

EXTENSIONS OF REMARKS

A NATIONAL POLICY TOWARD
CHINA

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. BROOMFIELD. Mr. Speaker, in recent weeks there has been an intense debate in Congress on United States policy toward China. Despite the President's strong opposition, both Houses have passed bills that would impose conditions on renewal of most-favored-nation [MFN] trade privileges.

Beginning with the severe abuses of human rights associated with the Tiananmen Square massacre, the United States has a number of unresolved issues with China. These include missile exports, increasing trade imbalances, and Chinese Government policies toward Hong Kong, Tibet and Taiwan.

Mr. Speaker, I have full confidence in the President and agree with his position that United States relations with China must be preserved in order to maintain our influence and support the forces of democracy and economic reform. At the same time, many in Congress and the public at large wonder whether our Government has done enough to confront the Chinese Government on the whole range of outstanding issues.

I believe that an atmosphere of mistrust has been created that has obscured our interests in China and the objectives of our policy. In my view, this atmosphere can only be dispelled only by an independent, high-level review of U.S. policy.

It is for this reason that I am introducing today—on behalf of myself and Congressmen SOLARZ and HYDE—a bill to form a Special Commission on United States policy toward China. The Commission would report next spring, just prior to the next annual debate on continued MFN for China.

The findings of the Commission could provide the basis for a national policy toward China that would merit broad support, both in Government and among the American people. Its recommendations could supplement the other important steps that have been taken by the administration and Congress in response to the Tiananmen incident and other developments in China.

The outline of the bill to establish the Commission is as follows:

Section 1: The short title is the "Special Commission on United States Relations with the People's Republic of China Act of 1991."

Section 2—Findings: This section sets forth comprehensive Congressional findings that restate a number of Congressional concerns and also identify the chief issues in U.S.-China relations, which the Commission established through the bill would be expected to pursue.

Section 3—Purposes: This section gives the basic purposes of the Act, which are to assist

the formation of a national policy toward China shared by the Executive and Legislative branches and enjoying broad public support, to be facilitated through an independent review of U.S. policy toward China and the formulation of recommendations for actions that would preserve U.S. interests and promote U.S. influence over Chinese policies which are legitimate subjects of international concern.

Section 4—The Commission and its Mandate: This section would establish the Commission and set forth its mandate, which is to carry out the activities specified in section 6 in order to achieve the purposes described in section 3.

Section 5—Membership and Organization: This section lays out the membership and organization of the Commission, viz.

(a) The members of the Commission would be appointed by the President within 30 days after the date of enactment;

(b) The members of the Commission would number 17 and would include (1) the Secretary of State or his representative, (2) four other senior officials of other federal agencies, (3) four members of Congress chosen after consultation with the Congressional leadership and including a member of the majority and the minority from the House of Congress, and (4) eight distinguished private citizens chosen to represent a broad range of knowledge, experience and political belief, including at least two individuals who are acknowledged authorities on China.

(c) The President would appoint the chairperson from among the private sector members of the Commission.

(d) Terms of appointees would be for the duration of the Commission, except that vacancies would be filled according to the original method of appointment.

Subsections (e)-(g) give further details on the organization of the Commission.

Section 6—Powers of the Commission: The Commission would be empowered to hold hearings and establish task forces. It could obtain data from federal agencies and would have access as necessary to classified information pursuant to arrangements made by the President. Members of the Commission could travel to the People's Republic of China or other overseas locations in coordination with the Secretary of State.

Section 7—Administrative Provisions: The Commission could employ staff and consultants and request assistance from federal agencies on a reimbursable or non-reimbursable basis.

Section 8—Activities of the Commission: The Commission would be directed to pursue a number of specific activities in order to review current U.S. policy toward China and make recommendations for future action.

Section 9—Report; Termination: The Commission would publish its report by March 31, 1992 and terminate 30 days after publishing its report. Upon termination of the Commission, its records would be transferred to the National Archives.

Section 10—Funding: The Secretary of State would be authorized to reprogram \$500,000 of the funds made available to the Department of State to fund the operation of the Commission.

RULE ON H.R. 2950, THE INTER-
MODAL SURFACE TRANSPORTATION
INFRASTRUCTURE ACT
OF 1991

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to the rules of the Democratic caucus, I wish to serve notice to my colleagues that I have been instructed by the Committee on Ways and Means to seek less than an open rule for the consideration by the House of Representatives of H.R. 2950, the Intermodal Surface Transportation Infrastructure Act of 1991.

THE COMMERCIAL ACTIVITIES
CONTRACTING PROCEDURES ACT
OF 1991

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. CONYERS. Mr. Speaker, it is with great pleasure that I am introducing today that Commercial Activities Contracting Procedures Act of 1991. This bill is a comprehensive effort to place into law the Government's program for designating those commercial activities that will be contracted-out to the private sector and those that will be performed by Government employees. This contracting-out decisionmaking process affects approximately 1 million Federal jobs and at least \$20 billion in annual expenditures by the Federal Government.

Contracting-out is now governed by the Office of Management and Budget [OMB] Circular A-76. But I am strongly convinced that a bill is needed to place this program into statute. With 1 million jobs and \$20 billion a year at stake, it is time that Congress has its say in the contracting-out program. We must legislate some stability in the program to protect the business community from the uncertainties of program application. We must also protect Federal managers and employees from the vagaries of shifting policy directions and the degradation of managerial prerogatives and employee rights that have all too often been the most serious victims of OMB's disjointed efforts to implement its A-76 circular.

This bill is similar in most respects to H.R. 4015, which I introduced in the 101st Congress. Based on hearings held on H.R. 4015 by the Government Operations Committee, and discussions with industry and union groups, we have made certain improvements to this bill which I think will make it more acceptable to all parties.

Since 1955, it has been the policy of the Federal Government to rely on the private

• 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.

sector for all commercial services. That policy was restated in 1966 in OMB Circular A-76, but was modified in 1979 and 1983. These modifications did not contain the strict prohibitions included in the original policy statements, but, rather, made contracting out dependent upon competitions between Federal employees and private sector firms.

However, A-76 has been the subject of shifting administrative priorities and uneven and unfair implementation throughout Government. The imposition by OMB of arbitrary agency goals and mandatory budget cuts predicated on anticipatory savings have worked havoc on the ability of Federal managers to manage and on the ability of Federal employers to do their jobs.

A-76 should not be a tool to force reductions in employment levels, or to effect budget cuts that otherwise cannot sustain the scrutiny of analysis when compared to the mission critical needs of Federal agencies. In my opinion, the A-76 process is essentially a procurement process that should be designed solely to determine whether Federal employees or private contractors can perform certain commercial activities more economically. The business community understands this, as well as Federal employees and our Federal agencies. Now, it is time for this administration to understand this precept and to guide itself by this philosophy so that it does not repeat the mistakes of past administrations of both political parties.

My bill would not change the underlying philosophy that most commercial activities should be performed by commercial sources when they can be performed by those sources more economically. When enacted, however, the bill would specify clearly an equitable set of standards upon which competitions between Government employees and private sector firms would be based. There would be no more hidden costs that the Government would be hit with at a later date.

Government employees would also be provided certain due process rights to challenge illegal or inappropriate agency decisions, but in a manner that would not cause undue administrative delay.

In addition, the bill would set in place a system to ensure that competitions between Government employees and private sector firms continue over time. This will prevent contractors from buying into contracts and then raising the price through subsequent unjustified change orders and modifications. In order to impose a much-needed system of checks and balances, the bill provides that these contractors would have to re-compete against Government employees on a periodic basis.

Finally, the bill would mandate reporting requirements so that the true savings realized from contracting out could be measured throughout the term of the contract. At present, there is no Government-wide system in place to track whether estimated cost savings actually occur when commercial activities are initially converted to contracts.

The major provisions of my bill follow:

First, the act would present a comprehensive and efficient method for determining which commercial activities should be performed by Government employees and which activities should be contracted out with com-

mercial business concerns. Detailed provisions are also included concerning reporting of commercial activities and the measurement of savings.

Second, the act would cover all executive branch agencies and departments, but not the U.S. Postal Service.

Third, the act would require that all governmental functions be performed by Government employees and that commercial activities be performed by private sector firms unless:

No commercial source is capable of performing the work;

Use of a contractor would cause unacceptable delay;

The commercial activity involves patient care at a Government-operated hospital and it is in the best interest of the patients to keep performance by Government employees;

Based on a cost comparison study, Government employees can, with respect to commercial activities presently being performed by contract, perform the work at a lower cost; and, with respect to activities presently being performed by Government employees, perform the work at no more than 10-percent higher than the anticipated cost of contracting out.

Fourth, as a general rule, work that could be more economically performed by Government employees would be converted to in-house performance.

Fifth, the act contains detailed provisions on how to formulate performance work statements and conduct cost analyses.

Sixth, appeal rights are given to interested parties to protest, before independent boards and administrative law judges, performance work statements and cost comparison analyses.

Seventh, all agencies must prepare and make publicly available inventories of commercial activities containing detailed information on the nature and performance of those activities.

Eighth, displaced Government employees are provided rights dealing with reemployment by the Government and employment with the successful contractor when a commercial activity is converted to contract.

Ninth, detailed reporting requirements are imposed so that the true cost benefits of converting to contract and converting to in-house performance can be accurately measured.

Tenth, commercial activities contracting resource centers are established within the Department of Defense and the General Services Administration to supply expertise and guidance for Federal agencies in the contracting out process.

I would like to take this opportunity to thank the American Federation of Government Employees and its national president, John N. Sturdivant, for their invaluable assistance in formulating this important piece of legislation.

I look forward to working with the administration, organized labor, and the business community in a bipartisan fashion to bring this legislation before the President for his signature. I urge my colleagues to cosponsor and actively support this most important measure.

A section-by-section analysis of the Commercial Activities Contracting Procedures Act of 1991 follows:

SECTION-BY-SECTION ANALYSIS OF THE COMMERCIAL ACTIVITIES CONTRACTING PROCEDURES ACT OF 1991

SECTION 1. SHORT TITLE

Provides that this Act may be cited as the "Commercial Activities Contracting Procedures Act of 1991."

SECTION 2. PURPOSES

This section specifies four purposes for the Act:

- (1) To establish uniform standards for determining the most economical and efficient method to acquire commercial services;
- (2) To provide for accountability and equity in such standards;
- (3) To ensure fair competition and an opportunity for interested parties to participate fairly in the process; and
- (4) To provide for annual reports regarding commercial activities and to substantiate estimated and actual savings.

SECTION 3. DEFINITIONS

This section contains a series of definitions as follows:

- (1) "Administrator" means the administrator of Federal Procurement Policy;
- (2) "Adversely affected employee" means any civilian employee of an agency who, as a result of a decision to convert to contract, is likely to be released from service or reduced in competitive grade or employment;
- (3) "Agency" means a Federal agency or department as defined under 41 U.S.C. §403;
- (4) "Commercial activity" means the production of a product or the performance of a service that may be procured from a commercial source in a form which is identical or substantially similar to the form in which that product or service is sold to the general public;
- (5) "Commercial source" is a business or other non-government entity located within the United States and which is capable of performing a commercial activity;
- (6) "Conversion to contract" or "convert to contract" mean changeover of performance by government employees to performance by a commercial source;
- (7) "Conversion to in-house performance" or "convert to in-house performance" means changeover from performance by a commercial source to performance by government employees;
- (8) "Full time equivalent work year" means 2,080 paid labor hours in a fiscal year or such other period of time as may be established by law;
- (9) "Government" means the Federal Government;
- (10) "Government employee" means an employee of an agency; and
- (11) "Governmental function" means any activity intimately related to the public interest and that requires either the exercise of discretion or the making of policy decisions for the Government.

SECTION 4. APPLICATION

Subsection 4(a): This Act shall not apply:

- (1) In any case when its application would be contrary to an international agreement;
- (2) To DOD in times of declared war, military mobilization, or other emergency declared by the President;
- (3) To research and development activities; and
- (4) To the procurement of architectural and engineering services governed by the Brooks A&E Act.

Subsection 4(b): This Act is also subject to a series of limitations. It does not:

- (1) Provide authority to enter into contracts;

(2) Establish any rights for employees of commercial sources;

(3) Authorize conversion to contract of any commercial activity in order to avoid personnel or salary ceilings; or

(4) Authorize the conversion to contract of any governmental function.

SECTION 5. INVENTORIES OF COMMERCIAL ACTIVITIES

Subsection 5(a):

Paragraph 5(a)(1). Subject to the provision of section 4 (dealing with the application and limitations of the program) and paragraph 3 of this subsection (dealing with commercial activities utilizing less than 10 full-time equivalent work years and governmental functions), not later than March 31 of each year, every agency must prepare and make public an inventory of all commercial activities it anticipates will be performed by government employees during the following year.

Paragraph 5(a)(2). Each activity included on the inventory must reference:

- (1) The number of work years involved;
- (2) The commercial activity and the place of performance;
- (3) The date the commercial activity was last reviewed for conversion to contract;
- (4) The date of the next planned review (including the anticipated completion date); and
- (5) The reason for performance of the commercial activity by government employees.

Paragraph 5(a)(3). Commercial activities requiring less than ten full-time equivalent work years and governmental functions may be excluded from the inventory.

Subsection 5(b):

Paragraph 5(b)(1). Not later than March 31 of each year, every agency must prepare and make publicly available an inventory of commercial activities that are or will be performed by a commercial source during that year under a contract with the agency.

Paragraph 5(b)(2). For each item included on the inventory there must be a description of:

- (1) The activity and the place of performance;
- (2) The name of the person who most recently performed the activity;
- (3) The date the activity was last subject to a cost comparison analysis;
- (4) The date of the next planned review of the activity for possible conversion to in-house performance;
- (5) The contract number for that commercial activity;
- (6) The contract price;
- (7) For each activity converted to contract during the preceding 5-year period, the last annual payment for that activity;
- (8) The total cost incurred by the government for conducting that procurement; and
- (9) The reason for performance of the commercial activity by a commercial source.

Paragraph 5(b)(3). An agency shall not include a commercial activity in its inventory of contracted-out activities if:

- (1) That activity was converted to contract within the last two year period;
- (2) Performance of the commercial activity by commercial sources requires less than 10 full-time equivalent work years annually; or
- (3) The commercial activity will be performed pursuant to section 8(a) of the Small Business Act, section 1207 of P.L. 99-661 (both dealing with small disadvantaged businesses); or by a sheltered workshop for the blind or severely handicapped.

Subsection 5(c): Not later than 60 days after an inventory is made publicly available by an agency, a labor organization represent-

ing employees of that agency may petition the head of the agency to include or exclude a commercial activity from that inventory.

Subsection 5(d): A determination as to whether any activity of an agency is a governmental function shall be made wholly by employees of the Government, without contractor assistance.

SECTION 6. PERFORMANCE OF ACTIVITIES UNDER CONTRACT

Subsection 6(a): Performance of commercial activities contained in an inventory shall be performed by one or more commercial sources unless the head of the agency determines that:

- (1) No commercial source is capable of performing the contract;
- (2) Use of a commercial source would cause unacceptable delay or disruption to a program or activity of the agency;
- (3) The commercial activity involves patient care at a hospital operated by the government and performance of the activity by government employees would be in the best interest of patient care;
- (4) The commercial activity is a governmental function; or
- (5) Based upon a cost comparison study conducted under section 7, government employees are performing, or can reasonably be expected to perform the commercial activity at an estimated cost that is—(A) in the case of a commercial activity being performed by a commercial source, less than the total costs incurred by the government under contract; or (B) in the case of a commercial activity that is presently being performed by government employees, not more than 10 percent higher than the estimated total costs of contracting for the provision of that commercial activity.

Subsection 6(b): Commercial activities shall be procured from the private sector on the basis of firm fixed price contracts, unless the head of the agency determines that a cost reimbursement contract is appropriate and reasonable, and so certifies in writing with an explanation and citation of authorities.

Subsection 6(c): The term of a contract for commercial activity shall not exceed 3 years, unless the contracting officer determines in writing that the contract is for complex, multifunction commercial activities, in which case the term of the contract may be up to 5 years.

SECTION 7. COST COMPARISON ANALYSIS

Subsection 7(a):

Paragraph 7(a)(1). Before converting to contract or converting to in-house performance, an agency must conduct a cost comparison analysis. For the purposes of such analyses, all costs will be computed on the basis of a final performance work statement prepared pursuant to section 8.

Paragraph 7(a)(2). A commercial activity may be converted to contract without conducting a cost comparison analysis if the contract is to be awarded pursuant to:

- (1) Section 8(a) of the Small Business Act;
- (2) Section 1207 of P.L. 99-661; or
- (3) The Javits-Wagner-O'Day Act.

Subsection 7(b):

Paragraph 7(b)(1). Within 180 days after the date of enactment of this Act, the Federal Acquisition Regulatory Council shall amend the Federal Acquisition Regulation to establish requirements for conducting cost comparison analyses.

Paragraph 7(b)(2). The regulation must provide that:

- (A) The cost of performance by government employees shall be determined based on the

most efficient and cost effective organization practicable;

(B) The cost of performance by a commercial source shall be based on full and open competition, except that competition may be limited to small business concerns; and

(C) The cost comparison analysis, in determining the cost of contracting out a commercial activity, shall base the analysis only on contracts that meet the requirements of the Act, i.e., that are firm fixed price contracts for a period of 3 years or less or that otherwise meet the requirements of subsections 6(b) and 6(c) and section 7.

Paragraph 7(b)(3). Regulations promulgated under this section must also include provisions dealing with the calculation of all relevant costs of performance of a commercial activity. These costs are to include: personnel costs (including pay, retirement, and fringe benefits); material, equipment, and supply costs; utility costs (including those utilities provided by the government); maintenance cost of government owned machinery, tools, equipment, and other items; depreciation; rent; maintenance, repair and upkeep; insurance; travel; overhead; and such other additional costs as may be appropriate.

Paragraph 7(b)(4). Costs that would be the same for performance by a commercial activity and for performance by Government employees may be excluded from the analysis, if documented and made part of the record.

Paragraph 7(b)(5). In addition to the costs determined above, the fair market value of all government property to be used by either a commercial source or government employees must be taken into account when performing a cost of analysis.

Paragraph 7(b)(6). A cost comparison analysis, including preparation of the performance work statement, must be completed within two years, except that a cost comparison analysis that the agency determines involves "complex, multi-function commercial activities" must be completed within 4 years.

If a cost comparison analysis is not completed within 6 months of the deadline, the agency must request assistance from one of the Commercial Activities Resource Centers (CARCs) established under section 12 of the Act. The CARC, in its discretion, may assume responsibility, in whole or in part, for conducting the analysis.

Paragraph 7(b)(7). Once a cost comparison is completed by an agency, it is to be submitted to that agency's review board established under section 9.

Subsection 7(c):

Paragraph 7(c)(1). The review board shall review, within 30 days, the adequacy of each cost comparison analysis submitted to it (including the performance work statement on which the analysis is based) with respect to currency, reasonableness, accuracy, and completeness.

Paragraph 7(c)(2). An interested party may appeal a decision of a review board to the head of the agency not later than 15 days after the review board announces its final decision. That party is entitled to a hearing on the record in accordance with chapter 5 of title 5, United States Code, within 10 days of filing the appeal. The head of the agency, within 15 days of filing of the appeal, shall sustain the decision of the board unless it is found not to be substantially justified by the facts, or contrary to law or regulation.

For purposes of this provision the term "interested party" means any:

- (1) Adversely affected employee;
- (2) Labor organization accorded exclusive recognition to represent adversely affected employees;

(3) Former Federal employee who has a reasonable prospect for re-employment by the government if a commercial activity were to be converted to in-house performance; and

(4) Prospective offeror whose direct economic interest would be adversely affected by a decision not to convert to contract or to convert a contract to in-house performance.

Paragraph 7(c)(3). An agency cannot take any action to convert to contract or to convert to in-house performance a commercial activity during the 15-day period following a decision of the review board or during any period in which an appeal to a review board decision is pending.

Subsection 7(d): The head of an agency must provide to all agency employees performing a commercial activity timely notification of each cost comparison analysis that is initiated with respect to that activity and shall keep those employees duly informed of the progress of each such analysis.

Subsection 7(e): No person may disclose a cost comparison analysis before the review board reviewing the analysis announces its final determination under paragraph (c)(2). Nothing contained in this provision authorizes the disclosure of proprietary information that would adversely affect the financial or competitive position of a commercial source if released to the public. In addition, this provision does not limit the authority of Congress or any law enforcement authority to obtain information otherwise available under law.

SECTION 8. PERFORMANCE WORK STATEMENTS

Subsection 8(a): The head of an agency must prepare a performance work statement for each commercial activity for which a cost comparison analysis is conducted under section 7. Each performance work statement must define the scope of work of a commercial activity by:

- (1) Delineating standards of performance, critical elements and time restraints; and
- (2) Using a description of work that does not exceed the minimum requirements of the agency;

Subsection 8(b):

Paragraph 8(b)(1). Commercial activities may be combined for the purpose of preparing performance work statements only if such commercial activities are logically related to each other so that the successful performance of one activity is dependent on the successful performance of the other and are combined in a manner that promotes full and open competition at the prime contract level among the greatest practicable number of commercial sources.

Paragraph 8(b)(2). In no case shall any commercial activity be divided or otherwise modified to escape the "10 full-time equivalent work years" threshold of the Act.

Subsection 8(c):

Paragraph 8(c)(1). Before a performance work statement is submitted to a review board, the head of an agency shall provide to all potential adversely affected employees (and their collective bargaining representatives) a period of at least 60 days in which to submit comments and recommendations.

Paragraph 8(c)(2). Such comments or recommendations must be in writing and shall be responded to individually and in writing indicating whether the recommendation will be incorporated within the performance work statement.

Paragraph 8(c)(3). An employee whose recommendation is rejected has 30 days to appeal the negative determination to the appropriate review board. If the decision of the agency is not substantially justified or is

contrary to law or regulation, the board must sustain the appeal and require the agency to make appropriate changes in the performance work statement. The review board shall decide the appeal within 30 days after it is filed.

Paragraph 8(c)(4). A performance work statement shall not be final until all employee appeals with respect to that performance work statement are resolved.

Subsection 8(d):

Paragraph 8(d)(1). Not later than 15 days after completing a performance work statement, the agency must:

(A) Publish in the Commerce Business Daily the fact that the Performance Work Statement is available;

(B) Provide a copy of the performance work statement to each labor organization representing government employees who perform any commercial activity that is the subject of the performance work statement; and

(C) Provide written notice to all government employees providing a commercial activity that is the subject of a performance work statement advising them of the availability of a copy of the performance work statement upon request.

Paragraph 8(d)(2). Performance work statements provided to collective bargaining representatives shall be provided not later than 30 days after final approval of the statement. All other parties are to receive the performance work statement within 30 days after the agency receives a request for the statement.

Paragraph 8(d)(3). With the exception of performance work statements provided to labor organizations, an agency may charge a nominal fee for reproducing and mailing performance work statements to requesting parties.

SECTION 9. REVIEW BOARDS

Subsection 9(a): Each agency is to establish a review board for the acquisition of commercial activities. Each board is to be chaired by the official of the agency assigned by statute with the responsibility for acquisition strategy, or if no such individual in that agency is assigned by statute, by the official designated pursuant to section 16(3) of the Office of Federal Procurement Policy Act.

Subsection 9(b): An agency review board is to consist of the Chairperson and such other government employees as the Chairperson believes appropriate. However, a person may not serve on a review board during its consideration of a matter pertaining to an organizational unit of the agency that employs that person.

Subsection 9(c): Review boards shall review cost comparison analyses prepared by agencies under section 7 and consider employee appeals under section 8(c) dealing with performance work statements.

SECTION 10. RE-EMPLOYMENT OF DISPLACED EMPLOYEES

Subsection 10(a): Agencies must, with respect to adversely affected employees:

- (1) Exert maximum effort to fill available positions with such employees;
- (2) Establish a re-employment priority list and a positive placement program; and
- (3) Pay reasonable costs for training and relocating the employee if that leads to placement of the employee within the agency.

Subsection 10(b): The Office of Personnel Management must, with respect to adversely affected employees:

- (1) Ensure that such employees have access to government-wide placement programs on a priority basis; and

(2) Consult with the Secretary of Labor regarding job opportunities in the private sector.

Subsection 10(c): A commercial source that wins a contract pursuant to a cost comparison analysis must, prior to entering into the contract:

(1) Advise adversely affected employees that they have a right of first refusal for available positions for which they are qualified; and

(2) Actively assist and facilitate the hiring of such employees.

These duties of the commercial source and to be incorporated into the contract by the government.

SECTION 11. REPORTING

Subsection 11(a): The OFPP Administrator is to issue regulations which require the head of each agency to report annually to OFPP on the number and dollar value of commercial activities that are converted to contract or converted to in-house performance. In addition, each agency is to report the dollar savings anticipated from such actions.

Subsection 11(b). By January 31 of each year the OFPP Administrator is to prepare and submit a report to the Congress describing:

(1) The savings from conversions to contract and conversions to in-house performance;

(2) The number of Federal employees performing commercial activities;

(3) The estimated number of private sector employees performing commercial activities for the government; and

(4) The contract number and value for each commercial activity procured by an agency under contract in the preceding year, specifying the name of the contractor and its location.

Subsection 11(c): The Comptroller General may provide the OFPP Administrator such assistance as the Administrator considers necessary to establish criteria or measures pertaining to cost savings.

Subsection 11(d): The head of each agency must provide the OFPP Administrator upon request with such resources and assistance as the Administrator considers necessary for preparing reports required by this section.

SECTION 12. COMMERCIAL ACTIVITIES CONTRACTING RESOURCE CENTERS

Subsection 12(a): Provides for the establishment of separate Commercial Activity Contracting Resource Centers (CARCs) within the Department of Defense and the General Services Administration to assist with the implementation of this Act.

Subsection 12(b): The Administrator of General Services and the Secretary of Defense, acting through the CARCs, shall:

(1) Assist agencies in developing performance work statements, conducting cost comparison analyses, and otherwise implementing the Act;

(2) Develop and implement training programs for Federal employees on commercial activities contracting;

(3) Establish a repository for information on commercial activities contracting;

(4) Provide technical assistance; and

(5) Otherwise advise and assist in implementation of the Act.

Subsection 12(c): The authority of the Administrator of GSA and the Secretary of Defense under this section shall not be construed to limit the authorities and responsibilities under other laws of the Administrator of Federal Procurement Policy or any other agency head.

SECTION 13. PROCUREMENT PROTESTS

This section would amend 31 U.S.C. §3551(2) to clarify the applicability of GAO bid protest procedures to conversions to contract or conversions to in-house performance.

SECTION 14. EFFECTIVE DATE

This Act would take effect 180 days after the date of enactment.

H.R. 2507 WILL SAVE LIVES

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. ANDERSON. Mr. Speaker, the debate on H.R. 2507, the National Institutes of Health Revitalization Amendments of 1991, centers on whether or not fetal tissue can be used for medical research without promoting abortion. Both sides agree that this research holds revolutionary promise for curing many diseases, including leukemia, multiple sclerosis, Alzheimer's, Parkinson's, and diabetes. Opponents of this proposal argue that fetal tissue research will increase abortions. Mr. Speaker, this debate is not about promoting abortion, it is about allowing NIH to conduct vital medical research. I rise today in support of H.R. 2507 because I firmly believe that the current ban on fetal tissue research is groundless and is depriving our Nation from medical discoveries that will dramatically improve the lives of millions of Americans.

In 1988, President Reagan imposed a moratorium that prohibited the National Institutes of Health [NIH] from conducting fetal tissue transplantation research while the Human Fetal Tissue Transplantation Research Panel, which Reagan appointed, determined whether or not performing fetal tissue research was acceptable public policy. The panel, which was composed of experts with both pro-choice and antiabortion positions, concluded that there were no ethical or scientific grounds for barring such research. They recommended lifting the moratorium as long as procedural safeguards were taken to ensure that fetal tissue research was not abused. President Bush has ignored the panel's recommendation, and the moratorium has remained intact.

Provisions in H.R. 2507 would lift the ban on fetal tissue research. The bill also includes the procedural safeguards suggested by the Human Fetal Tissue Transplantation Research Panel. The provisions stipulate that to use fetal tissue for research, it must be documented that the decision to have an abortion was separate from the decision to donate fetal tissue. A woman cannot place restrictions regarding the identity of individuals who may be recipients of the fetal tissue, thereby prohibiting donor specific abortions to cure an ill family member or friend. Fetal tissue cannot be bought or sold, eliminating the profit motive for having an abortion. Last, to avoid a conflict of interest, medical personnel who perform an abortion are barred from involvement in the subsequent use of the tissue for transplants.

The potential medical advances from fetal tissue research have been undisputed throughout this debate. Fetal tissue transplantation research could possibly cure birth de-

fects, Alzheimer's disease, Parkinson's disease, juvenile diabetes, leukemia, and epilepsy. I firmly believe that medical professionals should be able to use all the resources at their disposal to fight these diseases. Preventing fetal research effectively prevents the advancement of cures and treatments without changing the realities of the abortion debate. Abortions will occur whether or not we pass this legislation today, but only one vote today will improve our ability to help people afflicted with these life-threatening diseases. For this research, I urge my colleagues to support H.R. 2507.

WHEN WERNER SPEAKS, PEOPLE LISTEN

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. KOSTMAYER. Mr. Speaker, the 1991 Humanist of the Year Award has been presented to Werner Fornos, the president of the Population Institute. The award is presented annually to those who have made outstanding contributions toward the improvement of the human condition, and whose careers have worldwide impact.

Past recipients include Dr. Linus Pauling, Jonas Salk, Andrei Sakharov, Carl Sagan, John Kenneth Galbraith, B.F. Skinner, and Margaret Sanger.

Werner Fornos was cited for his work toward curbing world population growth, which the board of directors of the Humanist Association said it considers to be the root cause of virtually all environmental political and social ills confronting humanity today.

Worldwide recognition of this award is best reflected by the following article from Dawn, published in Karachi, Pakistan, on July 12, 1991:

WHEN WERNER SPEAKS, PEOPLE LISTEN
(By Anjum Niaz)

He upstages all, slipping effortlessly into the driver's seat. Soon the spotlight comes on and he starts to speak. His voice has a riveting quality about it . . . as words of passion flow, the listeners sit up and take note! In front of kings and commoners, demographic experts and lay people, congressmen and students . . . I have heard Werner Fornos address population and environment concerns . . . each time the man has excelled himself!

But, Werner is more than just an excellent orator . . . he is a humanist, a man fighting for the rights of billions of people doomed to a wretched existence in the Third World. His is not a magnificent obsession, but a sincere crusade for stabilising the world population . . . Over population produces a terrible irony: having babies produces more suffering, frequently more death. As an American, he feels angry about the complacent attitude of fellow Americans, who are not too pushed about the subhuman life people suffer in the Third World.

As President of the Population Institute in Washington which is the only grassroots organisation in the US focusing solely on solving the international population problem, Werner Fornos is a tireless and effective advocate of family planning. The Institute

according to Senator Paul Simon "has tangibly increased awareness about and helped lead to action in response to, one of the most critical matters affecting our global future".

Werner's ire is directed towards the White House and the Congress. Critical of President Bush's veto of US aid to UNFPA, Werner refuses to give up. "I am lobbying for the aid Bill to be passed by the Congress and attain a majority, to override Bush's veto". He is confident of carrying the day with the strong support of senators and representatives in both the houses of Congress, because these people believe in Fornos' cause. UNFPA is fortunate in having Fornos as its chief advocate at the Capitol Hill. Werner's waking hours are taken up by an all-consuming challenge to get America to recognise the UNFPA!

Speaking on May 22, 1991, from the podium of the formidably impressive National Press Club of Washington where international luminaries have held forth, Werner once again stole the limelight from the leaders of 60 organisations gathered to launch one of the most ambitious cooperative efforts ever undertaken to bring public attention to the devastating impact of overpopulation by releasing a Priority Statement on Population. As the American Press began its battering, most of the speakers failed to provide convincing replies. Werner then moved to the centre of the stage, and took on the googlies. Point by point, he fielded questions and ended up not only convincing the hardboiled media, but bagging interviews by the radio and press present there!!

The confidence, the smoothness of his delivery and his charisma comes from years of cumulative hard work and a sincere commitment to his cause. Where Werner strikes an extra point is in his firsthand information and knowledge of Third World countries and its leaders. He's equally at home meeting with Pathan elders in Landi Kotal . . . breaking bread with them as he is with the wife of the Pakistani President in Pindi sipping coffee. The subject of discussion always is population! I have witnessed Werner in different situations . . . with King of Nepal and the royal treatment meted out to him, with former Bangladesh President Ershad and how the latter conducted him around his "Control Room" where he daily monitored the population figures; with President Soeharto in his palace in Jakarta where both in a personal audience discussed the successes of the Indonesian family planning programme; in a university in Westchester in America, where Werner spoke to the students and explained the population control imperatives. The man is inexhaustible . . . versatile and above all sincere.

Population is not all that Werner talks about. He has a remarkable sense of humour. He has no problem breaking the ice with strangers . . . he starts by telling a joke. Warming up people, Werner then works his way to their hearts and souls, speaking in a forthright and sincere manner about his cause. The recurrent theme being: "The challenge for Congress, for the President, for the American people and for the citizens and governments worldwide—is clear. The challenge is too look beyond the next election to the next decade. We must come up with a course correction to slow and even stop the greatest threat our planet has ever faced".

Werner was awarded the "Humanist of the Year Award" by the American Humanist Association in Chicago. At the glittering gathering of notables, Werner received a standing ovation at the end of his address. He had not prepared, he had not rehearsed, he was just

his natural self . . . warm, forceful and spontaneous . . . and that exactly explains the man and his mission.

HONORING JIM BARROCA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to Jim Barroca, executive vice president of the Greater Ventura Chamber of Commerce, as he celebrates his 20th anniversary with that organization.

Jim grew up in Oakland, and he learned all about the small businessman's school of hard knocks by working in his father's neighborhood grocery store.

Following four years in the U.S. Navy, Jim returned to the bay area to finish college at the University of California, Berkeley where he received his B.A. in Journalism in 1960.

Most of Jim's life has been spent in volunteer organizational management. Following graduation he worked for several years in the San Francisco office of the Wall Street Journal before joining the San Leandro Chamber as assistant manager in 1962. Jim migrated to the San Fernando Valley in 1964 when he was asked to manage the Canoga Park Chamber.

In 1966 Jim was asked to manage the Oxnard Chamber. Two years later, the Conejo Valley Chamber in Thousand Oaks was looking for someone to be their first chamber manager and asked Jim to take the job.

Mr. Speaker, that is where Jim was before receiving a call in 1968 from Ira Laufer, the owner of radio station KVEN and immediate past president of the Ventura Chamber, asking him to take over as manager.

Jim is a member of many organizations, including the Ventura Country Ad Club, the Ventura County Public Information Communicators Association, and both the American and California Association of Chamber of Commerce Executives. Jim has also been a member of the East Ventura Rotary Club for the past 19 years.

Jim currently serves on the board of directors of the Downtown Ventura Association and the Ventura Youth Employment Service.

Jim was named "Outstanding Young Man of the Year" by the Canoga Park Jaycees in 1965 and Oxnard Jaycees in 1967 and was named Ventura's "Citizen of the Year" by the Ventura Jaycees in 1981.

Since coming to Ventura, Jim has managed the chamber's growth and has watched the membership increase from 450 businesses to over 1,500.

Mr. Speaker, although Jim is indeed a rare individual, I cannot say that he has been working alone all these years. His wife Marie has been with him at every turn, and together they have raised three children.

On behalf of the U.S. House of Representatives, I would like to thank Jim for his many years of dedicated service to not only the business community, but to the community as a whole, and to wish him the very best in all of his future endeavors.

RAISIN WARS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. KILDEE. Mr. Speaker, last month the House agriculture appropriations bill included language directing the Department of Agriculture to conduct an evaluation of breakfast cereals currently excluded from use in the WIC Program because of naturally occurring sugar in fruit. USDA would conduct this evaluation in conjunction with an ongoing review of the entire WIC food package. I was encouraged by the committee's action because it addresses a regulatory condition that prevents WIC participants from redeeming their coupons for cereals that contain fruit, such as raisins, because the natural sugar in the fruit exceeds maximum levels established by USDA.

It is common knowledge, and a practice encouraged by USDA in their literature, that eating fruit is an essential part of good nutrition. It therefore appears contradictory to prevent nutritionally at-risk WIC participants from accessing a readily available source of fruit in a cereal that, except for the additional fructose in fruit, meets all nutritional standards.

A July 30 Washington Post editorial referred to the current policy as "Government at its most famously elephantine." It also referred to a legislative effort to correct this inconsistency by attaching an amendment to the agriculture appropriations bill on the floor of the Senate, but it concludes by saying "this is the wrong place to write the rules."

Mr. Speaker, I must agree with the Washington Post on both accounts—the policy seems contradictory, but the floor of Congress is not the place where such rules should be revised. At the same time, I believe this matter should be resolved as soon as possible. Senator LEAHY assured Senator LEVIN during consideration of the Senate agriculture appropriations bill that his committee will be in contact with USDA to request that the issue be handled quickly and that a report outlining the Department's plan for dealing with this issue will be provided to the committee by the end of this year. As chairman of the Subcommittee on Elementary, Secondary, and Vocational Education, which has jurisdiction over the WIC Program, I fully support the Senate's action.

I would also like to enter into the RECORD a copy of the Washington Post editorial for my colleagues' review:

RAISIN WARS

The Federal government thinks that children should eat less sugar and more fruit, which is fine—except when it's contradictory. The fruit that the government likes can be a major source of the sugar that it doesn't. The contradiction arises with particular force inside a box of Kellogg's Raisin Bran. Can you believe that it may now arise within the U.S. Senate as well?

It seems that, were it not for the sugar from the raisins, this product of the Kellogg Co. would be eligible to be bought by needy families under the sugar standard of the government's WIC program, a stern 6 grams per serving and no more. Counting the raisins and the rest of the sugar in the box, however, it's not eligible. That's true even though the same Agriculture Department that main-

tains the WIC regulations can be found in other contexts urging Americans not merely to eat more fruit, but to put it on their cereal.

Kellogg cares, and not just for love of consistency in the Code of Federal Regulations. The WIC feeding program for needy pregnant women, infants and children is itself a pretty big bowl of breakfast. It helps to feed nearly 5 million people including a third of the nation's newborns at a cost of about \$2.4 billion a year. Of that, an estimated \$150 million goes for cereal, and about two-thirds of the cereal money, Kellogg says, is spent on Cheerios, which meet the WIC sugar and other nutrition standards and are made by Kellogg competitor General Mills. WIC really stands for women, infants, and Cheerios, the Kellogg people like to joke, not sweetly.

Kellogg, based in Michigan, is urging that state's Sen. Carl Levin to offer an amendment to the agriculture appropriations bill somehow relaxing the sugar rule so that the raisins won't count. Other senators including minority leader Bob Dole have warned they will resist a step they call a threat to the program's "integrity." They cite a letter from the American Academy of Pediatrics and other protective groups urging that the question of what can and cannot be bought with the money not be politicized and noting that the department is already in the midst of a regular reexamination of the rules.

If the government is going to cross the threshold of setting nutritional standards at all—as perhaps it had to, at least in the particular kind of program WIC is—we suppose it was bound to come to this. You make the rules, and the next thing you know poor kids can't have Raisin Bran, which other kids are eating without ill effect, because to allow Raisin Bran is to open the floodgates to government subsidized Snickers bars for poor and nutritionally deprived families. It is government at its most famously elephantine. Of this much only we are certain: The Senate floor is the wrong place to write the rules. But the Agriculture Department, if it is to have a free hand, should at a minimum keep the free hand light. Surely it's possible to have rules that square with the WIC program's raisin d'etre and still let in a scoop of raisins.

A TRIBUTE TO JOSEPH F. BROWN

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize Joseph F. Brown, "Speaker of the House for Rhode Island's Silver-haired Legislature." Mr. Brown is receiving the John E. Fogarty Older Americans Act Award for his commitment to improving the quality of life for older persons.

For 10 years, Joseph Brown has been a member of the Rhodes Island silver-haired legislature. In addition, he has been a member of the Governor's Commission on Alzheimer's and Dementia, and a tax counselor for the elderly in an IRS/AARP program.

Joseph F. Brown will be recognized on August 6, 1991 at 10 a.m. at the seventh annual commemorative program at Providence City Hall, given by the National Council of Senior Citizens. There will be entertainment, door prizes, and awards.

In addition to being active in the "Silver-Haired Legislature," Joseph Brown is a member of Retired Seniors Volunteer Program in East Bay, was treasurer and past president of the East Providence Negro Men's Civic Association, and on the self-help board of directors and acted as treasurer for 3 years.

I would like to once again recognize Joseph F. Brown for his contributions to the State of Rhode Island. He is a truly remarkable individual who has devoted his talents and energies to the "Silver-Haired Legislature." I would like to wish him luck with his future endeavors and again thank him for his contributions to the community.

U.S. SPACE CAMP

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Ms. NORTON. Mr. Speaker, I rise today to commend and acknowledge 25 fourth, fifth, and sixth grade students, 11 boys and 14 girls, from the William B. Powell elementary School, 14th and Upshur Street, Northwest Washington, DC, who were selected to attend the U.S. Space Camp, near Orlando, FL, June 2-7, 1991, based on their high academic achievement, outstanding behavior, and consistent attendance and participation in a Saturday "Say Yes" Math and Science Program.

Mr. Speaker, the 25 Powell students who graduated from U.S. Space Camp and received their wings are:

Marco Binion, Giselle Carela, Josandys Carela, Larita Carney, Jaakia Carrington-Brown, Ronald Edwards, Melissa Faison, Taria Forster, Nkita Hammond, Veronica Jackson, Tysean Lawson-Bey, Camilo Martinez.

Ernesto Martinez, Roberto Martinez, Amber Meadows, Fatima Nixon, Bryan Ray, Donnie Ray, Ruth Reid, Kalani Redman, Gregorio Rodriguez, Akisha Shaw, James Shelton, Daniel Stevens, Denise Tyree.

Mr. Speaker, some of these students, individually and collectively, were recipients of special awards.

The "Right Stuff Award" is bestowed upon one outstanding boy and one outstanding girl in each graduating class. Giselle Carela, grade 5, received this award. Donnie Ray received an individual award for the successful completion of his rocket launch.

Team awards, which consisted of space shuttle pins for each team member, were bestowed upon teams that excelled in various areas. Powell School's Andromeda Team: Giselle Carela, Jaakia Carrington-Brown, Melissa Faison, Veronica Jackson, Fatima Nixon, Akisha Shaw, and Denise Tyree received an award for having the best team spirit.

Finally, Mr. Speaker this trip was made possible through the generous donations of city officials, Government agencies, corporations, foundations, community organizations, and private citizens. The generosity of these contributors afforded an opportunity, not only for the students, but for their parents and sponsoring teacher also to participate in this activity. The following parents/teacher served as chaperones:

Jeanni Carrington-Brown, DeVore Carney, Donna Love, Rosa Martinez, Doris McCray, Jennifer Reid, Loretta Smith (teacher), Darlene Stevens, Michelle Tyree, and Charline Wilson.

MULTIPLE AWARD SCHEDULE PROCUREMENT IMPROVEMENT ACT OF 1991

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. CONYERS. Mr. Speaker, I am pleased today to introduce the Multiple Award Schedule Procurement Improvement Act of 1991. This bill puts into statute current procedures in regulation for making purchases from the General Services Administration's multiple award schedule contracts. It also adds a much needed element of price competition to schedule ordering procedures.

Federal agencies each year order approximately \$5 billion in goods and services from "multiple award schedule" contracts awarded by GSA. This program is extremely popular with Government contracting officers, because they are able to place orders from vendor schedule contracts, sort of like ordering from a department store catalog, bypassing many of the requirements of the Federal contracting system. It has also become extremely popular with schedule contractors as a result of the profits to be made from this fast-track method of Federal contracting.

GSA awards schedule contracts to individual vendors on a sole source basis, without price competition. Schedule prices are determined based on price negotiations between GSA and the vendor, not price competition between vendors.

Ideally, under current regulations, contracting officers should review several schedules and buy from the schedule vendor offering the lowest overall cost item meeting the agency's needs. This usually, but not always, will be the lowest price item. Work by the Government Operations Committee in recent years, however, indicates that these procedures are not being followed in many cases and that the Government may not always be getting the best possible deal. I have asked for a GAO study of the Multiple Awards Schedule Program, and expect a report shortly.

Under existing regulations, a contracting officer is under no obligation to solicit a price from a schedule vendor lower than that listed in the schedule. In fact, such price negotiation rarely happens, because the schedule contractors have built-in disincentives to offer lower prices. If they offer lower prices to one agency, all other agencies must receive the same price.

This bill, in most respects, does little more than codify existing regulations that govern schedule purchases. It adopts the current procedure under both the FAR and the FIRMA for agencies to purchase the "lowest overall cost alternative" to meet their needs. It adds, however, a new requirement that contracting officers, for purchases over \$1,000, enter into price negotiations with schedule vendors, that is, solicit lower prices. This negotiation could

range from simple telephone conversations with as few as two vendors to the more complex price negotiation comparable to that described in the FAR. This is no more than would be expected of any prudent buyer, and especially of a buyer with the market power of a Federal agency. The current practice of buying at the published schedule price is, in my view, comparable to walking onto a new car lot and offering to pay full sticker price. The taxpayers deserve better.

Under the bill, the schedule price as negotiated by GSA will, in effect, become a ceiling price, and the contracting officer will have the responsibility to try to solicit a lower price.

The bill also provides incentives to schedule contractors to offer lower prices to agencies buying from schedules. Under existing regulations, if a vendor offers a price to an agency lower than its schedule price, it must reduce its schedule price for all agencies accordingly. This clearly creates a tremendous disincentive for schedule vendors to offer lower prices to agencies buying from schedule contracts. Further, a vendor faces an additional disincentive of having to disclose the price reduction to GSA under the existing schedule or in negotiation of future schedule contracts. Accordingly, the bill provides that schedule price adjustments shall not be required as a result of any price reduction offered to an agency on a particular schedule order and that a price reduction need not be disclosed by the vendor under the current schedule or in the negotiation or administration of any future schedule. Although this provision will diminish, to some extent, the scope of data that can be obtained by the Government in the negotiation of schedule contracts, this disadvantage should be countered by lower prices offered to agencies placing orders against schedule contracts.

The bill also clarifies that agencies, before making schedule purchases over the small purchase threshold, must publicize the procurement to solicit competition from other vendors. This procedure is substantially similar to the procedure now in place for ADP schedule orders under the Federal Information Resources Management Regulation. The bill simply codifies decisions of the Comptroller General on this issue.

Mr. Speaker, multiple award schedule contracting has become a huge program through which billions of dollars of taxpayers' money is funnelled every year. It is time for Congress to look closely at this program, and to bring it under control. This bill is a good first step at doing just that.

Set forth below is a section-by-section analysis of the bill:

SECTION-BY-SECTION ANALYSIS OF THE MULTIPLE AWARD SCHEDULE PROCUREMENT IMPROVEMENT ACT OF 1991

Section 1: Section 1 provides that the title of the bill is the "Multiple Award Schedule Procurement Improvement Act of 1991".

Section 2: Section 2 adds a new section 113 to Title I of the Federal Property and Administrative Services Act of 1949 to codify current regulatory requirements for ordering from multiple award schedules and to require competition in multiple award schedule ordering.

New subsection 113(a) requires contracting officers to conduct price negotiations with schedule contractors prior to placing an

order under a schedule over \$1000, to the maximum extent practicable. An order could be placed with the schedule contractor offering the lowest overall cost alternative meeting the needs of the agency.

Paragraph (a)(4) of the new section provides that schedule price adjustments shall not be required as a result of any price reduction offered to an agency on a particular schedule order. Paragraph (a)(4) also provides that the price reduction need not be disclosed by the vendor under the current schedule in the negotiation or administration of any future schedule.

New subsection 113(b) requires synthesizing in the Commerce Business Daily of schedule orders above the small purchase threshold, in order to solicit competition from other (schedule or non-schedule) vendors. If the response to the synopsis indicates that placing the order is not the lowest overall cost alternative to meet the Government's needs, then the order cannot be placed, but a solicitation can be issued for bids or offers to meet the needs of the agency. Any such solicitation can be issued to a limited group and can make use of other simplified acquisition procedures. Any such solicitation, however, should not be for bids or offers for products or services different than, or of a greater dollar value than, the products or services synthesized in the CBD.

New subsection 113(c) includes definitions of "Multiple Award Schedule" and "lowest overall cost".

Section 3: Section 3 of the bill provides that the amendments made by the bill will be effective 270 days after enactment.

A CONGRESSIONAL SALUTE TO
MR. C. ROBERT LANGSLET

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to Bob Langslet, a long time friend of the greater Long Beach community. Mr. Langslet will retire after 12 years of distinguished service on the Board of Harbor Commissioners for the Port of Long Beach and three terms as commission president. This occasion gives me the opportunity to express my deepest appreciation for his many years of service to the community.

Mr. Langslet, born and raised in Klamath Falls, OR, moved to Long Beach in 1948 after serving in the Army with the occupation forces in Japan. Since that time, he has remained in the Long Beach area, contributing greatly to the community.

Mr. Langslet began his business life as a general contractor. During an impressive 35-year career in the building industry, he has won acclaim for his innovative land use, environmental beautification, reconstruction and special design projects. His firm, C. Robert Langslet & Son, Inc., has received over 30 national and local awards, including three coveted Gold Nugget Grand Awards.

Bob Langslet has also enriched the economic well-being of the community by furthering trade with other nations. In 1974, he was appointed to the California State World Trade Commission, and still holds his position on the board of directors of the Economic Develop-

ment Corp. of Los Angeles County. He also served on the 35-member Intergovernmental Policy Advisory Committee for U.S. Trade Representative Carla Hills. In the private sector, Mr. Langslet has been instrumental in the creation of the greater Los Angeles World Trade Center, the Foreign Trade Zone No. 50 and the Intermodal Container Transfer Facility.

Today we recognize Mr. Langslet for his 12 years on the Long Beach Board of Harbor Commissioners and his three terms as commission president. During his tenure, we have seen an amazing growth in the Long Beach Port. He has been instrumental in the expansion of Pier J to accommodate additional containerized cargo capability and the conversion of Seventh Street peninsula into a major container terminal.

His dedication to the harbor should not overshadow Mr. Langslet's contribution to the civic community. He is a past chairman of the board of directors of St. Mary Medical Center as well as past president of the Boys' Club of Long Beach. Both the National Conference of Christians and Jews and the Long Beach Lung Association have honored him with their humanitarian awards. We look at Mr. Langslet as a business leader who has given much back to his community.

My wife, Lee, joins me in extending our thanks to Bob Langslet for his contributions to our community. The Port of Long Beach is losing an extremely valuable personality. We wish Bob, his wife Audrey, his children, Craig and Julie, and his seven grandchildren all the best in the years to come.

IN HONOR OF THE BIRTHDAY OF
MS. CLARA TROM

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. LAGOMARSINO. Mr. Speaker, today I have the distinct honor of wishing an incredible lady a very happy birthday. Clara Trom, a former elections supervisor, will be 80 years young on September 25, yet she is still a fixture in Ventura County politics.

Clara started working part-time for Ventura County in October 1964 and became a full-time employee 13 months later. During that time, she assisted many candidates, myself included, with the dozens of elections laws with which they must comply.

Though she retired in 1978, Clara missed being a critical part of our democratic process and returned as a part-time employee about 6 months later.

Now, like clockwork, Clara returns about 1 or 2 months before each election to provide the special touch that I and many others appreciate more than she will ever know.

So, Mr. Speaker, on behalf of the U.S. House of Representatives, I again wish Clara a very happy 80th birthday and good health and much happiness in the future.

A TRIBUTE TO ROBERTA M.
HAWKINS

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize Roberta M. Hawkins who is receiving the Aime J. Forand Award for her commitment toward improving the quality of life for older persons. The award is given to recognize and focus public attention on individuals who perform notable work toward the purpose of Medicare.

Roberta M. Hawkins, executive director of the Alliance for Better Nursing Home Care, has dedicated the past 20 years of her life to the young and the elderly.

Roberta M. Hawkins began a program, Building Bridges, which brings young children into nursing homes, and allows them to develop relationships with the elderly. During these monthly visits, the nursing home residents feel connected to the community and can begin to overcome their sense of isolation. This program has grown to become a statewide network that involves almost 1,000 children and 800 nursing home residents yearly.

Roberta M. Hawkins' goal is to do her best, to give her all, and to remove all fears of growing old. Mr. Speaker, I hope you and all of my distinguished colleagues will join me in honoring Roberta Hawkins for her contributions to nursing home resident's needs and possible ways of helping them find solutions to meet their needs. I extend my best wishes for success in her future endeavors.

DICK WOOD STEPS DOWN AS WTEN
ANCHORMAN AFTER 18 YEARS
OF DISTINCTION

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. SOLOMON. Mr. Speaker, it's increasingly easy these days to complain about the news media. That's why today I'm going to talk about one of the things I like about the news. I'm talking about Dick Woods, who is stepping down after 18 years as an anchorman for WTEN-TV in Albany.

I and others who live in the Capital District are reassured that Dick Wood will still be active in broadcasting, even as he spends more time with his lovely and talented wife, Kristin, relaxes, and pursues other interests. That's great news because Mr. Wood has added a touch of class to his profession.

In a congratulatory letter I sent to him, I remarked that he reminded me of several people, including athletes like Joe DiMaggio and entertainers like Cary Grant and Fred Astaire, all of whom had the same class and professionalism. I said that he also reminded me of my hero, Ronald Reagan, in the way he was at ease with himself and communicated that feeling to others.

But the best thing about Dick Wood is the fact that he reported the news without embel-

lishing it with his own opinions. That's not an easy thing to do, but Mr. Wood did it every day of his professional life.

And, Mr. Speaker, I feel compelled to note that Dick Wood is also a veteran, which makes him all the more special to me. It was in the U.S. Army that Dick Wood earned his first distinction as a broadcaster. It was the start of a brilliant career.

A dinner will be held in his honor August 9. Mr. Speaker, I ask you and other Members to join me today in paying our own tribute to Dick Wood, who has been a credit to his profession.

MONMOUTH COUNTY, NJ, TO CELEBRATE ITS 29TH ANNUAL HISPANIC FESTIVAL

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. PALLONE. Mr. Speaker, The Spanish Fraternity of Monmouth County, Inc., NJ, will be celebrating its 29th Annual Hispanic Festival—Fiesta Hispanic—at the Long Beach oceanfront on August 16, 17, and 18. I am looking forward to attending this exciting event during the upcoming district work period. I urge all of my constituents, as well as residents of other parts of the Garden State, to pay a visit to the festival—regardless of their ethnic origin.

The purpose of the festival is to bring the Hispanic community together and share its culture and heritage with the neighboring counties. There will be a wide variety of sporting events, games, and rides, with a colorful sampling of Hispanic dishes and dances. For Hispanic residents of Monmouth County, the event offers the opportunity to take a special pride in the many wonderful accomplishments of their community. For non-Hispanic residents, the festival offers a chance to learn something about a culture of tremendous influence and importance throughout the Western Hemisphere.

Mr. Speaker, as a lifelong resident of the city of Long Branch, I am proud that my home town is the host community for this festival. The Hispanic community of Monmouth County in general, and of Long Branch in particular, has a distinguished history of positive efforts and hard work aimed at improving the quality of life for all our people.

THE MIDDLE CLASS DESERVES TO GO TO COLLEGE

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. LIPINSKI. Mr. Speaker, I believe every student deserves the chance to go to college no matter what their income level. However, there are many obstacles that must be overcome in order for a student to go to college, and I am not only speaking of financial concerns. I am also referring to the need for academic guidance and support services.

Applying to colleges is not a simple or isolated undertaking. High school students must begin as early as ninth grade to look toward postsecondary education as an option. They must take the necessary classes and aptitude tests, explore financial aid options—a cumbersome task in itself—acquire and complete the application forms, and decide which institution they want to attend. This can be an overwhelming task, and without encouragement, guidance, and support, this task could seem un conquerable for any student.

For first-generation students, students whose parents never received a postsecondary education, this process is even more intimidating. It is more intimidating because their parents, who never pursued a higher education, lack the background needed to provide adequate postsecondary guidance and often do not portray college as an advantageous venture. Nonetheless, these students deserve the chance to recognize college as an option and choose if they want to pursue it.

As a low-income student, there are many available sources from which to seek guidance and help. Programs such as TRIO provide a wide range of student support services. Although the TRIO statute requires programs to target two-thirds low-income and first-generation students and one-third low-income or first-generation or physically handicapped students, in practice, almost all of the TRIO programs serve predominantly low-income students. I believe that all students deserve these services including first-generation students from working and middle-class families. These students deserve this chance as any other disadvantaged student, and if we are funding a program that does not target and serve all disadvantaged students, then we are discriminating.

The middle-income family should not be excluded from higher education. The grant process proposed for the reauthorization of the Higher Education Act will in effect do just that by providing Federal financial aid to only those at the lowest income level. If money will not be available to working and middle-class students, the least we can do is provide services and help find the funds to send them to college and attain their dream.

A CONGRESSIONAL SALUTE TO CAROLYN CARR

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding individual and long time friend of the Long Beach community. Carolyn Carr, along with her employer Long Beach Airport Marriott, contributed immense support for the recent veteran outreach program, Stand Down '91. I wish to take this opportunity to express my sincere appreciation for her years of dedicated service to a very special and deserving community, veterans of the U.S. Armed Forces.

Stand Down '91, Ms. Carr's most recent project, was held June 21–23 as a comprehensive program designed to provide

homeless veterans with the services needed to reenter mainstream society. It served 263 homeless veterans ranging in age from their mid-twenties to mid-seventies. The project provided 261 multiple-service medical appointments, 100 followup medical appointments, adjudicated 73 legal cases, located short-term jobs for 19 vets, and shelters for 40 more. Each homeless veteran was given the opportunity to obtain numerous other services throughout the 3-day event, such as a shower, haircut, counseling for substance abuse, AIDS, stress, foot problems, and exposure to agent orange. They also received donated shoes and clothing, shelter, and all the food they could eat, in addition to being treated to two, 2-hour USO shows.

Ms. Carr, and Marriott hosted the pre- and post-event receptions and briefings, providing food and beverages for over 200 people. They also provided strong vocal support to rally the community to action for Stand Down '91. Without Ms. Carr's strong support and the backing of her employer, Long Beach Marriott, Stand Down '91 could not have been the immeasurable success it turned out to be.

I believe the ultimate thanks to Ms. Carr came from one of the many Vietnam veterans present who was heard saying, "This was the most at home and welcome they had felt in the United States since returning from Vietnam."

Stand Down '91 is but one of the many worthwhile causes to which Ms. Carr devotes her time. As vice president of the USO-Greater Los Angeles, she is a dedicated volunteer to the cause of assisting military personnel and their families throughout the southern California area. As chair of USO's Program Committee, Ms. Carr has been responsible for developing a unique support-orientation project for military spouses informing them of the many opportunities available within the Greater Long Beach community.

Ms. Carr has also sought to improve the overall community as an active member of such worthwhile organizations as the Long Beach Chamber of Commerce Board of Directors, the Executive Committee of the Long Beach Convention and Visitors Council, and the Long Beach Public Corporation for the Arts.

On this occasion, my wife Lee joins me in extending our heartfelt thanks and congratulations to Carolyn Carr and her husband Claude Bennadict. Ms. Carr has been a dedicated citizen of Long Beach, and has made invaluable contributions to the veteran and wider community. We wish Carolyn all the best in the years to come.

TRIBUTE TO BISHOP SMALLWOOD E. WILLIAMS

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Ms. NORTON. Mr. Speaker, On June 28, 1991, Bishop Smallwood Williams, a remarkable spiritual and civic leader of modern Washington died. In remarks at his funeral, I tried to capture something of the extraordinary

significance of his life to the church that he built worldwide and to the city that he loved and served with great skill and devotion. I ask that these remarks be inserted into the RECORD:

As we commemorate the bicentennial of our city this year, there is a list of great planners and mathematicians—Pierre L'Enfant, Benjamin Bannaker, and the rest—but no list of founders because the District was planned and not founded 200 years ago. This city was founded about 20 years ago as home rule, self government, and democracy finally began to come to the District of Columbia. Today we celebrate the life of the bishop, the founder of Bibleway here in the District and worldwide, but the people of the District want to add as well to his distinguished epitaph, that Bishop Smallwood Edmond Williams was also one of the founders of modern Washington and most assuredly its spiritual father.

Bishop Williams left the impact of his religious values on our city through years of extraordinary and devoted civic service. The power of his values was apparent when he stood up to segregation before the rest of us sat in at lunch counters; when he built housing in this community rather than criticize others for not doing so; and when he became a political force in the city, recognizing that the political future of the District was too important to be left to politicians.

I stood before this congregation about this time last summer as I struggled to become one of those politicians in my first bid for public office. How typical of the bishop not simply to endorse or to cochair but to bring me here to his temple to educate his congregation about me, and about the Congress. Not only did I speak but he had another great father of this city, our friend Joe Rauh to speak, and my friend from childhood, Yvonne to speak so that the congregation could learn something not only about me but something more about the office I was seeking and what difference it might mean to our city. This was his way. If you are going to do it, do it all. Do it right.

The bishop has indeed done it right. We are grateful to Bibleway for sharing your bishop with your city, for if Bishop Williams was your patriarch, he also was the spiritual patriarch of the District. Yvonne, Wallace, Bishop Williams was your devoted father. At homegoing, allow us to claim him as the spiritual father of the District of Columbia.

BACKGROUND ON UE LOCAL 1015 STRIKE AGAINST CAROL CABLE CO. WEST/PENN CENTRAL

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. DYMALLY. Mr. Speaker, 200 Latino, African-American, Asian and Anglo members of United Electrical, Radio and Machine Workers of America UE Local 1015 have been on strike against Carol Cable Co. West since June 17, 1991 in an effort to win a just contract. The main issues of the strike are retention of quality health care insurance and a decent wage increase. Seniority averages 13 years, wages range from \$7.40 to \$10.16 per hour and 20 percent of the workers are women, many single parents. Carol Cable Co. West manufactures copper wire, electrical and

power cable for residential, commercial and industrial use. Carol Cable Co. West is a subsidiary of Penn Central Corp., a multibillion dollar conglomerate. The strike has been sanctioned both by the L.A. County Federation of Labor AFL-CIO and IBTeamsters Joint Council 42.

Members of UE Local 1015 are facing serious attacks on their right to strike in this struggle for decent health care insurance and wages. This struggle is especially crucial when one considers that 6.2 million California residents are without health insurance and that many millions more lack adequate health insurance. And the statistics show that a majority of workers of color lack decent health care insurance. Corporate attacks to-date on these striking workers include:

First, hiring of permanent replacement workers who have provoked and committed violence on the 24-hour picketline and providing inferior wages and benefits;

Second, deliberately focusing on the hiring of African-American workers in an attempt to foster racial conflict (and cynically attempting to use recruitment practices aimed at welfare recipients);

Third, obtaining a temporary restraining order which severely restricts picketing and other free speech activities while holding both the union and individual strong leaders liable;

Fourth, announced plans to close and consolidate parts of the Carol Cable operations in southern California resulting in a loss of close to 100 jobs for the union and surrounding community—which is already suffering from an economic crisis; and

Fifth, retaining an inflexible response to union offers to resume contract negotiations by continuing to insist that an inferior health insurance plan is the final company offer.

The human cost in this struggle makes it clear why these 200 workers are so committed to fighting for their right to strike and to fighting for a just contract.

Anthony Acosta has worked for Carol Cable for 19½ years as a shipping clerk and forklift driver. His hourly wage is \$8.50. Like many of his coworkers, Anthony has been willing with each 3-year union contract to forego reasonable wage increases in favor of retaining quality health care insurance. Such a benefit is especially important to the Acosta family because both Anthony and his 9-year-old daughter Suise suffer from serious heart problems which require comprehensive and regular medical care. It will be financially impossible for Anthony to afford the inferior medical plan being offered by Carol Cable with his wages. He is on strike because he feels the company's offer means literally physical and financial death for his family.

Ester Bonilla has worked as a machine operator for Carol Cable for 15 years and earns \$7.55 an hour. As a single parent of 15-year-old Peggy and 7-year-old Oswaldo, Ester is especially angry and worried that the company's health insurance offer will mean that her children will not have access to decent health care because her wages will not cover medical expenses as well as food, clothing, education and housing costs.

Deborah McFarland is an African-American mother of two daughters, Kenisha 11 years old and Michele 18 years old, and is the sole

household income for her family which includes her unemployed trucker husband and 15-year-old niece. After having worked 15½ years for Carol Cable as a CV machine operator, Deborah earns between \$8 and \$8.50 an hour, depending on incentive rates. The McFarlands face economic ruin if forced to shoulder increased health insurance costs and face a future of inferior health care as well.

These individual stories are repeated over and over again as their coworkers face the same grim choices and futures. These workers are standing firm as a part of the community with the demands that such a rich corporation as Penn Central/Carol Cable Co. West stop its attack on the right to strike and return to the bargaining table to negotiate decent health care benefits and decent wages for these 200 workers and their families.

ELIMINATE SOVIET SECURITY FORCES

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. HERTEL. Mr. Speaker, today President Bush quietly accepted President Gorbachev's little promise that the assassination of six Lithuanian law enforcement officers was under investigation.

Today too many quietly accept the notion that the January murder of 13 Lithuanian citizens in Vilnius by Soviet troops was out of President Mikhail Gorbachev's control.

Is this the same Soviet President with whom we just signed a nuclear arms treaty? Is this the same President of the United States who did not disagree while his predecessor named the Soviet Union an "Evil Empire?" Are we going to accept another lame excuse for the wanton murder of innocent Lithuanian people?

If President Gorbachev really wants to end the violence in the Baltic Republics he would call his troops home. Without the provocation of facing unarmed civilians while assaulting civilian and Government targets in Lithuania's capitol, just maybe the bloodshed would stop.

Our President could help by letting the Baltic peoples know that we are still committed to their freedom from foreign domination, rather than encouraging the Communists to hold on to power as part of a new Soviet Union. He could reaffirm our Nation's long-standing policy of refusing to recognize the 1939 forced incorporation of the Baltic States into the Soviet Union, rather than warning the freedom loving peoples in the U.S.S.R. against independence.

He could also grant most-favored-nation trading status to the Soviet Union republic by republic, nation by nation, and people by people—rather than only to the all union government that we have refused to recognize as legitimate in Latvia, Lithuania, and Estonia.

Since our earliest history, Americans have fought and died for a notion that can be expressed in a single word—liberty. In 1776, we withdrew our political alliance from a government that did not represent our aspirations. With help from foreign nations, our independence movement was successful. Today our President took a Tory's stand. In Kiev, in front

of the leaders of Rukh, President Bush told the world that he supports the Soviet Union over the freedoms our Nation has prided itself on for over 200 years. This century alone, we fought two world wars and numerous police actions in support of independence for oppressed peoples and freedom from foreign domination. I am deeply disappointed by the President's comments.

As the shifting winds of political fortune change the face of the international community, Latvia, Lithuania and Estonia one day will be free. Just maybe we should try a little harder to help these struggling people share in the benefits of the liberty that we all too often take for granted. Perhaps, we might even encourage them a little in their quest for freedom.

As President Gorbachev's investigation continues into the murder of the law enforcement officers in Lithuania, perhaps we should stand up and be counted among those who call for a real solution to the senseless violence that the Baltic peoples endure.

It is time for the permanent removal of Soviet security forces from the Baltic nations of Latvia, Lithuania and Estonia.

TRIBUTE TO THE BENAVIDES FAMILY

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to a constituent of mine who resides in Corpus Christi, Mr. Hilario "Benny" Benavides, a father, a soldier, and a patriot. Following his family's long and distinguished tradition of serving the nation through the armed services, Mr. Benavides joined and served in distinguished fashion with the U.S. Air Force for some 20 years as a staff sergeant, most recently with the 314th Combat Support Group located at Little Rock Air Force Base. And where he has left off—his family has carried on.

Mr. Benavides is a father of one daughter, Sylvia Benavides, and five sons. All of his sons have chosen to continue the family tradition by joining and serving their Nation through the armed services. Sgt. Hilario Benavides, Jr., of the Army's 7th Support Group, Sgt. Tomas Benavides of the Army's C-Battery 2/18 Field Artillery 212 Brigade, S. Sgt. Joe Benavides of the Marine Corp stationed aboard the U.S.S. *Anchorage*, Sgt. Rudy Troy Benavides of the Army's Mechanical Infantry Reserves, and Cpl. Carlos Benavides formerly of the Army's 82d Airborne have all served this Nation in the highest caliber.

The Benavides family has shown uncommon dedication in their service to their Nation and has made a mark of distinction. The Benavides family has contributed approximately 100 years of service in the U.S. armed services. Such dedication to military service is highly admirable and laudable. When the Nation is in need, it is a great relief to know that there are men and women, like Mr. Benavides and his family, who will respond to the call of duty.

Let me also commend the valor of the wives of these patriotic men. It is well known that

one of the hardest jobs is to be the spouse of a member of the U.S. armed services. I assure you, there are more hours spent in this occupation than can be counted. So to Benny's wife, Toney, and the wives of his sons, AnneLiese, DeLia, Sylvia, Nora, and Maria, I salute you as well.

Mr. Speaker, Members of the House, it is with great pride that I extend my warmest regards and a heartfelt thank you to Mr. Benavides and his family. In every way, he and his family illustrate the American ideal of a true patriot. On behalf of a grateful Nation, let us all pay tribute to a man and a family that have served their Nation admirably and will hopefully continue to do so for many years to come.

FORT MILLER REFORMED CHURCH TRACES HISTORY BACK TO 1817

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. SOLOMON. Mr. Speaker, the newspaper article says it all. "The Fort Miller Reformed Church is a piece of living history."

And so it is. Like so many of the distinctive churches in the 24th District of New York, the Fort Miller Reformed Church is as much a museum as it is a place of worship. It can trace its history as far back as 1817. That history includes such episodes as disputes over sending church funds to Indian missions. To read these church records is to gain an insight into the formative historical period of our national life.

With that in mind, Mr. Speaker, I have taken the liberty of inserting the entire newspaper article in today's RECORD:

[From the Glen Falls (NY) Post-Star, July 14, 1991]

FORT MILLER CHURCH PRESERVES SENSE OF HISTORY

(By Tom Calarco)

FORT MILLER.—The Fort Miller Reformed Church is a piece of living history.

Built by carpenter Shepherd Norcross sometime around 1816, it is the oldest existing public building in Washington County.

Today it stands on a shady lane along with handful of colonial homes, remnants of the formerly thriving village. It continues to serve its faithful when other buildings like it have been torn down or turned into museums.

The Rev. Isaiah Younglove Johnson, then pastor of the Argyle Reformed Church, was the first to offer services at Fort Miller in 1817. A congregation, however, was not organized until 1822.

In that year, a petition was made to start a church in the village, and the Rev. Philip Duryee, pastor of the Schuylerville and Northumberland Reformed churches, was put in charge.

Of the Fort Miller Reformed's founding father, history records him as "possessed of a kind spirit and gentleness of manner." But his affiliation with the new church was, brief.

Duryee was replaced by another minister whose stay did not last much longer, and the church was without a regular minister until 1827.

In all, 37 ministers have served the congregation through the years. Several lasted less than a year, others left no other record in history, and a couple went on to impressive achievements.

But it was not the church's ministers who brought it to life. Rather, it was the original Champlian Canal, now abandoned, the dam that fed its channel that led to the church's rise.

It provided the water needed to power the grist mill the saw mills that sprang up. A mile-long boat channel built in 1826 further increased business opportunities.

But at times water backed up from the dam, ruining the fields and crops of neighboring farmers. This sowed the seed of the conflict which nearly destroyed the church.

By 1837, records show, 52 families, numbering 280 individuals, were church members. Fort Miller was thriving.

In 1839, however, when the church's ninth minister, the Rev. Joel Wood, was installed, the conflict dating back to the building of the dam was ready to explode.

The state was in the middle. During the previous 10 years, it had awarded damages to farmers who had made legal suits. It had also ruled on several occasions to remove the dam. But pressure from business interests caused the state to reverse its position.

The quarrel also had escalated into a conflict of generations. The farmers wanted to maintain their way of life; their sons want to work along the canal or open businesses on it.

The Rev. Wood was not well-received. He had been an Indian missionary, and his attempts to send a portion of church funds to the missions met with opposition and increased disunity within the church. Violence erupted and damage was done to the church building. It proved too much for Wood, who was in poor health. He died in 1845 at the age of 49.

His replacements, the Rev. James Stebbins and the Rev. Hiram Slauson, had no success in controlling the conflict. In 1849, the dam was dynamited, and the state ruled that the dam be removed.

As a result, the mills closed and many workers, who were also members of the church, moved. In 1854, the Fort Miller Reformed Church dissolved.

In the next year, the Rev. A. Gibson Cochran attempted to establish a Presbyterian church without success. And no records exist that show the church in use again until 1867.

But church member James Pettit, whose family goes back to the 19th century in Fort Miller, said, "It wasn't totally inactive. It just kind of staggered along."

On April 17, 1867, 33 entirely new members presented themselves for church membership, and the Rev. Abram G. Lansing of the Schuylerville Reformed Church became pastor, adding Fort Miller to his duties.

His tenure was typically brief, but he was replaced by one of the church's most popular pastors.

The Rev. Charles Kellogg increased church membership by two-thirds during his four years there. According to the church's history, "The Phoenix of the North," by former pastor Millard Gifford, he was the only minister whose leaving was regretted by both the congregation and the church's governing body.

Kellogg's short tenure put Fort Miller back on its feet, and the years following him tell a story of renewed growth and loyalty.

Among its pastors during this period, one rose to prominence—the Rev. J. Wilbur Chapman become an internationally known

evangelist. Another stirred controversy by immersing individuals during the rite of Baptism in a nearby cove.

And another—the Rev. George Luckenbill—met an untimely death, being struck by a train.

Luckenbill was engaged to parishioner Carrie Shepherd. A legacy of their love remains today—a bookcase Luckenbill had given Shepherd rests in the parsonage's study.

From 1913 to 1955, only two pastors served the church.

The Rev. Charles Kinney was also pastor of the Schuylerville Reformed while at Fort Miller. Among the milestones of his pastorate were the initiation of Sunday school classes and the advertisement of church services in *The Post-Star*.

But perhaps the most notable event during his ministry occurred on March 5, 1928, when electric lights were first turned on in the church.

Kinney's successor that same year was the Rev. Jacob LaRue, who added Fort Miller to his duties as pastor of the Hudson Falls Presbyterian Church. He administered to Fort Miller longer than any pastor—27 years.

The Vereenheit Circle, a ladies aid society which still exists and whose special concerns are the maintenance of the church and involvement in charitable activities, was formed in 1929.

In 1960, the church committed to hiring a full-time minister—the Rev. Raymond Vedder.

A popular pastor, Vedder organized the church's first youth group, started its first Vacation Bible School, taught its first confirmation classes, held the first candlelight services, introduced the monthly covered dish suppers, and initiated the Prayer Chain, in which church members pray for those who are seriously ill.

Another young minister, the Rev. Charles Anker, replaced Vedder. Interested in the issues of the day, he tried to attract young people with a sex education class and a drama club. Despite his efforts, church attendance and financial support fell.

Millard Gifford, pastor of a church in the Bronx and an experienced fund-raiser, became pastor in 1969. At once he began measures to salvage the church's finances: a chicken barbecue, a benefit concert and the publication of a monthly paper. These were somewhat successful.

The Rev. Charles Bailey, the present minister, replaced Gifford. His nearly 20 years have seen a new resurgence. A teacher at Adirondack Community College, education has been his focus.

In 1983, four Sunday school rooms were added. Today, more than 50 individuals of all ages attend eight different classes in religious studies at the church.

Many of the church members are young people, Bailey said. They come from South Glens Falls, Argyle and Greenwich.

So the future looks good for the church that goes on in a village that is almost gone.

In fact, the church is getting a new paint job. Probably to hide the wrinkles.

NEW JERSEY SETS HIGH STANDARD WITH POLLUTION PREVENTION ACT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. PALLONE. Mr. Speaker, the State of New Jersey already enforces the Nation's most stringent "end-of-the-pipe" pollution controls to prevent industries from indiscriminately discharging the toxic chemicals many of them now use in manufacturing processes. This is just one of many instances in which New Jerseyans have pushed the State to adopt the type of ambitious and innovative laws that Congress and the rest of the States should use as an example of how to most effectively protect the environment and natural resources.

New Jersey set a new standard today when Governor Florio signed legislation to take the next logical step in environmental protection by attacking pollution at its source. The New Jersey Pollution Prevention Act will result in significant reductions in the volume and toxicity of chemicals that manufacturers use in initial production processes—and therefore dramatically reduce toxic waste and the risk of spills and accidents.

The Pollution Prevention Act is a measure which we in Congress would do well to use as model when we take up reauthorization of the Clean Water Act and the Resource Conservation and Recovery Act. Congressman GERRY SIKORSKI has already introduced a bill to include similar provisions in RCRA. I urge all my colleagues to cosponsor his legislation, H.R. 2880, so that the rest of the Nation may benefit from the type of protections now available in New Jersey.

The New Jersey Pollution Prevention Act and Congressman SIKORSKI'S Community Right to Know More Act are based on a very simple premise: Preventing environmental catastrophes in the first place makes a great deal more sense than even the most creative and effective waste cleanup or management program.

The New Jersey law and H.R. 2880 make the very reasonable assumption that if industry would just create and use fewer toxic substances, we would have fewer accidents requiring cleanup, we would have less toxic waste to manage and dispose, and we could save billions of tax dollars.

Each measure would require companies that use or produce large amounts of toxic chemicals to conduct a toxics inventory, to make the results available to the public and to devise a plan to minimize use of the toxic substances identified in the inventories.

This approach makes sense in terms of environmental protection, because companies will need to find ways to make their manufacturing processes more efficient and less polluting. It makes sense in terms of worker safety, because employees will be exposed to fewer hazardous substances. And it makes fiscal sense because the costs of hazardous waste management and pollution control will go down.

The New Jersey Public Interest Research Group deserves a great deal of credit for lead-

ing the diverse coalition that waged a 2-year campaign for passage of the Pollution Prevention Act. Now it is up to Congress to follow New Jersey's example and make these significant workplace and environmental protections available throughout the country.

CONGRATULATIONS TO
COMMISSIONER W.E. DOUGLAS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. HOYER. Mr. Speaker, I rise today to congratulate and honor the distinguished career of the Commissioner of the Financial Management Service, W.E. Douglas. On August 10, he will retire after 32 years of service to our country and the American people, and I know that my colleagues join with me in extending congratulations and hearty "job well done" to Commissioner Douglas.

Commissioner Douglas graduated cum laude from the Citadel in 1956 after serving in the Army from 1948 to 1952. In 1959, William E. Douglas began his career with the Internal Revenue Service, completing their executive development program in 1972. For the past 11 years, he has served as Commissioner of the Financial Management Service—where he has done a remarkable job improving the agency and the financial management of this Nation's assets.

Mr. Speaker, I have the honor of serving on the Treasury, Postal Service and General Government Subcommittee on Appropriations which oversees the budget for the Financial Management Service. I have watched as Commissioner Douglas has instituted reform after reform achieving results that would have made him a millionaire many times over had he accomplished the same feats in the private sector.

Under his guidance, FMS was modernized, moving from a paper transaction agency to more high speed and efficient electronic methods. This conversion from paper checks to electronic funds transfer has resulted in over \$520 million in savings—reducing the cost of each transaction from \$0.036 to \$0.06.

Commissioner Douglas developed and implemented the Tax Refund Offset Program which has collected over \$2 billion in delinquent debt owed to the Federal Government. Most recently, he established a cash collection program to link the Federal Government's seven collection operations into one \$400 billion worldwide cash-link network. This initiative will save taxpayers millions annually as well as provide improved financial data to Government decisionmakers. All told, Mr. Speaker, the program innovations undertaken by Commissioner Douglas resulted in earnings and savings of over \$23 billion for the U.S. taxpayer and countless improvements in financial services to both the public and the private sector.

Commissioner Douglas has been recognized for these many accomplishments ranging from the "Distinguished National Leadership Award" from the Association of Government Accountants to the "Presidential Meritori-

ous Service Award." I know that I extend on behalf of all my colleagues on the Treasury Subcommittee and friends in this House our gratitude for his service, our heartfelt congratulations on his retirement from Government service and our best wishes for every continued success.

INTRODUCTION OF THE FINANCIAL FRAUD DETECTION AND DISCLOSURE ACT OF 1991

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. MARKEY. Mr. Speaker, I am pleased to join with my colleague from Oregon [Mr. WYDEN] in introducing today the Financial Fraud Detection and Disclosure Act of 1991. This legislation seeks to make public accountants live up to their title: to truly make them guardians of the public trust by expanding their responsibilities to search out and report financial fraud wherever they find it.

This legislation fits seamlessly into the web of the broad goals of securities markets reform the Subcommittee on Telecommunications and Finance has pursued in the last 4 years: penalties, powers, and public accountability. Consistent with our successful passage of the Insider Trading and Securities Fraud Enforcement Act of 1988, the Market Reform Act, the Securities Remedies and Penny Stock Reform Act, and the International Securities Enforcement Cooperation Act of 1990, this legislation focuses on the need for greater preventive and detective measures against financial crimes.

The legislation we are introducing today is the culmination of more than 20 hearings on the accounting profession conducted in the mid-to-late 1980's in the Energy and Commerce Oversight and Investigations Committee, chaired by Mr. DINGELL. Clearly, we can no longer ignore the troubling testimony of numerous Government and private witnesses about lapses in the accounting profession that may well have contributed substantially to the scale of Government exposure in the savings and loan crisis. Furthermore, recent reports flowing out of the unraveling BCCI travesty raise questions about how early auditors of BCCI affiliates may have known about any of the illegal activities there.

This bill incorporates the key provisions of a House-passed amendment to last year's crime bill, in which auditors are required to expand their search for fraudulent activities of clients and directly report any such findings, under appropriate circumstances, to Government regulators. This bill does not contain last year's section dealing with mandatory reporting on corporate internal controls, but that remains an important issue I hope we can address separately in a comprehensive fashion.

This legislation cannot be viewed in a vacuum. Clearly, there is an overworking need to dramatically improve our system of financial reporting, including better foresight of risks and uncertainties in publicly reporting companies. This bill represents a key component in directly forcing the public disclosure of any

discovered fraudulent financial activity. I look forward to moving it expeditiously through the Subcommittee on Telecommunications and Finance.

PRIVY COUNCIL

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. DYMALLY. Mr. Speaker, during my discussion of the death sentence in Grenada I made mention of the "Privy Council." The word "previous" was inadvertently inserted in the RECORD.

VETERANS' HEALTH CARE: CONSTRUCTION OF A MEDICAL FACILITY IN SOUTH TEXAS

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. ORTIZ. Mr. Speaker, today I am introducing a bill that should help to significantly improve the standard and level of health care provided for a number of our Nation's veterans.

This bill will authorize the establishment of a new veterans' hospital in South Texas. It will provide the Administrator of the Veterans' Administration the authority to acquire and construct a medical facility on a suitable site in the Rio Grande Valley in order to more effectively deliver needed medical services to the growing number of veterans residing in this region who are currently being underserved. I am honored that Mr. DE LA GARZA, the distinguished chairman of the Committee on Agriculture, is an original cosponsor of this bill.

My colleagues, while significant strides are being made in improving both the quality of health care and medical facilities available to our Nation's veterans, significant shortfalls still exist in these areas. The valiant efforts of our service personnel in the Persian Gulf should only serve as a reminder of our need to redouble our efforts to properly meet the health needs of this ever-growing group who has dedicated and risked their lives to defend our Nation and the principles for which it stands. This legislation will help to preserve and honor our commitment to these men and women who have so valiantly served our Nation as members of its Armed Forces.

During the years from 1986 to 1990, patient usage of the VA medical facilities in South Texas has risen dramatically. The VA outpatient clinic in Beaumont has had a 30-percent increase in the number of visits, the Corpus Christi clinic has had a 70-percent increase, and the McAllen Clinic had had an 82-percent increase. Clearly, the number of veterans in need of medical care in South Texas has risen dramatically. In addition, the number of elderly veterans in the State of Texas continues to grow. By the year 2000, the number of veterans in Texas over the age of 65 is expected to nearly double to over one-half mil-

lion. The importance of these demographic numbers should not be underestimated, for as the Veterans' Administration knows, the need for medical care increases with age.

The combination of this growing number of patients served by South Texas VA facilities, the demographic aging of the veteran population, and the foreseen dramatic influx of veterans from the gulf war will create a situation where existing medical facilities will be stressed beyond capacity.

The overburdened state of the veterans' health care system in South Texas becomes clearly apparent when veterans from the Rio Grande Valley, and in particular, from my district, must travel some 160 to 185 miles to San Antonio to reach the closest Veterans' Administration hospital. A number of these veterans are incapable of driving these distances and do not have family members able to transport them to these facilities.

This spring, Secretary of Veterans Affairs Edward Derwinski visited the Rio Grande Valley to address the needs of these veterans and has vowed to accelerate efforts to meet the health care needs of the growing numbers of veterans in this region. It is my sincerest hope that this legislation will pave the way for the construction of a VA hospital as the means for addressing this vital concern. In coordination with the planned VA outpatient clinic being constructed in McAllen, TX, this hospital will finally fully address the critical health care needs of veterans in the Rio Grande Valley.

The actions of those courageous men and women who served in the Persian Gulf should serve to remind us of the equally valiant efforts of those who have fought before them, and of our highest obligation to properly serve each and every one of these current and future veterans. We owe our Nation's finest the best health care services available, and the creation of a hospital in the Rio Grande Valley will be a significant and much needed step toward meeting this obligation. It is for these reasons that I offer this bill and request your favorable support. Thank you, Mr. Speaker.

LOGIC, HYPOCRISY, AND EQUAL PROTECTION

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. HYDE. Mr. Speaker, Mr. Michael J. Grimes of Plano, TX, has thought long and hard about the prochoice controversy, and has prepared a response to a CBS Spectrum broadcast that supported a woman's right to choose.

Mr. Grimes makes a point that all thoughtful persons ought to consider both in his direct response to Spectrum and his following courtroom scenario. I commend them to my colleagues.

RESPONSE TO CBS SPECTRUM COMMENTARY
(By Michael J. Grimes)

Radio commentator Ann Taylor Fleming (Spectrum, a production of CBS Radio) broadcast a piece on January 18, 1990 detailing the story of a young woman in Southern

California who was despairing over the potential loss of some of her abortion rights. Fleming covered familiar ground in citing reasons why women can only be truly free in the United States if their right to an abortion remains unrestricted, for example: the burdensome emotional demands of parenthood; the effect of an unwanted child on career, family, and freedom generally; the sometimes prohibitive financial strain (the young woman in California estimated that she would need a half million dollar house—nice digs even in expensive Southern Cal—if a child was added to her other housing requirements). Fleming frequently champions the right of women to freely choose an abortion. In a prior broadcast she summed it up: "a woman must always be free to decide when, where and with whom she will have a child".

There must be some families with children in Southern California who have squeezed into homes costing less than a half million, but there is no disputing Fleming's underlying premise—that parenthood brings with it a great many financial, emotional and other obligations not all of which are fun, especially in the case of unplanned parenthood. Set aside for the moment the central issue in the abortion debate, namely: Are the acknowledged rigors and strains of unwanted childbirth and child rearing sufficient to justify the ending of the unborn life? Here let's just accept the existing law, which permits women to have abortions, to free themselves from the oppressive burdens cited by Fleming, and ask: Why shouldn't men have the same rights? Why shouldn't men be free to decide, in the emotional words of Fleming, "when, where and with whom" they will have children? What about men's emotional, financial, career, family and other considerations? Would Fleming or other feminists like to argue that these concerns, pillars of their pro-abortion thesis, are critical to the fundamental freedom of women only? Surely they would not. Surely they would not have the law force men into decades of unwanted parental responsibilities from which women can remove themselves at will.

Just as the legalizing of abortion had a profound effect on women's rights, it had a profound effect on the rights of men. Prior to legalization a man's duty to his children began at conception, but so did his rights. Existing law continues to trace a man's duty to his children to the act of conception, but strips him clean of any rights over the unborn or its fate, conferring upon women exclusive rights to the decision as to abortion or childbirth. Court decisions in this area have been adamant and consistent. It is carved in stone: fathers have no legal right to interfere with an abortion, to be notified that an abortion is to take place, or (conversely) to compel a woman to have an abortion. They are out of the loop, persona-non-grata, nonentities, zeros. They can't get into parenthood—or out of it—of their own accord.

Fleming laments what she sees as creeping, insidious threats to women's freedom at the hands of those who would abridge existing abortion rights and seek to force women, choiceless, like nonentities, zeros, into enforced parental servitude. "Unfree in a free country" is the specter she raises. It is crystal clear from her entire argument that if she has not already included men in the category of "unfree", she has failed to do so only by oversight, for all of her contentions support "male choice" as well, unequivocally.

Accepting supremacy in the business of procreation must require women, as a mat-

ter of fairness and in recognition of female reproductive sovereignty, to concede certain outdated customs. Here is an opportunity for feminist forces to demonstrate the sincerity of their platform and their commitment to freedom of choice and to equality of the sexes. Women have been legally free from the consequences of the act of conception for almost twenty years; now it is time for them to unite and help men to be free from its enslavement—to be able to make their own post-conception decision to take on parental rights and responsibilities, or to choose freely not to do so.

It will take great courage to advance the novel but inevitable cause of male choice. Not all Americans will immediately embrace the idea. I am personally repulsed by it. But if you buy Fleming's rhetoric, upon which pro-"choice" is founded, and you also subscribe to the equal protection clause of the U.S. Constitution, then you must agree that if parachutes come in pink, they must also come in blue. Some day, God help us, they will.

HYPOTHETICAL COURTROOM SCENE

(By Michael J. Grimes)

Mr. Jones is before the court to seek an order freeing himself from any parental responsibilities to the unborn child his wife is carrying or to any child or children born of this pregnancy.

Petitioner's Attorney (P/A): "Judge, on behalf of my client I wish to make a motion before the court. I move that, for the reasons outlined in the accompanying brief, the court find that Mr. Jones has from this time forward relinquished all parental rights to any child or children born of his wife's pregnancy, now believed to be in its third month, and that the court order that he is forever relieved of all parental responsibility and duty to the fetus or any child or children born of this pregnancy.

"Prior to the Supreme Court's decision in Roe vs Wade, the law in this state imparted equal parental rights and duties to both man and woman from the moment of conception. Now the law frees the woman, but holds the man. Worse, it subjects the man, voiceless and choiceless, to the will of the woman as to his future parental status and obligations. This is wrong—it creates a drastic and unacceptable disequilibrium in the fundamental balance of rights and responsibilities. It flatly ignores the concept of equal protection, equal rights.

"Mr. Jones stands here confused by a system of law which loads him with duties while divesting him of his rights. He does not understand how he can be required to bear responsibility for events over which he has no control. As we stand here this state recognizes no life within Mrs. Jones' womb, and only by her unilateral act of carrying the fetus into the future will life exist. The historical view that man and woman combine equally to share in God's creation has been legally erased. The partnership of conception has been dissolved and Mr. Jones wants out.

"Mrs. Jones is on notice, as she stands before this court, that Mr. Jones does not want to father a child and does not want to enter into a parental relationship of any kind. There is no legally recognized life to support at this time, nor will there be in the future unless Mrs. Jones decides to create one. Mr. Jones contends that if she decides to have a child under these circumstances, she does so bearing full and complete legal, moral and financial responsibility for her actions, over which he has no control.

"Mr. Jones is only asking for the right to choose."

Respondent's Attorney (R/A): "My client will answer the petitioner's motion after I have had the opportunity to assist her in that regard. I can only say at this time that I cannot imagine any court granting fathers of unborn children license to abandon mother and child economically. The disastrous effects of such a ruling would be unimaginable."

(P/A): "Counsel for Mrs. Jones misunderstands Mr. Jones' argument. Mr. Jones does not seek to abandon any mother or any child. As we speak, and the law is very clear on this, Mrs. Jones is not a mother from this pregnancy and no child exists, nor will a child come to exist unless Mrs. Jones decides, all by herself, to procreate. If she does so knowing that Mr. Jones does not wish to participate, she does so on her own. Simple."

(R/A): "Your honor, Mrs. Jones is in no way free to have an abortion. She has a deeply held belief that she is carrying a human being which she has no right to kill."

(P/A): "Mrs. Jones' right to her own personal belief is fully protected by the constitution but the fetus she carries is not. It is not a person. It cannot become a person unless Mrs. Jones decides to make it a person. Mr. Jones does not wish to interfere with Mrs. Jones or her beliefs, he only declines to participate in events in which he has no equal say."

FAITH OF CONGREGATION BRINGS UNION EVANGELICAL CHURCH THROUGH HARDER TIMES

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. SOLOMON. Mr. Speaker, The Union Evangelical Church in Diamond Point, New York first opened its doors in 1879.

The church has had its ups and downs since then. But the fact that it has survived is a tribute to the faith and fortitude of the congregation, and only adds to the charm of this beautiful building.

And, like so many of the churches of the area, it is steeped in the history of the period.

Mr. Speaker, with great pleasure I submit for today's RECORD a newspaper article from the Glens Falls Post-Star which tells the story of this church so eloquently.

[Glens Falls (N.Y.) Post-Star, July 28, 1991]

FORTUNES OF CHURCH RISE AND FALL OVER YEARS

(By Janet Marvel)

DIAMOND POINT—It is thanks to John C. Cramer that the Union Evangelical Church opened its doors in 1879. Cramer donated the entire \$3,500 necessary to complete the church building without incurring debt.

But it was also Cramer who stopped the interior construction of the church, known since 1960 as the Diamond Point Community Church, so that the Aug. 12, 1879, dedication ceremony found an interior with an uncarpeted barnlike floor, unpainted and soiled walls and a generally uncomfortable atmosphere.

In the fall of 1891, the interior of the church was finally completed, but not before church records chronicled in vivid detail a "state of interior dilapidation."

Construction began on the building in 1876. After two years of working on the church,

using stone from nearby fields, Cramer became "dissatisfied with the manner in which the work was conducted by those in whose charge he had placed it. So he closed down the job, leaving the building in a rather unfinished condition," church records said.

Descriptions of the dedication ceremony said that the building was "solemnly and reverently dedicated," with the people of the congregation appreciative of the music, floral decorations and new house of worship.

George H. Cramer, one of the three original church trustees, donated the colorful stained glass chancel window as a memorial to his brother, John C. The night before the dedication, John Cramer presented an organ to the church and promised a set of pulpit chairs.

As time passed and the building's interior was still not completed, the church took on a decrepit and run-down condition that influenced the members of the congregation.

"Men entered without removing their hats or any other signs of reverence. Children were allowed to sit where they pleased, with no supervision or attention from their parents and they even played around the aisles as though at home. The youth of both sexes munched apples and tossed chestnuts from one to another. Young men, when they tired, coolly arose and stomped out of the church, loafed around the door and smoked; and when they got ready, they entered again in the same careless manner in which they had gone out—to the great disturbance of the congregation," said church records.

The interior work was completed in 1916 at a cost of \$382.77, all of which was donated. In addition, the women of the church donated \$104.44 to carpet the sanctuary, and \$10 was contributed as a special gift for an altar rail that was made in Glens Falls.

Church records were then full of pride describing the church interior as the "handsomest edifice in the county" and detailing information that worshippers were now respectful and reverent.

From its origins, the church was affiliated with the Union Evangelical Church. In 1881, it became the Hillview (the name then for Diamond Point) Independent Church, under the leadership of Dr. Henry Reed Stiles, the Cramers and others.

In 1914, it became St. John's Church under the Episcopal Church, Diocese of Albany. In 1960, the church became known as the Diamond Point Community Church.

A parsonage was built in 1894 by Mrs. John K. Porter in memory of her brother, John Cramer. Resident ministers and rectors lived there for many years. Later, pastoral work became part-time. Now the church is open for worship only during the summer months.

A popular fund-raiser for the church in the early 1900s were the Lawn Fetes sponsored by the Ladies Aid Society. Records show the fund-raising events were held in 1916 through the 1930s, said Helen Truesdale, whose husband, Peter, is a church trustee.

"They were quite elaborate with a fortune teller, regular rummage, baked goods, fancy articles, aprons, fruit, vegetables and candy. Tea was served at 4 p.m. One fete lasted until 10 p.m. and had a barbecue on the lake, dancing and a side show," she said.

Receipts for the 1929 event totaled \$1,692. Many of the annual events raised \$1,000 for the church, Helen Truesdale said.

Walter E. Penfield, a longtime church trustee, fashioned an advertisement for the July 24, 1918, fete that stated in part: "Contributions will be gratefully received and if you will attend the Festival and heroically eat the ice cream, we shall greatly appreciate these evidences of your goodwill and of

your good willingness to lend a helping hand."

The church now is served by Episcopal, Lutheran, Presbyterian, Methodist and Unitarian ministers, said Helen Truesdale, who schedules the clergy and organist.

Now, the church has no members and its congregation is made up of families who have summered here, many for numerous generations, she said. Local people also attend, and as do tourists who are visiting in the area.

"The door is open and people drop in," she said.

Since 1879, three trustees at a time have been legally responsible for the operations of the church.

"The duties of the trustees range from mowing the lawn to fixing cracked toilet tanks to organizing the summer minister groups and maintaining financial records," Helen Truesdale said.

The trustees, according to the 1879 deed of the church, are court-appointed and must be residents of the towns of Lake George or Bolton, said Peter A. Truesdale, a church trustee since 1976.

Herman E. Muller Jr. began his trustee term in 1969. Reginald Ellis, who began serving as a trustee in 1969, resigned July 15. He will be replaced by Clifford Gates, a resident of Diamond Point.

The ancestors of Gates and Peter Truesdale were involved in the church. Both were baptized there and had family members married there.

Peter's godfather, Walter E. Penfield, served as a trustee from 1939-1967. Church records show that in 1916, Penfield wrote minutes as a vestryman of St. John's Church. He joined the church on June 7, 1896. His wife, Lulu Lanfair Penfield, served as church organist.

Gates' great-grandfather, Dr. Henry Reed Stiles, was a church member in the late 1800s. His grandparents, John and Edith Stiles Rogers Gates, were married in the church in 1901. Continuing the tradition, Gates married his wife, Barbara, at the church 25 years ago.

At the 50th anniversary service on Aug. 11, 1929, the church pews were dedicated. A pew was purchased and the buyer or honoree was noted on a plaque facing the center aisle, Truesdale said.

A complete set of chimes, still in use, were consecrated on Aug. 17, 1930. Eight stained glass windows, located on the sides of the church, were given in memory of loved ones. Each cost \$70, Truesdale said, and the family names are painted on each window, Truesdale said.

Four organs have been played in the church, with the latest electronic organ purchased in 1987 as a memorial gift.

The church and its parsonage are both part of a restoration and repair program, now in its initial stages, Helen Truesdale said.

Interior and exterior painting of both buildings, modernizing of the parsonage kitchen are some of the plans.

INTRODUCTION OF THE SECURITIES INVESTORS LEGAL RIGHTS ACT OF 1991

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. MARKEY. Mr. Speaker, I rise to introduce the Securities Investors Legal Rights Act

of 1991 which will restore important protections for investors unjustly victimized by white collar criminals and other securities law violators.

For over 50 years, victims of securities fraud could file civil law suits pursuant to section 10 of the Securities Exchange Act of 1934 under time limitations generally determined by appropriate State statutes. Some of these time limits allow suits to be filed up to 6 years after the date of the crime.

On June 20, 1991, however, with one quick pound of the gavel, the U.S. Supreme Court, in a 5 to 4 decision, reversed this longstanding practice. In the *Lampf versus Gilbertson* decision, the Court ruled that any litigation instituted pursuant to section 10(b) of the Securities Exchange Act of 1934 and rule 10b-5 must be initiated within 3 years after the violation has occurred and within 1 year after discovery of the facts constituting that violation. Even more importantly, the Court's decision will apply retroactively, denying thousands of victims whose cases are currently pending their rightful day in court.

In handing down its decision, the Court rejected the argument made by the Securities and Exchange Commission, among others, that it should have applied the explicit 5-year statute of limitations contained in the Insider Trader and Securities Fraud Enforcement Act, a piece of legislation I coauthored with Energy and Commerce Committee Chairman DINGELL and subcommittee ranking Republican Member RINALDO in 1988. This 5-year limitation establishes a more appropriate timeframe for investors to uncover any wrongdoing while at the same time does not punish investors who may not discover the crime until a few years later. Such protections must be afforded to all investors to maintain their trust and confidence in the securities marketplace.

The *Lampf* decision also violates the rights of investors to due process of the law by applying, for the first time, a new statute of limitations rule to the parties in the case in which the rule is announced. Justice O'Connor, in her dissenting opinion, claimed that this application arbitrarily deprives a party of its right to be heard.

Because this decision applies retroactively, many of the cases which are consequently jeopardized involve allegations surrounding failed savings and loans—a bailout that will cost the American taxpayer an estimated \$500 billion. This bailout has no statute of limitations—after 5 years it does not cease to exist. Why should the American taxpayer be forced to continue to bail out mismanaged S&L's when the responsible parties are given a safe-haven after 5 years?

Accordingly, this legislation would return to investors their right to pursue legal recourse within a reasonable timeframe. The bill would extend the statute of limitations for private rights of action to 3 years after the plaintiff knew, or should have known of the securities law violation, but no later than 5 years from the date of the securities violation. This bill places a balance between the rights of the investor and the concerns of the securities industry to unreasonable exposure to unlimited liabilities. It also contains a provision which protects pending cases as of June 19, 1991,

from dismissal due to the Supreme Court's decision.

The securities marketplace cannot continue to flourish without investors and investor protections. We must restore the trust of the investors by providing them with adequate rights in the event of securities violations. Due to the time sensitivity of this decision, I urge my colleagues to support this piece of legislation and help us move expeditiously.

THE MILITARIZATION OF THE BOLIVIAN DRUG WAR

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. TORRES. Mr. Speaker, Bolivia, like many other Latin American countries is actively attempting to improve its economic performance and put an end to its long history of military domination and graft. The Bush administration insists that its Andean initiative is helping to reduce corruption and financial problems by assisting with debt repayments and working to end drug trafficking by providing aid and training to the military. While there is no question that economic assistance is desirable, the controversial policy of stressing the militarization of the drug war seems to be leading to an increase in violence, as well as the relocation of drug traffickers to other countries, hardly providing a lasting solution.

In addition, Washington's decision to stress the use of the military appears to be endangering Bolivia's recent hard-won stability. Such changes are illustrated by the acrimonious debate in that country's legislature, the opposition of influential groups and the creation of an anti-American guerrilla insurgency that previously had not been seen since the era of military coups over a decade before. Bolivia's ability to implement a harsh austerity program while at the same time maintain democracy, has been a model for other reform-minded Latin American countries. The critical issue now is whether the strengthening of the Bolivian military will threaten the country's fragile balance.

The following article, which first appeared in a recent issue of the Council on Hemispheric Affairs' [COHA] biweekly publication, *The Washington Report on the Hemisphere*, is authored by Jane Berman, a research associate with the organization. It analyzes the effects that the costly militarization of the Bolivian drug war has on that nation, as well as the dangers that strengthening the role of the military may pose, not only in Bolivia, but throughout Latin America. I urge my colleagues to direct some attention to this very important issue.

THE MILITARIZATION OF THE BOLIVIAN DRUG WAR

(By Jane Berman)

After launching a new anti-drug campaign in Colombia emphasizing the role of that country's armed forces, the Bush administration has turned its attention to the world's second largest producer and refiner of coca Bolivia. Following a round of perfunctory negotiations, Bolivian president Jaime Paz Zamora became a reluctant signatory to

President Bush's latest anti-narcotics plan in May of last year while on a visit to Washington. But, it was not until the Bolivian head of state agreed to increase the military's involvement and change its role as helpers to the police, to the main enforcers, that Washington became forthcoming with aid, to the tune of \$135 million, with an additional \$47 million tacked on in military assistance. However, soon after the accord was signed, Paz Zamora ran into stiff resistance from his own legislature, the local church, labor unions as well as his own party, the Revolutionary Left Movement (MIR), forcing him to postpone the launching of the controversial strategy. The White House responded to this action by withholding \$14.7 million in humanitarian aid. After a year of cat-and-mouse dealings between La Paz and Washington, the Bolivian security forces began interdiction operations in April. By the end of that month, 155 U.S. military advisors, along with many pallets of weaponry, had landed in the country. As further incentive to the La Paz government, President Bush granted \$66 million to ease Bolivia's balance of payment deficit.

Elias Gutierrez, commander of Bolivia's Special Anti-Narcotics Force, claims that "the only purpose of the arrival of U.S. troops is to train and teach the army. He also insisted that his forces would not attack coca farmers, "only the mafia that produces base paste and cocaine hydrochloride." Of the U.S. Drug Enforcement Agency (DEA), Gutierrez said that their role is "to guarantee the Bolivians' safety," and not participate in anti-drug operations.

Contrary to such assurances, the DEA has not necessarily assured the Bolivians safety, but instead may have helped produce more violence. As also charged in Colombia and Mexico, allegedly the DEA may not have followed its own guidelines and its personnel have been involved in direct coercive acts. Bolivian authorities are now investigating allegations that DEA agents have been involved in acts of harassment against women and issuing death threats to Bolivians associated with illicit activities. It is generally believed that it was the DEA which personally bombed a number of roads in Chapare, making it extremely difficult for coca farmers to transport their crops to market.

Before the arrival of the DEA, Bolivia authorities had been able to avoid the rampant violence that plagues their drug-producing neighbors, Colombia and Peru. Now the country has its first active guerrilla insurgency in years, the Nestro Paz Zamora Command, aimed at curbing U.S. influence. Thus far, they have attacked the U.S. Marine headquarters, placed bombs near the home of the U.S. ambassador, and also have set up road blocks.

Washington now is trying to centralize its control over all aspects of the Andean anti-narcotics campaign by pressuring La Paz to sign an extradition treaty, like the one that use to exit with Colombia. The recent escape of Bolivia's leading cocaine producer, Carmelo Dominguez, has been a useful tool for the Bush administration to demonstrate that the Bolivian authorities, like their Colombian counterparts, are not capable of properly dealing with such matters.

While Paz Zamora may be reluctant to militarize the drug war, he realizes that the success of his socio-economic reforms depends on U.S. aid and investment. By means of an internationally-lauded austerity program, the Bolivian president has been able to stabilize the economy and shed his country's image as a violent, unstable, and military-

dominated nation. In fact his efforts have become something of an example to other Latin American countries. However, his disciplined economic policies do not come without shortcomings, as one Bolivian describes it: "there's no inflation but there is no investment, no jobs and no growth either." The economy is stable but no development is taking place, and if conditions remain stagnant, it may be difficult for the government to maintain a grip on an increasing number of resentful citizens, outraged over Washington's interference in Bolivia's internal affairs, the continuing lack of economic development and the growing strength of the feared military.

THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES AUTHORIZATION ACT OF 1991

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. CONYERS. Mr. Speaker, it is with great pleasure that I am introducing today the Federal Property and Administrative Services Authorization Act of 1991. This bill will authorize functions under the Federal Property Act, including the operations of the General Services Administration, through the end of fiscal year 1992. This bill also includes important Federal procurement reforms, including a commercial item acquisition bill and Brooks Act reforms. This bill reflects long months of work by the Government Operations Committee together with industry, the executive branch, and others in the procurement community to address in statute many of the problems which are now facing the Federal procurement system. I would like to point out some of the most important parts of the bill.

Section 2 of the bill authorizes functions and activities under the Federal Property and Administrative Services Act, including operations of the General Services Administration, through fiscal year 1992. This amendment replaces the current permanent authorization and will put GSA on a normal, cyclical authorization cycle. A recurring authorization will afford the cognizant congressional oversight committees better opportunity to fulfill their oversight responsibilities. As chairman of the Government Operations Committee, I have become only too familiar over the past several years with the many problems that plague GSA, including ineffectiveness of GSA's delegation of procurement authority under the Brooks Act, continuing problems in management of the FTS 2000 Telecommunications Program, and a host of other problems. It is past time to bring GSA under a regular authorization process, to better enable the Congress to get to the bottom of the problems in that troubled agency.

I am especially pleased with title I of the bill, which is the Commercial Items Acquisition Act of 1991. This title amends Federal procurement laws to encourage acquisition by the Federal Government of commercial items, that is, items that may be purchased off-the-shelf with little or no development. This legislation is intended to put an end to the all-too-common practice in Federal contracting of buying ex-

pensive, specially-designed products when off-the-shelf, commercial products would do the job just as well. In this era of fiscal restraint, we just can't afford any more \$300 hammers and \$1,000 toilet seats. This bill takes an approach to commercial item acquisition different than that taken by S. 260, Senator LEVIN's fine commercial products bill, now being considered in the Senate. The two bills, however, have few, if any, irreconcilable provisions, and I look forward to working with Senator LEVIN on these important issues.

The bill amends Federal procurement law to remove or at least lower existing impediments to the acquisition of commercial items, to establish in law a preference for commercial items, and to establish simplified contracting procedures when the Government is buying commercial items. Some provisions bear special mention:

Section 111 puts into law a preference for agency use of specifications other than "design" specifications, which tend to restrict competition and make the acquisition of commercially available products impossible. Design specifications typically tell a vendor how a product is to be made or how a service is to be performed. Use of this type of specification has a deleterious effect on competition, and especially on the acquisition of commercial items, since a commercial item vendor, whose item has already been developed, seldom can conform it to meet the Government's design requirements.

Section 112 amends the Office of Federal Procurement Policy [OFPP] Act to clarify the circumstances in which a contracting officer should obtain cost or pricing data from a Federal contractor. Agency requests for cost and pricing data are often cited by commercial vendors as a prime disincentive for competition in the Federal marketplace. One intent of this amendment is to ensure that when an exception to a requirement for cost or pricing data is claimed on the basis of "adequate price competition," any grant of the exception is based on realistic, actual competition between at least two vendors, in which price is a significant factor. Additionally, with respect to the catalog or market price exception to the submission of cost and pricing data, this amendment is intended to discourage the use of rigid, artificial percentage requirements, and instead require that consideration of each request for that exception take into account the volume and circumstances of prior commercial sales.

Section 113 adds a new section to the Office of Federal Procurement Policy Act that restricts the circumstances in which an agency may procure goods or services by modifying an existing contract, thereby avoiding competition requirements. Modification of an existing contract to add goods or services to a contract, in many respects, is the most common form of sole source procurement by the Federal Government. Recent hearings by the Government Operations Committee revealed that in the Government mainframe computer market, for example, as much as 49 percent of the goods and services procured are procured through modifications of existing contracts. When a contracting officer decides to modify an existing contract to obtain goods or services, all the statutory requirements for

competition are circumvented, preferences for small business and small disadvantaged businesses are evaded, and most of the other protections and preferences that Congress has built into the Federal procurement system can be ignored. This amendment would not prohibit contract modifications, but would place some limits on the ability of Federal agencies to use the device of a contract modification to avoid the procurement laws.

Section 123 amends section 28 of the OFPP Act to require that contracting officers, prior to beginning a procurement, conduct market research to determine if commercial items can meet the needs of the Government. If, in fact, commercial items can meet the needs of the Government, the procurement is designated as a "commercial item acquisition" and special rules and procedures apply. These special rules and procedures are intended to make participation in the Federal marketplace easier for commercial vendors and to ensure that the Federal Government gets all the advantages of competition among commercial vendors, including high quality and low prices.

Title II of the bill includes procurement-related amendments to the Federal Property Act. Some of these changes are to conform the Property Act to changes made in title 10 during the last Congress.

One key section is section 203, which raises the cost and pricing data threshold in the Truth in Negotiations Act of \$200,000. The Government Operations Committee has heard again and again from commercial vendors that the necessity to supply the Government with cost and pricing data is a major deterrent to commercial vendor competition in the Federal marketplace. This amendment increases the threshold by a factor roughly necessary to compensate for inflation since the original establishment of the \$100,000 threshold. The Government Operations Committee may be willing to consider further adjustments to this threshold in the future as the facts warrant.

Title III of the bill includes a series of amendments to the Brooks Act, most of which clarify or enhance the powers of the GSA Board of Contract Appeals over ADP bid protests. Matters dealt with include jurisdiction of the Board, powers of the Board to order certain remedies, and definition of "protest" and "interested party." Many of the Brooks Act amendments are designed to counter recent decisions of the Federal circuit that have been unreasonably hostile to the Board's powers.

Section 307 is intended to address the so-called Fedmail phenomenon, in which agencies or awardees pay substantial sums to protestors in exchange for dismissal of a protest, without correcting any defects in the procurement. Under the amendment, the Board would be able to disapprove agreements that are inconsistent with law or regulation, provide for excessive payments, or are inconsistent with any order or decision of the Board.

Title IV of the bill includes general provisions. Section 401 is a provision that requires "mandatory use" of the Federal Government's FTS 2000 telecommunications contracts by Federal agencies procuring to meet needs that can be met under those contracts. A comparable provision has been included in recent Treasury, Postal Service appropriation acts.

Congress originally enacted this statute to reduce the risks inherent in the FTS 2000 Program to ensure the economy and efficiency of the new network, and to eliminate unnecessary duplication of capabilities and possible incompatibility among government telecommunications systems. It consistently has been the position of the Congress that full participation in the FTS 2000 procurement by all Federal agencies is essential to the success of that procurement.

It may be appropriate now, however, to take the burden off the appropriations committees and put this permanent legislation in place. The Government Operations Committee firmly believes that failure to vigorously implement mandatory use would cost the taxpayers money in the long run.

Section 403 of the bill deserves special mention. It amends and clarifies provisions of the Competition in Contracting Act that authorize the Comptroller General to award bid and proposal preparation and protest costs to companies that file meritorious bid protests. These provisions, which have operated successfully for 7 years, have been under attack recently by the Justice Department, which has filed an extraordinary lawsuit, wholly without precedent, claiming that the authority of the Comptroller General to award costs is unconstitutional. CICA has previously been upheld by the courts against similar constitutional arguments. I think the Attorney General is wrong and I think the existing statute again will be upheld by the courts. Both the Government Operations Committee and the Judiciary Committee are investigating the substance of this lawsuit and how it came to be filed.

These investigations, however, provide an excellent opportunity to review the GAO bid protest statute, to see how it might be clarified and strengthened. Section 403 of the bill does this.

Under the amendments made by section 403, payment of costs, as well as implementation of other recommendations of the Comptroller General in the GAO bid protest process, clearly will be discretionary with the contracting agency.

The amendments provide specific procedures for determining the amount of costs to be paid upon a GAO recommendation. These procedures essentially track existing GAO regulations. Costs recommended by GAO will be paid out of the judgment fund authorized by 31 U.S.C. 1304, subject to reimbursement of that fund by the procuring agency.

The GAO bid protest process operated for many years without specific statutory authority, as simply an extension of the constitutional authority of Congress to appropriate Federal funds and oversee their expenditure. This amendment reemphasizes that constitutional function in the GAO bid protest process by getting the Congress directly involved when GAO finds wrongdoing or inequity but the agency chooses not to take corrective action. Under amended section 3554(e), the Comptroller General shall investigate any failure of an agency to implement GAO's recommendations, including both substantive recommendations and recommendations regarding bid and proposal preparation costs and protest costs. Because the Congress considers the misuse of appropriated funds, especially in the pro-

urement process, to be a matter of utmost importance, the amended statute requires that any such investigation by the Comptroller General include the receipt of sworn testimony from the head of the procuring agency and the chief procurement officer of the procuring agency.

The investigation by the Comptroller General will result in a comprehensive report to appropriate committees of Congress and will make specific recommendations regarding legislative action to correct inequity or to preserve the integrity of the procurement process. That congressional action could include private relief legislation, rescission or cancellation of funds, further investigation, or other action appropriate in the circumstances.

The following is a section-by-section analysis of the bill:

SECTION-BY-SECTION ANALYSIS OF THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES AUTHORIZATION ACT OF 1991

Section 1. Section 1 sets forth the title of the act, the "Federal Property and Administrative Services Authorization Act of 1991".

Section 2. Section 2 amends the existing permanent authorization of functions and activities under the Federal Property and Administrative Services Act, including the operations of the General Services Administration. This will put GSA on a normal, cyclical authorization cycle. This bill includes a 1-year authorization, expiring in fiscal year 1992.

Section 3. Section 3 amends the Federal Property and Administrative Services Act to place restrictions on the number of senior officials of the General Services Administration who do not have significant Federal service experience. Further, the amendment adds a new provision to the Act requiring that new appointments to senior GSA positions not take effect until 30 days after notice of the appointment is provided to Congress.

Section 4. Section 4 requires a report to Congress by the Administrator of the General Services Administration regarding the position description and requirements for each senior position within the General Services Administration.

TITLE I—COMMERCIAL ITEMS ACQUISITION ACT OF 1991

Title I of the bill is the Commercial Items Acquisition Act of 1991. This act amends Federal procurement laws to encourage acquisition by the Federal government of "commercial items," i.e., items that may be purchased "off-the-shelf" without development.

Section 101. Section 101 of the act sets forth the title of the act, the "Commercial Items Acquisition Act of 1991".

Section 102. Section 102 sets forth the findings of Congress regarding the desirability of promoting the acquisition of commercial items and the means by which acquisition of commercial items can be promoted.

Part A—Enhancements to competition in contracting

Part A of the act includes several amendments to law that, although their effect is not limited solely to "commercial item" acquisitions, are designed to enhance competition in Federal contracting and thereby make acquisition of commercial items more likely.

Section 111. Section 111 amends the Office of Federal Procurement Policy Act to permit the use of design specifications only when a "procurement authorizing official," (defined

in section 4 of the OFPP Act as amended by section 132 of the bill), upon written justification by the contracting officer, certifies in writing that functional or performance specifications are inadequate to describe the requirements of the agency.

Any written justification by the contracting officer should set forth clearly and in detail the unusual circumstances that make it necessary for the agency to state specifications in terms of design requirements. Failure to comply with the statutory preference or the justification requirements would be cause for vendor protest.

The act provides two exceptions to the justification and certification requirements. These exceptions are applicable only when the contracting officer determines that specifications stated in terms of function or performance are inadequate to describe the requirements of the agency. The first exception is for specifications in solicitations calling for sealed bids. The second exception is for specifications in solicitations for construction contracts.

Section 112. Section 112 adds a new section to the Office of Federal Procurement Policy Act to clarify implementation of the Truth in Negotiations Act and associated regulations.

Subsection (a) of the new OFPP Act section requires that the applicability of the "adequate price competition" exception be demonstrated by (1) the use of competitive procedures in the procurement, in which price is a significant evaluation factor and (2) the receipt of 2 or more offers having a reasonable chance of selection for award (more than mere responsiveness) in response to the solicitation.

Subsection (b) of the new OFPP Act section prohibits an agency from considering the percentage of a vendor's total sales that are sales to the Government in determining whether a commercial item is sold "in substantial quantities to the general public" for purposes of the "catalog or market price" exception to the submission of cost and pricing data under the Truth in Negotiations Act. Under current procedure, the percentage of a vendor's sales of a commercial item that are Government sales has a significant, and often overriding, effect on a determination by an agency as to whether that commercial item is sold in substantial quantities to the general public.

Section 113. Section 113 adds a new section to the Office of Federal Procurement Policy Act that restricts the circumstances in which an agency may procure goods or services by modifying an existing contract, thereby avoiding competition requirements. Under this section a "substantial modification" of a contract can be made only in either of two circumstances. The first circumstance is when the contracting officer determines, by comparison to bids, offers, or quotations received in response to a solicitation, that modification of the contract is most advantageous to the government. The second circumstance is when the contracting officer determines that the proposed modification, were it conducted as an independent procurement, would meet pertinent requirements for award of a contract using other than competitive procedures, i.e., a sole source procurement.

A modification is subject to this section only if it is a "substantial modification." A modification is a "substantial modification" if it is a modification, change, or order under the contract that requires the contractor to provide supplies or services to the Government different than that provided for under

the original contract or in quantities greater than that provided for under the original contract and if it meets certain thresholds based on the value of the modification. A service also may be "different" than that provided for under the original contract if the period of performance is changed. The test for applicability of this section should be whether the pertinent requirements of the Government were subject to competition (or sole source justification) by being set forth, identifiably and specifically, in the contract solicitation upon which award of the contract was made.

Subsection (b) of the new OFPP Act section clarifies that it is not the intent of this section to alter existing rules regarding contract modifications "within the scope" of a contract, for resolicitation, fiscal, or other purposes.

Subsection (c) of the new OFPP Act section permits the head of an agency to exempt a particular contract from the requirements of this section when compliance is not in the interests of the Government. This authority should be exercised only with the utmost circumspection, typically in situations involving complex contracts awarded in unique circumstances.

The term "value" as used in subsection (d) to describe the dollar value thresholds for a "substantial modification" means the total amount paid by the Government for the items delivered under a modification, not merely the increase in cost to the Government under the modification.

Part B—Acquisition of commercial items

Part B of the act includes amendments, chiefly to the Office of Federal Procurement Policy Act, establishing in law a preference and system for the acquisition of commercial items.

Section 121. Section 121 amends section 16 of the Office of Federal Procurement Policy Act to include the implementation of a preference for the acquisition of commercial items among the procurement responsibilities of the head of each executive agency. The amendment requires agencies to implement a preference for the acquisition of commercial items by, whenever practicable, stating specifications in terms such that bidders and offerors are enabled and encouraged to offer to supply commercial items in response to agency solicitations; by reducing impediments to the acquisition of commercial items in agency procurement policies, practices, and procedures not required by law; and by requiring training of appropriate personnel in the acquisition of commercial items.

Section 122. Section 122 amends section 20 of the Office of Federal Procurement Policy Act to make promotion of the acquisition of commercial items a part of the responsibilities of the advocate for competition for each executive agency and for each procuring activity of an executive agency. Promotion of the acquisition of commercial items shall be deemed to be an integral part of the promotion of competition.

Section 123. Section 123 amends section 28 of the Office of Federal Procurement Policy Act to put in place a procedure for the acquisition of commercial items. New subsection (a) of section 28 requires that contracting officers, prior to beginning a procurement, conduct market research to determine if commercial items can meet the needs of the Government. Such market research shall be "appropriate to the circumstances."

New subsection (b) of section 28 requires that, if, in fact, commercial items can meet the needs of the Government, the procurement

be designated as a "commercial item acquisition."

Subsection (c) makes it clear that a determination by a contracting officer that particular agency requirements cannot be met by the acquisition of commercial items may be protested to, for example, the agency, GAO, or the GSA Board of Contract Appeals.

Subsection (d) sets forth special rules, preferences, and exemptions that would apply in any "commercial item acquisition":

(1) Functional and performance specifications shall be used.

(2) Source selection factors must be disclosed clearly, identifying both the relative and absolute value of each factor. Accordingly, in commercial item acquisitions, it would not be sufficient merely to list source selection factors in their relative order of importance. The absolute weight given each factor (normally a percentage) would also have to be disclosed. This would not effect the ability of agencies to include non-price factors, such as management, as source selection factors in solicitations.

(3) Price or cost to the Government must be an evaluation factor in any commercial item acquisition, with a relative importance of not less than 30 percent.

(4) An agency may, at its discretion, limit competition to only those vendors offering commercial items, whether or not such a requirement is necessary to satisfy the minimum needs of the agency.

Two limitations on this authority apply only when requiring a commercial item is not necessary to satisfy the minimum requirements of the agency. The first limitation is when, in the absence of a commercial item requirement, award likely would be made to small business concern or a small disadvantaged business concern offering a product or service to the Government under the acquisition-related sections of the Small Business Act (15 U.S.C. 631 et seq.), and related sections of other laws. For example, except when necessary to satisfy the minimum requirements of the agency, a commercial item should not be required if such a requirement would result in the number of small businesses capable of competing for award being insufficient for a small business set aside.

The second limitation is when such a requirement would result in inadequate competition, i.e., a sole source procurement.

(5) There is a preference against requests for cost or pricing data. An agency shall not request cost or pricing data if any exception is applicable, unless a "procurement authorizing official" (as defined in section 4 of the OFPP Act as amended by section 132 of the bill) determines that the price offered to the Government appears, based on other information available to the Government, manifestly unreasonable.

(6) A vendor may avoid submission of cost or pricing data or sales data by certifying that the price offered to the Government does not exceed the lowest price at which the vendor sells the item to any "end user in equal or lesser quantities, unless a "procurement authorizing official" (as defined in section 4 of the OFPP Act as amended by section 132 of the bill) determines that the price offered to the Government appears, based on other information available to the Government, manifestly unreasonable. Any such certification could be subject to rigorous post-award audits, and strict penalties for intentional misstatements.

(7) Requests for sales data, such as that submitted to verify an exception to the submission of cost or pricing data or in multiple

award schedule price negotiations, shall be limited to data about directly comparable sales.

(8) Agencies shall not require the submission of sales data when an exception to the submission of cost and pricing data has been granted on the basis of adequate price competition.

(9) A simplified contract shall be used. Simplified contracts should make maximum use of terms and conditions normally used in the purchase and sale of commercial items in the non-government market.

The simplified contracts used for the acquisition of commercial items may include only those contract clauses that fall within one of two categories. The first category includes clauses that are required by law or by the Federal Acquisition Regulation to be included in a solicitation and contract either generally or in a particular procurement.

The second category includes clauses that are essential for the protection of important Government interests. Clauses in this category should be included when the special circumstances and requirements of Federal procurement generally, or the individual type of procurement specifically, make the inclusion of a clause "essential for the protection of important Government interests."

New subsection (e) is adapted substantially from existing section 28 of the OFPP Act, which provides for the establishment of an "Advocate for the Acquisition of Commercial Products" in the Office of Federal Procurement Policy. Under the amendment, that position becomes the "Advocate for the Acquisition of Commercial Items." The Advocate's responsibilities are revised to reflect the statutory preference for the acquisition of commercial items and to include the monitoring of compliance by executive agencies with the preference for the acquisition of commercial items. Such monitoring could include the compilation and analysis of data, study of particular cases, and distribution of information (such as, for example the establishment of a "hotline") to assist contracting officers, competition advocates, and vendors. The Advocate will continue to report to and make recommendations to the Administrator for Federal Procurement Policy, but in addition will make an annual report to the Committee on Government Affairs and the Committee on Government Operations on any action taken by the Advocate to promote the acquisition of commercial items and the substance of any recommendations, proposals, and reports made to the Administrator during the previous year and any implementing action taken by the Administrator.

Section 124. Section 124 requires the Administrator for Federal Procurement Policy to issue guidelines for the training of contracting officers, program managers, and other acquisition personnel in the acquisition of commercial items. The guidelines shall provide for training in the fundamental principles of price analysis and other means of determining price reasonableness that do not require access to commercial cost or pricing data, market research techniques, and the drafting of functional and performance specifications.

Part C—Miscellaneous provisions

Section 131. Section 131 provides for the issuance of regulations under section 25(c) of the OFPP Act to implement this act. Subsection (a) provides that a revision to the Federal Acquisition Regulation to implement the act shall be promulgated in final form 270 days after enactment of the act. Subsection (b) provides that the revision to

the FAR shall include a simplified uniform contract (or contracts) for the acquisition of commercial items, called for by the new "commercial item acquisition" procedures set forth in the amendment of section 28 of the OFPP Act. Subsection (b) permits the promulgation of more than one uniform contract, at the discretion of the Federal Acquisition Regulatory Council, to take into account varying requirements for different types of commercial item acquisitions, e.g., commodity acquisitions, ADP equipment acquisitions, etc.

Section 132. Section 132 adds several new definitions of terms used in the act to the "Definitions" section of the Office of Federal Procurement Policy Act.

The term "commercial item" is defined. This definition is also made applicable to the act itself and to Title III of the Federal Property and Administrative Services Act. This definition is purposefully broad in order to encourage wide application of the reforms set forth in the act. The definition does not encompass products or services that are not currently being sold to the public, either because they have not been introduced or because they have been withdrawn from the market. The phrase "significant quantities" as used in this definition means quantities sufficient to constitute a real commercial market, whether or not sales to the government are a given percentage of total sales. In some cases, typically involving large, complex products, the total number of commercial sales of an item may be very small, yet the total nonetheless may be considered to be "significant," given the particular market and circumstances.

The terms "design specification", "performance specification", and "functional specification," are also defined. In recognition of the difficulty of defining these terms with precision, it is intended that these definitions be interpreted broadly, in order to effectuate the intent of the provisions in which they appear.

Section 133. Section 133 provides that certain amendments that require issuance of regulations for effective implementation shall be effective 270 days after enactment of the act. All other amendments in the act will be effective upon enactment.

Section 134. Section 134 lists statutes that are not intended to be affected by the act.

TITLE II—AMENDMENTS TO FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT

Title II of the bill includes three amendments to the Federal Property and Administrative Services Act.

Section 201. Section 201 amends the Federal Property and Administrative Services Act of 1949 specifically to permit executive agencies to establish multiple contracts for the same requirements. This section adds a new subsection (g) to section 303B of that act. Multiple contracts are appropriate when the agency head determines that the Government has a need to maintain a continuous supply source for a particular item. An executive agency will use competitive procedures to procure multiple sources. The agency, however, may in its discretion, divide a requirement so that more than one offeror will be entitled to an award. Nothing in this section should be construed as affecting in any way laws requiring preferential procurement by Government agencies, such as purchases made from Federal Prison Industries, Inc.

Section 202. Section 202 amends section 303A of the Federal Property and Administrative Services Act to clarify an agency's responsibilities regarding statements of evaluation factors in a solicitation. The gen-

eral intent of this section is substantially to conform section 303A to changes made to section 2305 of Title 10 by section 802 of Public Law 101-510.

Section 203. Section 203 would raise the cost or pricing data threshold under the Truth in Negotiations Act in Title 41 to \$200,000.

TITLE III—BROOKS ACT AMENDMENTS

Title III of the bill includes a series of amendments to the Brooks Automatic Data Processing Act, most of which clarify or enhance the powers of the GSA Board over ADP bid protests. Matters dealt with include jurisdiction of the Board, powers of the Board to order certain remedies, and definition of "protest" and "interested party."

Section 301. Section 301 provides that section 111 of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 759) may be cited as the "Brooks Automatic Data Processing Act" and that Title IX of the Federal Property and Administrative Services Act of 1949 may be cited as the "Brooks Architect-Engineers Act". These amendments reflect common usage and honor one of the giants of Federal procurement legislation.

Section 302. Section 302 amends subsection (a) of the Brooks Act to clarify the coverage of the Act. That act applies to all procurements of automatic data processing equipment, by or for a Federal agency. The coverage of the Brooks Act is coextensive with the definition of ADPE in the Act. In addition, the amendment, by providing that the Administrator's authority extends to procurements of ADPE conducted "by or on behalf of" a Federal agency, clarifies the GSA's authority over procurements conducted for the Government's benefit by private contractors, such as "management and operating" contracts.

Section 303. Section 303 amends subsection (b)(3) of the Brooks Act to clarify that the Administrator may revoke a delegation of procurement authority, either before or after contract award.

Section 304. Section 304 amends subsection (f)(1) of the Brooks Act to provide that the Board may also accept protests against procurements conducted "on behalf of" the Government, such as a facilities management contract. These changes are intended to clarify the scope of the GSBICA's review and clarify its relationship to the Administrator of General Services. The GSBICA is expected to conduct a de novo proceedings rather than to be bound by agencies' judgements. In addition, the amendment, by providing that the GSBICA's authority extends to procurements of ADPE conducted "by or on behalf of" a Federal agency, clarifies the GSBICA's authority over procurements conducted for the Government's benefit by private contractors, such as "management and operating" contracts. The GSBICA accordingly, could review a decision made by an operator or manager of a Government facility, whether or not that operator or manager is a procurement agent of the Government.

Section 305. Section 305 amends paragraph (f)(4)(C) of the Brooks Act to clarify the intent of Congress that the Board be able to dismiss protests brought "in bad faith." This amendment adds a new subparagraph (D) that authorizes the board to impose costs for violation or failure to comply in good faith with its orders and decisions. These amendments clarify the GSBICA's ability to manage its docket and prevent the abuse of its procedures.

Section 306. Section 306 amends paragraph (f)(5)(B) of the Brooks Act to provide specifically that the Board may order resolicita-

tion, cancellation or termination of an award and also may direct that an award be made in accordance with its decision. This amendment is intended to resolve various issues that have arisen with respect to the Board's authority to grant effective relief. It consistently has been the intent of the Congress that the GSBICA's authority be construed broadly. The question of what remedy is appropriate remains within the discretion of the Board, to be tailored to the individual case to effectuate the purposes of the Board's protest jurisdiction.

Section 307. Section 307 adds new paragraphs (D) and (E) to subsection (f)(5) in the Brooks Act. New paragraph (D) provides for Board approval of settlement agreements. This provision is intended to address the so-called "Fedmail" phenomenon, in which agencies or awardees pay substantial sums to protestors in exchange for dismissal of a protest, without correcting any defects in the procurement. New paragraph (f)(5)(D) requires that all settlement agreements providing for or contemplating the dismissal of a protest be submitted to the Board for approval. The Board would be able to decline to approve agreements that are inconsistent with law or regulation, or a DPA, provide for excessive payments, or are inconsistent with any order or decision of the Board. It is expected that the GSBICA will review a settlement primarily for provisions that would allow a procurement to proceed in a manner inconsistent with the governing legal standards, or that would call for money payments that could not reasonably be justified by legitimate, actual costs. The Board will not review settlements simply to determine whether they are advisable.

Section 307 also adds a new paragraph (E) to subsection 11(f)(5), clarifying current law regarding payment of GSBICA orders and settlements. New paragraph (E) has been added to clarify that agencies must reimburse the judgment fund when either awards or settlements are paid out of that fund.

Section 308. Section 308 amends paragraph (f)(6)(A) of the Brooks Act to change the appellate jurisdiction over GSBICA bid protests from the Federal Circuit to the D.C. Circuit Court of Appeals. The amendment would also change the time limit for appeals to 30 days from the current 120 days.

Section 309. Subsection 309(a) amends paragraph (f)(9)(A) of the Brooks Act to clarify the definition of the term "protest" and to make clear that protests may include protests of procurements conducted "on behalf of" a Federal agency. The clarified definition of "protest" also makes clear that the Board has jurisdiction over protests alleging that an agency has improperly cancelled a solicitation or an award. For example, where an agency cancels an award as part of a settlement agreement with the protester, the GSBICA would have jurisdiction if the original awardee then protested.

Subsection 309(b) amends paragraph (f)(9)(B) in the Brooks Act to amend the definition of "interested party". The amendment deletes the requirement that a party have a "direct economic interest" in the procurement and substitutes a less restrictive requirement that a party have an "economic interest" that, "as determined by the Board," would be affected by (1) any action that could be the subject of a protest or (2) any relief that the Board could order, including, for example, resolicitation, in connection with a protest. This could include, in the Board's discretion, any bidder or offeror that is other than next-in-line for award. A vendor that has an economic interest, but

that is not an "actual or prospective bidder or offeror," e.g., a subcontractor, would be an "interested party" only if protesting restrictive specifications.

Section 310. Section 310 adds a new subsection to the Brooks Act that requires GSA to keep track of agency procurements under the Brooks Act.

Section 311. Section 311 provides that the amendments made by the title shall be effective 90 days after enactment, to permit revision of pertinent regulations and rules.

TITLE IV—GENERAL PROVISIONS

Section 401. Section 401 provides for mandatory use of the General Services Administration's FTS 2000 contracts by Federal Agencies. This statute prohibits agencies from procuring (and GSA from authorizing the procurement of) services or products to satisfy needs that could be satisfied by procurement under an FTS 2000 contract, in any way other than procurement under an FTS 2000 contract, unless the Administrator of General Services determines that the agency has established that unusual circumstances make procurement under an FTS 2000 contract unfeasible.

This section also exempts the FTS 2000 contracts from new section 31 of the OFPP Act (as added by section 113 of the bill) regarding contract modifications.

This section is intended to be permanent legislation.

Section 402. Section 402 makes a technical correction in existing law, without substantive change.

Section 403. Subsection 403(a) amends and clarifies provisions of the Competition in Contracting Act that authorize the Comptroller General to award bid and proposal preparation and protest costs to companies that file meritorious bid protests. 31 U.S.C. §3554. Under this amendment, payment of those costs, as well as implementation of other recommendations of the Comptroller General in the GAO bid protest process, will be discretionary with the contracting agency.

The amendments provides specific procedures for determining the amount of costs to be paid upon a GAO recommendation. These procedures essentially track existing GAO regulations. Costs recommended by GAO will be paid out of the judgment fund authorized by 31 U.S.C. §1304, subject to reimbursement of that fund by the procuring agency.

Under amended section 3554(e), the Comptroller General shall investigate any failure of an agency to implement recommendations of the Comptroller General, including both substantive recommendations and recommendations regarding bid and proposal preparation costs and protest costs. Any such investigation by the Comptroller General must include the receipt of sworn testimony from the head of the procuring agency and the chief procurement officer of the procuring agency. The investigation by the Comptroller General will result in a comprehensive report to appropriate committees of Congress and will make specific recommendations regarding legislative action to correct inequity or to preserve the integrity of the procurement process.

In any investigation conducted under section 3554(e) regarding the failure of an agency to implement a recommendation of the Comptroller General regarding payment of costs, the GAO may obtain the services of the interested party to which payment of costs was recommended by the Comptroller General.

Subsection 403(b) of the bill clarifies GAO's authority to hear protests against procure-

ments conducted "by or on behalf of" a Federal agency. This would include procurements conducted for the Government's benefit by private contractors, such as "management and operating" contracts.

Subsection 403(c) of the bill provides for the ratification of cost awards made by GAO under existing 31 U.S.C. §3554, prior to enactment of the bill.

The amendments to title 31 will be effective 45 days after enactment of the Act.

Section 404. Section 404 adds a new section to the Office of Federal Procurement Policy Act to provide for detailed post-award briefings in procurements over a certain dollar threshold. Under the new section, in my procurement with a dollar value over \$25,000,000, an agency, at the request of any offeror, would be required to provide a comprehensive, detailed debriefing at which certain minimum information would be provided. The failure of an agency to provide a debriefing meeting minimum requirements would be subject to protest. This new section will be effective 270 days after enactment of the Act.

TECHNICAL EXPLANATION OF THE UNIFORM BUSINESS TAX ACT OF 1991

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. SCHULZE. Mr. Speaker, today, along with 22 original cosponsors, I am introducing the Uniform Business Tax Act of 1991, also called the UBT. Our bill is aimed at modernizing, simplifying and improving America's corporate tax structure.

The corporate income tax as we know it is obsolete and inefficient. It impedes our ability to produce goods at home and to export them abroad. By most accounts, it costs U.S. corporations about \$100 billion per year to pay it. While it raises only \$100 billion for the Treasury. We can, and must, do better.

The uniform business tax, or UBT, is a flat 9-percent corporate tax to replace current corporate taxes. It is imposed on the domestic receipts of U.S. businesses and on all imports crossing the U.S. border. For the first time, Mr. Speaker, foreign goods will now subsidize the cost of our Government. We are the only industrialized nation that does not tax imports.

The UBT solves most problems with the corporate tax. It is simple, it favors equity over debt, it allows for the expensing of investment, it is territorial and exempts exports from tax. Mr. Speaker, it is time for a UBT in the United States.

TECHNICAL EXPLANATION OF THE UNIFORM BUSINESS TAX ACT OF 1991

OVERVIEW OF THE BASIC FRAMEWORK OF THE TAX

A 9-percent Uniform Business Tax (UBT) will be paid by each incorporated and unincorporated taxable business. The tax base for any taxable business is the excess of its receipts for goods and services sold in the U.S. over the sum of the cost of its materials and supplies and the cost of services provided to it by any other taxable business.

The UBT will replace the corporate income tax imposed by section 11, the individual income tax imposed by section 1 to the extent

attributable to the net business receipts of an unincorporated business subject to the UBT, and the FICA and railroad retirement payroll taxes imposed by sections 3111 and 3221(a) to the extent payable by a business subject to the UBT.¹

The replacement of the above-stated existing taxes will be achieved by repeal of the corporate income tax imposed by section 11, by crediting the UBT paid by an unincorporated business against the tax imposed by section 1, and by making the taxes imposed by sections 3111 and 3221(a) inapplicable to wages included in the tax base of the UBT. The amount of UBT that corresponds to the amount of taxes otherwise payable under sections 3111 and 3221(a) is appropriated to the trust funds in the same manner as those payroll taxes.

Although much simpler and imposed at a lower rate, in many other ways the UBT resembles a combination of the presently separate payroll and income taxes paid by corporations and other businesses. Because, however, the UBT is imposed on net business receipts which correspond to the taxable value of goods and services produced and sold in the United States, it is an indirect tax under the General Agreement on Tariffs and Trade (GATT).

Therefore, unlike the present business income taxes imposed by sections 1 and 11, the UBT is a border-adjustable tax. The UBT does not apply to export sales. Similarly, unlike the present income tax, the UBT is territorial and does not apply to the foreign-source business receipts of U.S.-owned corporations and other businesses.² On the other hand, unlike the present income tax, the UBT does not apply to the full amount received by foreign-owned businesses from the sale into the United States of goods manufactured outside the United States. The border-adjustable feature of the UBT includes a complementary 9-percent import tax.

CODIFICATION OF THE UBT

Many of the basic rules for calculation, return and payment of the UBT are, by cross reference or otherwise, closely related to provisions of the income tax presently imposed by chapter 1 of subtitle A of the Internal Revenue Code of 1986. Therefore, most of the provisions would be included in a new chapter 7 of subtitle A.

THE UBT TAX BASE

The tax is imposed on the "taxable value" of goods and services produced and sold in the United States by a taxable business. Section 1601. The taxable value produced and sold by a taxable business is equal to the value of goods and services sold (as measured by business receipts) reduced by the value of goods and services purchased (as measured by business expenses). Thus, the taxable value added by the business is, under sections 1601(a) and 1602, expressed as its net business receipts. Business receipts and business expenses are, respectively, defined in sections 1603 and 1604.

¹Unless otherwise specified, all references are to sections of the Internal Revenue Code of 1986 as it would be amended by the Act.

²This territorial limitation would not create a tax incentive for U.S.-owned businesses to locate plants abroad to service either the U.S. market or foreign markets. Imports back into the U.S. are subject to a 9-percent import tax. Exports from a U.S.-sited plant into foreign markets are free from the tax imposed by section 1601(a), the same as if the plant were located abroad. Overall, the UBT provides a substantial advantage to U.S.-sited plants as compared to present law.

DEFINITION OF TAXABLE BUSINESS

All C corporations are taxable. All S corporations, partnerships, and proprietorships with net business receipts in excess of \$50,000 for the taxable year are also taxable. Section 1612. Under rules prescribed by the Secretary, any other business may elect to be a taxable business. Section 1612(b)(3).

Any organization exempt from income tax under chapter 1 of subtitle A is excluded from the payment of the UBT. Section 1611. Such an organization will remain subject to any tax imposed by section 511. Section 11(e).

RETURN AND PAYMENT OF THE TAX

In general, return and payment of the tax is made by the corporation or other business which produced the net business receipts subject to tax. Sections 1612 and 1621. An affiliated group of corporations may make a consolidated return. Section 1622. In the case of an S corporation and a partnership, the amount of net business receipts subject to tax is determined at the entity level and the entity is treated as the taxpayer. Section 1612(b)(1). In the case of a proprietorship, return and payment of the tax is made by the proprietor.

Except as provided in section 1601(c)(2)(D) (related to the minimum tax), return and payment of the tax (including payments of estimated tax) will be made on the same schedule as if the tax were an income tax imposed on the taxpayer by chapter 1 of subtitle A. Section 1621(a). For this purpose, S corporations and partnerships are treated as C corporations.

MINIMUM TAX FOR ALL TAXABLE BUSINESS

Under section 1601(c), the minimum amount of tax payable by any taxable business is equal to the amount of FICA tax under section 3111 (or railroad retirement tax under section 3221(a)) that it would otherwise owe. Sections 3111(d) and 3221(f) make those payroll taxes inapplicable to wages paid by a taxable business, except for purposes of reference in making the minimum tax calculation under section 1601(c).

The rules for the time of payment and deposit of the minimum tax, and for appropriation to trust funds, are the same as those which apply to the taxes imposed by sections 3111 and 3221(a). Section 1601(c)(2)(D).

CREDIT FOR MINIMUM TAX

Normally the tax imposed by section 1601(a) would substantially exceed the amount of minimum tax determined under section 1601(c). In those circumstances, the minimum tax serves solely to provide for rapid payment, deposit, and appropriation to trust funds.

In other circumstances, the minimum tax may exceed 9-percent of the taxpayer's net business receipts for the taxable year. Most typically, that might occur when business expenses are unusually large (or business receipts are unusually small) for nonrecurring or cyclical reasons. Thus, when the minimum tax determined under section 1601(c) exceeds the tax imposed by section 1601(a), the taxpayer is allowed a credit for that excess in succeeding years. Section 1601(c)(2). The credit allowed by section 1601(c)(2) can, however, never reduce the taxpayer's UBT liability below the minimum tax for the taxable year.

Application of the credit is illustrated by the following example:

"In 1991, the taxpayer's minimum tax is \$10X and its section 1601(a) tax is \$5X. In 1992, the taxpayer's minimum tax is also \$10X, but its section 1601(a) tax (before application of the minimum chapter 7 tax credit) is \$20X. In 1992, the taxpayer is allowed a \$5X

credit (the amount by which the minimum tax paid in 1991 exceeded the section 1601(a) tax in 1991) and pays only \$15X."

DEFINITION OF BUSINESS RECEIPTS

In general, business receipts include all amounts received by the taxpayer for the sale or rental of property or for the performance of service. Section 1603. The UBT is, however, territorial in its application. Therefore, business receipts do not include (i) receipts for the sale or rental of property located outside the United States; (ii) receipts for services performed outside the United States; (iii) fees for use of patents, trademarks, copyrights, know-how or licenses outside the United States; and (iv) royalties or other similar fees received with respect to sales of goods or services outside the United States. Export receipts are also excluded. Section 1603(b).

The definition of business receipts also excludes interest, dividends, and receipts from the sale of a financial instrument, land or any other capital asset (as defined in section 1221) not used in the active conduct of the business. Section 1603(d). Amounts received for separately stated sales or use taxes are also excluded. Section 1603(c)(1).

DEFINITION OF BUSINESS EXPENSES

In general, business expenses include all amounts paid for the purchase of goods and services from other taxable businesses. Section 1604.

Because the UBT is territorial in its application, the definition of business expenses does not include (i) the cost of services performed outside the United States; (ii) the cost of property for use or consumption by the taxpayer outside the United States; (iii) the cost of property located outside the United States; or (iv) the cost of use of patents, trademarks, copyrights, or know-how to the extent such rights are used outside the United States. Business expenses include the cost of property imported into the United States for resale in the United States.

The definition of business expenses does not include direct or indirect compensation paid to employees (section 1604(b)(1)(A)), amounts paid to exempt organizations (1604(b)(2)), interest or dividends (Section 1604(b)(1)), or the amount paid for property, the receipts from the sale of which are excluded from the definition of business receipts under section 1603.

In general, business expenses do not include amounts paid to any governmental unit as taxes or otherwise, other than amounts paid for product taxes (sales and use taxes and other taxes on the sales, use, production, consumption, or severance of property or the provision of services). Section 1604(b)(2). Most federal excise taxes are treated as product taxes and, therefore, are business expenses. Section 1604(b)(2)(B) (iii) and (iv). For these purposes, the bill's complementary tax on imports is not treated as a product tax, and therefore, is not a business expense.

Whether or not a seller separately states on a purchaser's invoice a tax imposed on the seller, the portion of the purchase price attributable to the tax will be considered part of the amount paid for the goods or services. Thus, such amount will be a business expense of the purchaser (if the purchaser is a taxable business) (section 1604(b)(2)) and a business receipt to the seller (section 1603(c)(2)). If the tax is a product tax, it will be a business expense of the seller.

For convenience in administration, the bill treats separately stated sales taxes as im-

posed on and paid by the purchaser even if they are technically imposed on the seller (section 1604(b)(2)(B)(vi)); they are not included in business receipts or business expenses of the seller. They would be included in the business expenses of the purchaser if the purchaser is a taxable business.

The bill treats as business expenses amounts paid to governmental entities for goods, services, and rights of the kind that are normally sold by taxable entities. Section 1604(b)(2)(c). Thus, amounts paid to acquire electricity from the TVA, to purchase crude oil from government stocks, or to remove crude oil from government-owned land would be business expenses.

COMPUTATION OF NET BUSINESS RECEIPTS

The 9-percent UBT tax rate is applied to the net business receipts of the taxable business for the year. Section 1601(b). The amount of net business receipts is equal to the sum of business receipts for the year minus the sum of business expenses for the year. Section 1602.

The following example illustrates the calculation of net business receipts:

	Amounts received	Business receipts
1. Sale of goods	\$150	\$150
2. Rents	5	5
3. Export sales	25	0
4. Interest	5	0
5. Dividends	5	0
6. Sale of property located outside of United States	20	0
7. Sale of stock	5	0
8. Total	215	155
	Amounts paid	Business expenses
9. Inventory, parts and supplies	40	40
10. Employee compensation	90	0
11. Capital equipment	10	10
12. Interest	5	0
13. Rents	5	5
14. Dividends	5	0
15. Purchase of property located outside of United States	10	0
16. Sale of stock	5	0
17. Total	200	55

In the foregoing example, the amount of net business receipts for the year is \$100 (line 9 minus line 18).

TRANSITION RULES UNDER THE TAX

The UBT provides special transitional rules for the computation of net business receipts. These rules permit the taxable business to take into account deductions for depletion, depreciation, and amortization commenced under prior law. Section 1604(c)(1).

The UBT also allows a C corporation a transitional credit against the tax imposed by section 1601(a) for unused income tax credits and net operating losses that would, under prior law, be carried to the business's first taxable year beginning after December 31, 1990. Section 1604(c)(2). This credit is not allowed against the minimum tax determined under section 1601(c).

TAXABLE VALUE OF INTERMEDIATION SERVICES

Insurance companies, banks, and other financial institutions are subject to the tax imposed by section 1601(a) and the minimum tax determined under section 1601(c). In the case of such businesses, however, the taxable value produced and sold in the United States consists in large part of the intermediation services they perform. Business receipts from insurance, lending, and similar activities cannot be determined merely by monetary inflows. Therefore, under section 1605(a)(4)(A), the business receipts from such activities are, in general, equal to the amount received for the intermediation services provided.

A depository institution such as a bank serves primarily as an intermediary between depositors in the bank and borrowers from the bank. Subject to certain adjustments for risk, the bank's business receipts from this particular intermediation service are generally equal to the interest rate spread, i.e., the excess of interest paid by the bank to depositors over the interest received by the bank from borrowers. Insurance companies serve as intermediaries both in pooling risks (i.e., intermediating between policyholders) and in investing funds. In general, an insurance company's business receipts from intermediating among policyholders include the excess of premiums received over claims or the equivalent. When the insurance coverage involves the accumulation of reserves to provide for future claims, premiums set aside for that purpose are excluded from business receipts. When this "savings component" is invested and earns a rate of return, business receipts include the amount by which those earnings exceed the portion thereof set aside under the contract.

Detailed statutory rules consistent with these general principles for determination of the amount received for intermediation services in the United States are being drafted for inclusion in the Uniform Business Tax Act of 1991 before enactment.

APPLICATION OF THE TAX TO UNINCORPORATED BUSINESSES

Although substitution of the UBT for the present corporate income tax can be accomplished by repeal of the tax imposed by section 11 simultaneously with enactment of the UBT, special provision must be made in the case of S corporations, partnerships and proprietorships.

Under section 30, shareholders of S corporations, partners and proprietors will be allowed an income tax credit equal to the taxpayers' share, determined under regulations prescribed by the Secretary, of the net chapter 7 tax paid by the taxable business for the year. The net chapter 7 tax is the amount by which the tax imposed by section 1601(a) exceeds the minimum tax determined under section 1601(c).

POSSESSIONS CORPORATIONS

Section 1606 establishes special rules for electing possessions corporation. A "possessions corporation" is defined as a corporation that elected in its last taxable year before the UBT to claim a possessions tax credit under section 936 and that for the taxable year would have been eligible to make such election if section 936 continued to apply. A possessions corporation could elect to substitute for its net business receipts half of its receipts from "possessions sales" or "covered sales" plus 100 percent of any other receipts that would otherwise be included in business receipts. Thus, the corporation's business expenses would be disregarded. The minimum tax under section 1601(c) would apply to possessions corporations.

This provision is intended to substitute for the longstanding tax benefit which has been accorded manufacturing activities in possessions of the United States.

SPECIAL RULES AND DEFINITIONS

Various special rules and definitions are briefly described below.

The purchase or sale of property occurs, in the case of real property, where located, and in all other cases where delivery takes place. Section 1605(a)(1). Services are treated as performed at the location at which they are performed. If a payment covers services performed outside and inside the United States, the payment will be treated as paid for serv-

ices performed outside the United States but as received for services performed inside the United States unless the contract or invoice for the service reasonably allocates the payments between services performed inside and services performed outside the United States. Section 1605(a)(2). The performance of services includes the incidental transfer of property in connection therewith. Section 1631.

Except in the case of an exchange which is described in section 368, exchanges of property and services are treated as sales and the amount received is the fair market value of the property or services exchanged. Section 1605(a)(3).

When payments for property or services are to be made in more than one taxable year, such payments are taken into account by the buyer and seller, respectively, in the year paid or received. Section 1605(b)(1). Receipts include all lease payments received during the taxable year. Section 1605(b)(2). Section 1605(b)(3) provides transitional rules to prevent double counting of amounts taken into account in taxable years beginning before 1991.

The term "business" includes a trade or any activity regularly carried on for profit. Except as provided in section 1604(b)(6) related to certain independent contractors, the term "employee" has the same meaning as for purposes of chapter 24. References to "United States" include a Commonwealth and any possession.

CONFORMING AMENDMENTS

Sections 275 and 164 of the Code are amended to make clear that only the portion of the tax imposed by section 1601(a) which exceeds the minimum tax determined under section 1601(c) is nondeductible in computing income tax liability. Taxpayers other than C corporations (where the income tax is repealed) may continue to deduct that portion of the amount determined under section 1601(c) which corresponds to presently deductible payroll taxes.

Section 6655 is amended to provide for estimated payments of the tax imposed by 1601(a) in excess of the minimum tax determined under section 1601(c).

REPEALS AND TERMINATIONS

The Act terminates the corporate income tax imposed by section 11, except in the case of the tax imposed by section 511. The Act terminates the minimum tax imposed by section 55 and the employer-paid FICA and Tier 1 Railroad Retirement taxes on wages to which the UBT applies.

APPLICATION OF TAX PROCEEDS

The Act provides for appropriation to trust funds of the proceeds from the minimum tax determined under section 1601(c).

COMPLEMENTARY IMPORT TAX

In general, section 4476 (in subchapter C of chapter 36) imposes a 9-percent import tax on property entered into the United States. Exceptions are provided for small dollar amounts of property imported for personal use and for re-importation of property previously sent outside the United States for further manufacture, repair, or the like.

The tax is paid by the importer of record who enters the property into the United States. Thus, when goods are manufactured abroad for sale in the United States, the tax typically would be paid by the U.S.-based sales subsidiary on behalf of its foreign-owned parent corporation. In other cases, the tax would be paid by U.S. businesses that purchase and import foreign-made goods, or by an import agent on their behalf. The tax

would also apply to goods manufactured abroad by U.S.-owned companies if sold into the United States.

EFFECTIVE DATE

The amendments made by the Act apply to taxable years beginning after December 31, 1990.

INTRODUCTION OF THE UNITED STATES-CHILE FREE TRADE BILL

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. RICHARDSON. Mr. Speaker, just over 2 months ago, on May 23 and 24, the House and Senate made a historic decision in its support for a 2-year extension of fast-track authority. Unlike previous extensions of fast-track procedures, this vote involved more than the usual constitutional debate over fast-track and the traditional multilateral approach to trade negotiations. President Bush indicated that he would use fast track to negotiate a free trade agreement with Mexico—a bilateral trade agreement with an economically developing country. In granting President Bush the use of fast track for an FTA with Mexico, Congress broke new ground and buoyed the ambitious free market policies and democratic reforms now underway in Mexico and in other Latin American countries.

What is happening now in Latin America is no less dramatic than the collapse of communism in Eastern-Bloc countries. After decades of sealing off overseas investment and protecting industries, Latin American countries now want to compete in the international marketplace. They are moving away from a pattern of economic isolationism and authoritarian rule that has crippled productivity, allowed inflation to go unabated, and consequently denied its citizens job opportunities, a decent standard of living, and basic democratic rights. The United States can play an important role in this nascent movement toward democracy and economic integration in the Western Hemisphere.

Free trade must be the cornerstone of our foreign policy with Latin America. Congress let Mexico know that free trade will be a critical part of our new economic and political ties. We need to send the same message to the rest of Latin America and should begin to seek bilateral trade negotiations with those countries that are prepared to establish closer trade and investment ties with the United States. For this very reason, Congressman Jim Kilbe and I are introducing legislation directing the President to pursue trade negotiations with the Government of Chile.

The Bush Administration has placed a primacy on concluding the Uruguay Round of GATT and on beginning United States-Mexico trade talks. Mr. Speaker, I happen to agree with the Administration's emphasis on GATT and the North American Free Trade Area [NAFTA]. However, at the same time, it is important not to overlook other trade agreements that will benefit America's economic interests and advance important foreign policy goals. The Bush Administration has already identified

Chile as the only Latin American country whose economic reforms allow for negotiations on a bilateral free trade agreement. This view is also shared by many trade analysts. It is appropriate for the United States and Chile to begin trade talks now and lay down the necessary groundwork for achieving our long-term goal of a free trade area throughout the Western Hemisphere, as envisioned in the Enterprise for the Americas initiative.

By any objective standard, Chile is far ahead of other countries in restructuring its economy and its trade and tariff regime. Since the election of President Patricio Aylwin in March 1990, Chile has been eager to restore its traditionally close ties to the United States that were strained under the rule of General Pinochet. President Aylwin has made significant strides in reestablishing civilian authority and in vigorously implementing free market policies. The United States has responded favorably to the Aylwin government by lifting the Pinochet-era economic sanctions and by signing an agreement to monitor trade and investment between the 2 countries in October 1990.

Some observers might suggest that, notwithstanding the laudable direction of the Aylwin government, United States trade representatives are going to have their hands full over the next 2 years. In other words, let's not chew off more than we can swallow. In many ways, an agreement with Chile will be considerably easier to consummate than an FTA with Mexico or a successful conclusion to GATT. First, Chile's economy is further integrated into the international market system than Mexico's and other Latin American countries. Much of the hard bargaining involved in lowering tariff and nontariff barriers has already been done by the Chileans themselves. Second, their economy and country size is considerably smaller than Mexico's and just a fraction of United States GNP. A United States-Chilean FTA is unlikely to generate or result in any serious disruptions here at home.

As for Chile, it stands at an important juncture in its history. Chile has demonstrated a long-term commitment to economic liberalization and now seeks closer ties to the international market system. Its economic reforms have translated into democratic gains at home and a renewed movement toward civilian rule exemplified by the election of President Aylwin in March 1990. By opening up United States markets to Chilean goods and services, an FTA will invigorate its economy and bolster its emerging democratic institutions.

In addition to these important foreign policy objectives, the United States also has important economic interests at stake in an FTA with Chile as it does with the rest of Latin America. If you look around the world, what you will see is the emergence or regional trading blocs in Europe and in Asia. The European Community intends to lower barriers with countries like Turkey and Portugal and seeks to integrate more closely with Eastern Europe. Japan and Korea are turning to Thailand and Malaysia. It makes sense for the United States to seek the same competitive advantages in its trade relationship with Latin America. A United States-Chile FTA can help forge this new relationship, which over a period of time,

I hope will result in a free-trade area throughout the Western Hemisphere.

On July 8, the World Bank released its annual world economic development report, and it contains significant data on U.S. exports to industrialized and developing countries. U.S. exports to economically developing nations have grown three times the rate of U.S. sales to rich, industrialized nations. As these numbers suggest, the United States has an enormous economic interest in securing preferential access to these markets. Lifting trade barriers to U.S. products in Latin America will create more jobs for American workers, as export-driven industries gain new markets in which to sell their goods and services. In addition, like other Latin American countries, Chile has debt payments to make, and a good portion of that money will be paid off to the United States and our commercial banks. Repayment of this debt will boost U.S. banking centers and benefit our economy overall.

Like Mexico and other Latin American countries, Chile has a propensity to buy United States goods. Figures show that in 1990 United States products account for 16 percent of all Chilean imports. Mr. Speaker, I know that many of my colleagues wish that figure was true for some of our other trading partners. My point is that a sizeable portion of the money that Chile generates from an FTA will be sent right back to the United States. If Chile and the United States were to have a free-trade agreement, you can be certain that Chile's percentage of United States imports would increase, as tariff-free American products become more attractive to Chilean consumers.

Mr. Speaker, the time is right to move ahead on a United States-Chile Free-Trade Agreement. If we move now on negotiations with Chile, it will generate momentum for the Enterprise for the Americas initiative. Most importantly, it will let the rest of Latin America know that while the United States views an FTA with Mexico and the conclusion of GATT as top priorities, they will not come at the expense of closer trade and investment ties with other Latin American countries. That's an important message that needs to be sent by this Congress and by this administration. Chile and the rest of Latin America should understand in the clearest of terms that the United States supports their transition to market-oriented systems and its democratic reforms.

American foreign policy should embrace those countries that are moving away from economic isolationism and authoritarian rule and toward economic integration and democracy. Runaway inflation, poverty, and stagnant productivity are the greatest threats to democracy in Latin America. They always have been and continue to be. Free trade has been our most effective foreign policy tool of the 20th century, and its successful implementation has planted the seeds of democracy and social stability throughout the world. Free trade, as embodied in the Marshall plan, lifted Western Europe out of the ashes of World War II. Free trade helped rebuild Japan and Korea. Free trade can and will do the same for Latin America. Securing long-term economic growth in Latin America must be a top foreign policy priority, and Latin America should know that the United States is prepared to forge a free-trade

policy with those Latin American countries that embark on this road of reform.

Mr. Speaker, let us move ahead on trade negotiations with Chile and let Latin America know we applaud their economic reforms and welcome their partnership in the world market place. I ask my colleagues to join me and Congressman KOLBE of Arizona by supporting this legislation.

EXPLORING WASTE MANAGEMENT POLICIES IN AMERICA

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. SHAYS. Mr. Speaker, today I am pleased to submit for the RECORD a statement delivered by Robert A. Powers, president and chief executive officer for Keep America Beautiful, Inc. Mr. Powers' remarks were delivered before a meeting sponsored by Citizens for the Environment.

In his speech, entitled "The Politics and Science of Garbage: Exploring Waste Management Policies in America," Mr. Powers discusses the need for a better-educated public. He argues that people are not getting all the facts they need to know to make the best decisions about solid waste management.

Mr. Powers highlights some myths about recycling and waste disposal. He emphatically states there is no sequential hierarchy of solutions to solve America's waste disposal problems, and argues what is needed is a flexible strategy. According to Mr. Powers, the best solution is the one that best meets local needs.

With four out of five landfills expected to be closed by year 2008, there is a serious need to focus on the problems of waste disposal. I submit Mr. Powers' thoughtful comments for consideration as Congress continues its efforts to address this important environmental issue.

THE POLITICS AND SCIENCE OF GARBAGE: EXPLORING WASTE MANAGEMENT POLICIES IN AMERICA

(Remarks by Roger W. Powers, President, Keep America Beautiful, Inc.)

The theme of this session—Toward A More Informed Public—brings to mind one of our country's core virtues. Namely, when Americans have all the facts needed to make the best possible decision for our nation, that's what they do.

Unfortunately, on the solid waste management issue, in my judgment they are not getting all the facts. Instead, all too often, the public receives inaccurate or incomplete information.

There are a few myths prevalent today that are preventing public understanding of the real issues and solutions. One is there is a five-point, sequential "hierarchy" that will solve America's solid waste problem.

Unfortunately, this rigid doctrine sends the message that anything but a hierarchy is wrong. What is needed is a flexible strategy. Management and disposal options should be viewed as a menu from which to choose the best plan to meet local needs.

Not long ago, in the course of our work, a southern city came to our attention. Because of all the hoopla over recycling they were persuaded to launch a curbside pro-

gram. Now they are planning to build a new incinerator with front-end processing, and subsequently drop the recycling program.

They created a costly curbside program, they positioned it as a viable option, educated the public about it, raised expectations, and now by proposing to drop the program have confused the public. This could have been prevented with a comprehensive study of all the options and costs from the beginning.

The hierarchical approach implies that landfills and waste-to-energy are our last resort and source reduction is the first step. No one will argue that source reduction shouldn't be our first step. Everyone can take part—business, industry and individuals. But landfills and waste-to-energy are not the last resort. In many communities, indeed, they may be the first action. Sanitary landfills and modern waste-to-energy facilities utilizing state-of-the-art technology must be sited.

We are not short of space across this country to site landfills. We are short of political will to help build local leadership for addressing "Not In My Backyard" (NIMBY) mentality, and for planning and siting the landfills we so desperately need.

We will be between a rock and a hard place, because by the end of the decade we will have around 2,000 landfills, down from 6,000 today. Equally important, is the decline of capacity. By 1995, we will have lost 56 million tons of landfill disposal capacity.

People ask why—how can that be when there is so much fervor for recycling in this country? The popular answer to that question is another myth: Because of recycling, there is no need for new landfills.

It's simple arithmetic. The 180 million tons we are generating today is expected to grow to 200 million by 1995. Even with the most optimistic projections for recycling, composting and incineration to handle nearly 50 percent of our municipal waste, we will be left with 100 million tons of waste to dispose of. It is essential that the American public understands and supports the development of sanitary landfilling today because it generally takes 5 years for siting studies, permits and construction of these state-of-the-art disposal facilities.

A recent survey of Keep America Beautiful coordinators, which number 460 programs from 40 states, showed over half believe that the American public is being misled about solid waste disposal, with 62 percent singling out the perception that recycling is our only option for addressing solid waste. These coordinators agree that recycling is helping towns to manage their waste; however, what they are saying is that it is being promoted to the exclusion of positioning the need for a comprehensive approach.

It is important to pursue recycling but people must understand "little blue curbside boxes" and municipal drop-off centers alone will not solve our solid waste problem.

In another southern county with a population of half a million, officials boast about an 85 percent participation rate in curbside recycling, but hear this, that 85 percent participation rate diverts only 12 percent of the county's municipal solid waste from the landfill. These sorry statistics are more the rule than the exception and it's politically unpopular for public works and sanitation directors to tell it like it is. But if we are really going to deal with the complexities of this issue, the public needs to have these facts to make decisions.

We also need to dispel the myth that recycling makes money and determine the true

costs of waste management. As you probably heard this morning, it's difficult to come by these costs—no one wants to share them and there has been limited effort to conduct true cost accounting. Until we know what we are paying now, how can we expect to make fiscally responsible and environmentally sound decisions?

Another myth—Packaging is the reason our landfills are closing. No, our landfills are closing because they are exhausted or are not meeting regulations. Packaging comprises only about one-third of our waste stream which would still leave about 66 percent of municipal solid waste to dispose of.

Which brings me to still another myth, the need for degradable packaging. Right now, most packaging is being recycled, incinerated, or landfilled, making the question of degradability moot. The real potential for degradability may center around leaves and yard waste, and the need to rapidly accelerate development of efficient and economical municipal composting systems for materials which are naturally degradable, and comprise 18 percent of municipal solid waste.

Already, in the 90's, the garbage decade, time is getting short! Unless environmentalists, business and industry, government, civic leaders and universities—all of whom have a stake in solid waste education—give this issue top priority, the capacity crisis we face will go unabated and the consuming public will continue to believe that we will recycle our way out of this mess.

You will remember that the first solid waste legislation was created as a means to protect public health. Unless we can effectively manage our solid waste, and meet this capacity crisis, we will see a dramatic increase in illegal dumping and associated health problems. Indeed KAB's local and state leaders are already reporting an increase in illegal dumping and as people see their quality of life decline, frustration builds, creating an overwhelming and hopeless feeling that the problem is too large to solve. What we have is a profound lack of public confidence.

There is certainly a credibility gap. KAB's survey also indicated that our local leaders believed that the public is being misled—by the media, by business and industry, and by environmental groups.

In the absence of facts, "myths rush in" which is another reason we are increasingly alarmed that the print and broadcast media are unable to report on this issue in any in-depth fashion. That by itself has caused great public confusion, and helped create and perpetuate the myths.

In addition, green marketing is creating public confusion. If we are to develop a forthright educational program for the American consumer, we need federal standards for labeling.

In my view we can't afford further delay in mounting an attack on the twin villains of ignorance and indifference about America's escalating solid waste problems. The objective must be to educate individual Americans clearly laying out all alternative approaches—and all potential costs—of effectively and safely managing municipal solid waste in their community. Only in this way can we hope to involve the individual and change attitudes.

We must also galvanize the leadership potential of American business and industry, our universities and high schools, and civic organizations to join hands in a unified effort to get the facts to the people about solid waste management.

But to do that, we must work in partnership and not in competition. Business must

educate its employees and other stakeholders about the integrated approach to solid waste management addressing the issue much the same as it addresses the issue of employee drug and alcohol abuse.

Universities need to offer more instruction, inquiry, even courses for students on this and other environmental issues. The scientific community, civic groups and clubs like the AARP, the League of Women Voters, General Federation of Women's Clubs, the Jaycees, even the Girl and Boy Scouts are a tremendous educational resource waiting to be organized around a national education partnership on the facts about solid waste management.

Even though the problem may seem overwhelming to many citizens, it remains the informed individual who can make a difference. This is the essence of Keep America Beautiful's programming. For 17 years we have been successfully making the point if we are to address the littering and solid waste issues, individuals must be involved in the planning and doing.

We have accelerated this in the past three years through a concentrated effort to train teachers in the use of our K-12 curriculums, and through telephone hotlines, newspaper, radio and TV contact. We have organized our information and its delivery system throughout the nation in a highly systematic way to focus sharply on changing attitudes and behaviors. Each of the 460 affiliates and 19 state programs work closely with city and county governments and solid waste planning units.

Keep America Beautiful affiliates are bringing about significant changes at the grassroots level. Through personal involvement of the citizenry is gaining an understanding of the real issues in their communities and building confidence and trust in partnerships.

This is not a noble effort, it is the obligation of us all, and we at Keep America Beautiful want to join hands with everyone. Obviously this crisis in public confidence is one of our biggest challenges. Ignorance of the facts, hidden agendas, shallow media reporting and inadequate political leadership has, and will continue to, increase a sense of futility on the part of our citizens.

Those of us deeply involved in this issue must agree that building public confidence should be given our highest priority. Only when the majority of Americans have accurate information can we raise the level of public debate and replace emotional action with knowledgeable decision-making to meet long term solid waste management of America's communities.

GREEN POINT SAVINGS BANK AN INDUSTRY LEADER

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. ACKERMAN. Mr. Speaker I would like to call my colleagues' attention to the fine work of the Green Point Savings Bank, headquartered in Flushing, Queens County, NY.

A recent article in American Banker, entitled, "Green Point a Winner in Home Loan Niche" points out that the bank, with assets of \$5.3 billion, emerged last year as the most profitable of the Nation's 100 largest thrifts.

Green Point is noted for its superiority in residential lending. It concentrations heavily in single-family mortgages in the New York City area, and has become one of the city's very largest mortgage originators. Green Point has recently claimed that its average new home loan has been for just 58 percent of the property value, against 74 percent industrywide. As the article points out, it is this kind of protection that has enabled Green Point to weather the worst market downturn since the Great Depression. The article follows:

GREEN POINT A WINNER IN HOME LOAN NICHE

(By Phil Roosevelt)

Amid the gloom of the Northeast banking scene, Green Point Savings Bank stands as a beacon of prosperity.

The Flushing, N.Y., institution, with assets of \$5.3 billion, emerged last year as the most profitable of the nation's 100 largest thrifts.

HIGH RETURN ON ASSETS

Owned by its depositors, Green Point posted a return on assets of 1.84%, which also topped that of most major commercial banks. And the thrift appears headed for another strong performance this year, despite a runup in loan delinquencies.

"Green Point has a long record of knowing what it's doing," said Raymond V. O'Brien Jr., chairman of the rival Emigrant Bank for Savings.

Green Point's forte is residential lending. While it has some exposure to commercial real estate, it concentrates heavily in single-family mortgages—and only in the New York City area.

It has proved especially strong in "no doc" mortgages—loans originated without documentation of the borrower's income. While most lenders have pulled back from such loans in the past two years to curb credit risk, Green Point remains an ardent fan.

The loans can appeal to a broad range of borrowers, including self-employed people and New York's sizable population of new immigrants. A newcomer from Hong Kong, for example, might have all the cash needed for a down payment but no U.S. employment history.

"A lot of banks either can't or won't touch that kind of deal," says one rival.

But Green Point will, which has helped it become one of the city's very largest mortgage originators. It expects to write \$1 billion of loans this year, roughly the same as in 1990.

To protect itself, Green Point relies almost entirely on property values. It takes pains to obtain accurate appraisals, using an in-house staff, and it demands heavy equity from its borrowers. Recently, Green Point says, its average new home loan has been for just 58% of the property value, against 74% industry-wide.

HIGH RECOVERY RATE

In other words, if Green Point were to foreclose immediately on a home originally appraised at \$100,000, it could sell it for \$58,000 without losing a nickel of principal.

That kind of protection has helped Green Point weather the worst market downturn since the Great Depression. By contrast, the venerable Dime Savings Bank of New York has racked up huge losses in home mortgages. Dime, with \$11 billion in assets, lost \$135 million last year and \$92 million the year before.

To be sure, Green Point's delinquency rate is not exactly the envy of the industry. As of March 31, Green Point's noncurrent loans

and repossessed real estate amounted to 8.1% of assets, against 5.7% for all savings banks, according to data filed with the Federal Deposit Insurance Corp.

So far, however, the delinquencies have yet to inflict any real damage on the bottom line. Green Point says it sold 112 foreclosed properties in 1989 and 1990 for \$14.7 million—enough to cover the principal, interest owned, and incidental expenses except \$44,000.

SMALL RESERVE PLANNED

This year, "just to be safe," it plans to add \$15 million to its modest \$5 million reserve for loan losses, says Michael J. Gagliardi, chief executive. As a result, he says, annual profits will probably fall 12% from the 1990 record, to \$80 million. But that would still mean a return on assets of about 1.5%—higher than all savings banks as a group have posted in at least 10 years.

Ultimately, Green Point is protected by an enormous cushion of capital. Thanks to years of stellar profits, the thrift has amassed equity equal to 12% of assets, nearly double the norm for savings banks.

For stockholder-owned institutions, this would present a problem because it reduces return on equity. But for Green Point—one of the last big thrifts owned by its depositors—the capital simply helps profits. That's because most of the capital has been plowed back into interest-earning assets, creating a wide gap over interest-bearing liabilities.

Mr. Gagliardi, who took charge of Green Point last year, says the high capital is an essential factor in Green Point's success. In making this point, he steals a fine from his predecessor, I.J. Lasurdo: "The easiest way to make a small fortune is to start with a big one."

In the New York mortgage market, Mr. Lasurdo is pure legend. A Green Pointer since 1935, he rose through the mortgage division to become chief executive in 1982. As CEO, he spent his mornings presiding over the final review of each mortgage application; he spent his afternoons on the phone with local realtors, seeking customer referrals.

Mr. Lasurdo, who retired at the end of 1989, has since been immortalized as "The Mortgage Man" in a bronze plaque at the thrift's executive offices in Flushing.

"No one's as good as Lasurdo—there is only one Lasurdo," says Theodore Metalios, president of Century 21 Metalios Real Estate, Jackson Heights, N.Y. "But the place goes on. They still make loans that other banks won't even consider."

Mr. Gagliardi, who joined Green Point in 1987 from Dollar Dry Dock Savings Bank, has brought a more conventional style to the corner office. He has delegated most of Mr. Lasurdo's mortgage duties to an executive vice president, Martin Dash. And he has involved all senior management in extensive strategic planning.

"We've gone from having not too much planning to having one of the best planning departments of any savings bank I know," Mr. Gagliardi boasts.

Certainly, Mr. Gagliardi and his team face some pressing issues. Though many experts believe the local economy and housing market are bottoming out, high delinquencies could persist for at least another year. That will add to collection costs and raise the potential for loan losses.

While Green Point has the capital to hold all its originations for at least a few years, Mr. Gagliardi is eager to avoid the rate risk that would entail. After all, it was a mismatch of long-term mortgages funded with

short-term liabilities that proved the undoing of hundreds of thrifts in the early 1980s.

In an interview, Mr. Gagliardi disclosed that he is preparing some bold initiatives for his board's consideration. One plan is to lengthen the thrift's liabilities, possibly by joining the Federal Home Loan Bank System and securing long-term loans. Such borrowings would be a big step for a thrift that takes pride in funding itself almost entirely with neighborhood deposits.

SECURITIES ISSUE POSSIBLE

Alternatively, Green Point may issue its own securities. While Green Point's capital would certainly help the securities win desirable credit ratings, the whole process is outside Green Point's realm of experience. "We'd have to learn how to do it," he said.

Meanwhile, the thrift is feeling some heat for allegedly callous treatment of tenants of foreclosed properties. A local newspaper, *Newsday*, cited instances of tenants "going for months without heat, hot water, and other basic services."

Mr. Gagliardi says that complaints have been minimal and that Green Point acts no differently than other lenders with foreclosed properties. "Foreclosure is never a happy experience," he says.

Longer-term, the big issue for Green Point is what to do with all the no-doc loans. Until recently, Green Point kept its adjustable-rate mortgages and sold its fixed-rate models to the Federal National Mortgage Association—a strategy intended to minimize the thrift's exposure to shifts in interest rates.

CHANGE BY FANNIE MAE

But earlier this year, Fannie Mae stopped buying no-doc loans and their cousins, low-docs, to curb its own credit risk. The rival Federal Home Loan Mortgage Corp. has also pulled back from reduced-documentation loans.

Either way, Green Point will not back away from no-docs. "We're going to stick with our niche," Mr. Gagliardi said. And unlike most of its peers, it has no plans to stop growing.

Even if it finds a way to sell its fixed-rate no-docs, assets should grow by about 60% over the next five years, to \$8.25 billion, Mr. Gagliardi says. And if Green Point keeps all its new loans, assets should nearly double, to \$10 billion.

Not bad for an old savings bank in the Northeast.

THE IMPACT OF SOCIOECONOMIC FORCES

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. DE LA GARZA. Mr. Speaker, recently I received a copy of a presentation made by Dr. Michael E. DeBaakey, Department of Surgery, Baylor College of Medicine in Houston, and I would like to submit for the perusal of my colleagues excerpts of this presentation. His remarks follow:

THE IMPACT OF SOCIOECONOMIC FORCES

The unprecedented and unforeseen changes in medicine since the turn of the century, while greatly extending our longevity and the quality of life, have also seriously complicated the delivery of health services, have altered the traditional physician-patient re-

lationship, and have created thorny problems for patients, physicians, and the public. Prominent themes during the past several decades have included cost-benefit analysis, cost containment, HMOs, PRSOs, health-care accessibility, national health programs, alternate delivery systems, Medicare payments, malpractice insurance, voluntary accreditation, quality assurance, medical ethics (including the controversial active euthanasia and fetal tissue research), scientific misconduct, and an accelerating, indeed alarming increase in governmental regulations. In the words of Eli Ginzberg, " * * * the earlier untrammelled freedom of the profession to determine how, where, and for how long patients would be treated is being circumscribed by new rules, regulations, and protocols."

The vigorous campaign waged by animalists against medical research, involving sensationalism, false information, terrorism, and intimidation, has adversely influenced some segments of society and has swayed some members of Congress. These actions have cost research institutions millions of dollars, have curtailed or completely halted some valuable research programs, and have discouraged some promising young candidates from entering research. The total effect on medical research, which is the source of new medical knowledge, has been devastating.

Physicians are becoming increasingly disenchanted, many are leaving the profession, and fewer of the best and brightest are applying to medical school. The source of their displeasure? Medical practice no longer brings a sense of satisfaction; it is simply not worth the personal frustration and financial investment. Physicians are no longer permitted to decide how to take care of their patients on the basis of their medical knowledge and training. Now third-party payers, the government, and various and sundry committees of self-designated "experts" dictate hospital admission policies, diagnostic studies, type of treatment, and length of hospital stay. Many of these so-called "experts" have never even studied medicine or practiced a day in their lives, and some who have are unfamiliar with the nuances of a particular case.

In this connection, Sir Raymond Hoffenberg, while President of the Royal College of Physicians, published in 1986 the *Rock Carlin Lectureship* entitled *Clinical Freedom*, in which he analyzed the "winds of change" in medicine both in Great Britain, where a state medical service was established more than four decades ago, and in the United States, and stated that "on balance, despite our recruitment to a State-run service, we have retained a substantial degree of clinical autonomy, perhaps—one might venture—somewhat more than our colleagues in America who are less overtly subject to government control." He stated further that "a 'decline in clinical freedom' has taken place, and is still taking place, to a greater extent in their commercialized and competitive system than in our nationalized, bureaucratic, and more tightly controlled NHS." To support this belief, he quoted Dr. George Silver as follows: " * * * the British doctor, discontented as he or she may be with the inadequacy of the financial rewards of practice in the UK, or dissatisfied with the shabby and inadequate facilities in many places in which medical work is performed, is still largely free and untrammelled in the practice of medicine, * * * (whereas) American physicians * * * are pinioned by regulations and controls far beyond * * * colleagues in most other countries."

The cost of a medical education in time and money is considerable, and the expense of starting a medical practice and of malpractice insurance is exorbitant. The increasing litigiousness of our society has exerted additional pressure on physicians, many of whom believe that they must practice defensive medicine. Yet they also feel they are in a no-win situation: If they order certain tests as a defense against a malpractice suit, they will be accused of increasing the patient's costs unnecessarily; if they do not order the tests, they will be accused of being negligent or incompetent. The general decline in esteem of the profession also contributes to the exodus from medicine. If this trend continues, the efforts of those who profess to "reform" the profession will be self-defeating, because the quality of health care and its accessibility, which the so-called reformists are clamoring to solve, assuredly will decline notably.

The extraordinary progress made in medicine during the past century is in serious jeopardy today. The intrusion of extramedical elements also has disturbed the physician-patient relationship, which is so crucial to effective health care. Despite the remarkable wonders of modern medicine, the patient remains the center of medical practice, and the physician-patient relationship is still the most critical element in effective health delivery. Anything that interferes with that is a self-defeating obstacle. One of the most important challenges of the future, therefore, is to restore the confidence of the public in the integrity and dedication of the medical profession and to revive the trust of individual patients in their physicians.

A troubling trend is the decline in support for medical research during the past decade or so. A negative impact of the cost-containment hysteria associated with reduction of the budget deficit is the creation of an unstable environment within the research community. The loss of promising young medical science investigators is particularly critical because the continued integrity of the nation's medical research enterprise depends largely on the availability of a pool of talented researchers, and that pool is now being depleted.

All of the wondrous medical advances that have been so briefly touched on in this presentation rest on research. It would seem unnecessary to emphasize its seminal need and its adequate support, as well as its strong protection against a minority of zealous, aggressive, and often irrational groups dedicated to its elimination. Research remains our most important and, indeed, our only means of solving the remaining problems in medicine and thus of further improving the health of the people. Indeed, the valuable advances presented here clearly establish the validity of that concept.

COST CONTAINMENT

As surgical research yielded greater and more dramatic advances, such as open-heart surgery, transplantation, and mechanical cardiac assistors, it became costlier. These "medical miracles" excited the public, who began demanding their benefits, but balked at paying for them. Other fruits of technologic development, such as imaging, met with similar public reaction. The rising cost led the government to underwrite part of the health-care program, and as critics and the press focused increasingly on accelerated costs, medical practice became the subject of inquiry. The government intruded, presumably to control costs, but its methods proved not only ineffective, but cumbersome and obstructive. The resulting constraints

limited the extension and quality of surgery, for the surgeon's quest is no longer determined by the intellectual capabilities of surgeons, but by external factors—government and quality-assurance criteria. Despite these constraints, however, the quality of surgery has remained high.

COGNITIVE AND NONCOGNITIVE MEDICINE

It became popular in recent years to divide medicine into cognitive and noncognitive disciplines—a throwback to the schism between medicine and surgery in the Dark Ages, when use of the hands was demeaned and the status of surgery, and indeed of all medicine, declined significantly. But the labeling of surgery as a noncognitive discipline is fallacious and totally unsupported by its history and achievements. To suggest that surgeons are merely noncerebrating technicians is to ignore their native intelligence, education, rigorous training, and performance. The history of surgery is replete with scholarship, and with innovative and highly creative activities, all highly cognitive endeavors, as well as with invention of instruments and new operative techniques and procedures. Any surgeon worth his salt arrives at a judgment regarding operative treatment on the basis of his own knowledge of the basic sciences and clinical medicine. Indeed, the training of a surgeon is equally as intense and is usually longer than that in other disciplines. Such an investment, with its personal and financial sacrifices, was apparently ignored by the advocates of the RBVRS formula.

Moreover, every development in surgery is based on cognitive phenomena and is preceded by careful reasoning and carefully designed investigations. Consider the surgical treatment of congenital cardiac malformations, aneurysms, stroke, coronary artery disease, and organ transplantation. Were these and other life-saving operations developed by those in so-called cognitive disciplines—or by practicing surgeons?

One of the most highly publicized reports regarding the new terminology and criteria for payment originated at Harvard, where, owing to its widely held perceptions as a scholarly institution, one would not expect vogue words to be used loosely and imprecisely. The play that the sensational results of this study received in the public press led to calls for "restructuring" of medical fees according to a "resource-based relative-value (RBVR) scale," that is, measurement of "relative levels of resource input expended when physicians produce services and procedures," which is "a function of the physician's work input, the opportunity cost of specialty training, and the relative practice costs for each specialty." The language is hopelessly vague and jargonish. Hsiao and coauthors concluded that "invasive procedures are typically compensated at more than double the rate of evaluation-and-management services, when both consume the same resource inputs" and that "the average family practitioner could receive 60 percent more revenue from Medicare," whereas "the average ophthalmologist and thoracic and cardiovascular surgeon could receive 40 to 50 percent less in revenues from Medicare."

The formula used to obtain their results "assumed work input to consist of time, mental effort; knowledge, and judgment, and diagnostic acumen; technical skill; physical effort; and psychological stress. The idea of quantitating many of these qualitative factors is mind boggling, but it was apparently attempted with impunity. The authors concede that mental effort, technical skill, and stress are virtually impossible to measure

objectively, so they blithely relied on "subjective judgments of the physicians who perform particular procedures." Interestingly, of the six authors of the Special Report, only one was a medical doctor (not a practicing surgeon) and was therefore familiar with what is involved in the daily work of a physician. The final statement in the article by Hsiao and coworkers was almost a self-fulfilling prophecy: "This study indicates that resource-based relative values could serve as a rational foundation for compensating physicians according to the work and effort they exert in performing services."

Had the Harvard group that divided medical practice into "cognitive" and "noncognitive" been too lazy to consult a dictionary or had they been unable to understand the lexical entries, they could have consulted the University's English Department for an explanation of the correct definitions of these terms. "Cognitive" is from the Latin *cognitivus*, meaning "of or pertaining to knowledge." By that definition, if surgery is a noncognitive discipline, surgeons have no knowledge—presumably only technical skills. In earlier times, when barber-surgeons were unlettered, perhaps the term may have been applicable, but certainly not today. Because of the patent absurdity of this artificial division on the basis of intellectual involvement, because of the weakness of the arguments, and because of the failure to substantiate the arguments with valid evidence, the dichotomy of "cognitive" and "noncognitive" has now been dropped, only to be supplanted by the equally unacceptable and imprecise "procedural" and "nonprocedural." But some damage was unfairly done to the image of surgery and surgeons.

The folly and fallacy of the new terminology and criteria proposed largely by nonpractitioners and adopted by bureaucrats to gauge the monetary value of various kinds of health services deserves exposure. So do the inanity of the new lexicon and the infirmity of the thinking that underlies it. This is the same kind of mentality that introduced such dehumanizing terms as "consumer" for "patient" and "provider" for "physician." "No factor has tarnished the public perception of the profession more than its flagrant commercialization," wrote Sir Raymond Hoffenberg. "In a society in which doctors are seen as 'providers' of marketable health-care products to 'consumers' or 'clients,' their standing in the community is assumed to warrant no more recognition or respect than that of other purveyors of essential goods." This public perception has been enhanced by this importunate hawking of medicine and solicitation of patients on television and in other news media as though they were, indeed, advertising a "product."

The volume of "reforms" proposed by self-named health-care experts is exceeded only by their almost universal inexperience in the actual practice of medicine. If surgery were a purely technical skill, requiring no knowledge of the basic and clinical sciences, it would hardly take 10 or more years for licensure and certification. How many surgeons do you know who, when the patient is on the operating table and an unexpected finding occurs, call in a "cognitive" practitioner to advise him how to proceed? The new nomenclature is only the most recent manifestation of the attempt to devalue and demean surgery, ostensibly in the interest of cost containment.

The foregoing surgical perspective attests to the impressive, durable contributions of surgeons throughout medical recorded his-

tory. But it also documents their periodic censure and denigration as noncerebral, insensitive, avaricious, and even venal technicians. In the Babylonian, Indian, Egyptian, and Classical Greek eras, surgeons were esteemed as educated professionals, but during the Roman and later Medieval periods, physicians were discouraged from using their hands in caring for patients by sacerdotal and other factors previously described. The consequence was a separation of medicine from surgery. This arbitrary division has recurred in various forms ever since, to the detriment of both branches of medicine. As T. Clifford Allbutt has so aptly stated: "From Greece and medieval Italy we have to bring home the lesson that our division of Medicine into medicine and surgery had its root not in nature, nor even in natural artifice, but in clerical feudal and humanistic conceits." Interestingly, when these efforts at estrangement have succeeded, the status of medicine in general has declined, whereas when the two branches worked together harmoniously, the entire profession flourished, made remarkable progress, and thus served humanity better.

It deserves emphasizing that in every period of history, surgeons of keen intellect and high purpose, by observing and recording their astute clinical and experimental observations, have helped build the estimated body of medical as well as surgical knowledge available today. Reaching beyond the manual procedure of operating, they have probed the anatomy, physiology, and biochemistry of the human body and the changes that occur as a consequence of disease or injury, to develop better methods of diagnosis, treatment, and prevention. Despite the impediments imposed on early surgeons, giants like Paracelsus, Paré, and Hunter, all barber-surgeons, refused to succumb and instead engaged their inquiring minds in investigations that uncovered important concepts. The results of their inquiries not only improved surgery but also enriched all of medicine. Thus, tradition testifies to the fact that regardless of the barriers or the resistance, surgery will prevail in time. The reason is clear; surgeons have always made practical contributions, and in time society not only appreciates those services but also demands them.

To the criticism, and sometimes even the humiliation, directed to them, surgeons have responded in a constructive way by trying to improve the education, performance, and ethics of their colleagues. Thus, they have erected exacting training requirements, licensing and certification regulations, and high ethical precepts for their profession. These measures have lifted surgery from its status as the craft that some, in earlier times, and a few with dangerously powerful influence are now trying to assign it, to its current position as a respected healing science.

Today we are faced with new impositions inimical to the optimal delivery of our services—factors that threaten to erode the future of surgery. The ever-mounting government restrictions and intrusion into every decision regarding patient care; the anti-intellectual and antisense attitude, characterized by the antagonism of groups like the animal rights zealots; the menace of malpractice litigation; and the consistent diminution in funding for research—all have a deleterious effect on our profession by diverting our attention from our primary concern—our patients. Some hospitals today spend as much as \$2 million each year on quality assurance activities imposed on

them without observing any improvement occurring in patient health care.

In the face of these and other hostile forces, however, I continue to be optimistic about the future of surgery, and the optimism is reinforced by my recollection of the dauntless spirit of our predecessors—their unquenchable curiosity, their dogged determination, their indomitable courage in opening audacious new frontiers, their basic meliorism, and their innate desire to alleviate human suffering. I see all these qualities in my colleagues gathered here today, and I feel a surge of great pride in being a member of such an honorable, dedicated, and productive group. You have added luster to the mantle of surgery and will, I know, pass on to the next generation of surgeons the intrepid spirit that has always distinguished our profession. Thank you, and may the future bring you only the best that life has to offer.

PREYING ON MIA FAMILIES

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. BEREUTER. Mr. Speaker, the recent spate of photographs purporting to show long-missing MIAs has reinvigorated the debate over the fate of the servicemen who remain unaccounted for almost two decades after the end of U.S. military involvement in Vietnam. We all hope and pray that this matter can be fully and accurately resolved. Then we would know at long last if any Americans remain in captivity in Southeast Asia.

A thorough investigation of the missing servicemen is absolutely essential, and this Member believes Defense Secretary Richard Cheney is sincerely committed to learning of their fate. This issue is far too important to treat as a media event. Unfortunately, certain organizations have sought to play upon the emotions of the American people and exploit the MIA issue for their own ends. As an August 1, 1991, editorial in the Omaha World Herald notes "the people who run these gruesome little pseudo-businesses should be ashamed." Mr. Speaker, this Member would ask that this important editorial be inserted into the RECORD.

PREYING ON MIA FAMILIES

As if the families of MIAs and POWs from the Vietnam War haven't suffered enough, an industry seems to have sprung up to help keep their pain fresh. How coldly sadistic the exploitation is.

About 2,273 U.S. servicemen remain unaccounted for in the Vietnam War. President Jimmy Carter, in an effort to put the Vietnam era behind him, closed all the missing-in-action cases and officially declared the men had been killed in action, except for one symbolic name. President Reagan took a more active role; since his first term, about 100 officials had been assigned to look for answers. President Bush is nearly doubling that number.

The issue is back in the public eye because of a photograph purporting to show three U.S. Military men still in Southeast Asia. The picture shows middle-aged men who appear to be holding a sign with a date and cryptic lettering that some say might refer to a location. The authenticity of the photo has been called into question.

Most of the families of the missing have gone on with lives in the 18 years since U.S. prisoners were released in 1973. Parents have grown old, children have grown up, wives have remarried. But the uncertainties of the past still eat away at their hearts.

Several groups have tried to play on the emotions of MIA-POW families to raise money. The Sunday New York Times quoted a 1986 appeal by one fund-raiser as saying, "If I cannot raise \$13,671.71 by October 31, vital intelligence gathering cannot continue. And an American serviceman will die in the jungles of Vietnam."

As a federal report indicated, none of the groups or individuals using the emotional appeals has ever furnished any evidence or secured the release of any captive.

Because of the uncertainties of their loved one's disappearance, the relatives of the missing sometimes are vulnerable to the emotion-tugging appeals. Some have been led on wild goose chases in futile—and expensive—efforts to gain information.

These groups make it harder for legitimate organizations such as the National League of Families of American Prisoners and Missing in Southeast Asia, a lobbying organization that works with the U.S. government on the issue of missing men.

The cynical groups constitute a cottage industry in both the United States and Southeast Asia. They deal with photographs, sometimes faked; packets of remains, not all of them human; and reported sightings, often clearly mistaken or fraudulent. They manipulate the feelings and hopes of the families of the unaccounted-for servicemen for their financial and political benefits.

The people who run these gruesome little pseudo-businesses should be ashamed. They are exploiting others reprehensibly, playing on a family's love and uncertainty without mercy or conscience. If only the parents, children and former spouses of the missing could ignore the begging appeals and trust the government to do its best to find out the ultimate fate of their loved ones.

THE "BEST COUNTER" EVER— BARBARA BRYANT OF MICHIGAN

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. VANDER JAGT. Mr. Speaker, there is no greater current subject of interest impacting on the future composition of Congress than the 1990 census. Nor is there a subject which has produced more nationwide reaction. But, through all the differences, through all the disputes and arguments, one thing has been most constant—Barbara Bryant, director, Bureau of the Census, Department of Commerce. She performed magnificently in an impossible job assignment. Rightfully, Barbara now is being hailed as one of the finest census directors of all time. And well she should be.

Today, the Detroit News, Detroit, MI, featured a most deserving editorial praising Barbara Bryant and citing the 1990 census under her direction as perhaps being the "The Fairest Census of All?" I agree. And I believe most Members of Congress concur.

I am very proud to congratulate Barbara for a job well done. But the very closing line said

it best for my fellow Michiganites. Let me repeat it now: "Ironically, Census Director Barbara Bryant simply did her job too well to tamper with it."

The editorial follows:

[From the Detroit News, Aug. 1, 1991]

THE FAIREST CENSUS OF ALL?

Recently Commerce Secretary Robert Mosbacher elected not to adjust the 1990 Census, even though there is universal agreement that about 4,684,000 Americans, or 1.8 percent, were not counted, and about 39 percent of those were black.

This means that the "undercount" for blacks (5.7 percent) was more than four times as great as it was for non-blacks (1.3 percent) and thus reduces their relative representation in the political process.

Superficially this looks like a very political decision, designed to help Republican political prospects at the expense of minorities who tend overwhelmingly to vote for Democrats.

After all, minorities argue, the government is always adjusting all other forms of data based on statistical formulas—everything from the Consumer Price Index to the unemployment rate to the poverty number. Why shouldn't the Census count also be "adjusted," particularly when Census Director Barbara Bryant argued passionately for doing so?

It remains to be seen how the courts will resolve this thorny issue. But prominent social scientists and statisticians around the country have come out against an adjustment. Why? Precisely because of Mrs. Bryant's outstanding performance in reaching 98 percent of all persons.

With only 2 percent not counted, any adjustment that has margins of error larger than that, will automatically make the Census less accurate. Sadly, while all of the adjustment methods enjoy even greater accuracy in the total numbers, they break down quickly whenever you begin to separate those numbers by states, counties, cities and congressional districts.

After all, the purpose of the Census isn't just to count total population, but also to divide it up into political entities, or districts, of about 580,000 voters each. This means that any method of adjustment that is used might be highly accurate down to at least as low as two-tenths of 1 percent of the population. This is extremely difficult.

To understand why, consider the simple national polls frequently shown on television, where the national sample is of 1,500 and the "margin of error" is "plus or minus 5 percent."

A national sample of 1,500 for the nation means less than 50 households in, say, Michigan. To derive data from Michigan using a sample of less than 60 would generate margins of error in the range of 20 percent to 30 percent. This is why Michigan pollsters generally talk to 600 people, or about 10 times the number the nation's pollsters do. Even that technique implies a 3 percent to 5 percent margin for error.

On a larger basis, the Census Bureau's adjustment method is premised on a "Post Enumeration Survey" (PES) of 167,000 households, or some 420,000 people—less than 17/100 of 1 percent of the total. While such a survey can produce a highly accurate picture of the national undercount, the moment you start massaging these data to deal with smaller and smaller divisions, you are increasing the potential for error.

In a single congressional district, the PES sample will only give you about 715 persons.

Such a sample would have a margin of error of at least 3 percent to 5 percent. While this would be acceptable for many states and districts where the Census undercounts exceeded those numbers, for the majority, the effect of such an adjustment could be to increase the accuracy.

It is one thing to massage employment, income and demographic data. It is quite another to start playing potentially dangerous games with the political census on which the value of our vote depends.

Ironically, Census Director Barbara Bryant simply did her job too well to tamper with it.

PROPOSED AMERICAN BAR ASSOCIATION RESOLUTION

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. CLEMENT. Mr. Speaker, the American Bar Association will meet in August in annual convention to consider many issues and resolutions. One of the resolutions will be offered by a distinguished member of the Nashville legal community, Owen Meredith Smaw.

As a courtesy to Dr. Smaw, I would like to share the text of the resolution and some additional background information with members of the legal community at large. While I do not necessarily endorse the resolution, I do believe that discourse and debate of all views is essential to making an informed decision. Consequently, I am pleased to share this information with those interested in the debate on the death penalty.

RESOLUTION TO STUDY THE HARDING STRESS-FAIR COMPATIBILITY TEST

Whereas, Christopher Philip Harding, a psychometrician of Queensland, Australia, founded the International Society for Philosophical Enquiry, the highest of the recognized high-I.Q. societies;

Whereas, Dr. Harding has been listed in seven editions of the Guinness Book of World Records under "Highest I.Q.";

Whereas, the career suitability profile version of the Harding Stress-Fair Compatibility Test has proven effective in determining an individual's negative propensity toward violence;

Whereas, this test can be used to help decide a prisoner's eligibility for sentencing, parole, and/or clemency;

Now, therefore, be it resolved, that the American Bar Association investigate thoroughly and report fully to the Assembly in 1992 its findings concerning the merits of the Career Suitability Profile and the Harding Stress-Fair Compatibility Test to American lawyers and to ABA members.

HARDING STRESS-FAIR COMPATIBILITY TEST

A psychological test which has proven effective in determining an individual's negative propensity toward violence is available for all death row inmates in the U.S. at no cost to the prisoner. Since this test was only recently made available, few know of its existence, particularly among the U.S. death row population. We would therefore recommend a report on this most timely development in the continuing controversy over capital punishment.

A number of possible guests and/or sources of information are available. These include:

Australian psychometrician Christopher P. Harding, who developed the test. Founder of the International Society for Philosophical Enquiry, Harding says that in addition to determining an individual's propensity—or lack thereof—toward violence, it can also determine "whether there is a strong association between certain profile elements and dangerous behaviors." Harding can be contacted at P.O. Box 5271, Rockhampton Mailing Center, Queensland 4702 Australia, telephone 617-927-1370.

The administrator of the test, Kent L. Aldershol. President of Management Strategies Inc. of Ridgewood, N.J., he has offered to see that the test is administered to any death row inmate upon request. Like Harding he is a member of the International Society for Philosophical Enquiry, and both men seek to have enough inmates undergo the test to create a significant data base for their future work. He can be contacted at (201) 652-1021.

Attorney Owen Meredith Smaw of Nashville, Tennessee, who is using the test in his ongoing fight to aid convicted killer Ronald Keith Spivey, who is currently awaiting execution in Georgia. Smaw, a lifelong opponent of capital punishment and author of several resolutions challenging its legality, believes strongly in the test and says he hopes it will eventually be used "to help decide a prisoner's eligibility for sentencing, parole and/or executive clemency." Smaw, who authored a resolution before the American Bar Association in 1988 declaring that the death penalty should receive "further study," is also the author of other resolutions asking that capital punishment be banned on the grounds that it violates international law. He can be contacted at 1612 16th Avenue South, Nashville, TN 37212-2908, (615) 269-9598.

Each of these three men, in addition to providing valuable information regarding the test and its possibilities, can also recommend additional sources of information.

As the nation's death row population continues to increase, and as states begin executing prisoners at growing rates, we feel this matter is not only timely and newsworthy, but also of extreme importance to the entire judicial system and to all other Americans as well.

COMPREHENSIVE OCCUPATIONAL SAFETY AND HEALTH REFORM ACT

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. FORD of Michigan. Mr. Speaker, 20 years ago, the Congress enacted the Occupational Safety and Health Act, a milestone in the protection of American workers. Lives, limbs and the health of workers across the country have been protected by this law. But the job is far from over.

The Occupational Safety and Health Administration [OSHA] has lacked the resources and, too often, the will to enforce this law as Congress intended; 10,400 workers still die each year from on-the-job injuries and the National Institute of Occupational Safety and Health [NIOSH] estimates that another 100,000 workers lose their lives to chronic, painful diseases contracted because expo-

sure to insidious poisons in the workplace have not been eliminated. Disabling on-the-job injuries total 1.7 million each year, or over 6,700 each workday, and NIOSH estimates 390,000 new cases of occupational diseases are diagnosed annually.

These injuries and deaths are tragedies to the workers and their families who are the victims of occupational hazards. But they are also a national tragedy. In 1988, employers paid \$43 billion in worker compensation premiums. The Rand Institute estimates that on-the-job accidents cost this country \$83 billion in 1989. Occupational illnesses cost billions more. Over 1 million workdays are lost to occupational illness and 57 million to workplace injuries each year. No one can measure in dollars the pain and suffering and other indirect costs to workers, their families and American society. These senseless costs go right to the bottomline.

An award winning series on workplace dangers by the Detroit Free Press highlights the toll workplace injuries have on the victims. Virginia Durand, formerly employed at an auto parts plant outside Detroit, lost both hands when an unguarded stamping press malfunctioned. The lack of machine guarding for the press violated OSHA standards, but nothing had been done to remove the hazard before Virginia began work on the day of her injury. Virginia Durand's life has been changed forever by her employer's callous disregard for her safety. As the Detroit Free Press reported, she can no longer feel the warm squeeze of her daughter's hand in hers and she cannot go to the bathroom by herself. Virginia's injury could have been prevented if her employer had installed a machine guard. Unfortunately, there are millions of workers just like Virginia Durand whose lives have been forever changed by an on-the-job injury.

Today, I join my colleagues in introducing the Comprehensive Occupational Safety and Health Reform Act. The bill provides for joint employer and employee participation in worksite health and safety programs; streamlines and expedites the process by which OSHA health and safety standards are set; extends OSHA coverage to employees of Federal, State and local governments and to workers in nuclear facilities, the rail, transportation and airline industries; and increases employee participation in OSHA enforcement proceedings.

During the past 20 years, we have learned that cooperation in the workplace is the key to increasing productivity. Joint labor-management cooperation effectively reduces job hazards as well. Just this week, the John Gray Institute, in a report to OSHA, recommended increasing reliance on joint health and safety committees to improve workplace safety and health in the petrochemical industry.

I invite the employers and workers of our great Nation to unite behind this bill to provide increased protection to workers who face on-the-job health and safety risks. During the past Congress, the President supported and the Congress overwhelmingly adopted new and more stringent protections against air pollution in our communities. Several years before that we strengthened the laws protecting citizens from hazardous waste sites and to prevent pollution of our waterways.

But, environmental pollution begins at the workplace and we have yet to stop pollution where it begins—in the workplace. Factory workers receive much higher exposures to toxins than are emitted into the outside air or into our rivers and lakes.

It is time for us to take the next step to protect the health of the workers inside our factories and offices. These employees work long and hard to make America the richest Nation in the world. They should not have to sacrifice their lives in the process. Passage of this legislation can lead the way to a safer, healthier and more productive future for us all.

COMPREHENSIVE OCCUPATIONAL SAFETY AND HEALTH REFORM ACT

A. EMPLOYER AND EMPLOYEE PARTICIPATION

1. Safety and Health Programs

The bill requires employers to establish and maintain safety and health programs to reduce or eliminate hazards and to prevent injuries and illnesses to employees. Such programs must provide for, among other things, employee training and education. OSHA is authorized to modify the application of these requirements to classes of employers provided that protection of employees is not diminished.

The requirements for health and safety programs will force employers to participate more actively in preventing illnesses and injuries. Too often employers limit their health and safety activities to compliance with specific OSHA standards when a systematic approach could identify and correct hazards before accidents and illnesses occur.

Already, employers in California and Washington must develop written health and safety programs. OSHA encourages employers to develop written programs and the General Accounting Office (GAO) recommends that Congress consider making such programs mandatory.

2. Joint Safety and Health Committees

The bill requires employers of 11 or more employees to establish safety and health committees made up of an equal number of employee and employer representatives. In unionized settings, employee representatives are to be designated by the employee's bargaining representative; otherwise they are to be elected directly by the affected employees. The joint committees are authorized to review the employer's safety and health program, conduct inspections, and make advisory recommendations to the employer.

The John Gray Institute recently concluded that joint health and safety committees have a positive effect on workplace safety. In plants with joint committees, employees are more likely to report hazards, alerting management to problems before accidents occur; have less fear of reprisal; and are more likely to participate in health and safety activities, believing management is receptive to their suggestions. Health and safety concerns can be addressed by the Committee, thereby reducing reliance on OSHA's inspectors to abate worksite hazards. And cooperation between employers and employees on safety issues limits the adversarial relationship between OSHA and employers.

Joint health and safety committees are not a new idea: the United Auto Workers and Chrysler established the first joint health and safety committee in the auto industry; all three U.S. automakers have had joint health and safety committees since 1973. Just this week, in a report about the petrochemical industry, the John Gray Institute

found that 85 percent of plants in the industry have joint health and safety committees. GAO has found almost half of all collective bargaining agreements require joint health and safety committees and many nonunion employers have established such committees. Washington State requires joint health and safety committees for employers with 11 or more workers, and GAO recommends that OSHA consider mandating health and safety committees as well.

3. Employee Participation in Enforcement Proceedings

The bill mandates OSHA investigation of fatalities and serious incidents and increases employee participation during inspections. The bill also allows affected employees to more actively participate in Commission proceedings by authorizing employee challenges and Commission review of citations, penalties, and settlement agreements between employers and OSHA and by expanding employee participation in the enforcement process in other respects.

The bill would expand employee rights to participate in Review Commission proceedings. Current law limits employee participation, allowing workers only to initiate challenges to the abatement period. By increasing employee participation in settlements—unions have long protested their exclusion from settlement discussions—OSHA would obtain a more balanced view of plant health and safety.

4. Antidiscrimination Protections

The bill incorporates expanded antidiscrimination protections modeled on the Surface Transportation Act. These provisions prohibit employers from discharging or otherwise retaliating against an employee because the employee has reported an unsafe condition or because the employee has refused to perform hazardous work that would expose the employee to a bona fide danger of injury or serious impairment of health.

The bill also revises existing procedures for the handling of discrimination complaints, and authorizes the Secretary of Labor to order reinstatement and assess back pay, compensatory damages and attorneys' fees if the Secretary finds that an employee has been discharged or discriminated against in violation of the Act.

Although OSHA now includes a provision protecting employees from discrimination, according to GAO, OSHA inspectors believe workers will be subject to retaliation if they freely participate in health and safety activities. No wonder workers are reluctant, particularly in nonunion settings, to participate in health and safety activities. Strengthening OSHA's antidiscrimination provisions in intended to change that perception.

OSHA's retaliation ban has been ineffective, in part, because only the Secretary can enforce the provision in District Court and the Secretary pursues few cases. The bill borrows the retaliation enforcement procedures of the Surface Transportation Act, which the Department of Labor (DOL) already administers, so employees have a more effective remedy against illegal retaliation and can pursue that remedy in an administrative proceeding.

B. THE STANDARD SETTING PROCESS

The process by which OSHA adopts health and safety standards has been criticized by virtually every participant. OSHA relies on informal rule-making to set standards, but the process nevertheless polarizes labor and management so the proceedings seem adversarial. Controversy over standards has re-

sulted in excessive delays. A handful of standards—lead, lockout/tagout—have taken OSHA more than a decade to complete and implement; it is now common for standards to take more than five years from OSHA's announced intent to regulate to final rule. Since OSHA was passed in 1970, the agency has adopted fewer than 30 comprehensive health standards, and most safety standards have not been revised since the 1960's.

Delays have grown much worse since 1981. Administration officials now see their job as protecting business from regulation than protecting workers from occupational hazards. Further, the Office of Management and Budget (OMB) now micro-manages all aspects of OSHA standard setting—from OSHA's evaluation of technical scientific data to cost estimates—further dragging out an already time-consuming process.

1. Prompt Response To New Information

The bill requires OSHA to respond to petitions for health and safety standards within 90 days of receipt, and if the agency finds that a standard is warranted, to issue a proposed rule within 12 months of the petition and a final rule within six months after the comment period or hearing. Judicial review is available to challenge OSHA's failure to regulate or to adhere to the mandatory time frames.

The bill requires an OSHA response to requests that the agency adopt a new standard promptly and further requires, when a standard is warranted, that OSHA issue one expeditiously. While current law imposes deadlines on OSHA standard-setting, the courts have ruled those deadlines are advisory. The bill aims to impose mandatory, but realistic, time limits on standards activity.

The provisions authorizing judicial review when OSHA fails to regulate are a codification of existing practice, except that OSHA's desire to consult with other agencies, such as OMB, about a standard is not a valid reason for delay.

2. Updating Exposure Limits

While 2,000-3,000 new chemicals are developed each year, OSHA regulates workplace exposure to only 600 toxins. Under the bill, OSHA must revise and update these exposure limits every three years. The bill requires the National Institute of Occupational Safety and Health (NIOSH) to submit recommendations for revisions of permissible exposure limits for toxic substances every three years, and requires OSHA to respond to NIOSH recommendations by issuing a proposed rule within six months and a final rule 12 months later.

OSHA often permits higher exposures than consensus groups recommend because the process of modifying health standards is so slow. The bill provides a streamlined procedure for updating permissible exposure limits which may not be controversial; OSHA retains its existing authority to issue comprehensive health standards, where appropriate.

3. Reliance on Feasibility Analysis

The bill amends the definition of an occupational safety and health standard and requires that all standards address a "significant risk" to workplace health or safety and reduce the "significant risk" to the extent feasible.

The Supreme Court has ruled that OSHA may regulate only "significant risks" to worker health. The bill codifies the Supreme Court's decision. It is worth noting, however, that OSHA's "significant risk" test—OSHA regulates risks greater than one in 1,000—permits 1,000x greater risk to workers than

Congress permitted under the Clean Air Act for exposures to air toxics.

The Supreme Court has ruled, that when OSHA regulates health hazards, it must set the standard that best protects worker health and that industry is capable of achieving. In contrast, when regulating safety hazards, OSHA balances worker safety against compliance costs, sacrificing worker health where OSHA concludes safety precautions are too expensive. The bill would require that safety standards, like OSHA health standards, must fully protect workers, eliminating the artificial distinction between these two types of standards.

4. Specific Standards

The bill requires OSHA to issue standards on a number of specific health and safety issues, including exposure monitoring, medical surveillance, and ergonomic hazards, within specific time frames.

OSHA promised in 1989 to issue standards that generally require employers to monitor employee exposure to toxins and to provide medical surveillance to exposed workers. OSHA regulates the exposure levels for 600 chemicals, but for all but 30 chemicals, employers have no ancillary duty to measure employee exposures and to monitor employee health. The bill would close this gap.

The bill also requires OSHA to publish an ergonomics standard within two years. Between 1981 and 1989 reported cases of cumulative trauma disorders have increased fivefold; about one in 500 American workers now suffer from this disorder, which is often irreversible.

The bill also imposes mandatory deadlines for OSHA to issue specific standards. OSHA has committed itself to developing each standard named in the bill and, in all but a few instances, the deadline imposed by the bill is the time OSHA's regulatory agenda projects the standard will be completed.

C. ENFORCEMENT

1. Targeted Inspection Program

The bill requires OSHA to establish a special emphasis inspection program to target high-risk industries and operations.

2. Reports and Investigations

The bill requires employers to report within 24 hours, and requires OSHA to investigate, all work-related fatalities and serious incidents resulting in the hospitalization of two or more employees.

The bill makes two changes to existing law. First, it lowers the reporting threshold. Now employers must notify OSHA of a death or an incident where five employees are hospitalized; under the bill, OSHA must be notified of a death or incident involving two hospitalizations. Second, notice must be provided within 24 hours, and not the 48 hours permitted under current law, so when OSHA arrives, it can investigate what happened.

3. Imminent Danger

Where OSHA determines that a condition or practice poses an imminent danger of death or serious harm to employees unless immediately corrected, the bill authorizes OSHA to tag the hazard and to require the employer to take immediate corrective action. Employees who refuse to work on dangerous equipment would be protected against discrimination, and OSHA is authorized to fine an employer who fails to take corrective action up to \$50,000 per day.

Now, when OSHA identifies an imminent danger, it must seek a temporary restraining order from Federal District Court before it can require that the danger be corrected or employees removed from the hazard. Em-

ployees remain exposed to the danger while judicial proceedings go forward. The bill would provide an alternative procedure. When OSHA tags an imminent danger, an employer who fails to correct the danger will face substantial penalties if OSHA's action is upheld. OSHA retains its present authority to proceed in the courts.

The Mine Safety and Health Administration has the authority to shut down dangerous operations, and this authority has been used sparingly—in fewer than 1 percent of inspections. Inspectors in California also have shut-down authority and, according to GAO, use it in about one percent of inspections.

4. Abatement

Under the bill, OSHA may require that the period for abating substantial health and safety hazards begins to run when the employer receives a citation. In this limited circumstance, the decision to contest an OSHA violation does not suspend the running of the abatement period. The bill also requires the employer to verify that the hazard is abated.

The law now provides that employers are not required to abate violations while they are contesting an OSHA citation. This provision may permit employers to defer abatement of serious hazards for several years or more. If a hazard exists, employee exposure is needlessly prolonged.

The bill would leave this general rule unchanged, except in cases posing a substantial risk, where OSHA may decide abatement should begin immediately. In such cases, employers may obtain expedited review before the Commission. GAO has recommended that Congress consider protecting workers while a citation is being contested.

5. Criminal Penalties

The bill increases to ten years in prison the maximum criminal penalty available under the Act for knowing, willful violations that cause death, and authorizes criminal penalties for knowing, willful violations that cause serious bodily injury, with a maximum prison sentence of five years.

GAO has noted the potential benefits of expanded reliance on criminal sanctions to deter willful violations of OSHA. The law now has limited criminal sanctions that are rarely used—only one employer has been sent to jail since 1970. Federal OSHA criminal penalties are substantially less stringent than criminal penalties under environmental law or state criminal law.

D. EXPANSION OF COVERAGE

1. Government Employees

The bill extends the coverage of the Act to federal, state and local government employees, and to employees working in federal nuclear facilities under the jurisdiction of the Department of Energy.

Hundreds of thousands of government employees have no protection from on-the-job health and safety hazards. The bill would extend coverage to these employees.

2. Overlapping Federal Jurisdiction

When two federal agencies regulate employee working conditions, the bill permits OSHA to cede jurisdiction over regulation of particular safety and health hazards to the other agency only if OSHA certifies that agency has and is enforcing a standard at least as effective as the applicable OSHA standard. OSHA may not exercise jurisdiction over mining.

Currently, OSHA cannot regulate any working condition which may be regulated by another federal agency. Thus, when the

Federal Aviation Administration (FAA) specifies maintenance procedures mechanics must follow to ensure airline safety, the FAA rules preempt OSHA regulation of on-the-job hazards. Mechanics facing job hazards have no protection.

3. General Duty Clause

The general duty clause is also modified to clarify its application at multiemployer worksites, where hazardous conditions or practices may affect not only the employer's own employees, but also other employees working at the site.

The provision implements a recent recommendation of the John Gray Institute that OSHA require plant management to assume responsibility for all workers on site. Thus, a refinery owner would become responsible for the safety of all workers at the site—even temporary contract workers. Likewise, a general contractor at a construction site would be ultimately responsible for the safety of employees working for a subcontractor.

E. STATE PLANS

The bill requires state plans to include provisions regarding employer safety and health programs, joint safety and health committees, reporting, nondiscrimination and access to information which are at least as effective as those provided by federal law. In addition, the bill requires OSHA to investigate complaints against State plans and modifies the procedures for withdrawal of approval of a State plan.

The Act now requires OSHA to withdraw approval of State plans which fail effectively to protect against job hazards. Although some States protect workers very well, others do not. OSHA's only leverage over errant State plans is to withdraw approval and assume the full cost of protecting employees in that State. Not surprisingly, OSHA has never withdrawn approval for a State plan.

The bill would provide an intermediate step which would allow OSHA to notify a State of deficiencies in its plan and provide the State with an opportunity to correct those deficiencies before OSHA considers withdrawal of the State plan.

F. RESEARCH, TRAINING AND RECORDKEEPING

1. Training and Data Collection

The bill requires OSHA to develop model training curricula on programs for dissemination to employers, and improves the collection of employer data regarding work-related deaths, injuries and illnesses.

2. National Institute of Occupational Safety and Health (NIOSH)

The bill requires NIOSH to establish a program to identify and notify employees who are at increased risk or suffering work-related injuries or illnesses, and a national surveillance program to identify and collect data on work-related injuries and illnesses.

G. VICTIMS RIGHTS

The bill guarantees the victims of workplace accidents or illness, or their families, access to information on OSHA's investigation and citations, if any, about their accident. The bill also requires OSHA to meet with victims or their families before setting a citation involving their accident.

H. WORKER'S COMPENSATION

The bill establishes a Federal Worker's Compensation Commission with 15 appointed members. The Commission is charged, among other things, with examining compensation laws to evaluate their effectiveness and determining whether they ade-

quately compensate workers who have suffered work-related injuries or illnesses.

BAKER'S MIDEAST PLAN

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. HUNTER. Mr. Speaker, I would like to bring to the attention of my fellow House Members, the following article by Ambassador Jeane Kirkpatrick on the possible dangers resulting from the new Mideast peace initiative. I encourage my colleagues to listen to the comments of one of America's most experienced diplomats.

BAKER'S MIDEAST PLAN: IT COULD WEAKEN ISRAEL

(By Jeane Kirkpatrick)

Watching James Baker's fifth hurried shuttle around the Middle East, I remembered the first joke I ever heard. It was about a factory worker who was explaining to an insurance investigator how he cut off his finger the previous day.

"Well," the worker said, "I bent over the machine like this, I reached for the switch like this, and—oops, there goes another one."

It isn't very funny. But our standards at age 5 weren't very high. And it does make a point about the human tendency to repeat the same mistakes. This tendency is especially strong in international affairs, where policies are often based on the same erroneous assumptions.

Israel's Arab neighbors have operated for so long under the assumption that "the Zionist entity" could be and would be destroyed that it will surely be very difficult for them to sincerely accept the possibility of peaceful coexistence with a state whose very name some cannot bring themselves to speak.

Before and after the Persian Gulf War, Syria's Hafez Assad has vied with Iraq's Saddam Hussein and the Palestine Liberation Organization for leadership of the rejectionist bloc. In that spirit, Assad rejected U.S. Secretary of State Baker's previous proposal for negotiations, as the PLO had rejected negotiations in which there would be no PLO representative per se. Even Jordan's King Hussein had declined to endorse the U.S. effort.

What happened to turn around these habitual naysayers?

It was not just the reduced Soviet role in the region, although that must be as important to Assad and the PLO's Yasir Arafat as to Saddam Hussein. All have relied heavily on the Soviets as a source of military, financial and diplomatic aid. But Assad and Arafat continued their naysaying to Baker long after the Soviet role had changed.

Nor was it just the expanded U.S. role. That, too, has been obvious for some time.

Undoubtedly, these basic changes in the regional balance of power must have had an influence. So has the changed posture of Saudi Arabia and Kuwait toward negotiations with Israel. Assad and the PLO both have relied on the financial largess of the gulf states to finance their political adventures.

The defection of the gulf states (as well as Egypt) from the rejectionist camp must have been a psychological and political blow, as well as a financial problem. Once they agreed to speak with Israel, it no longer meant that one had to be sworn to the destruction of Israel to be an Arab.

But the most important factor in influencing the changed policies of the major rejectionist groups was probably Baker's persuasiveness and the associated belief that, in President George Bush and Baker. Israel's Arab neighbors have their best chance ever to retrieve lands lost after the 1967 war.

I think they would be right in this belief. It has been clear almost since his election that Bush has a sense of mission about the resolution of the so-called Arab-Israeli conflict—even though that conflict has not erupted into actual violence since 1981—ironically is not included in the agenda for the planned peace negotiations.

Bush is committed to means as well as an end. He seeks to settle the Arab-Israeli conflict on the basis of the "land for peace" principle, a principle that could become an exchange of very real Israeli land for Arab promises of peace.

Syria, Jordan and the PLO were apparently persuaded by Baker's latest shuttle that the Bush-Baker team sees the "land for peace" issue as the Arabs do—that Israel should return all the land seized after the second Arab war.

Official sources report that Baker got Assad's attention when he emphasized that the Bush administration rejects Israel's claim to the Golan Heights on grounds that United Nations Resolutions 242 and 338 apply to Golan and to East Jerusalem as well as to the West Bank and Gaza.

Unlike most previous administrations, Bush and Baker do not seem to be moved by the notion that Israel deserves compensation for the three wars launched against her.

Nor, to some Arab interlocutors, does the administration seem concerned with parallel requirements of 242 and 338 that all states in the region enjoy "secure borders." The emphasis Baker gave to the question of territory seems to have been crucial in persuading Arab officials.

An opportunist knows an opportunity when he sees one.

It would be a colossal irony if, at precisely the time when Israel's most dedicated adversaries are weakened, the U.S. government squeezes from the Hebrew state concessions that three Arab wars, decades of terrorism, and three years of the intifada could not wring from them.

Still, to take advantage of these new opportunities, rejectionist states and groups must stop denying the existence of the Jewish state and must speak to its representatives. This they have now agreed to do.

Israeli Prime Minister Yitzhak Shamir has called Syria's response a breakthrough. He apparently thinks Assad's concessions are truly important to Israel—important enough to consider accepting negotiations within a framework of an international conference.

Or, and this is also possible, Shamir is playing a diplomatic version of the child's game of "hot potato" and is determined not to be the one to say no to face-to-face talks with Arab neighbors.

If Shamir will not say no, and Assad will not say no, and King Hussein will not say no, and the PLO will not say no, then there will be talks of some kind. One more Iron Curtain will be pierced.

With it will come new risks and new dangers. The greatest of these is that, if Assad and company are correct, a settlement emerging under these circumstances will likely strengthen the region's most dynamic dictator and weaken its only democracy, while also leaving Israel's borders less secure.

That couldn't be our policy, could it? An administration committed to strengthening

democracy, extending peace and building a new world order would never weaken a democratic ally to strengthen a dictatorship—except by a terrible mistake.

MFN AND THE BALTIC REPUBLICS

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. COX of California. Mr. Speaker, at a time when the airwaves are abuzz with talk of most-favored-nation status for the Soviet Union's Communist central government, we would do well to bear in mind that America's history of trade relations with the Baltic Republics dates back to the 1920's.

During the period of Baltic independence between the two world wars, Estonia, Latvia, and Lithuania all entered into trade agreements with the United States. Baltic exports to the United States enjoyed MFN treatment until all three countries were swallowed up by Stalin's armies and forcibly incorporated into the U.S.S.R. Since that time the MFN status of the Baltic Republics has been placed on hold by our Government.

The proposal to extend MFN status to the Soviet Union—which continues to occupy all three Baltic republics—has now been placed on the table, and I expect the debate that will follow to be lively and informative. I commend to you the following remarks delivered by the President of Estonia, Dr. Arnold S. Ruutel, before the National Press Club on July 26, 1991:

STATEMENT OF ARNOLD RUUTEL

Ladies and Gentlemen of the Press, I am privileged to come before you today to report on three days of open and constructive meetings with Administration officials and Congressional leaders. The friendly atmosphere and wide openness of these talks underline both the continued U.S. support for Baltic independence and the depth of the long-standing U.S.-Estonian relationship. I come away from these talks with renewed assurances of steadfast U.S. help in Estonia's quest for self-determination. In turn, I was pleased to convey my sincere appreciation for America's sustained efforts to further the cause of freedom, democratization and independence of the Baltic states.

In meeting with Congressional leaders I conveyed my government's appreciation for passage of the FY 1992 Foreign Aid Appropriations Bill by the U.S. House of Representatives on 19 June 1991, allowing for the first time direct aid to the Baltic states. U.S. assistance for Baltic democratization and independence is of particular importance at this critical juncture.

Meeting with Administration officials and addressing the U.S.-Soviet Trade Agreement of 1 June 1990 which is expected to be sent to the Senate for ratification soon, I stressed the paramount importance that the three Baltic states—Estonia, Latvia and Lithuania—be completely separated from said treaty. The Council of the Baltic States and the Presidium of the Supreme Council of Estonia have stated that the MFN provisions of the treaty should be applied only to the territory which is within the boundaries of the USSR as recognized by the U.S. in 1933. Since U.S. Administrators have traditionally retained the old 1933 notion about the borders of the USSR and considering the 9+1

EXTENSIONS OF REMARKS

Union Treaty including a mandate to President Gorbachev to represent only the 9 Republics at the London G-7 meetings, the U.S.-Soviet Trade Agreement can now be applied only to the territory of the 9 future members of this new Union, thus shutting out the Baltic States' territories with the seal of finality.

The Estonian Government considers it of vital importance to protect the existing 1925 Estonia-U.S. Trade Agreement granting mutual unconditional most-favored-nation status in customs matters. Language should be included in the ratification document of the treaty stating clearly that the 1925 U.S.-Estonian agreement remains in force. My government views the continuing validity of the Estonian MFN status, separate from and independent of the USSR, as an important element of the long-standing U.S. policy of not recognizing the illegal annexation of the Baltic states by the USSR.

There are three statutes that have thus far prohibited the reactivation of our MFN status. All three statutes have now been repealed. Therefore, there is—in our opinion—no valid legislative authority for the current listing of Estonia on the 1991 Tariff Harmonization Schedule denying us MFN privileges. In addition, the Jackson-Vanik Amendment does not apply to the Baltic states because all three Baltic states possessed valid (albeit suspended) MFN status long before the enactment of the Jackson-Vanik legislation in 1974.

One must also remember that our 1925 Trade Agreement was suspended only to prevent the USSR from exploiting the preferential trade status of Estonia, Latvia, and Lithuania, three independent states under Soviet military occupation. When the USSR is granted MFN status, there will no longer be any possibility of exploiting our MFN privileges. Therefore, on the day that the Agreement on Trade Relations with the USSR is ratified and the USSR is granted MFN benefits, Estonia, Latvia and Lithuania must be awarded MFN status on the basis of their existing treaties with the U.S.

Ladies and gentlemen, Estonia recognizes American thinking in concluding the U.S.-Soviet Trade Agreement and we can learn to live with it. It must, not, however, be permitted to infringe on our legal rights as sovereign independent states. It is therefore important to ensure that the Trade Agreement does not contradict long-standing U.S. non-recognition policy by clarifying that the Agreement does not apply to the Baltic States. It is equally important to grant the Baltics MFN status separate from and independent of the USSR. This should be done on the basis of our enduring treaty relationships at the same time that the USSR receives MFN status.

This is my government's position and I was pleased to find a receptive audience in the sacred halls of the U.S. government.

HUMAN RIGHTS IN YUGOSLAVIA

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. HOYER. Mr. Speaker, we are all aware of the ethnic tensions, political confrontations and armed conflicts which have recently brought Yugoslavia to the brink of civil war. Efforts are underway to try to bring the fighting to an end, as well as to break the stalemate in

August 1, 1991

negotiating a new political framework among the federal authorities and the representatives of the six republics. We hope that these efforts will bear fruit soon, so that additional destruction and more senseless deaths can be avoided.

While historical and cultural differences among the many, diverse peoples of Yugoslavia provide the impetus for the current confrontation, it must be kept in mind that human rights problems in Yugoslavia have been a cause of today's problems, and a resolution of the current crisis in that country cannot succeed unless it includes full respect for the human rights and fundamental freedoms of everyone in all of the republics and provinces as a centerpiece of any final agreement.

While its reformist path provided for a traditionally more open society than existed in other Communist countries in Eastern and Central Europe, Yugoslavia nevertheless remained a one-party state until the wave of liberty and freedom swept through the region in 1989 and 1990. As a result, political pluralism, respect for the rule of law, a free press and other aspects of democratic government are only now developing in Yugoslavia, in some republics more so than others.

Moreover, the denial of basic human rights in Yugoslavia continues, and, unfortunately, in some instances it has worsened in recent years. This is especially true in Kosovo, a province of the Serbian republic which is inhabited mostly by ethnic Albanians. Beginning in the late 1980's and continuing to this day, the Serbian Government has brutally repressed the Albanians of Kosovo. Beyond denying the province its autonomy, peaceful demonstrations have been broken up, and Albanians have been detained or imprisoned simply for expressing political views. Thousands of Albanians have been fired from their jobs. There have been many reports of physical harassment, including beatings, as well. In the schools, teachers must teach a new, pro-Serbian curriculum. These actions not only violate the rights of Albanians but are also counterproductive. By refusing instead to engage in a dialog with ethnic Albanian representatives in Kosovo, Serbian authorities have made the problems plaguing the province all the more difficult to solve.

There are indications of increasing discrimination against the Albanian population of Macedonia, particularly the closing of Albanian-language schools. While a multiparty system has been introduced in Macedonia, there appear to be limits to meaningful involvement in the public affairs of that republic by Albanians, despite the fact that they represent a sizable percentage of the population. And while the violence encouraged by local militants must be condemned, there are legitimate concerns regarding the rights of Serbs living in Croatia that need to be addressed.

Mr. Speaker, on September 10, a 4-week meeting of the CSCE, or Helsinki process, will convene in Moscow to discuss human rights and other humanitarian issues. The Moscow meeting is the third of three meetings mandated in 1989 by the Vienna Concluding Document as part of the Conference on the Human Dimension of the CSCE. The Moscow meeting, as part of its mandate, will to review implementation of past CSCE commitments in

the human dimension. These commitments encompass basic human rights, including those of persons belonging to national minorities, as well as free elections, political pluralism and respect for the rule of law, which were adopted at the Copenhagen Human Dimension meeting 1 year ago.

The Moscow meeting, Mr. Speaker, presents a timely opportunity for Yugoslavia to meet its CSCE human dimension commitments. The implementation review which traditionally takes place at CSCE meetings encourages greater compliance by holding the participating states to account for their performance. I am confident that the United States delegation to the Moscow meeting—to be led by Ambassador Max Kampelman, who has had long experience with the CSCE and East-West negotiations—will seek a thorough, detailed and comprehensive review of implementation by all CSCE States, Yugoslavia included. This is one of the more important ways in which the United States and other concerned countries can encourage a positive and lasting solution to problems which Yugoslavia currently faces.

TRIBUTE TO THE LATE JUDGE
VINCENT J. BRENNAN

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. HERTEL. Mr. Speaker, it is with great admiration and respect that I rise today to pay tribute to the late Judge Vincent J. Brennan. Judge Brennan was a distinguished member of the Michigan judiciary. The judge will forever be remembered for the integrity and compassion which he conveyed from the bench, and in his daily life.

Born in Detroit, Judge Brennan graduated from the University of Detroit in 1951. He served in the U.S. Navy from 1952 to 1954. After his military service Judge Brennan began his professional career as a court aide for Federal Judge Thomas P. Thornton. In 1956 Judge Brennan entered the Detroit College of Law, and received his juris doctorate in 1959.

Upon admission to the Michigan Bar, Judge Brennan launched a legal career which involved him in many different capacities. From 1962 to 1964, Judge Brennan was appointed a special assistant attorney general for the State of Michigan. In 1964, the judge was elected to Detroit's Records Court. He held that office until 1969, when he was elected to the Michigan Court of Appeals. Judge Brennan would go on to hold the position of chief judge pro tem of that court. In 1986, Judge Brennan ran for a municipal court seat in the city of Grosse Pointe Shores, MI. He held that office until his death in May 1991. Additionally, in 1986 Judge Brennan was made a partner in the firm of Barbier & Tolleson in Detroit, MI. Throughout his distinguished career the judge maintained a bar rating of "outstanding and well qualified."

Judge Brennan's sincerity and concern for others was evident through his active participation in several community and State associations. He was a former director of the

Michigan Cancer Foundation, the St. Francis Home for Boys, the Sacred Heart Rehabilitation Center, and the Michigan League for Handicapped Children. In addition, he was a member of two State committees, the Michigan Judicial Committee on Youthful Offenders and the Michigan Bar Association Court Reorganization Committee. Within the city of Detroit, he served as a member of the Detroit City Election Commission, the Detroit Bar Association Committee on Criminal Law, the Mayor's Committee on Civil Disorders, the Detroit Olympic Games Committee, and the Juvenile Crime Commission.

Through his hard work Judge Brennan brought credit to the legal profession and the bench. Personally, Vincent Brennan was a good father, husband, son, brother and loyal friend. He was an easygoing fellow known to have a contagious smile, and never at a loss with a good joke. My dear colleagues, again I ask you to join me in honoring the memory of this fine man, the Honorable Vincent J. Brennan.

THE LAW MISFIRES

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. CUNNINGHAM. Mr. Speaker, I would like to call my colleagues' attention to an editorial which appeared in the Orange County Register on July 30.

I was intrigued by the editorial, which vividly illustrates that the recent California assault weapons ban law is so flawed that the California attorney general has issued a bulletin to all California law enforcement officials that "enforcement is not practical."

The California situation highlights the problems that arise by attempting to define the term "assault weapon" as an emotional, and not a technical, description. I fear that the Congress may be falling into the same flawed logic as we review assault weapon ban legislation pending in the House.

Last week, witnesses testifying before the House Crime Subcommittee who want to ban so-called assault weapons could not even define the term when Members asked what it was that they wanted to ban. As one Member concluded, "You don't know what you want to ban. You just want to ban something."

In addition, the FBI and law enforcement agencies across the country have proven that military-style automatic rifles are involved in less than .008 percent of the Nation's homicides.

Mr. Speaker, I concur with the Register's editorial that whatever the term "assault weapon" means, they are not a serious law enforcement or criminal problem when judged by the facts.

I urge my colleagues to review the Register's editorial:

THE LAW MISFIRES

California Attorney General Dan Lungren has issued a bulletin to all California law enforcement officials that admits that the assault Weapon and Control Act of 1989—the infamous Roberti-Roos bill, passed in a duty

of flurry shameless demagoguery and almost astounding ignorance—is so technically flawed that "enforcement is not practical" Senate Leader David Roberti; D-Los Angeles, who co-authored the bill, plans "remedial" legislation. But when a law is so flawed as to be unenforceable—and wouldn't do any good if it were enforced—the best thing to do is repeal it.

The biggest problem with the bill is not only that "assault weapon" is more of an emotional term than an accepted description, but that the bill was put together with little or no knowledge of weapons—assault or otherwise. Thus, as Mr. Lungren points out, "some of the designations contain technical inaccuracies or are otherwise insufficient to identify any specific semi-automatic firearm. Those designations are not found on any semi-automatic firearms and, accordingly, without some new legislation to correct or clarify them, enforcement is not practical."

It almost seems the Roberti-Roos legislation was put together by people who didn't know anything about weapons except that in general they didn't like them, but weren't about to pass up a moment of emotional response to a vicious schoolyard slaying in Stockton. Even during debate over the bill, opponents pointed out that it was so sloppily drafted that it failed to include the Chinese made AK-47 look-alike that Partrick Purdy used in that Stockton schoolyard.

As San Francisco civil-rights attorney Don B. Kates Jr. put it, the legislators, in compiling the list of prohibited firearms, appeared to have selected from "some picture book—of mislabeled firearms they thought looked evil."

Some state legislators have sent a letter to the attorney general suggesting a further necessary step: removing any and all inappropriately registered firearms from the Department of Justice records, and advising all police agencies to correlate and expunge their own records. Where appropriate, the \$20 fee some owners paid to register weapons they weren't required to register should be returned.

That's a minimal requirement. The best thing would still be to repeal the Roberti-Roos legislation altogether.

Now that the period of emotion has passed, it has become apparent that "assault weapons," (whatever that vague term may mean) are not and never were a serious law-enforcement or criminal problem. The Roberti-Roos bill has not reduced violence or criminal activity. It is too bad a law to be fixed.

LABOR LAW REFORM—BENEFIT
AND PENSION LAWS

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. GUNDERSON. Mr. Speaker, continuing my discussions of the need to reform the Nation's labor laws, I want to focus attention today on the major Federal laws guiding employee benefit and pension laws.

Though these laws are relatively new, they need to be reviewed in the context of providing better protection for employees in a changing workplace and in an increasingly competitive marketplace.

Enactment of the Employee Retirement Income Security Act of 1974 [ERISA] resulted

from "rising pension expectations," which in turn resulted from the growth of post-World War II private pensions and war-time wage controls which boosted them. Despite initial opposition by organized labor and employers to Federal regulations on union and company pensions, large scale layoffs in auto and steel firms led to a groundswell for pension reform.

In 1980, ERISA was amended by the Multi-employer Pension Plan Amendments Act [MEPPA], the amendment addressed issues of plan terminations and insolvencies in response to the imminent termination of several multi-employer plans.

Reacting to concerns that women were underprotected in pension plans, the Retirement and Equity Act of 1984 amended ERISA laws to increase benefits for spouses of employees covered by pensions.

ERISA was further amended in 1985 by the Single Employer Pension Plan Amendments Act, which tightened rules against terminating plans, and by a provision in the Budget Reconciliation Act of 1985 which allowed laid-off and unemployed workers to purchase continued company health coverage for up to 18 months.

In 1986, ERISA was amended again; first, as part of the Budget Reconciliation Act, to eliminate perceived bias against older workers; second, by the Tax Reform Act of 1986 to bring tax equity to the use of tax deferred savings plans, primarily by speeding up vesting periods.

The latest changes were made to ERISA laws in the Budget Reconciliation Acts of 1987, 1989, and 1990. The first, incorporating the Pension Protection Act of 1987, to force underfunded pension plans to pay risk related premiums to the Federal insurance program; the second, in 1989, to assess civil penalties for fiduciary violations under ERISA; the third, in 1990, to again increase premiums for underfunded plans, and to restrict the ability of employers to tap into overfunded pensions for other uses.

IMPEDIMENTS TO COMPETITIVENESS

Improved competitiveness is reliant in large part on the degree to which our labor force is motivated, and mobile. As industries change, often requiring workers to learn new skills, relocate, and change jobs, all employees should have greater confidence that their needs will be met through benefit and pension plans.

PENSION FUNDING STANDARDS

Greater assurances should be given to employees that their retirement pensions will be secure when they are needed. The Plan Termination Insurance Program begun in 1974 under title IV of ERISA was intended to help competitiveness by spreading risk of pension insolvencies among all industries. Since that time, insufficient standards have increased the risk of pension underfunding.

Despite changes made to tighten the standards in 1987, 1989, and 1990, no rules prevent underfunding plans in the short term. Additionally, pension increases are often the first item put forward by employers in collective bargaining agreements, requiring funding increases in the future. Any shortfall in later years is picked up by the Pension Board Guaranty Corporation [PBGC]. Under the current system, it may be cheaper for employers to pay risk premiums to the PBGC for under-

funded pensions than to commit funds to the pension plan in the short term.

LACK OF ADEQUATE PROTECTION FOR WORKER HEALTH AND BENEFIT PLANS

Many leveraged buyouts and company mergers come at the expense of employee benefit plans—especially retiree health plans—which are eliminated or scaled back to reduce costs. This problem might be resolved by further strengthening the shorter term pension funding standards to prevent large pension liability, by limiting the reliance on the PBGC for pension security, or by other means. Without addressing the matter in a comprehensive way, benefit guarantees made to workers in collective bargaining are less meaningful, and undermine the confidence employees will put in labor-management negotiations.

CONSTRAINTS ON EMPLOYEE MOBILITY

Current law restricts employees' ability to move among jobs because their benefits are often not portable. The trend will certainly be for defined benefit plans, tailored by individual companies, to be replaced with defined contribution plans which allow employees to transport their retirement and benefit packages with them. Current law should be reviewed to encourage this trend.

Additionally, to allow smaller employers to compete for employees among a shrinking work force, rules should be simplified for creation of 401(k) and similar plans among small businesses. Allowing such plans and other benefits to be portable would bring America's small businesses into better position to compete both nationally and internationally.

To improve competitiveness, a national commission should review the Nation's major labor laws. Such a commission should give particular attention to strengthening pension funding standards and updating other regulations on employee benefits in order to address the needs of the modern-day employee.

HELSINKI HUMAN RIGHTS DAY

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. SWETT. Mr. Speaker, today I rise in support of Helsinki Human Rights Day. The Helsinki accords, signed in 1975, represented an attempt at ensuring peace and stability in Europe and encompassed all of the sovereign states of Europe as well as the United States. The accords affirmed a mutual commitment to forswear weapons of war as a means of resolving disputes among nations, and a recognition that every person has inalienable rights which no Government can justly curtail.

Yet today we must once again look toward Europe. In reaffirming our support for the accords, we must send a clear signal that the United States is interested in all those values they embody. Today Yugoslavia is facing a serious and bloody conflict that could have ramifications well beyond its borders. Ethnic and secessionist impulses are threatening stability across Europe, as are other unresolved issues of the cold war.

There are human rights issues in the Soviet Union that remain outstanding, such as the

political prisoners still behind bars and the religious prisoners still trapped in a country that they can no longer call home. These issues must be addressed and we must demand that all of the signatories to the Helsinki accords live up to the promises that they vowed to uphold.

Mr. Speaker, I urge my colleagues to remain ever vigilant as we declare today Helsinki Human Rights Day. Let us be unwavering in our commitment to peace, stability, and human rights as we look to the future, a future that we must ensure is shaped by the values of the Helsinki accords, guaranteeing fundamental freedoms for all.

MONETARY POLICY REFORM ACT OF 1991

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. HAMILTON. Mr. Speaker, today Congressman BYRON DORGAN and I are introducing the Monetary Policy Reform Act of 1991. A similar measure is being introduced in the Senate by Senators PAUL S. SARBANES, chairman of the Joint Economic Committee, and JIM SASSER, chairman of the Senate Budget Committee.

Earlier this year, while the Nation's economy was deep in its ninth post-war recession, there were a number of reports of a disturbing split among policymakers at the Federal Reserve. Proposals by Federal Reserve Board Chairman Alan Greenspan to lower interest rates were being resisted by the presidents of some of the regional Federal Reserve Banks. Partly as a result of this conflict, monetary policy during the recession has come under more than the usual criticism.

In a democratic government, it is not unusual for policymakers to disagree. But this was not a split among Government policymakers; a small handful of individuals representing private interests was frustrating efforts by responsible public officials to conduct monetary policy in the best interests of the Nation's economy.

Today, the apparent revival of economic activity may diminish concerns over past policy. But it should not lead to acceptance of the practice of private individuals making Government economic policy.

The Monetary Policy Reform Act would address this concern by vesting sole responsibility for the conduct of monetary policy and open market operations in the seven-member Board of Governors of the Federal Reserve System and would create a special new Federal Open Market Advisory Council through which the presidents of the regional Federal Reserve Banks could advise the Board on monetary policy. This bill is a companion measure to H.R. 1130, the Federal Reserve Reform Act of 1991, which we introduced earlier this year.

Together, the Federal Reserve Reform Act and the Monetary Policy Reform Act form a legislative package that would address some long-standing problems with certain practices and procedures of the Federal Reserve.

The Federal Reserve occupies an anomalous position within the Government of the United States. It is an enormously powerful institution, but it does not conform to the normal standards of Government accountability. No other Government agency enjoys the Fed's prerogatives:

Monetary policy is decided in secret, behind closed doors.

The Federal Reserve is not required to consult with Congress or the administration before setting money or interest rate targets, even though its power affects the financial well-being of every American.

It waits 6 weeks before releasing policy decisions.

The President, who is responsible for the performance of the economy and is blamed if things go wrong, often must wait until late in this term to appoint a new chairman of the Federal Reserve Board.

The Fed's budget is not published in the U.S. Government budget, even though it spends over \$1.5 billion per year.

The presidents of the 12 Federal Reserve Banks, who participate in monetary policy decisions on the Federal Open Market Committee [FOMC], are neither appointed by the President nor confirmed by the Senate.

And, even though the Federal Reserve engages in more than \$1 trillion in transactions in the money markets each year, most of these activities are exempt from audit by the GAO or any other outside agency.

The Federal Reserve Reform Act, which Congressman DORGAN and I introduced earlier this year, would make five modest changes in the practices and procedures of the Federal Reserve:

First, it would require the Secretary of the Treasury, the chairman of the Council of Economic Advisers, and the Director of the Office of Management and Budget to meet three times a year on a nonvoting basis with the Federal Open Market Committee, to consult on monetary and fiscal policy. This would open a formal challenge of communication between the policymakers in the White House and the policymakers at the Federal Reserve.

Second, it would allow the President to appoint a chairman of the Federal Reserve Board—with the advice and consent of the Senate—1 year after taking office, at the time when the first regular opening would occur on the Federal Reserve Board. This would make the Fed chairman's term basically coterminous with the term of office of the President of the United States.

Third, it would require the FOMC to disclose immediately any changes in the targets of monetary policy, including its targets for monetary aggregates, credit aggregates, prices, interest rates, or bank reserves.

Fourth, it would permit the Comptroller General to conduct more thorough reviews and studies of Federal Reserve operations, by removing selected current restrictions on GAO audits.

Fifth, it would require that the Federal Reserve's annual \$1.5 billion budget be published in the budget of the U.S. Government. The Fed would submit its budget for the current year and the 2 following years to the President by October 16 of each year, and the President would be required to print the Fed's

budget in the Government budget without change.

The bill that Congressman DORGAN and I are introducing today, the Monetary Policy Reform Act of 1991, would add a sixth change to this list, by making the duly-appointed Government officials on the Board of Governors of the Federal Reserve solely responsible for the conduct of monetary policy.

The Federal Reserve System consists of the Board of Governors in Washington and the 12 regional Federal Reserve Banks. The Board of Governors has seven members, who are appointed by the President and confirmed by the Senate to 14-year terms. The Governors of the Federal Reserve are thus duly-appointed Government officials who are responsible to the President and Congress, and through them to the American people, for their conduct in office.

The Federal Reserve Bank presidents, in contrast, owe their jobs to the Boards of Directors of the regional Banks—boards dominated by local commercial banks. Neither the President nor Congress has any role in selecting the presidents of the Federal Reserve Banks. Some of the bank presidents are career employees, others have backgrounds in banking, business and academics; none are duly-appointed Government officials. Nonetheless, they participate in monetary policy decisions through their membership on the FOMC, where they cast 5 of the 12 votes that determine monetary policy and interest rates.

The role of the Federal Reserve Bank presidents—and the broader issue of the influence of the Nation's banks and of private interests on the Federal Reserve—has been a source of concern ever since Congress decided to establish the Federal Reserve in 1913:

In the initial draft of the Federal Reserve Act, some Members of Congress proposed that the Nation's banks be allowed to appoint up to half of the members of the Federal Reserve Board. President Wilson's position, which was adopted by Congress, was that "the Government should control every member of the Board on the ground that it was the function of the Government to supervise this system, and no individual, however respectable should be on this Board representing private interests."

During the 1920's, when uncoordinated open market operations by the Federal Reserve Banks were disrupting the markets for Treasury securities, Treasury Secretary Andrew Mellon argued that the properly-appointed public officials on the Federal Reserve Board, and not the Federal Reserve Banks, should be responsible for regulating open market operations and that "the Federal Reserve Banks shall not make any further purchases of Government securities, or bills, for the purpose of increasing their earning assets without first getting the express approval of the Federal Reserve Board."

When Congress rewrote the banking laws during the 1930's, the Federal Reserve Board's Chairman, Marriner Eccles, with the full support of President Roosevelt, proposed to vest sole responsibility for open market operations in the Board, along with its other responsibilities for monetary policy. This provision was watered down in the final draft of the Banking Act of 1935, and a rotating group of

five Federal Reserve Bank presidents was allowed to share voting responsibility for open market operations with the seven members of the Board of Governors of the Federal Reserve, the new formal name for the Federal Reserve Board.

This situation, in which private individuals who are neither appointed by the President of the United States nor confirmed by the Senate nonetheless directly participate in monetary policy decisions, is an anomaly in our system of democratic government. Nowhere else in the Government are private individuals similarly permitted to participate in decisions which have an enormous influence over the prosperity and well-being of millions of Americans.

Almost all Government agencies make extensive use of private citizens in an advisory status. The Federal Reserve, for instance, has three major advisory panels which meet with the Board of Governors three to four times a year—the Federal Advisory Council, a panel of 12 bankers which advises the Board of Governors "on all matters within the jurisdiction of the Board," according to the Federal Reserve's 1990 annual report; the Consumer Advisory Council, composed of academics, State government officials, representatives of the financial industry, and representatives of consumer and community interests, which advises the Board on consumer financial services; and the Thrift Institutions Advisory Council, composed for representatives from credit unions, savings and loan associations and savings banks, which advises the Board on issues pertaining to the thrift industry. Other Government agencies have similar advisory panels.

But nowhere other than the Federal Reserve are representatives of private interests permitted to have a vote on Government policy. This is the proper function of Government officials who have either been elected by the people or duly appointed and confirmed in the appropriate manner, and that is the way it should be at the Federal Reserve as well.

The bill that Congressman DORGAN and I are introducing today would address this controversy by going back to the first principles laid out by Presidents Wilson and Roosevelt, that properly-appointed Government officials should be responsible for the conduct of monetary policy at the Federal Reserve.

The Monetary Policy Reform Act of 1991 has two major provisions. First, the bill would dissolve the Federal Open Market Committee and make the Board of Governors of the Federal Reserve responsible for monetary policy and open market operations. Second, it would create a Federal Open Market Advisory Council, through which the presidents of the 12 Federal Reserve Banks could advise the Board of Governors on regional economic conditions and other factors affecting the conduct of monetary policy and open market operations. The Bank presidents would no longer have a vote on monetary policy, but the Board of Governors would still have the benefit of their advice.

Power without accountability does not fit the American system of democracy. In no other Government agency do private individuals make Government policy. The Monetary Policy Reform Act of 1991 will now apply this

same principle of democracy to the Federal Reserve.

THE INSURANCE FRAUD
PREVENTION ACT OF 1991

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. DINGELL. Mr. Speaker, today I am introducing legislation which would make it a Federal crime to defraud, loot, or plunder an insurance company. This bill will allow Federal prosecution if a person: First, knowingly files a false statement or property valuation with an insurance regulator; second, embezzles or misappropriates funds or property from an insurance company; and third, makes false entries or statements regarding the financial condition of an insurance company with the intent to deceive any individual or regulator regarding the financial condition or solvency of that company.

The Insurance Fraud Prevention Act of 1991 is a result of 3 years of hearings conducted by the Energy and Commerce Subcommittee on Oversight and Investigations. These hearings demonstrated that enforcement of insurance laws and regulations is one of the weakest links in the present insurance regulatory system. States apparently are not collecting adequate information, investigating wrongdoing, or taking legal action against the perpetrators of insurance insolvency. Statutory penalties and remedies also seem out of step with the realities of today's insurance market and the interstate and international nature of the business of insurance in today's marketplace. With little fear of meaningful administrative sanctions or criminal prosecution, there is no Federal deterrent for wrongdoing and no real deterrent for most complex insurance fraud schemes.

Prosecution, conviction, and incarceration have proven to be very effective in deterring white collar crime, yet most people involved with recent cases of obvious wrongdoing at insolvent insurance companies simply walk away with no real investigation of their activities. Many of them continue to be active in the insurance business. It is clear that the current criminal statutes and penalties are inadequate to deal with this fraudulent activity, and that there is insufficient resources being devoted to criminal enforcement of insurance fraud at the State level.

At present, Federal criminal enforcement is restricted because plundering an insurance company is not a Federal crime. Mail and wire fraud statutes are the primary way to attack insurance fraud, but these Federal antifraud laws have a 5-year statute of limitations, which often expires before a criminal investigation can be completed. There should be a specific Federal criminal statute to deal with fraudulent behavior at insurance companies.

Insurance is truly an interstate business, and abuse of insurance companies has also become interstate in scope. Moving money and assets from one State or country to another offshore, basing companies in foreign countries, and evading enforcement jurisdiction by leaving one State and starting up in

EXTENSIONS OF REMARKS

another are standard elements in cases observed by this Committee's Oversight and Investigations Subcommittee. This new Federal Insurance Fraud Prevention bill will be a strong enforcement tool to bring a stop to criminal fraud in the business of insurance.

THE FRIEND OF THE COURT BRIEF
IN JACOBSON VERSUS UNITED
STATES

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. BLILEY. Mr. Speaker, on Monday 30 of my colleagues here in the Congress joined me in filing a "friend of the court" brief with the U.S. Supreme Court in a case that may have tremendous impact on the enforcement of Federal statutes prohibiting the sexual exploitation of children through the production and distribution of child pornography. The case, *Jacobson versus United States*, involves the ability of the Government to target suspects for postal undercover investigation and sting operations involving the distribution of child pornography and other criminal conduct. James P. Mueller, legal counsel for the Children's Legal Foundation and a coauthor of the brief noted in a prepared statement that:

The *Jacobson* cases poses issues vital to the future enforcement of Federal child pornography statutes. Those who produce and distribute child pornography ply their trade in secret and make extensive use of the mails. For that reason, undercover sting operations conducted by U.S. postal authorities are one of the most important law enforcement tools in discovering and punishing those who commit this vile crime against our children.

When Congress first enacted Federal child pornography statutes in 1977, it recognized, in the words of the report of the Senate Judiciary Committee, that "many pedophiles—those whose sexual preference is for children—prefer to purchase child pornography—through mail order catalogs * * * because often these catalogues permit the pedophile to order materials depicting specific sexual deviations, to establish contact with other pedophiles, and even to establish liaisons with some of the child models."

To a great extent, clandestine trafficking in child pornography is conducted by those actively engaging in the sexual abuse of children. According to the final report of the Attorney General's Commission on Pornography:

A great deal of this trade—in child pornography—involves photographs taken by child abusers themselves, and then either kept or informally distributed to other child abusers.

In 1986, the Subcommittee on Investigations of the Senate Committee on Governmental Affairs issued a report that found, among other things, that:

No single characteristic of pedophilia is more pervasive than the obsession with child pornography.

The report continued by noting that it— is not unusual for pedophiles to possess collections containing several thousand photo-

August 1, 1991

graphs, slides, films, videotapes and magazines depicting nude children and children engaged in a variety of sexual activities.

Just last year, in upholding a State statute prohibiting the possession of child pornography, the Supreme Court, in *Osborne versus Ohio*, Noted that "evidence suggests that pedophiles use child pornography to seduce other children into sexual activity."

The *Jacobson* case is important in the child pornography context because by necessity virtually all enforcement is done through undercover sting operations conducted through the mails. Indeed, given the clandestine nature of child pornography production and distribution, a decision by the Supreme Court inhibiting the use of postal sting operations could have a crippling effect on law enforcement. For that reason, the brief that was filed accomplishes three purposes. First, it brings to the Court's attention the strong legislative interest in the area of child pornography. Second, it emphasizes the importance of enforcement techniques such as those employed in *Jacobson* to effect legislative policy. And, third, it urges the Court to adopt a rule on entrapment that provides the Government with the latitude it needs to apprehend those who sexually exploit children through the production and distribution of child pornography.

Mr. Speaker, I would like to take this opportunity to thank each of my colleagues who joined me in this effort. I would also like to thank Mr. James P. Mueller, legal counsel for the Children's Legal Foundation, and Mr. Michael J. Lockerby of the Richmond-based firm of Hunton and Williams, both of whom volunteered their time to work on this project.

THE MILITARY FISH AND
WILDLIFE REFUGE ACT OF 1991

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. YOUNG of Alaska. Mr. Speaker, today I have introduced the Military Fish and Wildlife Refuge Act of 1991, legislation that conserves fish and wildlife habitat.

The Department of Defense uses and manages about 25 million acres of natural resources at approximately 900 military installations in the United States. These properties are in every conceivable environment—mountains, prairies, deserts, forests, and swamps. Some of these installations are oases in the midst of suburban sprawl. Their forests and other green areas provide excellent habitat for wildlife and outdoor recreational opportunities for the public. In consultation with the U.S. Fish and Wildlife Service and other Federal and State agencies, 163 military installations manage and protect habitat for endangered and threatened species.

Mr. Speaker, the House of Representatives recently adopted the Defense Base Closure and Realignment Commission's proposal to close or consolidate 82 U.S. military bases. The Military Fish and Wildlife Refuge Act of 1991 simply requires that prior to closing a military installation, the Secretary of the Interior shall have an opportunity to review the in-

stallation and evaluate the benefits that it may provide to the fish and wildlife resources of the area. If the Secretary of the Interior determines that the property does have fish and wildlife resource benefits, then these areas would be transferred to the Secretary of the Interior for inclusion in our National Wildlife Refuge System. This system has over 91 million acres of lands and waters that are managed by the U.S. Fish and Wildlife Service, primarily for the benefit of our Nation's wildlife. The addition of fish and wildlife resources from military installations would indeed complement our National Wildlife Refuge System.

Mr. Speaker, I hope that many of my colleagues will join me in this effort. This bill is important wildlife conservation legislation and will conserve our fish and wildlife resources for future generations.

**U.S. COAST GUARD BALTIMORE
GROUP HONORS RESERVISTS OF
OPERATION DESERT STORM**

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mrs. BENTLEY. Mr. Speaker, my fellow colleagues, on August 24, I will have the honor and pleasure of attending a dinner honoring 58 Coast Guard Reservists who participated in Operation Desert Shield and Desert Storm.

The reservists from U.S. Coast Guard Reserve Group Baltimore were selected for voluntary active duty and served in the Persian Gulf or in stateside support activities directly related to this conflict. I am proud that these brave and valiant men and women of Coast Guard Reserve Group Baltimore were able to contribute their skills and abilities to Operation Desert Shield and Desert Storm. Many of the reservists from Baltimore were responsible for port and harbor security and the supervision of explosive material loading and unloading both here at home and in the Persian Gulf.

Our Nation's reservists have been a credit to their training. Their hard work and dedication to the task before them was truly commendable. We are indeed greatly indebted to the professionalism and commitment of reservists such as Coast Guard Reserve Group Baltimore and countless other reserve units who gave their best in support of Operation Desert Storm. Without a doubt, the Coast Guard is a very important part of our Nation's military with a unique expertise and ability unlike any other service.

The U.S. Coast Guard is uniquely qualified in search and rescue, interdiction, port security and safety, law enforcement, and other duties and responsibilities that are of vital necessity during peace time and war. I have long been an advocate and supporter of the Coast Guard, and I am proud to commend the fine men and women of this service who so valiantly serve our Nation. They are deserving of their reputation as a top notch addition to the Department of Defense and Department of Transportation.

The diverse and demanding responsibilities of today's Coast Guard requires an uncommon dedication and commitment from those

who serve in its ranks. It will indeed be an honor and a pleasure to accompany the Commander of Coast Guard Reserve Group Baltimore, Capt. S.E. Hart, as he presents the National Defense Service Ribbon to the 58 reservists who served their country in Operation Desert Shield and Desert Storm.

Mr. Speaker, my fellow colleagues, I commend these fine men and women and congratulate them upon their safe return home. May they have continued health and happiness in the years ahead.

EDUCATIONAL INGENUITY

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. SMITH of Florida. Mr. Speaker, I speak today about the educational initiatives in south Florida colleges. Across the country, as students get ready for a new school year, there are fears about the quality of a college education. Students wonder if a college education is worth the high tuition costs; if they will have job opportunities when they graduate; if the benefits of a college education are worth the hours of work that students put into activities and studies.

These days, thanks to massive budget cuts, a shrinking pool of professors and students, and increased competition among schools for those shrinking resources, colleges are finding ways to do more with less. South Florida colleges are developing new methods to prepare students for their futures, combining innovative scholarship, dedicated professors and committed students.

In June, a team of oceanographic engineering students from Florida Atlantic University [FAU] won the second Human Powered Submarine Races, beating worthy competitors from MIT and the U.S. Naval Academy. They combined athletic ability, innovation, research, and dedication. This fall, the oceanographic engineering department will work with the Harbor Branch Oceanographic Institution, which will let students increase the scope of their research and educational opportunities. Students will have a chance to learn about state of the art equipment and receive training for careers in ocean engineering.

FAU's new Lois Pope National Institute for Teaching Commitment will put high school dropouts back in the classroom—as teachers. It enrolls 21 people who dropped out of high school and later earned general equivalency diplomas. They hope to reduce the numbers of dropouts by teaching and serving as role models to high schoolers. One million students drop out of high school each year, and educators who can use their own experiences to persuade students to stay in school are a valuable asset.

At Nova University, students have the opportunity to tap into the fastest telecommunications link in the world. Internet lets students access a plethora of research on thousands of subjects from their computers through the South Florida Library and Information Network [SEFLIN]. Nova computer users can transfer and access files, send messages and papers

through electronic mail, and utilize computers around the world. By putting a global library at the fingertips of the students and educators, Nova is giving students the opportunity to investigate a world of knowledge.

Through a grant from the State of Florida, Broward Community College [BCC] is developing a technology education program with the Broward County School System. It offers highly motivated 11th and 12th grade students the opportunity to train in a select program focusing on specialized technical study. Students can study electronics, energy systems, health care, and a multitude of other fields. The students will start this accelerated training as high schoolers, then study at BCC. They will be eligible for an associate of arts degree after just 1 year in college, graduating with a strong background in technological study and the opportunity to continue higher education at a 4-year college. Since 35 percent of all high school students are more interested in these technological fields than in college preparation, the focus on career-related education will attract these students, and make them more competitive in the global marketplace.

I also extend my congratulations to Florida International University [FIU] as its School of Journalism and Mass Communications [SJMC] received accreditation from the Council on Education in Journalism. The school received high marks on all of its programs and facilities, and the excellent quality of the teaching was praised in the report from the Accrediting Council on Education in Journalism and Mass Communications. The SJMC is the only accredited journalism program in south Florida. The recognition of this progress in FIU's department showcases the ability of the professors, and augments the school's ability to attract students to pursue a quality journalism and communications education.

These developments are enlivening higher education. They are addressing the needs of students without straining the shrinking resources that the colleges possess. The college administrations are afraid that cuts in the education budget will force them to raise tuition and reduce student services. Professors worry that when their students graduate, they won't be able to write a complete sentence, balance a checkbook, or read a newspaper. In fact, the Labor Department reports that fewer than half of all 21 to 25 year olds have adequate skills in reading, writing and arithmetic. This is a shocking number, considering the 59 percent of 1988 high school graduates who enrolled in college.

Creativity is an educational necessity. Budgetary cutbacks are forcing educational institutions to rethink their programs and the advantages that they provide to students. The programs which I have discussed here utilize the faculty's intellectual resources to inspire the student body. These advances are propelling south Florida to the forefront of education initiatives in the new millennium. I commend these schools, these educators, and these students for their talent and their enthusiasm.

A TRIBUTE TO BASCOM PALMER
EYE INSTITUTE UNIVERSITY OF
MIAMI SCHOOL OF MEDICINE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it is my pleasure to bring to the attention of my colleagues the extraordinary accomplishment of the Bascom Palmer Eye Institute-University of Miami School of Medicine located in my congressional district in south Florida.

The Bascom Palmer Eye Institute was rated as one of the best ophthalmology hospitals in the country by the second annual U.S. News & World Report "America's Best Hospitals." The hospitals were chosen as best by a nationwide survey of 1,501 doctors, 64 percent of whom responded. The survey was designed and carried out by the National Opinion Research Center [NORC], a social-science research center at the University of Chicago. The NORC has a 50-year record of high-quality work in social surveys.

The Bascom Palmer Eye Institute was ranked second in the survey which was divided into 15 specialties, ophthalmology being one. Though same-day eye surgery is now a common occurrence, detaching a disconnected retina or removing a tumor requires a patient to stay in the hospital. This is one of the criteria the U.S. News report used to identify the best ophthalmology hospitals in the Nation. When eye specialists were asked to list important elements for quality eye care, they considered the availability of state-of-the-art technology, for example, surgical lasers, and specialized ultrasound equipment as important as the quality of the medical staff.

According to the article "America's Best Hospitals," quality care also means patients seldom need a repeat operation for the same eye problem or because of complications. The risk of serious eye infection following cataract surgery should be only about 0.02 percent to 0.5 percent. The risk of retinal detachment is higher, but still only 1 to 2 percent. At the best centers, at least 90 percent should have 20/40 vision or better after surgery, and 85 percent should see that well a year after the procedure.

It is an honor to be able to recognize the Bascom Palmer Eye Institute in south Florida for its extraordinary work in the field of ophthalmology. The south Florida community respects and admires the doctors and the staff for the merit and recognition this fine institution deserves. They are John G. Clarkson, M.D., medical director of Bascom Palmer Eye Institute and chairman, Department of Ophthalmology, University of Miami School of Medicine; Stanley Glaser, chairman, board of governors; Stanley Arkin, vice chairman, and Dr. Edward W.D. Norton, M.D., chairman Emeritus of Bascom Palmer Eye Institute-University of Miami School of Medicine.

EXTENSIONS OF REMARKS

CHANGING OF THE GUARD AT THE
WESTERLY SUN

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. REED. Mr. Speaker, I rise today to bring the attention of my colleagues to the changing of the guard at the Westerly Sun. The Westerly Sun is an afternoon daily that covers the news of Westerly, RI, and the surrounding area.

The Westerly Sun is a family business led by Charles W. Utter, age 73, and George H. Utter, age 69. Yesterday this generation of Utters announced their retirement as copublishers, and the paper will now be led by George's son, Robert Utter, and Charles' son, Nicholas Utter. Robert Utter will serve as president of the Utter Co. and editor of the Sun. Nicholas Utter will serve as publisher of the newspaper and vice president, secretary and treasurer of the company.

Robert and Nicholas will be the fifth generation of Utters to run the newspaper since it was founded in 1893. The Sun is still published out of the same building where it began 97 years ago.

It is no exaggeration to say that the Utters are an institution in Westerly and throughout Rhode Island. I salute the leadership of Charles and George Utter today as they step aside from day-to-day management of the Westerly Sun and I welcome Robert and Nicholas to their new positions.

I always enjoyed visiting the Sun and talking to Charlie Utter about his military experiences in Panama. And of course, one of his sons had the good sense to attend my alma mater, West Point.

I will remember these visits fondly and I look forward to staying in touch with all the generations of Utters in the years to come.

I know that I speak for many Rhode Islanders and even those across the border in Connecticut who also enjoy this paper when I say I will miss the Utters.

BEST OF LUCK TO RALPH R.
PETERSON

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. SCHAEFER. Mr. Speaker, I rise today to congratulate one of my constituents, Ralph R. Peterson, for reaching the top of his profession. Mr. Peterson was recently appointed president and chief executive officer of CH2M Hill, Cos., Ltd. In succeeding Harlan E. Moyer, who served as the organization's chief executive officer since 1977, Ralph continues a 3-year senior management succession process begun by CH2M Hill in 1990.

Many of my colleagues are familiar with the work of CH2M Hill, Inc., and its sister companies. Some of you will recall CH2M Hill being congratulated on this floor earlier this year when it received the highest engineering excellence award in the Nation from the Amer-

August 1, 1991

ican Consulting Engineers Council. Ralph Peterson will now lead this outstanding group of people as they continue to provide services in engineering, environmental sciences, industrial design, and operations and maintenance of water and waste treatment facilities.

As Ralph put it in a statement issued by the firm: "Our organization exists for one reason, to provide services that add value to our clients. The challenge ahead for me, and everyone in the companies of CH2M Hill, will be to see that we continue to meet that goal as our companies grow and our services expand across the globe. As for myself, I take great comfort in knowing that whatever challenges lie ahead for our companies, we can draw upon the distinctive resources which have served our clients so well for half a century; the diverse cultural backgrounds, unique professional skills and outstanding individual character of our people."

Ralph is uniquely qualified for this responsibility. He started his career with CH2M Hill in 1965, working as a surveyor in the firm's Corvallis, Oregon, office while a student at Oregon State University. From 1977 to 1988, Peterson directed the firm's Waste Management and Industrial Processes Division. In 1988, he was named director of technology at CH2M Hill, Inc. In that role, Ralph was responsible for overseeing the technical quality of the firm's projects in North America.

In addition to the long hours he puts in at CH2M Hill, Ralph also serves on the board of directors of the Rocky Mountain World Trade Center Association and the Oregon State Alumni Association. He is also an active member of the American Society of Civil Engineers and the Professional Services Management Association.

Mr. Speaker, I ask my colleagues to join me in wishing Ralph Peterson the best of luck in his new job.

A SALUTE TO WALTER G. AMPREY

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. MFUME. Mr. Speaker, I rise today to salute a leading educator in my congressional district. Dr. Walter G. Amprey was recently named as the new superintendent of the Baltimore City public school system. I am proud of the fact that Dr. Amprey himself is a product of the public school, and was chosen among other things for his leadership skills, charisma, and vision.

Dr. Amprey received his primary and secondary education in the city of Baltimore and received his bachelor of arts degree from Morgan State University and a masters degree from Johns Hopkins University. He then went on to acquire his doctorate in education from Temple University.

Walter Amprey is a first-class educator with a list of distinguished academic credentials. He began his career as a teacher in Baltimore City in 1966. In 1973 Dr. Amprey was elevated to the office of vice principal of Woodlawn Senior High School in Baltimore County. By 1984 he had been appointed principal of the same school.

From 1984 to 1985 he was the director of staff relations for Baltimore County schools. His position then changed to assistant superintendent in 1985. Currently he holds the position of associate superintendent of Baltimore County schools.

Dr. Amprey is an outstanding role model for the children whose education he governs. Walter has been noted as being a man who makes everyone feel included and is able to motivate others to go the extra mile. This drive and enthusiasm is exactly what Baltimore City needs to improve its school system. Dr. Amprey will be entering a system where many of the children have developmental and domestic problems, but possess an overwhelming desire to learn.

He believes strongly that the community must play an integral role in the improvement of the Baltimore City school system. Our Nation needs students who are prepared to enter the workforce or college. Currently, city school students who do not study college preparatory coursework have little access to skilled employment and many are underemployed. Walter Amprey's vision is to restore the educational wealth of Baltimore City public schools.

These schools have produced great people of character and achievement, such as former Supreme Court Justice Thurgood Marshall, the legendary lobbyist Clarence Mitchell, Jr., Congressman Parren Mitchell, and Mayor Kurt L. Schmoke.

Mr. Speaker, Dr. Walter Amprey deserves to be commended for all of his contributions to the Baltimore school system. His experience with people will give him a strong head start on the road to education reform in Baltimore. Dr. Amprey's charisma will encourage other educational professionals and student population to adopt a "we care about the city's future" attitude. I have confidence in Dr. Amprey and I applaud his position of being flexible with his ideas for the school system and the community.

Thus, Mr. Speaker, I ask that you and other Members of this body join me in wishing continued success and a prosperous future to Dr. Walter Amprey and the Baltimore City public school system.

COMMEND THE VOLUNTEERS OF
THE BOYS AND GIRLS CLUB OF
SARASOTA COUNTY

HON. PORTER J. GOSS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. GOSS. Mr. Speaker, it is with great pride that I commend the volunteers of the Boys and Girls Club of Sarasota County, the President's 510th daily point of light. I admire this organization and its commitment to the Sarasota community, especially since as recently as 2 years ago, it faced severe difficulties, both financial and organizational. This well-deserved recognition from the President is icing on the cake. Already, the activity and laughter that make the physical structures of the Boys and Girls Club come alive are testament to the success of this program.

The phrase "there's nothing to do" will never be true at 3100 Fruitville Road. The library, artroom, gymnasium, woodworking shop, tennis courts, soccer and baseball fields, and indoor pool, offer every child who passes through the entrance, a chance to learn a new skill or develop a talent. But the facilities are only as good as the volunteers who bring them to the boys and girls of Sarasota. The enthusiasm and patience of these dedicated volunteers help bring meaning to the idle time on weekends, after school, and summer that normally would be wasted. These children not only learn to swim or play basketball, but they are provided with excellent role models who teach them to respect themselves and their accomplishments.

The Volunteers of the Boys and Girls Club are not babysitters, they are motivators. An average of 400 young people are challenged every day the club is open. They are challenged to stay in a straight line, to thread a needle, or to follow directions. These are not always easy tasks, and provide daily challenges. Sure, sometimes voices are raised, but the philosophy of tough love can be seen at work—and working.

I am proud to represent the men and women who are helping to answer the needs of more than 2,000 children who otherwise would be latchkey kids. Most volunteers claim they receive as much benefit from their work as the individuals they serve, but today I would like to say thanks to these volunteers on behalf of the Sarasota community and the country. Thank you for responding to the needs of these children and for giving them a little bit of yourself. There is no better gift.

TRIBUTE TO RICHARD CRAY

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. GEKAS. Mr. Speaker, I rise today to pay tribute to Richard Cray, of Progress, PA, who is retiring as chief of the Progress Volunteer Fire Co. on the occasion of his 50th birthday. Chief Cray has devoted more than 37 of those 50 years to firefighting.

At the age of 12, Dick Cray served as a "junior firefighter" in the Harrisburg Fire Department. He later served as a volunteer firefighter with that same department and then joined the Progress Volunteer Fire Department in suburban Harrisburg. He moved up through the ranks of the Progress Fire Department until he eventually attained the rank of chief.

Throughout those years, Chief Cray has earned the respect and admiration of family, friends, his fellow firefighters, and the public that he has so bravely served. He has devoted countless hours and put his life on the line to help protect lives and property. Chief Cray was also responsible for helping to get a law passed in his local township requiring homes to have smoke detectors.

Chief Cray still intends to stay involved in firefighting, and I know many people are appreciative of that fact. I ask all of my colleagues to join me today in congratulating Richard Cray for his many accomplishments

and in thanking him for his efforts that have truly defined the words "professional firefighter."

TRIBUTE TO 1991 MICHIGAN FARMER'S HALL OF FAME INDUCTEES

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. TRAXLER. Mr. Speaker, I rise today to recognize nine Michigan couples that will be inducted into the Michigan Farmer's Hall of Fame on August 30, 1991. These individuals, who have devoted their lives to agriculture, family and community, will be recognized for their outstanding contributions to the quality of life in our Great Lake State. They are: W. Earl and Betty Bailey of Freeland, Russell and Anna Brenner of Hopkins, Norman and Dolores Creveling of Comstock Park, Richard and Arlene Erskine of Hemlock, Edgar and Rosa Fleetham of Sunfield, James and Alice Fish of Hickory Corners, Dale and Bernice Graham of Mt. Pleasant, Rolland and Margaret Norton of Bronson, and James and Angnes Steed of Grant.

I would like to take this opportunity to pay special tribute to W. Earl and Betty Bailey who reside in Michigan's Eighth Congressional District. Mr. and Mrs. Bailey have farmed 360 acres of land in central Michigan's Midland County for over 58 years. In fact, they still live on the farm where Mr. Bailey was born 78 years ago. This industrious couple began farming with horse drawn equipment which they later replaced with tractors. They raised dairy cows until 1940 and then raised beef cattle until 1960.

In addition to agricultural endeavors, Mr. and Mrs. Bailey have dedicated their efforts to numerous community service activities. Mr. Bailey served on the tax allocation board representing rural Midland County and held a seat on the local school board. He also served as Ingersoll Township's Justice of the Peace. Mrs. Bailey belonged to the Parent Teacher Organization [PTA] and to a local extension group. She served as a room mother at the local school and helped with Girl Scouting and 4-H activities. It is particularly important to note that the Baileys also raised three lovely children.

The Michigan Farmer's Hall of Fame was founded in 1982 to honor those in the farming profession who have demonstrated exceptional dedication and commitment to their work. It is important to recognize these couples for their many contributions to their communities and to Michigan's agricultural industry. For this reason, I encourage each of you to join me in saluting the 1991 inductees to the Michigan Farmer's Hall of Fame. It is my hope that the years ahead will be filled with the health and happiness these citizens so richly deserve.

TRIBUTE TO BRIG. GEN. RICHARD PROCTOR, M.D.

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. COLEMAN of Texas. Mr. Speaker, I rise today to pay tribute to Brig. Gen. Richard Proctor, M.D., Commanding General of William Beaumont Army Medical Center in El Paso, who retired from a distinguished military career effective August 1, 1991. His tenure as head of the medical facility in El Paso began in September 1988, and he served as the 26th commander of this important medical center.

Brigadier General Proctor's career as a soldier and doctor culminated recently in his leadership during the recent Persian Gulf conflict when he effectively trained military personnel for duty overseas and prepared the medical center and its staff to treat large numbers of war casualties. William Beaumont Army Medical Center received international recognition for this mobilization. He was also instrumental in the creation of the Magnetic Resonance Imaging Center and expansion of the hospital's Trauma Center, making it one of the outstanding facilities in the west Texas-southern New Mexico region. On July 30, 1991, he was presented a Distinguished Service Medal and a certificate of appreciation for his work signed by President Bush.

Brigadier General Proctor was born in Austin, TX on November 18, 1935. At age 10, he moved to Tulsa, OK where he remained until graduation from Will Rogers High School in 1953.

He received his B.A. in biology from Oklahoma City University before serving 2 years in Ethiopia on the faculty of the Imperial Ethiopian A & M College. He was awarded an M.D. degree and an M.S. in virology and epidemiology from Baylor University in 1964. In 1970, he received his Masters of Public Health and Tropical Medicine from Tulane University along with the school's highest academic award.

Brigadier General Proctor was commissioned in the U.S. Army in June 1964. He is a graduate of the Armed Forces Staff College and the Army War College, serving as class presidents in both schools. He interned at William Beaumont and after residencies at Fitzsimons and Walter Reed Medical Centers, was board certified in Pediatrics (1970) and Preventive Medicine (1972). He is licensed to practice medicine in the State of Texas.

Brigadier General Proctor's military assignments included Deputy Commander of the USAH, Asmara, Ethiopia; Deputy Commander of the 4th and 5th Army Medical Laboratory; Instructor at the Academy of Health Sciences; Seventh Corps Surgeon; Commandant of Students at the Uniformed University of the Health Sciences Medical School; Commander, Bliss Army Community Hospital, Fort Huachuca, AZ; and TRADOC Surgeon.

In addition to his recent award, Brigadier General Proctor's military awards include the Legion of Merit with one Oak Leaf Cluster and the Meritorious Service Medal with three Oak Leaf Clusters. He holds the expert Field Medical Badge and Flight Surgeon's wings.

Brigadier General Proctor was married on November 19, 1955, to Martha June Whitlock of McAlester, OK. The couple have two daughters, Tanya Marie Plott of Paris, TX, and Sheila Renee Proctor of Marietta, GA.

In closing, I will always remember Brigadier General Proctor in a very personal way. He and his excellent staff worked diligently to save the life of my daughter who had experienced a terrible automobile accident and was airlifted over 100 miles to the medical center's trauma care unit. The sensitivity, professionalism, and level of care she received reflected the outstanding leadership General Proctor provided the Army and our Nation.

I hope my colleagues will join me in honoring this outstanding American and wish him well in his new career as Medical Director of Southeast Texas for the Texas Department of Health.

CONGRATULATIONS TO ST. ALOYSIUS SCHOOL IN PHILADELPHIA

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. FOGLIETTA. Mr. Speaker, I rise today to congratulate and pay special tribute to the students of St. Aloysius School in Philadelphia, PA, who placed first in the "Set a Good Example" contest, a national drug abuse awareness contest.

The contest, sponsored by the Concerned Businessmen's Association of America, was sponsored locally by Dr. Richard Squillaro. A variety of students from public, private, and parochial schools across the Nation entered the contest with one goal in mind: to get drugs off America's streets and to increase awareness of American social values. St. Aloysius School students won the contest based on an antidrug art project that successfully depicted and promoted such important alternatives to drugs as honesty, trust, and competence.

Mr. Speaker, I believe it is critical that we recognize and encourage our youth who have become involved in the battle against drugs. The students of St. Aloysius School exemplify the kind of commitment necessary to eliminate drugs and the terrible damage they do from our schools.

TO ALLEVIATE BURDENS IMPOSED UPON EDUCATIONAL AGENCIES AND INSTITUTIONS BY THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974 WITH RESPECT TO THE MAINTENANCE OF RECORDS BY CAMPUS LAW ENFORCEMENT UNITS

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. RHODES. Mr. Speaker, Arizona State University [ASU] was recently informed it may jeopardize its continued eligibility to receive funding from the Department of Education.

The reason for such circumstances is because of an Arizona open records law. ASU routinely discloses to other school officials and the local police department its campus law enforcement records. Last year, Congress passed the Campus Security Awareness Act to fully inform students of the amount of crime on college and university campuses. However, due to a contradiction in the law, some colleges and universities have been put in a position of appearing to use the Buckley amendment to cover up campus crime.

In 1974, Congress passed the Family Educational Rights and Privacy Act to protect a student's interest in the privacy and accuracy of educational records. From the beginning, Congress included language which would allow colleges and universities to distinguish campus law enforcement records from education records. However, many States, including Arizona, have an open records law that requires the universities in that State to disclose records of the campus law enforcement unit to other school officials, apart from the university's law enforcement unit. The Buckley amendment protects a student's right to privacy, the student's right to inspect, review and correct the records before the school can disclose the crime reports—even to the police. This contradiction has forced many States to choose between violating the State's freedom of information policy and violating FERPA, thus jeopardizing continued receipt of Federal education funds.

Mr. Speaker, I rise today to offer a bill to amend the Family Educational Rights and Privacy Act of 1974 [FERPA], commonly referred to as the Buckley amendment, with respect to the maintenance of records by campus law enforcement units.

According to the Department of Education, many of the affected schools do not erect barriers between law enforcement units and other components of the institution, and do, in fact, share records of the law enforcement unit with other school officials and local police with crime incident reports without obtaining prior written consent from the student. The legislation which I am introducing today would exempt from the Buckley amendment any record maintained by a law enforcement unit that was created by that unit for a law enforcement purpose. This legislation would neither require nor prohibit the release of such records, but would allow the choice to be made in light of local law and policy.

TRIBUTE TO NORTHERN FAMILY

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. TANNER. Mr. Speaker, I rise today to pay tribute to a family in my congressional district who will soon be celebrating the 101st anniversary commemoration of the beginning of their family.

The Northern family of west Tennessee settled in that area before construction. One of the oldest descendants of the first clan was Mrs. Sennie Sessom who was born into slavery and lived to the age of 114 years before

her death in 1957. She often told stories of her early years as a child on a plantation in Gibson County. Her mother and father were bought in South Carolina and brought to Tennessee just before the Civil War.

Each year the Northern family gathers to renew acquaintances and share fellowship together as they recall the long and interesting history of their ancestors. This year, they will gather on August 30 through September 2 in Jackson, TN, to celebrate 101 years of family unity.

THE 125TH ANNIVERSARY OF SISTERS OF NOTRE DAME DE NAMUR

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Ms. PELOSI. Mr. Speaker, I rise today in honor of the significant contributions of the teaching order, Sisters of Notre Dame De Namur. I take special pride in recognizing the Sisters of Notre Dame De Namur because I am an alumna of Trinity College of Washington, a Notre Dame College.

The 125th anniversary of the arrival in San Francisco of the teaching order, the Sisters of Notre Dame, will be celebrated at Mission Dolores Basilica on October 19, 1991. A solemn Mass of Thanksgiving, Archbishop John R. Quinn presiding, will be offered in the Basilica.

It was in 1866, at the invitation of Bishop Sadoc Alemany, that the sisters first opened the doors of both elementary and secondary day and boarding schools for girls, on property across the street from the city's famed Mission Dolores de San Francisco de Assisi. In 1893 the sisters also began to teach at Mission Dolores Boys' School. During the 125 years of the sisters' presence in the city, thousands of young San Franciscans have been educated in the three schools. Although the two girls' schools closed in the 1980's due to financial reasons the sisters remain at Mission Dolores School, now a coeducational elementary school serving children from many areas of the city.

The congregation of the Sisters of Notre Dame was founded in France in 1804 by Julie Billiart and Françoise Blin de Bourdon as a response to the turbulence and misery of the French Revolution. The two envisioned and established a community of women living simple, prayerful lives and engaged in a ministry of education and service to the poor. In 1840, 151 years ago, Sisters of Notre Dame came to the United States, settling in Ohio. In 1851 California welcomed a small group who opened a girls' academy in San Jose and since that time sisters have worked throughout the west coast and Hawaii. As a consequence of the foundresses' global vision, almost 3,000 sisters are today engaged in ministry on five continents—in Kenya, Nigeria, South Africa, Sudan, Zaire and Zimbabwe; in Belgium, Britain, Italy; in Japan and the United States; in Brazil, Nicaragua, and Peru.

In celebration of their uninterrupted 125-year educational history in the city, the Sisters of Notre Dame plan to continue as they began—

serving the people of San Francisco through education and pastoral ministries.

A TRIBUTE TO DAVE QUINBY

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. FEIGHAN. Mr. Speaker, I want to take this opportunity to recognize one of northeast Ohio's finest citizens, Dave Quinby. Twenty-five years ago, Dave began his service as an officer in the Piledrivers Local 1929. Today he retires, leaving behind a legacy of dedication, expertise, and compassion.

In 1941, Dave began his apprenticeship with the Piledrivers. He was quickly recognized not only for the quality of his work but for the quality of his leadership. Dave proved himself to be one who could inspire in others the same shining levels of talent that he possessed.

Dave later moved into an officer's role with the Piledrivers Local 1929, which eventually merged with the Millwright's Local 1871. Throughout his long career with the union, Dave has been willing to serve in whatever capacity he could contribute the most. He was elected treasurer, financial secretary, delegate to the district council and business agent for nearly 20 years. In addition, Dave lent his talents to the State organization, serving as an executive board member and as president of the Ohio State Council of Carpenters.

Dave's leadership is surpassed only by his sense of loyalty to his fellow carpenters. As a trustee of the district council pension plan and many other health and welfare plans, Dave was able to preserve the soundness of the pension process, guaranteeing long-term security for other members. Dave's goal has always been to make life a little easier for each generation. Future generations owe him a great debt.

Dave's most impressive accomplishment, however, was his oversight of the restructuring of northeast Ohio's carpenters training programs. As the first chief officer of the Northeast Ohio District Council, Dave merged six different apprenticeship programs from 27 counties under one umbrella based in Richfield. The program now holds classes for more than 1,000 apprentices.

Dave is a terrific example of one who is dedicated to giving back to his community and his colleagues. But now Dave deserves time for himself and his family. I take great pride in calling Dave a colleague and a friend. While all of us will miss Dave Quinby, I commend him on his great contributions to northeast Ohio and wish him the best of luck during his retirement—he has earned it.

THE MONETARY POLICY REFORM ACT OF 1991

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. DORGAN of North Dakota. Mr. Speaker, today I'm joining Congressman LEE HAMILTON

of Indiana in introducing the Monetary Policy Reform Act of 1991 that would place the responsibility for this country's most important monetary policy decisions solely in the hands of the Federal Reserve's duly-appointed Board of Governors. An identical bill is being introduced in the Senate by Senator PAUL SARBANES (D-MD) and Senator JIM SASSER (D-TN).

One half of this country's economic policy—monetary policy—is made primarily by the Fed Reserve's Federal Open Market Committee [FOMC]. The FOMC consists of the 7 members of the Board of Governors and the 12 regional bank presidents who vote on critical monetary policy decisions that affect the Nation's economy. As a result, the FOMC has enormous power over the direction that our economy is heading.

The Board of Governors are appointed by the President and confirmed by the Senate. Inexplicably, the regional bank presidents—who serve the private interests of their banks—are not appointed by the President or confirmed by Congress. Yet, they are entitled to 5 votes on a rotating basis that vitally impact our national economy. Consequently, these private individuals wield enormous power over the lives of every American, but they can't be held accountable like other Government officials.

This legislation is intended to increase the Fed's accountability to the American people by ensuring that its voting members are limited only to those officials who have been duly appointed and confirmed by the President and the Senate, respectively.

Specifically, the Monetary Policy Reform Act of 1991 would dissolve the FOMC and replace it with a Federal Open Market Advisory Committee [FOMAC]. As members of the newly-created FOMAC, the bank presidents would continue to advise and consult with the Board of Governors about the course of monetary policy. But voting rights would be left only to the duly-appointed Board of Governors who can ultimately be held accountable by the President and Congress.

It shouldn't be a surprise to hear that limiting the power to make monetary policy to only duly-appointed Government officials is the accepted practice around the world. One recent survey of central bank systems in other foreign countries indicates that private individuals may hold advisory positions, but they can't vote on specific items of monetary policy.

The lawmakers who wrote the original Federal Reserve Act of 1913 labored to ensure that the Fed would be an accountable Government institution. While the act was being considered, President Wilson emphasized the necessity of keeping the conduct of monetary policy in the public domain. And we've attempted to resurrect this worthy democratic goal by eliminating the votes of the bank presidents who are neither appointed by the President nor confirmed by the Senate, but exercise enormous power over the course of this Nation's economic future.

I urge my colleagues to support this important initiative to help make the Fed a more meaningful player in our democratic system by cosponsoring the Monetary Policy Reform Act of 1991.

CELEBRATING THE 125TH ANNIVERSARY OF ST. JOSEPH'S HOSPITAL AND MEDICAL CENTER IN PATERSON, NJ

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. ROE. Mr. Speaker, it is with distinct pride that I rise today to pay tribute to a facility which has served the medical needs of my Eighth Congressional District in New Jersey, exhibiting an enduring kindness and vitality unique to this institution. St. Joseph's Hospital and Medical Center was founded on September 8, 1867, and on September 8, 1991, they will not only celebrate 125 years of outstanding service, they will dedicate a new facility and thus begin a new era of profound dedication to the health and welfare of the residents of the northern New Jersey area.

Located in Paterson, NJ, St. Joseph's has through the years remained a haven for the sick and injured in the area. It provides more than basic medical care, it is a sanctuary of comfort to those in need. From its start as a little wooden house with 12 beds to the multidimensional medical center that is St. Joseph's today, quality health care has been the priority.

Mr. Speaker, now well into its second century of service, St. Joseph's is still operated by the Sisters of Charity of St. Elizabeth. Under their benign administration this institution has become one of the leading medical centers in the State as well as one of the largest. It offers 702 acute and long-term care beds and an exceptional range of diagnostic and therapeutic services. A major expansion and renovation is also currently underway which will provide 67 additional beds to the medical center and will be completed this September. The facilities include: the acute care hospital in Paterson, the nursing home in Montclair, the Clifton Family Practice Associates, the Frank X. Graves Family Health Center in downtown Paterson, and the Medical Center at Willowbrook.

Each year, the staff treats approximately 23,000 inpatients. More than 37,000 visits are recorded annually in the emergency department and the numerous specialized ambulatory care programs and services, operated by the medical center, record some 176,000 outpatient visits every year.

Patients of every race and creed come to St. Joseph's each year from throughout New Jersey and the metropolitan area. The hospital serves as a Level III Perinatal Center and a regional referral center for neonatal and pediatric intensive care, child development, peritoneal, and hemodialysis. One of St. Joseph's most widely recognized and highly regarded units and part of the Level III Center is the intensive care nursery which serves approximately 500 infants a year. These babies are often transported to St. Joseph's from some 20 surrounding community hospitals.

The Cardiac Surgery Program is an outstanding success performing thousands of catheterizations a year and boasting a mortality rate of less than 1 percent on coronary bypass operations.

Cancer diagnosis and treatment are among St. Joseph's most specialized and sophisticated services. It was the first hospital in the State to perform autologous—using a patient's own bone marrow—and allogenic—using bone marrow from an unrelated donor—transplants. St. Joseph's is the only designated bone marrow donor center for New Jersey and has the largest transplant program in the State.

The hospital's orthopedic surgeons are at the forefront of the newest techniques to improve the function of hip and knee joint replacement and spinal surgery for scoliosis. The Sports Medicine/Human Performance Center, designated as a U.S. Olympic research site in 1983, serves as a diagnostic and treatment center for amateur and professional athletes.

St. Joseph's is also affiliated with over 25 colleges and universities including: the University of Medicine and Dentistry of New Jersey, Mt. Sinai School of Medicine, Seton Hall University's School of Graduate Medical Education, and Columbia University. In addition, St. Joseph's has its own School of Medical Technology, School of Cardiac Technology, and is the clinical training site for hemodialysis technicians.

Mr. Speaker, facilities such as this have established the highest standards for health care in the country and serve as shining examples of what can be accomplished. St. Joseph's is not just a cold, sterile commitment to medical technology and its applications. It embodies a commitment to good medicine and providing care for the sick and injured who seek comfort and healing at their doors.

This truly unique institution has been a faithful servant of the people for 125 years. It has grown and flourished and continues as a vital part of the community. Mr. Speaker, I am sure you and all my colleagues join me in saluting the superior dedication and performance of Sister Jane Frances, president of St. Joseph's, as well as all the staff and benefactors of the hospital throughout its long and distinguished history.

HONORING THE 100TH ANNIVERSARY OF SAN ANTONIO, FLORIDA

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. BILIRAKIS. Mr. Speaker, I rise today to honor the spirit, pride, and sense of community shared by the fine people of San Antonio, FL, which will be celebrating its 100th anniversary as a municipality on August 7, 1991.

San Antonio, which is located in eastern Pasco County, was founded by Judge Edmund F. Dunne in 1881 as a Catholic colony. In its earliest days, San Antonio was a haven of religious freedom for a group which was still feeling the pain of bigotry and discrimination in many areas. The settlement continued to grow and it soon became obvious that to properly govern themselves, the people of San Antonio should become a legal entity. On August 7, 1891, San Antonio was incorporated under the laws of Florida.

Even in the 1880's, much of the land surrounding San Antonio was planted citrus groves. The groves were the main industry of the area and provided many people of the town with their livelihood. When in 1895 a devastating freeze hit the area, much of the citrus was destroyed, along with the hopes and dreams of many community residents.

Without jobs, many people were forced to move away. It took almost 75 years for San Antonio to reach the population level it enjoyed in 1891. Today, San Antonio remains a proud, small community made up of civic minded, independent people. It is a place where citizens believe it is their duty to vote on election day and take pride in solving their own problems, rather than always turning to government for help.

For example, this year, San Antonio's Rattlesnake Festival will celebrate its silver jubilee. This festival annually raises necessary revenue for important town services and special projects.

Mr. Speaker, San Antonio is the kind of place all of us would be proud to call home. Its people epitomize the spirit of our Founding Fathers: Independence, brotherhood, and pride in accomplishment. I am honored to represent the fine people of San Antonio, FL, and congratulate them as they embark on a second century of citizenship.

TRIBUTE TO LELAND BANDY

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. TALLON. Mr. Speaker, I could not let today go by without recognizing a milestone in journalism in South Carolina. Thirty years ago today, Leland Bandy started covering the South Carolina congressional delegation for a regional wire service. Later, in 1966, he joined the staff of the Columbia SC State as their Washington correspondent and has remained there ever since.

So for 30 years now, Bandy, as we all know him, has praised, badgered, questioned, laughed at and with all of us who have served the State of South Carolina in Congress. His infamous Sunday column is required reading for all who consider themselves in the "political know" in South Carolina. Few reporters in Washington have watched three decades of history unfold and been right on the front lines to report it.

Bandy's 30-year anniversary covering South Carolina in Washington is also a turning point in his career. He has recently been promoted to the position of Chief Political Correspondent at the State paper. While this position will present him with new challenges and opportunities, it will also necessitate a move back to South Carolina.

With his departure from the Capital scene, I'm sure each of us in the delegation will remember a story Bandy wrote that we would have rather not seen printed. On the other hand, I know we have all kept clippings of the good coverage he has given us, too. And while I cannot honestly say that I have always welcomed a call from Bandy following a con-

troverial vote or during contentious debate, I can say that he has always covered congressional politics in South Carolina with an even hand and a journalistic flare that will be impossible to replace.

I know Bandy will be missed by all who work with him in Washington—his colleagues at Knight-Ridder, his fellow journalists in the Senate Press Gallery, and the staff and Members of the South Carolina delegation.

Politics in South Carolina is always exciting, to say the least, and I know that Bandy will cover the political scene back home with the same style and tenacity that he covered Washington. I wish him and his family every success in South Carolina.

RURAL HEALTH

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 1, 1991

Mr. STENHOLM. Mr. Speaker, I am pleased to come to the well of the House of Representatives today, joining my colleagues of the House Rural Health Care Coalition, which I am privileged to cochair, to speak about the state of health care in rural America.

Over the past 4½ years, some of my most rewarding professional experiences have come from working with this bipartisan coalition. What started as 40 somewhat disorganized but like-minded Representatives back in 1987 has now turned into a highly active group of 171 Members, functioning in seven distinct task forces. The spirit of compromise and bipartisanship of this group is born of a dedication we all share, the dedication to preserve quality health care in rural areas.

Our coalition has brought about some significant successes over the years. I have no doubt that without this coalition's efforts, health care in rural areas would be in a far more precarious state than it is today.

Unfortunately, saying that things aren't as bad as they could be isn't the same as saying that we have solved all of our problems. In my own district, I have had 10 hospitals close over the past 10 years, and I have another half dozen barely hanging on for life. Like my colleagues gathered here this evening, I have constituents who have difficulty finding a doctor to deliver their babies, communities with severe shortages of allied health professionals, and low-income people struggling to find regular health services.

The good news is that out across rural America, hundreds of creative, caring citizens are working on solving our problems. They

share with us in the coalition some of their insights, and after many, many hours of study, discussion, and internal debate, the House Rural Health Care Coalition developed a comprehensive legislative package for 1991. This package addresses some of the most pressing health care concerns facing rural communities today. The coalition is proud of the work that was accomplished by its task forces in bringing reasonable, affordable, and effective bills forward.

At this point, I would like to take a moment to commend all of the Members of the coalition—Members like PAT ROBERTS who cochairs this organization with me and IKE SKELTON who organized this special order—and specifically to praise the hard work of the seven task force chairmen. Those task forces and their chairs are:

Physicians—J. ROY ROWLAND.
Hospitals and clinics—JIM SLATTERY.
Health professionals/medical education—JIM COOPER.

Mental health—GLENN POSHARD.
Rural veterans health—TIM PENNY.
Rural development/access—GLENN ENGLISH.
Older Americans—STEVE GUNDERSON.

In addition, four "at-large" steering committee members are BYRON DORGAN, DOUG BEREUTER, CRAIG THOMAS, and VIN WEBER.

The legislative package we introduced in May of this year covers the full gamut of rural health concerns and, while ambitious, is also very realistic, both politically and fiscally. We did not introduce bills simply to make a political statement or to catch a newspaper headline; we introduced bills which should have a good chance of being implemented and, more importantly, of improving rural health care.

With the supply, recruitment, and retention of physicians in rural areas a top priority, the coalition's package includes several bills to address this concern. Dr. ROWLAND'S Rural Physicians' Incentives Act, H.R. 2230, would provide financial incentives particularly to young physicians practicing in rural areas, while his Rural Access to Obstetrical Care Act, H.R. 2229, would establish Medicaid demonstration projects to increase Medicaid participation of obstetrical providers in rural areas.

In a related measure, H.R. 2231, JIM COOPER has introduced the Primary Care Training Amendments which would require, as a condition for receiving certain Public Health Service funds, that medical schools have Departments of Family Practice and require clinical experience in family practice.

The fourth bill relating to physicians is RON WYDEN'S H.R. 2239, providing protection from legal liability to employees of community and migrant health centers.

Relief to rural hospitals would be provided through JIM SLATTERY'S Hospital Antitrust Fair-

ness Act, which would assist rural hospitals attempting to merge, consolidate or contract to provide a more rational supply of health services; his Rural Clinical Laboratory Personnel Shortage Act, intended to address potential clinical laboratory personnel shortages in hospitals and physicians' offices; and my Medicare certification due process bill, which tries to ensure a safe and reasonable process that will prevent hospitals from being needlessly closed.

Perhaps the single most important health concern in rural America is the question of access to services. Hospitals closing and doctors leaving pose a life-endangering threat to a community, because with no health care, there soon is no business and no community at all. While virtually all of our bills address access to care in one way or another, the questions of access to care are specifically considered through GLENN ENGLISH'S telecommunications bill, H.R. 2232, and his Leadership Education Act, H.R. 2236, as well as PAT ROBERTS' Emergencies Air Transport Act.

One area sometimes ignored in rural areas is that of mental health and substance abuse. GLENN POSHARD has introduced H.R. 2237 to direct the Office of Rural Mental Health to fund effective research demonstration projects for delivering basic mental health outreach services to rural Americans. In addition, CRAIG THOMAS' H.R. 2235 would give States more flexibility in using alcohol and drug abuse funds.

Other coalition initiatives address issues such as sharing agreements between rural hospitals and the veterans health care system—TIM PENNY'S resolution—requiring the compilation and publication of better data on rural health care, and improving medical education demonstrations which tie rural hospitals to teaching hospitals.

Since introduction of these bills, the coalition has been busy in promoting them in the appropriate committees, working toward funding of rural health programs within the appropriations bill, sponsoring face-off briefings on critical issues for rural health care, and representing rural views to the administration on issues such as capital reimbursement and physician payment reform.

The problems of rural health remain large. Speaking personally, my motivation to tackle those issues comes from the creative and caring spirit of Americans out across the country trying to make a difference in their own communities, the cooperation and congeniality of the Members of this coalition, and the belief that, indeed, together we can do those things which will improve the country we love.