Agreements that call for continued dialogue and peace like the Shimla agreement could provide an ideal framework for this purpose.

With or without nuclear weapons, India is and will be a world power. The question for America is whether we can build a relationship that permits the United States and India to begin the next century as partners. America must acknowledge the reality of a strong, modern India. We must voice our disagreements, but in the context of celebrating our shared values and vision. Close to 1 million Americans of Indian origin live in the United States and contribute greatly to the economic, cultural and technical development of our country. I have full confidence that America can and will embrace this challenge.

TO COMMEMORATE THE CONTRIBUTIONS OF HORACE C. DOWNING

HON. ROBERT C. SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1998

Mr. SCOTT. Mr. Speaker, I rise today to pay tribute to Horace C. Downing, my good friend and long-term community leader in the Third Congressional District of Virginia.

Mr. Downing was born on February 26, 1917. He has amassed a commendable record of community leadership based on a tradition of leading by example. It began with the example he set as a dedicated family man, who, along with his wife Beryl, raised four children who have given them eight grandchildren.

At the age of 81, Mr. Downing remains active in his community as he has been for all of his adult life, including the period of his service to the greater community while in the US Army from 1949 to 1952. He served during the Korean War with the Quartermaster Battalion and the 24th Infantry Combat Team as a non-commissioned officer.

After leaving active duty in the military Mr. Downing threw himself into the community serving first as a supervisor for the Housing Improvement Program of Norfolk, Virginia where he was quickly promoted to Community Relations Officer as a result of his diligent and effective leadership. While in his position with these Housing programs, he became involved in the most important community service endeavor of his career—his work on behalf of the children of his community. As a founder and past president of a number of youth and civic organizations in the Berkley community, Mr. Downing has more than earned the honor of being known affectionately as the ''Mayor of Berkley''.

Mr. Downing went on to found or hold membership in thirty-five different organizations. These memberships range from community parent/teacher associations, human resource and business groups, the NAACP and youth groups to city-wide and state-wide organizations.

Mr. Downing demonstrated to the students that surrounded him the value of the concept of life-long learning by continuing his education into his sixties. At a time when students and young people are inundated with negative images and lack role models who show true care for them and the problems they face, he has been a beacon of light for them. While many in our community have written young people off as apathetic and uninvolved, Mr. Downing has founded organizations that promote political and civic responsibility in young people.

Mr. Downing has been honored by the VA Extension Service, Norfolk Public Schools, Norfolk Model City Commission, Virginia Federation of Parent Teachers Associations and other organizations in his community and across the state. So, it is with honor that I call attention to his contributions before the Congress and the nation and I ask that these remarks be made a part of the permanent records of this body. Thank you, Mr. Speaker.

SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1998

SPEECH OF

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1998

Ms. ESHOO. Mr. Speaker, it is with great pride that I rise in support of H.R. 1689, the Securities Litigation Uniform Standards Act of 1998. Over a year ago Representative WHITE and I introduced this legislation. Since then there has been a groundswell of support for this legislation. The Senate approved the companion bill, S. 1260, by a vote of 79–21. The Securities and Exchange Commission and the Clinton Administration have endorsed the legislation. The House bill we are considering today has 232 cosponsors. Today, under Suspension of the Rules, the House will pass this important piece of legislation.

I want to thank you Chairman BLILEY for the open way you have worked to bring this bill to the floor. In the past few months both the majority and minority side have worked to tighten and clean up the bill language before us today. I believe it is a much improved product.

As the primary Democratic sponsor, let me briefly discuss the need for this bill.

In 1995, Congress passed the Private Securities Litigation Reform Act. This law represented a bipartisan attempt to deal with the problem of meritless ''strike suits'' filed against high-growth companies. In most instances, these cases were settled out of court because companies made the calculation that it was cheaper to pay off the strike suit lawyer than become engaged in a protracted legal fight.

These class actions have had a considerable impact on the high technology industry, especially those in Silicon Valley which I have the privilege to represent. High technology companies account for 34% of all the securities issuers sued last year, and 62% of all cases are filed in California. It's ironic that the very companies that have contributed disproportionately to the economic health of our nation and have been a great source of wealth for investors are the ones being harassed. They are being penalized for success.

The 1995 reforms are now being undermined by a shift to state courts of cases involving nationally traded securities, which prior to 1995 were heard in federal courts. Analysis shows a clear motivation for this shift to state courts. The SEC staff report found that 53% of the cases filed cited claims based on forward-looking statements. Also, as Chairman Levitt pointed out in testimony last year before the House Commerce Committee, 55% of the cases filed at the state level are essentially identical to those brought by the same law firm in federal court.

Migration to state courts is not a minor problem. It represents an undermining of core reforms implemented in the 1995 Reform Act, because the Reform Act relies on uniform application and enforcement of the law to be effective. Without this uniform standard, the law is undermined, the strike suits continue, and companies and investors are held hostage. This is particularly true for two key elements of the 1995 Reform Act: Safe Harbor and Stay of Discovery.

When companies refrain from disclosing information about their projected performance, investors are unable to make informed decisions. Most companies are eager to talk about what they are doing. But the threat of meritless suits places a chill on disclosure. This is because any Wall Street analyst's expectation can cause a company's stock to fluctuate, even if the company is growing at a rate of 20% or 30%. Those filing the strike suit then claim that any forward-looking statement, even if it was clearly an estimate and not a promise of stock performance, is grounds for a civil action.

Companies responded by ceasing to make forward-looking statements. The 1995 Reform Act instituted a safe harbor for companies making forward-looking statements as long as those statements were not false or misleading. However, because of the threat of actions in state courts where there is no safe harbor, this provision still has yet to be implemented. I've received letters from hundreds of business leaders who say they will continue to refrain from making forward looking statements as long as the threat of litigation not covered by safe harbor remains. As a result the most investor and consumer-friendly portion of the 1995 Reform Act is not being used.

The second key element of reform is the stay of discovery pending motions to dismiss. Discovery is often the most costly part of the litigation process. It's especially burdensome when plaintiff lawyers tie up executives' time and request, literally, millions of pages of documents. As long as this threat is present, companies will have a greater incentive to settle early and avoid the cost of discovery than fight—even if the case has no merit. To counter this problem we enacted a stay of discovery in the 1995 Act. This does not prohibit plaintiffs from filing their cases, nor does it prohibit cases that have merit from moving forward. It merely delays the discovery process until a judge can rule on a motion to dismiss.

Because of the shift to state courts, the stay of discovery is not in place. The threat of huge legal costs remains and the incentive to settle meritless cases continues. Even worse, plaintiff lawyers are able to file a case in state courts, go through a process of discovery—basically a fishing expedition—and then take those documents into federal court.

It is this undermining of the federal law that prompted Representative WHITE and I to introduce our bill. I would like to make clear that the bill is not a federal power grab. We are returning to federal courts cases which until the 1995 Reform Act had always been heard in federal courts. It is limited in scope, and only extends to private class action lawsuits involving nationally-traded securities. State regulators and law enforcement officials maintain

their full range of options to take both criminal and civil action in state or federal court. It's a targeted approach to a specific problem.

I want to emphasize that this legislation is not premature. In some instances, the impact of certain provisions of the Reform Act is not clear because the courts are just beginning to consider these cases. This may be true for cases involving the pleading standard or lead plaintiff reforms, but in the case of the stay of discovery and safe harbor provisions this concern does not apply. As long as the threat of state court actions remains, the safe harbor reform will never be implemented. Companies will refrain from making forward-looking statements and investors will be denied access to information. In short, there are no cases whose outcomes we can wait for, because there are no cases.

The same is true for the stay of discovery provision. It is the threat of costly discovery that motivates companies to settle. As long as that threat remains at the state court level, we will never know if the stay of discovery will succeed in weeding out meritless cases.

To build a strong base of support and increase the chances for approval, I have worked with supporters of the Uniform Standards legislation and SEC Chairman Levitt to address three specific concerns that he raised. First, the so-called ''Delaware Problem.'' The SEC was concerned that language in our bill would pre-empt, not only cases traditionally filed in federal courts prior to 1995, but also could pre-empt state laws regarding informing stockholders of mergers or other sell orders. These corporate actions are traditionally monitored by state regulators, and in the case of Delaware there is a long standing common law tradition. It was not our intention to undermine this state law, and working with the SEC, the American Bar Association and the Delaware Bar, I believe we have developed effective language to carve-out these cases from our bill.

Second, the definition of Class Action is clarified. We attempted to close a loophole, and the language of H.R. 1689 encompassed a large category of private actions. The SEC asked that the bill be modified to define class action as something closer to the current federal understanding. This language, along with the Delaware language, was added during the Senate consideration and House Commerce Committee mark-up of the Uniform Standards bill.

The third issue is that of recklessness. During the Senate consideration of the S. 1260 the companion bill to H.R. 1689, language was included during the debate and the committee report. This language was inserted to clarify what was intended by the Congress in its passage of the 1995 Reform Act. As part of the House debate Representative COX and I engaged in a colloquy that ''Congress, did not in adopting the Reform Act, intend to alter standards of liability under the Exchange Act.''

Congress heard testimony from the Securities and Exchange Commission and others regarding the scienter requirement under a possible national standard of litigation for nationally-traded securities. I understand this concern arises out of certain Federal district courts' interpretation of the Private Securities Litigation Reform Act of 1995 (PL 104–67). In that regard I want to emphasize that the clear intent in 1995 and our continuing intent in this legislation is that neither the PSLRA nor H.R. 1689 in any way alters the scienter standard in federal securities fraud suits. It was the intent of Congress, as we expressly stated during the debate on overriding the President's veto, that the PSLRA establish a national uniform standard on pleading requirements by adopting the pleading standard applied by the Second Circuit Court of Appeals. Indeed the express language of the PSLRA itself carefully provides that plaintiffs must ''state with particularity facts given rise to a strong inference that the defendant acted with the required state of mind.'' Neither the PSLRA nor H.R. 1689 makes any attempt to define that state of mind.

As Senator DODD, the primary Democratic sponsor of this bill and the Reform Act, has said, ''the recklessness standard has been a good standard over the years and ought not to be tampered with, in my opinion.'' I couldn't agree more.

Before I conclude I would also like to pay special tribute to subcommittee ranking member THOMAS MANTON. The grace and dignity with which he has conducted himself as a Member of this body is a model for those of us who remain, and he will be sorely missed. During Commerce Committee consideration of H.R. 1689, he included language related to extending SEC's ability to enforce. I support his amendment and pledge to work with him as this bill goes forward to restore his amendment.

Lastly, I would like to thank all those involved in bringing this bill to the floor for a vote today, including Chairman BLILEY, Ranking Member OXLEY, Representative TAUZIN, and Ranking Member MANTON, I would especially like to thank Ranking Member DINGELL and Representative MARKEY, even though they oppose the legislation; the constructive and helpful contributions they made have improved this bill. I would also like to commend my partner, Representative WHITE, for all of his work and attention to this bill.

I thank my colleagues for their support and look forward to this bill becoming law.

THE INTRODUCTION OF THE ''WESTERN HEMISPHERE DRUG ELIMINATION ACT''

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1998

Mr. MCCULLUM. Mr. Speaker, today I am pleased to introduce the ''Western Hemisphere Drug Elimination Act.''

Everyone involved in fighting to control drug use in America agrees that the demand side is very important. Prevention, education, treatment and law enforcement are all critical elements of a successful anti-narcotics program. But with the streets of our nation flooded with more cocaine and heroin at cheaper prices than at any time in our history no one should expect demand-side efforts to succeed until the supply of drugs coming into our nation from abroad is dramatically reduced.

The $2.3 billion authorization bill being introduced today is designed to provide the resources and the direction to wage a real war on drugs before they get to the borders of the United States. The Administration plan promulgated earlier this year calls for a reduction of illegal narcotics flowing from overseas by 50% in ten years. This is totally inadequate. The plan put forth in our legislation is designed to cut the flow of drugs into our country by 80% within three years. It is the most dramatic, exhaustive, targeted effort ever conceived to stop the drug flow from Latin America.

Where did the plan come from and what does it do? All of the cocaine entering the United States comes from Colombia, Peru, and Bolivia. More than half the heroin entering the United States and virtually all of it in the eastern half comes from Colombia. While some heroin is produced in Mexico, Mexico is principally a transit country with drug lords who have negotiated wholesale purchases from Colombian drug lords and who smuggle the products across the Mexican/U.S. border and operate drug trafficking syndicates throughout much of the country. The key to our plan is to cut the flow of cocaine and heroin not only before it reaches the United States, but before it reaches Mexico. The plan and the specific resources authorized in this bill were developed from a ''bottom-up'' review involving extensive input from the Department of Defense, State Department, Drug Enforcement Administration and U.S. Intelligence personnel on the ground working in Columbia, Peru, Bolivia, and the transit zone north of there. All the key personnel who work this issue every day in the region believe that with the resources authorized in this bill and the proper leadership and direction from drug-fighting authorities within the Executive Branch, the flow of drugs out of each of the three source countries of Colombia, Peru and Bolivia can be cut by 80% within as little as two years, let alone the three contemplated in this bill. This requires the cooperation of the governments of the three countries, which involved officials are convinced is there for the asking. It requires U.S. cooperation, coordination and support. It does not involve U.S. military intervention, but it does require the Department of Defense to place a higher priority on anti-narcotics efforts so that key equipment, training, and operation and maintenance support that our military alone can provide are made available.

A little over two years ago, President Fujimori of Peru instituted a shoot-down policy for small aircraft leaving Peru with raw coca product to be refined by Colombian drug lords. This was made possible by U.S. manned radar surveillance and intelligence information. The program has been remarkably successful and has resulted in a more than 40% reduction in coca production in Peru in that two year period. Those involved with the Peruvian program are convinced that with greater resources, especially flying time of U.S. radar equipped planes, the flow of coca product from Peru can be virtually eliminated and crop eradication and substitution programs can cut production to a trickle. Cocaine is refined in Bolivia as well as produced. Currently most of the raw product and the refined product are transported over two or three key highways going to and leaving Santa Cruz, Bolivia. With resources in this legislation, the government of Bolivia can choke off this trafficking and extinguish in infancy the air trafficking efforts which are sure to result when the ground transportation has been choked.

In Colombia, the air bridge is critical, too. The refined product from the southern one-third of the country where it is grown and produced must be flown over the mountains to