whose descendants today are ever vigilante in their reminding the world never to repeat crimes of this magnitude again.

For too long, people have ignored or forgotten this unimaginable atrocity. The time has come for the United States, and people everywhere, to remember and honor the victims of this brutal crime against humanity. It is imperative that we all remember the incredible inhumanity of which people are capable, for to remember is to be vigilant. And vigilance is the only way we can ever keep such atrocities from reoccurring. Through these efforts we can promote peace and goodwill among all nations and cultures. We must, for if not all that we consider humanity will be lost.

## CUTS ENDANGER OUR ELDERLY

### HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 11, 1995*

Mr. COLEMAN. Mr. Speaker, the Republican party is certainly full of contradictions. Six months after signing a ''Contract With America'' that included a platform promising fairness for senior citizens, they propose a budget that will harm the poorest and the least healthy of our Nation's older population. The House Republican budget outlines cutting Medicare funding by $270 billion over the next 7 years. In the same period of time, they propose that we abdicate responsibility for the Medicaid to the States, while decreasing the funding by $184 billion. In order to justify their cuts, they are insisting that without reform, the Medicare Program will be bankrupt by the year 2002.

Frankly, their new position makes very little sense. After all, nothing is being done to actually reform the system. Capping Medicare spending is not reform. Last year, President Clinton and the Democratic leaders in Congress struggled to reform the whole health care system, and to prevent the very crisis in Medicare that the Republicans decry today. Republicans refused to assist in the health care debate, and preferred partisan sniping. They were hiding their heads in the sand. They were all too eager to criticize the Democratic reform that would have applied small Medicare savings to comprehensive health care reform.

This year, we hear nothing of comprehensive reform. We are moving no closer to universal and affordable coverage. There are no genuine efforts to make our health care system more effective and more affordable. But the Republicans are talking about Medicare and Medicaid cuts. The cuts that they are proposing will not go toward saving Medicare, or ensuring universal coverage, but toward tax breaks to the wealthy.

The Republican party, which proudly authored a bill entitled the ''Senior Citizens Fairness Act'' now proposes to take a hit and the poor and the sick elderly, without putting one penny back into their health care. They are offering us all the pain of cuts, without the benefits of reform. Cuts like these are misguided, and should not be tolerated. Many people who have made tremendous contributions to this Nation, people in the twilight of their life, will suffer as a result of this budget.

## SUPERFUND LIABILITY ALLOCATION ACT OF 1995, H.R. 1616

### HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 11, 1995*

Mr. UPTON. Mr. Speaker, if ever a Federal program needed reform, it is the Superfund Program. It was first created in 1980 under the Comprehensive Environmental Response, Compensation & Liability Act [CERCLA]. It was changed and reauthorized in 1986 under the Superfund Amendments and Reauthorization Act [SARA]. It was supposed to be reauthorized in the last Congress and committees in the House and in the other body reported comprehensive reform bills, but this effort fell short in the final days of the session.

At the center of the Superfund Program are liability provisions arguably more draconian than found in any other Federal statute. Superfund liability is retroactive, meaning that potentially responsible parties can be held liable for lawful actions taken before enactment of CERCLA or SARA. Superfund liability is also strict, meaning that there is no need to prove negligence to establish liability. It is also joint and several, meaning that a party or parties that contributed small amounts of contamination to a contaminated site can be held liable for all cleanup expenses.

With Superfund site cleanups now averaging $30 million, the incentive to avoid any liability at any cost is strong. Small wonder that Superfund has launched a tidal wave of litigation. At least $1 in $4 spent on Superfund cleanups is spent on lawyers and the consultants needed to support lawyers in litigation to avoid Superfund liability or to transfer liability to other parties via so-called contribution suits.

In my district, one of these contribution suits eventually involved more than 700 firms and organizations. More recently, a firm that had negotiated a cleanup plan costing nearly $20 million with EPA turned around and filed contribution suits against three dozen local firms. More important than the moneys involved, these Superfund-driven suits have divided whole communities and created resentment that will last for years. This can't be what Congress wanted to happen when the program was created.

In response to these unpleasant realities, I am today joining the gentleman from Virginia [Mr. BOUCHER], in introducing the Liability Allocation Act of 1995. Mr. BOUCHER and I first addressed these issues in November 1993 in the Superfund Liability Reform Act (H.R. 3624). After negotiations with the administration and other Superfund stakeholders, we introduced a revised version of H.R. 3624 as H.R. 4351, also entitled the Superfund Liability Allocation Act. This latter measure became section 412 of H.R. 3800, as reported by the then Committee on Energy and Commerce, and section 413 of the same bill as reported by the then Committee on Public Works and Transportation. As I mentioned earlier, H.R. 3800 was not considered by the House prior to adjournment in 1994.

This legislation would create an entirely new system of liability under Superfund, one based upon proportionality and the allocation of liability shares among potentially responsible parties. It places a moratorium on the commencement of cost recovery and contribution suits for cleanup costs until the allocation process is concluded and a stay on all existing cost recovery and contribution litigation. Each party's liability would be calculated in expedited manner; parties will pay only their equitable share of the cleanup costs, those clearly related to their respective roles at the site and to the amount of waste they actually contribute; finally, the expedited process for assigning liability and the limited court review of that process should significantly decrease transaction costs for all parties at Superfund sites.

The new system established under this bill would operate as follows:

First, after a site is listed on Superfund's National Priority List, EPA notifies all parties at the site that they are required to participate in the liability allocation process.

Second, the parties choose from an EPA-approved list of private allocators to conduct the allocation.

Third, EPA and any of the parties may nominate additional parties to be included in the process or may excuse parties from the process.

Fourth, EPA is able to provide expedited settlements to ''de minimis'' and ''de micromis'' parties to enable such parties to avoid having to participate in the 18-month allocation process, satisfying small business' major concern.

Fifth, the allocator is armed with the necessary information-gathering powers, including subpoena power, and is able to enforce such powers with the backing of the Justice Department. Parties who do not cooperate in providing information are subject to stiff civil and criminal penalties.

Sixth, each party is given the opportunity to be heard, including submitting an initial statement and commenting on the draft allocation report before the final report is issued.

Seventh, after considering the ''Gore Factors''—including the party's role at the site and the toxicity and volume of material—the allocator issues a report identifying each party's share of liability for the cleanup costs at the site.

Eighth, each party may settle with the EPA based on its allocated share. As consideration, the party is shielded from joint and several liability and from actions for contribution from other parties. Any party who rejects its allocated share will be exposed to joint and several liability and remains unprotected from contribution suits. Although the allocation is nonbinding as to the parties, the exposure to joint and several liability serves as a disincentive to reject the allocated share.

Ninth, the Government is bound by the allocation unless there is proof of bias, fraud or unlawful conduct on the allocator's part or if ''no rational interpretation of the facts before the allocator, in light of the factors he is required to consider, would form a reasonable basis'' for the allocation. The Government only has 180 days during which such review can occur, after which the right to reject the allocation is waived.

Tenth, the orphan share—for defunct and insolvent parties—is paid out of the Superfund.

Eleventh, the Government reimburses parties who pay for the cleanup for amounts spent beyond their allocated shares. The Government also pursues recalcitrant parties who fail to pay their allocated shares.

Mr. Speaker, many interests worked together in developing this legislation. If the