

EXTENSIONS OF REMARKS

IN MEMORY OF CHRISTINE VEST

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 23, 2000

Mr. KUCINICH. Mr. Speaker, my colleague, Mr. LATOURETTE, and I are saddened to learn of the passing of Christine Vest, a tireless advocate for railroad safety. Mrs. Vest passed away last Thursday, October 19, 2000, at the age of 42.

Mrs. Vest turned a personal tragedy into a public crusade. About 3 years ago, her 16-year-old son Jeffrey Vest was tragically killed by a train. Christine Vest became relentless in her effort to bring railroad safety to the forefront of public consciousness. She played an important role in ensuring that the acquisition of Conrail by CSX and Norfolk Southern railroads incorporated safety features that were essential to the people of the Greater Cleveland area, the State of Ohio, and the nation.

Along with her daughter Stephanie, Christine Vest could be found wherever there was an opportunity to spread the word about train safety. She and Stephanie volunteered with a national rail safety program called Operation Lifesaver, an organization that provides public education about railroad safety. Mrs. Vest spoke in schools and rode specially chartered trains to inform students, public officials, and community workers about steps they can take to make railroad tracks safer to the general public. She spoke before the Ohio House of Representatives, successfully urging approval of funding for railroad crossing gates.

Mrs. Vest was born in Eastlake, Ohio, and graduated from Eastlake North High School in 1975. She was active in the Harvey High School Booster Club. In addition to her daughter Stephanie, she is survived by her husband Charles, a son Matthew, her mother, Gerrie Smith, two grandchildren, three brothers, and a sister.

Mr. Speaker, I ask our colleagues to join me in remembering Christine Vest. Our thoughts and prayers are with the Vest family at this time.

COMMODITY FUTURES MODERNIZATION ACT OF 2000

SPEECH OF

HON. JAMES A. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 19, 2000

Mr. LEACH. Mr. Speaker, last year, after nearly two decades of work, the United States Congress passed the Financial Modernization Act to bring our Nation's banking and securities laws in line with the realities of the marketplace. In the few days left for legislation in this Congress, an analogous opportunity presents itself to modernize the Commodity Exchange Act that governs the trading of futures and options.

At issue is the question of whether an appropriate regulatory framework can be established to deal not only with certain problems that confront today's risk management markets, but new dilemmas that appear on the horizon.

Legislation of this nature involves different committees with different concerns and sometimes competitive jurisdictional interests. From the perspective of the Committee on Banking and Financial Services, I would like to express my respect for the initial Committee on Agriculture product. That Committee's product, led by the gentleman from Texas (Chairman COMBEST) and the gentleman from Illinois (Mr. EWING), reflected a credible way of dealing with a number of concerns that have developed during much of the last decade as derivatives-related products have grown. Nonetheless, the Committee on Banking and Financial Services believes that some modifications to H.R. 4541, the Commodity Futures Modernization Act, were in order and in July, a number of clarifying approaches were adopted on a bipartisan manner.

The fact is that the CEA, or Commodity Exchange Act, is an awkward legislative vehicle designed in an era in which financial products of a nature now in place were neither in existence nor much contemplated. Indeed, the Commodities Future Trading Commission was fundamentally designed to supervise agriculture and commodities markets, not financial institutions.

Because of anachronistic constraints established under the Commodity Exchange Act, legal uncertainty exists for trillions of dollars of existing contractual obligations. This bill resolves this uncertainty for the benefit of customers of many of these products, but it does not fully resolve the legal certainty issue for some kinds of future activities.

While I would have wished that more could have been achieved, it should be clear that no additional legal uncertainty is created under this bill and progressive strides have been made on fundamental aspects of the legal certainty issue.

Here, I think it particularly appropriate to thank the staffs of the committees of jurisdiction and express my appreciation for the work of professionals at the Fed, Treasury and SEC who have added so much to the legislative process. But, above all, I believe this body owes a debt of gratitude to Mr. EWING whose dedication and hard work have reflected so well on this Congress.

While not all of the additions offered by the Banking Committee were adopted, the bill includes a number of provisions added by the Committee. These include a new section that excludes from the CEA nonagricultural swaps if the swap is entered into between persons who are eligible participants and the terms of the swap are individually negotiated and a new section to clarify that nothing in the CEA implies or creates any presumption that a transaction is or is not subject to the CEA or CFTC jurisdiction because it is or is not eligible for an exclusion or exemption provided for

under the CEA or by the CFTC. In addition, other amendments have been added to conform this proposal to last year's financial modernization law.

With regard to Section 107 of the proposed legislation, this provision excludes transactions done among eligible contract participants, where the material economic terms of the agreement are individually negotiated between the parties thereto.

The market for swap agreements has grown exponentially over the past decade, but this growth has been restrained by legal uncertainty in the U.S. stemming from confusion as to whether the Commodity Exchange Act, which was designed to regulate floor-traded fungible contracts, should also apply to the individually tailored swaps. Section 107 makes it clear that swap agreements are not futures contracts. When parties negotiate and enter into a swap agreement under the provisions of Section 107, such a contract will not be subject to the Commodity Exchange Act. Furthermore, this provision makes it clear that such contracts are excluded without regard to whether the parties use a master agreement, confirmation, credit support annex, or other standardized forms to establish the legal, credit, or other terms between them. As long as the eligible parties have the ability to alter the material economic terms of the agreement, the contract is excluded from the Commodity Exchange Act.

Finally, included in the bill are provisions written by the Banking Committee concerning the clearing of derivatives by banks and other regulated entities. Some of these provisions amend the Bankruptcy Code and I thank Chairman HYDE for allowing these provisions to move forward. Inserted below is an exchange of letters between the two Committees on this matter.

For all the reasons stated above, Mr. Speaker, I urge my colleagues to support the legislation before us. Although not perfect, this proposal is far superior to current law, and I urge its adoption.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY
Washington, DC, September 6, 2000.

Hon. James A. Leach,
Chairman, Committee on Banking and Financial Services, U.S. House of Representatives,
Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN LEACH: I am writing in regard to H.R. 4541, the Commodity Futures Modernization and Financial Contract Netting Improvement Act of 2000, which your Committee ordered to be reported on July 27, 2000.

It is my understanding that H.R. 4541, as ordered to be reported, contains language in Section 116(d) and in Title 2 of the bill that comes within the Judiciary Committee's jurisdiction over bankruptcy law pursuant to Rule X of the House Rules. It is also my understanding that Section 116(d) makes technical and conforming changes to the Bankruptcy Code with respect to certain multilateral clearing organizations and that the language in Title 2 of the bill is substantively similar to Title X of H.R. 833, the Bankruptcy Reform Act of 1999, which the House

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