

services, but also the means and details by which the result is accomplished.

Under a special statutory rule in section 3121(d)(3) of the Internal Revenue Code, agent-drivers and commission-drivers, who are independent contractors but are engaged in distributing meat, vegetable, bakery, beverage (other than milk) products, or laundry or dry-cleaning services, are treated as "statutory employees" solely for FICA and FUTA tax purposes if (1) their services are part of a continuing relationship with the person for whom services are performed; (2) the distributor's service contract contemplates that he or she will perform substantially all of the services personally; and (3) the distributor does not have a substantial investment in facilities used in performance of services, excluding facilities used for transportation.

In a reversal of its long-standing ruling position, the IRS issued GCM 39853 in 1991, which held that investments in distribution rights and territories were akin to investments in the intangible assets of education, training, and experience. The legislative history to section 3121(d)(3) had indicated that investments in education, training, and experience were not to be treated as investments in "facilities." The GCM analogized an investment in a distribution right or territory to an investment in education, training, and experience, and accordingly concluded that an investment in a distribution right or territory was not to be considered an investment in "facilities." This reversal has created much uncertainty, particularly in the baking industry, with respect to independent contractor drivers, who have made substantial investments in their businesses and have been paying Social Security taxes with their federal tax returns. While the IRS may contend that the GCM is no longer in force, I believe that it is being applied by various field agents.

For example, at least four companies have endured prolonged audits in which the IRS challenged the status of bakery drivers based on the GCM. In each of those audits, the IRS agreed that bakery drivers were independent contractors under the common law test, but sought to treat them as statutory employees by ignoring their substantial investment in ownership of their routes.

This is not only an unfair result, but has caused great confusion in the bakery industry. This amendment attempts to clear up that confusion and correct that inequity.

An investment in a distribution right or territory specifically and directly relates to, facilitates, and is used in the performance of the distribution services in question. In contrast, education, training, and experience have a more general, attenuated, and indirect relationship to distribution services. Accordingly, my bill will clarify the statute to reflect Congressional intent that an investment in facilities can include an investment in a distribution right or territory, in contrast to an investment in education, training, and experience. Thus, an independent contractor driver who is engaged in distributing meat, vegetable, bakery, beverage (other than milk) products, or laundry or dry-cleaning services and who has a substantial investment in his or her distribution right or territory will not be treated as a statutory employee.

IN HONOR OF INTERNATIONAL
WOMEN'S DAY

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 6, 2002

Mr. FARR of California. Mr. Speaker, International Women's Day began in our Nation. It was not a gift from Members of Congress, nor from the well-clothed captains of industry, but rather a victory achieved by the women who sewed the suits they wore. It was these women, garment workers, who went on strike March 8, 1857, demanding the bread of economic security and the roses of a better life.

At an international conference held fifty-three years later, German socialist Clara Zetkin asked for an international women's day to mark the strike of the garment workers in the United States. Her request was met with unanimous support, and International Women's Day was born.

More than 11,000 babies will be born in our Nation today. These children will eventually inherit many of the problems the Federal Government strives to solve. To prepare them to assume responsibility for progressive government leadership, we must ensure their health, give them adequate nutrition, educate them, allow them equal opportunities, and inspire them with knowledge of the accomplishments which generations of women have contributed to the world.

And so, as we celebrate International Women's Day this Saturday, we must recommit ourselves to the betterment of the lives of and equal opportunities for our daughters, our wives, our sisters, and our mothers. We do this to honor all women, and especially those on strike during the early spring of 1857, who remind us of our capacity to improve our lives and the lives of those around us.

THE PRESERVING PATIENT ACCESS TO PHYSICIANS ACT

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 6, 2002

Mrs. JOHNSON of Connecticut. Mr. Speaker, on the first of this year, a 5.4 percent across-the-board Medicare payment cut went into effect for doctors caring for seniors. Under the present payment system, further deep cuts are in store for the future. In some areas of the country doctors are no longer accepting new Medicare patients because payments no longer fairly recognize the changing health care needs of today's seniors nor the increasingly complex and difficult environment doctors must work under.

With malpractice insurance skyrocketing, nursing costs rising, diagnostic and treatment options expanding rapidly, and paperwork burdens exploding, these cuts are unjustifiable and unfair! They result from an arbitrary formula that ignores the real costs of providing health care. According to the American Medical Association, Medicare payments to doctors have increased only 18.5 percent in the last 10 years, an average of 1.1 percent per year, which pales in comparison to the skyrocketing costs of providing health care.

To now cut payment rates 5 percent for four years will, without question, force early retirements among physicians who are primarily serving our seniors, or force physicians to limit the number of Medicare patients they serve. More seriously, in the long run under-reimbursing our doctors in yet another public health care program will discourage the top quality students medicine has traditionally attracted and erode the world famous quality of American medicine.

Today, I am introducing legislation that would implement the recommendations of the Medicare Payment Advisory Commission (MedPAC) and reform Medicare's doctor payment formula. The bill repeals the Sustainable Growth Rate (SGR) system that has resulted in unpredictable payment increases and cuts. If left in place, the present SGR system is projected to cut physician payments by more than 20 percent over the next several years. My bill increases payments to physicians by 2.5 percent in 2003 and ties future updates to an index similar to the Medicare Economic Index, making the system for adjusting physician payments similar to that for adjusting Medicare payments to other providers. While much work remains to be done to understand and manage the cost of this common-sense reform, rational payment rates are essential to maintaining the quality of Medicare.

I am committed to providing physicians with a more stable, predictable, and fair payment formula. Absent such reform, we will short-change our physicians and threaten both access to care and quality of care for our seniors.

HONORING 2002 MEN AND WOMEN OF HEART GALA HONOREES

HON. NICK LAMPSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 6, 2002

Mr. LAMPSON. Mr. Speaker, I rise today to honor the 2002 Men and Women of Heart Gala honorees. The honorees have dedicated themselves to their communities and to service. I am proud to represent them here in Washington. The recipients are: Anita Fogtman, Colin Fox, Norman Frede, Kathleen Harlan, Bette Johnson, Bill Lowes, Victor Maria, Floyd H. Myers, Charlotte Tetter, and Paula Orcutt Thomas.

These citizens were presented this award for their committed and caring service to their fellow Texans, and have helped make their communities better places for all.

NEWLY RELEASED DOCUMENTS SHOW PERSECUTION OF BELIEVERS BY CHINESE GOVERNMENT

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 6, 2002

Mr. WOLF. Mr. Speaker, an organization called the Committee for Investigation on Persecution in China has compiled an unparalleled trove of documents concerning religious persecution by authorities of the People's Republic of China (PRC). The organization's