independent identities, and we should rationalize their structure.

Today, BIF members and SAIF members pay deposit insurance premiums at the same rate. However, until the SAIF was recapitalized in 1996, the FDIC was required to charge different premiums to BIF and SAIF members for what is essentially the same product. A difference in premiums could emerge once again, if the reserves of one fund drop below the statutory reserve ratio of 1.25% (that is, a fund's reserves must have at least $1.25 for every $100 of deposits insured by the fund), and the reserves of the other fund do not. A merger would prevent the re-emergence of a rate disparity between BIF members and SAIF members and the market inefficiencies the disparity creates as institutions waste time and money in order to purchase deposit insurance at the lowest price possible.

This is an optimal time for merging the two funds. The ratio of the SAIF fund balance to insured deposits is at a healthy 1.44%. The BIF also remains strong at a healthy 1.35% ratio of reserves to insured deposits. A combined fund would have a reserve ratio of 1.37%. Under these conditions, industry concerns over competitive disadvantages caused by a merger should be minimal. Both the banking and thrift industries should support the change as bringing needed rationality and stability to the deposit insurance funds.

Other deposit insurance reform proposals have been introduced that address other issues, such as the proper level of deposit insurance coverage and automatic industrywide assessments, when either the BIF or SAIF falls below the 1.25% reserve ratio. While these other proposals merit serious consideration, Congress may not yet be prepared to resolve the issues they address. However, the case for legislation merging the BIF and SAIF is clear and should not get bogged down in the more general debate on deposit insurance reform. Mr. Speaker, the merger of the BIF and SAIF is a matter of substantial public policy importance that should be addressed on its independent merits, and without delay.

A TRIBUTE TO NIKKI ANTOINETTE BETHEL

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 2001

Mr. TOWNS. Mr. Speaker, I rise today to honor Nikki Antoinette Bethel of Brooklyn, New York. Ms. Bethel has been a leader throughout her young life both in her academic as well as her professional careers.

Ms. Bethel is a product of the New York City Public School System, having attended St. Mark's Day School, PS 383—Philipa Schuyler Middle School and Edward R. Murrow High School. While in high school, Nikki was elected into Who's Who in American High Schools for three consecutive years, she represented New York as a Congressional scholar and she received the ''Progress through Justice'' Award from the District Attorney of Kings County. After high school Nikki went to college at the University of Maryland where she again exhibited her leadership abilities: serving as a resident assistant for each of her four years, the Vice-President of the Black Women's Student Council, a teaching assistant, a section leader of the Honors 100 Colloquium, a delegate of the Black Student Union, and a member of the University's honor program. After graduating with honors, Nikki went on to receive her Master of Education at Harvard University.

Once her education was complete, Nikki brought her leadership skills and penchant for achievement to Merrill Lynch's Human Resources Management Training Program. After becoming an Assistant Vice-President, Nikki went in search of new challenges as an MBA Recruiter for Investment Banking Sales and Trading at Morgan Stanley Dean Witter.

Mr. Speaker, Nikki Antoinette Bethel is a dedicated young woman of tremendous achievement. As such she is more than worthy of receiving our recognition today, and I hope that all of my colleagues will join me in honoring this truly remarkable woman.

INTRODUCTION OF H.R. 1332: THE BUSINESS METHOD PATENT IMPROVEMENT ACT OF 2001, H. R. 1333: THE PATENT IMPROVEMENT ACT OF 2001, AND H. RES. 110: THE PTO FUNDING RESOLUTION

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 3, 2001

Mr. BERMAN. Mr. Speaker, I rise to discuss three pieces of legislation I have introduced today.

Last fall, Representative RICK BOUCHER and I introduced H.R. 5364, the Business Method Patent Improvement Act of 2000. Upon introduction of that bill, I made it clear that my primary motivation was protection of intellectual property. I believe the protection of intellectual property is critical both to innovation and to the economy, and will be advanced by assuring the highest level of quality for U.S. patents.

With these same goals in mind, today Representative BOUCHER and I introduce three new bills. The Business Method Patent Improvement Act of 2001 is very similar to last year's version, but includes several significant changes in response to legitimate criticisms of last year's bill. The Patent Improvement Act of 2001 responds to suggestions by many parties that certain provisions in last year's bill should apply broadly to all patentable inventions. Finally, the PTO funding Resolution ensures that all PTO fees will be used to fund the PTO and the vital services it provides.

These bills represent a starting point, not an end point, for discussion of legislative solutions to patent quality concerns. The multitude of comments received on last year's bill demonstrate that these problems are difficult and, as yet, present no clear-cut answers. Indeed, reactions to last year's bill exhibited few consistent patterns, with members of the same industries often expressing diametrically opposed viewpoints. What was clear, however, was that introduction of specific legislation proved helpful at focusing the discussion. Thus, we introduce these bills to initiate that discussion anew in the 107th Congress.

The Business Method Patent Improvement Act of 2001 requires the PTO to publish all business method patent applications after 18 months. In conjunction with the publication provision, it creates opportunities for the public to present prior art or public use information before a business method patent issues. It establishes an administrative ''Opposition'' process where parties can challenge a granted business method patent in an expeditious, less costly alternative to litigation. The bill lowers the burden of proof for challenging business method patents, requires an applicant to disclose its prior art search, and finally, creates a rebuttable presumption that a business method invention constituting a non-novel computer implementation of a pre-existing invention is obvious, and thus, not patentable.

The Patent Improvement Act of 2001 would establish an administrative ''Opposition'' process where parties can challenge any granted patent in an expeditious, less costly alternative to litigation. The bill creates a rebuttable presumption that any invention constituting a non-novel computer implementation of a existing invention is obvious, and thus, not patentable. Finally, the bill requires an applicant to disclose its prior art search.

The PTO funding Resolution creates a point of order regarding any legislation that does not allow the PTO to spend all fees collected in the year in which they are collected.

Some may consider the coordinated introduction of these three bills an unusual approach. Indeed, it will be noted that the first two bills overlap—that is, they contain many of the same provisions applied to different, but overlapping types of patents. We have chosen this approach because we consider all the bills to be improvements over current law, but are not sure which bills will generate sufficient support to be enacted this Congress. Further, we consider the PTO funding Resolution to be a necessary element of any plan to improve patent quality, but recognize that such legislation will generate its own debate.

I have decided to forge ahead through these thorny issues because my concerns about the quality and effects of business method patents have not dissipated or diminished during the past year. The pace of business method patenting has picked up dramatically. While in FY 1999, the PTO received approximately 2650 business method patent applications, in FY 2000 it received 7800 such applications. The PTO reports that the first quarter of FY 2001 has seen business method applications running 18–20% higher than in Q1 of FY 2000. I commend the PTO for reducing the proportion of business method patents granted through its Business Method patent Initiative, but there is some concern that this Initiative will extend patent pendancies further.

We will not know what business methods are claimed in these applications for at least eighteen months after filing, and in all probability for at least twenty-six months. Some consider this a problem in itself, as technology businesses attempting to move at Internet speed may invest enormous sums of ever-dwindling venture capital only to find important elements of their business plan covered by a patent. This is an unfortunate by-product of the patent system, but I do not believe we should address it by prohibiting patents on business methods or requiring publication upon filing.

Of greater concern to me is assuring the highest quality of business method patents being issued. Unfortunately, those business methods patents of which we are aware do