in recent years even as the stock market has soared. Typically, average middle-income families have invested through mutual funds whereas relatively wealthier investors also hold direct investment in the stock market and in real estate. Taxable capital gains reported by investors who hold only mutual funds have soared in recent years whereas taxable capital gains reported by investors with direct stock and real estate investments have remained below the level reported in 1988. The availability of these avoidance techniques may have played a role in this decline.

Many of the transactions affected by my bill are not available to the ordinary investor because of their cost. Bankers Trust, a company specializing in equity swap transactions, will do an equity swap only when the investor has a block of stock valued in excess of $2 million. Also, it should be emphasized that these transactions would not be done except for the tax avoidance potential. In an economic sense they are equivalent to an outright sale, but their costs are substantially greater than those involved in a simple sale.

We rely on voluntary compliance to collect our income taxes. In fact, our current high level of voluntary compliance is the envy of the rest of the world. That high level of voluntary compliance is threatened by the existence of tax avoidance techniques that are only available to the wealthy in our society. The current law capital gains tax applies to all Americans. If the capital gains tax should be reduced it should be done legislatively for all taxpayers, not by Wall Street for the select few.

The bill I am introducing today includes two provisions. The first provision would provide for recognition of gains in the case of transactions, like equity swaps and ''short against the box'' transactions, that are equivalent to sales. This provision is based on a proposal recommended by the President in his recent budget submission. I have modified the President's proposal to address concerns that it would adversely impact legitimate hedging transactions. My bill contains simplified accounting rules for securities traders and would trigger recognition of gain only when there is deferral of tax over year-end. However, I have retained the effective date recommended by the President since my bill is basically a modified version of his proposal.

The other provision of my bill addresses another abuse, the so-called swap fund, that Congress thought it eliminated almost 30 years ago. In a swap fund transaction, an investor wishing to diversify his investment exchanges his holding of a specific stock for an interest in a diversified investment pool. The current version of this device involves having the fund hold at least 20 percent of its assets in investments that are not readily marketable. My bill eliminates that simple avoidance technique.

I urge the support of my colleagues.

TECHNICAL DESCRIPTION: SHORT AGAINST THE BOX LEGISLATION

CONSTRUCTIVE SALES TREATMENT

The Kennelly bill would require a taxpayer to recognize gain upon entering into a constructive sale of any appreciated position in either stock, a debt instrument, or a partnership interest. The taxpayer would recognize gain as if the position were sold and immediately repurchased.

The bill would define a constructive sale as any of the following transactions (and any other transaction having substantially the same effect as a transaction described below):

(1) a short sale of the same or substantially identical property;

(2) entering into an offsetting notional principal contract with respect to the same or substantially identical property. For this purpose, an offsetting notional principal contract is a contract to pay the investment yield on the property for a specified period in exchange for the right to be reimbursed for decline in the value of the property and other consideration;

(3) entering into a futures or forward contract to deliver the same or substantially identical property;

(4) an acquisition of the underlying property where the taxpayer holds an appreciated short position described in subparagraphs (1), (2), or (3).

The bill could not trigger gain in circumstances where the underlying property is sold in a taxable transaction during the year or where the constructive sale is closed during the taxable year (and if closed in the last month of the year, is not reestablished in 30 days).

If the taxpayer makes a constructive sale of less than all of his property, the determination of which property is involved in the constructive sale would be made under the principles applicable to outright sales. Under current law, this would permit specific identification.

The bill would not apply to any contract for the sale of any stock, debt instrument or partnership interest that is not a marketable security (as defined under the rules that apply to installment sales) if the sale is reasonably expected to occur within one year of the date the contract is entered into. Nor would the proposal generally treat a sales contract subject to normal terms and conditions as a constructive sale. In addition, the proposal would not treat a transaction as a constructive sale if the taxpayer is required to mark the market the appreciated financial position under Section 475 (mark to market for securities dealers) or Section 1256 (mark to market for futures contracts, options and currency contracts). The bill would permit securities traders to elect mark to market treatment under Section 475.

Like the proposal included in the President's budget, the bill would be effective for constructive sales entered into after the date of enactment. In addition, the bill would apply to constructive sales entered into after January 12, 1996, and before the date of enactment if the transaction resulting in the constructive sale remains open after 30 days after the date of enactment. The bill would apply to those pre-enactment transactions as if the constructive sales occurred on the date that is 30 days after the date of enactment.

A special rule would apply to constructive sale entered into on or before the date of enactment by decedents dying after the date of enactment. If the constructive sale remains open on the date before the date of death and gain has not been recognized under the bill, the appreciated financial position would be treated as property constituting rights to receive income in respect to a decedent under Section 691.

SWAP FUND PROVISIONS

Under current law, gain is recognized on the contribution of property to a corporation or partnership that is an investment company. The Code defines an investment company as any corporation or partnership where more than 80% of its assets by value consist of stocks or securities that are readily marketable. The bill provides that all stocks and securities, including those not readily marketable, are taken into account under the 80% test.

SEMINAR ON GOALS 2000

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. HYDE. Mr. Speaker, on February 12, 1997, a day long seminar on education with particular emphasis on the pernicious effects of Goals 2000, school to work and careers legislation was held in the Rayburn Building. The participants were greeted by Phyllis Schlafly, who was responsible for the event—along with many other organizations and individuals—and heard from experts and several State legislators and Congressmen from many States, including California, Oregon, Alabama, Pennsylvania, Florida, South Carolina, Illinois, Arizona, Michigan, Texas, Kentucky, and Arkansas.

Mr. Robert Holland of Richmond, VA, an editor for the Richmond Times Dispatch not only delivered one of the best presentations but contributed the following editorial which appeared in the Washington Times, Sunday, February 23, 1997, which I am pleased to share with my colleagues.

[From the Washington Times, Feb. 23, 1997]

BENEATH THE SEAMLESS MODEL'S HOOD

(By Robert Holland)

The hearing room of the House Judiciary Committee looked like a busy ''show and tell'' classroom for scholars bearing large stacks of homework Feb. 1–2. Chairman Henry Hyde had convened an unusual grassroots conference on the spreading, entangling ''Seamless web'' of collectivized education, health and social services, and workforce preparation.

Citizen-activists joined members of Congress and legislators from five states in talking about what their research had yielded, and they brought much of it with them as Exhibits R through Z: thousands of pages of fine print illuminating the complex scheme to make schools the central instrument for transforming American society into one that takes its lead entirely from government technocrats certifying ''skills'' and dispensing ''care.''

Such documentation is essential because merely to criticize the seamless web is to risk being branded a conspiracy theorist. The extensive paper trail belies the existence of any conspiracy. It shows, instead, that a slumbering mainstream media—or mediacrats who cheerlead for collectivization—are the problem. The proof exists for anyone willing to risk the eyestrain to read the fine print.

Nor do the leading citizen-activists spurn facts in favor of imagined plots. Consider one of the featured presenters at the Hyde conference: Virginia Miller, a former women's basketball star at Penn State, and Rhodes Scholar candidate who spent 10 years as a systems consultant to U.S. Steel, Mellon Bank, Blue Cross, and Westinghouse.

Now the acting director of the Pittsburgh-based Public Education Network, Ms. Miller provided voluminous supporting documents to show how the Human Resources Development Plan devised by Hillary Clinton's sidekick, Marc Tucker, is coming to fruition through the multifarious works of the National Center on Education and the Economy.

For instance, one sentence penned by Mr. Tucker in a Labor Department-commissioned paper on organizing the work of the National Skill Standards Board (to which Mr. Clinton—surprise, surprise—has appointed Mr. Tucker) fairly jumps off the

page. In discussing a three-tiered system for developing ''comprehensive qualifications—or standards'' for jobs and clusters of jobs, Mr. Tucker reached Title 1:

''This would be,'' he wrote, ''a set of standards for what everyone in the society ought to know and be able to do to be successful at work, as a citizen, and as a family member.''

Now, ponder the breathtaking absolutism behind such a vision: Not only should Big Government issue, in effect, work permits, and not only should it monitor each person's civic participation; it should go so far as to pass judgment on how every American functions as a mother, father, brother, sister or other member of a family—however the technocrats chose to define ''family.''

That sounds far-fetched—until one looks at Senate Bill 321 recently introduced in Oregon—one of the model states for the womb-to-tomb seamless web. That legislation would require every taxpayer with a dependent between the ages of 1 and 2 to attend state-directed ''parent education courses'' in order to claim a personal exemption on state taxes. The state also would set up a new system to certify parent-education providers. It is true that the agency Mr. Tucker envisioned as the promulgator of Tier I standards—the National Education Standards and Improvement Council—fell prey to Congress' partial dismantling of Goals 2000 last spring. However, there are many more new bureaucracies—the Skill Standards panel, for one—that can continue spinning the web.

Other presentations showed how schools are becoming instruments of nationalized health care through creative Medicaid re-interpretation; how databases are being set up to check each American's advances through the seamless web; how the School-to-Work system will function to steer students in directions that satisfy economic planners' objectives, not necessarily their own.

It is important to document how all this is meshing, as the conferees attempted to do. For example, Ohio's STW plan flatly declares as a goal the training of student for jobs in accordance with ''the state's work force development and economic development strategies.''

But as chilling as such words are, most people probably will not become gravely concerned until they see the seamless web infringing on their own family's liberties. That may be happening in Nevada, where Gov. Bob Miller, current chairman of the National Governors Association, brags about a ''Smart Card'' that students will have to present when applying for a job in order to show they have the work-force competencies Big Brother says they should have.

Out in Las Vegas, Rene Tucker tells me that her daughter, Darcy, recently was pulled out of a geography class—without parental consent—to be administered a computerized assessment of career possibilities. Darcy wants to become a veterinarian. But the computer said she ought to become a bartender or a waitress, and it spat out a list of courses she ought to take in high school toward that end.

Mrs. Tucker was furious first that the career counselors had robbed her daughter's valuable class time. She added: ''We're Christians, and the school stepped on my ties as a parent. It is my job to direct my child's career path, and it would not be in her best interest to be a bartender.''

Ah, but it might be in Nevada's best interest, you see, given the huge hospitality needs driven by the gambling and entertainment industry.

Another Nevada mom, Kristine Jensen, and her daughter Ashley had a similar experience. Ashley has a 4.0-plus GPA and currently aspires to work at NASA. Indeed, a NASA official told her, ''Set your goals high and set your heart and mind to it and you will be there.''

However, said Mrs. Jensen, the STW career inventory said Ashley ought to set her goals quite a bit lower as she enters the ninth grade. ''Garbage woman'' was a career pathway the computer said this honors student should follow.

The School to Work Opportunities Act of 1994 states that career counseling is to begin ''at the earliest possible age, but not later than the seventh grade.'' That's a federal requirement, mind you, for schools spending STW money. As such fine print becomes a killer of dreams, the uprising against this seamless web figures to grow.

PAPERWORK ELIMINATION ACT

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. TALENT. Mr. Speaker, today I am introducing the Paperwork Elimination Act. The purpose of this legislation is to advance the use of alternative information technologies and, in so doing, decrease paperwork demands by the Federal Government. The intended beneficiaries of this legislation are small businesses, educational and nonprofit institutions, Federal contractors, State and local governments, and others who face a disproportionate burden in complying with Federal regulations. Alternative technologies suggested include electronic maintenance, submission, or disclosure of information. In achieving this purpose, the Paperwork Elimination Act hopes to assist Federal agencies complying with the purposes and goals of the Paperwork Reduction Act.

The Paperwork Elimination Act does not intend to replace any part of the Paperwork Reduction Act of 1995, which has made great strides toward reducing regulatory burdens. The Paperwork Elimination Act is merely a supplement to the Paperwork Reduction Act, introduced with the intent of belatedly bringing the Federal Government into the computer revolution. It clarifies provisions within the law requiring agencies to utilize information technology by specifying that those with access to computers and modems should be able to use them when dealing with the Federal Government.

I would like to take a moment to thank our former colleague, Peter Torkildsen of Massachusetts. Mr. Torkildsen introduced this legislation in the 104th Congress and worked tirelessly to see its passage. In April 1996, the legislation passed the House unanimously. The measure was then discharged from the Senate Governmental Affairs Committee and sent to the desk for action. It is unfortunate that the Senate ran out of time before acting on this measure. I believe this is an important piece of legislation for small business. I am hopeful that my colleagues will concur and that this bill will receive favorable congressional action at an early date. Thank you.

IN RECOGNITION OF THE AWARD WINNING ACHIEVEMENTS OF WORKING CAPITAL FLORIDA

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mrs. MEEK of Florida. Mr. Speaker, access to credit, technical help, and training are the keys to unleashing the economic potential of all Americans, particularly for the poor in our cities and distressed rural areas. In recognition of its outstanding community-based leadership with microenterprise projects, Working Capital was recently awarded the Presidential Award for Innovation in Microcredit in a ceremony at the Oval Office on January 31, 1997.

In Dade County, Working Capital Florida is leading the way to economic empowerment by providing business loans, peer support, training, networking and technical assistance to persons with low to moderate income. Working Capital Florida is one of seven hubs of the Working Capital Corp. which was founded in 1990 in Athol, MA, by Jeffrey Ashe to foster self-reliance and enhance the quality of life for persons with limited access to resources. This is accomplished through a network of community-based organizations.

Working Capital Florida serves Dade's African-American, Hispanic, and Haitian communities in neighborhoods including Allapattah, Carol City, Coconut Grove, Florida City, Goulds, Homestead, Kendall, Little Haiti, Little Havana, Naranja, North Miami, Opa-Locka, Overtown, Perrine, Princeton, Richmond Heights, and South Miami Heights.

Within the next 5 years, Working Capital Florida has the potential to create 5,000 new businesses among low-income residents. Since its inception, 311 loans ranging in size from $500 to $5,000 and totaling $210,500 have been disbursed to start-up businesses throughout Dade County. Working Capital Florida helps low- and moderate-income citizens of Dade County to enter the economic mainstream. As they prosper, we reduce the social costs of poverty in Florida and the Nation while increasing national productivity. Not only are these efforts beneficial to the poor, but they clearly improve our community and benefit all Americans.

The individuals who are assisted by Working Capital Florida through micro-loans, peer-support, networking, and training can stand proudly to proclaim ''I have a dream * * * and I'm beginning to live it!'' I know my colleagues join me and the entire Dade County community in applauding their success. Congratulations Working Capital Florida on a job well done.