that the ADC's would not be required to be ''primarily'' involved in the provision skilled nursing services and therapy services. They would have to provide those services, but because ADC's provide services to an array of patients, skilled nursing services and therapy services may not always be their primary activity. Otherwise, all the home health requirements would apply to ADC's.

Here is an example of how the system would work if this bill were law. A patient is prescribed home care by his or her doctor. At that time the patient and his or her family decide how to arrange for the services. They could choose to receive all services through the home, or could choose to substitute some adult day care services. So, if the patient had 3 physical therapy visits and 2 home health aide visits, they could decide to take the home health aide visits at home, but substitute 3 days of ADC services for the physical therapy visits. On those days, the patient would be picked up from home, taken to the ADC, receive the physical therapy, and receive the additional benefits of the ADC setting (group therapy, meals, socialization, and transportation). All of these services would be incorporated into the payment rate of 95 percent of the home setting rate for the physical therapy service. It is a savings for Medicare and an improved benefit to the patient—a winning solution for everyone.

Adult day care centers (ADC's) are proving to be effective, and often preferable, alternatives to complete confinement in the home. States are taking advantage of their services for Medicaid patients today. Homebound people can utilize these centers because they provide door-to-door services for their patients. ADC's send special vehicles and trained personnel to a patient's home and will go so far as to get the patient out of bed and transport them to the ADC site in specially equipped vehicles. Without this transportation component, homebound patients would not be able to utilize such a service.

For certain patients, the ADC setting is far preferable to traditional home health care. The ADC can provide skilled therapy like the home health provider, but also provide therapeutic activities and meals for the patients. These centers provide a social setting within a therapeutic environment to serve patients with a variety of needs. Thus, patients have the opportunity to interact with a broad array of people and to participate in organized group activities that promote better physical and mental health. Rehabilitation can be enhanced in such a setting.

Again, it is important to note that ADC care provides an added benefit to the caregivers for frail seniors or disabled individuals. When a Medicare beneficiary receives home health services in the home, these providers are not in the home all day. They provide the service they are paid for and then leave. Many frail seniors cannot be left alone for long periods of time and this restriction prevents their caregivers from being able to maintain employment outside of the home. If the senior were receiving ADC services, they would receive supervised care for the whole day and the primary caregiver would be able to maintain a job and/or be able to leave the home for longer periods of time.

This is a small step forward for rehabilitation therapy for seniors and disabled individuals. Eligibility for the home health benefit is not changed so it is not an expansion of the benefit. Patients would greatly benefit from the option of an adult daycare setting for the provision of home health services. I look forward to working with my colleagues to enact this incremental, important Medicare improvement.

MR. AMIGO 1998

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 11, 1999

Mr. ORTIZ. Mr. Speaker, I rise today to commend the 1998 ''Mr. Amigo,'' Jorge Ortiz de Pinedo, chosen recently by the Mr. Amigo Association of Brownsville, Texas, and Matamoros, Tamaulipas, in Mexico. Each year the Mr. Amigo Association honors a Mexican citizen with the title of ''Mr. Amigo,'' and that person acts as a goodwill ambassador between our two countries.

Brownsville and Matamoros hold an annual Charro Days Festival, a pre-Lenten festival, much like Marti Gras in New Orleans. Charro Days festivities will last for several days; this year they will be February 25–28. There will be parades and appearances by Ortiz, who, incidently, is not related to me, and who is an international actor, producer and director. Charro Days is an opportunity to enjoy the unique border culture of the Rio Grande Valley area.

During Charro Days, South Texas celebrate the food, music, dances and traditions of both the United States and Mexico. The U.S.-Mexican border has a unique, blended history of cowboys, bandits, farmers, fishermen, oil riggers, soldiers, scientists, entrepreneurs, and teachers.

The border has its own language and customs. On both sides of the border, there is a deep sense of history, much of which the border has seen from the front row. We have seen war and peace, we have known prosperity and bad times. Charro Days is a time for all of us to reflect on our rich history, to remember our past and to celebrate our future.

Ortiz, the 1998 Mr. Amigo, is widely known in Mexican-Latin American entertainment circles. He has performed in 75 theater productions, 23 feature films, 24 soap operas, nine comedies, and a host of other theater events and productions. He has directed hundreds of productions for Televista and produced over 35 theater events.

The Mr. Amigo Award was conceived in 1964 as a annual tribute to an outstanding Mexican citizen. Each year, the Mr. Amigo selection highlights a man or woman who has made a lasting contribution to international solidarity and goodwill.

I urge my colleagues to join me in commending Jorge Ortiz de Pinedo, the 1998 Mr. Amigo, as well as the cities of Brownsville and Matamoros, for their dedication to international goodwill between the United States and Mexico.

TRIBUTE TO ST. FRANCES DE SALES SCHOOL

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 11, 1999

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to the St. Francis de Sales School in celebration of its 50th anniversary. In recognition of this occasion, the students, staff, teachers, parents, alumni, administration and clergy members are deserving of the heartiest congratulations and highest commendations.

Since its founding in 1948 by the Archdiocese of Los Angeles, St. Francis de Sales has established a proud tradition of encouraging students to study and live the Catholic tradition of proclaiming gospel values, community involvement, and of giving service to those in need.

The students of St. Francis de Sales should be commended for their contributions to the poor and less fortunate, by organizing regular food and donation drives benefitting needy organizations in the area.

It is because of the awareness and dedication of responsible citizens in our country, exemplified by the students of St. Francis de Sales School, that today's true role models can become more well known.

I take great pleasure in recognizing St. Frances de Sales School upon the occasion of its 50th anniversary, and I commend the students, staff, teachers, parents, administrators, and clergy members for the outstanding contribution they have made to the community over the years.

Please join me, on this monumental day, in saluting the very important contribution to excellence made by St. Frances de Sales School.

HOME TO STAY

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 11, 1999

Mr. BILIRAKIS. Mr. Speaker, I would like to share a poem with my colleagues that was written by one of my constituents, Stanley Karczeuski. Stanley wrote this poem while he was serving aboard the SS *John Ainsworth* during World War II.

HOME TO STAY

I won't rejoice or boast or brag,
On that eventful day,
I'll just thank God I'm still alive,
And going home to stay.

I've counted days and months and years,
Since I have been away,
But now my counting days are done,
I'm going home to stay.

They wanted us to do a job,
Which was all work, no play,
And now the job is done, and I
Am going home to stay.

There'll be parades for heroes all,
And services to pray,
For both those men returning home,
And those who had to stay.

It's these thoughts while homeward bound,
Upon my mind do prey,
While those who fought and died remain,
I'm going home to stay.

So let us all in silence kneel,
And to our God we pray,
For lasting peace to those who fell,
While we go home to stay.

TAX TREATMENT OF TAX-EXEMPT BONDS UNDER ELECTRICITY DEREGULATION

HON. J.D. HAYWORTH

OF ARIZONA

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 11, 1999

Mr. HAYWORTH. Mr. Speaker, today my colleague Mr. MATSUI and I are introducing the Bond Fairness and Protection Act of 1999, a bipartisan compromise approach to addressing the tax consequences of electricity deregulation for tax-exempt bonds issued by municipally- or state-owned (''publicly-owned'') utilities for the generation, transmission and distribution of electricity.

Despite the lack of federal legislation in the 105th Congress in this area, 18 states have already gone forward and begun to deregulate electricity at the state and local level. The era of competition has already started both for publicly-owned and investor-owned utilities operating in these states. Our home states of Arizona and California have taken significant steps down the road to deregulation. In Arizona, Salt River Project, a Phoenix-based municipal utility, has already opened up its territory to competition. While deregulation faced a setback last month, the Arizona Corporation Commission continues to work on a deregulation plan for all Arizona utilities that will benefit all ratepayers. In California, a statewide deregulation plan is already in operation.

Publicly-owned utilities have operated until now under a strict regime of federal tax rules governing their ability to issue tax-exempt bonds. These rules were enacted in an era that did not contemplate electricity deregulation. These so-called ''private use'' rules limit the amount of power that publicly-owned utilities may sell to private entities through facilities financed with tax-exempt bonds. For years, the private use rules were cumbersome but manageable. As states deregulate, however, the private use rules are threatening many communities that are served by public power with significant financial penalties as they adjust to the changing marketplace. In effect, the rules are forcing publicly-owned utilities to face the prospect of violating the private use rules, or walling off their customers from competition, and in either case raising rates to consumers—the precise opposite of what deregulation is supposed to achieve. The consumer can only lose when this happens.

The legislation that we are introducing today would protect all consumers by grandfathering outstanding tax-exempt bonds, but only if the issuing municipal or state utility elects to terminate permanently its ability to issue tax-exempt debt to build new generating facilities. Such an election would not affect transmission and distribution facilities, which generally would still be regulated under most deregulation schemes. Publicly-owned utilities that do not make this irrevocable election would continue to operate under a clarified version of existing law, thus remaining subject to the private use rules.

This legislation attempts to balance and be fair to the interests of all stakeholders in electricity deregulation while keeping the interests of the consumer paramount. It strikes a compromise between publicly-owned utilities and investor-owned utilities by providing an option for publicly-owned utilities to address the problem of how to comply with private use restrictions in a deregulated world, an option that involves significant trade-offs for the publicly-owned utilities that seek to utilize it. For investor-owned utilities, requiring publicly-owned utilities to forego the ability to issue tax-exempt debt for new generation facilities should mitigate any potential or perceived competitive advantage in the new deregulated world. At the same time, it honors promises made to bondholders under contract and existing tax law, thereby avoiding the inequitable consequence of applying old rules to the new deregulated world of electricity.

In addition, for those concerned about the environment, it provides incentives to deliver electricity efficiently and encourages the retrofitting of aging facilities. Most importantly, for consumers, it allows competition to thrive while protecting local choice and local control.

We point out to our colleagues that identical legislation, S. 386, has been introduced in the other body by Senators GORTON, KERREY, JEFFORDS, HOLLINGS, THURMOND, HARKIN, MURRAY, SMITH of Oregon, JOHNSON, WYDEN, LEAHY and HAGEL.

Mr. Speaker, we plan to work with all interested parties, and most importantly American consumers, to ensure that we end up with the fairest, most reasonable solution to this complex problem. We want electricity deregulation to be a good deal for everyone involved, especially the American consumer, who certainly deserves the lower electric bills that a competitive marketplace is supposed to provide. We believe this legislation addresses all of these concerns and promotes fair competition in the electricity industry. We urge our colleagues to join us in cosponsoring this legislation.

Mr. Speaker, I submit the text of the bill to be printed in the RECORD.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Bond Fairness and Protection Act of 1999''.

SEC. 2. TAX-EXEMPT BOND FINANCING OF CERTAIN ELECTRIC FACILITIES.

(a) PERMITTED OPEN ACCESS TRANSACTIONS NOT A PRIVATE BUSINESS USE.—Section 141(b)(6) of the Internal Revenue Code of 1986 (defining private business use) is amended by adding at the end the following:

''(C) PERMITTED OPEN ACCESS TRANSACTIONS NOT A PRIVATE BUSINESS USE.—

''(i) IN GENERAL.—For purposes of this subsection, the term 'private business use' shall not include a permitted open access transaction.

''(ii) PERMITTED OPEN ACCESS TRANSACTION DEFINED.—For purposes of clause (i), the term 'permitted open access transaction' means any of the following transactions or activities with respect to an electric output facility (as defined in subsection (f)(4)(A)) owned by a governmental unit:

''(I) Providing open access transmission services and ancillary services that meet the reciprocity requirements of Federal Energy Regulatory Commission Order No. 888, or that are ordered by the Federal Energy Regulatory Commission, or that are provided in accordance with a transmission tariff of an independent system operator approved by such Commission, or that are consistent with State-administered laws, rules, or orders providing for open transmission access.

''(II) Participation in an independent system operator agreement (which may include transferring control of transmission facilities to an independent system operator), in a regional transmission group, or in a power exchange agreement approved by such Commission.

''(III) Delivery on an open access basis of electric energy sold by other entities to end-users served by such governmental unit's distribution facilities.

''(IV) If open access service is provided under subclause (I) or (III), the sale of electric output of electric output facilities on terms other than those available to the general public if such sale is to an on-system purchaser or is an existing off-system sale.

''(V) Such other transactions or activities as may be provided in regulations prescribed by the Secretary.

''(iii) DEFINITIONS; SPECIAL RULES.—For purposes of this subparagraph—

''(I) ON-SYSTEM PURCHASER.—The term 'on-system purchaser' means a person who purchases electric energy from a governmental unit and whose electric facilities or equipment are directly connected with transmission or distribution facilities that are owned by such governmental unit.

''(II) OFF-SYSTEM PURCHASER.—The term 'off-system purchaser' means a purchaser of electric energy from a governmental unit other than an on-system purchaser.

''(III) EXISTING OFF-SYSTEM SALE.—The term 'existing off-system sale' means a sale of electric energy to a person that was an off-system purchaser of electric energy in the base year, but not in excess of the kilowatt hours purchased by such person in such year.

''(IV) BASE YEAR.—The term 'base year' means 1998 (or, at the election of such unit, 1996 or 1997).

''(V) JOINT ACTION AGENCIES.—A member of a joint action agency that is entitled to make a sale described in clause (ii)(IV) in a year may transfer that entitlement to the joint action agency in accordance with rules of the Secretary.

''(VI) GOVERNMENT-OWNED FACILITY.—An electric output facility (as defined in subsection (f)(4)(A)) shall be treated as owned by a governmental unit if it is owned or leased by such governmental unit or if such governmental unit has capacity rights therein acquired before July 9, 1996, for the purposes of serving one or more customers to which such governmental unit had a service obligation on such date under State law or a requirements contract.''.

''(b) ELECTION TO TERMINATE TAX-EXEMPT FINANCING.—Section 141 of the Internal Revenue Code of 1986 (relating to private activity bond; qualified bond) is amended by adding at the end the following:

''(f) ELECTION TO TERMINATE TAX-EXEMPT BOND FINANCING FOR CERTAIN ELECTRIC OUTPUT FACILITIES.—

''(1) IN GENERAL.—An issuer may make an irrevocable election under this paragraph to terminate certain tax-exempt financing for electric output facilities. If the issuer makes such election, then—

''(A) except as provided in paragraph (2), no bond the interest on which is exempt from tax under section 103 may be issued on or after the date of such election with respect to an electric output facility; and

''(B) notwithstanding paragraph (1) or (2) of subsection (a) or paragraph (5) of subsection (b), with respect to an electric output facility no bond that was issued before