In the aftermath of the Savings and Loan [S&L] crisis, Congress empowered the Federal Deposit Insurance Corporation [FDIC], the Resolution Trust Corporation [RTC], and other agencies to prosecute the S&L crooks and pursue other wrongdoers through civil suits to collect damage awards to lessen the taxpayer costs of the thrift disaster.

Although the government’s efforts have been successful in carrying out Congress’ mandate, government agencies have launched a zealous civil litigation campaign against anyone even remotely connected to a failed bank or thrift. Litigation against marginal defendants and the use of highly-paid outside counsel have aggravated the credit crunch in the early 1990’s. Directors and officers in financial institutions are reluctant to make character loans or business loans with any element of risk for fear that they could be accused of negligence by the regulators if the loan ever failed. Currently, banks and thrifts have found it difficult to attract qualified bank directors and officers because of the campaign of fear brought on by the regulators.

Taxpayer funds have been wasted and the lives and reputations of countless individuals are being ruined. In their fervor to squeeze every last dollar out of S&L and bank professionals, the RTC and the FDIC are spending an inordinate amount of time and money pursuing allegations of negligence. Determining the culpability of the defendants is highly questionable.

Faced with an enormous pool of potential individuals to sue, the FDIC and the RTC have employed over 2400 law firms, paying them more than $504 million in 1992 alone. These law firms have little incentive to reduce taxpayer costs and every incentive to bill thousands of hours in the pursuit of former directors and officers, regardless of their culpability. Meanwhile, defending these suits is a costly, demeaning, and time consuming enterprise. Many defendants have agreed to costly settlements, regardless of guilt, in order to avoid bankruptcy.

The Lending Enhancement Through Necessary Due Process Act will remedy these types of abuses and still allow the regulators to pursue culpable individuals. First, accused directors and officers will be allowed to assert defenses to overreaching accusations. One example is the business judgment defense. The courts in all of the States recognize the business judgment rule either by case law or by statute. This bill will establish defenses for business judgement, regulatory actions and unforeseen economic consequences.

Second, this legislation would require that regulators have good cause to obtain the personal financial records of potential defendants. The current practice is to ask for the financial records of all parties and then sue the richest, regardless of culpability. This bill requires that the regulators demonstrate a violation of the law and the likelihood that the individual will dissipate assets.

Third, this act will give defendants additional protection to prevent the freezing of their assets without good cause. Finally, the standard for director and officer liability will be clarified by stating that the standard is gross negligence rather than simple negligence. I understand the Supreme Court has seen it necessary to take a closer look at the standard of negligence as it applies to these cases.

Mr. Speaker, although most of these cases have been brought to their final disposition, I strongly believe that changes need to be made so the abuses I described do not continue during the resolution of future failures. While I understand, but do not necessarily agree with, the need to use excessive force to resolve the S&L debacle, the time has come for the pendulum to swing back to the center. This bill will accomplish this.
bill which will strengthen Medicare’s coverage of certain preventive health care. This is a step in the right direction for our seniors—and for the Medicare Program. Preventive health care can translate into improved health and a better quality of life—and at the same time, reduce long-term health care expenses. The private sector has for many years offered preventive benefits in insurance programs for working Americans. Medicare can do the same for senior citizens.

In past years, we examined Medicare’s coverage policy for the possibility of expanding it to include certain preventive care. But each time, the Congressional Budget Office concluded that this would significantly increase Medicare costs. Last year, for the first time, CBO agreed that certain preventive health benefits could actually save Medicare money. Using this new level of understanding, we decide to include these savings and develop a responsible preventive health care program for our elderly. More important than the dollars we will save over the long term, this legislation assembled preventive methods that will save lives and enhance the quality of life for individuals suffering from certain medical conditions. In addition, these measures will empower seniors to have more control over their health through early detection of diseases, thereby increasing treatment options in many cases, and build on how to successfully manage their conditions.

The American Cancer Society estimates that one million people will be diagnosed with cancer this year, and there are more than 10 million people with cancer today with a history of cancer. Those who fight cancer, as either a patient or as a caregiver, know the tremendous burden such a battle brings. There is great financial cost for individuals, families, and society as a whole; the National Cancer Institute estimates national costs for cancer to be more than $100 billion each year. By providing Medicare beneficiaries with the access to expanded prevention procedures through coverage of mammographies, pap smears, pelvic exams, and colorectal and prostate screenings, this legislation seeks to reduce suffering and expenses by detecting cancer at an earlier, more treatable stage.

We also address a disease affecting more than 15 million Americans—diabetes. Without detection or proper treatment, diabetes can lead to kidney failure, amputation, nerve damage, blindness, extended hospitalizations, heart disease, and strokes. Medical care for diabetic patients costs more than $100 billion per year—accounting for 15 percent of all health care costs in the United States and a quarter of all Medicare costs. These medical complications are costly and often avoidable through patient education on proper nutrition, exercise, blood sugar monitoring, activity and medication so that patients can take charge of their wellness. We not only empower people to take back control of their health care through patient self-management training, but we ease the financial burden by including blood-testing strips as durable medical equipment for the purposes of Medicare coverage. We also recognize the necessity of improving diabetes treatment and have added provisions requiring the Secretary of Health and Human Services to establish outcome-oriented measures to be reported to the Congress so we can change and adapt our coverage policies to reflect the medical needs of patients and not the arbitrary determinations of a Washington bureaucracy.

This legislation should make significant strides in improving the health care system for Medicare beneficiaries diagnosed with breast, cervical, colorectal, prostate cancer, and diabetes. We will do more, since new technology will enable early detection of other diseases. This bill will make a difference in millions of lives and for billions, and I am proud to introduce this bill today, at the beginning of the new 105th Congress.