EXTENSIONS OF REMARKS

THE LENDER AND FIDUCIARY FAIRNESS IN LIABILITY ACT OF 1995

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1995

Mr. UPTON. Mr. Speaker, in the last Congress, I called attention to some of the unintended effects of the Federal Superfund Program. I pointed out that Superfund's draconian liability provisions were undermining job creation in older manufacturing areas by discouraging the redevelopment of previously used industrial sites.

We came close to fixing this problem in H.R. 3800, the Superfund reauthorization bill cleared by the Committees on Commerce and Public Works last year. It did not become law, however, and the distinguished gentleman from Louisiana, Mr. TAUZIN, and I are introducing ''The Lender and Fiduciary Fairness in Liability Act'' today so that no momentum will be lost in the effort to repair this broken program.

Throughout America there are previously used industrial sites lying fallow because lenders and investors are afraid that owning or renting such sites will make them liable for the costs of cleaning up messes they did not make. Under Superfund, owners and operators of property requiring cleanup are assumed to be responsible for contamination found on or in such properties. In some cases, institutions that loaned money for the acquisition of such properties can be held liable, too.

This shadow of liability hanging over previously used industrial properties often makes it impossible to sell property or to secure financing for acquiring and redeveloping it. Potential investors won't invest and lending institutions won't lend so long as Superfund threatens either liability, the loss of collateral value or both.

The safe alternative in such cases is to avoid the previously used ''brownsites'' in central cities and historic manufacturing areas in favor of virginal ''greensites'' far away. It is simply safer to develop a cornfield on the periphery than to redevelop a downtown site. A Michigan State legislator described the net effect of this process thusly: ''Urban devastation, and jobless workers, are left in the cities. With development forced outward, lots of open space and farmland gets gobbled up. There are tremendous public costs to provide new roads and services. And the old urban sites are not cleaned up—they just sit there!''

Mr. Speaker, I doubt that such results were intended by the authors of Superfund. In fact, I doubt that a single Member of this House or the other body even suspected such results when the statute creating Superfund was enacted in 1980 and extensively amended 6 years later. Nonetheless, more than a decade of court decisions and administrative interpretations have brought us to this point. The program is doing more harm than good in much of the country and we have a responsibility to get it back on track.

The bill my distinguished friend and I are introducing this evening addresses the redevelopment of contaminated sites in two ways. First, it shelters from Superfund liability innocent landowners who acquire property subsequently found to be contaminated. Second, it shelters lenders and lending institutions from Superfund liability unless they actively participate in the management of an organization subsequently found liable.

It is important to recognize that neither of these concepts is new. Superfund law currently exempts innocent landowners from liability and shelters lenders via the ''secured creditor exemption.'' The problem is that the law does not provide the executive and judicial branches with sufficient guidance on its implementation. Whether a given party qualifies for the innocent landowner or secured creditor exemption is virtually impossible to determine at the beginning of the process. One must take his or her chances and hope that EPA or the courts will make the appropriate interpretations later in the process. With Superfund cleanups averaging $30 million per site, this simply presents too much risk for potential redevelopers and those who provide the capital they need.

This bill strengthens the existing by clarifying the specific steps a party must take in acquiring and financing previously developed properties. It lets no polluters off the hook. Those who contaminate will be just as liable after passage of this legislation as they are today.

Similar legislation garnered more than 300 cosponsors in the last Congress and became part of a bill reported unanimously by the Committee on Energy and Commerce. I hope my colleagues on both sides of the aisle will join Mr. TAUZIN and me in this effort.

ON THE INTRODUCTION OF THE COMMUNITY SOLVENCY ACT OF 1995

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1995

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to introduce the Community Solvency Act of 1995. This bill represents the final product of a year's worth of negotiation and compromise between county and local governments, the waste industry, and the financial community. This legislation, which passed the House in the final hours of the 103d Congress enables communities in financial trouble to continue to treat and dispose of municipal solid waste in an efficient and cost effective manner, while, at the same time, protecting public health and safety and high environmental standards.

While the House was able to take decisive action passing this exact text last year, Senate action was unfortunately obstructed. For this reason, we now revisit this issue and must move swiftly on this bill beginning today.

As my colleagues will recall, local governing bodies nationwide suffered a tremendous blow last May when the Supreme Court ruled in C&A Carbone v Town of Clarkstown, New York that waste flow control authority violates the dormant commerce clause of the Constitution. As Justice Sandra Day O'Connor reminded us in her concurring opinion, Congress has implied that States and localities have this authority, but has never said so explicity.

Communities nationwide have accumulated an outstanding debt of more than $10 billion assuming their ability to use flow control authority, only to have the Court take it away with the Carbone decision. But technologically advanced facilities require more money than many communities can afford. To meet their waste management responsibilities while protecting the environment and public health and safety, communities have turned to bond financing.

These communities have accepted the responsibility of constructing, maintaining, and often operating transfer stations, landfills, waste-to-energy facilities, composting stations, and other solid waste treatment sites. In many cases, these communities have even designed integrated solid waste management plans to meet the full solid waste needs of their residents. We should not punish them for their initiative.

Furthermore, this $10 billion in debt jeopardizes far more than the communities' ability to meet solid waste management responsibilities. In fact, it jeopardizes many of their overall community bond ratings. At least two prominent credit rating agencies—Moody's Investors Service and Duff & Phelps Credit Rating Co.—have already begun the combined reassessment of more than 100 communities' credit standings as a direct result of the Court's decision. Duff & Phelps announced that, ''In its review of this issue, Duff & Phelps Credit Rating Co. found that Congress' inability to take action is triggering greater uncertainty in the solid waste sector and, in the long run, may weaken credit quality of solid waste facilities.''

The debate continues, but the stakes are even higher now. The ultimate consequences of our inability to act decisively will be Orange County-like bankruptcies, higher municipal taxes, and outraged constituents nationwide. It is clearly up to Congress to address and remedy this situation. The Community Solvency Act is precisely the flow control language which the House passed on October 7, 1994. This language was supported by a wide coalition including private sector waste management companies; local government organizations, such as the National Association of Counties, the U.S. Conference of Mayors, and the League of Cities; recycling interests; and Wall Street representatives.

Congress must move a legislative remedy to Carbone swiftly through the committee structure and the floor schedule to ensure financial security to struggling communities in each of our States. I urge my colleagues to take an

active interest in this important issue by cosponsoring this common sense measure—the Community Solvency Act of 1995.

IT IS TIME FOR TRUTH IN VOTING

HON. MICHAEL D. CRAPO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1995

Mr. CRAPO. Mr. Speaker, I rise today in support of the toughest and most comprehensive internal reforms in over 50 years in this House. An open Congress is the only way to restore a sense of public confidence in our legislative process. I urge Members on both sides of the aisle to support this Contract for a People's House.

When our constituents recently sent us to Washington as Members of the 104th Congress, they demanded that we change the way business is done. The past 2 years, however, have allowed little room for a more open and accountable process for Members of either party in Congress. What a remarkable opportunity it is then, to bring a breath of fresh air to the current business of the House through reforms of the committee system, House rules, and budget process. We are now making substantial progress in achieving the goal of comprehensive congressional reform that we promised to the American people. Gone are the days of ghost voting by proxy in committee, closed committee meetings that shut out the American people as well as other Members of Congress, and budget numbers that do not honestly reflect increases from year to year. And I am proud to say that the Speaker will institute a program to make the House electronically accessible to everyone. These reforms are just the beginning of a new House.

To supplement the already substantial list of reforms that are being proposed and debated today, I am reintroducing the Truth In Voting Act. Reintroduction of this legislation comes at a critical time now that we have more opportunity to end the manipulative procedures, sham votes, and secret meetings of the old process. This legislation would codify and clarify many of the fine reforms being debated today, and it keeps alive the perennial process of self-examination and reform that brings vitality to representative government. I urge my colleagues to support the Truth In Voting Act, and reforms that will lead this House into the 21st century.

CHILD SUPPORT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1995

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, December 7, 1994, into the CONGRESSIONAL RECORD.

CHILD SUPPORT

Many Hoosiers speak to me about the difficulty they have collecting child support. The failure to obtain adequate support from absent parents can place an enormous financial strain on families. Children need a stable family environment in which to grow and thrive, and too many children simply do not receive the support they need. We must insist that parents treat their children responsibly, including their economic needs. Children do best when they have financial as well as emotional support from both parents. Congress will likely address this issue during debate on welfare reform next year.

BACKGROUND

The states generally handle divorce, custody, and child support decisions. In order to obtain child support, the custodial parent must obtain a state court order specifying the amount to be paid by the noncustodial parent.

Collection of that court-ordered support is not always easy. Almost one-quarter of American children grow up in single-parent households, and many of them do not receive financial support from the absent parent. Over 40% of single mothers have no child support order in place and, therefore, no legal right to support. Single parents who do have support orders in place were entitled to a total of $20 billion last year, but received only $13 billion. Furthermore, many families find the support payments inadequate. In 1989, the average child support payment was about $250 per month.

There are several hurdles which make collection of child support difficult. First, noncustodial parents who move frequently can be difficult to locate. Second, if paternity is not established—as is the case in two-thirds of births to unmarried parents—children have no legal claim on their father's income. Third, collection of child support can be difficult or expensive, particularly for the custodial parent who must go to court. Child support can be collected through wage withholding from parents with steady jobs, but those who change jobs frequently or are self-employed sometimes evade traditional enforcement methods. Fourth, there is often confusion about which state's courts have jurisdiction in child support disputes. Over 30% of children live in a different state than their non-custodial parent.

FEDERAL EFFORTS

In 1975, Congress established a cooperative federal-state Child Suppport Enforcement (CSE) program. Welfare recipients are required to participate in the program, and most of the support collected for their children is used by the government for welfare payments. Families not on welfare may receive CSE services for a small fee. The CSE program currently handles about half of all child support cases, and provides a variety of services:

Parent location: The Federal Parent Locator Service uses a variety of government records to locate parents, including information from the Social Security Administration and the IRS. States also conduct searches through their records, including motor vehicle registries and criminal records. In 1993, 4.5 million absent parents were located, an increase of 21% over the year before.

Paternity establishment: Although primarily a state responsibility, the federal government has required states to emphasize establishing paternity for children born out of wedlock. For example, the federal government has required states to have all parties in a contested paternity case submit to a genetic test upon request, and to accept paternity determinations made by other states. Despite these efforts, a paternity establishment remains a weak link in child support enforcement. In 1993, paternity was established for over 550,000 children, a 7% increase from the previous year. However, this left almost three million children still lacking legal identification of their father.

Collection: Most child support is gathered through wage withholding and garnishing federal and state income tax refunds and unemployment compensation. In 1993, $8.9 billion was collected through the CSE program, an increase of 12% over the year before. The amount of child support collected through wage withholding should increase since federal law requires mandatory withholding for all child support orders issued or modified after January 1, 1994.

REFORM PROPOSALS

Improving child support enforcement is primarily a state function, but the federal government can play an important role. Congress has taken steps to improve child support enforcement. It approved measures this year which require states to report parents owing at least two months of child support to consumer credit agencies; designate child support payments priority debts when an individual files for bankruptcy; restrict a state court's ability to modify a child support order issued by another state without the consent of the child and custodial parent; and make parents who fail to pay child support ineligible for federal small business loans.

While plugging these loopholes in the child support enforcement system is useful, it is clear that more comprehensive improvements are needed. First, more emphasis must be placed on identifying fathers of children. Some states have been very successful—up to 85% of the time—while others have been woefully inattentive to this matter. Some propose withholding welfare benefits for children whose paternity is not documented. Second, more effective methods of collecting child support are needed. Some states already require new employees to report their child support obligations to employers so that their payments may be automatically withheld from their paycheck. One suggestion is to make this requirement national through the W-4 tax form. I prefer that the states remain in control, but with support from the federal government in doing those things states are unable to do. The child support system will work better if the laws and procedures are more uniform and less complex.

CONCLUSION

I think that most parents genuinely want to take care of their children, and millions of noncustodial parents do pay their child support fully and regularly. But too many children do not receive adequate support. The federal government can help ensure their parents live up to their obligations. The goal in child support must be to improve the economic security of all children. Our society's failure to consistently demand that parents treat their children responsibly has taken its toll in childhood poverty and welfare dependency.

A TRIBUTE TO JUDITH PISAR AND THE AMERICAN CENTER OF PARIS

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 4, 1995

Mr. SCHUMER. Mr. Speaker, I rise today to call the attention of my colleagues to the achievements of a great American woman, born in the Ninth Congressional District of New York.

Judith Pisar, who was installed last year as a Chevalier of the Legion of Honor of France, has spent more than two decades building cultural bridges between the Americans and the