions of taxpayer dollars will be spent needlessly. We cannot allow this to happen. We are on the road to making some great strides in reforms.

I urge my colleagues who are serious about having an efficient and effective government, a smaller government that serves the needs of the American people, to vote against the Van Hollen amendment.

The CHAIRMAN pro tempore (Mr. THORNBERRY). The question is on the amendment offered by the gentleman from Maryland (Mr. VAN HOLLEN).

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

Mr. VAN HOLLEN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Maryland (Mr. VAN HOLLEN) will be postponed.

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

Mr. Chairman, I rise for the purpose of engaging in a colloquy with the gentleman from Massachusetts (Mr. TIERNEY) regarding disposal of Federal property in the town of Nahant in Massachusetts.

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

Mr. OLVER. I yield to the gentleman from Massachusetts.

Mr. TIERNEY. Mr. Chairman, I thank the ranking member for the opportunity to discuss an issue that is critical to my constituents in Nahant, within the Sixth Congressional District of Massachusetts.

One hundred years ago, the Coast Guard seized land from the town of Nahant for the purpose of stationing military personnel. While some of that land was returned in 1954, the town has remained interested in reacquiring the remainder of the parcel located in the Castle Road, Goddard Drive and Gardner Road area. Recently, to address housing needs elsewhere in New England, the Coast Guard decided to sell this property through the General Services Administration. Unfortunately, despite over 50 years of positive relations and Nahant's express interest in purchasing the land, the Coast Guard did not inform the town of that decision.

I became involved to help facilitate a solution that was agreeable to all parties. After a series of meetings and discussions, the General Services Administration and the town of Nahant agreed in principle that the 12 housing units will be conveyed to the town for an amount of $2 million.

Since then, Nahant has convened a special town meeting and approved the $2 million for the purchase of the land. This agreement is moving toward a satisfactory conclusion, but specific legislative language is necessary to codify the sale.

That language, developed in collaboration with and which has the full support of GSA, the Coast Guard, the town

of Nahant and the gentleman from Minnesota (Mr. OBERSTAR), chairman of the Subcommittee on Economic Development, Public Buildings, and Emergency Management, was crafted and accepted in the version of this bill which this subcommittee and the Committee on Appropriations reported last month.

I thank Members for their support of this provision throughout the subcommittee's consideration of the bill. Additionally, I would like to point out, this sale generates $2 million in revenue for the Federal Government. I understand that we cannot get this in the UC list coming up, but I ask for Members' continued support for this as this bill goes to conference.

Mr. OLVER. Mr. Chairman, I completely agree with the gentleman from Massachusetts (Mr. TIERNEY) on the particulars of this legislation. I thank the subcommittee chairman for showing that he actually agrees with this as well by the fact that we have included section 410 at each stage in the appropriations process.

However, section 410 was one of many important provisions which should have been and under normal circumstances would have been protected under the rule by which we are debating this legislation, but it was struck on a point of order.

The gentleman from Massachusetts (Mr. TIERNEY) has made urgency for action in this matter very clear. I give the gentleman my full support.

Mr. Chairman, I ask that the gentleman from Oklahoma work with me to include this provision in the final version of the bill.

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

Mr. OLVER. I yield to the gentleman from Oklahoma.

Mr. ISTOOK. Mr. Chairman, I commend the ranking member and the gentleman from Massachusetts (Mr. TIERNEY) for their leadership on this issue. Throughout my time in Congress, of course, I have been a strong supporter of establishing fair market rate for the disposal of excess Federal real property, and I believe the provision we had in this bill accomplishes that. It is unfortunate that under our parliamentary procedures it was stricken on a point of order.

I do agree this sale actually generates revenue for the Federal Government, the $2 million. I understand the concern of the gentleman, that the town has moved forward approving the funds, and I want this resolved in a manner that does not jeopardize that agreement.

I pledge to work with the gentleman from Massachusetts (Mr. TIERNEY) and the gentleman from Massachusetts (Mr. OLVER), the ranking member, as we move through conference to be able to reinstate this provision.

AMENDMENT OFFERED BY MS. NORTON

Ms. NORTON. Mr. Chairman, I offer an amendment.

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

The text of the amendment is as follows:

Amendment offered by Ms. NORTON:

Page 166, after line 3, insert the following:

SEC. 647. None of the funds made available in this Act may be used to enter into or renew any contract under chapter 89 of title 5, United States Code, for a high deductible health plan that does not require enrollees to remain enrolled in such plan for at least 3 consecutive years from the date of initial enrollment.

The CHAIRMAN pro tempore. Pursuant to the order of the House of Tuesday, September 14, 2004, the gentlewoman from the District of Columbia (Ms. NORTON) and the gentleman from Oklahoma (Mr. ISTOOK) each will control 5 minutes on the amendment.

The Chair recognizes the gentlewoman from the District of Columbia (Ms. NORTON).

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

This amendment, I think, could be a win/win for both sides. It protects the Federal Employees Health Benefits Plan while allowing health savings accounts to proceed. My amendment is necessary to preserve the FEHBP.

Surely Members have heard from millions of retirees from across the country who are terrified of health savings accounts, and let me tell Members why.

My bill would allow the health service accounts to proceed putting only enough restrictions on them to keep people from gaming the system, and the way it is set up now, that is what people are encouraged to do. What will happen if health service accounts go into effect the way they are now proposed is that people are encouraged to stay in a health savings account so long as they can anticipate low health care costs. If that is how you anticipate it, you are in. But the moment you know, you anticipate a more major procedure, you are going to get out and get back into the FEHBP, leaving those who must be in the plan, like retirees throughout the United States, paying more.

So what would I do, put a 3-year time limit on it. This is in keeping with how the FEHBP works now. You cannot get out of your plan any time you want to; you have to wait until open season which comes every year. When we are putting the entire system at risk, as this would do, it says you have to be in 3 years so you do not game the system and cost those who must be in the system more money.

The FEHBP is touted as the best plan in the country for a good reason. It has a huge pool of the healthy and not-so-healthy. We spread the burden, we share the rewards. Break up the pool, we destroy the system. Now who is likely to leave? Members can figure it out for themselves: the young and the healthy. That is why the Federal retirees are wiring Members saying: Do not do this to us. Remember the 17 percent increase in Medicare they just had. It is bad enough the increased health care costs we are getting. We know that the young and healthy are going to leave us, not to mention many others who will just take the chance, many of them families, because health care costs are rising so much they will take the chance and may be left in a terrible position when, in fact, they need a traditional response from their insurer.

This is not speculation. I am citing the largest county in Idaho. It is unusual because it is one of the few public employers which allowed health service accounts. Immediately, within the year, premiums rose. So they were in it not a year and got out of it. Their broker said, you have to use health service accounts for everybody or no health service accounts. The hybrid does not work. The mixed system leaves those left holding the bag while others get out of the system when they think it is to their advantage, jumping out when it is to their advantage, jumping right back in when it is not.

I am concerned about healthy young families because they are going to get out because they are trying to save money anywhere they can. We have testimony from people in Idaho who say, if they knew then what they know now. A young person who broke his ankle had been in the health savings account, was left with that huge deductible, he ended up paying the whole thing because you never know. If you never know and you are young, you take the chance. If you are middle-aged or a retiree and in the FEHBP, you will not take the chance, but you will end up paying more in premiums, destroying the very basis for the FEHBP.

I am saying we defeated the notion there should be no health services accounts. My amendment is not going to protect what we have now in the FEHBP. There is going to be an adverse effect. At the very least, the responsible thing to do is to use the Idaho experience, limit the adverse effect by saying fair is fair. You win here and save money, and you are in here for 3 years so you do not leave our families with higher premiums because you can afford to game the system, jumping in when you think it helps you and jumping out when it does not help them.

Mr. Chairman, who can blame them. This is the kind of calculation people make when they want to save money. But the FEHBP should not be destroyed because we have blindly walked into health service accounts ignoring the existing experience. The way to have both, to do a win/win, is to support my amendment.

Mr. ISTOOK. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, the FEHBP is successful because it offers opportunity to Federal workers to choose among a variety of plans, to pick which one best meets their needs. It also is successful because when you make that choice, it is not permanent. Annually there is an open season. If workers have gotten into a plan that does not meet the needs of their family the way they desire, they can change every year.

The gentlewoman's amendment says, for certain plans, workers do not have that option. They have to lock themselves in for 3 years. It is a way of killing a type of plan, and we should not do it.

Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. GUTKNECHT).

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

Mr. GUTKNECHT. Mr. Chairman, I rise in opposition to the Norton amendment. Just a few minutes ago, I was here on the House floor arguing about a pension issue because employees were not given a choice. The essence of the Norton amendment is to not give Federal employees this choice.

The idea that Federal employees and public employees in general do not want to have the choice of a health savings account is simply not true. It may not work as we think it will. I have heard of the study in Idaho, but I have also heard studies from private employers that these programs provide as good or better quality health care, and they do something we must do, they save money.

But do not take my word for it. Public employees in the State of Minnesota have studied these, and they want access. I have letters, and I will submit them for the RECORD, from the Minnesota Teamsters Local 320, Minneapolis Police Relief Association, Minnesota Firefighters' Relief Association, Minnesota State Retirement System and from the Public Employees Retirement Association in the State of Minnesota representing over a quarter of a million people in Minnesota, public employees, who want to have access to health savings accounts.

Will they work as well as some people think they will, we do not know. But putting this as part of the Federal Employees Health Benefits Program is one way to find out. The Norton amendment is one small step in chipping away at the option that Federal employees ought to have to find out whether health savings accounts work as well as many of us believe. Public employees from the State of Minnesota have studied this issue. They want to have that opportunity. We should not deny that opportunity for Federal employees.

MINNESOTA TEAMSTERS PUBLIC & LAW ENFORCEMENT EMPLOYEES' UNION, LOCAL NO. 320,
Minneapolis, MN, July 1, 2004.

Congressman GIL GUTKNECHT,
Washington, DC.

DEAR CONGRESSMAN GUTKNECHT: We are writing to you seeking your continued leadership in addressing Health Savings Accounts (HSA's). As you are well aware, in the 2003 Medicare Act, individuals over the age of 65 were excluded from participating in the newly created HSA's.

It is important that not only do the changes to the Medicare Reform Act of 2003 include participation for those over age 65 in the HSA's but the language which ties Medicare ineligibility to HSA participation must also be removed. HSA participation would provide a very modest way in which our over 65 retiree's could tax defer some of their financial resources.

Our public safety retirees put in their time and duty and had planned on living out their retirement years with not having to face financial difficulties. However, health care costs for those over 65 years of age have increased dramatically over the last decade. Supplemental insurance to Medicare can cost a retired couple up to $8,000 per year.

We strongly encourage you to work with other members of Congress and the Bush Administration to correct his discrimination against our retirees.

Again, thank you for all your support and past leadership in the HSA's. Please continue to assist us in this battle for affordable health care.

Sincerely,

SUE MAUREN,
Secretary-Treasurer,
Teamsters Local #320.

MINNEAPOLIS FIREFIGHTERS' RELIEF ASSOCIATION, PENSION FUND,
Minneapolis, MN, July 6, 2004.

Congressman GIL GUTKNECHT,
Washington, DC.

DEAR CONGRESSMAN GUTKNECHT: We are writing to you seeking your continued leadership in addressing Health Savings Accounts (HSA's). As you are well aware, in the 2003 Medicare Act, individuals over the age of 65 were excluded from participating in the newly created HSA's.

It is important that not only do the changes to the Medicare Reform Act of 2003 include participation for those over age 65 in the HSA's but the language which ties Medicare ineligibility to HSA participation must also be removed. HSA participation would provide a very modest way in which our over 65 retirees could tax defer some of their financial resources.

Our Firefighter retirees have dedicated their lives to serving the public and planned on living out their retirement years with not having to face financial difficulties. However, health care costs for those over 65 years of age have increased dramatically over the last decade. Supplemental insurance to Medicare can cost a retired couple up to $8,000 per year.

We strongly encourage you to work with other members of Congress and the Bush Administration to correct this discrimination against our retirees.

Again, thank you for all your support and past leadership in the HSA's. Please continue to assist us in the battle for affordable health care.

Sincerely,

WALTER C. SCHIRMER,
Executive Secretary.

MINNEAPOLIS POLICE RELIEF ASSOCIATION,
Minneapolis, MN, June 30, 2004.

Congressman GIL GUTKNECHT,
Washington, DC.

DEAR CONGRESSMAN GUTKNECHT: We are writing to you seeking your continued leadership in addressing Health Savings Accounts (HSA's). As you are well aware, in the 2003 Medicare Act, individuals over the age of 65 were excluded from participating in the newly created HSA's.

It is important that not only do the changes to the Medicare Reform Act of 2003 include participation for those over age 65 in the HSA's but the language which ties Medicare ineligibility to HSA participation must also be removed. HSA participation would provide a very modest way in which our over 65 retiree's could tax defer some of their financial resources.

Our public safety retirees put in their time and duty and had planned on living out their retirement years with not having to face financial difficulties. However, health care costs for those over 65 years of age have increased dramatically over the last decade. Supplemental insurance to Medicare can cost a retired couple up to $8,000 per year.

We strongly encourage you to work with other members of Congress and the Bush Administration to correct his discrimination against our retiree's.

Again, thank you for all your support and past leadership in the HSA's. Please continue to assist us in this battle for affordable health care.

Sincerely,

RICHARD M. NELSON,
Vice President.

MINNESOTA STATE RETIREMENT SYSTEM,
Saint Paul, MN, July 26, 2004.

Congressman GIL GUTKNECHT,
Washington, DC.

DEAR CONGRESSMAN GUTKNECHT: I want to thank you for your leadership in establishing Health Savings Accounts for those under age 65. I strongly encourage you to support similar accounts that would be valuable for retirees age 65 and over.

As you know, rising health care costs and prescription drug costs have made it difficult, if not impossible, for many people to afford adequate health care coverage. Health Savings Accounts would provide a modest and extremely effective way to help pay for these costs.

On behalf of the 50,000 state employees and 23,000 benefit recipients covered by the Minnesota State Retirement System (MSRS), I encourage you to work with members of Congress and the Bush Administration to provide Health Savings Accounts to all retirees.

Again, thank you for your support and leadership on this and your attempts to lower prescription drug costs.

Sincerely,

DAVID BERGSTROM,
Executive Director.

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION OF MINNESOTA,
Saint Paul, MN, July 20, 2004.

Hon. GIL GUTKNECHT,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN GUTKNECHT: The Public Employees Retirement Association (PERA) of Minnesota is seeking your continued leadership in addressing the issues associated with the Healthcare Savings Accounts (HSA). As you are well aware, with the enactment of the 2003 Medicare Act, individuals over the age of 65 were not included for participation in the newly created accounts.

Important to our participants—150,000 of whom are currently working local government employees and about 60,000 of whom receive monthly benefits from PERA—is ensuring not only a change in the Medicare Reform Act of 2003 to include the availability of the HSA to individuals over the age of 65, but also removing the language which ties Medicare ineligibility to HSA participation. HSA participation would provide a very modest way in which our over-age-65 retirees could defer taxes on some of their financial resources.

Our public safety retirees typically retire earlier than other public employees due to the physical and emotional stresses associated with their positions. Due to the earlier retirement, many begin paying their health insurance at younger ages, hoping to live out their retirement years without having to face financial difficulties. The HSA will help these early retirees until age 65, but as you know health care costs for those over the age of 65 are rising at a significant rate. Supplemental insurance to Medicare can cost a retired couple up to $8,000 a year. Losing the

availability of the HSA at age 65 will prove ever more burdensome to individuals on limited retirement incomes.

We strongly encourage you to work with other members of Congress and the Bush Administration to advance legislation that is fair to retirees of all ages.

Again, thank you for all of your support and the leadership you have demonstrated in enacting the HSA legislation thus far. We look forward to your continuing assistance in this battle for affordable health care.

Sincerely,

MARY MOST VANEK,
PERA Executive Director.

Mr. ISTOOK. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. RYAN).

Mr. RYAN of Wisconsin. Mr. Chairman, I rise in opposition to this amendment.

First of all, this concern was already addressed in this plan design. The gentlewoman from the District of Columbia (Ms. NORTON) says this is going to have a huge adverse selection, that all of the wealthy and all of the healthy Federal employees are going to run to these health savings accounts, and we are going to have a death spiral in the Federal employee health benefits situation.

Number one, all of the data that is coming out that is bearing fruit from the imposition of HSAs are proving that to be untrue. What we are finding out is the opposite is happening. Older folks and people with more health risk profiles are those who are buying health insurance.

Mr. Chairman, 42 percent of the people who have bought HSAs this year, according to eHealthInsurance, are people who did not have insurance.

□ 1630

Fifty-six percent of the people who bought HSAs are people over the age of 40 years old. We are finding that this is a good tool for people who are the very people who are vulnerable in our system. But more importantly, just in case there was concern that there was any legitimacy to this claim, the folks at OPM devised this system so that the premiums are basically the same as any other premium, so that they do not have a big, tiered premium, so that they have a huge discount on these higher deductible HSA plans versus other traditional plans within the Federal Employee Health Benefit Plan, so they will not have that drain.

But more importantly, what this amendment does is it denies Federal employees choices. It takes one product that they now have as a choice, an option, and say they have got to take it or leave it for 3 years; for 3 years this is all they can have. They cannot participate in open season like they always could, like the other people in the Federal Employee Health Benefit Plan, but it does not apply these limits to the rest of the programs.

So we are saying to all these Federal employees we have this new option, a choice, with premiums very similar to all the other options and choices. They can have it, but they have got to take it for 3 years. That is denying flexibility and choice that we have come to enjoy and appreciate in the Federal Employee Health Benefit Plan.

I urge rejection of this amendment. Adverse selection is not occurring with these products.

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

Mr. Chairman, when we want fair competition, we try to make an equal playing field. If they have a horse race, they try to make sure that each horse is carrying the same burden. They weigh the jockey, they weigh the saddle, they wear the gear; and if they are not the same, they add extra weight to some people so that they are all carrying the same burden.

The gentlewoman from the District of Columbia's (Ms. NORTON) amendment wants to make sure that one type of health care plan does not have fair competition. They say to them, you carry an extra couple of hundred pounds. That is not right. If we want people to have a fair choice and to determine what plan is right for them and their family, they should be able to choose it.

I ask people to reject the amendment.

Mr. SAM JOHNSON of Texas. Mr. Speaker, this debate is about freedom.

Participants in the Federal Employee Health Benefit Program are armed with the ability to leave any given plan at the end of the year if they aren't satisfied with the care, customer service or cost of their coverage.

And that choice is what creates the incentive for health plans to offer good plans.

Ms. NORTON's amendment would bind employees who choose high-deductible plans to a three-year commitment, for fear of something called "adverse selection."

And you know what, that's a valid concern.

But it is a concern that has already been addressed by the Office of Personnel and Management—the folks who run our F.E.H.B.P.

The O.P.M. has vowed to keep premiums for standard plans and high-deductible plans very close to each other—maybe the difference of a dollar or two.

So employees will not be choosing HSA's because of their lower premium.

And as long as that's the case, there is no need to lock them into a three-year contract.

That completely undermines the foundation of the program: Choice!!

Last week we debated whether Federal employees deserve the option of HSA's and the House vote said that they do—let's give them that option without any strings attached—I urge a no vote.

The CHAIRMAN pro tempore (Mr. THORNBERRY). The question is on the amendment offered by the gentlewoman from the District of Columbia (Ms. NORTON).

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

Ms. NORTON. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from the District of Columbia (Ms. NORTON) will be postponed.

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

Mr. Chairman, the President's request for the Treasury Department in this year's budget included a $400 million increase focused on initiatives in the Tax Law Enforcement Bureau. The budget we have before us today cuts nearly three quarters of the President's requested initiative. That, of course, is a prerogative of this Congress, but I think we should examine carefully the inevitable result of making such a deep cut from the President's budget request.

Commissioner Everson of the IRS, in sworn testimony, pointed out that the tax gap, which is defined as the difference between total taxes owed to the Treasury under the provisions of law and what is actually paid into the national Treasury by all filers, both individual and corporate, the tax gap has grown to a minimum of $250 billion each and every year. Now, $250 billion unpaid each year in taxes represents a major part of the yearly deficit which we are accruing and passing off to be paid by our children.

The Commissioner went even further, pointing out that the $250 billion estimate came from studies which from several years ago is almost certainly low and is probably $300 billion per year now. As large as that $250 billion or $350 billion yearly tax gap is, and we have to understand that $1 out of roughly $7 owed in taxes under the law is not paid by those who do not file, who underreport or otherwise evade the legal payment of the taxes owed, the most startling part of Commissioner Everson's testimony under oath, again I say, was his statement that the percentage of Americans who think it is okay to cheat on their taxes has increased from 11 percent to 17 percent in just a few years.

Commissioner Everson stated that two thirds of the new enforcement dollars requested would be devoted to ''attacking abuses by high-income taxpayers and corporations and increasing criminal investigations.''

Under further questioning, he stated that each dollar expended on added enforcement personnel would yield on average a direct $6 increase in payment of tax owed, but the added enforcement activity would begin to reverse the trend toward a higher percentage of people not paying the taxes owed under the law and in that way be able to reduce the tax gap dramatically.

Mr. Chairman, ours is a tax system that rightly depends largely on voluntary compliance. When a tax gap rose to the point where $1 out of every $7 owed under the law is evaded by nonfiling or systematic underreporting of income or use of illegal tax schemes and shelters, then the vast majority of

honest taxpayers pay in taxes what they owe under the law. The vast majority of honest taxpayers are paying 15 percent higher in taxes than they owe while another group pays none or less than they owe under the law. Such obvious unfairness in the system breeds cynicism and contempt broadly among the citizenry, and we should not in this House be complicit in that unfairness.

Mr. Chairman, at this time I had intended to offer an amendment to add $286 million to the tax law enforcement account under the Treasury Department, thereby restoring full funding to the President's request for tax law enforcement in the Treasury Department. But given that this House has already stripped $41 billion from this legislation, including Federal highway grants to States, airport improvement grants to local communities, essential air service grants for rural airports, transit formula grants for States and funding in major capital investment projects, and highway traffic safety grants to the States, this is not the day to offer such a commonsense amendment.

AMENDMENT OFFERED BY MR. STENHOLM

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

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

The text of the amendment is as follows:

Amendment offered by Mr. STENHOLM:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. ____. None of the funds appropriated by this Act may be used by the Secretary of the Treasury to implement, pursuant to sections 8348(j)(1) and 8348(l)(2) of title 5, United States Code, any suspension of issuance of obligations of the United States for purchase by the Civil Service Retirement and Disability Fund, to implement, pursuant to sections 8438(g)(1) and 8438(h)(2) of such title, any suspension of issuance of obligations of the United States for purchase by the Thrift Savings Fund for the Government Securities Investment Fund, or to implement, pursuant to section 8348(k)(1) of such title, any sale or redemption of securities, obligations, or other invested assets of the Civil Service Retirement and Disability Fund before maturity.

The CHAIRMAN pro tempore. Pursuant to the order of the House of Tuesday, September 14, 2004, the gentleman from Texas (Mr. STENHOLM) and the gentleman from Oklahoma (Mr. ISTOOK) each will control 10 minutes.

The Chair recognizes the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, I yield myself 3½ minutes.

Mr. Chairman this is a very simple amendment to restore a little bit of accountability and honesty around here about our fiscal policies. My amendment would prohibit the Secretary of the Treasury from dipping into retirement trust funds in order to circumvent the statutory debt limit.

The effect of my amendment would be to force Congress to take responsibility for the increase in the national debt by approving an increase in the debt limit before adjourning in October instead of deferring action until a lame duck session. There would be no risk of default if Congress met its responsibility to approve an increase in the debt limit before we adjourn for the election. The Treasury Department has repeatedly warned Congress that we are approaching the debt limit and need to increase it above its current level of 7.384 trillion.

Just 3 years ago, the administration stated that we would not need to raise the debt limit for 7 years and actually warned that we were in danger of paying off our debt too quickly. After 3 years of our current economic policies, projected surpluses have turned into record deficits; and we are being asked to increase the debt limit for the third time in 3 years to more than $8 trillion. But instead of taking responsibility to pay for the debt that we have run up as a result of our policies, the Republican leadership is relying on the Treasury Department to protect them from having to take this vote before the election by dipping into retirement trust funds to avoid breaching the statutory debt limit until mid-November.

When Treasury Secretary Rubin took these extraordinary actions as a last resort to avoid an imminent default during a crisis, he was loudly criticized by Republican leaders in Congress. The Republican majority in Congress passed legislation which would have taken these tools away from him, and some Republicans in Congress called for his impeachment. Today, instead of criticizing the Treasury Department for planning to dip into retirement trust funds, Republican leaders are actively encouraging the Treasury Department to take these same steps as a routine action used for political convenience.

It would be irresponsible to take funds from retirement trust funds simply to avoid a discussion of the fiscal problems highlighted by the need to increase the debt limit. Instead of honestly facing up to our ballooning national debt, the leadership of this body is talking about bringing up legislation this week that would add another $130 billion to that debt.

We should not pay for tax cuts by borrowing money against our children's future. Congress should be required to sit down and figure out how to make things fit within a budget just like families across the country do every day. I would say to my Republican colleagues that if they honestly believe that tax cuts with borrowed money is good economic policy, if they believe that deficits do not matter, they should be willing to stand up and vote openly and honestly on this floor to increase the credit card limit for our country to make room for those cuts.

There would be no need for these maneuvers to avoid a vote on the debt limit if the leadership were willing to work with us to stop the increase in deficit spending. The Blue Dog Democrats will gladly supply bipartisan support for an increase in the debt limit if it is accompanied by meaningful budget enforcement provisions, including the pay-as-you-go rules that were instrumental in turning budget deficits into surpluses in the 1990s. But we will not vote to approve a blank check that will allow the Government to continue runaway deficit spending.

If my colleagues on the other side of the aisle want to continue with our current economic policies that have us on a path of running up more than $10 trillion in debt, it will be up to them to provide the votes. We will work with them if they will work with us.

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

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

Mr. Chairman, I certainly appreciate the good intentions of the gentleman from Texas. He and I both share a great concern about the national debt, about the challenges of having a budget that is not balanced as it should be in normal times, certainly in peacetime. However, this particular amendment does have problems.

The amendment is not necessary to make sure that we have protection for existing trust funds. And I want to refer to some papers we have been provided by the Treasury Department, and I will recite from those for Social Security.

For the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, i.e., the Social Security trust funds, that are specified in the proposed amendment, there is existing law, namely title 42 of the U.S. Code, section 1320b-15, that already prohibits any officer or employee of the United States from delaying the deposit of any amount into, or delaying the credit of any amount to, any such trust fund or otherwise varying from the normal terms, procedures, or timing for making such deposits or credits.

That existing law also prohibits them from refraining from the investment in public debt obligations of amounts in any such trust fund or from redeeming prior to maturity amounts in any such trust fund which are invested in public debt obligations for any purpose other than the payment of benefits or administrative expenses from any such trust fund. We do not need the gentleman's amendment to protect the Social Security trust fund.

Secondly, again, proceeding with the information from the Treasury Department for another trust fund, for the Civil Service Retirement and Disability Fund and the Government Securities Investment Fund, existing law, namely title 5 of the U.S. Code, section 8348(j)(3) and (4) and title 5 of the U.S. Code, section 8438(g)(3) and (4), these already require Treasury at the end of a debt limit impasse to restore those trust funds to the financial position

they would have been in if Treasury exercises the authorities given by Congress to suspend investment or make early redemptions of investments of the CSRDF or of the G fund.

□ 1645

Then for the Department of Defense Military Retirement Fund, the Unemployment Trust Fund, the Department of Defense Education Benefits Fund, the Post-Vietnam Era Veterans Education Fund and the Black Lung Disability Trust Funds, which are specified in the proposed amendment, there is no history that Treasury has ever delayed deposits into or has ever suspended investment or redemption of investments early in those trust funds during debt limit impasses.

The amendment is not necessary to safeguard trust funds. It is not necessary to handcuff the Treasury Department in the management of the national debt. It is necessary that we take steps to control Federal spending and to move toward balancing the Federal budget. But this amendment is not necessary.

I thought it important that someone stands up and recite this information from the Treasury Department to make that case of the lack of a need for this particular amendment.

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

Mr. STENHOLM. Mr. Chairman, I yield myself 1 minute to respond to the chairman.

I will say that everything he has said is 100 percent the truth. We did not mention Social Security. I deliberately did not mention Social Security because that is not the issue here. Everything the gentleman said in the letter from the Treasury is the truth. That is not the point of our amendment.

The point of our amendment is to have an up or down vote by this body to assume the responsibility, rather than allow, under the law, the Secretary of the Treasury to manipulate the funds in a legal way to avoid having a vote on this floor prior to November 2, to have an assumption of the responsibility of the fiscal matters of this country. That is all I am asking.

The chairman is exactly right: We do not need this. If he would assure me that we will have a vote, and since both of us agree on a balanced budget constitutional amendment, this is helpful to those of us like you and I, Mr. Chairman, that want to bring fiscal accountability. That is all we are asking. Let us not confuse this issue with anything other than a clear, plain, up and down vote of expression.

I have already offered on behalf of a substantial number of Democrats to support an up or down vote, if you will put some budget enforcing accountability back into our process.

Mr. ISTOOK. Mr. Chairman, I reserve the balance of my time in order to close.

Mr. STENHOLM. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Chairman, I thank the gentleman for offering this amendment. I thank him for his extraordinary leadership on the issue of fiscal responsibility in this country.

My presumption is that every conservative in the House of Representatives will vote for this. The President talked about who is conservative and who is liberal. It is conservative to be fiscally responsible.

Like the gentleman from Texas, I have supported a constitutional amendment for a balanced budget. I am for investing in programs that I think help America, but I am for spending money that we have, and I am not for spending money that we do not have.

Quite simply, his amendment would force our Republican friends to come to grips with their irresponsible fiscal policies. They talk about balancing the budget, but they have not had a bill vetoed by this President that spent more money than we had, period; not one, not ever. And they are going to spend all of Social Security funds, they are going to spend all of the money that they borrow.

Just two months after taking office, President Bush promised the American people, ''We will pay off $2 trillion of debt over the next decade.'' He explained, quoting again, ''Future generations should not be forced to pay back money that we have borrowed.''

Amen, Mr. President. Why do you not practice what you preach?

Well, Mr. Chairman, the President and Congressional Republicans have run rough-shod over that rhetoric. They did not pay down the debt in 2002; they increased the debt limit by $450 billion. They did not pay down the debt in 2003; they increased the debt limit without a straight up or down vote, which they always demanded when they were in the minority, they increased it by $984 billion.

When I came to Congress, the entire debt from 1789 to 1981 was $985 billion, just $1 billion more than we raised it last year alone. Now the Treasury Secretary is back for more. He warns that the national debt will exceed the statutory debt limit, now $7.384 trillion, later this month or in October. As a result, our Republican friends desperately want the Treasury Department to temporarily dip into the retirement funds of Federal employees to avoid breaching the debt limit, for which they wanted to impeach Bob Rubin. What short memories they have.

Very simply, Mr. Chairman, the Stenholm amendment would prohibit the Secretary from doing that.

Mr. Chairman, the Republican party can run, but it cannot hide, from the debt disaster that its economic policies have caused. None of us will allow the United States to default on its obligations; none of us. But let us show some courage. If the debt limit must be increased, we should vote on it in the open, up or down.

I urge my colleagues to vote for the Stenholm amendment.

Mr. STENHOLM. Mr. Chairman, who has the right to close?

The CHAIRMAN pro tempore (Mr. THORNBERRY). The gentleman from Oklahoma (Mr. ISTOOK) has the right to close.

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

The CHAIRMAN pro tempore. The gentleman is recognized for 2½ minutes.

Mr. STENHOLM. Mr. Chairman, I hope everyone caught the significance of the exchange between the chairman and me, because I am not disagreeing with anything that he offered in opposition to this amendment, because what he said is 100 percent true. I hope everyone in this body understands the significance of this side offering the hand of bipartisanship to pass an increase in the debt ceiling, which we must do. If we did not do that, our Nation would default on our good credit, and that is intolerable, unthinkable.

The purpose of this amendment, though, is to try once again to get my friends on that side of the aisle to accept the responsibility for the economic policy that they have voted and revoted and voted and revoted and continue to do, and that is building the debt for our children and grandchildren at a rate unseen in our history of our country.

It took us 204 years to borrow the first $1 trillion. We are about to borrow $19 trillion in a year-and-a-half, and my friends on that side do not seem to care.

We are offering to put back pay-as-you-go for spending and tax cuts to be paid for. It does not mean we cannot cut taxes. In fact, I support repeal of the marriage tax penalty, I support doing the child tax credit. I would like to see it. But I want to see it paid for, not passed on to my three grandsons in debt because it is good politics right before an election.

We are offering sincerely to offer some votes. Bring it up and vote on it. Do not force the Treasury to go through the mechanizations that they will go through just to avoid voting on this prior to November 2.

Mr. Chairman, we are sending alerts, the Blue Dogs, in which we will put in writing our willingness to work with you on doing this, because it is the responsible thing for us to do. But we also think it is responsible for this body in a bipartisan way to begin to actually do something about the deficit, other than talk about it and increase it, as we will do later this week, by another $130 billion, unpaid for.

Our grandchildren do not have a vote. That is why it is so easy for us to say here today we can fight two wars, we can fund homeland security, we can fight the war on terrorism, we can do all of these things, but we are going to send the bill to our grandchildren. We are not willing to pay for it, any of it, today. In fact, even worse, we are willing to decrease the amount of money available to do all of these things.

Mr. Chairman, I ask for an aye vote on this, because it is the responsible thing for this body to do.

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

Mr. Chairman, the gentleman from Texas and I are in agreement on a great many things, and I appreciate his pointing that out. I think we both also recognize that the gentleman's intent is to try to force a vote on what is called the statutory debt ceiling and to force a vote before the elections.

Well, we all know that this fiscal year expires September 30. I think it is common knowledge in this town also that with the possible exception of the homeland security appropriation, this current appropriations bill and the other appropriations bills will not be completed before the fiscal year expires September 30. We do not expect most likely those bills will be completed before the election.

Whatever is in this bill is not going to be law by that time. Any instructions to Treasury or anybody else in this bill will not be in law by that time. So we are not accomplishing anything.

But we also should not mistake a vote on the statutory debt ceiling for the votes that actually create the debts of the United States, the spending bills. People argue about the tax cut bills, and I will certainly tell you the tax cuts have done a great deal to stimulate the economy, not only to help people keep more of what they earn, but actually to increase the revenues of the Federal Government by increasing economic activity. We can have that debate another time and place. That is not my point. My point is we are not accomplishing anything in this particular amendment.

Each administration, Republican and Democratic administrations, have had to deal with the challenge of the statutory debt ceiling being set to expire at a certain time or be exceeded. Treasury Secretaries have had to do what they could to make sure the crisis was not created, to make sure that we averted any problems and that the full faith and credit of the United States never lapsed behind our obligations.

That is going to happen again. Those obligations are not going to lapse. But let us not mistake votes upon a statutory debt ceiling for the votes that actually create the debt, which is talking about the level of spending. Let us remember that we have the opportunity, which I expect we will have in the next couple of weeks, to vote on a balanced budget requirement to make sure that in normal times, when we are at peace, in normal times we do have a balanced budget. That will force discipline. That will force controversial votes on this floor. It will require us to exercise self-discipline, to accept our responsibility.

Mr. Chairman, this amendment is not necessary.

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

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. STENHOLM).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. DAVIS OF FLORIDA

Mr. DAVIS of Florida. Mr. Chairman, I offer an amendment.

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

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. DAVIS of Florida:

At the end of the bill, before the short title, insert the following:

SEC. ____. (a) None of the funds made available in this Act may be used to implement, administer, or enforce the amendments made to section 515.560 or 515.561 of title 31, Code of Federal Regulations (relating to travel-related transactions incident to travel to Cuba and visiting relatives in Cuba), as published in the Federal Register on June 16, 2004.

(b) The limitation in subsection (a) shall not apply to the implementation, administration, or enforcement of section 515.560(c)(3) of title 31, Code of Federal Regulations.

The CHAIRMAN pro tempore. Pursuant to the order of the House of Tuesday, September 14, 2004, the gentleman from Florida (Mr. DAVIS) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise to offer an amendment to repeal the administration's recently enacted rule restricting family travel to Cuba.

Today, as the Cuban people are struggling to recover from the devastation of Hurricanes Charlie and Ivan, the Department of Treasury is prohibiting Cuban Americans from visiting Cuba to help their own family members abroad.

On June 30 of this year, the Department of Treasury implemented new restrictions on family travel to Cuba. Cuban Americans are now limited to one 14-day visit with their Cuban relatives every 3 years. Let me say that again. Cuban Americans are now limited to one 14-day visit with their Cuban relatives every 3 years.

This administration has also attempted to redefine the definition of the Cuban family. Cuban Americans are no longer permitted to visit their aunts, uncles or cousins in Cuba.

My amendment would prohibit funds in this bill from being used to implement, administer or enforce these changes made to family travel. A vote in favor of my amendment is a vote to reinstate the previous policy, which allowed Cuban Americans one trip per year under a general license, allowed for additional emergency visits under a specific license, and kept uncles, aunts and cousins where they belong, as part of the family.

Mr. Chairman, let me be clear: This amendment deals exclusively with keeping families together and would not permit unfettered travel. I have seen with my own eyes the cruelty of the Castro regime and have consistently voted against allowing tourist travel to Cuba, because I believe the United States should not unilaterally allow Castro to reap these profits.

□ 1700

But the United States should also not be in the business of separating families. This new family travel rule undermines families, punishes Cubans on both sides of the Florida straits, and has minimal effect on the government of Cuba.

The Cuban people are talented and ambitious, but under Castro's oppressive rule, they are left with little hope. For many, their only lifeline is the emotional and financial support they receive from relatives in America.

Mr. Chairman, I have spoken with numerous Cuban-Americans in my community, the Tampa Bay area and across Florida who are heartbroken by these regulations. Rufino Blanco, a Korean War veteran from my hometown, had planned to celebrate his 75th birthday with his many first and second cousins in Cuba this summer. When this rule was enacted, he had to cancel his trip. If this rule stays in place, he will probably never see his relatives again.

Last year, Ignacio and Gloria Menendez of Miami traveled to Cuba to help their daughter recover from an emergency surgery. They had already visited Cuba once that year, so they had to apply for a specific license to make the emergency trip. Under the administration's new rule, their daughter would have to fend for herself, because the Menendezes will not be able to see their daughter again for 3 years.

In fact, a Deputy Assistant Secretary at the U.S. State Department summed up the outrageous insensitivity of this rule when he was quoted by Reuters as saying, ''An individual can decide when they want to travel once every 3 years, and the decision is up to them. So if they have a dying relative, they have to figure out when they want to travel.'' How outrageous.

I share the disgust of Simon Rose, whose Cuban-American wife can now only visit her mother once every 3 years. He says these regulations are ''a perversion to the family values I grew up with.'' And then, most recently, we learned about U.S. Army Specialist and Medic Carlos Lazos who my colleague, the gentleman from Massachusetts (Mr. DELAHUNT) will talk about.

Mr. Chairman, in closing, this chamber is constantly celebrating and supporting America's families. We have passed marriage penalty relief and child tax credits. But these sweeping changes on family travel to Cuba were enacted without so much as one hearing in Congress.

Today, we have an opportunity to right this wrong. We have the opportunity to support families who may be divided in geography but not in flesh and blood and certainly not in heart.

Hurricane Charley caused 5 deaths and at least $1 billion in damage in Cuba. It damaged more than 70,000 homes and flattened hundreds of acres of crops. We are still just starting to gather the statistics on the damage caused by Ivan.

How can Congress stand in the way of Cuban-Americans who so desperately want to go to Cuba to help their own flesh and blood, their relatives in the aftermath of this destruction? How can we strip the Cuban people of this support when they have such little hope to cling to?

Mr. Chairman, this body may be divided on whether the United States should allow travel to Cuba for tourism and business reasons, but I hope today we can unite in support of families. I urge my colleagues to set politics aside and vote in favor of this amendment.

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

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN pro tempore (Mr. THORNBERRY). The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) will control 30 minutes.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I yield myself such time as I may consume.

The President of the United States put a tremendous amount of thought into how to best accelerate a democratic transition in Cuba. The tyranny there, the dictatorship has oppressed the people of that enslaved island for 45 long years. And President Bush has a very strong commitment to do everything possible to accelerate what we know is inevitable, because there is a consensus of opposition within Cuba to, obviously, oppression and dictatorship, but the tyrant has a tremendous amount of personal power based on the fact that he rules with fear, through fear. And President Bush put a tremendous amount of thought into and issued a policy, really the first comprehensive policy on Cuba by the United States in over 40 years, in this 400-page document that he issued and ordered through Executive order, and then implemented its recommendations just a few months ago.

Now, it is a very serious, well-thought-through policy, with various key components. One is to increase the effectiveness of broadcasts, radio and television broadcasts, into Cuba by Radio and Television Martinique to break through the jamming, the embargo, if you will, that Castro maintains on information to the Cuban people. President Bush has even gone so far as to order military aircraft to be used, C–130 aircraft to be used to broadcast television and radio. The jamming is being broken through, and news and information on an increased basis are getting to the Cuban people. That is one element of the President's comprehensive new policy.

The second one is to facilitate increased assistance to the internal pro-democracy movement. Key steps, important steps are being taken in that regard. The head of the United States interests section in Cuba, an extraordinary career diplomat, Jim Cassin, Ambassador Jim Cassin, is doing a great job working with the internal opposition. That also is a serious aspect of the President's new policy.

And the third aspect of the President's policy with regard to accelerating the democratic transition is to reduce the currency that the regime obtains.

Now, what is the objective of our policy, the reason that we have as part of our policy sanctions on the dictatorship in Cuba? It is a three-step goal. Three steps are required for normalization, for the end of the embargo, for aid and assistance: the liberation of all political prisoners, without exception, men and women who are rotting in the totalitarian gulag today, simply because they dream of freedom for their country; the legalization of all political parties, labor unions and the press; free speech, as President Bush likes to refer to that aspect of the goal of U.S. policy, freedom for the prisoners, free speech, and the scheduling of free elections.

Now, that, Mr. Chairman, in a country that for 45 years has been ruled by a totalitarian tyrant who offers to this day harbor, safe harbor, to hundreds of international terrorists as well as countless fugitives from U.S. justice, cop killers, hijackers, drug dealers; a dictator who has engaged aggressively in espionage against the United States, as the FBI will confirm to any Member of this chamber; a regime that has the head of its air force at this time, at this very time, indicted in the United States for murder of unarmed American citizens and the head of its Navy indicted in the United States for drug trafficking.

Now, with regard to that aspect of the President's plan to accelerate a democratic transition that calls for steps to be taken to reduce as much as possible hard currency in the hands of the terrorist state in Cuba, terrorist regime, a reduction in Cuban-American travel to Cuba is part of an important means to getting it accomplished. The dictatorship, just this week, through one of its spokesman, admitted that 25 percent of travel to Cuba and accompanying dollars coming from the United States has been reduced in only the months since the President implemented, ordered the implementation of this new policy. The overwhelming majority, Mr. Chairman, of those affected by the regulations that reduce the amount of travel by Cuban-Americans to Cuba, the amount of those affected directly are in the districts of the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from Florida (Mr. MARIO DIAZ-BALART) and the gentleman from Florida (Mr. MENENDEZ) and myself, the Cuban-American members of the United States Congress. It is we, it is we who are accountable in our daily lives when we go to a restaurant, a supermarket, a dry cleaner and at the polls every 2 years, we are accountable to those most affected by the new regulations.

But Cuban-Americans know, and they know very clearly, that freedom never comes free. They also know that the Cuban Adjustment Act in effect treats all Cubans who reach the shores of the United States as political asylees. They know that no other nation's citizens receive that legal treatment and, thus, that with special privileges come special responsibilities.

Political asylees, for example, cannot return to the country from which they sought asylum until the political conditions change in the country from which they sought asylum. Nevertheless, the President's policy permits that Cuban-Americans can return to Cuba, even before the political conditions change there, once every 3 years.

Now, I cannot, Mr. Chairman, I would not pretend to be more expert on the most important issues in each of my colleagues' districts than each of my colleagues. But despite the arrogance inherent in doing so, this amendment says, we know better what is good for Cuban-Americans; we know better what is best for your constituents; we know better than the Members who represent the overwhelming majority of Cuban-Americans in this Congress.

Mr. Chairman, I believe that this amendment is soaked, if you will, in arrogance, and I ask that this body reject it.

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

Mr. DAVIS of Florida. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Fort Lauderdale, Florida (Mr. DEUTSCH).

Mr. DEUTSCH. Mr. Chairman, I would, actually, in a sense, not dialogue but mention several things in response to my good friend and one of my closest friends in this chamber, the last speaker, that I do not have the good fortune of having been born a Cuban-American, but having represented the district closest to Cuba for 10 years and having over 200,000 Hispanics, tens of thousands, if not more, Cuban-Americans in my district and having just completed a statewide run where at least all democratic Cuban-Americans had the opportunity to vote for or against me, I think I have a feel for Cuban-Americans and their perspective.

But beyond that, I think that, as my good friend also knows, that for over 20 years, I have stood side-by-side with him in doing everything humanly possible to fight the dictatorship. And I think what needs to be clear on this particular issue and this particular amendment today, that this is not the travel ban issue, this is not the embargo issue, where I have stood side-by-side for the last 12 years with my good friend and colleague, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) in fighting, successfully,

against many of those who today might be joining me in this amendment with the gentleman from Florida (Mr. DAVIS).

Again, let me just be clear for my colleagues and my friends who are listening, that I have fought for 12 years in this House and for 10 years prior to that as an elected official in the State legislature with my friend and colleague in the State legislature, when we could deal with issues to support freedom in Cuba and for the Cuban people.

But this is a very, very specific and a very narrow issue that I think, in fact, goes against everything that we have fought together for, for over 20 years, and it is a very, very, very specific issue. This is not repealing the travel ban. I would be standing here and rigorously fighting if that proposal were here, as often as I have for 10 years, and would be speaking against it and lobbying against it and working against it rigorously, but that is not what this proposal is about.

This is a very specific proposal that deals with very specific things, only family members and changing the rule today that does not let, or until the President implemented the rule, that does not allow free travel, does not allow free access, does not allow free flow of capital to the dictator. Even that restriction was limited, limited to once a year, limited to emergency situations, true emergency situations, not made-up emergency situations, not going to a dance or graduation, but true emergency situations that have been elaborated on and mentioned earlier today. So there were several restrictions even.

I would say to my colleagues that if we actually look at this in terms of capital to the dictator, I mean these are people who are staying with relatives. This is not staying at five-star or tourist hotels. Let us think about what this actually is. It was a mistake. This policy is a mistake. It was a mistake. It was not a thought-through policy in the specifics in terms of the implementation.

□ 1715

I urge all of my colleagues, Democrats and Republicans, supporters of the embargo, opponents of the embargo, supporters of the trade ban, opponents of the trade ban to join in the support of this amendment which is narrowly drawn, very specific, to just deal with a very, very humane issue that deals with not taking a stand on what is the best policy, but on the narrow issue, which is a human issue. I can tell you that not only for the Cuban Americans that I have talked to, but for all Americans, this is a position that has close to universal support throughout this country and throughout the State of Florida.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. DELAY), the distinguished majority leader.

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

Mr. Chairman, he will take the money. He will take the money. There is no such thing as industry in Cuba or family income or tourism or any other economic term that we understand in this country. The only word that describes the economic policy of Fidel Castro's terrorist regime in Cuba is theft.

Every dime that finds its way into Cuba first finds its way into Fidel Castro's bloodthirsty hands. Every dollar of trade with his country is a dollar of trade with his regime, that vile confederation of sycophant contract-killers that he calls a government. That government exists for one purpose, the oppression of the many for the enrichment of one.

If we lift the trade embargo or the travel ban, and American capital flows into Havana Harbor, he will take the money. American consumers will get their fine cigars and their cheap sugar but at the cost of their national honor.

We will tell four decades of Cuban dissidents, dead or alive, in prison or in exile, that their cause was never quite worth fighting for, that freedom is just another commodity to be auctioned off to the highest bidder.

We will tell both our allies and our enemies that America's moral courage has an expiration date. And we will give credence to the great communist lie that all history is economic. We cannot and we must not say any such thing, Mr. Chairman.

Fidel Castro is a terrorist, a murderer and a thief. He funds and otherwise supports international terrorism and the downfall of American democracy.

He mercilessly oppresses dissent in his country, with the help of a secret police that has been responsible for the murder of more than 100,000 Cubans since he took power in 1959. He is not a leader but a Mafia don, greedy, corrupt and evil.

We are not blind. We know commerce with Cuba means commerce with Castro which means more bullets, more machine guns and torture chambers to satisfy his lust for power. Lifting the embargo and opening American tourism and even this amendment to Castro's prison-island would represent a surrender to evil and provide a successful playbook for every terrorist on Earth. It cannot be done.

History is not all economic, Mr. Chairman. Generations hence will not judge us by our wealth but by our courage. History, true history, Mr. Chairman, is not economic. It is moral. That is the standard by which we will be judged and the standard we should apply in this vote today on these amendments.

I urge all my colleagues to stand with free men the world over and vote no on these amendments.

Mr. DAVIS of Florida. Mr. Chairman, I yield 6½ minutes to the distinguished gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Chairman, today we have a very simple choice before us. While it implicates the United States' policy regarding Cuba, at a very fundamental level it is about more, much more than the United States and Cuba. It is about values. Family values.

We hear a lot about family values in this Chamber, about the sanctity of the family and the need to protect and strengthen family ties. Well, today the Davis amendment provides us an opportunity to match that rhetoric with action.

It is a test. It is a test for all of us. It is a test to measure the sincerity and the quality of our commitment to family values. In June, as has been indicated, the White House announced new restrictions on family travel which some have suggested would undermine the Cuban government; but I would submit that it is not going to hurt Fidel Castro. No, no. They will not overthrow him, but they will certainly punish families on both sides of the Florida Straits, in Cuba, and in the United States, because until now, Cuban Americans could travel to Cuba to visit family every year, every single year, bringing assistance to their families to help them survive. Well, not any more.

Now Cuban Americans can only visit the islands once every 3 years and they are allowed to travel even on that one occasion if they get permission from the travel police over there somewhere in the Treasury Department. By the way, they can now only visit certain members of the family. They cannot visit aunts and uncles, nieces and nephews. They do not count anymore. And note well, there are no humanitarian exceptions.

The author of this amendment quoted one of the individuals who was instrumental in crafting this anti-family policy. Deputy Assistant Secretary of State Dan Fisk, and I think it is worthy of repetition. These are his words: ''An individual can decide when they want to travel once every 3 years and the decision is up to them.'' I guess this is freedom of choice. ''So if they have a dying relative, they have to figure out when they want to travel.''

I ask my colleagues to pause and think about that for a moment. If your mother and father are both ill and dying and they should die within 3 years of each other, you have to make the decision which funeral you are going to attend. Let me suggest that is anti-family. Let me suggest it is immoral. Let me suggest that it is not what America is all about.

Now, some who support this new anti-family policy argue that allow family travel will somehow promote Cuban terrorism. Let us see, family reunification abets terrorism. That is just simply absurd, Mr. Chairman. That is just simply absurd.

I would urge the opponents of this amendment to meet Carlos Lazo, a blow-up of Mr. Lazo is to my right, and

tell him he is abetting terrorism. He is a Cuban American who escaped from Cuba some 12 years ago on a raft. Now he is a medic in the National Guard serving in Iraq. When he was home on leave, he could not visit Cuba to see his two sons that are now teenagers. And now he is back in Iraq. Hopefully he will see his sons again. But let us remember that that is a hope because every day he risks his life for his adopted country.

Opponents of this amendment would insinuate that this American hero is abetting terrorism? Come on. That is offensive. Let us be clear, this new policy translates an already-failed policy, because Castro has been there for 45 years, into one that is cruel and heartless, anti-family and anti-American, while today the amendment by the gentleman from Florida (Mr. DAVIS) provides a test for those who speak to family values.

I urge my colleagues to support the Davis amendment.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. MARIO DIAZ-BALART).

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, I am always intrigued when I hear about how the United States and measures that the United States can take to help liberate people who are oppressed is anti-family. I am also very intrigued when I do not hear that the cause of all of the problems that the Cuban people suffer from, it is only one individual and his regime, the Castro regime, the anti-American, terrorist regime.

What is pro-family is helping the Cuban people liberate themselves from that regime. What is anti-family is a regime that has destroyed family, a whole Nation, a whole people. So measures that help that anti-family, pro-terrorist regime, measures that help that regime cannot be called pro-family. They are an anti-American terrorist regime.

I am also frankly rather amused when I see letters. Last year I quoted a letter from a Member of Congress on this floor who just spoke right now, about his concern for Cuban Americans. You see, because let us keep that in mind, this amendment only affects Cuban Americans. That is it. Nobody else. And then this amendment, I guess as we had heard before, a little while ago, claims that it knows what is right for Cuban Americans better than Cuban Americans.

We have heard that before. We have heard those similar debates on this floor year after year after year. Pretty soon we are going to hear, Some of my good friends are Cuban Americans.

Well, the reality is this: There is a bipartisan group of us here who represent a majority of the Cuban Americans. Every 2 years we run for reelection, election or reelection, and we do not have to be shown a picture of one individual or two individuals. We represent the vast majority of Cuban Americans. We represent the vast majority of the family members of those people in Cuba. And I keep hearing about how others from other parts of the country seem to know what is right for this group of Hispanics. They know better than those Hispanics know. They know better than that minority group knows about what is best for them.

Well, the reality, Mr. Chairman, is this: I repeat, there are four of us that represent the vast majority of Cuban Americans, the only people affected by this amendment, the only people affected by this amendment. And unanimously those four Members of Congress, one happens to be a Democrat, the other ones happen to be Republicans, all agree unanimously on what is right to help the Cuban people be free, what is right for Cuban Americans in this country.

□ 1730

What is right for them is to not help the Castro regime by allowing it to get more money, to not help that anti-American terrorist regime by allowing it to get more money.

My dear friend, the gentleman from Florida (Mr. DEUTSCH), who has always been on the right side of this issue on the major parts, said today, and I just want to make sure there is no confusion, that what we are talking about here is people cannot go to Cuba and stay at the expensive hotels. Well, wait a second. They could until the new measures put in place by President Bush. Until those new measures, yes, they could.

So to my good friend, the gentleman from Florida (Mr. DEUTSCH), I think he may be a little bit confused as to what this amendment does. If this amendment were to pass then, yes, people could go and travel as many times as they wanted to stay in the most expensive hotels, by the way, all of them run and owned by the Cuban military, by that oppressive military of that anti-American terrorist regime. If this amendment passes, what my good friend, the gentleman from Florida (Mr. DEUTSCH), said that is not happening would happen and could happen.

I am amazed, Mr. Chairman, that people claim they know what is best for areas that are very far away from them and that they know what is best for certain groups, happens to be a Hispanic, large Hispanic group, that they know best. No, those Hispanics, the people that they elect are wrong. They do not know how to elect the right people, so it is up to somebody from way other parts of the country to tell those Hispanics, that minority group, what is really good for them. That is at best patronizing, and there could be some other words that could be used as well.

Mr. DAVIS of Florida. Mr. Chairman, I yield 3 minutes to the gentleman from Miami, Florida (Mr. MEEK), whose district abuts the gentleman from Florida's (Mr. MARIO DIAZ-BALART).

Mr. MEEK of Florida. Mr. Chairman, it is a pleasure to present a position on this amendment before the House here today.

I just want to qualify the fact that I live in south Florida, and I do have some good friends that are Cuban, and I do represent many of those individuals. I must say that I voted against this very bill last year in solidarity with many of my friends who are against embargo and want to put pressure on Castro. I believe in that, but I believe that we have crossed the line now as it relates to going into family.

There was some discussion from my good friend and colleague from Miami Dade County talking about, well, folks are going to stay in hotels. Well, if a person is going to see a family member that is sick, nine times out of 10 they are going to stay with that family member.

What has happened now, we are putting on Cuban Americans, I must say Cuban Americans want to go over and visit their family members when they are sick. Now if they have an aunt that is sick, under the new Bush restriction they cannot visit an aunt or a cousin or an uncle that helped to raise them. They could very well be the last living member of their family in Cuba, but they cannot go.

Let us just say that their mother or father is terminally ill and they would like to go and consult with the doctors; they would like to go and give them moral support, spiritual support. They are going have to make a decision now, because President Bush put this restriction in 4 months prior to a major election, I guess because the polling said it was appropriate to do so, they are going to have to make a decision, are they going to visit their family members to give them that support, or are they going to the funeral. If they go to the funeral, they only have a couple of days to do that. Guess what, God forbid if another family member gets sick. Now, if we want to present democracy to families and we want to hurt Castro, then let us hurt Castro. Let us not hurt families.

I have been around Miami Dade County in South Broward for a very long time; and I will tell my colleagues this, there are a lot of people that are hurting and feeling the pain and suffering of this particular restriction. This is far beyond politics and partisanship. This is dealing with families.

I want the people that are paying attention to this debate here today to really understand, if a person has a family member that is on their death bed and they have to make the decision if they are going to be there while they are living and support them or they are going when it is time to put them down to rest, think about that and think about is America trying to present democracy to a Communist country and to Cuba.

Castro is going to turn this around by saying, they will not even allow you to see your son and your daughter for the last time because they came a year before.

This will not deter the Castro government from doing what they are doing. This will make sure that he has another tool to say how bad the United States is. I tell my colleagues, I for one want to see Castro go. I want to see his regime go, and the way to present democracy is not hurting families.

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

Mr. Chairman, I am confused. I thought that the rules of this House required Members to address the contents of the amendment under discussion. Now, the purpose of this amendment, as I understand it, is to allow families to be reunited more than once every 3 years, and yet we have heard a number of voices on the Republican side of the aisle address a very different question. I must assume that they have not read the amendment; and for any of them for whom it would help, I would be happy to read the amendment again.

But based on the comments that I have heard, for instance, from the gentleman from Texas (Mr. DELAY), according to the gospel by the gentleman from Texas (Mr. DELAY), we are supposed to oppose this amendment because Castro is a bad fellow.

Well, I find it interesting that because of our dislike for Fidel Castro, who will either eventually die or fall of his own weight, because of our dislike of Mr. Castro, this Congress is being told that we are supposed to say to a person living in the United States who wants to visit his wife or his daughter or his brother, sorry, but because we do not like Castro, we are going to take it out on you and we are not going to allow your family to see each other more than once every 3 years.

Now, the gentleman from Texas (Mr. DELAY) may think that is consistent with family values. Some of the other majority Members of this House may think that is consistent with family values. I think that is a gross perversion of politics. We are letting our political dislike for Mr. Castro impact negatively the family yearnings of individual Americans and Cubans.

To me, that is a fundamentally immoral position for our government to take, and I just have to again ask Members, before they get up on this floor on this amendment and bloviate about how much they dislike Mr. Castro, I would simply suggest they read the amendment and ask whether or not they think it is morally justified, because they dislike Mr. Castro so much, to take their dislike out on the victims of Castro, which are the families who are split up and who, unless this amendment is passed, will continue to be in a position where the politicians in Washington decide that they know better than individual family members who do not give a rip about politics and are simply trying to figure out ways to see their loved ones.

This is an incredibly disgraceful performance.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I would ask how much time is remaining on both sides.

The CHAIRMAN pro tempore (Mr. THORNBERRY). The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) has 13 minutes remaining. The gentleman from Florida (Mr. DAVIS) has 11½ minutes remaining.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I yield myself such time as I may consume.

Perhaps the distinguished gentleman who spoke previously needs to get a little bit more informed on the constituents that we represent. They do care about human rights and they do care about liberty and they do care about politics, the politics of freedom, the politics of human rights, the politics of political prisons. They do care.

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

Mr. LINCOLN DIAZ-BALART of Florida. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I am sure they care about politics, but I am sure they do not care for the fact that some Members of this House seem to care more about politics than they do those Cuban families.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I do not know if you do.

Mr. OBEY. With all due respect, I was not referring to myself. I was referring to you.

Mr. LINCOLN DIAZ-BALART of Florida. Well, that is, I believe, uncalled for; but ultimately, what I want to make clear is that our constituents, the constituents represented in an overwhelming majority by the gentleman from Florida (Mr. MARIO DIAZ-BALART), the gentlewoman from Florida (Ms. ROS-LEHTINEN), and the gentleman from New Jersey (Mr. MENENDEZ), and myself do care about their relatives, about human rights, about the three goals of U.S. policy with regard to an island nation that has been oppressed for 45 years, the liberation of all of the political prisoners who are languishing in the gulag, their liberation of all of them without exception. Free speech, the right of free speech, labor unions and the press and political parties and the scheduling of free elections, the unshackling of the chains of the family members is of concern and care to our constituents, and that is why they, being aware that this is a comprehensive, multifaceted policy, not only are supportive of the policy but elect us who are supportive of the policy and who have to be accountable for the policy, not only every 2 years at the polls, but every day at the grocery store and the laundry and the gas station, because it is not a question, as the gentleman from Florida (Mr. MARIO DIAZ-BALART) stated before, of us putting up a photograph.

I would like to put up another photograph now, if I may, of someone who our constituents are very concerned about, and on a daily basis we fear for his life, and that is perhaps the best known political prisoner in Cuba today, a physician. His name is Oscar Biscet, and he lives in a box. This is a replica of the box. This is a replica of the box where Dr. Biscet is being held by the tyrant.

Our constituents are continuously concerned and our prayers, as well as our thoughts, are with Dr. Biscet in that box, punishment cell it is called, where he is held because he is a believer in Gandhi and in nonviolent change as espoused by Martin Luther King. So the tyrant has him in a box.

No, no, no. The politics of oppression, the politics of denial of human rights, the politics of freedom are very much the concern of our constituents. That is why they support these policies that have been implemented by President Bush after comprehensive study in the context of a multifaceted policy, and they continue to support us not only when we go to the gas station and the laundry but at the polls every 2 years.

□ 1745

So to say that our constituents do not know, or as one gentleman just said, have no concern about these issues, is really rooted in ignorance of our constituents. Mr. Chairman, I would say to those distinguished colleagues who may be listening in by television, as I stated before, I would never pretend to be expert on what are the most critical issues in each of our constituents' districts. I would never pretend, never dare to pretend that I would be more expert than each of my colleagues on the most critical important issues in their districts.

But that is what this amendment is saying. This comprehensive policy, which has a facet of reduction of hard currency to the terrorist regime, hard currency that is utilized not only to oppress the Cuban people, but to export terror and to harbor international terrorists, that policy, we have heard today, our constituents cannot be supportive of, or so say Members who do not represent them.

So, again, without seeking to be more expert than everybody else here on their issues, on issues in every Members' district, I would simply ask for the same respect that I think everyone should show toward the most important issues in each of our districts; and, thus, rejection of what I consider an arrogant attitude, which is this amendment of ''we know better what is good for your constituents.'' We know better; that you should have your thoughts elsewhere and not in the suffering of Dr. Biscet.

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

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. THORNBERRY). The Chair again reminds all Members that remarks in debate are to be directed to the Chair.

Mr. DAVIS of Florida. Mr. Chairman, I yield 15 seconds to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, the issue is very simple. When someone who lives in Florida wants to go to his wife's funeral or visit a family Member who is deathly sick, the question is whose judgment should prevail, the judgment of that individual constituent or the judgment of the gentleman from Florida (Mr. LINCOLN DIAZ-BALART).

I think the answer is clear.

Mr. DAVIS of Florida. Mr. Chairman, I yield 5 minutes to the gentleman from Arizona (Mr. FLAKE).

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

To hear the debate, like the gentleman from Wisconsin (Mr. OBEY), I wonder what amendment we are debating. It seems we are debating the Flake amendment all over again. I would like to be debating the Flake amendment. I decided last week that this is not the time to do so, just because of the political environment; that it would not be given a good hearing.

It seems that is what we are debating, the full-out travel for humanitarian, tourism, et cetera, whatever; just allowing Americans the freedom to travel. I wish we were debating that. I think that is the policy we should have. But we are not. This is a very narrow debate on a very specific issue.

The only difference I would have with the comments of the gentleman from Wisconsin (Mr. OBEY) is that many Republicans share this view. In fact, I think over 60, 2 years ago, or 50 or so Republicans voted for the Flake amendment to allow all travel, to allow freedom of all people to travel, and I assume the vote will be even larger among Republicans today.

I too am struck by this amendment and what is termed arrogance. I am called arrogant, I guess, because I assume that Cuban American families ought to decide for themselves whether they should travel. That is not arrogance. It is not arrogance to assume that I do not represent all Cuban Americans. I do not represent very many. There are some in my district; some who have contacted me; some who do want to travel. I think they ought to be given that choice for themselves. It would be arrogant of me to say otherwise.

I think it would be arrogant of me to say, no, I know what is better for you. I think you should not be able to travel to your mother's funeral or that you should have to decide whether to go to your mother or your father's funeral, or that you cannot decide for yourself whether or not you should travel to see another sick relative. That is not a choice we ought to be making for everyone.

I come from a small town in northern Arizona, the town is called Snowflake, named after my great-great grandfather. There are a lot of Flakes in Snowflake, by name, not reputation. I do not represent that area, but I assume I represent a lot of the feelings coming from that group. There are a lot of people who are not Flakes in Snowflake. I would not pretend to represent them. I would not pretend to know where they should travel or where they should not. That is not a decision I should make for them. That is a decision they should make for themselves.

So, for one Member of Congress in a different State than Florida to say he thinks that Cuban Americans in Florida or New Jersey or Indiana or Wisconsin or elsewhere should make that decision for themselves, that is not arrogance, that is simply embracing freedom and that they should have that choice by themselves; that we should not make that choice for them. That is what we are arguing today. That is what it is all about today.

A vote against this amendment puts us in the position of telling Cuban Americans that we know what is best for them, not the opposite. A vote for this amendment says that we make the choice ourselves; that we know whether it is best to travel to Cuba to visit a sick relative, to go to a mother's funeral or to not. That is what this amendment is all about.

Mr. Chairman, I urge support for it, and I commend the gentleman from Florida for bringing this forward, and I commend those who have participated in the debate. Let us just remember what it is about. This is about freedom. This is about family values. It is about allowing families to travel and to make their own decisions.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. MARIO DIAZ-BALART).

Mr. MARIO DIAZ-BALART of Florida. Mr. Chairman, it is amazing how history repeats itself. I was not here during the whole South Africa debates, but I heard them. During those South Africa debates, we had those who said we should do business as usual with South Africa to help the blacks in South Africa; that we should be able to do all sorts of business, and by the way, we did business with South Africa, business as usual, forever. Did it help the oppressed people under apartheid? No.

And, Mr. Chairman, when those oppressed people had an opportunity to vote, finally, after many, many years, they did not support those that wanted to do business as usual; that talked about doing business as usual. They supported those that led the efforts to sanction the apartheid regime in South Africa.

Many people on this floor, some who are still here, voted for sanctions against South Africa and yet vote to lift sanction against Cuba using the same argument. I saw just a month ago people on this floor who are against sanctioning the anti-American terrorist regime 90 miles away from the United States vote and speak for sanctions against China. It is interesting how this double standard is so prevalent.

Again, history repeats itself. Those who said we should do business as usual in South Africa to help the oppressed were wrong, and when the oppressed people had an opportunity to speak, they showed how wrong they were. Dr. Biscet and others will have an opportunity to speak, and I think there will be a lot of red faces of those that say they are doing it to help the oppressed people. We do not help the oppressed people by helping to finance the oppressor.

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

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. SMITH), a fighter for human rights who I very much admire.

Mr. SMITH of New Jersey. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in very strong opposition to the Davis amendment and the other four amendments being offered on Cuba today.

Under the current U.S. laws, we all know, travel to Cuba is allowed for 13 licensed categories. Last year, under these licenses, approximately 100,000 U.S. citizens traveled to Cuba, the vast majority of whom were family members. However, these new regulations promulgated by the administration would further refine this travel to deny at least some of the $96 million in hard currency that has been gotten and gleaned by this rogue regime, through the manipulation of those family visits in 2003, the number from that year. Custom duties and excess baggage fees have added $20 million more in revenue to this gross dictatorship.

To my colleagues, I want to say that I just held a hearing, along with the gentleman from California (Mr. HUNTER), on the issue of human trafficking. Cuba is a Tier III country, an egregious violator when it comes to human trafficking. Approval of this amendment would prop up a regime that not only traffics in human persons, but allows for the exploitation of young children, who are reduced to this horrible thing called child prostitution. When we allow trafficking and child prostitution for the amusement of those who travel there, many of whom bring that hard currency that is now permitted by this administration, I think we are seriously erring and making a grave mistake. We are also enobling and enabling a human rights violator.

Let me also say to my good friend and colleague who spoke a moment ago about the political prisoner, Dr. Biscet, and so many others who are subjected to unspeakable cruelty. A couple of years ago, I offered an amendment that said we will lift the travel ban if and only if the prisoners are let go. Fidel Castro has said one big no to that. And not only has he continued to incarcerate and torture hundreds of political prisoners, the best and the brightest and the bravest of Cuba, he now has arrested another 75 to 80 more and meted

out sentences of 25 to 27 years. That is unconscionable.

We do not want to directly or indirectly enable that kind of dictatorship, that kind of repressive regime. If my colleagues or myself were sitting in one of Cuba's gulags, we would hope that someone would say human rights do matter; that we are not going to provide the hard currency to prop up his regime so that his thugs can so mistreat those prisoners.

I have tried, along with the gentleman from Virginia (Mr. WOLF), to get into the prisons of Cuba and I have been denied. I can get into Cuba and meet with Fidel Castro and have a jawfest for 4 or 5 hours, as some of my colleagues have, but to get into the prisons to say these people should be allowed to go, no, we cannot do that. The ICRC, the Red Cross, has tried repeatedly to get into those prisons and has been refused.

Mr. Chairman, I urge my colleagues to vote ''no'' on this amendment. This is all about human rights and enabling a dictatorship. Say no to the Davis amendment.

Mr. DAVIS of Florida. Mr. Chairman, who has the right to close on the amendment?

The CHAIRMAN pro tempore. The gentleman from Florida (Mr. DAVIS) has the right to close on this amendment.

Mr. DAVIS of Florida. And how much time remains on each side, Mr. Chairman?

The CHAIRMAN pro tempore. The gentleman from Florida (Mr. DAVIS) has 7¼ minutes remaining, and the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) has 1 minute remaining.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I reserve the balance of my time.

Mr. DAVIS of Florida. Mr. Chairman, I yield 3½ minutes to the distinguished gentlewoman from Connecticut (Ms. DELAURO).

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

Mr. Chairman, I listen to this debate and I am stunned, and I find it staggering that we are flying in the face of family values, of family reunification. And because of some people's interest or disinterest or dislike or hate or whatever the range of emotions are about an individual, we really are destroying the fabric of life for Cuban Americans and their families who are in Cuba.

These regulations will disrupt the lives of thousands of Cuban Americans in the United States. It will do nothing to improve human rights. It will do nothing to improve human rights. It will do nothing to bring democracy to that island. Why are we penalizing the good people of Cuba and the people here in the United States who have family there; whose only thought is how they might be reunified with their family, especially if there is a time of need, especially if there is illness, especially if there is a death? What is wrong with us that we do not understand this; and that we only care about family values if we have people living in a democracy?

□ 1800

But for those who do not, and that could be in a lot of places all over this world, we say: Be gone; we are not interested in what your lives are about. Is that what the United States of America is all about?

Close relatives have been able to visit their families once every 12 months. These new regulations say once every 3 years and 14 days at a time. My colleagues have mentioned that the Deputy Assistant Secretary of State for the Western Hemisphere says an individual can decide when they want to travel once every 3 years, and the decision is up to them. So if they have a dying relative, they have to figure out when they want to travel. So much for compassionate conservatism.

Rules drastically limit the amount of money Cuban-Americans can bring back to their family members. Funds do not prop up the Castro regime, but they certainly do support families who at this moment are recovering from the devastation of Hurricane Ivan.

Other changes in our Cuba policy will be similarly ineffective, including preventing high school students from visiting the island, prohibiting university trips shorter than 10 weeks. And this will effect a democratic change in Cuba?

I am the daughter of immigrants, Italian immigrants. My father was born in Italy. We have relatives in Italy. He and my mom would go to the bank on a weekend, take some money out, whatever they could afford, to get it back to the family there. There was a tie between that town of Scafati, Italy, and New Haven, Connecticut, where people could come together and support their families. When there was a problem, my dad could visit or my mom could visit with him.

It does not make sense to punish families. Let us stand up for Cuban-American families. Members can be opposed to Castro, but Members cannot be opposed to the Cuban people, whether they are in Cuba or whether they are in the United States. I understand this experience. So many in this body understand that experience. Let us support this amendment of my colleague from Florida. Let us understand what family values are all about, and let us not pick and choose whose families we want to be united or reunited.

Mr. OLVER. Mr. Speaker, I move to strike the last word.

The CHAIRMAN pro tempore (Mr. THORNBERRY). The Chair would advise the gentleman from Massachusetts (Mr. OLVER) that since the gentleman from Wisconsin (Mr. OBEY) has struck the last word during this amendment, that can only be by unanimous consent. The gentleman may ask unanimous consent to strike the requisite number of words.

Mr. OLVER. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

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

There was no objection.

Mr. OLVER. Mr. Chairman, early in this debate, the gentleman from Florida (Mr. LINCOLN DIAZ-BALART) who controls the time in opposition to this amendment asserted that the President of the United States gave this issue a tremendous amount of thought. Surely that assertion contains an oxymoron.

Mr. SMITH of New Jersey. Mr. Chairman, with all due respect to my friend and colleague, those kinds of words have no place in a reasonable and dignified debate. That is beyond the pale. I would hope the gentleman would retract them.

The CHAIRMAN pro tempore. The gentleman will suspend. The time is controlled by the gentleman from Massachusetts (Mr. OLVER).

Mr. OLVER. Mr. Chairman, the latest get-tough initiative to rid Cuba of Fidel Castro punishes ordinary Cubans on both sides of the Florida straits and will surely have no more effect on the longevity of the Castro regime than all other such measures over the last 45 years, over the lifetime of ten different Presidents, have had.

Specifically, the interim rule which went into effect on June 30, 2004, limits family visits to Cuba to one trip every 3 years for a maximum of 14 days under a specific license to visit only immediate family. No longer will emergency visits, even deathbed visits, be allowed, nor visits to aunts, uncles and cousins who are outside the definition of immediate family.

The old policy allowed one trip per year under a general license for an unstated number of days, included a broader definition of family and allowed emergency visits under a specific license. Further, the new rule has ordered cutting the amount that Cuban-Americans visiting Cuba can spend on a daily basis from $167 to $50, and $50 does not buy very much these days. And these sweeping changes were done without so much as one hearing in Congress.

The Davis amendment would prohibit funds in the bill from being used to implement, administer or enforce the rule containing these changes made in family travel. Regardless of Members' opinions on the travel ban, this policy is politics at its worse being played with families. We should adopt the amendment overwhelmingly and put a stop to this policy folly.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, with a great sense of responsibility, I say that political prisoners in Cuba have asked that their support for President Bush's policy be made known. I know that the wrath, the brutality of the tyrant falls upon with all severity heroes such as that,

but I think I have an obligation to say that Felix Navarro Rodriguez of Guantanamo asked that his support for this policy and its reduction, which has been admitted already by the regime to be substantial, of dollars to the coffers of the terrorists state be noted.

Mr. Chairman, the Cuban people have never stopped fighting for freedom during these 45 years, and Cuba will be free. And men and women like Felix Navarro Rodriguez and Oscar Elias Biscet and Jorge Luis Garcia Perez and Rafael Ibarra and Francisco Chaviano, those are the people who will be respected for generations to come because they, in those dungeons, stood up for the freedom of the Cuban people. They support these measures. We owe it to the Cuban people to sanction the regime and support President Bush's policy. Reject the Davis amendment, I ask my colleagues with all due respect.

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

I want to start by clarifying that there is no dispute whatsoever that this is not a debate about tourism. This is not a debate about trade or the embargo. This is a debate about the right of family members to visit each other without government interference.

There has been virtually no response to the merits of the issue as to how anybody might defend the indefensible; that is to restrict the ability of family members to see their own. I understand that. If I were opposing this, I would not have anything to say on the merits either. Members cannot defend the indefensible here.

The only opposition that has been raised is to call the amendment arrogant, and it is based on a point of view sincerely expressed by the opposition that a few Members of Congress which represent a significant portion of Cuban-Americans in this country ought to essentially have a monopoly on that issue. I respectfully disagree. I personally offer this amendment tonight. I feel compelled to speak. I feel a sense of obligation because I represent roughly 120,000 people who would proudly describe themselves as Hispanic in the Tampa Bay area, many of whom are Cuban, and I feel obliged to present the voice tonight of Simon Rosen and Rufino Blanco, Ignacio and Gloria Menendez and the U.S. Army medic, Carlos Lazo, who was denied the ability on his leave from Iraq to visit his teenage sons in Cuba. What a disgrace.

One of the few things that I think we can all agree on here tonight is that life is very cruel for people in Cuba. It is very cruel for families. One of the few sources of support and hope they have is their own flesh and blood, their own family, whether they be in Cuba or in the United States.

In Florida, we just went through a supreme test. We have been through three hurricanes. It brought out the worst of Mother Nature, and it brought out the best in Floridians. And the best in Floridians is neighbor helping neighbor and family helping family, a hand extended to offer hope and support.

Cuba has just been through two horrific hurricanes. How can we deny to Cuba the support and comfort, the peace of mind of their own flesh and blood which has sustained so many Floridians throughout the southeast who have been affected by this terrible hurricane? This amendment is a test of our humanity. It is a test of who we are. This amendment is a test of whether we truly believe, as I believe we do, as Democrats and Republicans, in the values of family and that the government's job is to support families and not to interfere.

Let us adopt the Davis amendment and reaffirm to the Cuban people and people who fled Cuba from this ruthless dictatorship that we are counting on them to support each other, much as we support each other in this country. I urge adoption of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. DAVIS).

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

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

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Florida (Mr. DAVIS) will be postponed.

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

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

Mr. OLVER. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I would alter the debate somewhat this evening recognizing a number of important issues have come to our attention during debate on the transportation appropriations bill.

Yesterday, Mr. Chairman, the ACI had the beginning of its meeting in Houston, some 1,500 airports. I realize that airports create jobs, and airports are a vital economic arm of our communities, but I also realize that airports typically are in our communities. Whether rural or urban, many times they are in communities that are fully residential.

I rise today to speak to a question that I think is important to bring attention to, and I would hope that, in the conference and the work of the ranking member and the chairman, we can look again at the restoration of airport mitigation dollars for noise abatement.

We know that exposure to excessive noise, that is 55 decibels, can lower children's learning and academic performance, increase blood pressure and incidence of cardiovascular disease, cause mental health disorders, stress and depression, and cause work performance issues. Each decibel increase in airport noise results in a 0.5 to 2.5 percent decrease in real estate value.

According to a 1998 Cornell University study, the constant roar of a jet aircraft can seriously affect the health and psychological well-being of children. These problems include higher blood pressure and boosted levels of stress hormones and have lifelong effects.

I hope we can move this body and the Committee on Appropriations and our authorizing committee to deal with increased mandatory damage mitigation funding, increased FAA oversight, mandatory noise and pollution monitoring, enforcement of land use and clean air assurances. Our communities deserve this. We must be able to live compatibly with those residential communities around airports for our airports to survive.

On April 17, 2003, the FAA proposed to modify the Houston class B air space. The FAA proposed this action due to a significant growth in aircraft operations over the past 10 years and thousands of complaints from residents. To address this growth, the city of Houston completed construction of a new runway, 8L/26R in October 2003. Since the runway expansion, residents near the airport have suffered increased noise and vibrations from airport operations and aircraft.

This is not only just for residents. We have, amongst those community activists that I imagine might be all over the Nation, Mark Goble who happens to be an airline pilot. Let me share with my colleagues, and I hope in the Committee of the Whole I will be able to put these into the RECORD.

We can see what happens outside of the homes of many of the residents.

□ 1815

Aircraft on a constant basis over churches.

I believe it is important in working with the gentleman from Texas (Mr. LAMPSON), the gentleman from Texas (Mr. GREEN), and the gentleman from Texas (Mr. BRADY) that we work with the Houston Airport, but this cannot be a local issue alone. We must have Federal resources to help us in communities across the Nation.

So I rise today to bring attention to this issue, hoping that my colleagues on the Transportation, Treasury and Independent Agencies Subcommittee of the Committee on Appropriations in conference will look to this issue again and be able to address the Federal funding, mandatory funding, to help our local communities mitigate this noise, help to mitigate and help to bring about noise abatement.

Each Member should understand the significant environmental impact that airports have on abutting communities. The concept of Not in My Backyard usually comes to mind when we speak of nuisances and their effect on communities. One 747 arriving and departing from JFK Airport in New York produces as much smog as a car driven over 5,600 miles and as much noxious nitrogen oxides as a car driven nearly

26,500 miles. While Federal regulations require automobiles to undergo stringent emissions testing and certification, aircraft do not receive the same level of scrutiny. We all want to live in a peaceful and safe location.

And I would simply say I understand the needs of airports and airlines. I said yesterday in my remarks to the ACI, airports, airlines connect us to the world and to the Nation. They are the engine of economic opportunity. But I also am concerned about the communities that grow up around them or are already there when they have to expand. We must find a way in this Government to assist our local governments in this effort of mitigation.

I want to thank the ranking member and the chairman for their consideration. Let me say that I do not know if we have unanimous consent to extend for a response, but I hope to ask both the gentleman from Oklahoma (Mr. ISTOOK) and the ranking member for their consideration of this important issue.

Exposure to excessive noise (that is, 55 decibels) can: (1) Lower children's learning and academic performance, (2) increase blood pressure and incidence of cardiovascular disease, (3) cause mental health disorders, stress, and depression, and (4) cause work performance issues. Each decibel increase in airport noise results in a 0.5 to 2.0 percent decrease in real estate value.

According to a 1998 Cornell University study, the constant roar of a jet aircraft can seriously affect the health and psychological well-being of children. These health problems include higher blood pressure and boosted levels of stress hormones and have lifelong effects.

On April 17, 2003, the Federal Aviation Administration (FAA) proposed to modify the Houston Class B airspace area. The FAA proposed this action due to a significant growth in aircraft operations over the past 10 years and thousands of complaints from residents. To address this growth, the City of Houston completed construction of a new Runway 8L/26R in October 2003. Since the runway expansion, residents near the airport have suffered increased noise and vibrations from aircraft and airport operations and the complaints have actually doubled! While the Airport and FAA have taken some steps toward mitigation, local residents continue to raise legitimate concerns and demand that more be done to solve the noise problem.

I joined my colleagues Mr. LAMPSON, GREEN, and BRADY in calling for Houston Airport Systems to make improvements to its noise abatement program for aircraft operations at Intercontinental Airport (IAH). This problem still exists, so I ask this Subcommittee to use this legislation, H.R. 5025 as a vehicle to bring peace and good health to densely populated communities like the one surrounding Intercontinental in Houston.

Each member should understand the significant environmental impact that airports have on abutting communities. The concept of ''Not In My Back Yard'' usually comes to mind when we speak of nuisances and their effect on communities. One 747 arriving and departing from JFK airport in New York City produces as much smog as a car driven over 5,600 miles and as much noxious nitrogen oxides as a car driven nearly 26,500 miles. While Federal regulations require automobiles to undergo stringent emissions testing and certification, aircraft do not receive the same level of scrutiny. We all want a peaceful and safe place to raise our children and to live.

I speak now to advocate for families like one of my constituents who is actually a pilot out of Intercontinental Airport (IAH). He indicated that aircraft would fly between 300–500 feet away from his home in the Woodcreek Subdivision of Houston, TX. Furthermore, as a pilot, he measured the height of some of his own flights as low as 540 feet above heavily populated areas—and this was typical of flight patterns out of the airport.

He, his wife, and his two children once counted over 150 flights directly over his home. The health impacts of such proximity to flying aircraft are tremendous and inhuman. Federal dollars are needed to standardize flight patterns and design runways in such a way that respects the health of abutting communities—regardless of whether the region has zoning laws on its books.

Legislation such as H.R. 5025 allocates funds for enhancements to be made for modes of transportation. These funds should not be allocated without the inclusion of funding for damage mitigation and future monitoring for damages to abutting communities. I suggest that language should be included in this legislation that restricts funding for airports unless adequate damage or nuisance mitigation plans and agreements have been executed. Furthermore, this legislation needs more oversight provisions in the area of the Federal Aviation Administration (FAA). The agency should not have the ability to publish and promulgate rules that serve to hurt communities. Appropriations legislation serves as effective tools for guiding government behavior.

As I have learned from community activist groups in Houston, we must work to guide the FAA to change the way it assigns its air space categories. Low intercepts altitudes should not be allowed in heavily populated areas or where landing paths cannot avoid residential areas. These low intercept altitudes decrease property values severely, destroy quality of life, promote illness and disease among inhabitants, and do not aid our efforts to keep our homeland secure in light of current elevated threat levels. Furthermore, we should include mandatory noise and pollution monitoring for areas that abut airports and lower the legal designation of ''significant noise'' from 65 DNL to 55 DNL.

Mr. Chairman, I ask that the conferees take this grave issue into consideration, and I support the legislation.

LEGISLATIVE OBJECTIVES

Federal:

Mandatory damage mitigation funding.

Reduce Class B Airspace over populated areas.

Increased FAA oversight.

Mandatory noise and pollution monitoring.

Enforcement of land use and clean air assurances.

State and Local:

Direct notice laws.

Mandatory noise abatement procedures for airport owners.

Mandatory land use management plans around airports.

[May 26, 2004, Coalition of Homeowner Alliances Requiring Government Equity]

CHARGE SHORT RANGE GOALS?

Short Range Goals:

Combat the noise of IAH.

Address the related pollution exposures.

Secure compensation for those experiencing extreme noise.

[May 26, 2004, Coalition of Homeowner Alliances Requiring Government Equity]

Mr. NEY. Mr. Chairman, I rise in strong support of the $15 million appropriation in the Transportation-Treasury bill dedicated to enabling the Election Assistance Commission, EAC, to carry out its responsibilities under the Help America Vote Act, HAVA. During its first year in existence, the EAC has done a commendable job in carrying out its responsibilities while operating on a shoestring budget. In order for the Commission to fully achieve the many tasks assigned to it by HAVA, however, it will need the $15 million appropriated in this bill during the upcoming fiscal year.

The funds being made available will ensure that the EAC has the resources necessary for conducting research on voting system security and other important election-related issues. It will also allow the EAC to hire the staff and invest in the infrastructure needed to fulfill its numerous HAVA obligations.

The American people demand and deserve a voting process in which they can have full confidence. That is why I am proud to have been a chief sponsor and author of HAVA, which holds the potential for fundamentally improving the health of our Nation's democracy. The EAC plays an important role in ensuring that the promise of HAVA becomes a reality.

I, therefore, urge my colleagues to support the $15 million appropriation to the EAC.

Mr. ISTOOK. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. FLAKE) having assumed the chair, Mr. THORNBERRY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5025) making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes, had come to no resolution thereon.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m.

Accordingly (at 6 o'clock and 18 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

□ 1832

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PEARCE) at 6 o'clock and 32 minutes p.m.