

## EXTENSIONS OF REMARKS

INTRODUCTION OF H.R. 3033, THE  
JOB TRAINING REFORM AMEND-  
MENTS

HON. CARL C. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. PERKINS. Mr. Speaker, today I am introducing a bill to reform the employment and training assistance programs under the Job Training Partnership Act [JTPA] and to improve the targeting of services and clients, particularly those served in title II of this act.

I want to thank my good friends and colleagues, Chairman FORD, of the Committee on Education and Labor, Mr. GOODLING and Mr. GUNDERSON, ranking members of the Committee on Education and Labor and the Subcommittee on Employment Opportunities, respectively, for cosponsoring this bill. Their cosponsorship represents a solid bipartisan agreement on this legislation and a mutual commitment to reforming JTPA.

Numerous proposals to amend JTPA have been introduced over the last few years. In fact, separate versions of amendments passed both the House and Senate last year. As the new chairman of the Subcommittee on Employment Opportunities, I committed earlier this year to taking a renewed look at each of these proposals. I am convinced that this consensus bill is a substantial improvement over the previous attempts, and I am committed to completing action on it this year.

This bill puts training back in JPTA, and makes it clear that JTPA is not simply an auxiliary placement program supplementing the work of the employment service. It includes amendments to encourage the JTPA system to coordinate services with those provided by the employment service, among others, in order to stretch resources and minimize duplication.

Since JTPA's enactment into law in 1982, there have been countless articles and reports criticizing various aspects of this program. Many of these criticisms have revolved around creaming and targeting issues. In general, the JTPA Program has been accused of serving the most likely to succeed and not those most in need of services. In addition, some reports, most recently those of the General Accounting Office [GAO], have cited discriminatory practices in serving women and blacks in a majority of the SDA's it surveyed. The GAO has claimed that the majority of comprehensive training services have been provided to the most job ready and not the least skilled. Providing comprehensive, long-term or multiyear services to the hardest to serve, or those with multiple barriers to employment, is a primary focus of this bill.

Additionally, the Inspector General's Office has repeatedly cited waste, fraud, and abuse problems with the contracting and procure-

ment procedures used by the JTPA system. And almost all reports and articles criticizing the JTPA have noted the lack of Federal oversight and guidance concerning this program. I think the Congress and the administration are now in agreement on the need to increase oversight of this program. I have delayed the introduction of this bill in order to ensure that the legislative language addresses each of these issues and to ensure that JTPA's scarce resources are properly accounted for and targeted.

I believe that the legislation I am introducing today addresses each and every problem that has been cited as a reason not to increase funding in this program. The stagnant funding that this program received since inception has been one tragic result of the constant criticism. Currently, JTPA receives less than one-third of the funds spent for its predecessor, the Comprehensive Employment and Training Act in the 1970's.

In addition to increasing Federal oversight, this bill strengthens the cost accounting in all contracting. It mandates that all costs in contracting of services be charged to the appropriate cost categories, with extremely limited exceptions. This includes the elimination of most single-unit charge contracting. This, however, does not mean an elimination of performance-based contracts. As long as costs are charged to the appropriate categories of training, administration, and training-related or support services, performance-based contracting will continue to be allowed.

SDA's are encouraged to provide nonprofit and community-based organizations with proportionate amounts of funding necessary for administration cost and support services. We cannot properly serve those most in need without providing them the means to participate in longer term, comprehensive programs. This may include supportive services such as child care services, transportation, and stipends.

This bill increases the emphasis on education, yet recognizes that education is an expensive burden to the JTPA system. It encourages linkages with the local school system, but also mandates that education training be provided when necessary. I recognize and readily admit that JTPA cannot solve all the educational problems of our Nation's work force, but JTPA cannot ignore educational deficiencies if we are to adequately train tomorrow's workers. While we are not addressing the reform of our education system here we must confront the problems of the work force that presently exist.

While education is emphasized throughout the bill, a priority is placed on serving out-of-school youth, such as dropouts and noncollege bound high school graduates. I am seriously concerned about the lack of programs and resources available for these youth. We spend hundreds of billions of dollars in public and private funds on in-school

youth, yet few, if any resources, other than JTPA, on out-of-school youth. This group is difficult to reach and more costly to serve; however, we must effectively reach out to these youth to provide them the tools necessary for success in the workplace.

Currently, JTPA serves less than 5 percent of the eligible poor population. If we are ever to solve the overwhelming problems of unemployment, poverty, crime, dependency, and utter hopelessness among so many in our Nation, we must provide better opportunities and alternatives for production employment. JTPA is sometimes called the second chance system for dropouts, the poor, and the uneducated; yet, for too many youth and adults, it is the last chance to attain the education and vocational skills necessary to be productive contributors to our society—not dependents upon it. JTPA, when at its best, can provide the tools necessary to lift people out of poverty and despair.

Mr. Speaker, let me close by quoting testimony I received during hearings on this act from the commissioner of employment for New York City, Josephine Nieves, on the work force preparation lesson from the Persian Gulf war. She testified that the so-called smart weapons were successfully "operated by smart forces heavily represented by minorities" or groups historically disadvantaged:

Congress needs to question why our military succeeded in training its forces in the use of the most sophisticated and advanced technologies, while American business is crying for a work force that cannot meet even the most rudimentary requirements. The answer is simple. Training has always been the military's first priority. The military knows the requirement of each and every job and spends millions in training. It marshalled the resources required to produce a military force capable of carrying out each and every assignment. Its method proved that everyone is trainable.

To produce a work force capable of meeting the economical challenges and work force requirements of the 1990's, Congress must give job training the same priority given to it by the military. Dollars must be directed to implementing training approaches for the hard-to-serve—individuals who largely have been left behind by our educational system. This requires strong, viable programmatic efforts by all of us. I believe JTPA is the vehicle to accomplish this important goal.

She added that JTPA's goal should be a "well trained, competitive work force that can meet the challenges of the international economic battlefield." I fully agree with the commissioner and would only add that this should be our Nation's goal, as well as JTPA's.

Mr. Speaker, attached is a summary of this bill to be printed in the RECORD in its entirety immediately following my remarks:

SUMMARY OF H.R. 3033, THE JOB TRAINING  
REFORM AMENDMENTS

The amendments to the Job Training Partnership Act (JTPA) make significant

\* This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

changes that are designed to reform and strengthen the Act's services for the economically disadvantaged adults and youth.

These amendments retain the public/private partnership that forms the basic delivery system for JTPA, and preserves the emphasis on program outcomes through the use of revised performance standards. Overall, throughout this bill an emphasis is placed on serving the hard-to-serve, with barriers to employment in addition to their poverty. Longer, more comprehensive services are mandated with an assessment and service strategy provided for each participant. The Secretary, in consultation with the Inspector General, would be required to issue detailed procurement standards to address the numerous program integrity abuses reported over the last few years.

#### ADULT AND YOUTH PROGRAMS

The bill separates the year round youth services provided in the existing title IIA adult and youth program into a new title IIC youth program. To be eligible for services under title IIA, individuals must be economically disadvantaged adults age 22 or older, and at least 60 percent of these adults must have at least one prescribed additional barrier to employment in addition to poverty. As in current law, 10 percent of these participants may be non-economically disadvantaged if they face at least one other barrier to employment.

The proposed title IIC program for youths, aged 16 through 21, will have the similar eligibility requirements to those listed above. High school dropouts under the age of 18, however, must return to school or some form of alternative educational program as a part of their participation in JTPA. Of the title IIC participants, 60 percent must be out-of-school. With limited exceptions, the Secretary of Labor may lower the service delivery area (SDA) requirement to a minimum of 40 percent.

The title IIB Summer Youth program will retain the same eligibility requirements as in current law. Language is added to this part to encourage the concurrent enrollment or transfer of summer youth into the title IIC year round youth program.

#### FUNDING

The bill includes a declaration of policy that encourages the expansion of the title II program by increasing funds by at least 10 percent each year to increase the 5 percent of eligible youth and adults currently served. Increased funding will be required simply to maintain current service levels, since these amendments require longer, more comprehensive training services.

Only technical changes are proposed in the funding formula, such as the exclusion of college students and individuals in the armed forces.

Subject to the approval of the Governor, SDAs may transfer up to 10 percent of their title IIA and IIC funds between these titles (IIA and IIC), depending upon local need to serve more adults or more youth. A new reallocation and recapture provision is added for excess carryover funds in title II program.

#### STATE SET-ASIDES

Of the funds appropriated for title IIA and IIC, 19 percent will be set-aside at the state level for the following activities: 6 percent for incentive grants to local SDAs who have met all performance standards and exceeded performance standards for the hard-to-serve; 5 percent for state administration and monitoring of programs; and 8 percent for state education coordination and grants. The existing 3 percent set-aside for older worker

programs would be replaced with a requirement that at least 6 percent of funds under title IIA be targeted at participants aged 55 or older.

#### ASSESSMENT

The education, skill level, and service needs of each title IIA, IIB, and IIC participants will be assessed, and a service strategy must be developed. In titles IIA and IIC, each participant must be provided, directly or through arrangement, the education, skills training and supportive services necessary when the assessment indicates such a need.

Each SDA shall ensure that each applicant who meets the minimum income eligibility criteria be provided information on all appropriate services along with a referral to other appropriate programs to meet the applicant's basic skills and training needs. No state or SDA shall impose additional eligibility requirements that results in restricting access to appropriate services.

#### COST CATEGORIES

Under current law, SDAs must spend at least 70 percent of their funds on training activities, with a maximum of 15 percent on administration, and the remainder on support services. This bill proposes a minimum of 50 percent be spent on direct training activities, a maximum of 20 percent on administration, and the remaining 30 percent or less on support services and training-related services. Each of these categories is defined, including the addition of work experience, counseling, assessment, and case management into the training category, and the inclusion of stipends in the support services definition. With limited prescribed exceptions, all costs must be charged to the appropriate cost category.

#### PROCUREMENT

The Secretary would be required to prescribe regulations establishing detailed procurement standards to ensure fiscal accountability and prevent waste, fraud and abuse in these programs. In establishing these standards the Secretary shall consult with the Inspector General and take into consideration the relevant OMB circulars. The standards prescribed shall ensure that procurements are competitive, include an analysis of the reasonableness of costs, do not provide excess program income or profit, and that no conflict of interest exists in the grant selection.

This legislation allows SDAs to use advance payments of up to 20 percent when contracting with nonprofit organizations, based on the financial need of the organization.

#### IDENTIFICATION OF ADDITIONAL REQUIREMENTS

The bill adds a new requirement that any State or SDA imposed rule, regulation, policy, or performance standard relating to this program must be identified as a state or SDA imposed requirement.

Instructs the Secretary to provide guidance and technical assistance to states and SDAs on minimizing documentation to verify eligibility, demonstrate additional barriers to employment, and conduct assessments to ensure that these requirements do not discourage program participation. The establishment of uniform standards and automated intake procedures are encouraged.

#### ON-THE-JOB TRAINING

The bill limits on-the-job training (OJT) to 6 months and prohibits SDAs from contracting with employers who have not retained at least 75 percent of employees for at least one year and provided full employment benefits.

#### ECONOMIC DEVELOPMENT ACTIVITIES

The legislation prohibits the use of funds for activities such as: economic development, employment generating activities, revolving loan funds, foreign travel, contract bidding resource centers, and other activities that do not result in the direct creation of jobs in which JTPA participants are placed.

#### PERFORMANCE STANDARDS

The bill amends adult and youth performance standards to include employability competencies, such as the attainment of a high school diploma or its equivalent. The bill mandates that each Governor adjust the standards to reflect economic, geographic, demographic and other different factors in the state and SDAs.

The bill amends the incentive grants to emphasize exceeding performance in services to the hard-to-serve, or those with additional barriers to employment. Requires the Secretary to establish uniform criteria defining failure to meet performance standards by an SDA.

The legislation requires the Governor to report final performance for each SDA, and on his or her plans to provide technical assistance to SDAs failing to meet these standards. The Governor is required to notify the Secretary of continued failure (2 program years), along with plans for reorganizing and restructuring the SDA and the private industry council. If the Governor fails to address the SDA's failure to meet performance standards, the Secretary shall withhold one of the five percent state administration set-asides to provide these services.

#### DATA COLLECTION

The amendments would require improved and expanded data collection, particularly on sex, race, and occupation. The crosstabulation of similar state and SDA produced data will also be required.

#### YOUTH OPPORTUNITIES UNLIMITED

Creates a new Youth Opportunities Unlimited program under title IV to provide training grants to high poverty communities in a target area with a population of no more than 25,000. These grants would allow communities to provide comprehensive services to all low-income youth in need. A 50 percent state or local match is required.

### HILLANDALE'S 50TH YEAR OF SERVICE IN MARYLAND

#### HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mrs. MORELLA. Mrs. Speaker, I would like to bring to the attention of my colleagues that the Hillandale Volunteer Fire Department is celebrating its 50th year of providing Montgomery County, MD, with the finest in fire and rescue services. As part of a celebration, the department is going to rededicate its building on Sunday, September 22, at 2 p.m. in front of station 12, 10617 New Hampshire Avenue, in Silver Spring. In a traditional rededication ceremony, the department will manually push all of the rescue apparatus into the engine room, symbolizing possession of the manpower necessary to get the equipment out in any situation.

Hillandale's volunteer and career force was begun by members of the community in an ef-

fort to provide a fire department within their own vicinity. In the tradition of Benjamin Franklin who initiated the first volunteer fire department, Hillandale's volunteer firefighters display consistent dedication, and their devotion should not go unnoticed, or unappreciated. I salute Hillandale's staff for its unwavering commitment to the community. The volunteers' willingness to place themselves in life-threatening situations in order to ensure the safety of others is inspiring, and deserves our highest praise and appreciation.

INTRODUCTION OF LEGISLATION TO REPEAL THE MANAGED ACCOUNTS PROVISION OF SECTION 11(a) OF THE SECURITIES EXCHANGE ACT OF 1934

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. MARKEY. Mr. Speaker, today I am joining with Representative RINALDO, the ranking minority member of the Subcommittee on Telecommunications and Finance, in introducing legislation to repeal the managed account provision of section 11(a) of the Securities Exchange Act of 1934 to permit members of national securities exchanges to effect transactions for managed accounts.

Initially, rule 11(a) was adopted during the mid-1970's, a transitional period for the securities industry in which fixed commission rates and strict limitation on exchange membership were giving way to the lower negotiated rates and more open exchange membership policies of today. Given the changes that have taken place in the securities industry since enactment of this provision, however, including the demise of fixed commission rates, the opening of exchange membership, increased access to current quote and trade information, and electronic routing of orders, the managed account provision is no longer an effective instrument of the securities marketplace. In fact, the managed account provision may actually impede the ability of investment managers to achieve the lowest possible transaction costs when they buy or sell stocks for the accounts they manage.

According to Robert C. Pozen, general counsel and managing director of Fidelity Investments, "The managed account restrictions preclude institutional clients from holding an exchange member accountable for its trade executions." Accordingly, current restrictions create an economic incentive for money managers to trade off of the exchanges—namely, in the over-the-counter market or on foreign exchanges.

One of the continuing challenges we must face is that of assuring that our system of market regulation keeps pace with the continuing changes taking place in our Nation's securities markets. We need to assure that our regulatory structure is continually updated, strengthened, and adapted to make our securities markets stronger and better suited to withstand the liquidity demands placed by both institutional and individual investors. The bill Representative RINALDO and I are introducing today would accomplish this in several ways.

First, it should result in lower transaction costs for investors by reducing costs incurred by the securities industry by approximately \$200 million and \$300 million annually. A study conducted by the Securities Industry Association in 1987 to determine the costs of the managed account prohibitions revealed that the prohibition in section 11(a) cost the industry between \$200 million and \$250 million in 1986 and 1987. According to New York Stock Exchange figures for 1989 and 1990, section 11(a) cost the securities industry between \$335 million and \$409 million and between \$233 million and \$285 million in 1989 and 1990, respectively. These costs are primarily associated with the required use of independent brokers on the exchange floor. Under this legislation, money managers would no longer be forced to use independent floor brokers, commonly known as "Two Dollar Brokers," to execute trades for their managed accounts. Instead, they could use an affiliated broker at a reduced cost.

Second, the bill would protect investors by continuing to require prior authorization for transactions conducted by an affiliated broker and full disclosure of fees paid to an affiliated broker for effecting any transaction for a managed account. The legislation would require any broker effecting a transaction for a managed account on a national exchange to obtain authorization prior to effecting the transaction. The bill also would require brokers to provide investors with an annual statement disclosing the amount of compensation received by the broker for effecting such transactions.

This legislation has received the support of the Securities and Exchange Commission. In July 1989, Chairman DINGELL of the full Energy and Commerce Committee and I wrote the SEC to request a study of the managed account provisions of section 11(a). The Commission found that, "[the] elimination of the managed account provision would remove the remaining costs without reducing significantly the protection of managed accounts," and recommended that the SEC support elimination of the managed account provision of section 11(a), provided that the Commission continued to be granted rulemaking authority to retain the managed account authorization and compensation disclosure requirements in order to heighten awareness of potential conflicts of interest. This legislation would maintain the Commission's authority in these areas.

On May 14, 1991, the Subcommittee on Telecommunications and Finance, which I chair, held a hearing on this matter. Testimony was heard from SEC Commissioner, Richard Roberts, Robert Pozen of Fidelity Investments, Coleman Nutter of First Manhattan, and Stuart Nelson of Sanford C. Bernstein & Co. All of the witnesses supported the repeal of the managed account provision of 11(a), provided that the SEC disclosure and authorization requirements were maintained. The bill we are introducing today responds to the needs and concerns identified in our hearing record, and in the spirit of maintaining a fair and orderly securities marketplace, I urge my colleagues to support its passage.

SECTION-BY-SECTION ANALYSIS OF THE MARKEY-RINALDO BILL TO REPEAL MANAGED ACCOUNT PROVISIONS OF SECTION 11(a)

A bill to amend the Securities Exchange Act of 1934 to permit members of national securities exchanges to effect certain transactions with respect to accounts for which such members exercise investment discretion.

SECTION 1. PROHIBITED TRANSACTIONS.

Section 1 amends section 11(a)(1) of the Securities Exchange Act of 1934 to allow exchange members to effect transactions on national securities exchanges of which they or an affiliated person are members for any account they or their associated persons exercise investment discretion.

The section also inserts language at the end of section 11(a)(1) which maintains the Securities and Exchange Commission's authority to issue rules which require persons engaged in executing transactions for a managed account to:

1. obtain express authorization from the person or persons authorized to transact business for the account prior to effecting transactions for the account;
2. furnish the person or persons authorized to transact business for the account with a statement, at least annually, disclosing the aggregate compensation received by the exchange member in effecting such transactions.

THE DEMOCRATIC CLUB OF ASBURY PARK, NJ, ANNUAL FAMILY PICNIC

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. PALLONE. Mr. Speaker, on Sunday, July 28, the Democratic Club of Asbury Park, NJ, will hold its annual family picnic. As always, the event will attract some of the leading political figures from the area, as well as many other people from other walks of life. And, as always, it promises to be a good time for all those families who take part.

What is unique about this year's event is that the Democratic Club is inviting all veterans from the Persian Gulf war and their families to the picnic free of charge. That goes for veterans from within the city of Asbury Park as well as those from surrounding communities.

Mr. Speaker, the tremendous accomplishment of the men and women of America's Armed Forces has produced an outpouring of gratitude on the part of millions of Americans. That gratitude has taken a multitude of forms, from lavish parades to special discounts for veterans to the many individual acts of kindness that American citizens have performed for their friends and neighbors who took part in Operation Desert Storm. Perhaps most important is the new-found respect for all Americans who now wear or have worn the uniforms of the Armed Forces. In extending their special invitation to the Desert Storm veterans from the Monmouth County areas, the Asbury Park Democratic Club has shown that the gratitude to all those who served their country in the Persian Gulf war continues to be strong and heartfelt.

CONGRATULATIONS ON THE OCCASION OF THE PIERNAS FAMILY REUNION

**HON. ELEANOR HOLMES NORTON**

OF THE DISTRICT OF COLUMBIA  
IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 25, 1991*

Ms. NORTON. Mr. Speaker, I rise today in recognition of the Piernas family as they celebrated their ancestral roots at a recent family reunion.

I am thrilled to say that this family is able to trace its ancestral roots to the birth of Louis Piernas in 1812 and his marriage to Adalade Labat in 1849. It is reassuring to know that families, such as theirs, have kept family unity and respect for heritage as a part of their lives.

I hope that the young members of the family realize the truly remarkable experience they are privileged to share. Throughout the generations, members of this family have made outstanding contributions to the history of our country. From Louis Piernas, Jr.—the first black postmaster of Bay St. Louis, elected in 1893—to Lawrence Piernas Guyot—who was a civil rights activists during the 1960's and is still involved in the struggle for human rights today—the young people of your family can hear first hand of their proud heritage. The Piernas youth should take full advantage of the wealth of knowledge to be gained from their elders and preserve this family tradition for future generations.

I salute the Piernas family as they continue to renew their ancestral roots.

TRIBUTE TO DALE AND BERNICE GRAHAM

**HON. DAVE CAMP**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 25, 1991*

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize the induction of an outstanding couple to the Michigan Farmer's Hall of Fame. Dale and Bernice Graham, of Mount Pleasant, MI, have been actively farming for 55 years. Their contributions to Michigan agriculture are truly deserving of praise and appreciation.

Dale and Bernice have been involved in many areas of agriculture. They have raised laying hens, turkeys, beef cattle, and now are actively involved in a dairy operation. The Grahams farm 1,000 acres and have worked to better their farm by improving the feeding system and recordkeeping. They have also incorporated conservation measures such as crop rotation and soil conservation into their farming operation.

The Grahams have also devoted time and energy to their family, church, and community. Dale has been on the Isabella Farm Bureau County Board and is involved in the Presbyterian Church. Bernice also belongs to the Michigan Farm Bureau. She is the chairman of the Presbyterian Women's Association. For 50 years, Bernice has taught children in the first through third grades. The Grahams have two

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sons who now are partners in the farming operation.

Dale and Bernice Graham have dedicated their lives to agriculture. Along with the hard work of farming they have freely given of their time and energy to community, church, and family.

Mr. Speaker, I know that you will join me in thanking and commending this couple for their years of service and labor. We all congratulate Dale and Bernice Graham for their induction into the Michigan Farmer's Hall of Fame.

REFORM AMENDMENTS TO JTPA

**HON. STEVE GUNDERSON**

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 25, 1991*

Mr. GUNDERSON. Mr. Speaker, I am pleased to join my colleagues, Mr. PERKINS, Mr. FORD, and Mr. GOODLING, in introducing a bipartisan bill which amends the Job Training Partnership Act [JTPA]. The bill represents a strong effort to meet the concerns that have been raised regarding JTPA programs while maintaining its strengths.

JTPA is a unique Federal program that fosters partnerships across many levels. There is the partnership among the Federal, State, and local governments and the private sector; and there is the partnership among human resource agencies and programs. All of these partnerships are designed to provide education, training, and employment services to those most at risk in the work force. JTPA is also a program focused on performance outcomes rather than process.

Any amendments that are developed to address the concerns that have surfaced must continue to respect the uniqueness of the JTPA program. I believe that these amendments go a long way toward meeting that goal.

With these amendments we are looking to better target services to those most in need without burdening the system with paperwork and documentation. We also want to retain the flexibility at the local level to determine the services provided, and yet assure that each participant will receive a core set of services that will assure comprehensive strategies to address individual labor market deficiencies. Further, we are attempting to address the fiscal integrity questions that have arisen by instituting uniform procurement guidelines and requiring that all costs, with few exceptions, be charged back to specific cost categories.

The amendments move to reduce the number of set-asides in order to drive more money down to the program level. I am pleased however, that the 8-percent education set-aside has been retained. Education is the core element in this program, and we need to continue to encourage its involvement throughout. Another element of the JTPA program that has provided access for many disadvantaged youth to training and education programs has been retained as a separate program. Without the summer youth employment program, many disadvantaged youth would not have the opportunity to participate in work experience programs that give them a chance to gain needed

employment experience and contact with the workplace.

Overall, these amendments address many of the concerns raised without compromising the intent of the program—to provide training to disadvantaged adults and youth so that they may become productive members in the workplace. We must continue to focus on flexibility, accountability, and quality in these programs. I look forward to working with my colleagues as this bill moves through committee so that we truly have a bill which improves JTPA while building on its unique strengths.

RECOGNIZING THE SERVICE OF EDWARD JAGEN

**HON. CONSTANCE A. MORELLA**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 25, 1991*

Mrs. MORELLA. Mr. Speaker, I rise to bring to the attention of my colleagues the outstanding community service of Edward J. Jagen, better known as the Blue Knight, the founder of the Good Knight Child Safety Awareness Program.

Mr. Jagen, a former police officer in the District of Columbia, has written a children's book called "The Good Knight Story," in which he teaches elementary school students how to avoid being abducted by strangers. Mr. Jagen, in the title role of the Good Knight, travels to suburban Maryland elementary schools reading and acting out his book. The end result of his endeavors is that young children, previously unaware of the dangers posed by some strangers, learn how to watch out for themselves, their siblings, and their friends. By weaving together, fantasy and reality, Sir Edward drives home a critically important, yet at the same time entertaining, message. At the conclusion of each program, Sir Edward knights his young listeners and inducts them into the Divine Order of Good Knights.

Mr. Jagen's service to our community has been recognized by Maryland Gov. William Donald Schaefer, by Montgomery County Executive Neal Potter, by D.C. Mayor Sharon Pratt Dixon, and by countless other leaders and civic organizations. I am pleased to have this opportunity to bring to the attention of the Congress Edward Jagen's outstanding service and to thank him for his invaluable contribution to our community.

I would also like to commend the Maryland Chapter of the National Missing Child Search Society, Inc., which has worked closely with Sir Edward in his crusade for child safety. Together, Sir Edward and Child Search have formed an effective and much appreciated child safety team in the Washington metropolitan area.

INTRODUCTION OF THE NTIA  
AUTHORIZATION ACT OF 1991**HON. EDWARD J. MARKEY**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 25, 1991*

Mr. MARKEY. Mr. Speaker, I rise in support of legislation authorizing appropriations for the National Telecommunications and Information Administration [NTIA], introduced today by my good friend and colleague, the ranking minority member of the Subcommittee on Telecommunications and Finance, Mr. RINALDO. This legislation reflects the actions taken on H.R. 2558 by the Subcommittee on Telecommunications and Finance, which included the adoption of an amendment in the nature of a substitute offered by my colleague from New Jersey.

Rapidly developing telecommunications and information industries are vital to the national interest of the United States, and as such, require that the Federal Government maintain effective policies and programs to keep pace with the rapid technological advancement in these industries. Because telecommunications policies are linked inextricably to American international competitiveness and commerce, there is a need for coordinated domestic and international policy development by the President. This role is currently played by the National Technology and Information Administration [NTIA] of the Department of Commerce. This legislation would free the NTIA from threats of reorganization or elimination by the Secretary of Commerce and would ensure that a permanent centralized agency will continue to advise the President on telecommunications and information policies.

In 1978, NTIA was created by Executive order to assume most of the responsibilities previously served by the now defunct Office of Telecommunications Policy [OTP] of the Executive Office and the Office of Telecommunications of the Department of Commerce. NTIA, an independent agency within the Department of Commerce, thus became the President's chief adviser on domestic and international telecommunications and information policy. Other of the OTP's functions, primarily those associated with international telecommunications, were assigned to the Department of State.

Since NTIA was never given statutory authorization by Congress, it has been subject to attempts at reorganization by the Secretary of Commerce. In 1989, Secretary William Verrity proposed to reorganize the Commerce Department by creating a new Office of Technology which would subsume the NTIA. Strong congressional objections notwithstanding, there was no strict prohibition against NTIA reorganization at that time. However, incoming Secretary Robert Mosbacher opted to maintain the organizational integrity of NTIA in response to congressional concerns that reorganization would impede the agency's effectiveness.

Concerns over the potential reorganization and downgrading of NTIA remain valid. This amendment will ensure that NTIA maintains its preeminent status as a leader in the development of telecommunications industry domestically and as a consultant with foreign entities

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with regard to international telecommunications issues. The statutory organization laid down in this legislation would not grant any new authority to NTIA. Rather, the act would codify and make permanent the existing structure.

NTIA is charged with several functions essential to the development of America's telecommunications industry. The agency is responsible for the development and presentation of domestic and international telecommunications and information policy for the executive branch, for management of the radio spectrum assigned to Federal Government users, and for performing research in telecommunications sciences. NTIA works with the administration in developing and presenting U.S. plans and policies at international communications conferences and related meetings, and formulates Federal Government positions, in consultation with the Federal Communications Commission, the Department of State, and other Federal agencies. Further, NTIA administers the Public Television Facilities Program [PTFP] which provides grants to extend the reach of public telecommunications services to as many U.S. citizens as possible and increase minority and women ownership of telecommunications systems.

NTIA manages and allocates the Federal Government's portion of the radio frequency spectrum. Nearly every Federal department or agency uses the spectrum for its communications facilities. The Federal Government uses the spectrum for, among other purposes, national defense, weather monitoring, air traffic control, and U.S. Capitol Police communications. NTIA currently operates with about 300 employees, more than two-thirds of whom will have duties primarily related to radio spectrum management and research, and PTFP administration.

For fiscal year 1991, \$15.3 million was appropriated for the operating budget of NTIA. This legislation would authorize an appropriation for NTIA at \$18,719,000 for fiscal year 1992 and \$21 million for fiscal year 1993, plus such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law and other nondiscretionary costs.

The continued vitality of NTIA is necessary for the development of the information and telecommunications industries. This legislation would ensure that the administration will play this role in future years. I ask that my colleagues join Mr. RINALDO in support of this legislation.

## SALUTE THE TROOPS PARADE

**HON. FRANK PALLONE, JR.**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 25, 1991*

Mr. PALLONE. Mr. Speaker, on Saturday, July 27, the Borough of Belmar, NJ, will be the site of a Salute the Troops Parade. The parade is being jointly sponsored by the Monmouth County communities of Belmar, South Belmar and Spring Lake. It promises to be an enjoyable and patriotic celebration of all U.S. Armed Forces, particularly those who took part

in America's victory in Operation Desert Storm.

Mr. Speaker, we can never fully express the depth of our gratitude to those brave Americans whose sacrifice in times of war have helped to safeguard the freedoms we too often take for granted. Our recent triumph in the Persian Gulf reminds us that freedom often carries a very high price. The role of the leader of the free world is a difficult burden, but one that America has never shied away from. In case there was any doubt about the viability of that longstanding American commitment, Operation Desert Storm has silenced the doubters.

While celebrating our Nation's strength, we must remember that the true source of that strength is the men and women of our Nation's Armed Forces. The combined force of their individual accomplishments and sacrifices, usually unheralded, is what has always made American victories possible. The fact that America uses its force in defense of freedom and human rights, and against tyranny and aggression, is what distinguishes this Nation from so many of the other great powers that have risen and fallen over the years.

For the members of the Armed Forces, past and present, occasions like Saturday's parade are a reminder that their fellow citizens remember and appreciate their sacrifices and will always be grateful.

A SALUTE TO ADVISORY NEIGHBORHOOD  
COMMISSIONER LEROY  
J. THORPE**HON. ELEANOR HOLMES NORTON**

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 25, 1991*

Ms. NORTON. Mr. Speaker, I rise today to commend Advisory Neighborhood Commissioner Leroy J. Thorpe, Jr., of Single Member District 2C07, on the occasion of the 50th Anti-Drug Rally held by COPE, Citizens Organized Patrol Efforts, Inc. On Tuesday, June 19, members of the Shaw community and other invited guests came together to commend Leroy J. Thorpe, Jr., and the members of COPE for their extraordinary citizen initiative to eradicate crime and drugs from their community.

Mr. Speaker, COPE is credited with the closing of 17 crack houses in the Shaw and Columbia Heights community. COPE has worked successfully with the first and fourth districts of the Metropolitan Police Department and has earned the respect of the officers in these districts.

Finally, Mr. Speaker, COPE is an all volunteer, nonprofit organization. Throughout the District of Columbia COPE is showing citizens that concentrated and dedicated community action can be taken to reduce drugs and the incidence of crime. I know that my colleagues will join me in commending COPE for its commitment and hard work on behalf of neighborhood improvement.

TRIBUTE TO JAMES AND AGNES  
STEED

**HON. DAVE CAMP**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize the induction of an outstanding couple to the Michigan Farmer's Hall of Fame. James and Agnes Steed of Buckley, MI, have been actively farming for 52 years. Their contributions to Michigan agriculture are truly deserving of praise and appreciation.

James and Agnes Steed farm 229 acres and were involved in the dairy industry. The Steeds began farming for themselves when James was deeded 40 acres from his parents' farm. James and Agnes started without much. They had a team of horses, one plow tractor, and they lived in a 14- by 24-foot house that James had built the summer before they were married. Later, they moved into a two-bedroom house until they had their fifth child. It was only then that a bathroom was added to the house. Through hard work and dedication the Steeds now own five tractors, have enlarged their farm so that it extends a mile east and west of their home, and the farm is debt free.

Agnes and James have devoted many hours to their community and family. They were both active in the Farm Bureau. James also served on the ABA board and on the township board of review. Agnes has worked side-by-side with James. To help raise money she would go out at night when everyone was sleeping and pick nightcrawlers. For every thousand worms she would get \$12.50. The Steeds have raised five children, three boys and two girls.

James and Agnes Steed have spent their lives working on their farm. Agnes has said:

It's a place to learn how to work hard, be honest, and look around you every day to see God's hand at work—also to appreciate God's beauty. City people don't know what they are missing! I'm glad we live on a farm in spite of the low income and hard work.

Mr. Speaker, I know that you will join me in thanking and commending this couple for their years of service and labor. We all congratulate James and Agnes Steed for their induction into the Michigan Farmer's Hall of Fame.

LABOR LAW REFORM—IMPROVE  
THE NATION'S EQUAL EMPLOY-  
MENT OPPORTUNITY LAWS

**HON. STEVE GUNDERSON**

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. GUNDERSON. Mr. Speaker, in my ongoing effort to make the case for the need to reform the Nation's labor laws, I want to focus attention today on the Nation's equal employment opportunity laws.

Today, these specific laws hinder American competitiveness, first, by providing uncertainty to employers eager to avoid litigation; and

second, by failing to assist workers who are victims of discrimination in a timely and consistent manner.

DUPLICATION AND INCONSISTENCY

Employers complain that each of the anti-discrimination laws is applied differently and entails different administrative filing deadlines, statutes of limitations, and administrative and court-ordered remedial procedures. A quick review of the major statutes demonstrates these problems.

SECTION 1981

Section 1981, enacted as part of the Civil Rights Act of 1866, prohibits discrimination in the making and enforcement of contracts. However, even though section 1981 was never intended as an employment statute, it has been interpreted as applying to contracts executed in the employment setting. This complicates the Federal focus in equal employment opportunity law because, while section 1981 allows for jury trials and compensatory and punitive damages, other equal employment opportunity laws do not.

TITLE VII, ADEA, AND FLSA

Similarly, enforcement procedures and remedies differ between many of the employment statutes. The 1964 Civil Rights Act followed a more specific prohibition, against gender discrimination in work force pay scales. However, the prohibition was enacted by the Equal Pay Act of 1963, an amendment to the Fair Labor Standards Act [FLSA], which is administered by the Department of Labor. Title VII, which embodies most other equal employment statutes, is administered by the EEOC.

Also, because the Age Discrimination in Employment Act [ADEA] was modeled after the Fair Labor Standards Act, but is enforced by the EEOC, it incorporates some enforcement procedures and remedies from each. In some areas, the ADEA represents a major departure from title VII.

REHABILITATION ACT AND AMERICANS WITH DISABILITIES  
ACT (ADA)

This problem also arises with differing remedies under the Rehabilitation Act and the ADA. Though both laws prevent discrimination in the workplace based on disabilities, they do so differently.

Three separate sections of the Rehabilitation Act govern employment discrimination cases. Section 501 governs nondiscrimination and affirmative action policies applied to Federal employees, and requires complainants to pursue a claim through their respective agencies or through a private cause of action. Section 504, which governs these policies as applied to recipients of Federal financial assistance, follows the same complainant processes. However, section 503, which governs these policies as applied to Federal contractors for contracts in excess of \$2,500, is enforced by the Department of Labor, and allows no private cause of action.

The ADA has been laid across this matrix. Where the Rehabilitation Act preempts State laws, the ADA does not. Further, while the ADA is built upon concepts developed under the Rehabilitation Act, substantive differences between the two acts do exist. For example, there is no provision prohibiting discrimination based on association under the Rehabilitation Act as there is under the ADA. The ADA also

imposes requirements governing medical examinations which differ from those under section 503. Finally, for its remedies and enforcement procedures, the ADA references title VII, not the Rehabilitation Act.

INCREASES IN LITIGATION

Employees who file discrimination complaints are denied the quick and fair resolution of their cases intended by the original 1964 act. A 1989 report by the Federal courts study indicated that, since 1969, the number of private employment discrimination cases filed in the Federal courts has increased by more than 2,000 percent—from under 400 cases in 1970 to almost 7,500 in 1989.

This increase in litigation, possibly a result of the shifting emphasis under section 1981 on larger punitive and compensatory damage awards, causes further delay for victims. A 1988 RAND study of wrongful discharge cases litigated between 1969 and 1988 found the average case lasting more than 3 years, and costing employers and employees an average of over \$160,000 per case.

National policy to strengthen equal employment opportunity should include uniformity in enforcement procedures, greater emphasis on conciliation between employers and employees, including mechanisms for alternative dispute resolution, and broader access to justice for victims of discrimination.

As vice-chairman of the Subcommittee on Employment Opportunities, I have requested hearings on problems facing the Equal Employment Opportunities Commission [EEOC]. It is my hope that these hearings can help us find solutions to these and other problems facing employers, workers, and victims of discrimination.

INTRODUCTION OF H.R. 3035, A  
BILL TO SIMPLIFY THE TAX  
TREATMENT OF INTANGIBLE AS-  
SETS

**HON. DAN ROSTENKOWSKI**

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing H.R. 3035, a bill to simplify the tax treatment of intangible assets. I am introducing this bill to begin public discussion of this proposed solution to a longstanding and significant problem under the tax laws.

The present tax treatment of intangible assets has long been a source of controversy between taxpayers and the Internal Revenue Service. Goodwill and going-concern value may not be amortized or depreciated. Other types of intangible assets used in a trade or business may be amortized, but only if the taxpayer establishes that the assets are distinct from goodwill and have a known limited useful life. Thus, both legal and factual disputes arise as to the existence of particular intangible assets and the proper method and period for amortizing them. When a trade or business is acquired, the amount of the purchase price that is attributable to particular intangible assets may also be disputed.

H.R. 3035 would eliminate much of this controversy and reduce the need for costly ap-

praisals by providing a more uniform, predictable set of rules for amortizing intangible assets. Specifically, the bill would require that most acquired intangible assets, including goodwill and going-concern value, be amortized ratably over a uniform 14-year period. Thus, certain intangible assets that are not amortizable under current law would be amortizable over 14 years. Other intangible assets that are currently amortizable over longer or shorter periods would also be subject to 14-year amortization.

The bill would apply only prospectively, to property acquired after the date of enactment of the bill. The bill does not change the tax treatment of costs—such as advertising expenses, for example—incurred in the creation of intangible assets by the taxpayer.

Mr. Speaker, this bill is intended to provide certainty to taxpayers while eliminating the source of much tax litigation and controversy, thus freeing up for more productive use the resources of taxpayers, the Internal Revenue Service, and the courts. The bill is not expected to result in major dislocations of tax burdens among taxpayers, and is expected to raise relatively modest amounts of revenue. In this regard, the 14-year period of amortization was selected as the shortest amortization period that would avoid producing a negative revenue effect.

On June 26, 1991, I introduced H.R. 2777, the Tax Simplification Act of 1991, and H.R. 2775, relating to additional tax simplification. In addition, on June 24, 1991, I introduced H.R. 2730, the Pension Access and Simplification Act of 1991, and H.R. 2735, to simplify the tax treatment of mutual funds. It is my intention that H.R. 3035 be considered in conjunction with these other simplification bills. In addition to providing significant simplification, the small revenue gain associated with H.R. 3035 will provide a modest revenue source for the other simplification initiatives I have introduced to comply with the pay-as-you-go requirements of last year's budget agreement.

The Committee on Ways and Means will hold public hearings on H.R. 3035 and related legislation in the fall, so that the bill might be considered later this year.

An explanation of H.R. 3035 follows:

#### EXPLANATION OF H.R. 3035

##### Amortization of goodwill and certain other intangibles

###### PRESENT LAW

In determining taxable income for Federal income tax purposes, a taxpayer is allowed depreciation or amortization deductions for the cost or other basis of intangible property that is used in a trade or business or held for the production of income if the property has a limited useful life that may be determined with reasonable accuracy. No depreciation or amortization deductions are allowed with respect to goodwill or going concern value.

###### REASONS FOR SIMPLIFICATION

The Federal income tax treatment of the costs of acquiring intangible assets is a source of considerable controversy between taxpayers and the Internal Revenue Service. Disputes arise concerning (1) whether an amortizable intangible asset exists; (2) in the case of an acquisition of a trade or business, the portion of the purchase price that is allocable to an amortizable intangible asset; and (3) the proper method and period for recovering the cost of an amortizable intangible asset.

The bill would eliminate much of the controversy that arises under present law with respect to acquired intangible assets by specifying a single method and period for recovering the cost of most acquired intangible assets and by treating acquired goodwill and going concern value as amortizable intangible assets. The bill does not change the Federal income tax treatment of self-created intangible assets, such as goodwill that is created through advertising and other similar expenditures.

The bill requires the cost of most acquired intangible assets, including goodwill and going concern value, to be amortized ratably over a 14-year period. It is recognized that the useful lives of certain acquired intangible assets to which the bill applies may be shorter than 14 years, while the useful lives of other acquired intangible assets to which the bill applies may be longer than 14 years. The 14-year period of amortization was selected so that the bill would be approximately revenue neutral over the next five fiscal years.

#### EXPLANATION OF PROVISION

##### In general

The bill allows an amortization deduction with respect to certain intangible property (defined as a "section 197 intangible") that is acquired by a taxpayer and that is held by the taxpayer in connection with the conduct of a trade or business or an activity engaged in for the production of income. The amount of the deduction is determined by amortizing the adjusted basis (for purposes of determining gain) of the intangible ratably over a 14-year period that begins with the month that the intangible is acquired.<sup>1</sup> No other depreciation or amortization deduction is allowed with respect to a section 197 intangible that is acquired by a taxpayer and that is held by the taxpayer in connection with the conduct of a trade or business or an activity engaged in for the production of income.

In general, the bill applies to a section 197 intangible whether it is acquired as part of a trade or business or as a single pre-existing asset. The bill generally does not apply to a section 197 intangible that is created by the taxpayer or that arises solely by reason of the entering into (or renewal) of a contract to which the taxpayer is a party.<sup>2</sup>

##### Definition of section 197 intangible

###### In general

The term "section 197 intangible" is defined as: (1) goodwill; (2) going concern value; (3) certain specified types of intangible property that generally relate to workforce, information base, know-how, customers, suppliers, or other similar items; (4) any license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof (except for rights of an indefinite duration as described below); (5) any covenant not to compete (or other arrangement to the extent that the arrangement has substantially the same effect as a covenant not to compete) entered into in connection with the direct or indirect acquisition of an interest in a trade or business (or a substantial portion thereof); and (6) any franchise, trademark, or trade name.

The term "section 197 intangible" does not include: (1) any property of a kind that is regularly traded on an established market; (2) a patent or copyright that is not acquired in a transaction (or a series of related transactions) involving the acquisition of a trade or business (or a substantial portion thereof); (3) a franchise to engage in any profes-

sional sport, and any item acquired in connection with such a franchise; and (4) any license, permit, or other right of an indefinite duration that is granted by a governmental unit or an agency or instrumentality thereof. In addition, the bill authorizes the Treasury Department to issue regulations to exclude from the definition of a section 197 intangible certain fixed term contract rights that are not acquired in a transaction (or a series of related transactions) involving the acquisition of a trade or business (or a substantial portion thereof).

No inference is intended as to whether a depreciation or amortization deduction is allowed under present law with respect to any intangible property that is either included in, or excluded from, the definition of a section 197 intangible.

##### Goodwill and going concern value

For purposes of the bill, goodwill is the value of a trade or business that is attributable to the expectancy of continued customer patronage, whether due to the location of a trade or business, the name of a trade or business, the reputation of a trade or business, or any other factor.

In addition, for purposes of the bill, going concern value is the additional element of value of a trade or business that attaches to property by reason of its existence as an integral part of a going concern. Going concern value for this purpose includes the value that is attributable to the ability of a trade or business to continue to function and generate sales without interruption notwithstanding a change in ownership and the value that is attributable to immediate use or availability of acquired property of a trade or business (e.g., the net earnings that would otherwise not be received during any period were the acquired property not operational).

##### Workforce in place

The term "section 197 intangible" includes workforce in place (which is sometimes referred to as agency force or assembled workforce), the composition of a workforce (for example, the experience, education, or training of a workforce), and the terms and conditions of employment whether contractual or otherwise. Thus, for example, the portion (if any) of the purchase price of an acquired trade or business that is attributable to the existence of a highly-skilled workforce is to be amortized over the 14-year period specified in the bill. As a further example, the cost of acquiring an existing employment contract (or contracts) is to be amortized over the 14-year period specified in the bill.

##### Information base

The term "section 197 intangible" also includes business books and records, operating systems, and any other information base including lists or other information with respect to current or prospective customers. Thus, for example, the portion (if any) of the purchase price of an acquired trade or business that is attributable to the intangible value of technical manuals, training manuals or programs, data files, and accounting or inventory control systems is to be amortized over the 14-year period specified in the bill. As a further example, the cost of acquiring customer lists, subscription lists, insurance expirations, patient or client files, credit information, or lists of newspaper, magazine, radio or television advertisers is to be amortized over the 14-year period specified in the bill.

Footnotes at end of article.

#### Know-how and similar items

The term "section 197 intangible" also includes any formula, process, design, pattern, know-how, format, or other similar item. Thus, for example, the portion of the cost of acquiring existing software, films, sound recordings, video tapes, brochures, catalogues, or package designs that is attributable to the intangible value of such property is to be amortized over the 14-year period specified in the bill.

#### Customer-based intangibles

The term "section 197 intangible" also includes any customer-based intangible, which is defined as composition of market, market share, and any other value resulting from the future provision of goods or services pursuant to relationships with customers (contractual or otherwise) in the ordinary course of business.

Thus, for example, the portion (if any) of the purchase price of an acquired trade or business that is attributable to the existence of customer base, circulation base, undeveloped market or market growth, order backlog, insurance in force, mortgage servicing contracts, investment management contracts, or other contracts with customers that involve the future provision of goods or services, is to be amortized over the 14-year period specified in the bill. On the other hand, the portion (if any) of the purchase price of an acquired trade or business that is attributable to accounts receivable or other similar rights to income for goods or services provided to customers prior to the acquisition of a trade or business is not to be taken into account under the bill.<sup>3</sup>

In addition, the bill specifically provides that the term "customer-based intangible" does not include any interest as a lessor under a lease of tangible property (whether real or personal) if the interest as a lessor is acquired by the taxpayer in connection with the acquisition of the tangible property. Consequently, the premium paid to acquire the right to receive an above-market rate of rent under a lease of tangible property (where the right to receive the rent is acquired in connection with the tangible property) is to be taken into account under the principles of present law, which generally require the premium to be added to the basis of the property and recovered over the useful life of the property.<sup>4</sup>

Further, although a bank or other financial institution may be engaged in the provision of loans to customers in the ordinary course of business, the bill specifically provides that the term "customer-based intangible" does not include any interest as a creditor under any indebtedness that was in existence on the date that the interest was acquired. Consequently, the premium paid for acquiring the right to receive an above-market rate of interest under a debt instrument may be taken into account under section 171 of the Code, which generally allows the amount of the premium to be amortized on a yield-to-maturity basis over the remaining term of the debt instrument.

Finally, the bill specifically provides that the term "customer-based intangible" includes the deposit base or other similar items of a financial institution.

#### Supplier-based intangibles

The term "section 197 intangible" includes any supplier-based intangible, which is defined as the value resulting from the future acquisition of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with suppliers of goods or services to be used or sold by the taxpayer.

Thus, for example, the portion (if any) of the purchase price of an acquired trade or business that is attributable to the existence of a favorable relationship with persons that provide distribution services or the existence of favorable supply contracts, is to be amortized over the 14-year period specified in the bill. On the other hand, the portion (if any) of the purchase price of an acquired trade or business that is attributable to stocks, bonds, partnership interests, and other securities is not to be taken into account under the bill because the value of these intangible interests does not result from the future acquisition of goods or services pursuant to relationships in the ordinary course of business with suppliers of goods or services to be used or sold by the taxpayer.

The bill specifically provides that the term "supplier-based intangible" is to include any interest as a lessee under a lease,<sup>5</sup> except that the term is not to include any interest as a lessee under a lease of tangible property (whether real or personal) if (1) the lease has a fixed duration and is not renewable; and (2) the interest is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business (or a substantial portion thereof).<sup>6</sup> Thus, for example, the cost of acquiring rights as a lessee under an existing 10-year lease of real property that is non-renewable is to be taken into account under present law (see Treas. Reg. sec. 1.162-11(a)) rather than under the provisions of the bill, provided that the rights under the lease are not acquired in a transaction (or series of related transactions) that involves the acquisition of assets which constitute a trade or business (or a substantial portion thereof).

In addition, the bill specifically provides that the term "supplier-based intangible" is to include any interest as a debtor under any indebtedness (for example, indebtedness with a below-market interest rate), except that the term is not to include any interest as a debtor under any indebtedness that (1) was in existence on the date that the interest was acquired and (2) has a fixed duration and is not renewable.

Finally, the bill specifically provides that the term "supplier-based intangible" is not to include any interest in land (including an interest as a lessee) unless such interest is depreciable or amortizable (without regard to the bill) over a period of less than 30 years as of the date that the interest is acquired.<sup>7</sup>

#### Licenses, permits, and other rights granted by governmental units

The term "section 197 intangible" also includes any license, permit, or other right granted by a governmental unit or any agency or instrumentality thereof, except that the term is not to include governmental rights of an indefinite duration as more fully described below. Thus, for example, the cost of acquiring from any person a right originally granted by a governmental unit to engage in an activity is to be taken into account under the bill, except if the right is of an indefinite duration as specified below. For purposes of the bill, the renewal of a license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof is to be considered an acquisition of such license, permit, or other right.

#### Covenants not to compete and other similar arrangements

The term "section 197 intangible" also includes any covenant not to compete (or other arrangement to the extent that the arrangement has substantially the same effect as a covenant not to compete) entered into

in connection with the direct or indirect acquisition of an interest in a trade or business (or a substantial portion thereof). For this purpose, an interest in a trade or business includes not only the assets, of a trade or business,<sup>8</sup> but also stock in a corporation that is engaged in a trade or business or an interest in a partnership that is engaged in a trade or business.

Any amount that is paid or incurred under a covenant not to compete (or other arrangement to the extent that the arrangement has substantially the same effect as a covenant not to compete) entered into in connection with the direct or indirect acquisition of an interest in a trade or business (or a substantial portion thereof) is chargeable to capital account and is to be amortized ratably over the 14-year period specified in the bill.

For purposes of this provision, an arrangement that requires the former owner of an interest in a trade or business to continue to perform services that benefit the trade or business is considered to have substantially the same effect as a covenant not to compete to the extent that for any taxable year the amount paid to the former owner under the arrangement exceeds the amount that represents reasonable compensation for the services actually rendered by the former owner during such taxable year. As under present law, to the extent that the amount paid or incurred under a covenant not to compete or other similar arrangement represents additional consideration for the acquisition of stock in a corporation, such amount is not to be taken into account under this provision but, instead, is to be included as part of the acquirer's basis in the stock.

#### Franchises, trademarks, and trade names

The term "section 197 intangible" also includes any franchise, trademark, or trade name. For purposes of the definition of a section 197 intangible, the term "franchise" is defined to include any agreement that provides one of the parties to the agreement the right to distribute, sell, or provide goods, services, or facilities, within a specified area, except that the term is not to include any right granted by a governmental unit or an agency or instrumentality thereof.<sup>9</sup> In addition, as provided under present law, the renewal of a franchise, trademark, or trade name is to be treated as an acquisition of such franchise, trademark, or trade name.<sup>10</sup>

The bill continues the present-law treatment of certain contingent amounts that are paid or incurred on account of the transfer of a franchise, trademark, or trade name. Under these rules, a deduction is allowed for amounts that are contingent on the productivity, use, or disposition of a franchise, trademark, or trade name only if (1) the contingent amounts are paid as part of a series of payments that are payable at least annually throughout the term of the transfer agreement, and (2) the payments are substantially equal in amount or payable under a fixed formula. Any other amount, whether fixed or contingent, that is paid or incurred on account of the transfer of a franchise, trademark, or trade name is chargeable to capital account and is to be amortized ratably over the 14-year period specified in the bill.

#### Exceptions to the definition of a section 197 intangible

*Property regularly traded on an established market.*—The term "section 197 intangible" does not include any property of a kind that is regularly traded on an established market. Thus, for example, the cost of acquiring an

existing futures contract, foreign currency contract, notional principal contract, or other similar contract of a kind that is regularly traded on an established market is not to be taken into account under the bill.

**Certain patents and copyrights.**—The term "section 197 intangible" does not include any patent or copyright if the patent or copyright is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion of a trade or business (including the acquisition of a franchise, trademark, or trade name). Instead, the provisions of present law are to continue to apply. A patent or copyright that is acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion thereof, however, is subject to the provisions of the bill.

**Professional sports franchises.**—A franchise to engage in professional baseball, basketball, football, or other professional sport, and any item acquired in connection with such a franchise also are excluded from the definition of a section 197 intangible. Consequently, the cost of acquiring a professional sports franchise and related assets is to be allocated among the assets acquired as provided under present law (see, for example, section 1056) and is to be taken into account under the provisions of present law.

**Governmental rights of an indefinite duration.**—The term "section 197 intangible" also does not include any license, permit, or other right that is granted by a governmental unit or an agency or instrumentality thereof if the right is granted for an indefinite period or the right is reasonably expected to be renewed for an indefinite period. In determining whether a license, permit, or other right that is acquired from another person (other than the governmental entity that granted the right) is reasonably expected to be renewed for an indefinite period, one factor to be taken into account is the cost of acquiring the right as compared to the cost incurred in connection with the original grant (or renewal) of the right.<sup>11</sup>

**Certain contract rights.**—In addition, to the extent provided in regulations to be promulgated by the Treasury Department, the term "section 197 intangible" does not include any right under a contract (or any right granted by a governmental unit or an agency or instrumentality thereof) if the right has a fixed duration and is not renewable and the right is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion of a trade or business (including the acquisition of a franchise, trademark, or trade name).

**Exclusion for certain self-created intangibles**

The bill generally does not apply to any section 197 intangible that is created by the taxpayer or that arises solely by reason of the entering into (or renewal) of a contract to which the taxpayer is a party. Thus, for example, the bill does not apply to the costs incurred by a lessee in connection with the entering into (or renewal) of a lease or the costs incurred by a licensee in connection with the entering into (or renewal) of a license of any property other than a pre-existing section 197 intangible (for example, a license of pre-existing software or other know-how).<sup>12</sup>

On the other hand, the bill does apply to the cost of acquiring rights as a lessee under an existing lease (if the rights under the lease are acquired in a transaction (or a se-

ries of related transactions) that involves the acquisition of assets which constitute a trade or business) and the cost of acquiring rights as a licensee under an existing license of any property.

Notwithstanding the above, this exception for "self-created" intangibles does not apply to (1) any license, permit, or other right that is granted by a governmental unit or an agency or instrumentality thereof; (2) any covenant not to compete (or other arrangement to the extent that the arrangement has substantially the same effect as a covenant not to compete) entered into in connection with the direct or indirect acquisition of an interest in a trade or business (or a substantial portion thereof); and (3) any franchise, trademark, or trade name. Thus, for example, the cost of obtaining a license from the government (other than a license of indefinite duration) or the cost of obtaining a franchise from the franchisor is to be amortized over the 14-year period specified in the bill.

**Special rules**

**Determination of adjusted basis**

The adjusted basis of a section 197 intangible that is acquired from another person generally is to be determined under the principles of present law that apply to tangible property that is acquired from another person. Thus, for example, if a portion of the cost of acquiring an amortizable section 197 intangible is contingent, the adjusted basis of the section 197 intangible is to be increased as of the beginning of the month that the contingent amount is paid or incurred. This additional amount is to be amortized over the remaining months in the 14-year amortization period that applies to the intangible as of the beginning of the month that the contingent amount is paid or incurred. In addition, any expenditure that is directly connected with the protection, registration, or defense of a previously acquired section 197 intangible is not to be taken into account under the bill, but, instead, is to be taken into account under present law.

**Treatment of certain dispositions of amortizable section 197 intangibles**

Special rules apply if a taxpayer disposes of a section 197 intangible that was acquired in a transaction or series of related transactions (or any such intangible becomes worthless) and, after the disposition (or the event that rendered the intangible worthless), the taxpayer retains other section 197 intangibles that were acquired in such transaction or series of related transactions. First, no loss is to be recognized by reason of the disposition (or worthlessness). Second, the adjusted bases of the retained section 197 intangibles that were acquired in connection with such transaction or series of related transactions are to be increased by the amount of any loss that is not recognized. The adjusted basis of any such retained section 197 intangible is increased by the product of (1) the amount of the loss that is not recognized solely by reason of this provision, and (2) a fraction, the numerator of which is the adjusted basis of the intangible as of the date of the disposition (or worthlessness) and the denominator of which is the total adjusted bases of all such retained section 197 intangibles as of the date of the disposition (or worthlessness).

**Treatment of certain nonrecognition transactions**

If any section 197 intangible is acquired in a transaction to which section 332, 351, 361, 721, or 731 applies (or any transaction between members of the same affiliated group

during any taxable year for which a consolidated return is filed),<sup>13</sup> the transferee is to be treated as the transferor for purposes of applying this provision with respect to the amount of the adjusted basis of the transferee that does not exceed the adjusted basis of the transferor.

**Treatment of insurance contracts**

The bill applies to any insurance contract that is acquired from another person through an assumption reinsurance transaction (but not through an indemnity reinsurance transaction).<sup>14</sup> The amount taken into account as the adjusted basis of such a section 197 intangible, however, is to equal the excess of (1) the amount paid or incurred by the acquirer/reinsurer under the assumption reinsurance transaction,<sup>15</sup> over (2) the amount of the specified policy acquisition expenses (as determined under section 848) that is attributable to premiums received under the assumption reinsurance transaction. The amount of the specified policy acquisition expenses of an insurance company that is attributable to premiums received under an assumption reinsurance transaction is to be amortized over the period specified in section 848.

**Regulatory authority**

The Treasury Department is authorized to prescribe such regulations as may be appropriate to carry out the purposes of the provisions including regulations that clarify the types of intangible property that constitute section 197 intangibles.

**EFFECTIVE DATE**

The bill applies to property acquired after the date of enactment of the bill. Special rules are provided to prevent taxpayers from converting existing goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not have been allowable under present law into amortizable property to which the bill applies.

Under these "anti-churning" rules, goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not be allowable but for the provisions of the bill, that is acquired by a taxpayer after the date of enactment of the bill may not be amortized under this provision if: (1) the taxpayer or a related person held or used the intangible at any time on or before the date of enactment of the bill; (2) the taxpayer acquired the intangible from a person that held such intangible at any time on or before the date of enactment of the bill and, as part of the transaction, the user of the intangible does not change; or (3) the taxpayer grants the right to use the intangible to a person (or a person related to such person) that held or used the intangible at any time on or before the date of enactment of the bill. These anti-churning rules, however, do not apply to the acquisition of any intangible by a taxpayer if the basis of the intangible in the hands of the taxpayer is determined under section 1014(a) (relating to property acquired from a decedent).

For purposes of these anti-churning rules, a person is related to another person if: (1) the person bears a relationship to that person which is specified in section 267(b)(1) or 707(b)(1) by substituting 10 percent for 50 percent; or (2) the persons are engaged in trades or businesses under common control within the meaning of section 52 (a) and (b). The determination of whether a person is related to another person is made at the time that the taxpayer acquires the intangible involved, except that in the case of an acquisition of

an intangible by any partnership which results from the termination of another partnership under section 708(b)(1)(B), the determination is to be made immediately before the termination occurs.

The bill also contains a general anti-abuse rule that applies to any section 197 intangible that is acquired by a taxpayer from another person. Under this rule, a section 197 intangible may not be amortized under the provisions of the bill if the taxpayer acquired the intangible in a transaction one of the principal purposes of which is to (1) avoid the requirement that the intangible be acquired after the date of enactment of the bill or (2) avoid any of the anti-churning rules described above that are applicable to goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not be allowable but for the provisions of the bill.

Finally, the special rules described above that apply in the case of a transactions described in section 332, 351, 361, 721, or 731 also apply for purposes of the effective date. Consequently, if the transferor of any section 197 property to such property under this provision, then the transferee is not allowed an amortization deduction under this provision to the extent of the adjusted basis of the transferee that does not exceed the adjusted basis of the transferor.

## FOOTNOTES

<sup>1</sup>In the case of a short taxable year, the amortization deduction is to be based on the number of months in such taxable year.

<sup>2</sup>As more fully described below, the bill does apply to certain licenses, franchises, and covenants not to compete that are created by the taxpayer or that arise solely by reason of the entering into (or renewal) of a contract to which the taxpayer is a party.

<sup>3</sup>As under present law, the portion of the purchase price of an acquired trade or business that is attributable to accounts receivable is to be allocated among each receivable and is to be recovered as payment is received under the receivable or at the time that the receivable becomes worthless.

<sup>4</sup>*Schubert v. Commissioner*, 33 T.C. 1048 (1960), *aff'd*, 286 F.2d 573 (4th Cir.), *cert. denied*, 366 U.S. 960 (1961); *American Controlled Indus., Inc. v. United States*, 55 AFTR 2d 947 (S.D. Ohio 1984).

<sup>5</sup>If an interest as a lessee under a lease is a section 197 intangible, no deduction is to be allowed for the cost of acquiring such interest other than pursuant to the provisions of the bill (i.e., no deduction is to be allowed under Treas. Reg. sec. 1.162-11(a)).

<sup>6</sup>For purposes of the bill, the acquisition of a franchise, trademark, or trade name is to be considered the acquisition of assets which constitute a trade or business (or a substantial portion thereof).

<sup>7</sup>For purposes of this exception, the deduction allowed under Treas. Reg. sec. 1.162-11(a) is to be considered an amortization deduction.

<sup>8</sup>For purposes of the definition of a section 197 intangible, a group of assets constitutes a trade or business if the use of such assets would constitute a trade or business for purposes of section 1060 (i.e., if the assets are of such a character that goodwill or going concern value could under any circumstances attach to the assets). In addition, it is intended that for this purpose, any franchise, trademark or trade name constitutes a trade or business (or a substantial portion thereof).

<sup>9</sup>As explained above, any license, permit, or other right granted by a governmental unit or any agency or instrumentality thereof is a section 197 intangible, except if the license, permit, or other right is of an indefinite duration.

<sup>10</sup>Only the costs incurred in connection with the renewal, however, are to be amortized over the 14-year period that begins with the month that the franchise, trademark, or trade name is renewed. Any costs incurred in connection with the issuance (or an earlier renewal) of a franchise, trademark, or trade name are to continue to be taken into account over the remaining portion of the amortization period that began at the time of such issuance (or earlier renewal).

<sup>11</sup>*Cf. Nachman v. Commissioner*, 191 F.2d 934 (5th Cir. 1951) (amount paid for one-year city liquor license,

which was acquired for \$8,000 but which cost the original licensee \$750, was not amortizable because license carried a valuable renewal privilege).

<sup>12</sup>These costs are to continue to be taken into account under present law, which generally requires the costs to be recovered over the term of the lease (or license) if the lease (or license) has a definite term. See Treas. Reg. sec. 1.162-11(a).

<sup>13</sup>The termination of a partnership under section 708(b)(1)(B) is not included in the transactions to which this rule applies.

<sup>14</sup>An assumption reinsurance transaction is an arrangement whereby one insurance company (the reinsurer) becomes solely liable to policyholders on contracts transferred by another insurance company (the ceding company). In addition, for purposes of the bill, an assumption reinsurance transaction is to include an acquisition of an insurance contract that is treated as occurring by reason of an election under section 338 of the Code.

<sup>15</sup>The amount paid or incurred by the acquirer/reinsurer under an assumption reinsurance transaction is to be determined under the principles of present law. See Treas. Reg. sec. 1.817-4(d)(2).

### CONGRESSMAN GOODLING CO-SPONSORS BILL TO REAUTHORIZE EARLY INTERVENTION AND PRESCHOOL DISABILITY PROGRAMS

#### HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. GOODLING. Mr. Speaker, today I am cosponsoring a bipartisan bill which will reauthorize the early intervention and preschool programs under part H of the Individuals with Disabilities Education Act [IDEA]. These programs are essential in helping families meet the special needs of children with disabilities while maximizing the child's greatest potential.

Early intervention services are critical if we want to ensure that children with disabilities are able to reach first grade ready to learn. Such services may also reduce the need for and cost of special education later for children who receive services early.

In 1986, the Congress passed landmark legislation, Public Law 99-457, which established a program for States to develop a comprehensive, coordinated, multidisciplinary system to provide infants and toddlers with disabilities and their families early intervention services. This approach was revolutionary in the delivery of human resources services because it made States coordinate and pool different funding sources in order to serve infants and toddlers with disabilities and their families.

This bill builds upon Public Law 99-457 by fine-tuning the act rather than making any major and significant changes. It includes provisions that create a smooth transition for children with disabilities to move from early intervention programs into preschool programs without experiencing a gap in services; amends the definition of "children with disabilities" to provide States with discretion to include children experiencing developmental delays; authorizes demonstration grants for States to develop a system to identify, track, and refer those children at risk of substantial developmental delays for appropriate services; and, ensures that traditionally underserved groups have access to early intervention services.

This program is an investment in children with disabilities and their families that will lead

toward greater independence in the future for these children. It is a successful program and one that deserves our support.

### PRESIDENT REAGAN SALUTES CAPTIVE NATIONS WEEK

#### HON. DANA ROHRBACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. ROHRBACHER. Mr. Speaker, since this week is Captive Nations Week, many of us have taken note of the progress that freedom has made around the world in recent years, as well as the work that remains to be done to free those nations which remain under Communist tyranny.

Last week, President Reagan proved once again that he deserves his reputation as one of history's greatest speakers when he addressed the 1991 Captive Nations Week Conference. I commend his statement to my colleagues:

THE EXPANDING FRONTIERS OF WORLD FREEDOM

(Remarks by President Ronald Reagan)

I am pleased to be here with you this evening, in commemoration of Captive Nations Week. If things continue the way they have been going, next year we will have to call it Free Nations Week. (laughter)

Remembering those nations which have lost—or newly won—their freedom is important to me, and I congratulate this event's co-sponsors: The Republic of China Chapter of the World League for Freedom and Democracy and the Claremont Institute for the Study of Statesmanship and Political Philosophy. In the purposes of these two organizations, we see reflected America's calling and her destiny—to nourish and defend freedom and democracy and to communicate these ideals everywhere we can.

We who are privileged to be Americans have had a rendezvous with destiny since that moment in 1630 when John Winthrop, standing on the deck of the tiny Arbella off the coast of Massachusetts, told the little band of Pilgrims, "We shall be as a city upon a hill. The eyes of all people are upon us . . ."

I have long believed that the guiding hand of Providence did not create this new nation of America for ourselves alone, but for a higher cause: the preservation and extension of the sacred fire of human liberty. The Declaration of Independence and the Constitution of these United States are covenants we have made not only with ourselves, but with all of mankind. Our founding documents proclaim to the world that freedom is not the sole prerogative of a chosen few, they are the universal right of all God's children. As John Quincy Adams promised, "Whenever the standard of freedom and independence has been or shall be unfurled, there will be America's heart, her benedictions and her prayers."

Can we doubt that a Divine Providence placed this land, this continent of freedom, here as a refuge for all those peoples in the world who yearn to breathe free? Look around this room tonight. Among our number we have Cambodians who have escaped the cruel purges of Pol Pot. We have the boat people of Vietnam, who risked their lives to escape from a tyranny worse than death. We

have the Hmong, who fought so bravely with us for their freedom, and who withdrew with honor to these shores when that struggle was concluded. We have the myriad peoples of the Baltic States and Eastern Europe, who alike fled the dark descent of an iron curtain, in Winston Churchill's memorable phrase, over their homelands. We have the Free Chinese, who found sanctuary here and on the island of Taiwan, there to create a beacon of hope for the mainland.

Never have our duties as a people been more heavy than over the past few decades. A troubled and afflicted mankind has repeatedly looked to us—today's living Americans—to keep our rendezvous with destiny. True to our nation's calling, we have responded with a will. No people on this earth has fought harder or paid a higher price to advance the cause of freedom, nor has met with greater success.

In Europe, in Asia, in Central America and the Caribbean, and recently in the Middle East, we have led nation after nation out of the wilderness of invasion and captivity to the broad sunlit uplands of liberty. We stood shoulder to shoulder with our allies in Europe, until the iron curtain that artificially divided their continent was torn asunder and Germany was reunited. We held the line in Asia, buying time for countries like Korea, Taiwan, and the Philippines to build the institutions of democracy.

Margaret Thatcher, former Prime Minister of Great Britain, recently said that I, Ronald Reagan, singlehandedly won the cold war against Communism. (applause, laughter) I cannot accept this honor. To begin with, I had the Iron Lady at my side. (laughter) The eighties were a decade when you and I and the vast majority of Americans courageously supported the struggle for liberty, self-government, and free enterprise throughout the world. Together with our allies abroad we turned the tide of history away from totalitarian darkness and into the warm sunlight of human freedom.

There can be no doubt that the tide of freedom is rising. At the start of this century, there were only a handful of democracies. Today more than half of the world's people, living in over 60 countries, govern themselves. Nations as varied as Lithuania, Croatia, and Armenia have legislatures elected by the people and responsive to the people. One of the engines of this progress is the desire for economic development—the realization that it is free nations that prosper and free peoples who create better lives for themselves and their children. Another is the natural desire of disparate peoples for self-determination.

The cult of the state may be dying, but it is not yet dead. In Eastern Europe, Poland, Hungary and Czechoslovakia now have popularly elected governments. An unwelcome army of occupation will soon withdraw. These governments now face the difficult question of privatizing the vast resources accumulated by their totalitarian predecessors. How quickly and completely they move to a free market economy will determine the standard of living of their peoples for years to come.

Moving south, Bulgaria, Yugoslavia, and Romania have yet to complete their democratic transitions. Bulgaria may be the first to achieve this, if the current parliament resigns as promised later this month and free elections are held in September.

We find Yugoslavia on the brink of civil war. The Croatian and Slovenian peoples, by majorities in excess of 90 percent, have indicated their wish to withdraw their republics

from the Yugoslavian state. The state seems equally determined to preserve its territorial integrity, by force if necessary. As Americans, who believe in government by consent, our sympathies naturally lie with the break-away republics. It is for the people, not the state, to determine where the boundaries of civil society shall fall.

This same principle of self-determination applies to the Soviet Union's many republics. I am not speaking here of the Baltic states. Lithuania, Latvia, and Estonia were illegally occupied by the Soviet Union at the opening of World War II. They are sovereign states by right and should be freed immediately. I am speaking of the Soviet Union's other republics. If the people of Armenia, of Georgia, and even the Ukraine, in free plebiscites, should not vote to leave the Soviet empire, than they should be allowed to do so. America should not get into the business of preserving the artificial state structures established by monarchs and dictators.

Once the Soviet Union has dissolved into a loose confederation of independent nations, what then? Freed from the twin burdens of empire and Communism, the Russian people will reassert their natural greatness. Their land will stretch 7,000 miles from Leningrad—excuse me, I meant St. Petersburg (laughter)—to Valdivostok. They will be a nation of 160 to 180 million people, bent upon repairing the economic and social ravages of totalitarianism. If they choose democracy and the free market—and we should be encouraging them to do so—this can be accomplished quickly. In five years their family farms will feed not only themselves, but many of the nations around them. In fifteen years their enterprises, taking advantage of Russia's vast natural resources and the foreign investment that will pour in, will number among the best in the world.

Moving to China, we have seen the brutal way the Beijing regime responded to the cries of the Chinese people for democracy in Tiananmen Square. They fail to realize that you cannot crush hope with the treads of tanks; you cannot drown democratic aspirations in a hail of bullets.

In our relationship with China we should always remember what our Chinese friends on Taiwan have accomplished: A resource-poor island has become one of the major trading nations in the world; a political transformation no less dramatic than that of Europe has resulted in full-fledged democracy. The implications of these changes for China's future are profound. As President Lee Teng-hui recently remarked, "We are building a prosperous democracy—not just for the Taiwan area itself, but for the whole of China. We are building a democracy for unification." We in America can never go wrong if we do what is morally right, and keep our commitments to Taiwan.

Soviet colonies around the globe, abandoned by Moscow in its own quest for survival, are withering and dying. We have just marked the 16th anniversary of the death of freedom for Vietnam and Cambodia. Hanoi and Phnom Penh are both abandoning the socialist economic model, and adopting a more market-oriented approach that will surely bring greater political freedom in its wake. The peace negotiations in Cambodia are making progress, but the participation of the butcherous Khmer Rouge in these talks give many people pause. The people of Afghanistan are still struggling to free themselves from a Moscow-imposed totalitarianism.

As long as these struggles continue, freedom-loving people, around the world must: I

am a Chinese imprisoned for advocating democracy at Tiananmen, I am and Afghan fighting to liberate my country from the tyranny of Marxism-Leninism, I am a Vietnamese, a Cambodian, a Hmong. I, too, am a potential victim of totalitarianism.

Those who preach the supremacy of the state will be remembered for the suffering their delusion caused their peoples. It is my hope that in the 21st century, which is only 9 years away, human dignity will be everywhere respected; that the free flow of people and ideas will include not only the newly freed states of Eastern Europe, but those republics which are still struggling for their freedom to the east.

America's solemn duty is to constantly renew its covenant with humanity to complete the grand work of human freedom that began there 200 years ago. This work, in its grandness and nobility, is not unlike the building of a magnificent cathedral. In the beginning, progress is slow and painstaking. The laying of the foundations and the raising of the walls is measured in decades rather than years. But as the arches and spires begin to emerge in the air others join in, adding their faith and dedication and love to speed the work to its completion. My friends, the world is that cathedral. And our children, if not we ourselves, will see the completed work—the worldwide triumph of human freedom, the triumph of human freedom under God.

#### TRIBUTE TO RICHARD AND ARLENE ERSKINE

#### HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize the induction of an outstanding couple to the Michigan Farmer's Hall of Fame. Richard and Arlene Erskine of Hemlock, MI, have farmed for 40 years. Their contributions to Michigan agriculture are truly deserving of praise and appreciation.

Richard and Arlene Erskine farmed 119 acres. Dick has farmed the same farm that he was born and raised on. The Erskines have milked Jersey cows and have also raised cash crops. Dick attended agricultural classes at Hemlock School. After graduating he worked at the Willow Run Bomber Plant before enlisting in the Air Force. He served for 3 years and then returned home. He began to farm his brother's farm in 1948. A year later, he rented the family farm from his parents. Dick bought the farm in 1954. The farm was enlarged when 40 acres across the road were purchased. A new house was added in 1968. Arlene was also raised on a farm and had worked at the Hess Michigolden Duck Farm prior to being married.

Dick and Arlene were married in 1973 and they still work together around the farm. The Erskines have 17 grandchildren.

Arlene and Dick have been active in their community. Arlene volunteers her time at the Bethesda Thrift Store and she belongs to the Lakefield Quilting Ladies. Dale has belonged to the MMPA, the Michigan Farm Bureau, and he is a life member of the Hemlock-Merrill VFW.

Dick and Arlene Erskine have devoted their lives to their children and to farming. Mr. Speaker, I know that you will join me in thanking and commending this couple for their years of service and labor. We all congratulate Richard and Arlene Erskine for their induction into the Michigan Farmer's Hall of Fame.

REPRESENTATIVE ZIMMER RECOGNIZES ONE MAN'S INSPIRING BATTLE

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. ZIMMER. Mr. Speaker, I rise today to introduce into the RECORD an instructive and inspiring newspaper article concerning one of New Jersey's most respected and distinguished residents, Steven Kalafer.

Steven Kalafer was diagnosed with cancer last February. This article describes his life since the day he first heard the diagnosis confirmed. Exhibiting hope and confidence throughout his ordeal, Steve has set an example to which we might all aspire.

I would urge my colleagues to read, and thereby benefit from, this tale of one man's heroism:

HE'S NEVER ASKED "WHY ME?" CAR DEALER TACKLES CANCER WITH GRIT, OPTIMISM

(By Nicholas DiGiovanni)

"After three weeks of chemotherapy, one night I was at a dinner reception. I was running my hand through my hair—and clumps of hair came out in my hand."

About a month before that memorable evening, Steve Kalafer had learned that he had cancer.

Kalafer, owner of the Flemington Car and Truck Country dealerships along Route 202, underwent surgery in early February for removal of a malignant tumor from his neck.

Since his surgery, Kalafer, 41, has undergone 13 weeks of chemotherapy, followed by 22 daily sessions of radiation treatment at St. Peter's Medical Center in New Brunswick.

The day after the dinner, Kalafer called his wife's hairdresser and "I asked them if they would shave my head." The alternative, he says with a grin, would have been "to look like a gerbil that had been in a fight."

He says he may keep his head shaved if he doesn't like the way his hair looks when it grows back—which it's starting to do.

His final radiation session was scheduled yesterday. After that, he will be required only to undergo monthly exams to make sure the cancer hasn't returned.

Kalafer's cancer, lymphoma, has a 90 percent cure rate when it is caught early, his doctors say. And it was caught very early; the tumor was classified as "stage 1" in a four-stage ranking system, with the fourth stage the most advanced and lethal.

He has continued working full time.

"Cancer is nothing to be ashamed of or secretive about," he says. "I thought it was important that people not be afraid to approach me." So he's been "out there on the showroom floor with a bald head.

What Kalafer calls his "journey through the hospital and medical system" began in late January.

"I've had a double chin for years and I always touch my neck when I'm thinking

about something. I felt a little bump between my fingers. I asked my wife to feel it. Neither of us were very concerned, but we thought it should be checked."

In early February, after a CAT scan confirmed that the bump was a cyst or tumor, Kalafer underwent out-patient surgery, performed by Dr. David Bortniker of Somerville, at Somerset Medical Center.

The next day, Kalafer and his wife Suzanne returned to the doctor's office to discuss the surgery and get the results of pathology tests.

Kalafer wasn't really concerned that he might have cancer—until he saw the reaction of the nurse when he entered the doctor's office.

"She had her head down. She seemed quite serious. She couldn't make eye contact. There was a real sinking feeling."

They went into the doctor's office, and "before he could say anything, I asked if it was malignant or benign, and he said it was malignant. My world stood still."

The Kalafer's left the office. "I walked out with my head spinning," he recalls, and when they got to the car, "I broke down. I started to sob. My wife comforted me and told me that we would fight it together."

Kalafer says that "Without her support, it would be very difficult. She's been my source of strength."

After waiting a few days for more detailed tests, doctors told Kalafer that his type of cancer has a high cure rate when it's caught early. Full-body CAT scans and a lymph angiogram—a test in which a dye is injected into the lymphatic system through incisions made in the feet—indicated that the cancer had not spread. The test results were confirmed at the Dana-Farber Hospital in Boston and Sloan-Kettering Memorial in New York City.

Kalafer and his wife had decided to wait a few days until they had more information before telling their two sons, 16-year-old Jonathan and 13-year-old Joshua, about their father's illness.

"We decided to be completely honest with them," Kalafer says. "I could see in their eyes that they were afraid. We told them what to expect and we told them they would know directly from us if anything changed."

"The boys are very close, and I think they supported each other. I warned them about the possible side-effects—puffiness, fatigue, losing hair—and they asked questions."

"They asked if I thought I would be all right. I replied 'Yes.' Because I will be all right."

Kalafer's doctors prescribed what he described as "very aggressive therapy \* \* \* to kill any stray cancer cells they might not have detected."

"I'm young and healthy, but these are toxins going into your body, so they also kill good cells. It does reduce your energy."

Still, there were very few side-effects. There were periods of fatigue and toward the end of chemotherapy "my mouth and tongue developed severe sores. I couldn't eat or speak for five days." That condition cleared up when the chemical treatments were stopped.

Kalafer says he decided to continue to try to work "because it made me feel healthy" and to dispel the concerns of his employees and business associates, "to reassure them there would be no drastic changes in our business. All of them were wonderful, picking up the slack for me, doing things I couldn't do. The support they gave me was a wonderful thing and something I will never forget."

On the walls of Kalafer's small office at the Ditchman Ford dealership he proudly displays photos of himself with Ronald Reagan and George Bush, framed letters to him from President Reagan and Henry Ford II, a Sports Illustrated cover signed by Dodgers pitcher Orel Hershiser.

But more important to him these days is a cardboard box containing the more than 300 get well cards and letters he has received. "From friends, customers I haven't spoken to in years, members of the community, other cancer patients." Also in the box are letters telling him of prayers offered in his behalf at synagogues and churches around the country—even at the Vatican—and contributions made to charities in his name.

"I was overwhelmed by it. People are very busy, and for them to take the time, and the expense . . . It reminds me of my favorite movie, 'It's a Wonderful Life,' when George Bailey gets in trouble and all his friends gather around to help him . . ."

Kalafer was especially moved by a letter he received from a woman who had breast cancer. "She described the emotions, how she felt when she was diagnosed. She told me I was not alone and there were people who are there for me."

Kalafer says the last thing he's looking for is sympathy. "I've had a wonderful life and I will continue to have a wonderful life. I have a fine family and a great business."

He adds that "When this happened, I didn't ask 'Why me?' I never asked 'Why me?' when all these good things happened to me, so I'm not going to ask that when something goes wrong."

"Having cancer, it's the way things are. You deal with it and you overcome it. If you were to dwell on it and be negative about it, you're paying the price twice."

"Having cancer is serious business, but I'm going to live my life and deal with whatever comes next."

"Many people have said, 'I guess your life has changed.' The only difference is that after they tell you you have cancer, there's no more static in your thought process. Things are very clear. The things that are unimportant are even more obvious now."

This Monday morning, Kalafer took part in an early-morning sales meeting, met with a reporter and photographer at 9:30, and at 10 a.m. hurried out to his car to drive to St. Peter's Medical Center for his radiation treatment.

He continued the interview in the car—stopping along the way to pick up coffee and bagels for the nurses in the oncology-radiation department. By noon, treatment completed for the day, he was back at work.

Kalafer says some of the most gratifying words he ever heard were spoken by one of his doctors two weeks ago. "I said, 'Am I going to die from this cancer?' He said, 'Steve, you'll die from something else.' That was music to my ears."

"A big part of becoming healthy has so much to do with your attitudes," Kalafer said. "When people hear, 'It's malignant,' it's not the end of the world. It's the beginning of a new way they have to live their lives. But there's life after they tell you that you have cancer."

## TEACHING TOMORROW'S SKILLS

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. McEWEN. Mr. Speaker, I commend the following article by Secretary of Labor, Lynn Martin to my colleagues. Lynn Martin has shown outstanding leadership during her tenure with the Department of Labor, and I wish her continued success in her efforts:

## TEACHING TOMORROW'S SKILLS

Robert J. Samuelson ["Gibberish on Job Skills," op-ed, July 11] has entered a debate on an issue critical to the future of the American economy. Should our students have an education experience that is relevant to the world of work. Samuelson thinks not. I believe they should. Samuelson also says that "the best way to motivate students is to impose academic standards with teeth." I couldn't agree more.

The commission that produced the report that Mr. Samuelson criticized drew its recommendations from talking to employers about what skills entry workers need and from talking to students about why too many of them become turned off by the learning experience.

Beyond listening to employees and to students, the value of work-relevant education is driven by two basic assumptions: First, the workplace has changed and will continue to do so, and second, employers' hiring patterns have changed. We must enable the American work force—today's students and those already at work—to acquire the skills necessary to hold good jobs and to cope with a dynamic workplace.

Earlier this month I received the first report of my Secretary's Commission on Achieving Necessary Skills (SCANS). This report describes what skills are needed by all workers for a successful career in the "modern" economy. It states that everyone needs competencies and a foundation of basic and higher order thinking skills and personal qualities that foster discipline and self-confidence if students are to succeed in the 21st century. The report is a first in a several step process to produce the accountability measures that Samuelson believes are key to improved educational results.

The SCANS report calls for all student to acquire five competencies—the ability to: (1) allocate time, money and other resources (for example, to prepare schedules and budgets); (2) understand and use technology; (3) evaluate, process and use information, including the use of computers; (4) work with others as a teacher, negotiator, and team player; and (5) understand, monitor, improve and design social, organizational, and technological systems. The point of these work-based competencies is to enhance the capability of work force entrants and to motivate students to learn better the educational basics Samuelson correctly insists are so important.

Samuelson seems to agree with us about the foundation, but he disagrees with how those skills should be provided. We believe that schools—and workplaces—must provide structured opportunities for their acquisition. Some of our chief global competitors agree. A recent European Community report recommends that students acquire many of the SCANS skills through basic education.

Some critics believe that if schools would only return to the good old days of high

standards and the 3Rs, the nation could effectively deal with international competition and new technology. We agree with the need for high standards and the 3Rs. Indeed, we estimate that fewer than half of all 21 to 25 year olds are adequately prepared in reading, writing and mathematics. But today's world requires even more. We agree with Samuelson that the value of a high school diploma must be restored. Diplomas must reflect the demands of a changing workplace for broader skills beyond the 3Rs.

The commission includes representatives from industries that would be out of business if their product lines were unchanged from that of 40 years ago: IBM making card punch machines instead of personal computers, Motorola making car radios but not cellular phones, GE making refrigerators but not jet engines, MCI not even in the business of phone services. Why should schools and their curricula remain unchanged during this revolution in every other aspect of our lives?

The educators and the business and labor representatives think it is important for workers to understand the bigger "system" in which they are operating and the actions needed to improve it. Take Motorola for example. It is one of the few American companies to win an increased market share in the Japanese pager, cellular phone and semiconductor markets and a Malcolm Baldrige Award for excellent quality. Motorola uses the five competencies to drive its Six Sigma Quality Program and is committed to not more than three parts per million defects in products or service to its customers.

When I visited union apprenticeship programs, the value of contextual learning was driven home when many young people told me that they finally understood why learning basics such as math was important. They said, "It's needed for the job."

Equally important, school districts have incorporated some elements of the SCANS approach into their teaching methods—with real success. Dayton, Ohio, to take one example discussed in a Post editorial [July 14], has "placed new emphasis on critical thinking, problems solving and hands-on activity for students. It's a procedure that forces teachers away from a strict reliance on texts and into demonstrations that require student participation." The result: "Students in five out of six of the elementary grades—and in eight out of 11 grades overall—showed more than one year's worth of improvement from 1990 to 1991."

These skills are not narrow and apply to all kinds of jobs in every field. They are not easy to acquire and acquiring them is to call all students to a higher standard. Samuelson asks if the commissioners believe this "non-sense." Well, the letter I signed to parents, employers and educators suggested that readers of the report "not take our word for it" about the competencies. We—the commissioners and I—asked them to test the conclusions in their own communities and offered to help them do it. Samuelson's suggestion is that, instead, you not read the report and hope for a return to the good old days of the 19th century school. I think not.

JUSTICE FOR FILIPINO HEROES:  
JUAN DE LA CRUZ, A PERIOD OF  
HOSTILITIES, AND H.R. 1138

HON. RANDY "DUKE"

CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. CUNNINGHAM. Mr. Speaker, the overwhelming majority of America's heroic troops have returned home from Operation Desert Storm. They are home with their families, marching in summer parades, and receiving the honors and accolades due them.

Unfortunately, for the 4,000 Filipinos who served our country in the gulf, all the parades and honors and accolades in the world will still fail to make them eligible to apply for U.S. citizenship. What they want, they cannot obtain.

These Filipino heroes have brought their families to this country. They joined this country's Armed Forces. They fought for this country and risked their lives for this country. If any of them would have died in the line of duty—and thank the Lord none of them did—their families would have faced deportation in their time of unspeakable grief.

These returning heroes who fought for America should be granted the privilege to become citizens of America.

Let me enter into the permanent RECORD of this Congress a letter. It is written by a fictitious Filipino soldier, Juan de la Cruz—that is, "Uncle Sam"—from the sandy trenches of northern Saudi Arabia, and it is a Christmas wish to Santa Claus. This letter makes the injustice Filipinos face even more clear:

DECEMBER 15, 1990.

DEAR SANTA: My name is Petty Officer Juan de la Cruz, attached to the Marine detachment on the front line of the Desert Storm. Although I know a Christmas wish list is only for children, I am writing to you like a lonely child abandoned, walking alone on the streets.

Without fear of dying for America and for all other freedom-loving nations, I am here with other brave men and women ready to die for this great country.

I am a Filipino citizen, but I also feel like a brave American fighting man.

But my only fear is the well-being of my family in the States. I have apprehensions for my wife and two children. They can be sent home to the Philippines should I be killed in this war.

This is precisely why I am writing you, asking your assistance to protect the interest of my family and others who have the same problem. It might be too late for my wish to become an American citizen.

However, should I die, please ensure that I am given the full honor of a true American. Send me no wreath nor flowers but wrap my coffin with stars and stripes that will fly forever.

Thank you, Santa.

Sincerely,

JUAN DE LA CRUZ.

Mr. Speaker, several Members of this body are working to right this situation, in order to allow our Filipino gulf veterans the opportunity to apply for citizenship.

First, 38 Members of the House asked the President in a letter dated March 25, 1991, to use his authority under 8 United States Code

1440 to declare a "Period of Hostilities" with respect to the war in the gulf. Under section 329 of the Immigration and Nationality Act, this would permit Filipinos who served in America's Armed Forces in the gulf region to apply for U.S. citizenship.

The fact that U.S. troops still remain in the gulf does not keep the President from making this declaration. As was the case with the Vietnam conflict, the President can open the period of hostilities with one Executive order, and close it with a subsequent order. Let it be part of the permanent RECORD of this House that I further encourage the President to issue such an Executive order.

Second, my respected colleague Congressman DUNCAN HUNTER, the fifth-ranking Republican in this House, has introduced H.R. 1138, which amends the Immigration and Nationality Act in order to make the Presidential declaration effective and clear in the eyes of the courts. Currently immigration law is unclear about whether Filipinos whose point-of-entry into the United States Armed Forces is in the Philippines should benefit from a Presidential declaration of hostilities, and become eligible to apply for American citizenship upon the President's order.

The legislation was introduced with the sponsorship of Congressman BILL LOWERY and myself, and now lies dormant in the House Judiciary Committee. For the sake of the Filipinos who fought for America in the gulf, and their families, I urge the Judiciary Committee's prompt consideration of this important and noncontroversial bill.

Let us as a nation give thanks for these 4,000 heroic Filipino men and women who fought for their adopted country—our country. As lawmakers, let us enact legislation which makes these true American heroes eligible to apply for U.S. citizenship, and encourage the President to issue an Executive order declaring a period of hostilities with respect to the war in the gulf.

#### VIETNAM VETERAN'S MEMORIAL

### HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Ms. SLAUGHTER of New York. Mr. Speaker, since its dedication almost a decade ago, the Vietnam Veteran's Memorial has become the most popular monument on the Mall in our Nation's Capital and a powerful means of national healing for the grief and frustration suffered during the Vietnam era and in the ensuing years. On a plain black wall are inscribed the names of 58,175 young patriots who gave their lives for the United States of America—a country they loved. Each of these names represents not only the young lives lost, but also the pain endured by those who survived the fallen men and women—the fellow service personnel, the families, and the friends.

Each day, 10,000 visitors come to Washington, DC to see the wall and make tracings of the inscribed names of loved ones onto paper. They take with them a sense of reconciliation and they leave behind a treasury of mementos, letters, poems, personal memorabilia and

artifacts. These objects of remembrance—uniquely representative of the Vietnam era of American history—are both a moving tribute to those who have died and a means for many of finally coming to terms with their grief. Two years ago, I garnered the support of my colleagues in the House in contacting the National Park Service and the Smithsonian Institution to make sure that these artifacts are preserved and available for exhibit across the country.

A half-scale replica of the wall visits my own congressional district of Rochester, NY at a time when Vietnam veterans have been given renewed hope that painful and persistent POW/MIA questions will, at last, be resolved.

Winning and preserving our Nation's liberty and freedom has never been easy. Throughout our history it has required great determination, hardship and sacrifice. Among those who have made the greatest sacrifices are the members of the Armed Forces who were captured by our Nation's enemies and held as prisoners of war. Great pain is also borne by the families and loved ones of service personnel whose fates remain unknown.

As a nation, we remain committed to the fullest possible accounting of American prisoners and service personnel still listed as missing in action. In Congress, I have consistently supported legislation which acts upon this commitment to learning the truth. The Intelligence Authorization Act for fiscal year 1992—H.R. 2038—includes a provision requiring, with the consent of the involved families, full disclosure by U.S. Government agencies of any information concerning U.S. personnel classified as POW/MIA after 1940.

Legislative efforts, however, can do nothing to resolve questions about the 1,700 men and women missing in Southeast Asia without the cooperation of the Vietnamese and Lao Governments. During his visit to the United States last fall, Vietnamese Foreign Minister Nguyen Co Thach pledged "new levels of cooperation" by his government to accelerate efforts to resolve the POW/MIA question. The Deputy Assistant Secretary of State for the Bureau of East Asian and Pacific Affairs, and head of the Inter-Agency Group on POW/MIA Issues, Ken Quinn, will soon travel to Hanoi and Vientiane to pursue this pledged cooperation. I am hopeful that Mr. Quinn's mission will yield accurate answers to lingering and painful questions about what really happened to the American POW's and MIA's in Southeast Asia.

Just as names inscribed on a black granite wall can serve to heal the wounds of a nation divided by war, so too can the resolution of POW/MIA questions finally heal the wounds of doubt and unknowing which have plagued families and fellow service personnel for decades.

Other questions remain. The 12-year debate on agent orange continues to haunt Vietnam veterans exposed to the herbicide during combat in Vietnam. I am proud to have cosponsored legislation, signed into law this year, which promises to resolve this debate. The Agent Orange Act of 1991 finally codifies that Vietnam veterans who suffer from non-Hodgkins' lymphoma, soft-tissue sarcoma, or chloracne are eligible for VA disability benefits. Perhaps even more important is that the Agent Orange Act of 1991 holds out the prom-

ise of answers to Vietnam veterans suffering other conditions whose relation to agent orange exposure remains a mystery. By directing the National Academy of Sciences to conduct a comprehensive review of all scientific and medical evidence relating to agent orange exposure, the legislation takes an important and long overdue step toward unlocking the mysteries of herbicide exposure and finding long-term solutions to the agent orange problem.

The brave men and women who served the United States in Vietnam deserve no less. I am proud of each and every one of our Nation's veterans and I will never let their needs be ignored.

#### EARLY CHILDHOOD EDUCATION NEEDED

### HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. OWENS of New York. Mr. Speaker, the first of the six national education goals calls for school readiness for all of our children. For children with disabilities, the provision of early intervention services and preschool programs is the first step toward readiness. This legislation reauthorizes these early childhood education programs under part H of the Individuals with Disabilities Education Act [IDEA].

Our legislation parallels the Senate bill on many of the major issues, including differential funding to ensure continued State participation in the part H program, the need for family-centered programs, and the smooth transition from early intervention to preschool. Additionally, our bipartisan bill addresses the following issues:

#### MINORITIES AND UNDERREPRESENTED FAMILIES

We must ensure that our commitment to early childhood education programs is inclusive of all populations represented in our society. By the year 2010, it is projected that nearly one quarter of all children in the United States will be children of color. While poverty is on the rise among all children, minority children are more likely to live in poverty. The bill includes several changes to enhance the opportunities of parents from underrepresented populations to be active participants in these programs and to ensure that these families have access to culturally competent services.

A 1990 GAO report on Indian children with disabilities on reservations revealed the need to address issues of coordination, data collection, and the lack of leadership by the Bureau of Indian Affairs in providing services. These issues have been addressed in the bill.

#### AT-RISK CHILDREN

During our hearings, concern was expressed about the rising numbers of at-risk children and how best to serve them. To assist States in addressing the needs of this population, the bill provides funding of State planning grants to establish statewide coordinated systems that would identify, track, and appropriately refer these children.

#### PERSONNEL TRAINING

The recruitment, training, and retention of personnel continues to be a problem in the

provision of services to children with disabilities. With the addition of the early intervention program under IDEA in 1986, the lack of qualified personnel entering this work force continues to adversely impact service provision. An initiative authorized in this bill provides an opportunity to train and retain workers, who currently hold entry level or paraprofessional positions in public and private agencies that serve these children and have demonstrated a commitment to remaining in the special education and related services field, using a non-traditional approach by providing for demonstration grants and technical assistance in this area.

It is clear that an investment in early childhood education is critical to the prevention of later educational failure. Only through early interventions and preschool experiences can our youngest population of individuals with disabilities and those at-risk for developmental delays be given any hope of successful educational outcomes. I hope my colleagues will ensure school readiness for the population by supporting this bill.

CONGRESSMAN BALLENGER SUPPORTS BIPARTISAN EARLY INTERVENTION AND PRESCHOOL DISABILITY REAUTHORIZATION BILL

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. BALLENGER. Mr. Speaker, today I am joining my colleague Congressman OWENS, chairman of the Select Education Subcommittee, in introducing a bipartisan bill to reauthorize the early intervention and preschool programs under the Individuals with Disabilities Education Act [IDEA]. These programs are vital in ensuring that young children with disabilities and their families receive the services they need so that they can enter the first grade ready to learn. In addition, early intervention services can minimize the educational costs of special education when these children reach school age and enter the first grade.

In 1986, the Congress passed landmark legislation, Public Law 99-457, which established a framework for States to develop a comprehensive, coordinated, multidisciplinary system to provide infants and toddlers with disabilities and their families early intervention services. The bill we are introducing today builds upon that law by making small improvements in the act rather than major structural changes.

One of the major hurdles facing this reauthorization was the ability of States financially to continue to participate in this program. Recognizing that the 5-year implementation period for this program may not have been long enough for some financially burdened States to provide services to all eligible infants and toddlers, the Congress recently enacted Public Law 102-52. This law creates a differential funding formula to allow additional time for States to implement the program and meet the mandate established under Public Law 99-457. We want to give States every opportunity

to participate in this program because an investment in early intervention for children with disabilities is crucial for success to happen in later educational development.

Another critical change to this bill is ensuring that a smooth transition occurs for infants and toddlers moving from an early intervention program into a preschool program. Currently, there is a gap in services when the child turns 3 during the school year and must wait until the following year to enter a preschool program. This bill will allow more flexibility in spending preschool and early intervention dollars so that gaps in services can be closed.

One of the major issues facing the subcommittee was how to encourage more States to provide services to infants and toddlers at risk of having substantial developmental delays if early intervention services are not provided. Under current law, a State has the option of providing services to these children and I am proud to say that my own State of North Carolina has announced their intention to provide services to environmentally and biologically at risk children. The majority of States, however, have not made this commitment due to the lack of resources. This bill will require the Secretary of Education to fund demonstration programs for States to establish a statewide interagency coordinated system for identifying, tracking, and referring at risk children for appropriate services. Such demonstration programs should encourage States to find these children and provide services before a developmental delay occurs.

During our subcommittee hearings, we witnessed the success of early intervention programs by listening and meeting the Underdown family and their son Matthew. Matthew has Down Syndrome and is a product of early intervention and preschool services. He is a healthy, energetic 4-year-old who will be able to enter the public schools system for first grade with his nondisabled friends ready to learn. Early intervention services have made this possible. Such services will provide a strong base for ensuring that children with disabilities grow up to be independent, productive and happy adults.

This is legislation that works and I urge all of my colleagues to support it.

THE HEALTH CARE LIABILITY REFORM AND QUALITY OF CARE IMPROVEMENT ACT OF 1991

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. ARCHER. Mr. Speaker, today I am introducing legislation (H.R. 3037) at the request of the administration that addresses one of the cost-drivers behind this Nation's skyrocketing health care costs—medical malpractice.

Currently, the costs associated with malpractice—including premiums, litigation, settlements, and, indirectly, defensive medicine—play a significant role in the rapid growth of health care spending.

The administration's bill, the Health Care Liability Reform and Quality of Care Improvement Act of 1991, encourages States to take

action to stem the excessive costs associated with malpractice liability. This legislation would have the States: First, enact health care liability tort reforms, including limits on non-economic damages; second, establish an alternative dispute resolution mechanism; and third, adopt quality assurance reforms. States failing to adopt the reforms after 3 years would not receive their full Medicare and Medicaid funding increases.

In sending this legislation to the Congress, the President has recognized the immediate need to bring attention to the issue and, more importantly, to join in the dialog on malpractice reform. A section-by-section analysis of H.R. 3037 follows:

HEALTH CARE LIABILITY REFORM AND QUALITY OF CARE IMPROVEMENT ACT OF 1991

SECTION-BY-SECTION ANALYSIS

Analysis of Titles

- I. Findings and Purpose.
- II. Health Care Liability Reforms.
- III. Federal Implementation of Health Care Liability Reforms.
- IV. Construction of Provisions.

INTRODUCTION

This bill, the "Health Care Liability Reform and Quality of Care Improvement Act of 1991," sets forth health care liability reforms and provides incentives to the States to implement these reforms. The analysis below summarizes and explains the various provisions of the Act.

I. Findings and Purpose

Sections 101 and 102 set out the findings and purposes of the Act.

II. Health Care Liability Reforms

Section 201 sets out definitions of certain terms used in the Act. A key term tied to the application of many provisions of the Act is "health care provider." The definition is intended to broadly include within its sweep all professionals, regardless of their role, engaged in health care activities of any kind.

The term "health care liability action" is intended to cover all judicial proceedings of any kind that may relate to the remedial purposes of the Act. The term is broadly defined to exclude circumvention by artful pleading. It includes health care liability civil actions or proceedings of any kind regardless of the theory of liability (negligence, strict liability, statutory, constitutional or otherwise) pursued.

States must enact health care liability reforms meeting the criteria of Title II to participate in the incentive program established by this Title.

Section 203 eliminates the application of joint and several liability to non-economic damages in all health care liability actions subject to the Act, except for persons jointly engaged in conscious and deliberate conduct with actual knowledge of its wrongfulness. Subsection (a) requires that the trier of fact determine the percentage of each person's responsibility for the harm for which the action was brought. States may desire to consider whether the limitation on joint and several liability should be applied to economic as well as non-economic damages.

Section 204 imposes a \$250,000 cap on all non-economic damages, including pain and suffering, emotional distress, mental anguish, disfigurement, loss of enjoyment, companionship and services, with a cost of living adjustment as provided in subsection (c). The Secretary of Health and Human Services is empowered to waive the requirements "for good cause." The waiver author-

ity is intended to be used sparingly to ensure that non-economic damages are limited within reasonable bounds. The decision of State Supreme Court declaring a State statute implementing the provision to violate a State constitution may constitute "good cause."

The cap applies to all health care liability actions which arise out of or were caused by the same personal injury or death. For purposes of Section 204, health care liability action is defined (Section 204(b)) to include all medical negligence/malpractice actions for damages and to apply to all plaintiffs and defendants in such actions.

Section 205, subsection (a), requires that any award of damages under the Act be reduced by the amount of compensation received from collateral sources of income for the same harm for which damages are awarded, except as provided in this section. The purpose of the section is to avoid double recoveries or windfalls.

Section 206 provides that no health care provider shall be required to pay damages awarded for future economic loss in a single, lump-sum payment. Instead, payments may be made periodically over the time that the loss is found likely to occur. If the court has a reasonable basis for believing that the person may not make the periodic payments, subsection (b) authorizes the court to require the purchase of an annuity or the funding of a reversionary trust to make such periodic payments.

Subsection (c) provides that the court order making such periodic payments is final and may be reopened only upon a showing of fraud (the term "fraud" is intended to adopt the term "fraud" as it is applied in the courts) or any ground permitting relief to be granted after entry of a final judgment, pursuant to the standard set forth in Rule 60 of the Federal Rules of Civil Procedure. Therefore, a structured judgment may be reopened only if a party establishes actual and material dishonesty, i.e., intentional perversion of truth for the purpose of inducing the surrender of a legal right. The Section also provides that it shall not be construed to preclude settlements providing for a single, lump-sum payment in order to avoid limiting the parties' power to reach accommodations to encourage out-of-court settlements.

Section 207 encourages utilization of Alternative Dispute Resolution ("ADR") mechanisms. Subsection (b) provides that the States must have in effect within three years after the enactment of the Act an ADR mechanism, at least as effective in deterring frivolous actions and resulting in fair and expeditious compensation as mediation or pre-trial screening panel mechanisms to be specified in regulations.

Sample specifications for two ADR mechanisms (mediation and pre-trial screening) are set forth in the Appendix.

Section 208 specifies that to comply with the Act and to receive payments under the incentive program, the States must cooperate with certain Federal research efforts and improve the performance of State medical boards. The process of improving performance would begin with the collection of data on the activity of the boards. This would allow States to know where their performance stands relative to the Secretary's standards. However, States could also achieve compliance by taking actions which the Secretary finds are at least as effective as compliance with standards promulgated for State medical boards. In order to reduce the burden on States pursuing alternative approaches to meeting the quality assurance

requirements, subsection (c) requires the Secretary to issue regulations specifying criteria for evaluating the effectiveness of risk management systems for institutions; quality assurance systems; and State programs for promulgation of standards of care in selected areas of medical practice as alternatives to compliance with subsection (b). Activity is already underway in these areas. Colorado has enacted a health facilities quality assurance program, and Maine has enacted a program that will lead to State standards of practice.

Section 209 provides that the States shall establish plans for State implementation to comply with the provisions as set forth in Sections 202 through 208 of the Act. For a State to be eligible for participation in the incentive pool established under Section 209, the State must have satisfied the criteria established under each of these sections.

Subsection (b) specifies the Notification procedure by which the State shall certify and document that it has health care liability reforms meeting the Act's criteria in effect.

Subsection (c) provides that the Secretary shall review each Notification and if the Notification demonstrates that the State has in effect such health care liability reforms, the Secretary shall approve the Notification, thereby authorizing the State to participate in the incentive program provided in the Section. If the Notification is not approved, the Subsection provides for the submission of a revised Notification and approval process.

Careful review of Notifications is key to insuring that the Act is implemented according to its terms. Accordingly, the Secretary is vested with discretion to require information to be supplemented in addition to the information required to be submitted with a certification.

Subsection (d) provides that upon a determination of non-compliance, the Secretary shall provide written notice of such determination and the reasons therefor. If the Secretary determines that after approval the State does not have currently in effect the health care liability reforms upon which the Notification approval was based, the Secretary shall give notice of such determination, withdraw approval of the Notification, and require the State, within 60 days after receipt of such notice, to return all funds provided to the State under the incentive program not yet expended unless the State takes the necessary corrective action to ensure and certify that the health care liability reforms remain in effect. Section 209(d)(3)(B).

Subsection (e) is included to ensure coordination by the Secretary with the Attorney General on questions of tort law and/or policy arising in the course of resolution by the Secretary of whether a determination of compliance or noncompliance shall be made.

Subsection (f) sets out the Incentive Program—Distribution of Funds process, the administration of which shall be established by the Secretary. Such process will pool the funds contributed and distribute the pooled funds annually on a proportional basis among States and hospitals in those States which have the health care liability reforms in effect.

Subsection (g) amends the Medicaid and Medicare programs to transfer a portion of such funds to the pool established for distribution to complying States.

Section 210 provides that the Secretary may waive this Act's requirements if the State has in place an experimental, pilot, or

demonstration project, as defined by regulations promulgated by the Secretary, which, in the judgment of the Secretary, promotes the objectives of the Act.

#### *Title III—Federal Implementation of Health Care Liability Reforms*

Title III sets out the Federal Implementation of Health Care Liability Reforms. These reforms amend the Federal Tort Claims Act. Under Section 301, joint and several liability is limited similarly as in section 203. The section also limits the collateral source rule in a manner similar to section 205.

Section 301 places a cap of \$250,000 on the amount of noneconomic damages that can be awarded against the United States. This subsection is the analogue of section 204.

Section 302 amends the Federal Tort Claims Act by authorizing periodic payment of judgments. This subsection is similar to Section 206.

The court would make the determination as to the amount, frequency and duration of the payments, and the United States could then make the payments periodically, either by periodic payments directly out of the Judgment Fund or by purchasing an annuity or funding a reversionary trust to make the payments.

Section 303 provides that Title III is intended to apply to all actions filed on or after, and all administrative claims pending on or after, the enactment of the Act.

Alternative Dispute Resolution procedures are not to be applied to the United States. The Federal Tort Claims Act already has in place a well functioning system of low-cost alternative dispute resolution. See 28 U.S.C. § 2672.

#### *Title IV—Construction of Provisions*

Section 401 provides that the Act does not waive or affect sovereign immunity defenses, preempt State choice-of-law rules regarding claims by foreign nationals, and create or vest jurisdiction in Federal courts.

Section 401 also makes it clear that the Act sets forth the acceptable level of compliance with respect to health care liability reforms. However, the States may, if they determine to do so, implement additional or supplemental health care liability reforms that limit liability or otherwise supplement the requirements that the Act imposes.

Section 402 is a severability clause which would preserve the balance of the Act if any portion of it is held to be invalid.

Section 403 provides that the Act shall become effective on the date of enactment.

#### *Appendix to Section-by-Section Analysis*

Sample specifications establishing an effective State mediation program

(1) The State shall establish a mechanism under which, prior to treatment, health care providers may offer their patients an opportunity to enter into an agreement to submit any claims of health care negligence to mediation prior to the commencement of a health care liability action.

(2) The State shall provide that an individual's consent to a mediation agreement may not be a prerequisite to the provision of health care services.

(3) The State shall provide that a health care liability action cannot be initiated with respect to an alleged injury prior to invoking the terms of a mediation agreement to resolve the dispute, if such an agreement under this subsection with respect to such injury is in effect at the time of such injury.

(4) The State shall provide that any mediation agreement entered into under this subsection must include, in boldfaced print, a notice that—

(A) by signing the agreement, the patient is relinquishing the patient's right to initiate or commence a health care liability action prior to the completion of the mediation process;

(B) the patient may revoke the mediation agreement at any time after the patient signs the agreement, except that the patient may not revoke the agreement after health care services are provided. The health care provider may not revoke the executed mediation agreement. The agreement shall be applicable to any cause of action that accrues prior to revocation of the agreement; and

(C) execution of the agreement by the patient cannot be required by the health care provider as a prerequisite to the provision of health care services.

(5) The State shall establish a mediation process including a mediation panel consisting of two or more non-judicial persons, including at least one health care professional, as mediators. The mediators would conduct hearings and meet with counsel for all parties, in an effort to resolve the dispute without litigation in accordance with the terms of the mediation agreement.

(6) If one or more of the parties reject the mediation panel's evaluation, the claim may proceed to litigation.

(A) If a party rejects an evaluation and the claim proceeds to litigation, that party shall pay the opposing party's actual costs unless the judgment is at least ten percent (10%) more favorable to the rejecting party than the mediation evaluation, after adjustment pursuant to clause (6)(B). However, if all parties reject the evaluation, no party is entitled to recover its costs from any other party.

A mediation evaluation shall be adjusted by adding to it the actual costs of the party accepting the mediation evaluation. Actual costs include those costs taxable in any civil action and reasonably incurred attorney fees as determined by the trial judge for services incurred subsequent to the rejection of the mediation evaluation. In no event shall the attorney fees determined by the trial judge exceed two hundred percent of the paying party's reasonable attorney fees incurred subsequent to the rejection of the mediation evaluation. "Reasonable attorney fees" shall be calculated on the basis of a reasonable hourly charge regardless of whether the fees were actually charged at a higher hourly charge or whether the fees were contingent upon the outcome of the action.

Sample specifications establishing an effective State Pre-Trial Screening Panel

(1) A Panel shall have at least three members and may sit as a single body or in smaller units of at least three members. Each Panel shall include at least one licensed or certified health care professional representative to be agreed upon by the parties, one person admitted to practice law in the State in which the panel sits, and may include such other members as the Attorney General of such State may provide. Wherever practicable, a representative from each health care specialty involved in a dispute under this Section shall be appointed to the Panel hearing such case, except that not more than three health care professionals shall serve on any Panel.

(2) Claims alleging professional negligence shall be decided according to the law of the State in which a Panel sits. The Panel shall, whenever practicable, decide a claim within six months after the date on which the claim is filed with the Panel. One continuance, not to exceed 90 days, may be granted to any party upon a showing that extraordinary cir-

cumstances and the interests of justice warrant the continuance. A Panel may dismiss any claim or defense it determines to be frivolous and impose administrative costs (not to exceed \$10,000) upon a party whose claim or defense is so dismissed.

(3) After hearing all the evidence presented by the parties, a Panel shall decide whether or not the person alleging injury established professional negligence and, if so, whether that injury resulted from such negligence. Not later than 30 days after the conclusion of the hearing of the evidence (unless a delay is necessary due to extraordinary circumstances), a Panel shall transmit a written decision to the parties. The decision shall include a statement of the findings of fact and conclusions of law on which the Panel based its decision. A party to a claim decided by a Panel shall be entitled to file an action in the court of appropriate jurisdiction. The entire written record of the Panel proceedings, including the determination made, shall be admissible in a trial of such an action.

#### ACKNOWLEDGING THE RETIREMENT OF DAVID CLAXTON

HON. CHARLES A. HAYES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. HAYES of Illinois. Mr. Speaker, I rise today to acknowledge the retirement of a hard working American whose outstanding accomplishments and presence is well known within the ranks of organized labor. David Claxton, director of political affairs for the United Food and Commercial Workers International Union [UFCW], retired on June 1, 1991 after many years of service. Dave will be missed not only by his colleagues at UFCW, but by several Members of Congress and others who had come to rely on his advice and expertise.

Dave Claxton began his career as a trade unionist at the early age of 15 while employed by the Kroger Grocery Co. in Detroit, MI. He became a member of the negotiating team of Retail Clerks Union Local 876 and was elected to serve on its executive board at the age of 18. Dave had become one of the chief negotiators for his union which later merged with the Amalgamated Meatcutters Union to form the United Food and Commercial Workers International Union. Dave made major contributions to the UFCW which later became recognized as the largest union within the AFL-CIO. Later, Dave became an active lobbyist on behalf of his union fighting for issues important to his membership as well as a political activist providing support and expertise to Members of Congress. I worked closely with Dave during his years at UFCW and was impressed by his loyalty and tenacity. He later helped to organize my successful campaign for Congress and has always been ready and available to assist me in whatever way possible.

During Dave's long tenure of union activity, he successfully represented the needs and concerns of his membership with management. He recently stated that, "management 20 years ago considered its workers to be a vital part of the business and seemed to have exhibited more concern for their welfare." Mr.

Speaker, I believe that Dave's endeavors provided a sound foundation upon which others may build in the area of labor-management relations.

As director of political affairs, Dave encouraged his membership to make combined contributions to the union's political action committee. His efforts in this regard helped to level the playing field so that working class men and women could actively participate in the democratic and political processes of this country. Dave has been a strong believer in the fact that organized labor allows people to speak with a unified voice in the work place; that both complaints and praises are vital to forging strong working relationships as well as work performance. I was happy to have had the opportunity to work with Dave in our struggle to bring justice and fairness to the workplace.

Although Dave has retired and will pursue other goals, his accomplishments through hard work and perseverance on behalf of working people will forever be a part of the UFCW, those of us with whom he worked and the communities that inspired him. I ask that my colleagues join me in extending my very best wishes to Dave Claxton for a healthy and happy retirement and much success in his future endeavors.

#### OVERTAXATION AND RE- REGULATION

HON. TOM DELAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. DELAY. Mr. Speaker, it's time for Congress to learn that tax and regulatory costs cannot grow faster than productivity. Government imposition of increasing regulations on businesses has resulted in higher costs for businesses. The two ways to combat these costs are either an increase in productivity by businesses or an increase in the money supply by the Federal Reserve. Because government-imposed costs are rising faster than productivity, that leaves the Fed. Unfortunately, in its efforts to fight inflation, the Fed has failed to accommodate the rising burden of taxes and regulation. The bottom line, as Richard W. Rahn, chief economist of the U.S. Chamber of Commerce noted recently in the Wall Street Journal: Until Congress and the Fed learn their lessons, the American people face a declining standard of living. The article follows in full:

#### THE COST OF REGULATION: INFLATION AND RECESSION

(By Richard W. Rahn)

The Federal Reserve's traditional weapon for fighting inflation is tight control of the money supply. At the same time, the Fed is obliged to print money in order to cope with the costs imposed upon society by government regulation.

Regulation is inflationary. Those prices that are most sensitive to government policies rise fastest: The price of medical services is rising twice as fast as the overall consumer price index. Prices in those segments of the economy least amenable to government intrusion are far more stable: Basic

commodity prices have shown a flat or even declining level of prices over the past two years.

The total cost of regulation is hard to measure, but I have concluded that between 34% and 67% of last year's 5.4% consumer price index increase was probably due to the monetization of growth in government regulation. Another 11% to 14% was due to the monetization of increases in federal, state and local taxation. Thus, as much as 80% of the reported CPI may be explained by the Federal Reserve's practice of creating money to cover government-mandated cost increases.

There has been some discussion at the Fed of the extent to which these government mandated cost increases should be monetized. The majority over the two years clearly has favored only partial, rather than full, monetization. Unfortunately, while changes in the CPI lag changes in monetary policy by as much as two years, the real economy responds quickly to monetary changes. As a result, although real economic growth has been in a two-year decline, measured inflation has just begun to fall.

Inflation as measured by the CPI increased at an annual rate of only 1.5% over the past three months. The Fed achieved this reduction in inflation through a high interest rate policy designed to slow economic growth, resulting in rapidly increasing unemployment and economic misery. At the same time prices of real assets, particularly land and buildings, were being driven down, greatly aggravating the savings and loan, banking and insurance crises. The fall in asset prices was further exacerbated by the 1986 Tax Act, which increased the capital-gains tax rate and reduced passive loss deductibility for certain types of real estate investment.

This has put businesses in a bind. The government is imposing upon them ever toughening wages and hour laws, environmental standards, safety and health measures, land use rules and so on, even as federal, state and local taxes go up. These cost increases do not just disappear because the Federal Reserve decides to have a non-inflationary monetary policy. Because of these mandated costs, the prices of new goods are rising. Consumers must pay higher prices for new goods, and are therefore forced to pay less for existing goods and assets. So those prices must fall, causing hardships to the holders of these assets, particularly real estate, and a cycle of self-defeating tax increases to bail out the socialized financial insurance funds that were supposedly protected by the value in these assets.

The misery caused by the current policy is clear, but what would have happened if the Fed has accommodated or monetized these government tax and regulatory costs increases? The rate of inflation would have been slightly higher. Again, if my estimate is correct than half or more of the increase in the CPI is accounted for by these mandated cost increases, then inflation might be running at 5% or even 6% today, as it did for the past two years. This would drive up the nominal rate of interest and could even lead to greater inflationary expectations unless the Fed was very explicit about what it was up to. If the Fed again could explain and convince people it was not starting a new inflationary engine but merely trying to compensate for bad tax and regulatory policy, then the side effects could be somewhat less damaging than that of the current monetary policy.

As long as government mandated cost increases are greater than productivity

growth, real incomes will fall. However, given current government programs to provide financial insurance funds at taxpayer expense, the current and future tax burdens on these funds could be somewhat reduced with a slightly more inflationary policy. Also, the special hardships of foreclosures or firm shutdowns under a slightly more inflationary policy would probably be less.

Many economists believe that a 1% to 2% annual rise in the CPI is an appropriate goal in the real world. The CPI does not gauge quality improvements in products, which are often considerable. Since wages are "sticky"—that is, since they are tough to cut, even when other prices are falling—a little inflation enables wages to adjust downward while fostering the important psychological illusion of wage stability. Such modest illusions provides a social lubricant to make painful economic adjustments a little less painful.

Few economists, however, are happy with inflation rates much above 2%. Only a near-zero rate provides the predictability needed to maximize productive investment and avoid destructive taxation on inflated, as opposed to real, income. This is particularly important in capital-gains taxation.

But reported inflation averaged a little over 5% for the 1989-90 period and thus is clearly above the desired goal of 2% or less. Hence, many have argued that the Federal Reserve has not been sufficiently "tight" and needs to slow monetary growth even further, or at least decline to reduce interest rates for the time being.

This demand for more and more tightness is at variance, though, with the real cause of most of today's inflation. If the Fed could maintain 5% or 6% inflation, under the current regulatory blitzkrieg, the pain to most citizens might be reduced. Congress is forcing the Fed to choose between gradually impoverishing a large number of citizens or rapidly pauperizing fewer of them. Clearly, the long-term solution is to educate Congress, the administration and the American people that their tax and regulatory costs cannot grow faster than productivity does without reducing standards of living.

#### HEALTH CARE REFORM

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. SERRANO. Mr. Speaker, today's New York Times reports that Empire Blue Cross and Blue Shield, New York State's largest health insurer, has proposed to raise health insurance rates by 50 percent for all people who buy their own policies, and for employees of small businesses who are considered bad risks.

The people who will be affected by this change are those who already have the most difficulty in obtaining and paying for decent health coverage. Every day the newspapers across the country carry op-ed pieces and articles about ways to deal with the fact that 37 million Americans have no health insurance at all.

If Empire's proposed rate increases are approved, countless small business owners and their employees who currently struggle to pay for health care coverage will find themselves priced out of the market. Countless individuals

whose employers already can't afford to provide health coverage will find themselves among the millions of U.S. citizens who cannot afford to buy health insurance for themselves and their families.

The fact that people in this country who work hard every day to care for and educate themselves and their children are unable to afford basic health care is appalling. We all know that this Nation's health care system, or rather our lack of a system, is seriously flawed, and needs to be fixed.

The reasons behind Empire Blue Cross and Blue Shield's proposed rate increase are a perfect illustration of what we need to change in order to have a working health care system in this country. According to the times article:

Empire has noted that because it does not turn down any applicant for a policy, it covers higher proportion of sick people than do commercial insurers who can reject sicker applicants. It said it has to begin offering lower rates to healthier groups because it has been losing their business to commercial insurers, which, unlike Empire, can hold down their costs by rejecting sicker applicants.

As health care costs spiral out of control, commercial insurers increasingly skim off the healthiest segments of our population to insure. This gives them a competitive advantage over those health insurance carriers which are committed to spreading risk over a larger pool of policy holders. So insurers like Empire Blue Cross and Blue Shield must abandon their commitment to uniform community rates, and raise premiums for "bad risk" applicants, resulting in more and more Americans with no coverage at all.

I call upon my colleagues on both sides of the aisle to take action. There are many interesting ideas being put forth on this subject right now, and we have many reform proposals before us. It's time to deal with the tough decisions, and create an effective health care system for this Nation.

#### THE CENSUS UNDERCOUNT

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mrs. COLLINS of Illinois. Mr. Speaker, I rise today to voice my strong opposition to the recent decision of Commerce Secretary Mosbacher not to adjust the 1990 census figures to compensate for an undercount. Urban areas, such as my hometown of Chicago, will be hardest hit by an undercount primarily of minority populations. The number of persons estimated to have been left out of the census is approximately 5.2 million. This figure represents about 18.1 percent of the black, Hispanic, Asian-Pacific Islanders and American Indian populations. Because of the huge undercount among our minority populations, the Commerce Secretary's position is especially appalling. Once again, we are being told that non-white Americans won't be counted because we don't count. Well, the Commerce can try to deceive the public, but it cannot hide one undeniable fact: that the minority populations in this Nation are growing and

growing rapidly. One day, this Nation will have to come to grips with that reality.

The other aspect of this decision that is appalling is the impact this decision will have on formula-based Federal grants and programs. States and localities will be getting far fewer dollars in Federal assistance than they need—and rightfully deserve—from the Federal Government for many programs that assist our most vulnerable citizens.

The decision by Secretary Mosbacher flies in the face of recommendations from the head of the Census Bureau, the person who is most familiar with the census and its methodology. It will also mean that the law suit filed by the cities of New York, Chicago and others will go forward. While I hope the suit is successful and gets the court to overturn the Secretary's decision, I am very concerned about what such a decision would mean for the redistricting process already well underway. The Commerce Department could have avoided the possibility for this upheaval by agreeing to the adjusted figures.

#### HOME-FRONT TECHNOLOGY

### HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. HUTTO. Mr. Speaker, I include this article in Extension of Remarks:

[Washington Post, July 6, 1991]

HOME-FRONT TECHNOLOGY FURNISHED KEY BOMB FOR PERSIAN GULF WAR—AIR FORCE, COMPANIES COMBINED ON CRASH PROJECT FOR BUNKER-KILLER

(By Gregg Jones)

DALLAS—For days, U.S. warplanes had pounded the Iraqi military bunker complex at Al Taji Air Base north of Baghdad without success. Even huge 2,000-pound bombs designed to slice through six-foot-thick bunker walls could not breach the command lair, encased in concrete and buried 100 feet deep.

On the evening of Feb. 27, four days into the ground offensive against Iraq, a U.S. Air Force F-111F fighter-bomber streaked north across the Saudi desert on a course for Al Taji. A long, cylinder-like device fell from the plane and, guided by a laser, hurtled toward the bunkers.

A small puff of smoke suddenly shot from an entrance to Taji Bunker No. 1. About seven seconds later, a huge explosion ripped through the command post, reducing the bunker to a jumble of broken steel and concrete, according to Air Force officials.

The mission marked the spectacular battlefield debut of the GBU-28, a bunker-killing bomb developed and rushed into combat with unprecedented speed by the Air Force, Texas Instruments Inc. and Lockheed Missiles and Space Co. during the Persian Gulf War.

The story of how the GBU-28 came into being, as pieced together from interviews with Air Force officers and Texas Instruments officials, offers a rare behind-the-scenes look at how home-front technology contributed to a stunningly successful war effort.

The bomb was the product of an extraordinary, seat-of-the-pants arrangement: No contract was signed; no written agreements were exchanged.

The story begins last autumn, only weeks after the Aug. 2 invasion of Kuwait by Iraqi forces, when U.S. intelligence reports first raised concerns that existing bombs might not be able to destroy heavily fortified enemy bunkers. Quietly, the Air Force launched design studies for a bomb that could penetrate the Iraqi underground fortifications.

After the air bombardment of Iraq began Jan. 17, Air Force reconnaissance photographs showed that a number of Iraqi bunker complexes had withstood direct hits by bombs that could destroy typical concrete bunkers. The Iraqi command posts were either too deep or too well protected by reinforced concrete.

Al Weimorts, an engineer at the Air-to-Surface Guided Weapons Systems Program Office at Eglin Air Force Base in Florida, began sketching designs for a longer, heavier bomb. A key element to Weimorts's idea was to use off-the-shelf Air Force materials to construct the bomb to save time. The problem was finding a steel tube long and strong enough for the bomb body.

A retired Army veteran at the Lockheed Missiles and Space Co. plant in Sunnyvale, Calif., recalled that the Army stockpiled old gun barrels. The barrels happened to be made from the same hardened steel needed for the bomb body. The gun barrels were traced to Letterkenney Arsenal in eastern Pennsylvania.

Without waiting for Pentagon approval, the Eglin weapons lab asked the arsenal to ship several eight-inch howitzer barrels to the Watervliet Army Arsenal in upstate New York. On Feb. 1, Army machinists started shaping the first bomb bodies from the gun barrels.

"If we had gone out to have somebody make them for us, it would have taken months," said Maj. Richard Wright, the GBU-28 program manager.

Next, the Air Force needed a guidance system that could deliver the huge, unwieldy bomb to its target with pinpoint accuracy. Texas Instruments Defense Systems and Electronics Group in Dallas already had experience engineering 2,000-pound, laser-guided bombs.

On Feb. 14, the Air Force asked Texas Instruments to develop the sophisticated guidance kit for the new 4,700-pound bomb. War demands necessitated that the TI team condense wind-tunnel and simulation tests—normally an 18-month to two-year process—into barely a week.

On Saturday afternoon, Feb. 16, the wind-tunnel testing began under the scrutiny of five engineers—three from TI and a pair from the Air Force. The process was excruciatingly tedious.

When the tests ended early Monday morning, another set of TI engineers was waiting to plug the figures into a computer simulator. Throughout the week, the team tried one set of numbers after another. Gradually, they pinpointed the correct software parameters needed to guide the bomb.

On Feb. 19, the Air Force asked TI to prepare two bomb guidance units—the critical front and back portions of the bomb—as quickly as possible. TI officials warned the Air Force that the controlling software might need further adjustments.

"We said, 'If you're willing to take the risk, we're willing to send them to you.' They said, 'Send it anyway,'" recalled Bob Peterson, a TI engineering manager.

Two days later, a TI Learjet whizzed down the runway at Love Field in Dallas with two bomb guidance units, bound for Eglin. Short-

ly afterward, the Air Force asked TI to rush two more guidance kits to Nellis Air Force Base in Nevada. The TI team worked through the night of Friday, Feb. 22, checking for software bugs and sent the two kits out on Feb. 23, within hours of the start of the ground war in the Gulf.

The next morning, an F-111 fighter-bomber dropped an inert GBU-28 onto the Tonopah Test Range; the bomb plowed more than 100 feet into the ground, exceeding even the most hopeful expectations of project planners. The Air Force asked TI engineers immediately to prepare four additional bomb guidance kits.

The four kits and bomb tail sections arrived at Eglin on Monday, Feb. 25. The next day, the GBU-28 demonstrated its awesome destructive power in a test at Holloman Air Force Base in New Mexico. There, the bomb—18 feet, nine inches long—sliced through 10 huge slabs of concrete, totaling 22 feet in thickness. The Air Force reported that after passing through the concrete "like butter," the GBU-28 "skipped once on the ground and continued for about another half mile before it hit again."

Two more GBU-28s were still warm to the touch when Eglin personnel autographed the weapons and loaded them aboard a C-141 transport bound for Saudi Arabia. There, the huge bombs were fitted to the undersides of two F-111s. Within five hours, the F-111s where en route to Al Taji Air Base.

#### LET'S PUT CHILDREN BACK ON THE AGENDA

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. ANDERSON. Mr. Speaker, I would like to thank Chairman Hall for yielding me this time. I would also like to commend the Select Committee on Hunger for calling this special order to focus attention on some of the challenges facing America's most important resources: our children.

Mr. Speaker, many Americans regard Los Angeles County as a place where their dreams can come true. For a growing percentage of the residents of LA County, however, the gap between dreams and reality is fast becoming too wide to bridge. For an ever increasing number of Los Angeles area children, the reality of poverty, crime, and abandonment threatens to extinguish all hope. While this issue certainly reaches every corner of our Nation, I would like to point out a few examples of the special problems facing the communities in and around my district.

As the overall national percentage of children under 18 continues to decline, the last decade has seen a 14-percent increase in the same category of children living in Los Angeles County. Children now make up 26 percent of LA County residents, the highest percentage among California's 58 counties. The last 10 years have also seen the percentage of LA County children living in extreme poverty jump by 21 percent, which represents a higher growth rate than either the California or national averages. Increased poverty and other factors detrimental to family unity have contributed to marked increases in violence, juvenile incarceration, teenage pregnancy, drug and al-

col abuse, and high school dropout rates within the LA County area.

These trends, a growing population of children combined with a shrinking capacity to properly educate and support them, illustrate an ominous situation that threatens many other communities throughout the country. Faced with this challenge, it is our responsibility to come up with innovative and effective policies designed to meet the changing needs of today's children.

The recently released final report of the National Commission on Children has accomplished a number of important feats in this regard. First of all, the report has provided an honest and straightforward look into the condition of America's children. While it clearly states that the vast majority of our youth live in stable and healthy family environments, it also frankly points out that a growing number of children are unknowingly eluding the nurturing grasps of overburdened parents, teachers, and social workers. Second, I think this report has gone a long way toward dispelling some commonly accepted economic, political, and racial myths about the condition of American children and families. For example, the report illustrates how children suffering from neglect and the associated educational, emotional, and physical problem cut broadly across ethnic, financial, and regional lines.

Finally, the Commission's report has provided us with a comprehensive set of recommendations for improving the conditions and reversing the trends it has identified. These recommendations focus on increased responsible action by individuals as well as institutions, in both the public and private sectors. While all these contributions represent a significant step towards improving the plight of children in this country, they are only part of the potential impact of this report.

In my view, the most important and profound accomplishment of the Commission's report would be to move child and family issues into the national spotlight. This report, along with the numerous local and regional studies it will no doubt encourage, will hopefully provide the basis for an informed and constructive debate not only within this body, but also in town halls, auditoriums and living rooms all across the country. I believe this nationwide debate to be crucial, because no matter how well-intentioned or well-financed Federal efforts may prove to be, experience has shown that without the expertise and cooperation of local authorities, even the most comprehensive programs usually come up short.

Family values and the stability of the working middle-class have long provided the foundation for America's growth. Today we are witness to a frightening deterioration of the American family, and I would argue a not unrelated decline in the vitality of the middle-class. Although the current political landscape is awash with issues of the national interest, I believe the American people are more concerned with addressing matters that hit not just close to home, but in their homes. It behooves us to remember that today's children will make up tomorrow's work force, tomorrow's voters, and the men and women who will someday occupy the seats in this very Chamber. We have an opportunity to clearly define

our commitment to the American family. Let's put American children and families back on the national agenda.

#### MASS EXPULSIONS OF ARMENIANS FROM AZERBAIJAN

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. HOYER. Mr. Speaker, as I have noted previously in this forum, from September 10 to October 4, Moscow will be host to the third meeting of the Conference on the Human Dimension, a gathering of the Conference on Security and Cooperation in Europe with a particular focus on human rights and humanitarian concerns. Only a few years ago, convening a conference on human rights in Moscow would have been unthinkable, and the fact that all 35 member States of CSCE will participate in Moscow's hosting of such a conference attests to the laudable changes in the Soviet Union in recent years.

Yet there are incidents and trends in the Soviet Union which remain deeply troubling, all the more so because they appear to be sanctioned by the central Soviet authorities. I would like to express particular concern over recent events in the Republic of Azerbaijan. According to Soviet press reports and an independent international delegation of observers, since the end of April 1991, more than 10,000 Armenians living in villages in Azerbaijan have been forcibly and brutally ejected from their homes and involuntarily resettled in Armenia, where tens of thousands of people remain homeless after the devastating earthquake of 1988. In the process, innocent Armenian villagers have been illegally detained, beaten, and tortured, and their villages have been pillaged and then leveled by bulldozers, or else resettled by Azerbaijanis.

Who is carrying out these vicious acts? The Russian press, corroborated by international human rights observers, report that special police forces from Azerbaijan, as well as Soviet Internal Affairs and Army troops, are driving the Armenians out. Soviet troops and Azerbaijani police reportedly provide warning to the Armenians in their villages by dropping leaflets from helicopters and issuing megaphone threats demanding that the Armenians go to Armenia. If they refuse, they are told, they will be declared enemy guerrillas and will be shot. They are given a choice: Expulsion or death. Tanks and personnel carriers then drive the Armenian villagers out, they are loaded onto trucks, buses, and other military equipment and transported—essentially dumped—over the Armenian border.

A team of international observers, which included members from the United States, have confirmed reports of killings, abduction and imprisonment, rapes, destruction of homes, churches, and schools, and theft and vandalism of property—all against the Armenian population of Azerbaijan. These same observers report that while most of the beatings and killings were carried out by the Azerbaijani special police forces, Soviet troops aided in the initial surrounding of the villages and then

stood aside while the police terrorized the villagers. In addition, hundreds of Armenians have been taken hostage by Azerbaijani police forces with the help of the Soviet Army.

The Azerbaijani authorities, backed by the Soviet Interior Ministry in Moscow, deny and whitewash this systematic operation against powerless villagers. They claim that the Soviet troops and special forces are merely enforcing passport controls to identify Armenian guerrillas; they also make the outrageous claim, contrary to all reports from outside witnesses, that the Armenians who are leaving are doing so voluntarily. In fact, reports indicate that many Armenians were coerced by the Azerbaijani police forces to sign statements of voluntary departure, often by torture, beatings, and death threats.

Mr. Speaker, these systematic and premeditated acts violate all manner of fundamental laws laid out in numerous conventions to which the Soviet Union has long professed adherence, including the U.N. Charter, the U.N. Universal Declaration on Human Rights, as well as the Helsinki accords. The involvement of Soviet troops on one side in what has until now essentially been a local ethnic conflict suggests that the Armenians are being punished by Moscow for refusing to sign the Union Treaty. Concomitantly, many commentators have theorized that Gorbachev is helping Azerbaijan to deport the Armenians in that Republic in reward for Azerbaijan's support of the treaty. Yet Armenia is acting lawfully in that its plans to leave the Soviet Union are in accordance with the Soviet Constitution and Soviet law, as approved by Gorbachev himself in the proposed treaty. Will the new Union Treaty in the end resemble previous Soviet Constitutions, which granted Republics rights on paper only?

We call on President Gorbachev to address this intolerable situation, to condemn the use of military force and torture against civilians, and to allow Western journalists access to the region. We call on him also to acknowledge the obvious involvement of regular Soviet Army troops in the mass expulsions and that he move to stop it. We must insist that the Soviet and Azerbaijani forces halt immediately these brutal and flagrantly unlawful violations of the rights of the Armenian residents in Azerbaijan.

#### NATIONAL MOTHERS OF TWINS ASSOCIATIONS NATIONAL CONVENTION

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mrs. KENNELLY. Mr. Speaker, The National Mothers of Twins Association is holding its national convention this week in Colorado Springs. I would like to take this opportunity to acknowledge their activities and special contributions to child rearing.

For 30 years, the National Mothers of Twins Association has helped educate parents, researchers, and the general public on the unique aspects of child development presented by multiple births. Through workshops,

forums, and social activities, they help thousands of families and advance scientific knowledge in fields from genetics to psychology.

Having twin siblings myself, I can tell you that multiple births, though joyful, present great financial and emotional challenges for parents. Their efforts to provide happy and secure environments for their children are instructive to all parents. And this is so important as we begin to make children a higher national priority.

Mr. Speaker, today I would like to thank the Mothers of Twins Association for their fine work over the years and wish them well in the years ahead.

THE ACHIEVEMENTS OF CAPT.  
MONT SMITH

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. YOUNG of Alaska. Mr. Speaker, I rise today to recognize the achievements of Capt. Mont Smith, the commanding officer of the U.S. Coast Guard Air Station Kodiak, who is soon leaving Alaska.

People who know him professionally and personally have always recognized his excellent service to the Coast Guard and Alaska. A common theme underlying these comments is his dedication and professionalism as a Coast Guard officer and his commitment to participating in the community. These attributes have strengthened the bond between the Coast Guard and the local people, which I think should be more common in the way our Federal agencies operate.

The fleet of aircraft he commands is the most visible aspect of his job. His pilots' have an outstanding record of 24 hour readiness for emergencies and meeting the enormous responsibility to protect Alaska's vital fisheries interests. The vast size and diverse climate of our State pose hazardous challenges he has met time and again.

Further, Mont's untiring dedication to such community and charitable events as annual fundraising telethons, litterthons, and shooting competitions are most memorable for Kodiak residents. There are few traits that mark an Alaskan more than looking out for one's neighbor and helping our younger generation.

Mr. Speaker, in closing let me say that Alaskans will miss such a fine person, and we wish him well.

H.R. 2928

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. DERRICK. Mr. Speaker, last week my colleagues and I on the House Select Committee on Aging's Task Force on the Rural Elderly introduced H.R. 2928 designed to improve the lives of the rural elderly. It directs the Secretary of Transportation to conduct a study of

the transportation needs of the Nation's rural elderly.

According to the National Council on Aging, transportation is the major impediment to delivery of services to the rural elderly. Research on the transportation needs of the rural elderly is necessary because the fastest growth in the U.S. population over the next two decades will be among the frail elderly, a population group with the greatest need for transportation services. Additionally, 1990 estimates by the Transportation Research Board reveal that nearly half or 46 percent of those in their seventies, and roughly three-fourths, or 74 percent of those over age 80 are nondrivers. An increase in the number of nondrivers will result in a greater demand for alternative forms of transit.

It is difficult to generalize about the transportation needs of the rural elderly because so much diversity exists within the older rural population and the geographic regions of rural America. Rural Alaska is very different from rural Missouri, which is very different from rural Maine, which is very different from rural South Carolina. Despite the regional differences that exist, most rural residents share a similar problem: They face severe difficulty in obtaining health care.

One of the major recommendations contained in the Office of Technology Assessment's [OTA] recently released report entitled "Health Care in Rural America," is to expand basic research on access to health care in rural areas. The OTA report addressed one of the harshest realities in rural America. Without adequate transportation, the rural elderly cannot get to senior centers and people in need of health services are unable to get to clinics and hospitals. In an emergency, this lack of access to health care can be life threatening.

Certainly, the transportation needs of rural residents are just as critical as the transportation needs of their counterparts in urban areas. The purpose of H.R. 2928 is to identify some of the most serious problems confronting the elderly when they attempt to access health care facilities. Identifying those problems will enable us to devise some practical solutions to one of the most serious problems facing rural elderly. I urge my colleagues to support this important legislation.

OBSERVING CAPTIVE NATIONS  
WEEK

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mrs. BENTLEY. Mr. Speaker, fellow colleagues, I would like to take this time to observe President Bush's proclamation of the week of July 14 as Captive Nations Week. Since 1959, we have taken this third week in July to remember those nations which have fallen victim to aggression.

As a country built upon the value of equality, the United States has become the world's melting pot. People of all races and religions have come to the United States after facing persecution in their own countries. They seek a place to live where they are not fearful of

speaking for what they believe or fearful of praying to their god.

I am proud to say that we in the United States are able to live this lifestyle while it remains only a dream in the captive nations. President Dwight D. Eisenhower created the Public Law 86-90 to ensure that these nations are remembered. Since this time, the world increasingly has become smaller. Modern technology has enabled us to visit countries thousands of miles away within a few short hours.

The advancement of technology has made us neighbors to many nations previously out of our reach. The closer the world has become, the more we can attest to the injustices and violations of intrinsic human rights as nations lose their independence to aggressors.

As we have turned on the evening news at night, we have witnessed the horror that aggression has manifested, forcing the United States to become these captive nations' vehicle for democratic ideals and beliefs.

Today, strides are being made to democratize these captive nations, primarily the Soviet Union. Each individual state has made miraculous progress in its struggle to achieve autonomy in the last few years in the U.S.S.R. As communism has proven to be an ineffective form of government, the Soviet states' initiative to break free has become increasingly evident. The city of Leningrad already has readopted its original name of St. Petersburg, a rebuttal to the communism Vladimir Lenin espoused.

As a country committed to freedom and democracy, the United States must take this week dedicated to the captive nations of the world and help the world employ our blueprint for a free democratic government.

President Eisenhower's proclamation was to be ordered each year until there no longer were captive nations to be remembered. Today in 1991, President Bush again has had to initiate the proclamation recognizing the many countries of the world still held captive. Let us now remember these countries and pray for the day when they too will know the freedoms we enjoy in the United States.

TRIBUTE TO THE CHARLES  
SCHOOR, VETERANS OF FOREIGN  
WARS POST 796

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to the Charles Schoor Veterans of Foreign Wars Post 796 in Port Huron, MI. The post will be celebrating its 70th anniversary on August 10, although the actual charter date is August 12.

The Charles Schoor Veterans of Foreign Wars Post 796 was chartered on August 12, 1921. There were 64 names on the original charter. An auxiliary to the post was formed and chartered on January 22, 1932 with 23 members.

The post was named in honor of Cpl. Charles Schoor who was a hero of World War I and was killed in action in France in 1918 on hill 212.

In 1938, the post bought two houses for the sum of \$2,800.00. They were moved to the location of 320 Erie Street and fused together to form the first post home. The new post home was largely constructed with the support of its members. In fact, each shingle was financed entirely by members' donations.

During World War II, the post saw its membership grow to a total of 1,372. After the war, on March 13, 1949, a bronze memorial plaque was jointly dedicated and hung on the wall of the meeting room in honor of deceased post and auxiliary members.

The post has always remained active in fostering community interest in the great country its members served. The post assisted the St. Clair County Allied Veterans Council and radio station WTTT in helping to construct the first Vietnam War Memorial of its kind. The monument was constructed with an everlasting flame, which was lit during the dedication ceremonies held on November 11, 1969. The monument stands on the bank of the St. Clair River, east of the City-County Building in Port Huron, MI.

On February 12, 1969, the building and property on 320 Erie Street were sold to the city of Port Huron for an urban renewal development project. On the same day a contract was signed to purchase the building and properties on 1711 Pine Grove Avenue as the new post home. The new post was officially opened on May 27, 1970.

I commend the Charles Schoor Veterans of Foreign Wars Post 796 on their 70 successful years of existence. I am confident the next 70 years will be even better.

Above all Mr. Speaker, I pay tribute to the brave men and women who have given their lives to keep this great sovereign nation free.

REGARDING LEGISLATION TO  
AMEND THE PUBLIC UTILITIES  
HOLDING ACT

**HON. JOSEPH P. KENNEDY II**

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. KENNEDY. Mr. Speaker, today I am introducing legislation to stimulate energy conservation in America. The bill would amend the Public Utility Holding Company Act of 1935 to allow a public utility holding company, or one of its subsidiaries, to acquire or retain, in any geographic area, an interest in a company that provides energy conservation and load management services or equipment or both to utilities and their customers. Such a conservation and load management company would be permitted to provide these services without regard to geographic limitation.

As you know, the potential benefits of energy conservation to our country are great. If our country undertook a vigorous commitment to conservation and load management programs, we would reduce our dependence on unreliable overseas sources of foreign oil, improve our trade balance, and decrease air and water pollution. Moreover, we would stimulate the production of American technologies and American jobs that would be required to implement these programs. In addition, American

businesses would stand to save a great deal of money in reduced energy costs.

Unfortunately, many parts of the country are underserved by companies that can help make these benefits a reality. The legislation I introduce today would help to alter that condition by removing statutory barriers to energy conservation activities. It will not, in my view, do anything to undermine the integrity of the Public Utility Holding Company Act. It will, however, unleash the full potential of energy conservation, and make our country more independent and prosperous. I hope it will be looked upon favorably by my colleagues.

INTRODUCTION OF THE SELF-RELIANCE SCHOLARSHIP PROGRAM

**HON. GEORGE MILLER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. MILLER of California. Mr. Speaker, for millions of young people, going to college has become the impossible dream. Rising costs for tuitions, fears of mounting personal debt, and insufficient education grants has created a barrier to higher education that threatens this country's intellectual and economic future.

And it does not just affect the poorest families in our country. An increasing number of middle-class families, for the first time since World War II, are finding higher education unaffordable.

During the 1980's, national tuition costs increased eight times as much as the median family income, and the net price of attending college, including room and board increased by 104 percent.

As a result, attending college has assumed the peculiar distinction of being a luxury despite its necessity.

In recent years, federal grants have targeted the poorest student, but little has been done to assist middle-class families obtain the financial means to send their children to college. Unfortunately, the proposals of the Bush administration would further restrict middle-class students' access to college by cutting off Federal loans to families earning more than \$10,000.

Today, I am proud and excited to join my colleagues in introducing legislation that responds to the events of the past decade and offers students access to loans for college without jeopardizing the student's or the federal government's financial position.

The Self-Reliance Scholarship Program, through the creation of the Education Trust Fund, permits students, regardless of their income, to borrow between \$500 and \$33,000 to finance their undergraduate and graduate school costs. Unlike current student loan programs in which students repay a fixed amount regardless of their income, students will pay back what they borrow based on a fixed percentage of what they earn, depending upon the payment plan they select.

This new program is supplemental to existing student loan programs, such as Stafford loans and Parent Loans for Undergraduate Studies [PLUS].

To remain competitive with other nations, the United States needs to ensure that stu-

dents have access to quality education. It is clear that access to higher education is directly related to one's ability to pay for it.

This legislation provides students with access to the education of their choice and recognizes the changing profile of today's students. Because of the extraordinarily high college costs, students no longer fit the traditional model—completing a college education in four years after graduating from high school.

Our community colleges and 4-year colleges and universities are attended by part time students, many of whom take 5 or 6 years to complete their degrees. There are workers in need of retraining, married students, displaced homemakers, and other nontraditional students. Yet many of these students are prohibited from participating in federal financial aid programs.

The Self Reliance Scholarship Program would create a direct student loan program, administered directly by the Federal Government, with repayments collected through the Internal Revenue Service. The program will save taxpayers money by reducing administrative costs relative to other loan programs and curtailing the default rate. After initial start-up costs, this program will become self-sustaining.

The reauthorization of the Higher Education Act of 1965 provides us with the opportunity to correct the imbalance in our current higher education financing programs. The Self-Reliance Scholarship Program helps all Americans to achieve a postsecondary education.

INDIVIDUALS WITH DISABILITIES  
EDUCATION ACT AMENDMENTS

**HON. PAT WILLIAMS**

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. WILLIAMS. Mr. Speaker, I rise today in support of the Individuals With Disabilities Education Act Amendments of 1991. I am pleased to be an original cosponsor to this important legislation which focuses on continuing and improving the vital programs which serve our Nation's disabled children.

In 1986, Congress passed historic legislation which I authored to assist States in developing and implementing a statewide, comprehensive, coordinated system to provide early intervention services for infants and toddlers with disabilities and their families. This bill reauthorizes part H for 3 years and further amends the program and other relevant sections of the act to improve the operation of the programs and services established.

Section 4 of the bill is especially important to Montana. This amendment raises the amount of part B funds that smaller population States may spend from each year's grant for administering the part B program from \$350,000 to \$450,000. The cost of administering the part B program is increasing in all States. However, because of the cap on administrative costs, the dollars available for administration in 11 States and the District of Columbia have remained constant despite increases in a State's child count or part B appropriation. Due to the effects of inflation, the

real purchasing power of these dollars has decreased since 1986. This increase in the administrative cap will go a long way to help States with the growing costs involved in providing services to our local disabled communities.

Another concern in my State is that traditionally underserved groups such as minorities, low-income and rural populations are not likely to fully participate in the part H program because of financial difficulties, unless special efforts are made to include them. To address this concern, section 8 amends the Early Education Discretionary Program; to establish competitive State planning grants for the purpose of establishing a statewide coordinated system to identify, track, and refer all categories of children who are at risk of having developmental delays, including those who are geographically isolated. This section also authorizes the use of these funds to facilitate and improve outreach to low-income, minority, rural, and other underserved populations.

We have heard many voices of support for these programs during the reauthorization. Public Law 99-457 has been called the most important children's disability legislation of the decade, and I am pleased that my colleagues have made a commitment to continue and improve programs for all children with disabilities.

INTRODUCTION OF A BILL TO  
AMEND THE LAW GOVERNING  
PAYMENT IN LIEU OF TAXES

**HON. WAYNE OWENS**

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. OWENS of Utah. Mr. Speaker, rural America is increasingly under siege, especially in the Western public lands States. The four traditional pillars of the western economy—mining, grazing, logging, and irrigation—are facing serious challenges. Many of these concerns are legitimate, and some are not, but the trend away from the traditional commodity economies of the West is obvious and probably irreversible. Given these conditions, the Federal Government's responsibility to treat the public lands States with fairness becomes even more critical.

I am proud to be an original cosponsor of Congressman PAT WILLIAMS' bill in the House of Representatives which will index Federal PILT payments with inflation. States which are primarily owned by the Federal Government—like Utah, with 67 percent—rely on the Federal Government's payments in lieu of taxes.

But there is still a problem with PILT which requires further attention. The bill that I am introducing today on behalf of the Utah House delegation will ensure that the Federal Government continues paying PILT on lands it acquires through land exchange. Under current law, the Federal Government is not required to make PILT payments on newly-acquired lands. The end result is that even though the Federal Government owns the same amount of land after the exchange, the receipts to the local communities are diminished. This situation does not encourage local communities to

trade with the Federal Governments and creates a disincentive for the sound public policy of land exchange.

These are difficult times for rural America. The economic transition taking place will not be easy or painless. The Federal Government must be certain that an equitable amount is returned to local treasuries as compensation for a public non-taxable land base. I hope Congressman WILLIAMS' bill, along with the one I am proposing today, will be acted on quickly by the House.

TRIBUTE TO MARJORIE PAGE

**HON. JOEL HEFLEY**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. HEFLEY. Mr. Speaker, I rise this morning to pay tribute to one of Colorado's finest citizens, Marjorie Page. Celebrating 50 years of eminent service to Colorado's Arapahoe County, Marjorie has served in the office of the county clerk with pride, with distinction, and with the utmost concern for her fellow community members.

A resident of Arapahoe County since 1922, Marjorie has devoted countless hours to the betterment of many civic and social organizations, including the Englewood Business & Professional Women's Club, the Immanuel Lutheran Church, and the South Metro Chamber of Commerce. She has also been active in fundraising on behalf of such worthy organizations as the Kidney Foundation, Cancer Society, Multiple Sclerosis, United Way, and the Heart Fund.

For the personal concern she has shown for all who have had the pleasure to be in her company and for her consistent hard work and loyalty, Marjorie has been deserving of the many awards she has been honored with. She was named Woman of the Year in 1962, presented with the Clerk of the Year Award in 1982 by the National Association of County Recorders and Clerks, received the Distinguished Service Award in 1982 from the National Association of Counties, and named to the 1987-88 edition of "Who's Who of American Women."

Colorado can certainly be proud of Marjorie and her many achievements. Please join me in wishing her many more years of happiness and success in the great State of Colorado.

DADE COUNTY SCHOOLS EXPANDS  
OUTREACH WITH NEW BUILDING

**HON. ILEANA ROS-LEHTINEN**

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Dade County Public Schools have long been committed to improving the quality of life in South Florida. The Dade County Schools are now planning to break ground on a new construction project to expand the Continuing Opportunities for a Purposeful Education [COPE] program. COPE is an educational outreach pro-

gram to meet the special needs of young pregnant women and unwed mothers. The new building will offer a much needed expansion of this very effective program. The construction, which is scheduled to begin on July 30, is part of the public school systems "Building for the 21st Century" program.

The new building, named COPE Center South, will be used primarily as an educational facility, and is a complement to the COPE Center North of North Dade. Part of the building will also be utilized as a communications and public relations platform. This new educational facility has a much greater capacity than the old facility, which was housed in a rented church. The students will be able to learn in a normal classroom environment, while their children are taken care of in a nursery. There are also special pregnancy and social services classes available as well as beginning Head Start classes for infants and toddlers. COPE also acts as an employment office by offering many job opportunities to the young mother.

This dream of offering high school education to a greater number of pregnant teens and young mothers has been made possible with the efforts of a great number of people. Without the sacrifice of dedicated citizens and the leadership of the Dade County School Board, COPE Center South would not be constructed. In Particular, Mr. Tony Caballero should be commended for his leadership in directing the construction of this project. The members of the Blue Ribbon Committee should be noted for the guidance they have provided to the COPE Center South project. These include: Manolo Reyes; Robin Reiter-Faragalli of Corporate Community Involvement; Rev. John A. Ferguson of Second Baptist Church; Otis Pitts from Tacolcy Economic Development; Henrietta Waters; Elayne Weisburd; David Samson; Jose Collado; T. Willard Fair of the Urban League of Greater Miami; Byron Sparber of Squire, Sanders, and Dempsey; Alina Becker of the Cuban American National Council; Reverend Kenneth Major; Dr. Robert Hosmon of Miami Dade Community College; Russell Wheatley, the assistant superintendent of Dade County Schools; Octavio Visiedo, the superintendent of Dade County Schools; and George Knox.

RESTORING NATURALIZATION  
AUTHORITY TO THE COURTS

**HON. ROMANO L. MAZZOLI**

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. MAZZOLI. Mr. Speaker, today I am introducing a bill to ensure that Federal as well as State courts can continue their traditional roles in naturalizing new American citizens.

My legislation reinstates the longstanding procedure under which immigrants, eligible for naturalization as citizens of the United States, participate in formal naturalization ceremonies held in courtrooms and presided over by Federal or State judges. At the same time, my bill will ensure that naturalization is accomplished in a timely and expeditious manner.

Effective October 1, 1991, the 1990 Immigration Act confers exclusive naturalization au-

thority on the Immigration and Naturalization Service [INS] even though it allows an applicant to take the oath of allegiance from a judge.

Under my proposal, the authority to naturalize and administer oaths would be held by the courts for a 45-day period beginning when the INS has completed and approved an applicant's paperwork. A court wishing to continue its role in the naturalization process would be required to provide to the applicant and to the INS a schedule of dates—within that 45-day period—on which the court will conduct naturalizations. Failure to submit or comply with such a timetable will result in the automatic waiver of the court's jurisdiction. This allows the prospective citizen to participate in an administrative naturalization ceremony conducted by and before an INS officer.

My proposal continues the courts' traditional and historical role in naturalizations, while allowing courts the flexibility to decline jurisdiction temporarily when their dockets cannot accommodate the timely scheduling of naturalizations.

The Federal courts strongly support the enactment of this legislation to restore their role in the naturalization process.

On May 15 Federal district judges Robert Manley Parker, chief judge of the U.S. District Court for the Eastern District of Texas and Ronald S.W. Lew, U.S. District Court for the Central District of California, testified before the Subcommittee on International Law, Immigration, and Refugees, which I have the honor to chair. Speaking on behalf of the Judicial Conference of the United States, Judge Parker said,

The 1990 legislation was enacted to streamline the naturalization process by reducing duplicative paperwork and overlapping administrative responsibilities borne both by the federal courts and the Immigration and Naturalization Service. The judiciary does not oppose these efforts, but rather, applauds the accomplishments of the legislature in streamlining the procedure for naturalization. The judiciary, however, has serious concerns with that portion of the Act which potentially would remove the courts from the administration of the oath-taking ceremony. The Act provides that applicants for naturalization can choose to have any United States district court, the Attorney General, or any state court meeting certain requirements administer the oath of allegiance.

The oath-taking ceremony traditionally has been imbued with a special significance directly attributable to the participation of a judicial officer. Our judges are proud of the special role they play in administering the oath of allegiance to new citizens, and as a body, we do oppose that aspect of the new law which would largely remove the courts from the oath-taking ceremonies. Judge Lew and I are here today to discuss with you the importance of the court's role in administering the oath of allegiance and to advocate preserving the role of the judiciary in the oath-taking ceremony to the fullest extent practicable, while achieving the goal of the new law of conducting the ceremony in a timely fashion.

Under my bill no delay will occur between the oath-taking ceremony and the award to the newly sworn citizen of the certificate of naturalization. Such delays are possible under the 1990 act which authorizes the Immigration

Service alone to issue the actual certificate of naturalization to the new citizen even though the courts conduct the naturalization ceremonies.

Moreover, my bill will eliminate unnecessary and confusing paperwork and will streamline procedures for completing the act of naturalization. This bill therefore addresses the intent of the 1990 legislation, which was to streamline the naturalization process by reducing paperwork and overlapping administrative responsibilities of the Federal courts and the Immigration and Naturalization Service.

Mr. Speaker, I believe that passage of this bill will preserve the right of each new citizen to a ceremony imbued with the dignity and solemnity befitting the occasion.

#### NO NEW RTC FUNDS UNTIL AUDIT IS COMPLETED

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. PANETTA. Mr. Speaker, Mr. ECKART and I are introducing legislation today, the Resolution Trust Corporation Public Audit Act, which will require the General Accounting Office [GAO] to complete an audit of the Resolution Trust Corporation [RTC] before any additional funding to cover net losses from the thrift crisis can be used by the RTC. This limitation would not affect funds already approved by Congress, only new financing. Specifically, our bill would prevent the obligation of any new funds by the RTC until the GAO has completed its 1990 audit of the RTC and the RTC oversight board has transmitted the results to Congress. This audit was required by the Resolution Trust Corporation Funding Act of 1991, which was enacted earlier this year, but it has not been completed.

Like many members, I was very disturbed by the GAO testimony last month that the RTC did not have accounting systems and financial data that were adequate enough for the GAO to complete the statutory audit of RTC's 1990 operations and financial condition. In just 2 years, RTC has become the largest financial institution in the United States. It has acquired assets with an original book value of over \$320 billion from insolvent thrift institutions, and the thrift cleanup is not quite halfway complete under administration estimates. The RTC now has over 6,000 employees, and it continues to grow as more insolvent thrifts come under its control. Any agency that has grown so large, so quickly, must be held to the highest standards of management and financial accountability.

Further, how well the RTC manages and disposes of the assets it has acquired could easily increase or decrease the final cost of the thrift cleanup by billions of dollars. I fully realize that much of the net loss from the thrift crisis occurred when insured institutions became insolvent and that loss cannot be recovered. Nevertheless, the value of assets acquired from insolvent thrifts can be further dissipated if the RTC fails to protect those assets, or moves too slowly to sell them, or sells assets in a way that discourages potential

buyers. In short, the ultimate cost of protecting insured deposits in thrifts will depend, in part, on the RTC's performance and efficiency.

Congress has a responsibility to oversee the performance of the RTC, and independent audits may be the most important tool we have in fulfilling that responsibility. More importantly, taxpayers have the right to know that the cost of the thrift crisis cleanup has been minimized wherever possible. Again, independent audits are a fundamental source of information for taxpayers about the cost and current status of the thrift cleanup.

RTC Chairman William Seidman testified before the House Budget Committee on June 27 that he expects the RTC to have used all but \$5 billion of the \$80 billion previously approved by Congress to cover net losses from the thrift crisis. If that estimate is correct, the RTC will exhaust its existing net loss funds sometime in October. The administration has requested an additional \$80 billion for net losses, bringing the total to \$160 billion. The administration hopes that this will allow completion of the cleanup.

I believe it is inappropriate to approve additional financing before we understand how previous net loss funds have been used by the RTC. We owe it to the taxpayers and to ourselves to ensure that the GAO's 1990 audit of the RTC is completed. Our bill simply blocks the use of any new funds until the GAO has completed the audit required by law. If it is completed before we are asked to vote on additional funds for the RTC—and I certainly hope it will be—then the limitation in our bill would not go into effect. However, if the administration's request for additional net loss funds begins to move through the legislative process before the audit is complete, our bill will provide a safeguard in case the GAO audit uncovers something that should be corrected through legislation before any additional funds are used by the RTC. At a minimum, our bill indicates to the administration, to the RTC, and to the GAO the importance the Congress attaches to the RTC's financial accountability and performance.

I hope you will join Congressman ECKART and myself in ensuring that the GAO audit of the RTC is completed and in providing a basic safeguard for the taxpayers.

#### INTRODUCTION OF COLLEGIATE ATHLETIC REFORM ACT

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. McMILLEN of Maryland. Mr. Speaker, during the last 100 years, the U.S. Government has intervened in intercollegiate sports at those times when the athletic leaders either cannot, or will not, reform the system. In 1905, the use of the flying wedge in college football caused 18 deaths, prompting President Theodore Roosevelt to demand a cleanup of the sport which resulted in significant rule changes that reshaped college athletics. In 1972, Congress passed title IX, which required colleges to spend an equal amount of money on women athletics as they spend on men's ath-

letics. In 1978, a House subcommittee spent 9 months investigating the NCAA's enforcement division after stories of abuses arose. And in 1990, the Congress passed the Student Right to Know and Campus Crime Act, which required the reporting of graduation rates.

The main thrust of reform to college athletics has often come from outside the traditional athletic system. Today's numerous scandals, arbitrary penalties, and the NCAA's hodgepodge rules raises the question whether college athletics can heal itself or whether it needs outside surgery.

Intercollegiate athletics is facing a myriad of problems. The American public has lost confidence in its fairness; student-athletes in big-money sports spend more time with play books than with text books; and the money flooding the system is perverting the delicate balance between academics and athletics.

The NCAA's response to the crisis has been inadequate: Its members have promulgated an ironic system of rules that severely penalize the most minor infraction while ignoring the larger, corrupt practices which are evident in the system. While students are prohibited from receiving a small stipend to cover normal living expenses, NCAA staff fly in a private jet around the Nation setting up billion-dollar television contracts.

I am a product of the intercollegiate athletic system and I genuinely believe it still offers a host of benefits for those student-athletes who participate. Yet, the problems, as I see it, is that the NCAA has been tinkering around the edges with small rule changes instead of leading the call for reform. In 1987, when Congressman ED TOWNS, Senator BILL BRADLEY and myself introduced the Student-Athlete Right to Know Act, which became law in November, NCAA representatives objected to the simple graduation rate reporting requirements as intrusive and cumbersome.

To be fair, NCAA executive director, Dick Schultz, should be commended for developing an initial agenda for addressing the matter. There is no question that he has a difficult task ahead of him and that he is working very hard to achieve reform. However, the NCAA, in general, has been too resistant in adopting a new model for college sports.

That is why, today, I am introducing legislation which would impose comprehensive reform on intercollegiate athletics. It gives more power to college presidents and provides them with the mandate necessary to reform the system. In addition, it requires a system of revenue distribution that does not reward those schools who happen to win basketball and football games, but rather, rewards those schools who concentrate on the academic performance of their student athletes, and who develop balanced athletic programs for their men and women students. The key to reforming intercollegiate athletics, I believe, is getting a handle on the money. Unless we control this pervasive influence in college athletics, the incentive to cheat will always be present.

I won't go into every detail of the bill at this time, however, I will state my overall goal. The legislation seeks to restore education as the primary goal of our institutions of high learning. If these institutions continue to act as businesses, only concerned with increasing ticket sales and maximizing profits, then I be-

lieve they should be taxed as such. The bill establishes general guidelines for a new revenue distribution formula, but gives the college and university presidents the power to establish the formula in a way that takes into consideration the diverse nature of athletic programs.

Most of the proposals in this bill are not new. They have been part of the reform debate for most of this century. Some were proposed by the Knight Commission in 1990, only to be criticized by NCAA officials. Some were proposed by college presidents in 1983, only to be defeated by the NCAA convention. And, the general incentive for the bill can even be found in the 1929 report from the Carnegie Fund for the Advancement of Teaching when it said that recruiting had become corrupt, education was being neglected, and commercialism reigned king; 62 years later, these problems are still with us.

There are those who believe that Congress has no place for tinkering with the system of intercollegiate athletics. Yet, let's not forget that the NCAA is often in the halls on Capitol Hill, seeking legislative help on a variety of issues. For example, legislation was introduced earlier this year which would clarify colleges' tax status with regard to bowl games. One doesn't hear the NCAA complaining about this beneficial Federal intervention.

I would argue that stakes are too high to sit by while the system continues to erode. The taxpayers have invested too much in higher education to see their investment diminished by scandal after scandal in intercollegiate athletics. The time to act is now.

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SCIENTIST AND HUMANITARIAN:  
DR. ROGER REVELLE

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HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. LOWERY of California. Mr. Chairman, I ask that you and my colleagues join me today in honoring one of, if not the greatest scientist that San Diego has ever known, the greatest oceanographer the world has ever known: Dr. Roger Revelle. Not only a dedicated, proficient scientist, Dr. Revelle was a caring humanitarian, continually searching for ways to use his knowledge and experience to help others. Dr. Revelle died at age 82 on July 15, 1991, in San Diego of complications related to a cardiac arrest.

Dr. Revelle's list of incredible accomplishments and service to society starts as early as 1936, when he received his Ph.D. in oceanography. Along with contributing immensely to the fields of marine sciences, ocean exploration, population dynamics, and international scientific cooperation, Dr. Revelle would go on to establish the concepts of global warming and plate tectonics.

Dr. Revelle was the primary impetus in founding the University of California, San Diego campus and served as director of the University's Scripps Institution of Oceanography from 1951 to 1964. Teaching at UCSD right up until the time of his death, Dr. Revelle served the university, the students, science,

and humanity as a whole without considering the idea of retirement.

Dr. Revelle served in the Navy during World War II as officer in charge of the oceanographic section of the Bureau of Ships. During his tenure as director of Scripps Institution of Oceanography, Dr. Revelle and his colleagues developed a theory that molten rock was moving under a thin crust on the bottom of the ocean. This formed the foundation for theories of plate tectonics.

Dr. Revelle has been known as the "grand-daddy" of the theory of global warming. After studying micro-organisms in the sea, he and another Scripps researcher warned of the perils of the increasing levels of carbon dioxide in the atmosphere.

In 1961, Dr. Revelle made a dramatic career switch that would have impressed even Benjamin Franklin. Pursuing new opportunities to serve society, Dr. Revelle became the science advisor to the Secretary of the Interior. President John F. Kennedy appointed him head of a panel charged with studying the problems of land and water development in the Indus River Basin of west Pakistan. In this capacity, Dr. Revelle helped develop plans to increase agricultural productivity in a low technology region of the world.

Continuing his studies of land, water, and energy resources and population growth, Dr. Revelle founded and headed the Harvard Center for Population Studies, in 1964. He was always the innovator, always the initiator. Supplementing his raw scientific capacity and his humanitarian tendencies, Dr. Revelle had an extraordinary knack for envisioning and coordinating new projects.

Between 1975 and 1978, Dr. Revelle made the transition back to UCSD and oceanography. Through the years, while receiving scores of awards and special commission positions, he maintained the air of a humble statesman of science. For example, after President Bush awarded him the National Medal of Science, he proclaimed, "I was never very well-educated." If he was not well-educated, he certainly made up for it, putting all his faculties to invaluable use.

Mr. Speaker, we have lost a modern hero, an American who studied the world and who changed it. His contributions to our planet are immeasurable, his legacy profound.

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A TRIBUTE TO MR. ANDREW  
McNULTY

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HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Andrew McNulty of Burke, VA for rising to the rank of Eagle Scout. He recently fulfilled all the requirements for the Eagle Scout and will be recognized for his efforts at a ceremony in August 1991.

The rank of Eagle Scout is achieved by very few Boy Scouts. It is the result of many hours of hard work and dedication. It specifically requires that each Scout plan and perform a public service project of his own choice.

For his Eagle Scout project Andrew McNulty organized a blood drive to support our troops

in Operation Desert Storm. Andrew McNulty's blood drive was a great success. He collected 38 units of blood out of a targeted 40 units, for a 95 percent success rate.

It is with great pleasure that I commend Andrew McNulty for this outstanding achievement. I extend my warmest wishes to Andrew for equal success in all of his future endeavors.

TRIBUTE TO MIKE MASARU  
MASAOKA

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. MAVROULES. Mr. Speaker, I rise today, like my colleagues, to honor the life and achievements of a great American Mike Masaru Masaoka. Mr. Masaoka gave tirelessly to the fight for civil rights for fellow Japanese-Americans that were forced into internment camps during World War II.

Unwavering dedication to his country as a member of the 442d Regimental Combat Team while other Japanese-Americans struggled in the camps, locked up, is testimony to his faith in America. The 442d became the Army's most decorated unit, with Mr. Masaoka receiving the Bronze Star, the Legion of Merit, and the Italian Cross for Military Valor.

Mr. Masaoka worked hard in persuading Congress to pass the Evacuation Claims Act of 1948, which was an attempt to pay back losses suffered by the internees. In 1950, he again fought for the cause of the Japanese-American by lobbying for the repeal of the Japanese Exclusion Act of 1924 which prevented Japanese immigrants from owning land and gaining United States citizenship.

The work of Mr. Masaoka has become a reality. The injustices suffered by the internees have begun to be righted. Never again must a group of American citizens be subjected to this kind of treatment. Through the efforts of Mr. Masaoka, we as a nation have recognized our mistakes and have finally sought to provide retribution for the mistreatment directed toward an entire ethnic group purely for political reasons.

INCOME DISPARITY: THE WIDENING GAP AND WHAT DO WE DO ABOUT IT?

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. SABO. Mr. Speaker, today I have introduced the Income Disparities Act of 1991 to address a serious problem in our society. In the last two decades we have experienced a dramatic shift in the distribution of incomes in this country. The 1991 Green Book put out by the House Ways and Means Committee graphically illustrates these changes. In 1977, the combined after-tax income of the bottom 40 percent of all Americans was more than double the total after-tax income of the richest

1 percent. In 1988, by contrast, the after-tax income of the richest 1 percent was equal to the combined after-tax income of the bottom 40 percent. This is a very serious problem for our society and it needs to be addressed.

My legislation deals with one aspect of the problem, excessive executive salaries. In 1960, it took the salaries of 41 factory workers to equal the salary of the average CEO. In 1988, according to Business Week, it took the combined salaries of 85 workers. This dramatic disparity in salaries has helped restore income inequality to its highest level since World War II, reversing several decades of progress. And this is occurring at the same time our economy no longer supports lower-paid urban wage-earners, forcing many to turn to the Government for critical support.

The maldistribution of incomes is not a new problem in the annals of history. Four hundred years before the time of Christ, Plato suggested that no one in a community should earn more than five times the pay of the ordinary worker. In the 1980's—2400 years later—management guru Peter Drucker suggested that CEO's should not earn more than 20 times as much as the company's lowest paid employee. Although there is no magic number for this relationship, there should be some balance between the pay of top executives and their employees.

The bill I am introducing would disallow business tax deductions for executive salaries in excess of 25 times the salary of the lowest-paid employee in the same organization. This proposal does not deal with nonsalary compensation such as royalty payments. Clearly, if an individual invents or develops something new, his rewards cannot be measured in relationship to that of other workers. However, it is difficult to believe one individual can be worth so much that he or she warrants a salary of 50 to 100 times other workers in the same business.

If employers want to compensate their high-level executives extravagantly, the taxpayer should not have to subsidize those levels of pay through business tax deductions. I have proposed 25 times because that is approximately the relationship of the President's salary to the minimum wage. While my proposal would not stop excessive salaries at the top, it would end indirect support of them through the corporate income tax structure. It would make a clear statement that the public policy of this country does not support extreme distortions in the incomes people make and it would reaffirm the fundamental dignity that the Government affords to all working people, including those at the lower end of the income scale.

The increases in income disparities of the last decade are clearly out of control and must be turned around. My proposal is one step in that direction.

THE INTRODUCTION OF THE CONSERVATION AND ALTERNATIVE ENERGY SUPPLY ACT

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mrs. UNSOELD. Mr. Speaker, in 1980, Congress had the foresight to enact a unique resource planning guide to help encourage conservation and efficiency in the use of electric power, and the development of renewable resources within the Pacific Northwest. The Northwest plan has been a tremendous success, and future projections for energy savings will help maintain a reliable and least-cost energy supply for Northwest citizens.

But is this Nation really doing all it can to promote conservation as a resource capable of enhancing energy independence? Do we know the facts concerning the potential benefits of conservation, and are we implementing, aggressively enough, renewable and less-polluting energy technologies? I believe current national energy policy fails to recognize the benefits of conservation, and this is why I am today introducing the Conservation and Alternative Energy Supply Act.

A sound and balanced national energy strategy is of critical importance to national security, economic prosperity, and the environment. A strategy which seeks to boost the development of new petroleum resources from environmentally sensitive areas will serve only to prolong America's dependence on oil while furthering environmental degradation and instability. My bill will help to identify how cost-effective conservation can serve immediately to reduce oil imports, limit environmental degradation, and provide the Nation with time to adapt to uncertainties in future energy supplies. Production without conservation is like flushing oil down the drain. It flies in the face of common sense and makes a farce of the call for domestic energy security.

The purpose of this bill is to ensure that Congress has sufficient information regarding the costs and benefits of the full array of energy options, especially the potential contribution of conservation and renewable alternative energy resources, to make sound and informed national energy policy decisions. The basic provisions of the bill are as follows:

Not later than 2 years after the date of enactment of this Act, the National Academy of Sciences shall submit to Congress a report evaluating the potential contribution of cost-effective conservation and other energy alternatives which can help meet national energy and environmental demands on a consistent basis. The Academy shall also rank the energy options and make recommendations for implementing these options.

In evaluating the potential contribution of conservation as a prime energy resource, the Academy shall take into consideration the procedures set forth in the Pacific Northwest Electric Power Planning and Conservation Act, Public Law 96-501, or a similar proven resource management plan. The Academy shall estimate the energy savings realized by a nationwide program of implementing aggressive yet cost-effective conservation measures and

resources including increased efficiency in the transportation sector through higher fuel efficiency standards, reduction of transportation speed limits, advanced vehicle propulsion technologies, and alternative transportation systems, and increased efficiency in the utility, residential, commercial, and industrial sectors through building weatherization upgrades, lighting retrofits, industrial motor improvements, and power transmission and generation upgrades. The Academy also shall identify the financial and regulatory barriers to energy conservation, and shall provide a list of potential and proven conservation measures and resources.

The Academy shall identify and evaluate the potential contribution of all other cost-effective energy alternatives, including renewable energy technologies, the use of substitutes for oil in the transportation sector, the accelerated production, and more complete recovery of petroleum from existing fields using innovative advanced oil recovery technology, and the production of oil from explored and proven, yet undeveloped, domestic fields.

Upon evaluating the contribution of conservation and other energy alternatives, the Academy shall rank all measures, resources, and potential alternatives on a least-cost comparative basis. This comparison must include the true cost of an energy resource including the direct costs of capital, financing, fuel, operation, decommissioning, and disposal of by-products combined with the quantifiable environmental and health costs and benefits of energy production and use, and taking into account the financial subsidies. The Academy also shall consider the national security benefits of diversified energy resources and the public and environmental benefits and costs of renewable and less-polluting resources. Rankings shall include the projected costs of petroleum from Federal lands under consideration for development, based on current economic and oil price assumptions and cost estimates of exploration, development, transportation, mitigation, and reclamation.

The bill requires the Academy to make recommendations, including specific directions, for implementing the most cost-effective measures, resources, and alternatives under conservation, including statutory or regulatory structures and reward energy efficiency, technical, and financial assistance to encourage maximum voluntary cost-effective conservation and the attainment of cost-effective conservation objectives, demonstration projects to determine the cost effectiveness of conservation measures, and changes in energy research and development priorities and funding.

#### CLEVELAND'S UNEMPLOYMENT CRISIS

#### HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. STOKES. Mr. Speaker, I rise today to bring to the attention of my colleagues a collection of newspaper articles published by the Cleveland Plain Dealer. These articles ran as part of a series looking at the unemployment crisis facing Greater Cleveland.

This second group of articles considers the roles of education, segregation and racism in the propulsion of this wave of joblessness that has come over Cleveland. They also point out, however, that unemployment is not an unfamiliar creature in Cleveland, and that Federal assistance is becoming sparse.

Mr. Speaker, unemployment is not unique to Cleveland. It is a problem nationwide that we, as representatives of the people, must tackle.

I want to thank the Cleveland Plain Dealer for distributing this information, and I want to urge my colleagues to read this most intelligent and intriguing work.

#### LACK OF EDUCATION, SEGREGATION, RACISM FUEL UNEMPLOYMENT (By Norman Parish)

When employment counselor Charles Britton talks about the reasons some of his clients aren't getting jobs in Cleveland, it sounds as if he is reading from a script.

The lines are familiar: education or lack of education, transportation or jobs outside the reach of public transportation and, in some cases, his clients possibly have the wrong skin pigmentation—black.

"They (problems) are all interrelated," said Britton, director of the Greater Cleveland Opportunities Industrialization Center. "They are not easy to fix. There is no quick fix. But these problems exist."

Experts agree. Segregation, education and racism were repeated over and over again as reasons for the city's unemployment problem. Experts also were quick to point out another major influence in the city's unemployment tale: disappearing manufacturing jobs.

Last year's overall unemployment in Cleveland was 13.8%, while the black unemployment rate (20.7%) was more than double the white rate of unemployment (9%).

"Basically, what has happened is that the city has lost blue-collar jobs and there has been a substantial growth in information-processing jobs," said John Kasarda, director of the Kenan Institute of Private Enterprise at the University of North Carolina in Chapel Hill.

The change to jobs requiring more education started in the 1970s. By 1980, one out of every five jobs in Cleveland was held by people with college degrees, Kasarda said. But that year only 4% of the black males who were out of school held a college degree, and only 6% had completed high school, he said.

"Many of the people we worked with we have to help with providing basic academic skills and work with attitudes," said Britton. But he said attitude also plays an important role in getting a job. "If a person has the right attitude then he will find that it is not as difficult to get a job. We also provide tutoring."

Britton said OIC helped find work for more than 6,000 people during the last 18 years.

"Schools play a very prominent role in unemployment," said Billy Tidwell, director of research at the National Urban League in Washington, D.C. "The more skills that you have, the better you are able to compete for jobs. That relationship is getting greater as the skills change. It is hard to get anywhere without a high school diploma."

But Tidwell also blames racial segregation and the loss of manufacturing jobs for the unemployment problem that plagues many of the nation's inner cities. During the early 1980s, Cleveland and other Midwestern cities suffered a substantial loss of manufacturing jobs, Growth Association reports show.

In the late 1970s, 30% of all area jobs were manufacturing related. Now, manufacturing jobs make up about 22% of all jobs in Cuyahoga, Lake, Medina and Geauga counties. In 1985, there were 211,000 manufacturing jobs, now there are about 200,000 association figures show.

"There are a number of things happening," said Peg Gallagher, director of research for the Growth Association. "Some jobs were obviously being cut. Some jobs moved out of the area. Some manufacturing jobs moved just outside of the central city in areas like Solon, outside the immediate reach of the central city."

Studies show that Cleveland is one of the most segregated cities in the country and that segregation aggravates the problem of black joblessness. One study—conducted in 1989 by the University of Chicago—reported that blacks were so isolated in housing patterns that the city ranked among 10 "hypersegregated" cities in the nation.

The result of such segregation is that most blacks in the 10 cities have hardly any contact with whites.

The report, based on 1980 census data, is by Douglas Massey, a sociology professor at the University of Chicago, and Nancy Denton, a former research associate at the Population Research Center, an independent social science research agency at the university.

The study examined the census data for 60 metropolitan areas for five measurements of segregation, ranging from percentages of minorities in residential areas to the amount of space occupied by a racial group.

The analysis showed that blacks were highly segregated in all five criteria in Cleveland, Baltimore, Milwaukee, Chicago, Detroit and Philadelphia. Blacks were highly segregated in four of the criteria in Gary, Ind., Los Angeles, Newark, N.J., and St. Louis.

The 10 cities accounting for one-quarter of all blacks in the country, were considered "hypersegregated."

"The high segregation of unemployment is because blacks are located where there aren't many jobs," Denton said. "They don't live where the jobs are and businesses aren't prone to move into black neighborhoods. Another problem is networks. If you live in neighborhoods that are all black and the blacks don't have any jobs and then it's difficult to find out where the jobs are. In neighborhoods where there is work, someone might say, 'Gee, my company has an opening.'"

Denton also cites a Knight-Ridder study last month that ranked Cleveland as the third most segregated metropolitan area in the country. The study, which is based on 1990 U.S. census data, said 66.6% of the area's black population lives in neighborhoods that are at least 90% black.

At least 85% of black people living in Cuyahoga County would have to change neighborhoods to be equally distributed in the county's neighborhoods, she said.

In the study, Chicago was the worst, while St. Louis ranked second worst for segregation. Both Chicago and St. Louis were cities that had high rates of black unemployment in 1990. In a U.S. Labor Department survey, St. Louis had the second-highest ranking black unemployment rate at 18.9%, while Chicago had the third worst at 18.6%.

Troy Duster, director of the Institute for Social Change at the University of California in Berkeley, also blames segregation for high black unemployment, along with blatant racial discrimination.

A 1983 study of high school graduates in New Jersey, Duster said, showed that black

and white graduates with the same grade-point averages had seemed to have equal chances of finding manufacturing jobs but whites were four times as likely to be hired in the service sector.

"In the manufacturing sector of the economy, there has been a greater likelihood to employ blacks than in the service sector," Duster said. "The service sector is one where there is much greater contact between the employee and the public. It is everything from retail sales to working in a restaurant."

Earlier this week, a report by the Urban Institute found that young blacks interviewing for jobs were less likely to be considered than their white counterparts, even if qualifications were the same.

The report matched 476 pairs of young male job seekers in Washington, D.C., and in Chicago—one black and one white with virtually identical academic records, work experience and personality profiles. The candidates, the report said, were matched so closely that any difference in treatment "could only be attributable to race."

The report concludes that when all factors except race are equal, the white candidate moved further along in the job process 20% of the time, while the black candidate moved further only 7% of the time.

The Urban Institute is a private, non-profit research group. The study was funded by the Rockefeller Foundation.

James H. Johnson, professor of geography and director of the Center for the Study of Urban Poverty at the University of California at Los Angeles, agrees.

Johnson points not only to racial discrimination and segregation but also to blacks not continuing to press for equal rights in employment.

Some experts say that the current fighting over a federal civil rights bill also is a hindrance. If the bill is passed, it would overturn a half dozen Supreme Court decisions that made it more difficult for minorities to sue employers for discrimination.

"Blacks not only gained from affirmative action but white women probably gained more," Johnson said. "During the 1960s, blacks probably relaxed. And at the time, we talked about open housing. But housing affordability areas kicked in. Later, the price of housing went through the ceiling. This excluded a large number of people from getting houses, contributing to segregation."

#### SEVEN-COUNTY UNEMPLOYMENT FIGURES

[Figures reflect unemployment trends in the seven-county area for March, 1991 in counties and cities with more than 25,000 population]

Municipality	Labor force	Employment	Unemployment	Unemployment rate
Cuyahoga County	732,300	674,500	42,800	5.9
Brook Park	13,600	12,800	800	5.9
Cleveland	243,200	220,900	22,400	9.2
Cleveland Hts.	29,300	28,100	1,200	4.0
East Cleveland	17,700	15,800	1,900	10.6
Euclid	32,000	30,600	1,300	4.2
Garfield Hts.	17,700	16,900	700	4.2
Lakewood	33,500	32,200	1,300	4.0
Maple Hts.	15,400	14,700	700	4.2
No. Olmsted	18,900	18,100	700	3.8
Parma	48,000	45,800	2,200	4.5
Shaker Hts.	16,700	16,200	500	2.8
South Euclid	13,200	12,800	400	3.2
Strongsville	14,600	14,000	600	3.9
Westlake	9,600	9,300	300	3.6
Geauga County	40,700	38,400	2,300	5.7
Lake County	118,600	110,800	7,900	6.6
Mentor	24,000	22,400	1,500	6.3
Lorain County	119,200	108,400	10,700	9.0
Lorain	30,500	27,300	3,200	10.4
Elyria	26,100	23,500	2,600	9.0
Medina County	61,400	57,200	4,200	6.8
Brunswick	15,300	14,200	1,100	7.3
Portage County	72,800	67,300	5,500	7.6
Kent	15,200	14,200	1,000	6.6

#### SEVEN-COUNTY UNEMPLOYMENT FIGURES—Continued

[Figures reflect unemployment trends in the seven-county area for March, 1991 in counties and cities with more than 25,000 population]

Municipality	Labor force	Employment	Unemployment	Unemployment rate
Stow	13,500	12,900	600	4.8
Summit County	260,400	242,500	17,900	6.9
Akron	112,200	102,500	9,700	8.5
Barberton	14,200	13,000	1,200	8.6
Cuyahoga Falls	23,400	22,200	1,200	5.1

Source: Ohio Bureau of Employment Services. Figures rounded to nearest 100.

#### WORKERS SAY POOR EDUCATION BARRIER TO JOBS

(By Michael Sangiacomo and Norman Parish)

When some white employees at the LTV Steel Co. were asked about the reasons for high unemployment among Cleveland's black and white residents, they blamed poor education and cheap foreign imports.

When some black workers were asked the question, they blamed education but added another reason for the high rate of unemployment among blacks—racism.

About 15 employees, selected at random, were interviewed in the LTV parking lot recently and asked for the working man's perspective of the unemployment situation in the city. With 6,500 workers, LTV is one of the largest employers in Cleveland.

Black men said that while education was a major problem in getting jobs, blacks faced other obstacles to employment. They said the caliber of jobs offered to them often was not as high as those offered to similarly qualified white men.

"I would say that the types of jobs blacks and whites hold are one of the reasons why blacks have a higher unemployment rate," said Nate Overby, 45 of Cleveland Heights. "Those are often the first jobs to go. A lot of the blacks would be laborers and whites would have skilled jobs."

Overby, who is black, is a mechanic at LTV. He said that in his 24 years at LTV, he had seen conditions improve at his company and at other companies in the Cleveland area. "Thirty years ago, it was racist. But things are better now than before."

Sam Micham, 41, of Cleveland is an ironworker at LTV. He said big business in Cleveland had a self-induced black quota.

"There are a lot of different reasons, for black unemployment," said Micham, who is black. "Big business will only hire as many people as they have to, especially with blacks."

"We should find a way to create jobs for ourselves. We (the black community) have all the ingredients we need to go into business."

He said apathy and education were key factors for both black and white unemployment. "Most certainly there is an employment problem. There are people who want to work but can't work. There are people who have things and who are apathetic and don't care about other people."

"Cleveland schools are not doing an adequate job but neither are the parents," he said. "It is hard to teach when you have to spend time disciplining children. We need some morals and values instituted in schools."

Micham said more training would be needed to keep pace with the computer age.

All those interviewed agreed that there was a visible unemployment problem in the city. About half had grown up in the city and moved out, mostly citing educational deficiencies.

But some of the men said education deficiencies in Cleveland, particularly in the predominantly black sections of the city, were a form of racism. White people who could afford to have moved out of the city so their children could get a better education and have a better chance at jobs.

"I want my children to go to college," said Arvin Stewart of Lakewood, who is white. "They couldn't do that with Cleveland education."

They said the schools were just not preparing young people to enter a work force that grows more and more sophisticated.

"There was a time when we had jobs for unskilled, uneducated people as laborers," said Mark Tomasch, LTV spokesman. "Those days are gone. We don't have those jobs anymore. The number of jobs here for people without good math and reading skills is rapidly declining."

The workers have also seen the shift in the work force.

"You can't use your hands no more; you have to use your head," said Jack Jackson of Cleveland, who is black. "A man isn't going to put you on a new \$5 million machine unless he knows you can run it."

Tom Loy of Lagrange grew up in Cleveland but moved out of the city.

"Education is very important," said Loy, who is white. "That's what I try to emphasize to my kids. To beat the unemployment problem, we need a better school system, better teachers who are paid more, paid what they are worth. Some teachers are not so good and shouldn't be paid as much. They have our children one-third of the day; what they do is vital."

"When I went to school in Cleveland, we had a dress code," he said. "We had discipline. Now there is no dress code, no discipline, and there are guards in the halls. That's no way to run a school system."

Tom Pennington lived on Cleveland's West Side for 17 years before he moved to Brunswick.

"I don't think the teachers in the city have enough power," said Pennington, who is white. "They are scared of the kids they are trying to teach. It was different 20 years ago. You could get a job without an education. That isn't true anymore."

Jackson, a 59-year-old truck driver who has worked at LTV Steel for 11 years, said the problem was a little of everything. "There is unemployment because you have a lot of foreign work out there. And a lot of blacks are the last hired and the first fired."

"But education is the main problem," he said. "A lot of blacks don't go to school. I don't think racism has a lot to do with it now (unemployment). You can't use your hands anymore. You have to go to school. All the jobs are now computers. And it's not who you know, but what you know."

#### LANDING NEW JOB CAN BE WORST JOB, OBES WORKER SAYS

(By Michael Sangiacomo)

For the last 25 years, Irene Richardson's job at the Ohio Bureau of Employment Services has been to find jobs for others. She's helped more than 25,000 people in that time.

Some days are better than others. Sometimes she's able to help people turn their lives around. But whether she succeeds in helping an unemployed person actually land a job or not, she believes she has helped.

"I feel like I have helped them all," she said. "I listen to them, help them find jobs and give them the support they need to keep going."

Marie Sudduth, her friend and co-worker at the Maple Heights OBES office for 24

years, believes eventually, they can find jobs for most people.

"If they are sincere about wanting work, we can help them," she said. "Some admit they really don't want to work and are only here because they were told to look for work by the department of welfare. Others don't start looking until their 26 weeks of paid unemployment benefits are about to run out.

"I have good people that I know I can eventually place in a job if they can just hang on and not get discouraged," she continued. "It's hard for them."

Richardson and Sudduth seem to be typical of the OBES workers in the four Cuyahoga County branch offices that handle Cleveland area residents.

She said people with skills are easy to place, but for the unskilled it takes luck and perseverance. They go through frequent interviews and tests to determine what kind of work they can handle.

"Most of the jobs we deal with are lesser-paying jobs, \$20,000 a year and down," Richardson said. "But we've had former presidents of companies who made \$100,000 a year come to us for help. I have helped some people get several jobs over the years."

Workers at OBES offices around the county say the never-ending flow of job seekers can be depressing, and the workers have to insulate themselves from the cold reality of unemployment.

"If we get too emotional over one or two people, we won't be able to help all the others," said an OBES worker. "We have to work as hard as we can with as many as we can."

But other workers said the job gets very frustrating when it's apparent that qualified people get passed over because of the color of their skin.

"I get very frustrated," said one worker, who asked not to be named. "I'm not God, I can't solve the unemployment problem. Sometimes I send someone out on a job interview and I know he's perfect for the job. But I know he won't get it because he's black. Of course it's done very subtly. No company will come right out and say they don't want to hire minorities, but they manage to get the point across.

"The sad part is, the applicant knows exactly what happened," the worker said. "They don't need me to tell them, they've already figured it out.

"It breaks my heart."

Part of the job is to be honest with people about what might be keeping them out of the job market.

"One man came in wearing tons of jewelry," Sudduth said. "He had bracelets, necklaces, chains, rings. It looked bad. I told him he should remove it before going to an interview."

Other people don't want to be helped.

"Another man came in here for a job looking like a Hell's Angel," said Sudduth. "He wore a leather jacket, had long hair, tattoos up and down his arms, which stood out because he wore a T-shirt. He was a real rough looking guy. He was looking for a job in accounting. I almost told him to clean up before the interview, but he didn't bother. I mean, he had to know what he was doing. I don't think he really wanted the job."

The OBES workers repeated a litany that was heard all over the city—times have changed for the working man and woman.

"Before 1980, if you worked at a place for five years you were there for life," said Sudduth. "The layoffs were terrible, but they were not that common. These days layoffs are very common and no one, no matter

how long they have worked at a company, can feel secure."

Lately, we have been getting a lot of people coming in, many of them laid off after 20 years on the job," said Richardson. "They are very down. Their self-esteem is gone. They thought they would work there forever."

They tell the newly unemployed to get up, dust themselves off and start working on what may prove to be the hardest job of all—finding a job.

"We tell them what we can do to help," said Richardson. "But we also tell them what they can do to help themselves."

#### CITIES FACING URBAN CRISIS FIND THEY'RE ON THEIR OWN

(By Jonathan Walters)

The words "urban crisis" have returned to the American vocabulary, a quarter-century after rioting in Watts and Harlem first placed them there. The problems seem just as intractable as they did in the mid-1960s. The rhetoric sounds almost identical. But the situation is different.

In the 1960s, there was presumption generally—and in Washington, specifically—that something had to be done to improve the lot of cities and those who lived in them. There is no such presumption today.

Urban activists are beginning to realize that help for cities is not imminent. Even mayors who still make the old pilgrimage to Washington begging for dollars seem slowly to be facing that reality. More are looking inward, as fiscally and socially painful as it might be, for ways to get the job done.

"The politics are very different now," says Richard Nathan, director of the Rockefeller Institute of Government and author of "A New Agenda for Cities."

"Cities are perceived as dangerous places full of people who don't vote and who don't have any advocates."

Says Mayor Michael White of Cleveland: "Big cities are becoming a code name for a lot of things: for minorities, for crumbling neighborhoods, for crime, for everything that America has moved away from."

Figures from the 1990 census show the raw numbers of urban decline over the past few decades.

Detroit's population was 1,670,000 in the 1960 census; now it is 1,028,000. Chicago lost 7.4% of its population in the last decade alone; Newark, already decimated, lost an additional 16%. New York City managed to register a small gain in the 1980s, but only after city officials persuaded the census to make a number of adjustments, including higher estimates of the number of probationers and prison parolees.

The overwhelming majority of those leaving cities have been the people who deliver political clout: middle-class whites.

Atlanta, almost even in racial terms 20 years ago, is now 31% white and 67% black. In the same period, its population went from 497,024 to 394,017, a 20.7% decrease, while that of the surrounding metropolitan area increased 173.1% from 893,140 to 2,439,494.

Of course, the depopulation of many big cities is in large measure a sign of success: Helped by open housing opportunities and the fading of employment discrimination, minorities have moved out. But the cities become worse off as they empty and as the concentration of poor people left behind increases.

The departure of the politically crucial middle class, black as well as white, has made it easier for Congress and a series of presidents to ignore the mayoral pleas for help.

"When I was growing up," says White, "a mayor could get on the phone to a department head in Washington and say, 'Hey, you can't do that to Chicago.' Now we don't have that power."

The current mayor of Chicago, whose father was no doubt the man White had in mind, puts it even more bluntly. In bygone days, says Richard M. Daley, congressional candidates who didn't have the benediction of mayors didn't get elected. Today, he says, "the political machinery is gone." And with it, clout in Washington.

So the most important point about cities in the 1990s is not a startling one: They are on their own. Their role and the way they do business will be changing as a result.

Given the political difficulty of raising taxes (and the risk that doing so will merely drive more residents and businesses out), cities will increasingly be cutting costs and services.

As a first step, more will be making such top-to-bottom management reassessments as those recommended in "Financing the Nation's Capital," a report of the D.C. Commission on Budget and Financial Priorities, released last fall. It outlines numerous ways to streamline the city's management structure, one that suffers from a classic case of "too many chiefs and not enough Indians," says commission chairman Alice Rivlin.

Statistics suggest that Washington is not the only major city that could be more cheaply run. The variation in administrative costs among cities of similar size is enormous and seems to be based as much on politics as on management needs. Boston, for example, spends almost twice as much per capita on its administration as Pittsburgh, delivering roughly comparable services.

The implication of the Rivlin report and other recent research is that cities will be shedding staff in the 1990s while contracting out services.

"If San Francisco can contract out its entire finance department, there's not much a city can't contract out," says Terry Clark, coordinator of the Fiscal Austerity and Urban Innovation Project at the University of Chicago.

George Peterson of the Urban Institute thinks city administration in the future will be leaner institutions that primarily consider bids and let contracts. That will place an even greater premium, of course, on the hiring of top-quality managers and the willingness to pay what it takes to attract them.

But management audits and contracting out will save only so much. The next step is cutting services. Some urbanologists think the most hard-pressed cities may have no choice but to retreat toward the basics: fire, police and education.

The rest would have to be picked up by the private sector, volunteer groups, whomever.

But the back-to-basics movement is not one that excites many mayors.

"So, I'm going to tell 12,000 homeless people in my city to go to hell," Mayor White says sarcastically. "And then there are the 86,000 people who call us each year for our emergency medical services, and I'm going to tell them to go to hell, too, because we're going back to police and fire and education.

Cities, of course, are not going to abandon efforts to help their poor, but more of that help will be limited, and progress will be measured in small numbers of people making incremental advances.

Targeting of diminishing assistance will be critical.

The New York State Department of Social Service is experimenting with the use of

computerized geographical information systems to map the urban poor and pinpoint the services available to them within a defined area. At the same time, charitable groups and businesses will be called on to shoulder an increasing share of the burden.

But it is hard to find any expert in the field who believes that the size of the underclass or the level of poverty in the inner city is going to be reduced in the near future.

"In the short run, I'm very pessimistic," says Anthony Downs, a housing specialist and senior fellow at the Brookings Institution in Washington. "And for me, the short run is 20 years."

#### HIGH RATE OF UNEMPLOYMENT NOT NEW IN LORAIN COUNTY

(By Frances Robles)

While the rest of the country talks about the recession crippling the economic, Elyria Chamber of Commerce President Estelle Dobrow isn't worrying.

She has seen it before.

"Quite honestly, we've been in a mini-recession since I started here 13 years ago," Dobrow said. "There's been a slowdown the past few months, an economic downturn. But we're used to it."

Dobrow isn't being pessimistic. She is just looking at the facts.

Though Lorain County's 9% unemployment rate in March may seem bad, it's significantly better than January's rate of 14.4%.

Figures released by the Ohio Bureau of Employment Services show the unemployment rate dropped six percentage points in the county's largest cities, Lorain and Elyria, from January to March.

In January, Lorain topped the state with 16.4% of its residents without jobs, compared to the most recent figures in March, showing 10.4% unemployed.

Elyria was second in the state in January with an unemployment rate of 15.7%. In March, that figure dropped to 9.9%.

Experts agree that the reason for Lorain County's high unemployment is the 7,500 people who rely on the often slumping auto industry for jobs. The auto industry, some say is directly responsible for monthly swings in unemployment figures because it often lays off workers on a week-to-week basis.

"If you're unemployed for a week, you're a statistic for a whole month," said Frank DeTillio, president of the Lorain County Chamber of Commerce. "Those figures are a gauge of something, I just don't know how much I trust them."

Dobrow doesn't trust the figures either. She says the unemployment numbers are misleading because even when auto workers are unemployed, their buying power doesn't suffer too badly. Unemployment benefits and supplementary pay from local unions together given workers about 95% of their regular wages, Dobrow said.

"Figures paint a poorer picture than has actually occurred," she added.

DeTillio says that on the other hand, figures could be too low because only people receiving unemployment benefits are counted. If people are out of work for more than 26 weeks, they are no longer counted as unemployed.

#### CONCERN REGARDING ADVANCE DIRECTIVES

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 25, 1991

Mr. DONNELLY. Mr. Speaker, an article in the Washington Post last week suggested that health care facilities and nursing homes are having difficulty meeting the requirements of last year's budget legislation concerning living wills. I had predicted that problems would occur with these provisions. Earlier this year I introduced H.R. 566, legislation which would substantially modify the living will provisions of last year's budget legislation.

A comprehensive study was completed by the New England Journal of Medicine that examined the prospects of advance directives for life-sustaining care. This study points out the problems that could arise with the Federal legislation and confirms the predictions that I have with this legislation.

The study states that once a patient is transferred from one health care facility to another, the living will is not frequently transferred into the new medical record. It is common for patients to transfer to different facilities during their period of care. A major problem occurs when interpretations of the provisions of the living will are not consistent from one health care facility to another.

In 75 percent of the cases, care was less aggressive than the patient's wishes where care was inconsistent with the provisions of the living will according to the study. The study concluded that in the presence of an advance written directive, inconsistent care occurred more often even after the presence of a living will in the medical record.

The study strongly suggests that advance directives, such as living wills, are no assurance that the wishes of an incompetent patient will be followed by health care facilities. Mr. Speaker, that is why I have urged the passing of H.R. 566, and will continue to do so. I hope that many of my colleagues will agree with my position on this matter. This legislation has also been endorsed by the Daughters of Charity National Health System which is a national organization representing Catholic hospitals.

Mr. Speaker, I ask unanimous consent that this study be included in the RECORD at this point. Its final sentence sums up my feelings on why we should tread with care on this issue: "the use of—advance—directives is in its infancy, and we need to define and grapple with their limitations before we can use them optimally."

[From the New England Journal of Medicine, Mar. 28, 1991]

#### A PROSPECTIVE STUDY OF ADVANCE DIRECTIVES FOR LIFE-SUSTAINING CARE

(By Marion Danis, M.D., Leslie I. Southerland, M.P.H., Joanne M. Garrett, Ph.D., Janet L. Smith, M.P.H., Frank Hielema, Ph.D., C. Glenn Pickard, M.D., David M. Egner, M.A., and Donald L. Patrick, Ph.D., M.S.P.H.)

Abstract Background: The use of advance directives is recommended so that people can determine the medical care they will receive when they are no longer competent, but the effectiveness of such directives is not clear.

Methods: In a prospective study conducted over a two-year period, 126 competent residents of a nursing home and 49 family members of incompetent patients were interviewed to determine their preferences with respect to hospitalization, intensive care, cardiopulmonary resuscitation, artificial ventilation, surgery, and tube feeding in the event of critical illness, terminal illness, or permanent unconsciousness. Advance directives, consisting of signed statements of treatment preferences, were placed in the medical record to assist in care in the nursing home and to be forwarded to the hospital if necessary.

Results: In an analysis of 96 outcome events (hospitalization or death in the nursing home), care was consistent with previously expressed wishes 75 percent of the time; however, the presence of the written advance directive in the medical record did not facilitate consistency. Among the 24 events in which inconsistencies occurred, care was provided more aggressively than had been requested in 6 cases, largely because of unanticipated surgery or artificial ventilation, and less aggressively than requested in 18, largely because hospitalization or cardiopulmonary resuscitation was withheld. Inconsistencies were more likely in the nursing home than in the hospital.

Conclusions: The effectiveness of written advance directives is limited by inattention to them and by decisions to place priority on considerations other than the patient's autonomy. Since our study was performed in only one nursing home and one hospital, other studies are necessary to determine the generalizability of our findings. (N Engl J Med 1991; 324:882-8.)

The practice of medicine in the United States is imbued with the principle that patients have the right of self-determination.<sup>1,2</sup> The most supreme exercise of this right occurs when patients consent to life-sustaining treatments or refuse them.<sup>3</sup> Unfortunately, patients are often incapable of participating in the decision to use life-sustaining treatments when the need arises. To preserve their autonomy in such situations, advance directives such as the living will have been created.<sup>4,5</sup> Advance directives allow competent persons to extend their right of self-determination into the future, by recording choices that are intended to influence their future care should they become unable to make choices.<sup>6</sup> Despite wide advocacy of advance directives<sup>5,8</sup> and their legalization in 40 states, there is no information on how well they accomplish their purpose. Only anecdotal reports<sup>9</sup> and surveys of the attitudes of patients and physicians are available.<sup>10</sup> We therefore conducted a prospective study to examine the effectiveness of these directives.

#### METHODS

##### Study Subjects

All patients residing in a 120-bed skilled-care and intermediate-care nursing home in central North Carolina for at least one week between April 1, 1986, and July 31, 1987, were eligible to participate. The nursing home is licensed in North Carolina and certified for participation in the Medicaid and Medicare programs.

Patients were included in the study if they gave consent, and those incompetent to do so were included if their family members consented to the patient's participation. A patient was considered competent to give informed consent if, after being read the introductory explanation of the project, the pa-

<sup>1</sup> Footnotes at end of article.

tient (1) stated, on being asked, that he or she understood the project, (2) could paraphrase the introductory explanation, and (3) could sign or mark the consent form. These same criteria were used to judge the patient's competence to create an advance directive.

For each patient in the study, a family member or another surrogate also participated whenever possible. If the patient was competent to be interviewed, he or she designated the surrogate decision maker. If the patient was not competent to be interviewed, the selected surrogate was the person identified in the nursing home record as being financially responsible for the patient.

#### Questionnaires

The survey instrument included demographic questions about the patient's age, race, sex, education, and marital status. To ascertain their general preferences regarding life-sustaining treatment, the patients were asked which of the following statements they agreed with: "I want my doctor to keep me alive no matter how sick I am" or "There will be a time when I want my doctor to stop keeping me alive."

The patients were then asked about their specific preferences with respect to hospitalization, intensive care, surgery, cardiopulmonary resuscitation, and artificial ventilation under each of three circumstances: critical illness, terminal illness, and permanent unconsciousness. In addition, they were asked about their wishes with regard to tube feeding in the event of permanent unconsciousness. The surrogates were asked a parallel series of questions in order to determine their general preferences and specific treatment choices on behalf of the patient. Before being questioned about specific preferences, the patients and surrogates were read descriptions of intensive care, cardiopulmonary resuscitation, and artificial ventilation.

Critical illness was defined as a condition of extreme sickness involving a disease that could improve with medical treatment. Terminal illness was defined as a condition in which a person is dying with a disease that cannot get better no matter what the doctor does. Permanent unconsciousness was defined as a condition from which the person will never awaken. In the case of treatment, the respondents could choose (1) to have the treatment, (2) not to have the treatment, (3) to allow their doctors to decide, (4) to allow their families to decide, or (5) to make some other choice of their own. Cue cards labeled with each of the medical conditions, treatments, and possible choices were used during the interview. (The questionnaire is available on request.)

#### Documentation of Preferences

A statement was prepared for each patient that was based on the preferences expressed during the interview. The statement included the specific choices of treatment, the names of the surrogate decision makers chosen by the patient, and the statement of the patient's general preference (see the Appendix for a sample preference statement).

After the statements had been read to the patients, they were asked whether they still agreed with them and were asked to sign them. If they did not agree with the statements, changes were made before they gave their final signatures. The document was then placed in each patient's nursing home chart in the section designated for treatment orders, to be used as an advance directive. A copy was also placed in a sealed envelope in the front of the chart, stamped boldly in red

ink as follows: "Statement of Patient's Preferences for Care: To Be Transferred with Patient If Discharged to Hospital." In the case of an incompetent patient, the statement of the surrogate's preferences for the patient's care was prepared, signed, and placed in the patient's nursing home chart to be used to direct the patient's future care.

Before inserting the statement in the patient's chart, a research assistant reviewed the chart to verify that the orders it contained were consistent with the wishes expressed in the statement. In particular, if a record included a do-not-resuscitate order that was inconsistent with the patient's or surrogate's stated wishes, this inconsistency was brought to the attention of the attending physician. In these cases, at the physician's discretion, either the preference statement was withheld from the chart because the physician disagreed with the investigator's evaluation of the patient's competence, or the orders in the chart were changed before the insertion of the document.

If a patient returned to the nursing home after a hospitalization, he or she was again presented with the document and asked whether there should be any changes before it was reinserted into the nursing home chart. When a preference statement was reviewed, the patient's competence to make decisions was reevaluated according to the criteria used initially. If the patient was subsequently evaluated as incompetent, the original document was inserted without modification.

#### Follow-up Data

The nursing home census was reviewed every weekday to identify deaths in the nursing home or hospitalizations. When either of these outcome events occurred, a research assistant reviewed either the hospital discharge summary or the nursing home chart to determine (1) the use of hospitalization, intensive care, cardiopulmonary resuscitation, artificial ventilation, surgery, or tube feeding, (2) the presence of critical illness, terminal illness (incurable illness with a prognosis of less than six months' survival), or irreversible unconsciousness, (3) the presence or absence of the advance directive in the medical record, and (4) the patient's competence to make choices at the time of the outcome event, as judged on the basis of mental status and level of consciousness as recorded by medical or nursing staff at the time of the event.

All attending physicians in the nursing home who cared for the patients included in the study and all attending physicians who cared for these patients during an outcome event in the hospital were interviewed to determine why there has been any inconsistencies between the advance directive and the actual care provided to the patient. All registered nurses who had worked in the nursing home for at least six months during the study period were interviewed to determine whether they considered the interview and written directive helpful and how the process could be improved.

#### Statistical Analysis

The demographic characteristics of the patients and the responses of the interviewees were analyzed with use of summary statistics. The effectiveness of the written advance directives was measured in terms of how frequently the directives were available at the time of an outcome event and how frequently the patient's care was consistent with the previously expressed wishes. The unit of analysis was the outcome event, not the individual patient. Because multiple

events involving the same patient were not necessarily independent of each other, we performed all analyses twice—once using only the first outcome event for each patient, and a second time using all outcome events. The results of the two analyses were essentially identical and are therefore reported only for the analysis of all outcome events.

To examine which independent variables were associated with treatment that was consistent with advance directives, the Pearson chi-square statistic was used. A logistic regression model was then fitted to determine the joint effect of the factors of interest, with adjustment for any significant demographic variables. Consistency between previous wishes and subsequent treatment was the dichotomous outcome (1=inconsistent, 0=consistent). Four main factors were included in the final model: the presence of the advance directive in the medical record at the institution where the outcome event occurred (present or absent), the origin of the advanced directive (patient or family), the competence of the patient at the time of the outcome event (incompetent or competent), the location of the outcome event (nursing home or hospital). Potential confounding variables examined were the circumstances of the event (critical illness, terminal illness, or permanent unconsciousness), sex, race, age, and marital status. A backward elimination procedure was used to remove from the model any potential confounders that did not significantly affect the results of the analysis.

#### RESULTS

##### Patients' Characteristics

Two hundred ten eligible patients or their surrogates were asked to participate in the study; 175 (83 percent) did so. The patients who did not participate did not differ significantly in age, race, or sex from those who did participate.

Seventy-two percent of the patients (126) were judged competent to give informed consent. The competent and the incompetent patients had similar demographic characteristics, except that the incompetent patients were slightly older and more often white and female (Table 1).

One hundred forty-two family members or other surrogates participated in the study. Ninety-three persons were related to competent patients, and 49 were related to incompetent patients. The participating surrogates included children (63 percent), spouses (14 percent), siblings (2 percent), other relatives (16 percent), and friends or others (4 percent).

TABLE 1.—CHARACTERISTICS OF THE PATIENTS

Characteristic <sup>1</sup>	Competent patients	Incompetent patients
No. of patients	126	49
Age (yr):		
Mean ±SD	77±11	83±10
Range	41–96	249–98
	Number (percent)	
Race:		
White	106 (84)	46 (94)
Black	19 (15)	2 (4)
Other	1 (1)	1 (2)
Sex:		
Male	52 (41)	31 (22)
Female	74 (59)	38 (78)
Marital status:		
Married	27 (21)	9 (19)
Single	11 (9)	4 (9)
Widowed	75 (60)	31 (66)
Separated or divorced	12 (10)	3 (6)
Education completed:		
≤5 yr	16 (13)	4 (9)
7–11 yr	34 (27)	12 (27)

TABLE 1.—CHARACTERISTICS OF THE PATIENTS—  
Continued

Characteristic <sup>1</sup>	Competent patients	Incompetent patients
High school .....	25 (20)	10 (23)
Some college .....	18 (15)	7 (16)
College .....	31 (25)	11 (25)

<sup>1</sup>Data on marital status and education were not available for all subjects.  
<sup>2</sup>Median split of age was used. P=0.03 for the comparison between groups by the chi-square test.  
<sup>3</sup>P=0.02 for the comparison between groups by the chi-square test.

**Treatment Preferences**

The majority of the competent patients thought that there would come a time when they would want their doctor to stop keeping them alive (72 patients, or 57 percent). Forty-one (33 percent) wanted their doctor to keep them alive as long as possible. The remaining 13 patients (10 percent) did not know how they felt about these statements. As for specific treatment choices, the patients were most willing to receive life-sustaining treatment during a critical illness and least willing to receive such treatment during permanent unconsciousness (Table 2).

TABLE 2.—PREFERENCES OF 126 NURSING HOME RESIDENTS REGARDING LIFE-SUSTAINING TREATMENT  
(Percent of total sample)

Situation and treatment <sup>1</sup>	Treatment	No treatment	Have doctor decide	Have family decide	Do not know, other
<b>Critical illness:</b>					
Hospitalization .....	58	4	15	22	<1
Intensive care .....	46	6	26	19	3
CPR .....	47	21	30	3	0
Surgery .....	32	15	23	25	6
Artificial ventilation .....					
<b>Terminal illness:</b>					
Hospitalization .....	29	15	22	28	6
Intensive care .....	23	27	19	26	4
CPR .....	20	47	29	4	0
Surgery .....	14	34	18	23	11
Artificial ventilation .....	20	40	12	21	8
<b>Permanent unconsciousness:</b>					
Hospitalization .....	20	25	20	29	6
Intensive care .....	17	37	16	26	4
CPR .....	19	44	31	6	0
Surgery .....	8	42	17	24	9
Artificial ventilation .....	13	49	11	21	6
Tube feeding .....	16	49	14	18	3

<sup>1</sup>CPR denotes cardiopulmonary resuscitation.

The family members of the incompetent patients consistently preferred to have life-sustaining treatments withheld from the patients more frequently than the competent patients did for themselves. Thirty-six family members (73 percent) agreed that there would be a time when they would want the patient's doctor to stop keeping the patient alive; six family members (12 percent) disagreed; seven (14 percent) did not know how they felt about this statement. When they were asked about specific treatments, their choices paralleled those of the competent patients, with the inclination to choose life-sustaining treatments diminishing as the condition became less reversible (Table 3).

Three preference statements were withheld from the charts because of inconsistencies between the wishes expressed and the orders in the chart, or because of inconsistencies within the preference statement.

TABLE 3.—PREFERENCES OF 49 FAMILY MEMBERS OF INCOMPETENT NURSING HOME RESIDENTS REGARDING LIFE-SUSTAINING TREATMENT<sup>1</sup>  
(Percent of total sample)

Situation and treatment	Treatment	No. treatment	Have doctor decide	Have family decide later	Do not know, other
<b>Critical illness:</b>					
Hospitalization .....	41	8	18	29	4

TABLE 3.—PREFERENCES OF 49 FAMILY MEMBERS OF INCOMPETENT NURSING HOME RESIDENTS REGARDING LIFE-SUSTAINING TREATMENT<sup>1</sup>—Continued  
(Percent of total sample)

Situation and treatment	Treatment	No. treatment	Have doctor decide	Have family decide later	Do not know, other
<b>Intensive care .....</b>					
	35	27	12	27	0
CPR .....	27	47	20	6	0
Surgery .....	10	41	10	37	2
Artificial ventilation .....	19	45	13	21	2
<b>Terminal illness:</b>					
Hospitalization .....	12	33	8	31	16
Intensive care .....	8	53	4	27	8
CPR .....	9	66	21	4	0
Surgery .....	6	69	4	17	4
Artificial ventilation .....	4	69	10	13	4
<b>Permanent unconsciousness:</b>					
Hospitalization .....	10	55	8	20	6
Intensive care .....	6	67	6	16	4
CPR .....	6	83	10	0	0
Surgery .....	0	90	4	4	2
Artificial ventilation .....	6	88	2	4	0
Tube feeding .....	6	75	9	6	4

<sup>1</sup>The preferences of family members of competent patients are not reported here because they were not incorporated into the advance directives. CPR denotes cardiopulmonary resuscitation.

**Outcome Events**

During the two-year study period there were 35 deaths in the nursing home and 71 hospitalizations, for a total of 106 outcome events, involving 76 patients. During these events, 134 relevant treatments were provided (Table 4). Ninety percent of the hospitalizations involved a state-funded, university-affiliated hospital. The remainder occurred in either a Veterans Affairs hospital or a county hospital.

TABLE 4.—TREATMENTS RECEIVED BY PATIENTS DURING OUTCOME EVENTS

Situation	Treatment—					Total
	Hospitalization	In-tensive care	CPR <sup>1</sup>	Sur-gery	Ven-tilation	
Critical illness .....	62	20	4	18	8	118
Terminal illness .....	5	1	0	1	0	8
Permanent un-consciousness .....	1	0	0	0	0	3
Other <sup>2</sup> .....	3	0	0	1	0	4
<b>Total .....</b>	<b>71</b>	<b>21</b>	<b>4</b>	<b>20</b>	<b>8</b>	<b>134</b>

<sup>1</sup>Denotes cardiopulmonary resuscitation.  
<sup>2</sup>Includes patients who had an illness that was not critical or terminal, who were not permanently unconscious, or who were found dead.

**Effectiveness of the Written Advance Directive**

An advance directive remained in the nursing home chart for 74 percent of the 106 outcome events, but it was successfully delivered to the hospital and incorporated into the hospital record for only 25 of the 71 hospitalizations. During their interviews, nurses commented that staff turnover was the cause of unfamiliarity with the document and its infrequent transfer to the hospital.

The consistency between the advance directive and the care provided during the outcome event was analyzed for 96 of the 106 events. The remaining 10 events were not analyzed, because they involved circumstances to which the advance directive did not apply—i.e., unwitnessed deaths, illnesses that were not considered critical or terminal, or those that did not involve permanent unconsciousness.

Medical treatment was consistent with the advance directives in 72 of the 96 events (75 percent). Twenty-four events occurred in which care was inconsistent with previous wishes. (A detailed table of all cases of inconsistent care has been deposited with the National Auxiliary Publications Service.\* In six cases care was more aggressive than had been requested, and consisted of ventilation

(two cases), surgery (two), cardiopulmonary resuscitation (one), and tube feeding (one). For example, one patient declined artificial ventilation in the directive but had a reversible episode of respiratory failure during treatment for a seizure. This patient was consequently given artificial ventilation for a brief period. In another example, the family of an incompetent patient had declined surgery in its directive, but subsequently agreed to amputation of the patient's leg because of an open, infected femoral fracture.

Care was less aggressive than had been requested in 18 cases, largely because hospitalization or cardiopulmonary resuscitation was withheld. For example, a patient with end-stage congestive heart failure had requested hospitalization in the directive, but at a time when the patient was no longer competent, the family and doctor believed there was no benefit to be gained from aggressive care, and the patient died in the nursing home. A patient with severe embolic disease requested cardiopulmonary resuscitation in the directive, but after there had been repeated hospitalizations, the family, who had been directed by the patient to decide about hospitalization, refused hospitalization; this patient died in the nursing home without cardiopulmonary resuscitation.

Consistency between previous wishes and patient care occurred less often when the advance directive was present in the medical record than when it was absent (P=0.045) (Table 5). Advance directives that originated with patients were as effective as those that originated with families in leading to care consistent with previous wishes (Table 5). If a patient was incompetent at the time of an outcome event, care was less likely to be consistent with previous wishes than if the patient was competent (P=0.014) (Table 5). Finally, care in the hospital was more consistent with patients' previous wishes than care received in the nursing home (P=0.0003) (Table 5).

TABLE 5.—CONSISTENCY BETWEEN ADVANCE DIRECTIVES AND ACTUAL PROVISION OF CARE, ACCORDING TO THE PRESENCE OF THE DIRECTIVE IN THE MEDICAL RECORD, THE ORIGINATOR OF THE DIRECTIVE, AND THE PATIENT'S COMPETENCE AND LOCATION AT THE TIME OF THE OUTCOME EVENT

Variable	Consistent	Inconsistent	Total	X <sup>2</sup>	P value
<b>Presence of directive:</b>					
Present .....	31	16	47	4.02	0.045
Absent .....	41	8	49		
<b>Total .....</b>	<b>72</b>	<b>24</b>	<b>96</b>		
<b>Origin of directive:</b>					
Family .....	27	9	36	0	10
Patient .....	45	15	60		
<b>Total .....</b>	<b>72</b>	<b>24</b>	<b>96</b>		
<b>Patient's competence during event:</b>					
Competent .....	28	3	31	6.06	.014
Incompetent .....	40	20	60		
<b>Total .....</b>	<b>68</b>	<b>23</b>	<b>91</b>		
<b>Location of event:</b>					
Hospital .....	59	9	68	17.21	.0003
Nursing home .....	13	15	28		
<b>Total .....</b>	<b>72</b>	<b>24</b>	<b>96</b>		

The results of the logistic regression analysis are summarized in Table 6. A backward elimination of the potential confounders found only marital status to be associated with the outcome, as well as with the four main effects of interest. Therefore, the final model included the presence of the advance

directive in the record, the origin of the directive, the patient's competence at the time of the outcome event, the location of the event, and marital status.

The risk of receiving a treatment at the time of an event that was inconsistent with the advance directive is given for the four main effects (Table 6). If the advance directive was present in the chart at the time of an event, treatment was directive was absent. When the advance directive originated with the patient rather than the family, the treatment for an event was about 3.2 times as likely to be inconsistent. Patients who were incompetent at the time of an event were about four times as likely to receive treatment inconsistent with their directives. Finally, subjects treated at the nursing home at the time of an event rather than in the hospital were about four times as likely to receive a treatment that was inconsistent with their advance directives. Only this last difference reached statistical significance.

TABLE 6.—ADJUSTED PERCENTAGE OF INSTANCES OF CARE INCONSISTENT WITH ADVANCE DIRECTIVES<sup>1</sup>

Variable	No. of observations	Percent inconsistent	Relative risk	P value
Presence of directive:				
Present	45	22.8	2.3	0.15
Absent	46	10.0		
Origin of directive:				
Patient	56	23.1	3.2	.06
Family	35	7.3		
Patient's competence during event:				
Incompetent	60	25.1	4.0	.08
Competent	31	5.1		
Location of event:				
Nursing home	26	38.9	4.0	.01
Hospital	65	9.8		

<sup>1</sup> Percentages have been adjusted for other main effects and marital status. This analysis is based on 91 observations for which there was complete information for all variables.

#### DISCUSSION

The results of this study indicate that the treatments that patients received during outcome events were consistent with their previously expressed wishes most of the time. The presence of the written advance directive in the medical record did not facilitate this consistency, however. Inconsistent care occurred more often in the nursing home, when patients were incompetent, and when the advance directive was available.

The study was designed to maximize the possibility of examining the effectiveness of advance directives. A nursing home setting was used because the patient population was considered likely to experience a large number of observable life-threatening events during the study period. The advance directives were placed directly in the patients' charts at the nursing home to minimize difficulty with access to the document. Once an advance directive was placed in the chart, it was not interfered with by the investigators. Thus, the effect of nursing home routine and emergency events on the disposition of the directive could be determined. As other authors have suggested, the directives included both specific and general statements about treatment preferences so that the preferences of patients could be interpreted as clearly as possible.<sup>11</sup>

The generalizability of the study may be limited by the fact that it was conducted in a single nursing home and almost exclusively in a single acute care hospital. The institutional setting, at least in the nursing home, would tend to make the advance directive more readily available than a non-institutional setting, whereas compliance with the document might have varied had the study been conducted in several settings.

Why were the advance directives not followed in all cases? Although they may not have been followed in some cases because they were not available at the time of the outcome event, a review of the medical records and interviews with physicians suggest that in many cases there were other compelling reasons. In four cases, the initial preference expressed may have been too restrictive to allow care that was strongly believed to be appropriate at the time of the outcome event, as in the cases in which surgery or brief artificial ventilation afforded the patient substantial benefit. In four other cases the treatment chosen in the directive was not administered because it was not likely to afford benefit. In two cases the patients changed their minds, and in one the family changed its mind. Three families made choices at the time of an outcome event that contradicted the patients' previously expressed wishes. Finally, in two cases the advance directives were not followed because providers were unaware of them.

The logistic regression analysis pointed out that the presence of the written directive in the medical record did not increase the consistency between stated wishes and subsequent care. It should be noted that there was a high rate of consistency between preferences and actual care for all study patients. The failure to improve consistency cannot be explained by this high rate, however, since there was actually a trend toward less consistent care when the directive was present. One might speculate that high rate of consistency overall was achieved because the interview process itself, in which all study participants engaged, facilitated thought and communication among patients, families, and care givers. This possibility is supported by the nurses' comments to the effect that the interviews often stimulated patients and families to discuss their treatment preferences with the staff.

The analysis pointed out further that the occurrence of an outcome event in the nursing home rather than the hospital was an independent predictor of inconsistency between the advance directive and subsequent care. One might speculate that the approach to medical care in a long-term care facility is naturally less aggressive than it is in an acute care hospital, and most of the inconsistencies were in the direction of undertreatment. Physicians may decide not to use life-sustaining treatment in the nursing home and may feel less pressure to do so, despite patients' wishes, because of the small likelihood of benefit from such treatments, particularly cardiopulmonary resuscitation, in this setting.<sup>12</sup> In addition, it may be much more difficult, even with some effort, to maintain a vigilant concern for autonomy when caring for a population of patients who are often unable to exercise choice.

These study findings imply that there are limits to the ability of written advance directives to enhance the autonomy of incapacitated patients. To improve the effectiveness of such directives they must be applicable and accessible, and they must be carefully heeded. To make them more applicable, patients might be advised to be cautious about refusing future treatments, such as surgery or ventilatory support, for treatable conditions and to anticipate that there will come a time when cardiopulmonary resuscitation will not prevent death. For advance directives to be heeded adequately, all personnel in a variety of institutional settings must be alerted to them and be concerned about their proper transfer, particu-

larly in emergencies. If a written document alone is ineffective, perhaps discussions of treatment preferences during conferences on patient care would increase its effectiveness.

Beyond this, the results suggest that regardless of how specific and accessible they are, written directives cannot be expected to anticipate all situations or all changes in attitude. These findings imply that the durable power of attorney should be given much more serious consideration as a mechanism for facilitating the autonomy of incapacitated patients.

Finally, some of the care decisions that were inconsistent with advance directives appeared to be based on principles of beneficence and proportionality. Thus, the data suggest that in caring for incapacitated patients, physicians balance respect for autonomy with other competing ethical principles in order to make what they believe are the wisest decisions. This raises the possibility that advance directives may on rare occasions pose an ethical and legal dilemma, because strict adherence to them precludes the opportunity to balance autonomy against other valuable ethical principles.

It should not be inferred from this discussion that the effort to maintain autonomy through the use of advance directives is futile or valueless. Rather, the use of such directives is in its infancy, and we need to define and grapple with their limitations before we can use them optimally.

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#### APPENDIX: SAMPLE STATEMENT OF PATIENT'S PREFERENCES.

To my Doctor:

While I have been at ———, I have discussed my wishes concerning my medical treatment in the event that I become extremely ill. I did this in the hope that if I made my wishes known beforehand, it would be easier for my doctors to know my preferences at a time when I am unable to express them.

If I become critically ill:  
I want to be hospitalized.  
I want to go into intensive care.  
I want to have my heart revived if my heart stops.

I want to have surgery.  
I want to be put on a breathing machine.  
If I become terminally ill:  
I want to be hospitalized.

I want my family members to decide whether I shall go into intensive care after they talk with my doctor.

I want my doctor to decide whether to revive me if my heart stops.

I want my family members to decide whether I shall have surgery after they talk with my doctor.

I want my family members to decide whether I shall be put on a breathing machine after they talk with my doctor.

If I am in an irreversible coma:  
I want to be hospitalized.

I want my family members to decide whether I shall go into intensive care after they talk with my doctor.

I want my doctor to decide whether to revive me if my heart stops.

I want my family members to decide whether I shall have surgery after they talk with my doctor.

I do not want to be put on a breathing machine.

I want my family members to decide whether I shall be fed through a tube after they talk with my doctor.

If I am unable to make decisions for myself, I would like the following person to make necessary decisions on my behalf:

1. Name (relationship):

Address:

Phone: (home) \_\_\_\_\_ (work), \_\_\_\_\_.

If you cannot reach \_\_\_\_\_, I would like the following person to make the necessary decisions on my behalf:

2. Name (relationship):

Address:

Phone: (home) \_\_\_\_\_ (work), \_\_\_\_\_.

There will be a time when I want my doctor to stop keeping me alive.

I have provided this information in the hope that it will be easier to respect my wishes about my medical care at a time when I am unable to express them.

Patient: Name, signature, date.

Witness: Name, signature, date.

#### FOOTNOTES

\* See NAPS document no. 04847 for 7 pages of supplementary material. Order from NAPS c/o Microfiche Publications, P.O. Box 3513, Grand Central Station, New York, NY 10163-3513. Remit in advance (in U.S. funds only) \$7.75 for photocopies or \$4 for microfiche. Outside the U.S. and Canada add postage of \$4.50 (\$1.50 for microfiche postage). There is an invoicing charge of \$15 on orders not prepaid. This charge includes purchase order.

<sup>1</sup> Jonsen A, Siegler M, Winslade WJ. Clinical ethics: a practical approach to ethical decisions in clinical medicine. New York: Macmillan, 1982.

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<sup>3</sup> *Idem*. Deciding to forego life-sustaining treatment: a report on the ethical, medical, and legal issues in treatment decisions. Washington, D.C.: Government Printing Office, 1983.

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