EXTENSIONS OF REMARKS

THE FORGOTTEN FLEET OF WORLD WAR II—COAST GUARD-MANNED GUNBOATS IN THE PACIFIC

HON. ROBERT K. DORNAN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. DORNAN. Mr. Speaker, I insert today in the RECORD the inspiring story of Coast Guard-manned gunboats serving as part of the Navy's Seventh Fleet. These combat Coast Guardsmen were called the Seventh Amphibious Force under the command of Adm. Daniel E. Barbey and came to be known as MacArthur's Navy.

Please take a moment to read about the exploits of these brave Coast Guardsmen who continue to serve our Nation today as brave warriors of the sea.

[From Sea Classics, September 1993]

ASSAULT AGAINST NEW GUINEA

(By Frank A. Manson)

On a bright summer day in 1942, a weird and wonderful mechanical contrivance rumbled down 14th Street in Washington. It was indeed a hybrid thing, with the body of a barge and the wheel tracks of a tank. It behaved like an automobile, besides, when it came to traffic lights and stop signs. After crossing the Potomac, the nightmare thing slid into a lake with the nonchalance of a duck. Immediately, a man on the shore began to scream wildly and wave his hands at the "thing." When the ugly monster emerged from the water, all the occupants were put under arrest for invading a wild waterfowl sanctuary.

This was the first recorded action taken against an amphibious vehicle.

One of the occupants was a Navy captain named Daniel E. Barbey, who held the unique post of head of the Navy's Amphibious Warfare Section, thus placing himself well on the road to acquiring the nickname "Uncle Dan, the Amphibious Man."

When the Japanese dropped the first bomb on Pearl Harbor, amphibious warfare had not progressed much since the British went ashore in small boats from warships during the Battle of New Orleans. With the convenient use of pierheads denied to us by the enemy in this war, it was necessary to devise some method of getting troops and heavy equipment ashore and on the beaches.

One of the prototypes of the strange new family of ships, boats, and small craft that were to confuse even naval officers with their alphabetical designations was the "Alligator." It was in an Alligator that Barbey got into trouble with one of Secretary Icke's bird watchers.

The Alligator was an invention of Donald Roebling, of the world-famous family of bridge builders. It was not conceived to be a naval craft, but as a carrier of cargoes and hunting parties through the weedy, sandbarred, log-snagged Florida bays and swamps. Something that could travel over any mixture of land and water.

It was not even an engineer, but a scholar with a ready hand for tools, who devised the unique propulsion gear of the Alligator, Noyes Collinson, house guest and lifelong friend of Roebling. With tape, cardboard, rubber bands, and an oblong wooden cream-cheese box he built a model whose caterpillar track was equipped with rubber flanges that would serve as elongated paddle wheels in water, on land as treads pliant to rocks or logs, and as self-cleansing grips in mud or quicksand. The first embryo Alligator triumphantly traversed the Roebling swimming pool, climbed its tiled edge and proceeded to give birth to a huge family of hybrid mechanical saurians at home in surf or jungle.

Into their evolution went the landing ramp, experimented with by our Navy and Marine Corps and used by the Japanese on shallow-draft small boats employed in the invasion of the East Indies, and the half-keeled invasion ships experimentally built by the British from Admiral Lord Keye's designs. Marine Corps and Navy expert contributed new ideas, or demands for performance which inspired new ideas, and in the midst of it all came General MacArthur's request for an amphibious admiral. The obvious man for the assignment was Dan Barbey, who not only had worked on the construction of the new fleet, but had also assisted in training the 1st Marine Division (later to land at Guadalcanal) and the 1st Army Division (used in the North African invasion) in the techniques of amphibious warfare.

On 15 December 1942, Barbey was nominated a rear admiral and ordered to Australia, as Commander Amphibious Force Southwest Pacific. At the time Admiral Barbey had only a paper fleet but it was to grow into the mighty Seventh Amphibious Force, which as part of the Seventh Fleet, was to take part in 56 amphibious landings, move more than a million men over the Eastern seas, and transport cities of supplies to the malaria-ridden jungles of New Guinea and to the shores of the liberated Philippines.

The Seventh Fleet was a far cry from the type of fleet that was later to pound a path across the Central Pacific. Lacking were the large heavy units that men think of as traditionally belonging to a fleet. There were no battleships, no aircraft carriers, and only a few cruisers, some of them Australian. True, these larger units were to be added in the future, but there were many long miles of New Guinea coast to mop up before the mighty landings in the Philippines saw the Seventh Fleet full-blown and strong enough to combat the remains of the Japanese Navy.

When men of the Pacific spoke of "MacArthur's Navy" they meant the Seventh Fleet. This was true from both an operational and an administrative standpoint. The primary function of the fleet was the support of land operations, and because of this the core of the fleet became the Amphibious Forces.

Admiral Barbey arrived in Australia in January 1943. The organization he proceeded forthwith to create was destined, except for two occasions, to lead all the major combined landing operations of our sweaty advance along the jungled coast of New Guinea and into the heart of the Philippines and Borneo. The story of his Amphibious Force is the history of the Seventh Fleet.

The problems of amphibious warfare were known to Barbey from his Atlantic days, but as this whole conception of warfare was new, rough, original ideas had to be painfully polished up by trial and error methods.

Without ships, however, the problems of amphibious warfare were academic, so Admiral Barbey with Brisbane as his base of operations, went out in search of shipping. Pickings were lean, to put it mildly, for other theaters of war had a priority on things that floated, but enough was scraped together for a beginning.

The *Henry T. Allen*, formerly the liner *President Jefferson* converted into an attack transport (APA), was acquired from the South Pacific in March 1943, for troop training. The Australian Government kicked in with three former passenger ships previously used as merchant cruisers. These, *Westralia*, *Manoora*, and *Kanimbla*, were converted into Landing Ships, Infantry (LSIs), the British equivalent of our APAs, and were put to immediate use. These four ships formed the slim beginnings of the Seventh Amphibious Force and were to serve with that force until the end of the war.

At Port Stephens, north of Sydney, The Royal Australian Navy had an amphibious training base known appropriately as HMAS *Assault*. The facilities were offered to Admiral Barbey, who immediately set up the Amphibious Training Command for the purpose of accustoming Australian and American soldiers to flying spray and bouncing boats.

The Amphibious Forces were ready for their first show in June 1943. The objectives were two islands in the western Solomon Sea off the coast of New Guinea—Woodlark and Kiriwina.

Admiral Barbey's flagship was the USS *Rigel*, a repair ship. The *Rigel* was so small that there were bunks for only a fraction of the Admiral's staff, and consequently the wardroom—the officers' dining room, recreation room, and library—became office, wardroom, or sleeping quarters according to the greatest need at the time. Off to Milne Bay she wallowed with an overload of humanity to prepare for the first operation. The Kiriwina invasion force was to stage, as best it could, out of Milne Bay; the Woodlark force used the better facilities of Townsville, Australia, for its preparation.

On 30 June 1943, while amphibious forces of Admiral Halsey's South Pacific Command were going ashore on Rendova and New Georgia, Admiral Barbey's hybrid fleet ground their virgin noses and keels on the sand and coral of Woodlark and Kiriwina. To some the instant plethora of mishaps and confusion seemed almost like something taken from a Mack Sennet comedy film. The invasion fleet itself was a motley mix of begged, borrowed and some claimed stolen vessels of every description. Few of the ships had worked as a team before, crews had been hastily assembled or transferred. Many aboard the new landing craft lacked sufficient seagoing experience and officers with any amphibious operational skills were at a precious premium.

● 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.

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Barbey's "borrowed" fleet came from a multitude of sources, all hastily assembled. In addition to the loaned Australian liners it consisted of four old flush-deck destroyers that had been converted to small assault transports (APDs). These had been wrestled from Halsey's Third Fleet along with six LSTs. Eleven other LSTs had newly arrived from the states. These were jointed by 20 LCIs, 20 LCTs, ten SC patrol boats, four YMS mine-sweepers and a civilian-manned salvage tug. Offensive Reconnaissance was provided by submarines and PT boats patrolling the northern end of Solomon Sea.

The absence of any Japanese opposition to the practice landings helped to keep the tragicomedy from becoming a major disaster. With many of the new landing craft snagged on jagged coral reefs or with props damaged by uncharted rocks much of the equipment had to be torturously unloaded by hand fifty to a hundred feet from the beach. But despite the initial confusion the landings proceeded and allowed the Army to soon carve out vitally needed airstrips on the two islands.

The landings at Kiriwina and Woodlark were a good drill for Barbey's neophyte Seventh Amphibious Force. Lessons learned there would hold them in good stead for the tough, often harrowing landings yet to come.

Meanwhile, the boys manning the PTs of the Seventh Fleet felt that their kin across the way in the Solomons were having all the fun. They had big game targets like Japanese cruisers and destroyers charging down the slot, whereas in New Guinea the hunting was mainly elusive enemy motor barges that were impossible to torpedo and difficult as corks to sink.

The first PT boats moved into the New Guinea area in December 1942, more than six months before the Seventh Amphibious Force made its amateurish bow in the empty theater of Woodlark and Kiriwina. The beginnings were small, only six boats and a tender, the converted yacht *Hilo*.

Commander Edgar T. Neale's chief problem as commander of motor torpedo boats in the Southwest Pacific area was to cut off supplies for the Japanese advanced forces, which were shipped down the coast on 80-foot-armed wooden power barges. It was a gunboat war, and a night war, the adversaries hiding in jungle-screened bays by day. One of the greatest dangers, besides the intense return fire from the barges, was uncharted reefs.

The first major action against enemy barges took place the night of 17 January 1943. The *PT 120* was on the prowl near Douglas Harbor when, across the calm water, she saw three Japanese barges heading south, as usual hugging the coast. Immediately, the PT went to full speed and headed in, all guns blazing. Simultaneously, the barges opened up with machine guns and 20mms, the long strings of greenish-blue tracer showing the surprised Japanese to be consistently firing too high. At top speed the PT circled the barges, raking them from stern, beam, and stem, from every angle, for 25 minutes.

Even ordnance can't work without rest, and the *120*'s guns were glowing hot as all but two jammed, and the action had to be broken off. But two of the barges had been sunk, and the third was ablaze. The PT had been hit twice; one 20mm shell pierced the wooden bow and exploded in the chain locker and another 20mm hit the aft 50-caliber gun mount. Chief Motor Machinist's Mate J.J. Master, Jr., was badly wounded and died ashore twelve hours later.

Not much of a battle, of course. It does not appear in history books as the Battle of Douglas Bay. But Masters was just as dead as any of the thousands who died in the big fleet engagements, his ten shipmates fought as gallantly against odds, and the small victory left some thousands of Japs short of food, ammunition, and medical supplies. A two-bit contribution to a ten-billion-dollar victory, maybe, but the one example of what the PT boys' chore was, night after night, along the New Guinea coast.

BATTLE OF THE BISMARCK SEA

By the end of January the Australian 7th Division, after slugging its way across the Owen Stanley Mountains, and the US 32nd Division had mopped up the last Jap in the Buna-Sanananda area, and began pushing slowly up the fever-haunted coast.

The Japanese had no choice but to reinforce the Lae-Salamaua area with troops from their great base at Rabaul on New Britian. On the last day of February a convoy of six transports, ranging from 2,700 to 6,900 tons, two small freighters of about 500 tons apiece, set out across the Bismarck Sea escorted by eight destroyers. On the evening of the next day, 1 March 1943, the convoy was sighted by a patrolling B-24. Word was flashed back to headquarters at Port Moresby, but it was too late to strike that day.

All that night the convoy was shadowed by the Navy's "Black Cats," black-bodied Catalina Flying Boats whose night patrols became famous throughout the South Pacific. The Navy fliers kept Port Moresby informed of the ships' course and speed. The next morning dawned clear and the bombers came back for the kill, guided by the Black Cats' over-the-spot directions. The convoy was now only 60 miles east of its destination, Salamaua, but it was never to arrive there.

Throughout the day Allied fighters and bombers shuttled over the Owen Stanley Mountains between Port Moresby and the convoy—Beaufighters, Flying Fortresses, Havocs, Mitchells, Lightnings, Kittyhawks, Airacobras—gassing up, rearming, and dumping death and destruction. At one time there were more than 109 planes over the convoy, or what was left of it by then. By nightfall only four destroyers and two cargo ships were reported to be afloat, and both cargo ships were burning.

To finish the work of the bombers eight PTs were sent out that night, and two of them, the *143* and *150*, polished off the only Japanese ship of the convoy left afloat. The surviving destroyers had fled.

The now-famous Battle of the Bismarck Sea was over and the Japanese had lost all of the eight ships in convoy, four of the escorting destroyers, and the special service vessel. Loss of life was high among the troops of the 51st Japanese Division. About 2,900 men were drowned. Japanese destroyers and submarines picked 2,734 survivors out of the water.

The Battle of the Bismarck Sea convinced the Japanese that sea routes from Rabaul to Lae and Finschhafen were unhealthy for any ship as large as a destroyer. No more could the positions around Lae and Salamaua be reinforced by cargo ships and fast destroyer transports. Supplies had to be muscled overland through swamps, toted in handfuls by submarine, or brought in on barges sneaking along the coast from Wewak. It was in the strangulation of this barge traffic that the PT boats were use toilsomely to demonstrate their hell-raising potentialities. The doughty little giants were not to find heftier game again until the Leyte operation.

Two months after the dress rehearsal at Kiriwina and Woodlark, Admiral Barbey's Seventh Amphibious Force was ready for the Japanese. The picked point of contact was on the rugged Huon Peninsula, 14 miles east of Lae. Here it was planned to put the 9th Australian Division ashore for a drive as the Japanese stronghold, 14 miles through mangrove forest and other stinking, miry river deltas. Of the 56,000 enemy troops estimated to be in New Guinea, 12,000 were believed to be in the Lae-Salamaua area.

The Lae Task Force formed up in the Milne Bay area and headed up the coast.

Before dawn on 4 September, the destroyer *Conyngham* eased in toward the dark low coast. The mountains that rise abruptly from the flat, wooded coastal plain could not be seen in the darkness. Landing beaches were hard to identify. Aboard the *Conyngham* Admiral Barbey studied a chart with an Australian naval lieutenant, who before the war had been part owner of a plantation near the beach area. Before sunrise the two sandy strips had been found, and the APDs, LSTs, and LCIs were drawn up ready to empty their troops.

For almost three weeks prior to the Lae operation Allied planes hammered at the enemy's airfields in Wewak, Hansa Bay, Alexishafen, and Madang. At Wewak, alone, over 200 planes were destroyed on the ground and 64 in the air by American and Anzac Army fliers. Japanese air support was pushed back 300 miles to Hollandia.

The morning of the landing, however, there was still grave danger of air attack from Rabaul. The destroyer *Reid* took position off Cape Cretin to sweep the eastern horizon with radar and to direct our fighters to enemy planes that might head from that direction.

As the first waves of boats started in from the APDs, the destroyers *Lamson* and *Flusser* began to rake Yellow Beach with 5-inch fire while *Perkins, Smith* and *Mahan* gave Red Beach the same treatment. But, the enemy made no response.

But if the Japs were not on hand to greet us from the shore, he was quick to leap on us from the air. At 0705, little over half an hour after the first boat had snubbed its nose on the beach, seven Mitsubishi bombers and three Zeros came diving down from the mountains, undetectable by radar.

At that time the *LCI 339* was approaching the beach, dropping her stern anchor and in no position to maneuver. A shout of warning, a few seconds to swing the AA guns on the target, and then three Zeros ripped her bow to stern with their bullets.

Close behind came the bombers. Two "paint-scrapers" exploded in the water to port and to starboard, staggering the little ship and then, in a perfect bracket, a third bomb bore into the deck amidships, blasting a jagged hole seven feet across, buckling decks, rupturing bulkheads, and riddling the superstructure with large holes. The doctor's quarters were smashed and the pilothouse wrecked beyond recognition. Listing badly to port the LCI made a dying lunge onto the beach and settled in the shallow water.

On the blasted decks Australian and American blood flowed together. Twenty Australian soldiers had been killed and just as many wounded. Eight Americans were wounded, among them the ship's doctor, Lieutenant (jg) Fay B. Begor, who lay with both thighs shattered by shrapnel. He died a few days later aboard the *LST 464* the converted landing ship that had been fitted out as a firstline hospital ship of the Seventh Amphibious Corps. (The LST hospital ship was not protected by the rules of the Geneva convention. She looked the same as her

fighting sisters and bristled with as many guns.)

The troop-filled *LCI 341* was caught in the same attack. A near miss blasted a gaping hole in her port side, starting numerous fires. Lieutenant (jg) Robert W. Rolf calmly ordered the troops to starboard to counteract the port list, and, like a battle-wise veteran (which he wasn't), skillfully brought his craft into the beach, firmly snubbing her upon the sand. When the troops were unloaded, Rolf personally lead a fire-fighting party and soon the flames were smothered. The craft was so badly hurt that the crew had to be assigned to other duties. But Rolf stayed with his ship, sure that it could be salvaged.

On 6 September he was still checking damage when a flight of Japanese bombers came in over the western mountains. It happened very quickly. One explosion bathed the *341* with a hot shower of shrapnel, and Rolf was deeply wounded in the right thigh. His ship—for which he had risked his life—would fight again, but not he. Forty-five minutes later Rolf died on the operating table. Beside him, tight-lipped, stood the Army colonel whose men he had landed safely on the beach.

On the first day of the Lae landings over 7,800 fully equipped troops had been put ashore, quickly so as not to overexpose the almost defenseless landing craft to avoidable air attacks. When Jap planes struck at the landing beaches the afternoon of 4 September they found only the two injured LCIs and one of those tough little bulldogs of the Navy, the tug *Sonoma*. But more men and more supplies were on the way.

In the wheelhouse of the *LST 473* stood Johnnie Hutchins, Seaman 1st Class. The ship was at General Quarters and his station was lee helmsman. He peered over the shoulder of the man at the wheel, watching the gyro click back and forth to either side of 132, the course being steered. Soon it would be time for him to relieve the man at the helm. Meanwhile he wished he could smoke.

Then—"Bogies on the port bow!"

Nine of them, all enemy, dive bombers and fighters. Simultaneously twin-engined torpedo planes slanted out of the sun on the port beam. The *LST 473*, under attack for the first time in its career, was blanketed with four bombs, all of which seemed to explode together. Two were near misses, but two hit all too true. One demolished the commanding officer's station and blew up a 20mm gun, including the ammunition, killing six and wounding 13. The other ripped through to the bottom of the ship and exploded near the keel amidships, bulging the deck four feet out of true.

In the smoke and debris of the wheelhouse the helmsman lay dead, and beside him lay Johnnie Hutchins, bleeding badly, both feet a pulp of shattered bone and flesh. But he wasn't dead. He could see—and he saw the helm untended. He could hear—and from what seemed to be miles away he heard the order from the officer of the deck: "Right full rudder!"

Torpedo planes were coming in fast at masthead height.

Through the puzzling blackness that fogged his eyes, Johnnie reached for the wheel and twisted it to the right with his last ounce of strength.

As the ship swung right, the straight white wake of a torpedo passed 20-feet astern. Johnnie's turn had saved the ship.

After the attack, the boy's dead fingers had to be pried loose from the wheel. Johnnie David Hutchins, age 21, had given his life for his shipmates, and had earned the Congressional Medal of Honor. The next year, at a shipyard in Orange, Texas, his mother christened a sleek, new destroyer escort—the USS *Johnnie Hutchins*.

Other ships of the convoy were being attacked at the same time the *LST 473* was absorbing so much punishment. Evidently mistaking the mine sweepers for destroyers, several dive bombers peeled off for the attack but succeeded in scoring only near misses. The *LST 471* (Lieutenant George L. Cory) also was receiving the one-two punch of dive bomber and torpedo plane, but a damage control party led by Lieutenant Albert E. Craig, the executive officer, kept her afloat.

The casualties were relatively heavy. We counted six of our men dead, one missing, five injured. The Australian dead numbered 45, with two missing and 17 wounded. The Japanese lost two planes out of the attacking dozen.

The two crippled LSTs were taken in tow to Morobe, where, next day, the dead were buried ashore.

The Japanese in the Lae-Salamaua sector now found themselves caught in a master squeeze play. The day after the landings on Red and Yellow Beaches, units of the 7th Australian Division were dropped by parachute in the Markham River valley, the first use of the airborne troops in the Southwest Pacific.

There was no escape for the trapped Japanese. Retreat overland was cut off. Withdrawal in barges or submarines across the Huon Gulf was made disastrously unhealthy by our PT boats and destroyers.

The enemy retaliated with air attacks on our convoys that kept the vital supplies pouring onto the beaches east of Lae. The destroyer *Conyngham*, with Admiral Barbey aboard, fought off a swarm of bombers while returning from the initial landings. On 12 September, by which time the Seventh Amphibious had landed over 16,500 troops on Red and Yellow, bombers attacked our advanced base at Morobe and damaged the *LST 455*, but the fire was put out with the aid of that veteran tug, the *Sonoma*, who, having undergone three intense air attacks in one week, felt as if she were fighting a single-handed war against the Japanese. Two of her men, unable to stand the strain, broke down with hysteria, as truly wounded as if by bullets.

On the morning of 16 September, troops of the 7th Australian Division, after fighting their way down the Markham Valley, entered Lae, still smoldering from the attacks of Allied heavy bombers. The Japanese who remained offered only slight resistance before they fled into the brush.

With the capture of Lae, the last serious threat to southeastern New Guinea and the possible threat to Australia were removed. The Allies now had control of Huon Gulf, with all its strategic advantages, and Vitiaz Strait was not wide open for Allied aerial and surface patrols against enemy barge traffic between New Guinea and New Britain.

Things had gone well at Lae. So well, in fact, that the schedule of attack in New Guinea could be stepped up considerably.

The assault date for Finschhafen was moved up three and a half weeks to 22 September. Plans were literally still being made for the operation as the first echelon moved toward the beaches.

Just before midnight on D-minus-2 day, six LSTs pulled away from Buna and headed for George Beach, east of Lae, escorted by four destroyers and the omnipresent tug *Sonoma*. The following morning 16 LCIs shoved off from Buna. With them were four destroyers of the bombardment group plus the *Henley*.

Admiral Barbey, his flag again on the *Conyngham*, preceded the group.

The beach selected, "Scarlet," was on a small bay six miles north of Finschhafen, flanked at either end by steep cliffs. Not much was known about the area. Photographic coverage had been inadequate, and the party of ten scouts, landed the night of 11 September from PT boats, had not obtained all the information they were after because Japanese activity kept them lying low.

The time selected for the landing was a compromise. The Navy, at this stage of the war having in mind the continuous menace of aircraft, preferred night landings. The Army, on the other hand, wanted a dawn landing so that their troops could see what they were doing. The compromise hour was 0445, permitting a landing in darkness and at the same time giving the troops good light shortly after they had hit the beach.

The stage was now set. Before midnight the heterogeneous fleet weighed anchor and headed east, some of the ships trailing canvas in bridal-veil fashion to conceal their phosphorescent wakes from night-flying Japanese.

First blood was drawn by the PTs *133* and *191* on patrol north of Finschhafen when they sighted a 120-ton coastal trawler scouting near Fortification Point. Like a dog after a thrown stick the two boats went to flank speed and closed, blowing the scout out of the water and breaking its keel.

Precisely on schedule, at 0433, four destroyers, commenced the beach bombardment. While the destroyers were still sending their whistling 5-inch shells through the darkness, the first wave of boats from the destroyer transports started in toward the beach. Our troops found the beach defenses fully manned.

Machine gun and mortar fire was intense. Sniper fire also was heavy, and in an effort to silence it, several of the ships opened up at the treetops.

Landing in the darkness caused some confusion. Two LCIs, one leaving and one approaching the beach, collided. One LCI had its port ramp carried away when it attempted to land troops in deep water. Operations all along the line were delayed when the LCMs and LCVs carrying units of the 2nd Engineering Special Brigade lost their way.

But in spite of all, by 0935, the last LST had unloaded and another beachhead was firmly established on the Road to Tokyo.

The first air attack—ten torpedo planes—that broke through the tight umbrella that the Army fighters capped over the area, came a little after noon when the last three LSTs, the *Sonoma*, and the destroyers *Perkins*, *Smith*, *Reid*, *Mahan*, *Henley* and *Conyngham* were retiring south. Captain Jesse H. Carter, in command of the escorting destroyers, immediately signaled the prearranged maneuver against aircraft attack. The destroyers rang up full speed and started circling the convoy in a counterclockwise movement while the tug and LSTs kept course and formation, wiggling right and left like agitated polliwogs.

Two of the planes were hit at long range by the destroyers' 5-inch fire and were down before they could loose torpedoes. A third, hit at long range, dropped its torpedo 90 degrees from its proper course.

Wakes of seven torpedoes crisscrossed the water, but none hit. By the time the P-38s arrived to take charge of the situation our ships had knocked out eight of the attackers, and the two others were heading for Rabaul. Added to the 37 planes that the

Army fighter-cover had knocked down over the beach that day, the total bag left the sky empty of Japanese planes.

After cleaning out Japanese mortar batteries and machine gun implacements on Scarlet Beach, Allied troops advanced rapidly southward along the coastal plain. Another Allied force moving eastward along the coast cut off the southern escape route of the Japanese. Again, the PTs and Allied patrol planes made withdrawal across Vitaiz Strait in barges to New Britain extremely dangerous for the bottled Japanese. On 2 October, within ten days following the initial landings, Finschhafen fell after hard fighting to elements of the Australian 9th Division.

But the sweet taste of victory was bittered by the next day by the loss of one of the desperately few combatant ships the Seventh Amphibious Force possessed. At six in the evening the destroyers *Reid*, *Smith* and *Henley* were in a loose column formation about to commence an anti-submarine sweep off Finschhafen, when suddenly the *Smith* sheered out of column to starboard. Four torpedo wakes wrote the reason in the water. As the *Henley* came left, increasing speed to 25 knots in pursuit, the commanding officer, Commander Carlton R. Adams, saw two torpedoes approaching his ship from the port side—one heading for the bow, one for the stern.

"Hard left rudder!"

The slim ship seemed to pivot around her mast, heeling to the turn. One torpedo passed clear of the bow by about 30 yards and another skittered ten yards astern on the surface. It looked as if the ship had avoided certain death, but five seconds later a third torpedo tore in, heading straight for the ship's belly. It hit the port side amidships and dug into the fire room before exploding, destroying the boilers and snapping the keel. Within three minutes, with the main deck awash, Commander Adams gave the order that tears at the heart of Navy skippers: "Abandon ship!"

The *Smith* and *Reid* immediately jumped after the submarine, but after a number of attacks lost contact and were not able to regain it. That night the seas were carefully combed for *Henley* survivors floating in rafts. When the last oil-coated man was hauled aboard, only one officer and 14 enlisted men were missing.

With the capture of Finschhafen the first phase of the New Guinea campaign was over. During the next few months the main Allied effort was devoted to the neutralization of the great Japanese bases at Rabaul and Kavieng. Once this was accomplished, "MacArthur's Navy" would be in a position to commence the 1200 miles of leapfrogging the troops up the northern New Guinea coast to poise for the long jump to the Philippines.

HONORING PASTOR ELIAS MINOR

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. ENGEL. Mr. Speaker, I am pleased to join with the United Christian Baptist Church of the northeast Bronx in saluting Pastor Elias Miner for 33 years of service to the community.

On May 15, 1996, Pastor Miner organized the United Christian Baptist Church after serving for 12 years with the late Jasper Reaves at the Community Baptist Church. Since that time, the church has grown in size as well as in stature within the community. The fact that so many people rely on the United Christian Baptist Church for support and inspiration is a credit to the dedication of Pastor Miner.

Beyond his work in the church, Pastor Miner has also contributed to the successes of many other organizations, including the Baptist Ministers of New York State, the Williamsbridge branch of the NAACP, and the 47th Precinct Clergy Coalition. These and other affiliations show that Pastor Miner is deeply involved in working toward a more just and secure society.

On behalf of all my constituents who have been touched by the efforts of Pastor Miner, I congratulate him for 33 years of devoted and inspiring work, and I wish him many more years of good health and success.

TRIBUTE TO BENJAMIN TODD DESAULNIER

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. GEJDENSON. Mr. Speaker, I rise today to express my sympathy and regret at the passing of Benjamin Todd Desaulnier, a remarkable young man from Danielson, CT. Far exceeding his 17 years in maturity, Benjamin touched many people through his citizenship and scholarship. He was the quintessential leader, outstanding athlete and all-around good citizen.

I would like to submit for the CONGRESSIONAL RECORD remarks delivered by John Fulco and David Sweet, two of Benjamin's teachers, who have eloquently expressed what made Benjamin so special, and the sadness felt by all in his death.

KILLINGLY HIGH SCHOOL,
Danielson, CT, October 8, 1993.

Mr. and Mrs. EDWARD DESAULNIER,
Danielson, CT.

DEAR ED AND MARY LOU: Carpe Diem! Seize the day. For the past nine months, the Renaissance Program at K.H.S. has recognized students for academic accomplishment and perfect attendance. Another facet of this program strives to recognize students for good deeds and accomplishments. I thought you should know that I caught Ben doing good deeds. There are few opportunities in the day to day operation of a school to witness what I saw last Friday. Generally, students go through their days being tolerant of each other and interacting on a very superficial level. Rarely do you see students giving of themselves as I saw Ben doing last week.

During one of the lunch waves, a special education student was having great difficulty with his lunch. While carrying his bagged lunch, he had inadvertently shaken his soda to the point of explosion. When he opened it, it sprayed all over the floor and table, soaking his lunch and his clothing. Many students would have laughed, but Ben came to his rescue. He assisted in the clean-up of the soda, wiping off the table and even the floor. At this point you would think his job was done. Ben wasn't finished. He then sat down and ate lunch with Jamie and appeared to have a great time. Jamie loves to talk about sports and the WWF. I'm sure Ben enjoyed his time during that lunch.

Ben has a keen humanitarian sense and I am very proud of him. Not just for this one kind act, but for all he does. He is becoming a real leader at Killingly High School. You can be very proud of Ben, he is a fine young man.

It is a great pleasure to write a letter like this to parents. I sincerely thank you for sending such a great guy like Ben to Killingly High School.

Sincerely,

DAVID A. SWEET,
K.H.S. Renaissance Committee.

A TRIBUTE TO BEN
(By John J. Julio)

School began in late August in the year 1992. My classroom had been decorated and organized, and I awaited the arrival of the new students. Each year began with the expectations of new promise, new hope and new lessons of life. Little did I know the lessons that would be taught to me over the next year.

Ben Desaulnier was a member of my College English 3 class. He stood out among the twenty-four students that I had in that class that year. I remember his seat in the classroom, row 1 seat 3, next to the window with the white birch tree growing outside. Surrounding him sat Ron "Joe" Barbeau, Big Dave Irish, Julie Golaski, Tammy Larkin, Michael Boledovic, and Angela Lemoine. Ben, the student, ever attentive, ever thoughtful, ever questing to understand. Ben, the student, never fearful to say, "Mr. Fulco, I don't understand," or, "I don't see it that way." Ben, the student, who would leave the classroom with a smile on his face shaking his head and saying, "That was one great class, Mr. Fulco."

Ben was willing to take chances in the classroom. He was willing to try and see life in a different way. One day, Ben stood on the top of my desk and looked out over his classmates. He encouraged his classmates like Michael Boledovic and Angela Lemoine to stand with him and see the world from another perspective.

When a student in the class had difficulty with a drinking problem, and when other students would make crass comments, it was Ben who came after class, concerned about the welfare of the boy.

So very often, it was I who played the actor in the class. I played the Devil's advocate and challenged the students to expand their horizons of thought. It was I who entertained the students while making them question their own values. It was I who attempted to put the foundations under their feet so they would grow tall and strong. It was Ben, however, that received the applause from the class on one particular day. Ben came into the classroom dressed in a minister's white collar and black suit. He stood before his peers, fearful with knees shaking. He became a persona, Rev. Leumel Wiley, a character from Spoon River Anthology by Edgar Lee Masters. It was Ben who recited.

I preached four thousand sermons,
I conducted forty revivals,
And baptized many converts.
Yet no deed of mine
Shines brighter in the memory of the world,
And none is treasured more by me:
Look how I saved the Blisses from divorce,
And kept the children free from that disgrace,
To grow up into moral men and women,
Happy themselves, a credit to the village.

Ben was a leader in the classroom. In class projects on the Joy Luck Club, or doing

Video presentations, Ben would take the lead to insure that everyone got a good grade, and that everyone in his group did the best that the group could do. It was Ben who made sure that the project was neat and eye-appealing, and it was Ben who would be chosen to come and speak to me if, for some reason, the project could not be finished within the allotted time. It was Ben who helped to set the calendar for due assignments, and it was he who worked around the sporting, recreational and school functions to try and meet everyone's needs.

Ben was a natural. In his term paper he wrote about Roy Hobbs, a character from Bernard Malamud's novel. The Natural. Many of the heroic attributes found in Roy Hobbs, could so easily be found in Ben himself. Ben wrote. "As a boy, Roy Hobbs (Ben Desaulnier) grew up with good values. Due to his outstanding baseball ability and talent, he became an instant hero with almost everyone. He entered manhood 'with a childlike innocence'".

In describing other traits of the hero, Ben continued, "Another one of Roy's (Ben's) more impressive qualities is his willingness to sacrifice himself for others. He made it a point, since their funds were low, not to ask for anything at all."

Roy Hobbs (Ben Desaulnier), as a heroic figure, proved himself to his peers. Hobbs (Desaulnier) had outstanding baseball talent and a bright future ahead of him in the game of baseball. Members of the crowd thought of him as a hero. One bystander echoed the feelings of many of Ben's admirers when she said, "My hero, let me kiss your hand".

Unlike the character about who Ben wrote, Ben never lost his values, nor did he allow his ego to swell where he might lose perspective of his role in life. Instead, I like to remember Ben as the young, impressionable, idealistic boy who believed that he could make a difference. Ben wonderfully spoke about these qualities when he wrote a story entitled "Team Spirit."

"I was at bat, and the tying run for our team was on second base. There was one out, and I was facing the most ferocious, yet talented, pitcher in the tournament. He stood on a raised dirt mound sixty feet away from me. As my calm stare met the pitcher's eye, I knew that I was ready to meet his challenge. My knees, secretly shaking beneath my leggings, gave no hint of the anxiety I felt. I took the signals from my third base coach. I stepped into the box and the pressure built tremendously.

"The first pitch flew past me, and the umpire shouted, 'Strike one!' Everyone in the park made a comment by either booing or cheering the umpire's call. I checked my spirit, and then I prepared myself for the next pitch.

"Like a meteor speeding through space, the ball was hurled toward me, landing high and outside its mark.

'Ball one!'

"With the count one and one, I knew that the next pitch would probably be a fast ball. I eyed the pitcher carefully as he reared back and fired the ball. I ripped out at the spiralling sphere as hard as I had ever swung a bat in my life. The ball fouled off the tip of my bat and landed in the left field bleachers.

"The umpire yelled, 'Foul ball. Strike two!'

"With the count now standing at one ball and two strikes, I was filled with apprehension. My teammates hollered their support over the shouts of the crowd. Their team spirit made me rise to the occasion.

I believed that the following pitch was going to be a curve ball which I could unload and knock into the next county. I could be the hero of the game. I could be lifted onto the shoulders of my buddies and carried across the field. Honor would be bestowed upon me."

While I believe that Ben held the ideals of baseball and the belief in the goodness of all human beings highly in his life, he also knew the pain of falling short of his own hopes and desires. He beautifully wrote about failure and disappointment, and yet, his character, like Ben himself, was able to rise above the situation, and lend a helping hand to support his friend in time of triumph. Ben wrote,

"As the pitcher began his wind-up, I shifted my stance, cocked back my arms, and focused upon the oncoming ball. I took a huge, home-run cut. The ball resounded like thunder into the catcher's mitt. I had struck out.

The world collapsed around me. I had choked! My spirit was devastated.

I walked into the dugout, and sat with my head between my knees, experiencing a state of total dejection. The entire season had been a waste. We'd never win this "big" game. Spirit or not, I had failed my team. I had never felt such anguish and despair in my life.

Our final hope, the last ember of spirit, approached the plate. I lifted my head to see my teammate, Sean O'Leary, take a killer swing as the ball cracked off the bat. The ball flew over the fence. The flame of victory filled my heart, as I watched Sean trot around the bases and cross home plate. Our bench emptied, as I led my teammates to congratulate Sean. All of my feelings of despair were gone, I was no longer a loser. I was part of a team, and I was sharing in the team spirit. We were the champions.

The excitement of celebration, cheering and back slapping, rose to a level of acclamation. Being first in line, I was able to help lift Sean to my shoulders, and with the help of the team, we carried him around the field.

The fans in the park absolutely wild. The reporters were frantically writing in their notebooks. We had come from behind, and we had won the championship. An air of superiority was thrust upon us. We were the champs, and that feeling could never be taken away from us. Our team spirit continued to rise as we carried Sean back to home plate and into the locker room.

That evening when the fans, vendors, and reporters had left, I returned to the park. There in the stillness of a warm summer night, I relived that one moment of victorious glory, when team spirit congealed with the ideals of a young baseball team, and I was given an experience that I would always remember."

Ben has given everyone so many experiences to remember. We have been blessed in just knowing the boy. He has been able to touch the hearts, souls and minds of peers, and the people with whom he worked. His kindness, generosity, and well-being to all people will always be remembered. Ben Desaulnier was Student Government President, Homecoming King, Homecoming Prince, Junior Prom King, basketball player, baseball catcher, golfer. Ben was loved.

Ben was unable to attend the performance of "Arsenic and Old Lace" which I appeared in at the Bradley Playhouse during the month of October. On the night of one of the shows, Mr. Desaulnier, his father, was asked to appear as one of the thirteen men buried in the cellar of the Brewster household. When Mr. Desaulnier came through the backstage doorway, he saw me sitting in my Reverend Dr. Harper costume. He came over to me and said, "Ben wanted me to tell you, 'Break a leg.'"

Ben was cast as the Eagle in the senior play, "Alice in America Land". Here is a role that I assigned to Ben that will never be fulfilled. Last Wednesday, October 27, 1993, Ben stood on the stage and told me that he hadn't found his voice for the Eagle. I told him that we had time, and that we would be able to work on the voice on another day. Instead, we worked on the Eagle's dance. Amy Strandson, Ben and I laughed as we danced to our made-up tango. Ben tripped over his feet as he tried to execute a turn on the stage. He tried repeatedly to get his footing right. The last time that Ben was on the stage, he danced forwards and backwards, linked arms with Amy and turned her around. Ben made it back to his designated spot on the stage without tripping or falling. He stood tall and proud and flapped his arms like an eagle ready to take flight. In my eye, the Eagle flew.

I am deeply saddened at the death of Ben. He had such wonderful potential and he accomplished so much. He did so much good, and he asked for so little in return. I believe that his parents have accomplished the greatest goal in life. They helped to form Ben into a person of whom we all can be proud. Their son, Ben, made a difference in the world, and for a short while there was again light at the castle in Camelot.

We can never know the direction that life is going to take us, but there are those people, like Ben, who believe that there is a purpose and a direction that we must all follow. Ben probably put it best when he wrote, "God leads the birds in a pattern to their final resting place. Just as He guided William Cullen Bryant on the lonely road to his new job, so God would insure that the birds would never be lost." Just as the birds would find their way to their final resting place, so with God's guidance, will Ben find his peace in his final resting place.

Ben Desaulnier came to me a year and two months ago just another student. He became my leader, my student, my Eagle. With love, I set him free.

IN HONOR OF UNIVERSITY HOSPITAL, AUGUSTA, GA

HON. DON JOHNSON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. JOHNSON of Georgia. Mr. Speaker, I rise today to pay tribute to a remarkable medical facility located in the 10th District of Georgia. On Saturday, September 11, University Hospital celebrated 175 years of service to Augusta, GA, and the surrounding area.

What began as the 10-bed, 2-story City Hospital in 1818 has grown into Georgia's second-largest hospital, with 700 beds and a staff of 3,000. It continues today a tradition of exemplary medical care and devotion to the teaching of medical practices. I want to share with you some of the history of this institution.

In 1829, just 11 years after City Hospital was founded, Dr. Milton Antony established Georgia's first medical school on the premises. In 1833, the City of Augusta provided $5,000 for the construction of a new medical college building, and the tradition of fine medical instruction in Augusta had begun.

Drs. Henry and Robert Campbell opened a surgical infirmary for the city's black community in 1854 and operated that facility until the

Freedman's Hospital was opened after the Civil War. In 1891, the Medical College of Georgia named a woman, Ella Thomas, to serve as chief executive officer. Her appointment and the opening of the infirmary for the area's black community demonstrate the hospital's devotion to serving all humanity and recognizing the talents of both men and women at a time when such recognition was unusual.

City Hospital battled smallpox for two decades beginning in 1851. It sent aid to those in need by horse-drawn ambulance and served as a medical center for Confederate soldiers. That proud tradition of service and excellent medical care has been passed down through these 175 year to University Hospital.

Mr. Speaker, I am proud to have such a facility in my district and I am proud to join the entire central Savannah River area in congratulating University Hospital on its 175th anniversary.

INTRODUCTION OF H.R. 3586, DEFENSE ACQUISITION REFORM ACT OF 1993

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. BILBRAY. Mr. Speaker, after months of development and discussions, I would like to inform my colleagues, that as chairman of the Subcommittee on Procurement, Taxation and Tourism of the Committee on Small Business I have introduced H.R. 3586, the Defense Acquisition Reform Act of 1993.

Over the last several months, my subcommittee staff has been involved in a number of discussions with the staffs of the full Committees on Small Business, Armed Services, and Government Operations. These discussions have been particularly fruitful due to their bipartisan nature as they have included the staffs of Chairman DELLUMS, Chairman CONYERS, Chairman LAFALCE, ranking member CLINGER, ranking member MEYERS, Congressman WELDON, Congressman MFUME, and the ranking member of my subcommittee, Congressman BAKER of Louisiana. Our goal has been nothing less than legislation to reinvent the U.S. Government's procurement system and to bring it into the 21st century.

To this end, our discussions have centered around a number of proposals that have been put forth by my colleagues, Members of the other body and the administration. These have included the Department of Defense's section 800 panel, Chairman CONYER's H.R. 2238, the Senate's S. 1587 and the work of the Vice President's National Performance Review. Our goal has been and will remain to afford the maximum protection and competition for America's small businesses as we revamp the antiquated and complicated Government procurement system.

The bill includes a number of far-reaching reforms including the institution of commercial items, increasing the small purchase threshold to $100,000, the implementation of governmentwide electronic commerce, and the reform of contract administration and contract protest procedures.

As the President and Vice President stated on October 26 to Chairman DELLUMS, Chairman CONYERS and myself, procurement reform is a cornerstone of the White House's efforts to reinvent government and has received their highest priority. To this end, I maintain my commitment to the administration to pass acquisition reform legislation with all due diligence.

It is my subcommittee's intention to hold hearings on this legislation in late January. In the meantime, I am aware of a number of issues and questions that remain unanswered. H.R. 3586 remains an open document, open to suggestion and negotiation. I would encourage the private sector, the administration and any of my colleagues who have questions or concerns regarding this legislation, to contact myself or my subcommittee staff.

It is my hope that we will have taken the time over the recess to craft and perfect the best procurement reform proposals that we can, and by early spring, we will have enacted legislation with substance, not merely promises or an empty shell. I hope that these discussions will truly lead to reform that will modernize and improve our procurement system while maintaining small business protections and increasing competition within our system .

HONORING JOHN F. ALLARD, INTERNATIONAL REPRESENTATIVE, UNITED AUTO WORKERS, RETIRED

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. TORRES. Mr. Speaker, I rise today to recognize John F. Allard, as he is honored at a special dinner on December 15, 1993, for his 56 years of service and dedication to the working men and women of the International Union, United Auto Aerospace Workers [UAW].

John's life is like a page from the "Grapes of Wrath." Born and raised on a farm in Soldier, KS, watching his parents till the land, only to see them lose it in the wake of the droughts and dust bowl conditions that prevailed during the Great Depression. He had his mother stitch his savings, two $20 dollar bills, into his shorts as he traveled west to California. Settling in Bell Garden, then Billy Goat Acres, he promised his parents and blind brother that he would send for them and he took a job at the Chrysler plant in nearby Maywood. The work was backbreaking at the plant docks and on the line; the bosses were tough and the workers had accumulated grievances. Unionism was on the rise, John and others applied for a union charter from the AFL for local 230 of the United Automobile Workers of America [UAWA]. Sitdown strikes from Detroit to Los Angeles fueled the recognition of local 230 under the leadership of John and others such as Bill Goldmann, Noah Tauscher, Ken Gillie, and Sim Huff.

The forces of antilabor set about to destroy the momentum of union membership and targeted the local 230 leadership to make an example of them by charging them with conspiracy. The county district attorney had them arrested and brought to trial. The trial went on for 90 days with great sacrifice by the defendants and their families. The result was a hung jury.

A second trial was ordered and again lasted 90 days. Were it not for the solidarity of the workers to sustain the men on trial and their destitute families, the back of the union would have been broken. In the end they were acquitted. John and his wife Irene played a crucial role in the support of the workers families. Without question, John Allard had displayed great skill at leadership and in 1939 was elected recording secretary of local 230.

In 1942, under the guidance and organization of President Roosevelt, John served on the War Manpower Commission and the Southern California Aircraft Committee of the War Labor Board.

On the very day President Roosevelt died in 1945, John was inducted into the U.S. Army. He served his country with distinction as an infantryman and later as a sergeant in charge of personnel matters at Camp Butner, NC. It was during his Army service that he met Doug Fraser, a Chrysler worker, who would later become the president of the international union, UAW. Returning to civilian life and Chrysler, John was elected as president of local 230 and under his leadership, the local established itself as the leader in a precedent-setting strike at Chrysler in 1950 that won workers pension fund benefits.

From 1950 to 1955, John was appointed as an international representative serving as coordinator of the National Aircraft Department. As coordinator, John successfully headed negotiations in all three of the major aircraft companies on the west coast: McDonnell-Douglas, North American, and Ryan.

From 1955 to 1958, John worked with UAW Vice President Norman Matthews in the technical, office and professional [TOP] department. Organizing white collar workers at Ryan Corp., John met Bruce Lee who would later join the region 6 organizing staff. From 1958 to 1966, as John became coordinator for the west coast organizing staff under UAW Vice President Pat Greathouse, he was assigned two new organizers to supervise: they were Bruce Lee, local president from Ryan, and myself, a chief steward from local 230. Under John's direction, we brought many new members to the UAW.

In 1967, John worked on the servicing staff and later, 1970, transferred to the UAW retired workers department. Mr. Speaker, I have had the high honor and personal privilege of having known and worked with John Allard for 40 years. He has been an unquestionably sage mentor and counsel to me in many areas of national concern. While we may be in disagreement on some matters of national policy, nonetheless, I am grateful for his friendship and support.

Mr. Speaker, John Allard is being honored by the UAW, his family, friends and civic leaders for his exemplary contribution to working men and women of the Los Angeles community and the Nation as a whole. I ask my colleagues assembled in the House to join me in thanking and saluting him for his outstanding record of service.

TO SUPPORT THE DIETARY SUPPLEMENTS HEALTH AND EDUCATION ACT OF 1993, H.R. 1709

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. MANZULLO. Mr. Speaker, I have received hundreds of letters from constituents in my district who are users of legal dietary supplements. They are afraid that they may soon be denied access to products that help keep them healthy if the Congress does not act soon.

The 1-year moratorium on the Federal Drug Administration [FDA] rules on dietary supplements proposals will soon expire. This will leave the FDA open to impose their proposed regulations on the vitamin industry and take safe products off the shelves. The FDA has proposed three troublesome regulations.

First, the FDA will view single amino acids and mixtures of amino acids as equal to prescription drugs.

Second, the FDA will arbitrarily remove most supplements—including herbs from the market by citing them as unsafe food additives.

Finally, the FDA will prohibit the use of health claims for dietary and health food supplements, with the sole exception of the nutrient/disease link between calcium and osteoporosis.

I am a proud cosponsor of H.R. 1709 the Dietary Supplements Health and Education Act of 1993 introduced by my colleague from New Mexico Representative BILL RICHARDSON. This legislation represents a reasonable, rational, and fair approach for Congress to provide urgently needed direction to the FDA. There are currently 183 cosponsors of this legislation. H.R. 1709 includes these provisions.

First, it establishes that dietary supplements are not drugs or food additives.

Second, H.R. 1709 would prohibit the FDA from seizing safe and legal products from the market. Under this legislation substantiated health claims would be allowed.

Finally, the potency limits on dietary supplements that the FDA seeks to impose would not be mandated.

My colleagues may be surprised to learn that 100 million Americans use dietary supplements on a regular basis. Eight out of ten doctors in a recent survey said they took vitamin E to protect against heart disease. Scientific evidence has convincingly demonstrated that vitamins and minerals protect against a number of disease conditions, including cancer, osteoporosis, heart problems, cataracts, and neural tube birth defects.

The current health care reform initiatives emphasizing the importance of prevention should provide added impetus for stopping these proposed onerous regulations by the FDA and replace them with the commonsense provisions contained in H.R. 1709. Optimal use of dietary supplements costing only pennies per day can save billions of dollars in health care costs. It's preventative health care in the best sense of the word.

I urge my colleagues to cosponsor H.R. 1709 and move this legislation to the floor of the House. It makes good health sense and just asks the Government not to interfere.

FEE SCHEDULE FOR TOWER SITE USE

HON. LARRY LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. LAROCCO. Mr. Speaker, I rise today to introduce legislation which resolves the issue of fees paid by broadcasters for the use of tower sites that are located on Federal land managed by the Forest Service and the Bureau of Land Management.

Government agencies and the broadcast industry have been struggling with this issue for years. While it is reasonable for broadcasters to expect fee increases over time, some actual proposals for increases of over 1,000 percent have been put forth by the Forest Service and the Bureau of Land Management. These proposals have been so far out of line with fair market values associated with the sites in question, that the Appropriations Committee has repeatedly rejected the fee increases proposed by the agencies and has imposed moratoriums in response.

To finally resolve this longstanding problem, Congress established an advisory committee to study this issue, develop an acceptable and equitable fee schedule, and report those findings back to Congress. The Committee completed its task and developed a fee schedule which contains reasonable fee increases that ranged from 200 to 900 percent for broadcasters with tower sites located on Federal lands. The legislation I am introducing today will simply codify those recommendations.

The time has come to settle this issue. We had an opportunity during budget reconciliation, but it slipped away from us at a critical moment. But while it is disappointing to return to this subject yet again, continually placing moratoriums on site fee increases makes no sense and costs us money every year. This legislation will put an end to the question, and establish a stable process for future decision-making by the agencies and the broadcasters.

I appreciate the support of those Members who have joined with me as original cosponsors, and I look forward to working with the other members of the Natural Resources Committee next year to pass this legislation.

IN HONOR OF JACK E. WILSON

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. DARDEN. Mr. Speaker, I rise today to ask my colleagues in the House to join me in paying tribute to a man of great service and dedication: Jack E. Wilson of Marietta, GA. Jack, a successful businessman and devoted community volunteer, was recently recognized for his service to the citizens of Marietta, GA, when he was named Marietta Citizen of the Year this past Friday.

Mr. Speaker, without a doubt, Jack Wilson has made many outstanding contributions, too numerous to mention, to the people of Marietta and the citizens of all of Cobb County. However, I would like to note just a few of the ways he has made our community a better place to live.

Jack has been instrumental in encouraging economic growth for the community through his service as director and vice president of the Cobb County Chamber of Commerce. He is responsible for starting the first leadership Cobb class, which is still going strong after 10 years. In addition, Jack Wilson founded the honorary commanders, which matches community leaders with the area's military leaders to give both a better understanding of each other's role in Marietta.

A devoted father and grandfather, Jack looks to the future with experience from the past. As a successful insurance executive, he has seen and helped Cobb County grow from a sleepy, rural community to a dynamic, suburban area. Jack also has a sense of adventure. He surprised and impressed many of his friends earlier this year as a participant in the annual running of the bulls in Pamplona, Spain.

Jack Wilson is a visionary leader, a steadfast worker, and a great and loyal friend to many people. His legacy of service is something all of us should strive to emulate.

EDNA SPENCER: CHARLES COUNTY'S "MOST BEAUTIFUL PERSON"

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. HOYER. Mr. Speaker, I rise today to congratulate Mrs. Edna Spencer, a resident of Potomac Heights, MD, who was recently named Charles County's "Most Beautiful Person." This annual event is sponsored by "Maryland, You Are Beautiful," and recognizes outstanding volunteers for their generosity.

Mrs. Spencer was one of 17 nominees from Charles County and was nominated by the Potomac Heights Leisure Club, of which she is an active member. Edna Spencer is most deserving of this award, Mr. Speaker. She delivers food for the Charles County's Meals on Wheels Program, transports cancer patients to clinics and hospitals, and serves as an adopted grandmother to an unwed mother.

I would like to share with my colleagues an article which appeared in the Maryland Independent which tells of Edna's outstanding contributions to her community. I urge my colleagues to join me in recognizing Edna Spencer, Charles County's "Most Beautiful Person."

[From Maryland Independent, Oct. 29, 1993]

YOU CAN DEPEND ON EDNA—SPENCER SELECTED CHARLES COUNTY'S "MOST BEAUTIFUL"

(By James Hettinger)

Edna Spencer has never forgotten what life was like without a car.

When Spencer and her husband Kenneth were married in 1943, World War II was on.

money was scarce, her husband was in the Navy and she was home alone with no transportation.

"You would depend on your neighbors and friends," Spencer recalled, noting that it was at times a lonely feeling. "It's a rough time when you're trying to get groceries and do things with no car."

That feeling stayed with her, and prompted Spencer to adopt helping people get around as one of her objectives in life.

Spencer, 68, of Potomac Heights, drives cancer patients to clinics and hospitals for treatments, and delivers hot meals to the elderly and handicapped through Charles County's "Meals on Wheels" program.

She also transports elderly people to grocery stores and the hairdresser, takes flowers to patients at the Fort Washington Nursing Home and serves as the adopted grandmother to an unwed mother and her child by buying the food, clothing and small gifts.

"(If) anybody needs transportation, if there's any way possible, I try to give it to them," Spencer said.

Spencer's good deeds are typically known only to the recipients of her kindness, and that's fine with her. "I'm not a person that likes to be in the spotlight," she said. "I like to be in the background."

Tuesday afternoon, though, the spotlight found Spencer, when she was named Charles County's "Most Beautiful" person in a "Maryland You Are Beautiful" awards ceremony at the Charles County Government Building in La Plata. She will represent Charles County in a statewide "Maryland's Most Beautiful People" ceremony next month in Annapolis.

When her name was announced Tuesday as the "most beautiful" of the 17 nominees, Spencer's hand came up to cover her mouth in surprise, and for a moment she couldn't stand up.

"You've heard that commercial, 'I'm down and I can't get up'? That's what I felt like," Spencer said Wednesday afternoon at her home in Potomac Heights.

Despite being nominated for the award—by the Potomac Heights Leisure Club, a seniors' group—Spencer was "some kind of surprised" to win. "On my way over there, I kept naming the people I thought would get it," she recalled.

Spencer questions whether she deserves to be called the "most beautiful" volunteer in Charles County. "I'm sure there are a lot of people who deserve it more than I do," she said. "There are so many people who volunteer and do things that people don't know about."

But she has no doubts about the value of her volunteer work. She has volunteered for more than 20 years, and served as a "Meals on Wheels" driver since the program started about five year ago.

Spencer and her partner, Marian Robey, deliver meals to about 15 people. "It gives you a lot of satisfaction to know you'll be taking a hot meal to these people," Spencer said. Most of the recipients live alone, and Spencer and Robey take time to visit with them. "Sometimes, (we) might be the only people they see during the day," Spencer said.

She and Robey often wonder what their meal recipients eat on days when there are no Meals on Wheels.

A former cancer patient herself, Spencer added that her driving patients to and from medical services "means a lot to someone with no transportation."

Spencer's cancer occurred five years ago. She and her husband—Virginia natives who came to Charles County in 1959—recently celebrated their 50th wedding anniversary. The couple has one daughter, Ann Spencer of Waldorf.

Looking to the future, "I hope I'll always be able to do things for other people. I think what you do for others, it comes back to you," Spencer said. "There are a lot of people who need help. . . . There's a lot more we can do. I'm sure there's a lot more I can do."

NATURAL FAMILY PLANNING

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. SMITH of New Jersey. Mr. Speaker, natural family planning is often scoffed at as "the old rhythm method." However, the September 18, 1993 issue of the British Medical Journal carries a report which concludes that natural family planning, particularly the Billings method, can be as effective as artificial means of contraception. "Natural family planning is cheap, effective, without side effects, and may be particularly acceptable to and efficacious among people in areas of poverty," the author states.

Dr. R.E.J. Ryder reports on a World Health Organization [WHO] multinational study of the ovulation method of natural family planning. He notes that the study found a pregnancy rate approaching zero among 19,843 poor women in India. I believe that all who have concern about population issues, as well as the health of women, will find this study of special interest.

The British Medical Journal report follows:

NATURAL FAMILY PLANNING: EFFECTIVE BIRTH CONTROL SUPPORTED BY THE CATHOLIC CHURCH

(R.E.J. Ryder, consultant physician, Department of Endocrinology, Dudley Road Hospital, Birmingham B18 7QH

During 20–22 September Manchester is to host the 1993 follow up to last year's "earth summit" in Rio de Janeiro. At that summit the threat posed by world overpopulation received considerable attention. Catholicism was perceived as opposed to birth control and therefore as a particular threat. This was based on the notion that the only method of birth control approved by the church—natural family planning—is unreliable, unacceptable, and ineffective.

In the 20 years since E L Billings and colleagues first described the cervical mucus symptoms associated with ovulation natural family planning has incorporated these symptoms and advanced considerably. Ultrasonography shows that the symptoms identify ovulation precisely. According to the World Health Organisation, 93% of women everywhere can identify the symptoms, which distinguish adequately between the fertile and infertile phases of the menstrual cycle. Most pregnancies during trials of natural family planning occur after intercourse at times recognised by couples as fertile. Thus pregnancy rates have depended on the motivation of couples. Increasingly studies show that rates equivalent to those with other contraceptive methods are readily achieved in the developed and developing worlds. Indeed, a study of 19,843 poor women in India had a pregnancy rate approaching zero. Natural family planning is cheap, effective, without side effects, and may be particularly acceptable to and efficacious among people in areas of poverty.

The 1993 follow up to last year's "earth summit" in Rio de Janeiro is to take place in Manchester during 20–22 September and is entitled "Partnerships for change." The Rio earth summit focused considerable attention on the expanding population of the world as an important issue in relation to resources, environment, and poverty. In the media the "opposition of the Catholic Church to birth control" was discussed (BBC Radio 4, *Today Programme*, 18 May 1992) and considered to be an important factor with the many millions of Catholics in the world, particularly the Third World, such as Brazil. In the medical press the "Pope's continuing opposition to birth control" was condemned[1] and powerful Vatican opposition was considered likely to wreck hope of useful progress at the earth summit with regard to global overpopulation as a most urgent ecological hazard.[2]

The widespread beliefs that the Catholic Church is opposed to birth control,[1] that the urgent provision of artificial contraception within the Third World is the only answer to overpopulation, and that the Catholic Church is opposed to this[2] all stem from the perception that the so called "natural methods of family planning," which are approved by the Catholic Church, are unreliable, unacceptable, and ineffective. Historically, this perception is based on the unreliability of the rhythm method of contraception ("Roman roulette"), which attempt to identify the fertile phase of the woman's cycle by calendar calculations. Is this perception as accurate today as it may have been in the past?

The ovum has a life span of not more than 24 hours and is fertilisable for only part of that time[3]. The life span of the sperm may be measured in hours under adverse conditions. Under optimum conditions, however, sperms may remain viable for four or five days, and a life span of up to seven days has been postulated.[3] Thus a woman is potentially fertile for no more than six to eight days of her cycle, probably less in most cases. To what extent can these potentially fertile days be accurately identified and avoided by most women as a method of birth control?

CYCLICAL CHANGES IN CERVICAL MUCUS SECRETION

In 1972 Billings *et al* reported the characteristic changes in cervical mucus secretion which occur during the menstrual cycle.[4] After menstruation there are a variable number of "dry" days with little or no mucus secretion and a feeling of dryness in the vaginal area. Then, as ovulation approaches under the influence of increasing oestrogen concentrations'[35] the dry feeling ends and there is increasing secretion of cervical mucus, which at the time of ovulation becomes an abundant discharge of substance like the raw white of an egg. After ovulation the first secretion of progesterone abruptly reverses the effect of oestrogen on cervical mucus and causes it to become thick and rubbery forming a plug in the cervix.[35] The fertile-type, "raw egg white" cervical mucus is of low viscosity and high threadability (spinnbarkeit) with glycoprotein fibrils in a micelle-like structure which aids sperm migration. It contains sugars and trace elements necessary for sperm survival, capacitation, and transport and it can maintain by sperm cable of fertilisation for several days.[356] By contrast, the thick, white, non-

Footnotes at end of article.

stretch mucus which occurs at other times in the cycle is impenetrable by sperm and hostile to its survival.

Other symptoms have been described in association with ovulation, in particular periovulatory pain and the progesterone induced postovulatory rise in basal body temperature. Hormonal studies have confirmed the close relation of the various symptoms with ovulation.[4 7] and more recently ovarian ultrasonography has suggested that the day of most abundant secretion of fertile-type egg white mucus identifies the day of ovulation as precisely as does the luteinising hormone peak.[8] Other symptoms associated with the cyclical changes in oestrogen and progesterone concentrations include changes in the cervix, breast tissue, skin, hair, libido, and moods.[3 5]

PREGNANCY AND CONTRACEPTION

Reported pregnancy rates (pregnancies per 100 woman years; Pearl index) in well motivated couples using the condom, diaphragm, intrauterine device, and progestogen only and combined oestrogenprogestogen oral contraception are 3–6, 1–9, 1–4, 1–2, and 0–18 respectively.[9] Much higher rates have been recorded, particularly among less motivated couples—for example, pregnancy rates of 21 and 22 in condom users[10] and 23 in diaphragm users.[10] Pregnancy rates of 23 and 28 have also been reported in users of oral contraceptives in the developing world.[11] As shown in Oxford, even the contraceptive pill may fail if the woman forgets to take it, runs out of tablets, or has diarrhea and vomiting or other illness.[12]

Early trials of birth control based on symptom observation[13–17] yielded pregnancy rates of 6–0[17] to 25.4.[13] Most conceptions occurred because of intercourse on days designated by the family planning method as fertile. Controversy therefore ensued[18–21] between those who thought that all pregnancies occurring in trials should be considered as failures of the particular method[19–21] and those who thought that the method could not be blamed if couples had intercourse during a phase which they knew to be fertile.[18 20] It was also possible that initial scepticism about natural family planning methods led to a casual approach by couples.[13]

WHO STUDY

Given a natural pregnancy rate—that is, the Pearl index without any birth control—estimated as 80,[22] the cheapness of natural family planning, and the acceptability of natural family planning to many cultures and religions, the World Health Organization undertook an international study.[23–27] A total of 869 women of proved fertility and widely varying cultural, educational, and economic backgrounds were studied in five centres (Auckland, Bangalore, Dublin, Manila, and San Miguel, El Salvador). Regardless of culture and education, 93% of the women recorded an interpretable ovulatory mucus pattern. Of the El Salvador women, 48–1% were illiterate and yet recognized the mucus symptoms.[23]

Detailed analysis in the WHO study confirmed the potential effectiveness of mucus symptom observation as a means of family planning. The probability of conception from intercourse outside the period of fertility cervical mucus observation was 0–004.[24] Intercourse on days designated as fertile by cervical mucus observation resulted in conception with increasing frequency the nearer to ovulation that intercourse occurred, intercourse on the peak day of cervical mucus secretion resulting in a probability of conception of 0–667.[25] Thus it is clear that women of all cultures and educational backgrounds can learn to recognize when they ovulate and when they are potentially fertile and that if intercourse is avoided on potentially fertile days pregnancies will not occur.

INCREASED CONFIDENCE IN NATURAL CONTRACEPTION

After the early studies,[13–17] increased confidence in and experience with natural family planning methods tended to lead to progressively lower overall pregnancy rates. The rates, however, remain variable, depending on the standard of teaching and the motivation to avoid pregnancy.[24 28–39] A study in Chile confirmed the importance of good initial natural family planning teaching, experienced teachers achieving a pregnancy rate of 4•7, inexperienced teachers achieving a rate of 16•8.[28] Studies have underlined the importance of motivation, one international study finding a pregnancy rate of 4•13 in couples wishing to limit their families but a rate of 14•56 in couples wishing only to space their families.[29] Studies suggest that methods combining several indicators of ovulation yield lower pregnancy rates.[3] The cost issue has been addressed, studies from Liberia and Zambia showing pregnancy rate of 4•3 and 8•9 and user costs of $40 and $30 respectively.[39] A study of natural family planning in general practice in the United Kingdom also found it to be by far the cheapest method.[39]

The largest natural family planning study combined effective teaching with high motivation and showed the natural family planning can be extremely effective in the Third World.[33] The study was of 19,843 predominantly poor women in Calcutta, 52% Hindu, 27% Muslim, and 21% Christian. Because of poverty motivation was high both among the users and among the well trained teachers of natural family planning. The failure rate was similar to that with the combined contraceptive pill—0•2 pregnancy/100 women users yearly.[33] The result suggests that poverty as the motivation can greatly improve the effectiveness of natural family planning. A similar result, however, was achieved in Germany in a study with a pregnancy rate of 0•8.[34]

An Italian study found an overall pregnancy rate of 3•6, all the pregnancies occurring in couples wishing to space but not limit their families. The pregnancy rate was zero in couples who wanted no more children.[30] With other German studies finding pregnancy rates of 1•8[31] and 2•3,[36] a study in general practice in the United Kingdom finding a rate of 2•7,[39] and a study among 3003 illiterate and semiliterate women in India yielding a pregnancy rate of 2•04[37] the accumulating data confirm that natural family planning can be as effective as any method of family planning.

IMPLICATIONS FOR THE THIRD WORLD

In the WHO study most couples in the three developing countries who practised natural family planning were satisfied with the frequency of intercourse, whereas in the two developed countries one-third of subjects and half of their partners who practised the method would have preferred more frequent intercourse.[27] It might be argued that natural family planning being cheap, effective, without side effects, and potentially particularly effective and acceptable in areas of poverty may be the family planning method of choice for the Third World. The case for and against this may be argued and debated, but whatever the standpoint there is no doubt that it would be more efficient for the ongoing world debate on overpopulation, resources, environment, poverty, and health to be conducted against a background of truth rather than fallacy. It is therefore important that the misconception that Catholicism is synonymous with ineffective birth control[1 2] is laid to rest.

Understanding the simple facts about the signs of fertility confers considerable power to couples to control their fertility, for achieving as well as preventing conception. The widespread dissemination of these simple facts would be useful everywhere but might be of particular value in the Third World.

FOOTNOTES

[1] Godlee F. Going backwards in Rio. BMJ 1992;304:1525.

[2] Poole J. Time for the Vatican to bend. Lancet 1992;339:1340–1.

[3] Flynn AM. Natural methods of contraception. Maternal and Child Health 1991;16:148–53.

[4] Billings EL, Billings JJ, Brown JB, Burger HG. Symptoms and hormonal changes accompanying ovulation. Lancet 1972;i:282–4.

[5] France JT. The detection of ovulation for fertility and infertility. In: Bonnar J, ed. Recent advances in obstetrics and gynecology. Edinburgh: Churchill Livingstone, 1982:215–39.

[6] Bromwich PD. Problems with sperm/cervical mucus interaction. Part 1: pathophysiology. British Journal of Sexual Medicine 1985; 12:124–5.

[7] Flynn AM, Lynch SS. Cervical mucus and identification; of the fertile phase of the menstrual cycle. By J Obstet Gynaecol 1976; 83:656–9.

[8] Depares J, Ryder REJ, Walker SM, Scanlon MF, Norman CM. Ovanan ultrasonography highlights precision of symptoms of ovulation as markers of ovulation. BMJ 1986; 292–1562.

[9] Vessey M, Lawless M, Yeates D. Efficacy of different contraceptive methods. Lancet 1982;i:841–2.

[10] Mills A. Barrier contraception. Chin Obstet Gynecol 1984; 11:641–60.

[11] Laing JE. Natural family planning in the Philippines. Stud Fam Plann 1984;15:49–55.

[12] Duncan G, Harper C, Ashwell E, Mant D, Buchan H, Jones L. Termination of pregnancy: lessons for prevention. British Journal of Family Planning 1990;15:112–7.

[13] Weissman MC, Foliaki L, Billings EL, Billings JJ. A trial of the ovulation method of family planning in Tonga. Lancet 1972;ii:813–6.

[14] Ball M. A prospective field trial of the ovulation method of avoiding conception. Eur J Obstet Gynecol Reprod Biol 1976;6:63–6.

[15] Marshall J. A field trial of the basal body temperature method of regulating births. Lancet 1968;ii:8–10.

[16] Marshall J. Cervical-mucus and basal body temperature method of regulating births. Lancet 1976;ii:282–3.

[17] Parenteau-Carreau S, Lanctot CA, Rice FJ. Étude internationale Fairfield sur l'efficacité de la méthode sympto-thermique de régulation des naissances. Résultats Canadiens comparés aux résultats globaux. La Vie Médicale au Canada Français 1976;4:145–53.

[18] Billings JJ. Natural family planning. Lancet 1976;ii:579.

[19] Marshall J. Natural family planning. Lancet 1976;ii:685.

[20] Billings JJ. Natural family planning. Lancet 1976;ii:969.

[21] Marshall J. Natural family planning. Lancet 1976;ii:1085.

[22] Reid KM. Choice of method. In: Loudon N, ed. Handbook of family planning. Edinburgh: Churchill Livingstone, 1985:25–39.

[23] World Health Organisation. A prospective multicentre trial of the ovulation method of natural family planning. I. The teaching phase. Fertil Steril 1981;36:152–8.

[24] World Health Organisation. A prospective multicentre trial of the ovulation method of natural family planning. II. The effectiveness phase. Fertil Steril 1981;36:591–8.

[25] World Health Organisation. A prospective multicentre trial of the ovulation method of natural family planning. III. Characteristics of the menstrual cycle and of the fertile phase. Fertil Steril 1983;40:773–8.

[26] World Health Organisation. A prospective multicentre trial of the ovulation method of natural family planning. IV. The outcome of pregnancy. Fertil Steril 1984:41:593–8.

[27] World Health Organisation. A prospective multicentre trial of the ovulation method of natural family planning. V. Psychosexual aspects. Fertil Steril 1987:47:765–72.

[28] Perez A, Zabals A, Larrain A, Widmer S, Nunez M, Baranda B, et al. The clinical efficiency of the ovulation method (Billings). Rev Chil Obstet Ginecol 1983:48:97–102.

[29] Rice RJ, Lanctot CA, Garcia-Devesa C. Effectiveness of the symptothermal method of natural family planning: an international study. Int J Fertil 1981:26:222–30.

[30] Barbato M, Bertolotti G. Natural methods for fertility control: a prospective study. Int J Fertil 1988:33(suppl):48–51.

[31] Frank-Hermann P, Bremme M, Rosmus T, Kunkel W. Use-effectiveness of a symptothermal method in Germany. In: Schaitouits H, ed. Proceedings of 4th European congress IFFLP/FIDAF Vienna, Austria. Vienna: Institut für Ehe und Familie, 1987:27–45.

[32] Bonnar J. Natural family planning including breast feeding. In: Mishell DR, ed. Advances in fertility research. New York: Raven Press, 1982:1–18.

[33] Ghosh AK, Saha S, Chattergee G. Symptothermis vis a vis fertility control. Journal of Obstetrics and Gynecology of India 1982:32:443–7.

[34] Roetzer J. Symptothermal methods of natural family planning. International Review of Natural Family Planning 1981:5:200–2.

[35] Kambic RT, Gray RH, Lanctot CA, Martin MC, Wesley R, Cremins R. Evaluation of natural family planning programs in Liberia and Zambia. Am J Obstet Gynecol 1991; 165:2078.

[36] Frank-Herrmann P, Freundl G, Burr S, Bremme M, Doring GK, Godehardt EAJ, et al. Effectiveness and acceptability of the symptothermal method of natural family planning in Germany. Am J Obstet Gynecol 1991;165:2052–4.

[37] Dorairaj K. The modified mucus method in India. Am J Obstet Gynecol 1991;165:2066–7.

[38] Kelly J. Audit of health services in Gurage. J Trop Pediatr 1992;38:206–7.

[39] Clubb EM, Pyper CM, Knight J. A pilot study on teaching natural family planning in general practice. In: Natural family planning: current knowledge and new strategies for the 1990s. Washington, DC: Georgetown University;1990:130–2.

[40] Ryder REJ, Depares J, Norman C, Walker S, Scanlon MF. Ovarian ultrasonography and the precision of the symptoms of ovulation. Chin Sci 1985:69(suppl 12):17P.

TRIBUTE TO PRESIDENT KENNEDY

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. LAZIO. Mr. Speaker, I was 5 years old and watching "As the World Turns" with my mother when Walter Cronkite broke in with a news bulletin. I was too young to know anything other than something tragic had happened. It was 30 years ago today.

In the years since John Kennedy's life and promise were taken from us—through the Vietnam war and Watergate—the American people have grown increasingly cynical of, and negative toward, its elected officials.

Perhaps the reason is that people get what they expect as much as who they elect. My theory is that elected representatives tend to rise to levels consistent with the expectations of their constituents. If people expect their elected representative to be a bum, they will be fortunate to do better. But if they expect a statesman, a genuine legislator, then they have a better chance of getting one.

Mr. Speaker, as we think about that fateful day 30 years ago, perhaps we should look in the mirror and ask if we are living up to the expectations of those who elected us to represent them and act accordingly. Perhaps then our constituents would reciprocate by raising their expectations of us. That would be a fitting tribute to John F. Kennedy.

HELP THE HOMELESS WEEK

HON. ALBERT RUSSELL WYNN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. WYNN. Mr. Speaker, in the Washington Metropolitan area, it is often easy to walk by the homeless on our streets. On November 20, 1993, the employees of 63 Washington-area companies walked for the homeless. This Help the Homeless walkathon was the culmination of a weeklong fundraising and educational campaign and their goal is to raise $500,000 to support nonprofit groups that provide a range of services for homeless families and individuals in Maryland, Washington, and Northern Virginia.

In 1988, in response to employees' concerns about the homeless, Fannie Mae, the Federal National Mortgage Association, initiated the Help the Homeless Program. The week prior to Thanksgiving was chosen for Help the Homeless Week because of its symbolic significance. Since 1988, the Help the Homeless campaign has raised more than $1 million and has grown into a collaborative effort of local community and religious organizations, schools, and businesses. Employees from each of the sponsoring organizations raise money during the weeklong campaign through activities such as bake sales, silent auctions, raffles, and basketball and volleyball challenges.

This annual campaign has motivated and inspired Washington area employees to increase their efforts on behalf of the area's homeless each year. As the Help the Homeless Program has grown, additional benefits beyond raising money have been realized—a greater awareness of the problems of the homeless and appreciation for the services offered by nonprofit organizations. More than anything else, however, is the recognition that individuals working together can have a significant impact on their communities.

I would like to take this opportunity to commend the companies and their employees who are taking a part in this effort. I especially would like to recognize the employees of Fannie Mae who, 6 years ago, responded to the needs of our area's homeless individuals and families by creating the Help the Homeless Program.

DRINK BOX RECYCLING TOPS 2 MILLION HOUSEHOLDS—MORE THAN 1,700 SCHOOLS ALSO RECYCLING ASEPTIC PACKAGING

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. BRYANT. Mr. Speaker, I would like to bring to my colleagues' attention a new and innovative type of recycling program that is underway throughout the country: namely, recycling of drink boxes and milk cartons.

A little over 2 years ago, programs to collect and recycle drink boxes and milk cartons were virtually nonexistent. Today, thanks to the efforts of the Aseptic Packaging Council, a trade association comprised of the makers of the drink box, substantial progress has been made toward collection and recycling of polycoated paperboard materials. Drink boxes and milk cartons are being collected and recycled from nearly 1,700 schools and nearly 1.8 million homes in 22 States. The high quality paper fiber recovered from these containers is being recycled into a variety of consumer products, including writing paper, paper towels, and napkins. Over 5 million Americans have had this recycling program made available to them in just 2 years.

In my own State of Texas recycling programs have begun in schools in the Denton Independent School District. The Texas Legislature this year recognized the importance of recycling new materials and passed legislation to encourage school districts, universities, and other State institutions to separate from the waste stream, collect, and recycle drink boxes and milk cartons. This is important recognition of the fact that there are many materials beyond the traditional glass, aluminum, and newsprint which can and should be recovered from the waste stream.

According to a recent article in Waste Age, there are several reasons why recycling these nontraditional materials has been a successful endeavor and is expanding around the country. First, the paper fiber used in drink boxes and milk cartons is the highest quality postconsumer paper fiber available. It is high quality fiber in the first instance, does not require expensive deinking since all printing is done on the plastic coating and not on paper itself, and is easily recovered using a well known process called hydrapulping. Paper mills want this type of high value fiber to meet the new and growing demand for postconsumer recycled content in paper products.

I am encouraged by the realization in some parts of the business community that good environmental practices are also good business. I also believe the drink box recycling programs throughout the country are an excellent example of joint public and private partnerships needed in recycling. As former Speaker Tip O'Neill used to say, "all politics is local." The same is true for recycling. Recycling programs vary from municipality to municipality and they work best when government, industry and local citizens work together.

One good example of a successful public/private partnership is the National Recycling in the Schools program sponsored by the U.S. Conference of Mayors and the Aseptic Packaging Council. Through this program, children of all ages are provided first hand lessons in environmental stewardship. According to Mr. David Gatton, senior environmental advisor at the Conference of Mayors, "Schools are the training ground of the future. By creating partnerships with cities, schools districts, and communities, we can expand the recycling of milk cartons and drink boxes in a way that ensures we teach our kids good environmental habits right from the start."

Mr. Speaker, I commend the Aseptic Packaging Council for its voluntary efforts in the area of recycling and encourage it to keep working on this most important issue. Commitment to and progress in this effort can and should be a guide for us as we consider legislation at the Federal level designed to address the Nation's solid waste problems.

FORMER MEMBERS OF CONGRESS VIEW THE ROLE OF POLITICAL PARTIES

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. THOMAS of California. Mr. Speaker, I wish to share with my colleagues the exceptionally interesting findings of a survey of former Members of Congress conducted by the Center for Party Development, a nonprofit research and educational organization associated with The Catholic University of America. I have the pleasure of serving the advisory board of the center and was fascinated by the information gathered by the study. The report is entitled "Former Members of Congress View the Role of Political Parties in the U.S. Congress", Essay 93–1. Complete copies may be obtained by addressing the center at the department of politics, Catholic University, Washington, DC 20064. The excerpts that I quote are from the foreword and the conclusion sections of the report.

Political parties are the managers of legislative business in most of the parliaments and congresses of the world. When the 102d Congress of the United States established an Ad Hoc Joint Committee on the Organization of Congress, the Joint Committee was directed to make a full and complete study of the organization and operation of the Congress and to recommend to the 103d Congress improvements in that organization and operation with a view toward strengthening the effectiveness of Congress, simplifying its operations, improving its relationships with, and oversight of, other branches of the government, and improving the orderly consideration of legislation. The authorizing resolution, House Concurrent Resolution 192, mentioned political parties only in passing. From the perspective of the Center for Party Development, this seemed to be one more reflection of the low esteem in which the political parties of the United States are held by many in the Nation's leadership and citizenry.

While the membership of the sitting 103d Congress is able to express its views on party management of congressional business directly to the Joint Committee, views that are likely to be somewhat influenced by current headlines, another experienced and much more detached group of experts on this subject, namely, the former Members of Congress, was less likely to be heard. Believing that former Members may have useful insights into the role of the parties in congressional management, the Center for Party Development embarked upon this survey as a contribution to the public interest and the deliberations of the Ad Hoc Joint Committee on the Organization of the Congress.

The questions raised by the survey focus on the role of political parties in the management of the membership and the work of the Congress. The questionnaire was brief. The specific survey populations were: First, the membership of the U.S. Association of Former Members of Congress; and second, in a somewhat less systematic way, those incumbents retiring from the 102d Congress in 1993. As a group of oft-forgotten experts on the workings of Congress, former Members of Congress are in a special position to make assessments from experience and with detachment. The center's staff concluded that these expert views should be heard in as systematic a way as possible.

[NOTE.—Ninety-six former Members responded to the mail questionnaire, four of whom wrote extended comments.]

In sum, those former Members of Congress who responded to this survey did so thoughtfully and explicitly. Several broad conclusions may be drawn from their responses to questions about specific subjects. On the matter of the general management of the work of Congress by the parties, two-fifths considered the parties' role adequate, but as many as a third believed the role to be insufficient. Four-fifths were satisfied with the way the parties selected their leaders, but only three-fifths were satisfied with the agenda-setting function performed by the parties. As for the issue of divided government so much lamented by pundits and political scientists, three-fifths of the former Members dismissed this as an issue.

With respect to the recruitment function of the parties, more than half of the former Members thought that the parties should play a greater role, although less than a fourth experienced important party involvement in their own candidacies. Nearly one-half of the respondents anticipated that party influence in recruitment would increase if term limits were adopted. As self-recruiters themselves, two-fifths strongly disagreed with the suggestion that petition requirements to get on the ballot be made more stringent. On the controversial issue of term limits, the expectations were that term limitation would make Members more representative, create difficulties in their acquiring expertise, increase the influence of congressional staff, and increase the influence of the parties in the recruitment of candidates.

Who should enunciate their parties' program? The President, if their party holds that office, otherwise, a titular leader—an office of parliamentary systems. Very few picked the Speaker, majority or minority leaders, or the caucuses for this job.

If nothing else, parties are presumed to be campaign organizations. Yet, nearly 51 percent of the former Members said that their party was very little involved in their own campaigns. What they found valuable, however, was the legitimacy lent their candidacy by the party name and the occasional ability of their party to provide volunteers for the campaign. Only about one-fourth thought that the party should provide financial support.

Differences appeared on questions dealing with finances. There was a 42–42 split on whether disclosure requirements are now adequate or should be more strict. Asked about the effectiveness of statutory limits on campaign contributions, a plurality believe that the present limits are effective in the case of individual contributors, less so for contributions from party committees, and hardly at all for interest groups. Asked if public funds should be used to maintain specific units of party organization, three-fourths said "Never." However, Democrats were clearly more inclined to favor public funds in support of the campaigns of duly nominated candidates. The views of former Members of Congress are the views of men and women who have served and who continue to feel concern for their country and its political system. The findings reveal diversity of attitudes, commentary, and recommendations on the difficult subject of the institutional relationship between the party system and the Congress. Their views are important data for those seeking to facilitate the work of Congress, rationalize the Nation's policy process, make the political parties more responsible and accountable, and give the citizenry a greater influence upon those who manage its government.

These objectives are hardly attainable in a system that fragments the units of political power to a degree that far exceeds the separation of power concept of the Founding Fathers. From an institutional perspective, the U.S. party system and the legislative process in Congress create an every-person-for-him-or-her-self world. The search for the Holy Grail is simpler than the search for consensus in such circumstances. The good news is that anyone aspiring to establish a dictatorship in this country would give up the game very quickly for all the reasons noted here. However, those Americans who wish merely to avoid gridlock, discourage greed, promote accountability, and maintain a rational and vigorous system of policy making can see in these findings the dimensions of their task.

SUPPORT VIOLENCE AGAINST WOMEN ACT

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. QUINN. Mr. Speaker, I rise today in strong support of H.R. 1133, the Violence Against Women Act.

It is shameful that so many women fear for their personal safety. I am sad to say, Mr. Speaker, that no community is safe.

H.R. 1133 would provide invaluable assistance and protection to women who have been the victim of sexual assault and other physical violence both in the street or on the domestic front.

H.R. 1133 will provide grants to States and localities for law enforcement, rape and sexual assault prevention, and education. New penalties for these crimes will be created and victims will have new restitutions and remedies available to them.

Mr. Speaker, as the incidence of violence and crimes against women rises at an alarming rate, we can not stand by idly.

Women are becoming increasingly frightened for their safety. It is particularly disheartening that this fear often occurs in their own home. Violence—in any form—is intolerable.

I am proud to support this effort. The perpetrators of rape and other violent acts against women are committing heinous crimes.

We must get tough on crime and let criminals know that we will not tolerate their actions.

THE CHILD SUPPORT FAIRNESS ACT OF 1993

HON. TED STRICKLAND

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. STRICKLAND. Mr. Speaker, today I am pleased to join forces with the distinguished senior Senator from Ohio, Senator JOHN GLENN, by introducing the House companion measure to S. 1747, the Child Support Fairness Act of 1993.

Our legislation would allow the Federal Government to satisfy a valid State court judgement against federally forfeited assets of individuals who are delinquent in payment of child support.

As in the case of many legislative proposals, this issue was brought to our attention by a constituent who experienced frustration with the current system of collecting State court-ordered child support payments. The former husband of a woman from Warren County, OH was arrested in Hawaii. At the time of his arrest, the former husband was carrying over $50,000 in cash, yet he declared to U.S. Customs that he was only carrying $20,000. Customs officials seized the amount in excess of $20,000. Even though the former wife obtained a valid State court judgement for $7,660.26 for back child support, she was unable to receive any of the funds that were seized by Customs. Under current law, the Federal Government cannot honor State court judgments unless they are against an agency employee.

Mr. Speaker, we need to ensure that in the future, any assets that are seized and forfeited by the Federal Government will be subject to valid State court judgments for the payment of delinquent child support. It is time we put the interests of children first, particularly when their supporting parent fails to do so.

I look forward to working with Senator GLENN and my colleagues in the House toward enactment of this measure which will put the needs of children before the neglect of delinquent parents.

A SOLUTION TO A TAXING PROBLEM

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. DUNCAN. Mr. Speaker, people all over this Nation today are fed up with Government. Our Government has become so arrogant, wasteful, and inefficient that it is almost unbelievable.

The problem is that no real pressure on Government employees compared to that found in the private sector. Government employees, in most instances, are paid, rewarded, and even promoted, no matter how poorly they perform or how little they do.

This situation has been highlighted in an interesting way by Steve Twomey, in a column in today's Washington Post. I would like to call this column to the attention of my colleagues and other readers of the RECORD.

A SOLUTION TO A TAXING PROBLEM

(By Steve Twomey)

Before getting to my plea for immediate privatization of government at all levels, let me state that I have absolutely no idea what my county's property tax rate is. Maybe that's just me, but somehow I doubt it.

Nor do I know the specific levies for having my leaves sucked up, my bottles recycled or my fires put out, nor what I'm assessed as penance for being a white male, oppressor of millions.

When the annual notice listing all those taxes arrives, I simply check the bottom—down where it says *kazillions*—and proceed to pawn another piece of furniture or my wife, who, incidentally, should be out of hock any day now.

In other words, I don't curl up by the fire to dissect my tax bill. This makes me a less-than-conscientious American, as you shall see.

One day, Joan Robison was curled up with *her* tax notice. In her family room overlooking the Patuxent River, she was checking the rates because there was a debate in her town, Laurel, about whether the tax burden was greater if you lived in the city or outside it, in Prince George's County proper.

The issue was of more than passing interest to Joan, because she happened to live with one of the chief debaters, the mayor of Laurel, the honorable Joseph R. Robison.

Actually, on that day, Joan was looking at two tax notices, one for their home and one for a condo they own in another part of Laurel. If she hadn't been looking at the two together, she might never have caught the mistake.

Among the tax rates listed was one for the Maryland-National Capital Park and Planning Commission, which handles park and planning duties for Montgomery and Prince George's counties. For the Robison condo, the rate was listed as 25.4 cents per $100 of assessed value. But for their house, it was listed as 14.1 cents.

Same town, same county, same taxing agency, different tax rates.

Joan swung into action, family finances being her turf, not Joe's.

"I run the millions," the mayor says, "she runs the pennies."

Nobody Joan reached could figure out what was wrong, not MNCPPC (pure joy, that acronym), which spends the money; not Prince George's County, which collects it for MNCPPC; not the state of Maryland, which sends out the bills for all taxes.

Joe did, though.

Because the city of Laurel does its own planning, its residents aren't required to pay the planning part of MNCPBlah-blah's rates. But Joe found that about 2,300 Laurel properties—including their condo—were being assessed the full MNCPWhatever rate and had been for a while.

Like, since the Carter administration.

The overtaxation was not much per household—$30, $40 a year—but during the last 15 years, hundreds of thousands of dollars had been wrongly squeezed out of the people of Laurel. Not one of them had caught the error because all of them had had something better to do than scrutinize their tax bills, such as have a life.

MNCPPC swiftly acknowledged a mistake had been made.

"Took about a year," Joe Robison says.

The commission also acknowledged a similar mistake involving 2,000 homes in Montgomery County and agreed that residents in both counties were due a refund.

Three years' worth.

We'll keep the other 12 years of overpayments, the commission said, because the law provides for a three-year statute of limitation on our screw-ups. After that, we're home free. You taxpayers should have been more vigilant.

There you have it. It's our duty to know every tax rate, every tax policy and every municipal, county and state bureaucracy—and apparently every name of every government employee and their favorite colors—all so we can catch the incompetence before the three-year Wheel-of-Misfortune clock expires.

I say privatize.

Government has no incentive to act sanely because we can't fire it. It has no competitors. But if MNCPPC were turned over to Ford, for example, and Ford then refused to reimburse 4,300 wrongfully taxed households, we could give it 30 days' notice and hire GM.

Lest you think this is an extreme response to one small matter, let's look at last week's headlines about government performance.

The police chief in the District said crime would be cut if shopkeepers closed earlier. By staying open into the evening, he said, they're merely asking for it, sort of like a woman who innocently smiles at a drooling guy. The chief's statement suggests a question: Don't shopkeepers pay taxes so there are police to protect them, so they can stay open and earn a decent living? If the police are unable to do that, maybe we should give the job to a major defense contractor. Community policing, brought to you by General Dynamics.

A dean at the University of Maryland awarded himself a $12,000 pay raise after being told not to do so. He remains employed. Try giving yourself a raise and see if you remain employed. But if that dean had been an employee of TRW, to whom we had awarded the contract to run the school, he'd be history now because company officials would have wanted to preserve their lucrative deal with us.

Seventeen current or former employees at the Lorton Correctional Complex were accused of taking bribes and supplying drugs to prisoners, suggesting the city might be having problems with its procedures for checking the backgrounds of potential hires. This screening problem would evaporate if Walt Disney Co. had a contract to run Lorton. Not only would the correctional officers become models of wholesomeness, but Disney might even turn Lorton into a profitable fantasyland, the fantasy being that its prisoners would be unable to get drugs, sex or money.

I could go on and on about the beauties of privatizing government, but I see that it's time for my tax-rate study group. Today, we're memorizing storm drainage assessments.

HONORING WESLEYAN UNIVERSITY

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. GEJDENSON. Mr. Speaker, I would like to take this opportunity to commend Wesleyan University for its creation of the Wesleyan Challenge—an innovative public service program which encourages students to become involved in their communities. Each year three high school sophomores or juniors, from across the United States, will be selected by a review board including Mr. Eli Segal, President Clinton's Director of National Service, to participate in this worthy program.

Wesleyan University's administration has successfully encouraged its own students to become interested in community projects in and around the Middletown, CT area and I am pleased that the institution has designed a program to advocate this activity in our Nation's high school students as well. I believe this program promotes the important concepts of social responsibility and community service in a fun and educational manner.

Students must design a summer service project complete with goals, cost estimates, and supporting organizations in their communities. Wesleyan Challenge participants will receive a grant of $2,000 to implement the venture. In addition, they will be awarded $3,000 for use toward college tuition at the institution of their choice. I am enthusiastic that not only does this program encourage young people to find ways to help their communities, it also provides a foundation for these students to pursue higher education.

I strongly urge all high school students to investigate this worthwhile program and I again commend Wesleyan University for introducing the Wesleyan Challenge.

LEGISLATION INTRODUCED URGING INCREASED RELIANCE ON ENERGY CONSERVATION AND RENEWABLE ENERGY

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. SHARP. Mr. Speaker, I am pleased today to introduce legislation which calls for sharply increased reliance by the U.S. on energy conservation and renewable energy over the next 15 years. To do this, it urges a major budget shift—a major reallocation of DOE energy R&D and commercialization funding toward efficiency and renewable energy.

Among the benefits of this new direction are less energy-related pollution, added jobs in efficiency and renewable technologies, more results from limited Federal dollars, and enhanced U.S. international competitiveness.

The three basic purposes of the resolution are to:

First, increase U.S. energy efficiency and reduce energy use by 30 percent by the year 2010.

Second, have renewable energy technologies account for 20 percent of the overall national energy mix by 2010.

Third, achieve these goals by shifting $1 billion to efficiency, conservation, and renewable energy programs from other DOE programs over the next few years, consistent with reducing the overall Federal deficit.

Mr. Speaker, since 1973, Americans have saved more energy through improved efficiency than all the increases in production of traditional sources of energy put together. This is why Congress made energy efficiency the centerpiece of the 1992 Energy Policy Act [EPAct]. It is also why the Clinton administration is already giving a strong new emphasis to energy conservation and renewable energy.

Funding efficiency measures and renewable energy, as the resolution urges, will also yield these benefits:

Save consumers and businesses money, by limiting wasted energy.

Reduce our dependency on foreign oil imports, and reduce the U.S. trade deficit which is partially caused by these imports.

Spur technological advances in energy efficient equipment and renewable energy, which can increase existing markets and create new high-tech markets over the next 20 years, as well as high-paying U.S. jobs to supply them.

Help meet the President's Climate Change Action Plan [CCAP], which seeks to reduce global warming potential by stabilizing greenhouse gas emissions at their 1990 levels.

For too long, cost-effective efficiency and renewable energy initiatives have taken a funding back seat, while other energy options received most of the attention. Shifting priorities, as the resolution urges, will give long overdue consideration to a wide variety of different renewable and efficiency programs.

Here are some examples:

A 30-percent renewable energy goal for alternative fuel cars, running for example on ethanol or ethers from biomass, is set by the EPAct. A variety of new conversion processes now under study could provide greater volumes of these replacement fuels at lower prices, to help meet this goal.

The Green Lights Program, an EPA program to install energy efficient lighting wherever it is profitable and only where it maintains or improves the quality of light, can help meet our global warming commitments. If every organization participated in the Green Lights Program, the resulting CO_2 emission reductions would be the equivalent of taking 43 million cars off the road.

Upgrading appliance efficiency and building codes established under the EPAct, with technical assistance and incentive funding as a carrot to go with the stick of the new requirements, will add to previous savings. The original appliance standards passed by Congress are expected to save the equivalent of the output of 28 large, 1,000 megawatt powerplants.

New and innovative wind energy technologies have been proven technically feasible and cost-effective. Industry cost-shared programs can help commercialize wind energy as a large-scale source of electric generation and can minimize the expenditure of Federal dollars, thus providing a good return to the taxpayer.

The Federal Energy Management Program [FEMP], a program to increase cost-effective energy efficiency in buildings and facilities of the Federal Government, could save about a quarter of annual Federal energy spending on buildings.

Nonprofit consortia can be formed to deploy clean photovoltaic [PV] power in cost-effective utility applications. PV technology has shown itself to be cost-competitive for a variety of stand-alone applications, and commercialization efforts are needed to make it cost-competitive with conventional forms of utility electric power generation.

The United States, through a DOE industry partnership program, is the geothermal industry leader in the world in technology, resource development, and electric-power generation. Advances and commercialization of geothermal technology can further increase exports to the Pacific rim and Central America. One project now planned for the Philippines will account for over 400 megawatts of clean power by 1997.

Many ventures have already been formed to develop technologies needed for clean cars, more fuel-efficient cars, and electric vehicles. These can reduce our oil import dependency and will be needed in any event to satisfy tough new air pollution rules coming into effect over the next few years.

Mr. Speaker, my resolution has been lauded by the Clean Energy Campaign, an effort supported by numerous groups which seek to realign DOE budget priorities to more effectively support renewable energy and energy conservation technologies. I appreciate their efforts to seek cosponsors for the resolutions, and also commend the support and work of my cosponsors on this measure, Mr. SWETT, Mrs. MORELLA, Ms. LAMBERT, and Mr. BOEHLERT.

I want to stress that funding for our new budget priorities will not simply come from other energy areas. In fact, funding can and should be shifted from all DOE programs, especially including defense programs.

Finally, I urge my colleagues on the Hill and in the administration to consider supporting these new budget priorities in the coming months by their cosponsorship, their actions and their votes on the various budget resolutions, appropriations bills, and authorizing legislation we will have before us, in order to achieve our goals.

TV RESPONSIBLE FOR FEAR AND LOATHING OF NAFTA

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. OXLEY. Mr. Speaker, I would like to call your attention to and submit into the RECORD an article in the November 22 edition of the Washington Post, entitled: "TV Has A Lot To Do With Fear and Loathing of NAFTA." It is an excellent analysis of the distortion of reality and cynicism which shades broadcast television's coverage of current events.

[From the Washington Post, Nov. 22, 1993]

TV HAS A LOT TO DO WITH FEAR AND LOATHING OF NAFTA

(By James K. Glassman)

The source of NAFTA's close call this week was a kind of national economic paranoia, which, recent research suggests, may have its roots in network television.

The thrust of NAFTA is to bring Mexico's higher tariffs down to the level of our own (i.e., about zero). Since the engine that's been driving the U.S. economy for the past decade is exports, to kill a border-opening deal like NAFTA would be to kill the goose that's laying lots of golden eggs.

But, if you believe—as millions of Americans do—that this country is on the edge of economic disaster, opening borders can be frightening. The overblown fears of these Americans provided fertile ground for Ross Perot and for union leaders with a distinct aversion to competition.

But in the face of hard facts that show the U.S. economy looking solid, how did Americans get so scared?

One compelling answer lies in the pathetic inadequacy of network television reporting on money matters. An article in MediaCritic, a new publication of the business magazine Forbes, concludes from two studies of more than 17,000 TV stories that "the three networks consistently do a poor job of reporting economic developments." That may be putting it mildly.

One of the authors, Ted J. Smith of Virginia Commonwealth University, says that television news is responsible for "a sort of hysteria about jobs that is totally out of touch with reality."

In fact, many Americans will be surprised to learn that, since the election of Bill Clinton a year ago, the United States has scored a net gain of more than 2 million jobs.

But such facts don't make good television, a medium that's strong on drama but weak on numbers. Smith and his coauthor, Robert Lichter of the Center for Media and Public Affairs, found in their research that "only about half of all economic stories [on the networks] contain statistical information."

Worse, they write, TV treats minor fluctuations in economic data "as harbingers of doom, and actual economic problems are described in terms of crisis and catastrophe."

And, whether the economic news is good or bad, TV coverage is relentlessly negative. Holmes Brown, whose Institute for Applied Economics conducted a study in 1983 (a year in which the economy grew by 4 percent), described a typical piece:

The Labor Department releases figures showing that unemployment is down, but the anchorman warns that pockets of joblessness still exist. Then, a reporter follows with "a depressing feature on some forlorn guy in Ohio who was about to commit suicide because he couldn't find work. By the time viewers got through watching it they forgot all about the fact that the unemployment rate went down instead of up."

While the groups that back these studies are often linked to conservative or pro-business causes, their conclusions appear sound to practically anyone who watches television and follows economic data.

"I don't have any problem with those findings," says William Adams, a professor of public administration at George Washington University who also monitors the media.

"If Dan Rather had been around on the day Ben Franklin discovered electricity," Adams says, "he would have started his broadcast by saying, 'Horrible news today for America's candlemakers. . . .'"

Newspapers do a far better job covering the economy than the three networks, and CNN and PBS both have excellent 30-minute nightly business programs. But the audiences for these media tend to be well-educated, well-off and relatively small.

Lichter points out that surveys show that NAFTA attitudes are "stratified by class," and NAFTA foes "are most likely to rely on [network] TV for their news, not on the New York Times or the Washington Post."

TV watchers have been getting a steady dose of doom and gloom. Smith's study for the Media Institute found that from 1982 to 1987, a total of 4,500 stories out of 5,300 had a negative tone. Lichter's research found that from October 1990 to May 1993, of the 2,100 speakers who evaluated the economy on evening newscasts, 86 percent were naysayers.

And TV appears to be nonpartisan in its pessimism. This spring, with Clinton in the White House, TV evaluations of the economy were 92 percent negative, say the authors.

TV defenders reply that news, almost by definition, is the bad stuff—or, as Irving R. Levine of NBC put it: "For producers and reporters, bad news is good news." But the result of negative reporting is a lopsided, inaccurate view of the economy—a view that, as we saw in the NAFTA debate, can affect public policy.

Besides, sportscasters don't give the score only when the home team loses, and the weather report isn't broadcast only when rain is due.

No wonder so many Americans think their economy stinks. The facts, however, are quite different, particularly when you look at the rest of the world:

Growth in the United States for the year is higher than in any large industrial nation except Australia. Our gross domestic product is up 2.8 percent while Japan's is down 0.5 percent. The GDP of Germany is off 2.4 percent, France 1.5 percent, Sweden 4.2 percent.

The U.S. unemployment rate is 6.8 percent—still too high, but down from 7.4 percent a year ago. In every European country, as well as in Japan, unemployment has risen over the past year. The rate in Britain is 10.3 percent, Germany 8.8 percent, Italy 11.2 percent, France 11.8 percent.

I just returned from France, and there unlike in the United States, economic paranoia is fully justified. Industrial production has dropped 2.9 percent (in the United States, it's up 4.5 percent), and the French auto industry, with sales down 17 percent, is suffering its worst year since the oil crisis of the mid-1970s.

Bernard Kaplan, writing recently in the Hearst newspapers, quoted a French economist as saying, "Americans have received a grossly distorted picture of their economic condition."

And television is the culprit, along with politicians who exploit its images.

The truth is that, compared with Europe and Japan, we've got it pretty good right now, and one big reason is that we've finally come to understand that our internal market is no longer enough, especially as the world—yes, including Mexico!—is getting richer.

Over the past seven years, the volume of U.S. sales to foreigners has risen an astounding 85 percent—more than any other major industrial country. In 1992, for example, we exported $39 billion in aircraft, $38 billion in cars and trucks, $18 billion in power generators, $6 billion in tobacco products and $3 billion in fish.

And there's a lot more business where that came from. Trillons more.

PENSION BENEFIT GUARANTY CORPORATION [PBGC] REFORM LEGISLATION

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. ROUKEMA. Mr. Speaker, the funding problems of our Nation's pension system, and the Pension Benefit Guaranty Corporation [PBGC] in particular, are growing and require immediate attention. In addition to the interest taken by the Ways and Means Committee on this issue, my subcommittee on Labor-Management Relations of the Committee on Education and Labor has held a number of hearings to examine the nature of PBGC's problem, the extent of the problem, and the remedies needed to fix that problem.

The hearings by the subcommittee on Labor-Management Relations adequately apprised us of pension plan underfunding, projected PBGC deficits, hidden pension liabilities, and the decline in the number of defined benefit plans. In the words of the PBGC Executive Director, Mr. Martin Slate, the PBGC deficit will grow and grow if no action is taken to address the chronic underfunding of a significant and concentrated minority of defined benefit pension plans. With PBGC's single-employer fund at a deficit of about $2.7 billion, legislative action is urgently needed. Otherwise, the problem will become worse and the solution will only become more difficult.

On Thursday, October 28, the administration introduced the Retirement Protection Act of 1993, H.R. 3396, to reform the PBGC and our Nation's defined benefit system. I want to commend the administration for recognizing the urgency of the problem, for bringing all types of pension experts together to examine the problems, from the Department of Labor, Department of Commerce, Department of Treasury, and the Office of Management and Budget, and for creating a framework that can help the Congress fashion a permanent solution that will put the PBGC on solid financial ground while securing the pensions of the American worker.

In our subcommittee, we heard witnesses from every persuasion urging the Congress to take deliberate steps that will achieve a careful balancing of the need to shore up the PBGC while still encouraging the continuation of the defined benefit pension system. I believe what's at stake here is the health of the voluntary pension system and, in particular, the support in this Congress for defined benefit pension plans.

As we proceed to fashion an appropriate legislative solution, it might be said that we are engaging in a very delicate operation. Certainly we want to assure the Federal taxpayer that the PBGC program will never require their assistance like the saving and loans did.

Also, we need to exercise caution regarding any increase in the premiums on well-funded pension plans, or we risk the continuance of the very plans we need to keep the PBGC on a self-financing basis. By avoiding any increase in the flat rate premium, the administration bill recognizes this principle.

There are other facets to this complex problem that we will have to address in crafting a

solution that will withstand the test of time. Of critical importance, the administration's PBGC reform legislation recognizes the severe problem of chronic pension plan underfunding, and thus requires underfunded plans to be funded faster.

Retirees and taxpayers are at risk if our Nation's pension system is left unchanged. If legislative action is not taken, the risks and losses will increase. For this reason, I urge my colleagues to focus on this important issue and examine the administration's PBGC reform proposal so that remedial legislation can be enacted in a timely fashion.

CLINTON HEALTH PLAN WILL HURT SMALL BUSINESS

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. EWING. Mr. Speaker, I would like to bring to the attention of my colleagues a letter I received from my constituents, Brandon and Susan Griffing, regarding the impact of the President's health care reform and the impact it would have on small businesses. We need to realize that small businesses produce 9 out of 10 new jobs in America and keep this in mind during the health care debate.

PAGES FOR, ALL AGES BOOKSTORE,
Champaign, IL.

DEAR CONGRESSMAN EWING: I am writing this letter to you because I am a small business owner who is very concerned about the proposed health-care legislation. My wife and I own a bookstore in Champaign, Illinois. We currently employ 43 people. We work at the store daily bringing the total to 45. I am distressed that no discussion has even mentioned average or "normal" industry profit margins as a factor in deciding how much a business should contribute. Our industry is dominated by chain operations. The average profit margin in our industry is hovering around 1.4% (before income taxes; please see documentation from the American Booksellers Association). People scream bloody murder when their CD rates are earning below 4%, yet we are supposed to try to compete with a rate of return that is half that amount. We are competing against large chain operations that receive all kinds of margin enhancing benefits that we as independents do not receive. Any kind of meaningful dialogue and legislation that results from it must include industry standard next margins as a major component. As independent booksellers, we do not list extravagant luxuries as part of our financial statements. No independent bookstore owner ever bought a professional sports team or private jet with revenue earned from her or his store. We are just trying to pay the bills and compete with the chain operations. With 1.4% as our average margin, we have no room for any additional expenses. Our products are priced for us by the publishers, with the retail price being printed on the book jacket. Our industry is also very labor intensive. There is no practical way to automate the receiving and stocking of books. So, the combination of high labor costs and low margins means that taking a percentage of our biggest expense item would be devastating to us.

I also believe that any dialogue and eventual legislation relating to health-care reform must include a remedy for excessive worker's compensation insurance premiums. As a low risk retail operation, we pay $7,500 per year. We have had zero claims in 5 years. This area seems like it must be a "cash cow" for insurance companies. I realize that there are dangerous occupations, but bookselling is not included in that category.

Currently, we pay 50% of our full-time associates' health care premiums. We insure through Fortis Benefits. We chose a higher deductible plan that offers a $10.00 co-payment for office visits. Our share of this bill is $15,600 and our associates pay the equivalent amount. Under the proposals I have seen recently, we would be paying $28,646 or 84% more than we pay now!

As I stated earlier, we don't have much at the end of the year anyway. Where is this additional revenue supposed to come from? Small business is responsible for most of the stimulus behind our modest economic growth. If "smalls" are put out of business because of health-care legislation, are we to turn to firms like IBM for jobs? As you know large companies are cutting payrolls every single day. We need the precious little we earn to pay off loans, to pay income tax and if there is any left, to reinvest in equipment and inventory.

My wife and I quit our corporate jobs 6 years ago to open our store. We have invested a lot of money and time into our business. We have two children who depend on us to make a living. Our staff depends on us to live. We love what we do, and most days we look forward to getting to the store to begin each day. However, what we don't need are more government regulations and a huge financial burden heaped upon us by our government. I want legislators who are throwing around percentages of payroll to sit down with a real life P&L and show me how I can make it work. We already pay $55,406 in payroll taxes, and $7,500 in worker's compensation insurance. We cannot keep paying for more and more and more. There is a very real limit to what we as a retail business can pay and survive. That limit is staring us in the face.

I understand that cost shifting and the massive amount of waste in our health care system are problems that must be rectified, but, for heaven's sake, please don't eliminate an entire retail industry. Interestingly enough, I used to sell surgical supplies in my former vocation. I was always amazed at the wealth of people like Leon Hirsch of U.S. Surgical Co., one of the wealthiest men in America. Every business, if run efficiently, should be able to earn a reasonable rate of return on investment, but maybe the excess of these companies would be a place to start in the overhaul of health-care costs.

I am pleading with you to come up with responsible legislation. Families and individual's livelihoods are in your hands.

TRIBUTE TO PAT KEEBLE

HON. WILLIAM P. BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. BAKER of California. Mr. Speaker, I rise today to enter into the RECORD, the last column by legendary Contra Costa columnist Pat Keeble. She is hanging up her press pass and entering a new career.

Pat has been a friend for over 20 years, covering county and local politics, telling it like it is.

It has been a pleasure to work with and to know Pat, and I wish her the best of luck in her newest adventure.

A QUARTER CENTURY OF POLITICS

(By Pat Keeble)

My first day of employment with Lesher newspapers March 13, 1967, I was assigned to report on the Concord City Council meeting for the old Concord Daily Transcript. That's when I first met then-Mayor Dan Boatright.

The same Dan Boatright, who went from there to the Assembly and the state Senate, is the only politician I have covered who has been active my entire career. Many others have come and gone, but I was covering politics for Lesher newspapers before any of the others came on the scene.

I covered Concord city politics until I transferred to Martinez to cover the county. Other reporters on the Times and Transcript covered the big-time politics, the Democrats and Republicans, the state legislators and congressmen.

Then I drew the short straw to work on New Year's Day 1969. That usually amounted to a quick check of the Sheriff's Office and police department, a couple of small stories and you could go home. But at about 1:45 that morning, State Senator George Miller, Jr. had died of a heart attack at his Alhambra Valley home. I was assigned to cover the story. The next day I told the editor there was a lot of talk already about who might replace him. I figured more experienced reporters who had been there long would glom into the assignment. But suddenly all those who had been covering politics had gone, and no one else wanted to do it. Did I want to do it, I was asked.

Did I! What does anyone go into journalism for but to cover politics? The subsequent campaign was one of the wildest I've ever covered. District Attorney John Nejedly immediately announced he would seek the Republican nomination. There was another Republican, a Peace and Freedom Party candidate, an American Independent Party candidate, an independent and 10, count 'em, 10, Democrats.

The Miller Democrats, headed by Bert Coffey, had tried to get Miller's widow Dorothy to run but she wasn't having any of it. The next in line was George III, then 23 years old and a law student. He agreed to run and was challenged by Supervisor Tom Coll, who was supported by Rep. Jerry Waldie of Antioch, who had never gotten along with the Miller-Coffey crowd. Banker Pete Stark, then of Danville, finished third in his first race for a congressional seat.

My most vivid memory of that campaign was of a young, somewhat forlorn George Miller at Sunvalley mall, standing at the end of an escalator trying to get people coming off it to take his literature. He wasn't having much luck.

He won the nomination, but got creamed by Nejedly in the runoff. No one figured he was finished in politics, however. When Waldie left his seat five years later, Miller was an obvious candidate and he won handily.

During the early 1970s, a young, skinny guy with big glasses became executive director of the Contra Costa Taxpayers Association, which had its offices across the street from ours on Main Street in Martinez. Bill Baker loved to talk politics, so it was natural that he struck up a friendship with the press and a number of us frequently dined together at the old Amatos. So he wasn't unknown to us when he ran for and won his Assembly seat in 1980.

The Board of Supervisors in those days was a Good Ol' Boy board. In 1976, when environmentalist Nancy Fahden got mad enough not to take it anymore and ran against Al Dias, I didn't think she could overcome the politics-as-usual campaigning. With her Martinez Women for the Waterfront and a West County environmental coalition, she became the first woman on the board.

Then there's Sunne McPeak. I told her she couldn't beat Warren Boggess in 1978, that "the establishment" would give him all the money he needed. She forced a run-off with a true grassroots campaign using people instead of money, and the rest, as they say, is history.

It was a time when the whole of local politics was changing, with younger, activist candidates wanting to get rid of the Old Boy network and force government to change. They did that. Now, they are the Old Boys and Girls, burning out perhaps, certainly being challenged by a new generation.

The Board of Supervisors got two new members last year and will get at least one new one in 1994. Bill Baker went up a step to Washington, with Dick Rainey taking his seat and looking toward the state Senate in 1996, when most of the rest of our legislators must find new jobs, thanks to term limits. As we head for the big 2000, all sorts of changes are in store.

Why the nostalgia now? Because this writer is making a change, also. This is my last column for the Times. I'm moving on to other challenges.

During all this time trying to keep up with the politicians, what has made it more than worthwhile has been by readers. I've very much enjoyed the feedback, which let me know I passed on a little bit of knowledge here and there they might not have gotten otherwise. Thanks to all of you. Keep passing on our motto: If you don't vote, you can't complain.

KEY DOCUMENTS PROVE INNOCENCE OF JOSEPH OCCHIPINTI

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. TRAFICANT. Mr. Speaker, as part of my continuing efforts to bring to light all the facts in the case of former Immigration and Naturalization Service agent Joseph Occhipinti, I submit into the RECORD additional key evidence in this case.

OWL INVESTIGATIONS, INC.,
Bowling Green, KY, August 4, 1982.

Re voice identification, aural and spectrographic examination of client supplied known and unknown tapes.

RAY HAGEMANN,
Attorney at Law, City of New York, Borough Hall, Staten Island, NY.

Tapes: Realistic MC90 #52101 AM; Maxell XLII 90 #E3015383; Sony MC60 #A1517221 UNK.

Summary: Mr. Hagemann's office supplied tapes of a known suspect which were recorded by an informant. These were labeled Control 1 and Control 2. I was asked to compare a voice on Control 1 and Control 2 to each other, to see if they were the same voice and then compare that voice to a voice on the Unknown tape.

Examination: The examination consisted of critical listening, spectrographic analysis, and aural identification.

Conclusions: The targeted voice on Control 1 & Control 2 appears to be the same. There are similarities in pitch, quality, rate of speech, mannerisms, amplitude, accent, and other unique factors. The voice on the Unknown tape is speaking in a slow, affected manner and is somewhat slurred. (In my opinion, this is possibly due to the influence of drugs or alcohol.) By digitally speeding up the voice while maintaining its proper pitch, I was able to better match the rate of speech of Control 1 & 2 as demonstrated by the enclosed audio tape.

Similarities do exist between the voice on the unknown tape and the voices on Control 1 & 2. Pitch, quality, mannerisms and accent are similar.

I would need to take a Voice exemplar of the person on the unknown tape saying the exact words that were said on the unknown tape. A comparison then could be made to provide a determination of identification or elimination.

Respectfully Submitted

TOM OWEN.

CI: Hey Jose how are You? Where have you been? I've been around looking for you. You haven't been around any of the restaurants. What's your last name?

Prado: Prado, Jose Prado.

CI: I've been having problems here with a couple of police officers, asking questions and I was wondering if you can help me. I want to know about the Inspector from Immigration.

Prado: He gave us money to carry false information against Occhipinti. They only paid me $35,000.

CI: Now you went to court and made false accusations and so they kicked all of you out for giving false statements?

Prado: Yeah we gave false statements and they — because none of it was true. OK now, you've asked me that question too many times and your asking too many questions. Elias gave you all that info already

CI: What else happened, explain to me? When you went to court to give false statements, who was there?

Prado: Elias, Altagracia, Rhadame Liberato, and a few others.

CI: Damm shit, he fell into the trap, the federal agent and then he got fired.

Prado: There was proof that it was all false statements in the testimony, but you see we were to many witnesses and everything was done for money.

CI: You know I forgot to ask you who was the one who paid you money to testify in the court?

Prado: You know, Jose Liberato?

CI: He's the head honcho?

Prado: Yes, he's the one that's in charge.

CL: Goodbye!

STATEMENT OF MICHAEL CAPASSO TAKEN ON JULY 9, 1992

I am currently an agent with the U.S. Drug Enforcement Administration (DEA). Prior to my employment with DEA, I was an Agent with U.S. Immigration & Naturalization Service, also as a Special Agent, from June 1988 to April 1990. I worked under the supervision of Supervisory Special Agent Joseph Occhipinti. Through my service of employment I, along with Joseph Occhipinti and others, conducted upward of 50 consensual searches and at no time was a search of a home or business made prior to the consent of search being properly signed. Several of these searches were part of Project Bodega. In approximately two years of working with Mr. Occhipinti I personally had seen only him twice brandish his weapon and those were joint investigations with the Drug Enforcement Administration. I also recall a conversation with Special Agent Richard Lauria of the Immigration Service in which Mr. Lauria conveyed to me the understanding that Special Agent Stafford Williams had made false statements during his testimony at the trial of Joseph Occhipinti.

MICHAEL CAPASSO.

State of New York, County of Orange.

John M. Hickey, being duly sworn, deposes and says:

1. I was formerly employed by the New York City Police Department. I retired in October 1989.

2. At the time, I was employed as a detective, assigned to the Manhattan North Homicide Squad. I was assigned to the Buczek homicide and related drug investigations.

3. During the performance of my duties, I became acquainted with Joseph Occhipinti.

4. Mr. Occhipinti's actions in visiting various bodegas arose from the Buczek homicide/Freddy Then drug cartel investigations.

5. Mr. Occhipinti went to these bodegas with the full knowledge and concurrence of the New York City Police Department.

6. In fact, in doing so, Mr. Occhipinti was pursuing leads and information provided to him by the Police Department. Another detective, Detective Hildebrandt, gave him a list of bodegas, which Mr. Occhipinti ultimately visited.

7. We believed that many of these bodegas were owned and/or controlled by Freddy Then and that they were havens for illegal activity.

8. Mr. Occhipinti's visits to these bodegas were not unilateral acts on his part; but were undertaken with the full knowledge and concurrence of the New York City Police Department.

JOHN M. HICKEY.

QUESTIONS TO ASK ABOUT THE PRESIDENT'S HEALTH PLAN

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. CRANE. Mr. Speaker, the Ways and Means Committee, of which I am a member, has held a series of hearings this fall to try to sort out the details of President Clinton's immense health care reform plan. At hearing after hearing, however, it has been very difficult to get complete answers to questions about the intricacies of the President's package. In an article from the November 4, 1993 issue of the Chicago Tribune, Joan Beck poses a number of such unanswered questions that challenge the ability of the President's plan to achieve its stated goals. I urge my colleagues to read and consider these questions and to support alternatives that would strengthen the private sector's ability to expand coverage and contain costs.

CLINTON HEALTH PLAN RAISES QUESTIONS, OFFERS FEW ANSWERS

With its 1,342 pages of legislative legalese, President Clinton's new "Health Security Act" may be the most complicated bill ever introduced in Congress.

Even so, it leaves a slew of questions unanswered about what it will do to our lives, our health, our taxes, our economy and our national debt.

For starters, here's a sampling:

1. Can a 1,342-page law be understandable not only to members of Congress who must pass it, but to the bureaucrats who must administer it and to the public whose lives will depend on it? Or is the administration creating a new IRS-type monstrosity that will make today's health care mess look like Tiddlywinks?

2. Conventional wisdom holds that runaway health care costs are due in large part to economic incentives for physicians and hospitals to treat patients more than necessary. But isn't there a danger the cost-containing incentives in the Clinton plan will make it profitable to undertreat patients—with some dangerous consequences?

3. How can taxpayers believe the cost estimates in the Clinton plan are reasonably correct? The Federal government, after all, has been horrendously wrong in costing out other health care plans. For example, the End-Stage Renal Disease program that pays for kidney dialysis was projected to cost $250 million annually in 1977, five years after its start-up; in 1991, the bill came to $6.6 billion.

4. What confidence can we have in Clinton's assertions that more efficient administration will cut costs enough to pay for much of the expanded coverage? As Vice President Al Gore pointed out several weeks ago, federal regulations generate tons of expensive, unnecessary paperwork. Will the health plan do better, even if it is run by the states? Medicaid—at least in Illinois—is so poorly managed that cheating, over-billing, unnecessary care and other abuses are rampant and unlikely to be weeded out.

5. Won't the requirement that employers provide health insurance for workers carry built-in incentives for small businesses to reduce their payrolls and hesitate to take on new hires—even with the subsidies the Clinton plan promises? Since small businesses generate a majority of new jobs, won't this increase the rate of unemployment?

6. If a big majority of Americans are satisfied with their current health care, why should they take on the risks and complications of the Clinton plan, especially when 40 percent of people will be paying more (some will get lower deductibles) and 15 percent will pay more and get less coverage?

7. How can using $140 billion in cuts in future Medicare spending to finance the health care plan be justified when Medicare reimbursements are already so low that some elderly people have trouble getting care? Why should those over 65 have to stay in Medicare when it will provide fewer benefits than health plans for younger people?

8. Who is going to pay for health care for the nation's 3.2 illegal immigrants, for whom the Clinton plan provides only an inadequate $1 billion a year for emergency treatment? What will happen to public health if large numbers of undocumented people can't get care for contagious diseases, pregnancy and other medical problems?

9. Despite the lip service the Clinton administration—yielding to pressures and criticism—now gives to plans allowing people to choose their doctors and hospitals and pay on a fee-for-service basis, is there any certainty such freedom can be preserved? Many analysts predict most doctors will be forced out of private practice and that choice will be priced out of existence and will soon disappear.

10. What Clinton is proposing is actually a gigantic, new entitlement program, like those that now make it impossible to control the federal budget, the deficit or the national debt. Shouldn't Clinton—and critics such as Ross Perot—be more concerned about the deficit dangers of the health care plan or the new taxes it may require?

11. How will cost controls on insurance premiums, fee schedules, budget caps and global budget requirements actually work? What the administration is now proposing—after backing down some under fire—is essentially price controls. And price controls are ineffective in the long-term, create shortages and could lead to rationing.

12. What will be the effect of the squeeze on high drug prices the Clinton plan calls for? Will what are essentially price controls cut into the ability of pharmaceutical companies to carry on research and development new medications that could reduce the cost and improve the outcome of treating many illnesses?

13. Isn't it unrealistic—and dangerous—to try to hold health care to the rate of inflation, as Clinton proposes, when the aging population with their increased needs for care is growing rapidly, when new technology can help cure illnesses and relieve suffering and demands are escalating for better treatments for such diseases as breast cancer and AIDS?

14. How can we be sure the heavy hand of government won't stifle and do harm to what is now the best medical care in the world and that medical innovation and discovery will still flourish?

15. Is there really an emergency in health care that justifies such a sweeping new power grab by the federal government and such incalculable risks to the nation's economy? Can't problems in the current system be fixed by clearly targeted, evolutionary improvements?

Congress is expected to debate for at least several months about the Clinton plan, as it should with legislation that will affect all of us so intimately and will be so disruptive of a major economic sector. At the very least, voters should insist on credible answers to questions like these.

EAGLE SCOUT JEFFREY D. PETERS

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. MANN. Mr. Speaker, I rise today to recognize Jeffrey D. Peters for earning the Boy Scouts of America's rank of Eagle Scout. Very few Scouts reach this goal. The award will be bestowed at a special Court of Honor Ceremony on December 5, 1993.

Jeff started scouting as a Cub Scout with Pack 40, where he earned the Arrow of Light. He transferred into the Boy Scouts and joined Troop 83. As Jeff has grown and matured, he has held several leadership positions, from assistant patrol leader to junior assistant scoutmaster. Jeff was tapped as a member of a select group of honor campers called the Order of the Arrow.

Jeff has volunteered countless hours of his time to such projects as the annual Scout-O-Rama, to civic efforts such as cleanup and beautification projects in Mount Airy, and to trail maintenance in Mount Airy Forest. Jeff has also remembered those less fortunate than himself by assisting with food and clothing drives.

Jeff Peters has not neglected his academic efforts while he has pursued his other interests. He has received the American Revolution Award and a biology academic award. In addition, Jeff has been an honor student at LaSalle High School for 12 out of 13 academic quarters.

I am proud to salute Eagle Scout Jeffrey Peters and congratulate him, his parents, and his scout leaders on his accomplishment.

PRESIDENT CLINTON'S HEALTH SECURITY ACT

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. SWIFT. Mr. Speaker, a few months ago President Clinton came before the Congress and the American people to share his very serious concerns with our Nation's health care system. A few weeks ago the President unveiled his specific plan on how he hopes to cure what ails our current system. Today the distinguished majority leader from Missouri, Mr. GEPHARDT, will officially introduce President Clinton's Health Security Act and I am pleased to be an original cosponsor.

I and many of my colleagues have been troubled by the tremendous problems that plague our health system. First, it costs too much. It costs too much for individuals, families, business, and government. We are spending more on health care than any other industrialized country in the world and unless the Congress takes action, it will continue to cost too much. For example, it is estimated that by the year 2000, almost $1 out of every $5 earned by Americans will go to health care spending. And if current spending trends continue, health care costs will consume 19 percent of our country's gross domestic product by the turn of the century.

As costs continue to spiral out of control, people—families—are losing access to our health care system. They are losing access because their health insurance premiums have risen 30 percent in the last year. They are losing access because the advances in medical technology are enormously expensive. They are losing access because of a pre-existing condition which prevents folks from changing jobs or even getting health insurance in the first place. Right now, in my home State of Washington, 40,000 people are losing their health care benefits each month. There are simply too many people in this country who are just one illness away from losing what coverage they currently have. It is clear, the cost of doing nothing will ultimately put all Americans at risk.

Fortunately, President Clinton is not content to stay with the status quo and let costs skyrocket and have families continue to lose access to health care coverage. He has put before us a very bold, innovative plan to address this burgeoning crisis in health care. With this plan all Americans can look forward to knowing that they will always have health security—for themselves and their families. The President's model for reform would control costs and provide universal access to health care

for all Americans. It is a plan which builds on the health care delivery system that we already have in place and seeks to maintain the high quality and maximum choice that many Americans value in our current health system. It preserves what is right with our system and fixes what's broken.

As one who has been supportive of the single-payer approach, I am particularly pleased that the President's plan embraces some of the key principles of a single-payer system—universal access, strong cost containment, administrative simplification.

The committees in both the House and Senate have already begun to examine the various aspects of the Health Security Act. For example, how will the plan affect senior citizens, families and children, large and small businesses, and biomedical research? Will the plan simplify the overwhelming paperwork associated with our current system and will it encourage new physicians to practice primary care?

The Health Security Act makes sure that all Americans—the young and the old—are covered. It will make it easier for both large and small employers including the self-employed to buy and maintain health care coverage. The academic health centers established under the act and other research initiatives will ensure that we have an adequate supply of primary caregivers and that we continue our efforts to find new treatments and cures for the health problems that Americans encounter whether they are as common as the cold or as difficult as cancer. And finally the Health Security Act will simplify health care administration for both providers, insurers and consumers by using a single form for health care claims.

It is terribly important that we work together to come up with comprehensive reform. That will mean compromises from every quarter. I have often said that it is not the opponents of health care reform that will kill this proposal but rather the proponents will doom any chance of reform if we are not willing to keep an open mind to different approaches to solve the problem. I look forward to working with my colleagues on the Energy and Commerce Committee and the entire House to make sure that all Americans have health care that they can count on.

The bottom line is that the health care system in our country is sick. The President has prescribed the medicine. Now is the time for Congress to fill the prescription.

IN HONOR OF ADDIE KELLER

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Ms. ESHOO. Mr. Speaker, I rise today to recognize Addie Keller, an extraordinary citizen of San Mateo County, CA, and a member of the San Mateo County General Hospital Foundation Board of Directors. The foundation was initiated to provide support to one of California's financially strapped public health and hospital systems. Mrs. Keller recognized the mission of the foundation as both a special challenge and a noble undertaking and stepped up to it.

Within months, Mrs. Keller had found a unique way to make the public aware of County General. She decided to bring the colorful tradition of the wild west to San Mateo—the bed race. With the able assistance of her son, Barry Keller, who had staged races in other parts of California, Mrs. Keller brought the community coalition together. She drew support from small businesses, other hospitals, chambers of commerce, unions, physicians, firefighters, and elected officials who entered beds in the race and made significant donations. The Great Bed Race was previewed at a Gala Bed Race Dinner the evening before and proceeded on a sunny Sunday morning by a parade through downtown San Mateo. Nearly 30 beds were raced, and television stations from the bay area covered the wild antics, including four doctors racing an iron lung.

Addie Keller succeeded in making people aware of SMC General hospital and raised nearly $50,000 with the tremendous help of her husband George, their son Barry, and his wife Lynda. The staff and community of County General are truly grateful to Addie Keller. I urge my colleagues to join me in saluting Addie Keller and her inspiring achievements. She is indeed a national treasure.

THE MOTOR CARRIER SAFETY ACT OF 1993

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. MORELLA. Mr. Speaker, today I am introducing the Motor Carrier Safety Act of 1993. This bill would set a minimum penalty and increase the maximum penalty amounts for civil violations of Federal motor carrier safety regulations. It would also improve information provided to motor carriers about past safety performance of drivers and improve supporting documentation records of duty status.

On August 6, 1993, a "Beltway summit" was convened at the U.S. Department of Transportation to plan safety improvements for the Washington Beltway. On the same day, there were three accidents involving motor carriers on the beltway in Montgomery County, MD. In a space of 12 days last summer, 7 people were killed in a series of beltway accidents; trucks were involved in four of these accidents. There are many responsible trucking companies and drivers, but when one large truck, which has not been maintained or whose driver falls asleep at the wheel, is involved in an accident, death often results.

Mr. Speaker, I urge my colleagues to reduce truck accidents on the beltway and across the Nation and cosponsor the Motor Carrier Safety Act of 1993.

Five years ago, a regional effort was launched by Federal, State, and local officials to improve safety on the Capital Beltway. I believe that this interjurisdictional work has been effective in reducing major accidents and massive traffic congestion on the beltway. In addition, the Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA] contained important motor carrier safety provisions, which I sponsored in the House, to reduce truck violations and to improve safety on interstate highways.

In August, my colleague FRANK WOLF initiated the "Beltway summit" to which I referred earlier. As a result of that meeting, Federal Highway Administrator Rodney E. Slater appointed three committees, whose work will be published soon, to continue the work of previous working groups to improve beltway safety.

Mr. Speaker, the provisions in the Motor Carrier Safety Act of 1993, which I and Congresswoman BYRNE introduce today support and enhance the efforts of these working groups. The legislation will also send the message to the motor carrier industry that violations of the Federal motor carrier safety regulations are significantly more serious than traffic violations. We have improved truck safety on our interstates. More needs to be done and done quickly.

OPENING OUR BORDERS TO STATE-INSPECTED MEAT: AN EXERCISE IN EQUITY

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. GUNDERSON. Mr. Speaker, last Wednesday, we participated in a historic occasion as the House of Representatives gave its approval to the implementing legislation for the North American Free-Trade Agreement. At that time we stood up as a country and said that we would be a player in the global economy of the 21st century and, further, that we would not let artificial boundaries called borders stand in our way.

Now that we have made that decisive statement concerning our international borders, Mr. Speaker, I believe that we must turn our attention inward and look at some of our internal policies that restrict interstate trade among the several States. The most glaring example of an artificial barrier to interstate trade is the restriction against State-inspected meat and poultry products traveling in interstate commerce.

Twenty-five years ago, Congress passed the Wholesome Meat Act of 1967. At that time, there were over 15,000 nonfederally inspected meat and poultry processing plants producing about 15 percent of all of our carcass meat and 35 percent of all of our processed meat. Indeed, there was no uniformity or consistency in the various State laws regulating these processors.

Accordingly, the 1967 Wholesome Meat Act introduced a new Federal requirement that any State meat and poultry inspection law must provide standards which were "at least equal to" those of its Federal counterpart. If a State inspection law failed to meet those Federal standards, the Secretary would designate that State for Federal inspection.

Unfortunately, Mr. Speaker, even though the 1967 act required State inspection laws to be at least equal to Federal inspection standards, it did not permit State-inspected meat that met those standards to travel in interstate commerce. As such, for 25 years we have had an

inequitable situation in our country where foreign meat and poultry products which meet Federal inspection standards may enter the country and travel in interstate commerce, but State-inspected products meeting those same standards cannot.

Are we talking about a great quantity of State-inspected meat and poultry products? No. While 40 percent of all American meat and poultry processors are State inspected, State-inspected operations slaughter and process only about 5 percent of the total American meat supply. What does this tell us about these businesses? Simply that they are small mom and pop operations who, like all small businesses, are in a day-to-day struggle to find new markets and keep their doors open.

From this perspective, the current prohibition against State-inspected meat traveling in interstate commerce works a particular hardship on those family meat and poultry operations close to a State border since they cannot market their product across that boundary line. That's why we are losing about 5 percent of these businesses every year. In fact, we barely have more than 3,000 State-inspected meat and poultry processors left in our country—only 20 percent of what we had 25 years ago.

Simply stated, Mr. Speaker, its time to rid ourselves of this meaningless distinction in the law which has become nothing more than an artificial barrier to free and fair trade within our own American borders. That's why I'm introducing the Meat and Poultry Products Inspection Amendments of 1993 today—to ensure that we truly promote the free flow of commerce in the United States by allowing all meat and poultry products which meet Federal inspection standards to travel in interstate commerce.

Indeed, now that we have opened our borders to allow meat and poultry products from our North American neighbors which meet our inspection standards to enter the country and travel in interstate commerce, we should provide the same opportunities to our domestic meat processors and their State-inspected meat and poultry products. Our American traditions of equity, fairness, and justice require nothing less.

TRIBUTE TO JOHN MIDDLEMORE

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. STUMP. Mr. Speaker, I rise today to pay tribute to John Middlemore, a senior at Prescott High School and resident of the Third Congressional District in Arizona. John won 24th place honors in the Voice of Democracy script writing contest sponsored each year by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary.

This year more than 136,000 high school students entered the contest competing for 29 national scholarships totaling $87,500. This year's contest theme was "My Voice in America's Future."

John is the son of David and Winifred and the youngest of 10 children. John was nominated by my office to attend the U.S. Air Force Academy and accepted an appointment.

I would like to submit John's award winning speech for publication in the CONGRESSIONAL RECORD:

MY VOICE IN AMERICA'S FUTURE

(By John Middlemore)

At birth I was given a priceless gift. A gift that would guarantee me life, liberty and the pursuit of happiness. These gifts are a part of a greater legacy. Our forefathers left us a free government which is a miracle of faith—strong, durable, and marvelously workable. Yet it can remain so only as long as we understand it, believe in it, devote ourselves to it, and when necessary fight for it. Our forefathers established for us the chance to know freedom, to love freedom, and to do our full share to assure its continuance. There is no freedom without responsibility.

Freedom is not inherited. It is up to each of us to keep our house of freedom in good repair with our voices, yours and mine.

Those Americans who gathered at Independence Hall, were touched with idealism, but they were not dreamers. Their great vision was rooted in wisdom and common sense. It was in an atmosphere of hope and faith that our blueprint for freedom, the Constitution of the United States, was born. Their voices spoke through their pens, my voice must now preserve their words for America's future.

Today, that blueprint is our most treasured inheritance, this document which belongs to each of us, will continue to be the effective guardian of our rights only as long as each American recognizes his responsibilities.

The future of America lies in my voice. We live in a land where the right of dissent and of free speech is jealously guarded—where the ballot box is the sword and the people its welder. We live in a country that allows us to stand up and question our leaders.

Freedom is not a legacy. We inherit only the chance to realize it. Each generation—each individual must re-earn it. Freedom is like a warming fire, while newcomers to the circle can warm themselves, the fire must be fed with new fuel. That fuel is my voice. I must be ready to defend our rights be it with my voice, my pen, or my sword.

Jacklyn Lucas was my age, seventeen, when he was involved in the battle of Iwo Jima. He threw himself on two grenades saving several men. He fed the fire of freedom with courage. His act of courage was his voice speaking for America's future.

My voice will have to be as strong as those men who have fought and died for freedom. I must speak out against injustice, whether it be in the classroom, the city, or the government.

This thing we call Democracy is so precious that it needs to be guarded. I mut act upon the defense of our freedom.

My voice will join others to keep America strong and free. My voice will be America's future. I will use my voice to be the keeper of the flame, to fulfill our destiny.

For those that much is given, much is expected.

H.R. 3, THE HOUSE CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Ms. VELÁZQUEZ. Mr. Speaker, today I rise in support of H.R. 3, the Congressional Campaign Spending Limit and Election Reform Act. Last year, we all watched as citizens across the country cast their votes for the candidates of their choice, sending to Washington a historic number of minorities and women. However, despite the wonderful and important results of last year's elections, there is still a high degree of voter dissatisfaction with the way congressional campaigns are financed and run. The playing field is not level. Those individuals who are wealthy and those incumbents who have amassed the largest war chests are in the best position to run effective primary and general election campaigns. Moreover, candidates who receive massive amounts of funds from PAC's and corporate donors have a clear advantage over newcomers who are also worthy candidates but who are not linked to those funds.

Mr. Speaker, as Members of Congress, we are quick to remind our sisters and brothers that we are sent here to represent our districts in a government of the people, by the people and for the people, yet we do not yet have a fair, efficient set of campaign financing rules which would move to level the playing field for potential candidates. All too often, our government at all levels seems to be of the privileged, by the privileged, and for the privileged.

H.R. 3 would address this problem of unfair campaign financing laws by establishing a system of voluntary campaign spending limits for House candidates and providing communication vouchers as incentives to follow the campaign spending limits. The bill makes the system fairer by extending the spending limit for those candidates who face opponents which do not abide by the voluntary limits. H.R. 3 also places absolute limits on each candidate of $200,000 in political action committee contributions per election cycle and $200,000 for large individual contributions over $200. Additionally, the measure prohibits bundling of funds by an intermediate agent but exempts groups which do not lobby from the bundling restriction.

One of the most important aspects of H.R. 3 is the provision for communication vouchers. Candidates who abide by the voluntary spending limits would receive communication vouchers to match up to the first $200 of each individual contribution. These communication vouchers would be used to pay for radio and television broadcasts, print advertising, postage, and campaign material such as brochures, bumper stickers, handbills, pins, posters, and yard signs. H.R. 3 envisions financing this provision through the Make Democracy Work fund and suspends the implementation of the bill until separate revenue legislation is enacted. Congress had committed to implementing the second step of this two-step funding process next year.

It is true that it takes a great deal of money to run an effective campaign for Federal office.

Many viable potential candidates—women, minorities, teachers, factory workers, and even small business owners—many times do not have the resources to seek political office. These are the Americans who are often not wealthy, who do not come from affluent districts, and who do not have large donor networks and the contracts to raise the much needed war chest for modern day campaigns. H.R. 3 provides limits on campaign spending that moves in the direction where worthy Americans may have the opportunity to run for an elective office.

Further, recent allegations of the use of walking around money to suppress the African-American vote in the New Jersey gubernatorial election speak directly to the need for there to be a level playing field. These tactics are certainly not restricted to gubernatorial races. Acts of this nature can have a potentially devastating effect on elections involving minority candidates. I have recently investigated possible legislative vehicles to address this issue of vote suppression and payoffs, only to find that these actions are already criminal acts. In this regard, I urge my colleagues to focus their attention on this issue to ensure that dishonest tactics are not used to falsely elect a candidate. America will rue the day when she casts a blind eye toward the wholesale purchasing of elections through vote suppression.

For the above reasons I would have supported a more ambitious Federal campaign financing measure containing higher degree of public financing—the only way to provide true fairness and openness. However, despite my advocacy of stronger legislation, I remain a supporter of H.R. 3.

Mr. Speaker, we have taken the first important step toward ensuring a true participatory democracy this year by enacting H.R. 2, the National voter Registration Act. Let us take the next important step by supporting H.R. 3 to begin to level the playing field so that our Nation's teachers, homemakers, factory workers—our average citizens—can have a chance to run for political office. I urge my colleagues to vote "yes" on H.R. 3, and to move toward strengthening the public financing provision.

LENDING ENHANCEMENT THROUGH NECESSARY DUE PROCESS ACT—DIRECTOR AND OFFICER BILL

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. McCOLLUM. Mr. Speaker, today, I introduced the Lending Enhancement Through Necessary Due Process Act.

In the aftermath of the savings and loan crisis, Congress empowered the RTC, the FDIC, and other Federal agencies to prosecute the S&L crooks and pursue other wrongdoers through civil suits to collect damage awards to lessen the taxpayer costs of the thrift debacle.

To date, the Government's efforts have been very successful. Almost 1,000 criminal convictions have been obtained and more than 2,000 civil suits have been initiated; $825 million in fines and restitution have been collected.

However, in carrying out Congress' mandate, Government agencies have launched a zealous civil litigation campaign against anyone even remotely connected to a failed bank or thrift. Litigation against marginal defendants and the use of highly paid outside counsel have aggravated the credit crunch. Directors and officers in financial institutions are reluctant to make character loans or business loans with any element of risk for fear that they could be accused of negligence by the regulators if the loan ever failed. Currently, banks and thrifts are finding it difficult to attract qualified directors and officers because of the campaign of fear brought on by the regulators.

Taxpayer funds are being wasted and the lives of reputations of countless individuals are being ruined. In their fervor to squeeze every last dollar out of S&L and bank professionals, the RTC and the FDIC are spending an inordinate amount of time and money pursuing marginal cases in which the culpability of the defendants is highly questionable. Faced with an enormous pool of potential individuals to sue, the RTC and the FDIC have contracted most of the legal work to outside counsel.The RTC and the FDIC employ over 2,400 law firms, paying them over $504 million in 1992 alone. The current caseload is over 60,000 lawsuits. These law firms have little incentive to reduce taxpayer costs and every incentive to bill thousands of hours in the pursuit of former directors and officers, regardless of their culpability. Defending these suits is a costly, demeaning, and time consuming enterprise. Many defendants have agreed to settlements in order to avoid bankruptcy.

Examples of regulatory excesses are legion. I will describe a few here for my colleagues to show why this legislation is necessary.

First, the National Bank of Washington [NBW] failed in 1990. In July 1992, the FDIC, as receiver, brought suit against 11 defendents—10 NBW directors and 1 officer. On February 17 this year, after 8 months of costly, pretrial litigation, the Federal district judge dismissed all counts against nine of the defendants citing the "apparent baselessness of most of the charges" and the FDIC's "vague, ill-defined conspiracy theory." The court took the unusual step of imposing rule 11 sanctions on the FDIC and the Justice Department, requiring that they pay the legal costs of the defendants whose cases were dismissed. Unfortunately, because rule 11 sanctions were designed to chastise irresponsible private litigants, the sanctions in this case will have little or no effect because the taxpayers will end up footing the bill.

Second, the former associate general counsel for the RTC recently stated publicly that 90 percent of the civil cases against former directors are of doubtful merit. They are nonetheless filed because RTC officials fear being summoned before congressional committees and asked to explain why certain cases were not brought. They believe that if as many cases as possible are brought, they will not be criticized. This mindset is bringing down the economy and wrecking people's lives.

Third, Dr. James Fisher, former president of Towson State University, was an outside director for Baltimore Federal Savings & Loan for 16 years. The S&L failed in 1988, and Fisher is being sued for $32 million. He is not charged with dishonesty, fraud, or insider dealing. He is charged with negligence, despite duly attending meetings, reading documents, and listening to officers and outside experts. He is defending himself because, at age 61, he is living on partial disability and the legal fees would have cost him $600,000 to date.

Fourth, Mr. Young Kim invested his life savings in a failing institution and turned it around. This was the only Vietnamese/Korean savings bank in the United States. The OTS seized the bank despite its profitability and adequate capital. OTS alleged technical violations dealing with bookkeeping. The OTS froze Kim's assets causing him to not be able to pay his mortgage or his child's tuition. An administrative law judge found that the OTS actions were wrong. The acting director of the OTS overruled the judge's decision and banned Kim from banking for life.

Fifth, Richard Blair, 69, was an outside director for McLean Savings & Loan. In 1988, the FDIC closed McLean and sued all officers and directors, alleging breach of fiduciary duty and negligence. Blair was amazed that he had been sued. For most of the time the allegedly negligent lending was taking place, he was lying comatose in a hospital bed. Three Federal magistrates presiding in this case have criticized the FDIC for improper conduct. One magistrate ordered the FDIC to pay $6,600 in court costs. The FDIC presses on.

This bill will remedy these types of abuses and still let the regulators pursue culpable individuals.

First, accused directors and officers will be allowed to assert defenses to overreaching accusations. One example is the business judgment defense. The courts in all of the States recognize the business judgment rule either by case law or by statute. This bill will establish defenses for business judgment, regulatory actions, and unforeseen economic conditions.

Second, regulators must have good cause to obtain the financial records of potential defendants. The current practice is to ask for the financial records of all parties and then sue the richest, regardless of culpability. The bill requires that the regulators must show a violation of law and the likelihood that the individual will dissipate assets.

Third, more due process protections are given to individuals to prevent the freezing of their assets without good cause.

Fourth, the standard for director and officer liability is clarified by stating that the standard is gross negligence and not simple negligence. This will prevent many frivolous suits. This is also in line with the recent decision in the U.S. Court of Appeals for the Seventh Circuit.

TRIBUTE TO VIRGIL PAT CHAMBERLAIN

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. FARR of California. Mr. Speaker, I want to commemorate the life of a truly great resident of my 17th Congressional District of California. Virgil Pat Chamberlain was a resident California Highway Patrol officer in the Big Sur area of my beautiful central coastal district for 18 dedicated years.

Virgil was born on October 20, 1939, having recently had a birthday. He served the citizens of Big Sur who now mourn his passing by being a founding member of the Big Sur Volunteer Fire Brigade in 1974. He was the Fire Brigade's Assistant Chief for 10 years and was Chief of the Brigade until his retirement last December when fellow firefighters named him honorary chief for life at that time.

A lifelong resident of pacific Grove in Monterey County, he graduated from Pacific Grove High School and attended Monterey Peninsula College.

The resident of this small yet close knit community join his survivors in paying tribute to a valuable member of our citizenry and a public servant who will be greatly missed in this life.

TRIBUTE TO JAMES W. YORK

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. BILIRAKIS. Mr. Speaker, I rise today to pay tribute to Jim York, a good friend of mine and of many, many people in the Ninth District of Florida. In December, Jim will be retiring after 31 years of service to the American Red Cross, and I just couldn't allow this 1st session of the 103d Congress to adjourn without offering a few words to honor this dedicated gentleman.

It wouldn't do for me simply to offer a laundry list of the many ways and instances Jim has contributed in a positive way to his community and to the spirit and dignity of his fellow man. We don't have the time or space for that here today. The same goes for the honors and awards that have been heaped on him by a grateful community.

Rather, let me tell you a little about Jim York himself. Jim always has believed in the power of people to help people. He has served as a great inspiration in this regard, tirelessly championing the volunteer throughout his work with the Red Cross.

In his farewell message to the Red Cross, his warmest words of gratitude and encouragement were for the volunteers with whom he had worked: "Each of you are the heart and soul of the American Red Cross; you bring a dimension to the Red Cross that is the envy of every private nonprofit organization in the world." I maintain that these very words can without qualification be applied to Jim himself.

Furthermore, his work did not end with the Red Cross. Twenty-four-hour days never were long enough for Jim York. In fact, there aren't many service organizations in Pinellas County, FL, that don't have Jim's fingerprints on them somewhere. On one occasion he noted that, "Once you start sitting around and thinking that you're doing a great job, you probably aren't." I always have appreciated that sentiment.

On behalf of the Ninth District, I would like to say one final thing to Jim and that is, "Please don't take your retirement too seriously, my friend; we can't afford to lose you."

INTRODUCING THE CHILD ABUSE ACCOUNTABILITY ACT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. SCHROEDER. Mr. Speaker, today I am introducing the Child Abuse Accountability Act of 1993.

This bill holds child abusers accountable for their actions by allowing victims access to a convicted abuser's Federal pension.

If a court awards a victim monetary damages for child abuse, an abuser often avoids payment by liquidating and skipping town. Under those circumstances, the victim is almost guaranteed he or she will not collect a penny.

To make matters worse, the Federal Government protects a child abuser's pension. Victims, who relive the nightmares in order to hold their abuser accountable, are horrified to find that the Federal Government refuses to pay court-ordered awards. When it comes to paying for child abuse, Uncle Sam blocks the way. Federal pensions are untouchable. This is obstruction of justice.

We are just beginning to learn the extent of child abuse and the repercussion it has on individuals, families, and the Nation. For too long, abused children were afraid to speak up about this terrible crime. The anguish and stigma associated with child abuse make it tough to address. But a nation that does not protect its children is a nation without a future. And a Federal Government that protects abusers is abetting that tragedy.

That is why we should take the lead—not stand in the way—in combating child abuse. I hope my colleagues will join me in supporting the Child Abuse Accountability Act.

LIVING BY THE GOLDEN RULE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. STARK. Mr. Speaker, "Do unto others as you would have them do unto you"—that's the Golden Rule. But the Golden Rule Insurance Co. of Indiana and Illinois does not practice the Golden Rule.

I never doubted that when the health care reform debate began, we would see and hear ideas and concepts—the likes of which we've never seen before and hopefully, never will again. Some insurance companies want us to give tax breaks or subsidies for people to buy private insurance or IRA-type policies that can be used to meet health expenses.

One of the major proponents of this concept is the Golden Rule Insurance Co. of Indiana and Illinois.

If it sounds too good to be true—it usually is. But this doesn't even sound that good. According to Golden Rule's 1992 Annual Statement, for every dollar of premium collected, the company paid out $53.8 cents in benefits (Schedule H, column 2, lines 3 and 4, page 69).

Mr. Speaker, the $53.8 cents in benefits indicates that Golden Rule was about 54 percent effective. In school, 54 percent would get you a failing grade. We are being lobbied to provide tax breaks so that people can buy products from a company that is only 54 percent effective. What did they do with the remaining 46 cents? It was probably spent on executive salaries and perks, advertising, and agents commissions. In other words, for every dollar in premium Golden Rule collects, it spends approximately 46 cents in expenses; that might be a good deal for Golden Rule and its investors, but for policyholders—it's a loser.

Mr. Speaker, while Golden Rule might be one of the most inefficient, it is not the only inefficient commercial health insurer. The consumer organization, Citizen Action, released a study last week entitled "Premiums Without Benefits, 1981–1991—The Continued Growth in Commercial Health Insurance Industry Waste and Inefficiency." According to Citizen Action, not including profits, the commercial health insurance industry spent 40 times as much on administration per dollar of benefits as the Canadian national health system, and 17 times as much as the Medicare system.

Further, the study found that in 1991, commercial health insurers spent 36.4 cents for administration, marketing and overhead to provide a dollar's worth of health care benefits to policyholders. Citizen Action reports that if commercial insurers had been as efficient as the Medicare system in 1991, consumers would have saved $16.7 billion; and if the companies had been as efficient as the Canadian national health system, consumers would have saved $17.3 billion. These are sobering figures, regardless of the approach to health reform you favor.

Mr. Speaker, health reform is full of obstacles and problem. We don't need to complicate matters by adding this new twist and allowing insurance companies to just keep getting richer and richer, while doing less for consumers. Let's not waste any time on this. Our efforts will be better and more wisely spent trying to find ways to guarantee everyone equal access to affordable quality health care.

Giving someone a dollar so they can give me back 54 cents is not my idea of the Golden Rule—it's practically cheating.

GOLDEN RULE INSURANCE, CO.,
Lawrenceville, IL., October 11, 1993.

Hon. FORTNEY PETE STARK,
Cannon Building, Washington, DC.

DEAR MR. STARK: Column 2, Schedule H on page 69 of Golden Rule's 1992 Annual Statement mostly represents the company's new

association group business. Without that new business, you will find higher numbers, such as the one in column nine—even higher because group insurance has higher claim cost.

New business always has high marketing costs in the first year, which are then amortized over the subsequent life of the business. This is true for any plan, including an HMO plan. The marketing and distribution costs are substantial with any new product.

Customers usually have low claim costs in the first year on any insurance product.

Sincerely,

BRIAN MCMANUS,
Public Policy Specialist.

IN MEMORY OF BETTY SPERBER

HON. RON de LUGO

OF THE VIRGIN ISLANDS
IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. DE LUGO. Mr. Speaker, I rise to honor the memory of Betty Sperber who died November 12, 1993 on the island of St. Croix after a long battle with cancer.

St. Croix was her adopted home but few have loved the island and its people or proven that love by their deeds as much as Betty. She believed in the St. Croix people and knew full well that it is people who make up the real richness and beauty of a community.

In 1973, Betty began bringing hundreds of travel agents and writers to St. Croix to see for themselves the real island and its people. She helped pay airfares, gave them free rooms, personally hosted them, and proved that St. Croix and its people was a vibrant community their clients should visit.

And it worked. The good name of St. Croix became untarnished, tourism came back, the economy revived, and people had jobs once again.

But Betty did not stop there, because she knew that for tourism to be a true part of the economy, every resident must be part of tourism. Betty conceived, developed, and implemented a program called "Hello Tourist" so young students could understand tourism, visit properties, learn jobs, and understand first hand how important tourism is to the community.

Betty served in many capacities including president of both the St. Croix and Caribbean Hotel Associations. She won a Travel Industry Award for Excellence in 1991 and was named Caribbean Hotelier of the Year in 1993.

But Betty never forgot the most important thing of all: people. And for that, Mr. Speaker, all of us who knew Betty Sperber and all the people of St. Croix are much the richer.

When I was home last week I attended Betty's funeral and witnessed an outpouring of genuine love and real appreciation from the entire St. Croix community.

Once again, I want to express my sincere condolences to Betty's husband, Irwin, and to her two sons, Mark and Miles.

Thanks, Betty. We will miss you.

LEGISLATION TO EXTEND COVERAGE OF THE DISTRICT'S SPOUSE EQUITY AMENDMENT ACT TO DISTRICT OF COLUMBIA JUDGES INTRODUCED

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA
IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Ms. NORTON. Mr. Speaker, today I am introducing an administrative amendment to title 11 of the D.C. Code in order to extend coverage of the District Spouse Equity Amendment Act of 1988 to District of Columbia judges. Both Congress and the District have determined that spouses are entitled to a share of the annuity benefits earned during the course of a marriage.

In 1989 the D.C. Council enacted the "Spouse Equity Amendment Act of 1988," (Spousal Equity Act) D.C. Code §§ 1–3001 et seq., to conform the District's retirement system to the Federal Government's Civil Service Retirement System [CSRS], under which former spouses of retirees may receive retirement benefits and survivor annuities. The original purpose of the D.C. Spousal Equity Act was to make applicable to certain D.C. retirement systems—police, firefighters, teachers, and judges—provisions similar to those of Public Law 95–366, which permits a court to order U.S. Office of Personnel Management to pay a share of a CSRS retiree's vested pension directly to a former spouse, and to certain sections of Public Law 98–615, which, among other things, permits a court to order existing survivor annuities to former spouses.

The judges' retirement system, set forth in title 11 of the D.C. Code, had to be omitted from the Spousal Equity Act, however, because the Home Rule Act prohibits the council from enacting any laws with respect to title 11, which relates to the organization and jurisdiction of the courts. Under current law, District judges are not covered by the Federal or D.C. Spousal Equity Acts, and therefore are the sole group among District or Federal employees whose former spouses are denied appropriate and legal access to the judges' pensions.

A prime example of this administrative glitch is the dilemma of one former wife of a retired D.C. judge. This woman was awarded part of the judge's pension benefits in the divorce settlement. Both parties agreed to this provision as part of the settlement, and the court decree reflected their agreement. When the wife attempted to collect the benefits, however, she learned that the law in the District of Columbia covered all but one group of employees—D.C. judges—and therefore did not allow her to effectuate a voluntary agreement. Since making this discovery, both she and her former husband have lobbied actively for a change in the law so that the terms of their agreement can be met. We ought to help them achieve what both Federal and District laws intend.

To address this situation and others like it, I am introducing this noncontroversial legislation to extend rightful coverage and benefits of the current D.C. Spouse Equity Amendment Act to D.C. judges, thereby carrying out the purpose of the act as intended by the D.C. Council and the Congress when the law was enacted in 1988. Because there are no significant costs associated with this legislation. I urge my colleagues in the House to move it through swiftly and I hope that the Senate will move with dispatch as well to correct this technical gap in the law.

DAVID AND HEDY WEINBERGER RECEIVE COUPLE OF THE YEAR AWARD

HON. CAROLYN B. MALONEY

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the recent Couple of the Year Award bestowed upon two outstanding members of their community, David and Hedy Weinberger, by the United Jewish Council of the East Side.

The United Jewish Council has been the umbrella organization for several programs on the lower east side of Manhattan for over 22 years. It is one of the leading groups serving this remarkable neighborhood and seeks to strengthen the residential and business communities. The UJC offers a number of important social services and community development programs for a wide variety of my constituents.

David is in charge of special projects for the UJC, serves on the local community board, the board of directors of Hillman Housing and is a Democratic district leader. Hedy is the assistant office coordinator for State Senator Martin Connor and is heavily involved with a number of civic and philanthropic activities.

The UJC serves not just the Jewish community on the Lower East Side, but significant numbers of Hispanic, African-American, and Asian-American families as well. David has pushed to develop the multiservice center which provides information and help with Federal, State, and city entitlement programs. The luncheon clubs are attended by over 300 seniors each day and home attendant programs offer home care services to over 600 disabled individuals.

Because of their tremendous service to our community, I hope my colleagues will join me in honoring these two dedicated people for this very special award.

A SALUTE TO A PIONEER

HON. ELTON GALLEGLY

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. GALLEGLY. Mr. Speaker, as our session comes to a close today, it is a fitting time to inform my colleagues that a distinguished career in law enforcement recently came to a close in my hometown of Simi Valley. CA.

Sgt. Pat Hopkins recently retired after 30 years in law enforcement, 22 of those years on the Simi Valley Police Department. What makes this particularly noteworthy is that Pat Hopkins was one of the first full-fledged female police officers in the entire country, and

her career stands as a microcosm of the enormous progress that women have made in law enforcement—indeed, in all careers—during that time.

Back in 1971, when she became a charter member of the fledgling community safety agency, as our police department was known as, women officers were extremely rare except in support or traffic roles. In fact, a Ford Foundation study later found that Pat was the first woman in the entire country to patrol a city's streets in a one-person squad car.

As Simi Valley's mayor for 7 years, I was privileged to see just how outstanding a job Pat did in a variety of difficult assignments. She served 8 years in the emotionally devastating child abuse detail, served as a robbery/homicide detective and became the department's first female sergeant.

Mr. Speaker, Pat Hopkins has truly been a law enforcement pioneer. I ask my colleagues to join me in saluting her accomplishments and in wishing her well in retirement.

U.S. PRICING POLICY ON THE SALE OF M60A3 TANKS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. HAMILTON. Mr. Speaker, earlier this year, the Committee on Foreign Affairs received correspondence indicating potential irregularities in the pricing policy on the sale of U.S. M60A3 tanks to foreign nations. In this regard, the Committee on Foreign Affairs received notifications on the sale of U.S. M60A3 tanks pursuant to the Arms Export Control Act with unit prices ranging between a low of $215,000 per tank to a high of $790,000 per tank. Earlier this month, the Committee on Foreign Affairs received yet another information notification on the sale of U.S. M60A3 tanks that included a unit price of $130,000 per tank. As a result of these variations in pricing, I requested the Defense Security Assistance Agency to provide the Committee on Foreign Affairs with a memorandum explaining the pricing policy of U.S. defense equipment—specifically, the M60A3 tank. I have attached a copy of that memorandum to this statement so that Members can review it and gain a better understanding of the U.S. pricing policy on the sale of M60A3 tanks to foreign nations.

PRICING OF M60A3 TANKS

Pricing of defense equipment is based on Department of Defense guidance contained in Financial Management Regulation DOD 7000.14-R, Volume 15, Security Assistance Policy and Procedures, March 1993

Price is determined as follows:

A. Determine the normal peacetime life of the item to be sold.

B. Determine the percentage of useful life remaining.

C. Determine condition of item to be sold.

D. Apply the percentage to the acquisition price.

In 1990 M60A3 tanks were sold to Oman, Bahrain, and Saudi Arabia.

Normal peacetime life: 20 years

Average age of tanks sold: 8 years

Condition: Serviceable used—Good—Not Overhauled

Percentage of acquisition price considering age/condition: 60%

Army Master Data File Acquisition Price: $1,291,865

Base price of tanks (less radios, machine guns, overhaul or non-recurring costs), $1,291,865 X 60% = $775,119

In 1993 a world-wide survey was conducted to identify foreign requirements for the aging M60A3 fleet.

Normal peacetime life: 20 years

Average age of tanks offered: 16 years

Condition: Serviceable used—Fair condition—Not Overhauled

Percentage of acquisition price considering age/condition: 20%

Location of tanks: Korea

Acquisition price: $1,291,865

Survey price, less radios, machine guns, or overhaul:

$1,291,865 X 20% = $258,373 less reduction for condition—20%

($51,675), plus 20% of nonrecurring cost ($31,000 X 20% = $6,200), = $212,898

Two countries have inspected the 111 serviceable tanks located in Korea which were offered at $212,000. Bahrain indicated a requirement for 14 and Taiwan for 97. Taiwan has not yet submitted a letter of request for these tanks.

Of the 1,435 tanks located in Europe, 1,311 have been cascaded to other NATO Countries under the terms of the Conventional Forces Europe (CFE) Agreement. 124 are awaiting transfer decisions.

In view of the 3,976 tanks located in CONUS, and the minimal response to the world-wide survey, the Army requested an exception from the DOD Comptroller to sell the M60A3 tanks at 10% of the acquisition price to realize a return to the taxpayer before the tanks become excess. On 6 August 1993 the exception (in accordance with the DOD Regulation) was approved and a quantity of 340 M60A3 tanks was offered to Egypt at a unit price of $129,865 (copy attached). Egypt has inspected 411 tanks at Fort Hood and 91 at Fort Knox. They have tentatively selected 299 of these 502. An additional quantity of the CONUS fleet of M60A3 tanks is available at this price for other approved purchasers. In the near term the Army will declare the M60A3 tanks as excess to requirements and dispose of them through grant programs or demilitarization at additional costs to the taxpayer.

COOPERATION BETWEEN COMMUNITY, PRIVATE, AND FEDERAL ENTITIES

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. RICHARDSON. Mr. Speaker, I am honored to share with my colleagues a success story about cooperation between a community nonprofit organization, private corporations, and a Federal grant program that has made a difference in the life of a young woman in Santa Fe, NM.

Brenda Ortega could have easily been another teenage statistic. Brenda was pregnant by the time she was a 9th grader and a high school drop-out by 16. Today at age 18, Brenda has earned a GED, has a job with the New Mexico Economic Development Department, and is a student at Santa Fe Community College. The link between Brenda's situation and success was the Service Education Redevelopment [SER] Program.

The Service Education Redevelopment Program is provided by a nonprofit organization which helps students obtain a high school equivalency degree and find employment. Funded by JPTA grants, State matching education funds, and contributions from private businesses and foundations, the Service Education Redevelopment Program finds students jobs and pays their wages while they study to obtain a GED. While preparing students for the GED test, the SER program also coaches students in how to fill out a job application, how to dress appropriately, the importance of being on time, and communicating with an employer.

I ask my colleagues to join me in recognizing what is possible when we have cooperation between community, State, and Federal sources and the difference we can make in the lives of young people like Brenda Ortega.

REAL WELFARE REFORM SHOULD NOT PUNISH CHILDREN

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. MARTINEZ. Mr. Speaker, by now, many of us have seen the welfare proposal being put forth by our Republican colleagues. I appreciate the impatience exhibited by the drafter of that bill. I, too, am eager to face the problem of welfare reform head on—to pass reforms that will improve the lives of children and their families who now live in poverty. We would all like to see poor families work their way toward self-sufficiency as soon as possible.

I also want to save tax dollars. I want to pass real welfare reform that would save money by reducing families' reliance on public assistance and increasing their participation as taxpaying members of society.

It was with hopes of achieving these goals that I read the Republican welfare proposal introduced last week, H.R. 3500.

But I have to say that what I read left me both disappointed and determined to help develop a better option. The Republican proposal is a cruel and punitive measure that forgets the purpose of public assistance—protecting children and their families—and instead sets a discount price for their well-being.

H.R. 3500 is less a plan for helping families attain self-sufficiency, and more a threat to punish children for being born into proverty—all in the name of deficit reduction.

The goal of our welfare policy should not be to provide a lifelong source of income that precludes employment. Neither is the goal, however, to punish those children who are born into poverty. Welfare policy must ensure the well-being of America's children, while helping their parents to be productive and fulfill their potentials.

As we anticipate the welfare reform plan being developed by the administration's task force, we must begin laying the groundwork for real change that will help families out of poverty and unemployment.

A sound welfare reform policy must recognize that caring for the next generation of children is a good investment. It must also recognize that those children and their parents are a package—sanctions against parents hurt their children. Empowerment of parents leads to healthier children who are more productive members of society.

Welfare reform must include increased opportunities for employment. We cannot strand families in poverty by removing them from public assistance without providing training if necessary and a real, permanent job. And, if our priority is the welfare of the children, we cannot expect parents to enter the work force without ensuring access to quality childcare.

In short, if we want families who live in poverty to survive, we cannot treat them simply as a line item in the budget that can be cut.

When I talk about stranding American families in poverty, I am not only talking about time limits, although clearly they are problematic unless we are willing to guarantee people jobs.

I am also talking about the Republican plan to cap six of the most important programs to poor parents and children—AFDC, SSI, public housing and section eight housing, food stamps and earned income tax credit.

Each of these programs is designed to solve a very real problem faced by American citizens—the hungry, the homeless, the disabled, and the working poor. Capping programs does not solve these problems. It makes them worse by saying to a welfare parent cutting the budget is more important than feeding your children. Cutting the budget is more important than having a roof over your head. Cutting the budget is more important than trying to help you keep your family together when all you can find is a low-paying, part-time or temporary job.

We cannot strand these families. We cannot ignore these very real social problems, which have only gotten worse for Americans through the 1980's and the early 1990's.

If you are a recent immigrant to the United States, the Republican bill will not just cap programs that help you and your children survive so you can make the contributions and have the opportunities that generations of immigrants have had before you. If you are a recent immigrant to the United States, H.R. 3500 says not only do we not care about you, we do not care about your children. H.R. 3500 goes to the extreme of cutting every social program that helps immigrant children survive—even the programs designed specifically to help them.

H.R. 3500 is not just unacceptable. It is un-American. We need a better option for real reform.

I look forward to seeing other proposals being developed by Members of this body and the administration. We should also take a close look at bills like the Community Works Progress Act and other legislation that would create public jobs for those who want to work, but face high levels of unemployment in their communities.

I intend to pursue real welfare reform in the coming months, and look forward to working toward a bipartisan plan for improving the well-being of our children and families while maximizing the productivity of this country's citizens.

H.R. 3545 THE INDEPENDENT COUNSEL ACCOUNTABILITY AND REFORM ACT OF 1993

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. HYDE. Mr. Speaker, on Friday, the 19th of November, I introduced the Independent Counsel Accountability and Reform Act of 1993 along with BOB MICHEL, NEWT GINGRICH, DICK ARMEY, DUNCAN HUNTER, BILL MCCOLLUM, TOM DELAY, BILL PAXON, HAMILTON FISH, Jr., CARLOS MOORHEAD, GEORGE GEKAS and BOB LIVINGSTON. We all feel very strongly about this legislation, and I wanted to explain why.

This Nation has had no independent counsel law for almost a year and it needs one. The American people need to be reassured that the law has been, is being, and will be obeyed by even the most powerful in our government. The best way to do this is to give the Attorney General the power to seek appointment by the appropriate court of an independent counsel when there has been alleged wrongdoing by a President, a high administration official, or a Members of Congress. This eliminates people's fears, whether grounded in reality or not, that the Justice Department can't impartially investigate these people given the political pressures it would be subject to. Therefore, we have introduced the Independent Counsel Accountability and Reform Act of 1993.

H.R. 811, House Judiciary Committee Chairman JACK BROOKS' independent counsel reauthorization, was reported out of that committee back on March 24. Unfortunately, we have seen no action by the House since then. We do not speculate on the reasons for this inaction, but we introduce the Independent Counsel Accountability and Reform Act of 1993 to call attention to this important and unfinished business. To jump-start the process, we are prepared to introduce a discharge petition to get this bill to the floor for a vote. In addition, we believe we have a better vehicle than H.R. 811, Chairman BROOKS' still languishing bill.

Why not just support H.R. 811? Most importantly, we believe that the independent counsel law must treat Congressmen exactly the same as it treats the President and his advisors. The Justice Department faces the same political pressures in investigating a powerful Congressman as in investigating a high administration official. Our bill puts Congressmen in the same class as the President—the Attorney General must, not may but must, start a preliminary investigation when he or she receives information sufficient to constitute grounds to investigate whether a Congressman may have violated Federal law. H.R. 811 just doesn't do this. It is time that Congress place itself under the same laws that the executive branch must deal with.

We should have learned from the experience under the now expired independent counsel law that accountability and other reforms are necessary. Our bill provides for the first time strict control and accountability of the office of independent counsel. H.R. 811 fails to do so. Our bill requires the supervising court to specifically and precisely state the exact purpose of an independent counsel investigation, so that it doesn't become an open ended fishing expedition. It requires that an independent counsel apply to the court every 2 years for reappointment and be subject to the regular appropriations process also after 2 years. It allows the court to terminate an independent counsel whenever the court finds that an investigation has been substantially completed. It provides for the security of classified information.

We must be vigilant against corruption and wrongdoing in high office. We must guard against even the perception that the law is treating some less equally than others. To accomplish these goals, we need an effective, comprehensive and balanced independent counsel statute. We believe the Independent Counsel Accountability and Reform Act of 1993 is such a law.

GIVE THE GIFT OF LIFE—SUPPORT THE ORGAN DONATION INSERT CARD ACT

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. DURBIN. Mr. Speaker, today I am introducing legislation, the Organ Donation Insert Card Act, which will encourage organ donation through a highly cost-effective campaign of public education.

In order for an organ donation to take place, the next-of-kin must authorize the donation.

Most Americans have never signed an organ donor card, and many of those who have signed a card have never discussed the matter with their family members. As a result, family members hesitate to authorize organ donation and opportunities to save lives are lost.

According to a Gallup Poll, cosponsored by the Partnership for Organ Donation, more than 90 percent of the public would authorize organ donation if their loved one had expressed that wish before death, but less than half would consent to donation if the discussion had not occurred. According to the survey, less than half of the public have told their families of their wishes regarding donation.

The keys to organ donation are knowledge and family discussion. First, a person must decide that they want to be an organ donor if they should die unexpectedly. Second, they must communicate that desire to their loved ones, because the organ donation process is not initiated without the express consent of the next-of-kin.

My legislation would address this problem in the following way:

The legislation would direct the Treasury Department, after consulting with the Department of Health and Human Services, to enclose with each income tax refund check mailed in 1995 an insert card that encourages organ donation.

The insert would include a detachable organ donor card. The insert would urge recipients to sign and carry the card. The insert would also contain a message encouraging people to talk

to their families about their willingness to be an organ donor and encourage family members to authorize organ donation if the occasion should arise.

Inserting such an appeal with IRS refund checks poses no logistical problems for the Treasury Department, because such inserts are not a new idea. Refund checks are frequently accompanied by an appeal to buy a special commemorative coin.

The cost of the bill is $500,000 to reach 80 million households.

While thousands of people each year gain a new lease on life because of a successful organ transplant, many people die before they can receive a transplant because the demand for organs greatly exceeds the supply. For example:

One-third of the Americans on waiting lists for a new heart or a new liver die before an organ donor can be found.

Over 31,000 people are currently waiting for an organ transplant, including 23,000 adults who need kidney dialysis while they wait.

Our bill's one-time public education effort is a highly cost-effective way to save lives by encouraging increased organ donation. Every additional organ donor added because of this campaign offers a new chance at life for someone who desperately needs a transplant.

This legislation has the support of the following organizations:

American Association of Critical-Care Nurses.

American Association of Kidney Patients.

American Association of Transplant Surgeons.

American Heart Association.

American Nurses Association.

American Society of Transplant Physicians.

American Society of Transplant Surgeons.

Association of Organ Procurement Organizations.

Children's Organ Transplant Association.

International Society for Heart and Lung Transplantation.

Michigan Transplant Institute.

Mid-Atlantic Renal Coalition.

National Kidney Foundation.

North American Transplant Coordinators Organization.

Partnership for Organ Donation.

South-Eastern Organ Procurement Foundation.

The Transplant Foundation.

Transplant Recipients International Organization.

United Network for Organ Sharing [UNOS].

I urge my colleagues to join me as a cosponsor of this bill and encourage all Americans to give the gift of life.

YOU CAN TAKE HEART FROM U.S. HISTORY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. LANTOS. Mr. Speaker, our most distinguished Ambassador to the European Community wrote a singularly perceptive article on the impressive developments in the field of the European integration. I am pleased to share this with my colleagues:

[From the International Herald Tribune, Oct. 29 1993]

YOU CAN TAKE HEART FROM U.S. HISTORY

(By Stuart E. Eizenstat, U.S. Ambassador, to the European Community)

Brussels—As an extraordinary European Community summit meeting inaugurates the Maastricht treaty creating a more integrated union for its 12 member nations, the mood is pessimistic, not celebratory. With recession, Bosnia and the tortuous path to ratification of Maastricht, this year has taken a psychological toll on Europe's leaders and peoples.

Nevertheless, both a look at American history and a review of what has been accomplished on the Continent since the 1957 Treaty of Rome give reason for confidence in the future.

Institution building is always a complex process, even more so because the European Community is unlike anything in world history.

One of the great experiments ever undertaken by democratic governments, the Community is not a regional organization like the Organization of American States, a purely economic entity like the General Agreement on Tariffs and Trade, or an international organization like the United Nations.

Neither is it a classical nation-state. It is a sui generis supranational organization in which nation-states have pooled sovereignty in many areas while retaining it in others. There are no precedents for what is being attempted in the Community—and achieved.

Maastricht is designed to further the integration process by leading to economic and monetary union, including a common currency and central bank by 1999, a common foreign and security policy, and joint action in areas of justice and social policy heretofore solely within the province of the member nations.

No one should minimize the difficulties of achieving these ambitions. But American history affords an encouraging context to counter Euro-pessimists about an integration process that the United States has supported since the inception of the Community.

America was governed by the Articles of Confederation for almost a decade before the current constitution went into effect. The original 13 colonies established a government of states that reflected their distrust of a strong central government. Each state's sovereignty was guaranteed. Congress could not levy taxes or regulate trade.

Even after the constitution established a stronger federal government to replace this ineffectual system, substantial power was retained by the states through the 10th Amendment—a version of the "subsidiarity" issue with which the Community is struggling to give member nations greater freedom to act.

Only late in the last century did the U.S. Supreme Court interpret the constitution's commerce clause in a manner that permitted Washington to regulate in social and economic areas. As the debate over the Clinton health care plan shows, Americans continue to have important disagreements over the appropriate balance between federal and state power.

EC concern about the timetable for creation of a central bank and a common currency parallels U.S. difficulties in developing the sinews of a central financial system in the republic's early years. Alexander Hamilton and Thomas Jefferson sharply disagreed over whether to have a central bank at all.

The 20-year charter of the First Central Bank of the United States lapsed in 1811 under pressure from states. As much of the currency became valueless, Congress established the Second Bank in 1816, but Andrew Jackson vetoed renewal of its charter. Not until 30 years later during the Civil War were national banks created along with a safe, uniform currency. Even then, with no power to regulate the money supply, there were four financial panics from 1873 to 1907 that dwarf the problems faced this summer in the European Monetary System.

The Federal Reserve System was not created until 1913—124 years after adoption of the constitution. Still, the suspicion of a central bank remained so strong that Congress established reserve banks in each district of the country.

I do not suggest that the European Community, with its own history, political culture and society, should emulate an American model. The Community and its members will determine the organizational structures that best meet their needs. But if the United States had such difficulties in institution building with former colonies, it is all the more to be expected with sovereign nations.

France is not Florida. Germany is not Georgia. Italy is not Indiana. The Community's nation-states in some cases have more than a millennium of experience.

Viewed in this perspective, the Community has been an enormous and rapid success. Europeans' criticism of the Community is itself a testimony to its importance. Its institutions are increasingly active.

The European Court of Justice adjudicates disputes among EC bodies, member states and the Community, and its decisions are followed in member states.

The EC Commission is competent in trade, allocation of aid to underdeveloped regions and member states, antitrust policy and harmonization of national laws and regulations. It has been blessed with visionary leaders like Jacques Delors, and embodies the best impulses in Europe—for liberalized markets, social justice and human rights.

The EC Council brings ministers together for regular consultations on virtually every conceivable issue. It has developed a unique depth and breadth of cooperation.

The European Parliament receives expanded authority from Maastricht. Its special significance as the Community's democratically chosen institution will be reinforced by Europe-wide elections next June, which are of increasing importance.

Creation of a single market, reform of the Common Agricultrue Policy and generous assistance to new democracies in Eastern Europe and the ex-Soviet Union, plus support for the Middle East peace process, underscore the Community's success. So do the increasing feelings of a common European identity and the degree to which Europeans travel, study and work beyond their own borders.

The tasks in transforming Maastricht's promises into realities are daunting. But in light of what has been achieved, and with perspective on how long it has taken the United States to find its institutional balance, this is a time for Europe to be proud and optimistic.

The United States looks forward to a growing partnership with the European Community.

EXEMPT ORGANIZATION REFORM ACT OF 1993

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. STARK. Mr. Speaker, following is the full text of a bill I introduced today, entitled "The Exempt Organization Reform Act of 1993":

H.R. —

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

SECTION 1. EXCISE TAXES ON ACTS OF SELF-DEALING AND PRIVATE INUREMENT BY CERTAIN TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Chapter 42 of the Internal Revenue Code of 1986 (relating to private foundations and certain other tax-exempt organizations) is amended by redesignating subchapter D as subchapter E and by inserting after subchapter C the following new subchapter:

"SUBCHAPTER D—ACTS OF SELF-DEALING AND PRIVATE INUREMENT BY CERTAIN EXEMPT ORGANIZATIONS

"Sec. 4958. Taxes on certain acts of self-dealing.

"Sec. 4959. Taxes on private inurement.

"Sec. 4960. Other definitions.

"SEC. 4958. TAXES ON CERTAIN ACTS OF SELF-DEALING.

"(a) INITIAL TAXES.—

"(1) ON SELF-DEALER.—There is hereby imposed a tax on each act of self-dealing between a disqualified person and an applicable tax-exempt organization. The amount of such tax shall be 5 percent of the amount involved with respect to the act of self-dealing for each year (or part thereof) in the taxable period. The tax imposed by this paragraph shall be paid by any disqualified person (other than an organization manager acting only as such) who participates in the act of self-dealing.

"(2) ON ORGANIZATION MANAGER.—In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any organization manager in any act of self-dealing between a disqualified person and an applicable tax-exempt organization, knowing that it is such an act, a tax equal to 2.5 percent of the amount involved with respect to such act of self-dealing for each year (or part thereof) in the taxable period, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any organization manager who participated in the act of self-dealing.

"(b) ADDITIONAL TAXES.—

"(1) ON SELF-DEALER.—In any case in which an initial tax is imposed by subsection (a)(1) on any act of self-dealing between a disqualified person and an applicable tax-exempt organization and such act is not corrected within the taxable period, there is hereby imposed a tax equal to 200 percent of the amount involved. The tax imposed by this paragraph shall be paid by any disqualified person (other than an organization manager acting only as such) who participated in the act of self-dealing.

"(2) ON ORGANIZATION MANAGER.—In any case in which an additional tax is imposed by paragraph (1), if an organization manager refused to agree to part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount involved. The tax imposed by this paragraph shall be paid by any organization manager who refused to agree to part of all of the correction.

"(c) SPECIAL RULES.—

"(1) JOINT AND SEVERAL LIABILITY.—If more than one person is liable under any paragraph of subsection (a) or (b) with respect to any one act of self-dealing, all such persons shall be jointly and severally liable under such paragraph with respect to such act.

"(2) $10,000 LIMIT FOR MANAGEMENT.—With respect to any one act of self-dealing, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $10,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed $10,000.

"(d) SELF-DEALING.—For purposes of this section—

"(1) IN GENERAL.—Except as provided by paragraph (2), the term 'self-dealing' means any direct or indirect—

"(A) transfer, lease, or license of property between an applicable tax-exempt organization and a disqualified person, and

"(B) lending of money or other extension of credit between an applicable tax-exempt or organization and a disqualified person.

"(2) EXCEPTIONS.—The term 'self-dealing' shall not include—

"(A) the lending of money by a disqualified person to an applicable tax-exempt organization if the loan is without interest or other charge (determined without regard to section 7872) and if the proceeds of the loan are used exclusively for exempt purposes,

"(B) the furnishing of goods or facilities by a disqualified person to an applicable tax-exempt organization if the furnishing is without charge and if the goods or facilities so furnished are used exclusively for exempt purposes, and

"(C) any transfer, lease, or license of property if—

"(i) such transfer, lease, or license (as the case may be) is by a disqualified person in the ordinary course of such disqualified person's trade or business and such transaction is on a basis comparable to the basis on which similar transactions are made in the ordinary course of such trade or business with other parties, or

"(ii) such transfer, lease, or license (as the case may be) is by an applicable tax-exempt organization in the ordinary course of its activities and such transaction is made on a basis comparable to the basis on which similar transactions are made in the ordinary course of such activities with other parties.

"(3) EXEMPT PURPOSE.—For purposes of paragraph (2), the term 'exempt purpose' means—

"(A) in the case of an organization described in section 501(c)(3), any purpose specified in section 501(c)(3), and

"(B) in the case of an organization described in section 501(c)(4), any purposes specified in section 501(c)(4).

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a)(1),

"(B) the date on which the tax imposed by subsection (a)(1) is assessed, or

"(C) the date on which correction of the act of self-dealing is completed.

"(2) AMOUNT INVOLVED.—The term 'amount involved' means, with respect to any act of self-dealing, the greater of the amount of money and fair market value of other property given, or the amount of money and fair market value of other property received. In the case of a lease or license, the amount involved is the fair market value of the leased or licensed property. For purposes of this paragraph—

"(A) in the case of the taxes imposed by subsection (a), fair market value shall be determined as of the date on which the act of self-dealing occurs, and

"(B) in the case of the taxes imposed by subsection (b), fair market value shall be the highest fair market value during the taxable period.

"(3) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any act of self-dealing transaction, undoing the transaction to the extent possible, but in any case place the applicable tax-exempt organization in a financial position not worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards.

"SEC. 4959. TAXES ON PRIVATE INUREMENT.

"(a) INITIAL TAXES.—

"(1) ON THE ORGANIZATION.—There is hereby imposed on any taxable inurement a tax equal to 10 percent of the amount thereof. The tax imposed by this paragraph shall be paid by the organization with respect to which such inurement occurred.

"(2) ON THE MANAGEMENT.—There is hereby imposed on the participation of any organization manager of an organization in any taxable inurement which occurs with respect to such organization, knowing that it is taxable inurement, a tax equal to 2½ percent of the amount thereof, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by the organization manager who participated in the taxable inurement.

"(3) ON THE BENEFICIARY.—There is hereby imposed on any taxable inurement a tax equal to 5 percent of the amount thereof. The tax imposed by this paragraph shall be paid by the beneficiary of such inurement.

"(b) ADDITIONAL TAXES.—

"(1) ON THE ORGANIZATION.—In any case in which an initial tax is imposed by subsection (a)(1) on any taxable inurement and such inurement is not corrected within the taxable period, there is hereby imposed a tax equal to 100 percent of the amount of the taxable inurement. The tax imposed by this paragraph shall be paid by the organization with respect to which such inurement occurred.

"(2) ON THE MANAGEMENT.—In any case in which an additional tax is imposed by paragraph (1), if an organization manager refused to agree to part or all of the correction, there is hereby imposed a tax equal to 50 percent of the amount of the taxable inurement. The tax imposed by this paragraph shall be paid by any organization manager who refused to agree to part or all of the correction.

"(3) ON THE BENEFICIARY.—In any case in which an additional tax is imposed by paragraph (1), there is hereby imposed a tax equal to 200 percent of the amount of the taxable inurement. The tax imposed by this paragraph shall be paid by the beneficiary of such inurement.

"(c) TAXABLE INUREMENT.—For purposes of this section, the term 'taxable inurement' means any direct or indirect inurement of any part of the net earnings of an applicable tax-exempt organization to the benefit of any disqualified person. Such term shall not include any act of self-dealing on which tax is imposed under section 4958.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) JOINT AND SEVERAL LIABILITY.—If more than one person is liable under any paragraph of subsection (a) or (b) with respect to any one taxable inurement, all such persons shall be jointly and severally liable under such paragraph with respect to such inurement.

"(2) LIMIT FOR MANAGEMENT.—With respect to any 1 taxable inurement, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $10,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed $10,000.

"(e) OTHER DEFINITIONS.—For purposes of this section—

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any taxable inurement, the period beginning with the date on which the inurement occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency under section 6212 with respect to the tax imposed by subsection (a)(1), or

"(B) the date on which the tax imposed by subsection (a)(1) is assessed.

"(2) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to any taxable inurement, undoing the inurement to the extent possible, establishing safeguards to prevent future taxable inurement, and where fully undoing the inurement is not possible, such additional corrective action as is prescribed by the Secretary by regulations.

"SEC. 4960. OTHER DEFINITIONS.

"(a) APPLICABLE TAX-EXEMPT ORGANIZATION.—For purposes of this subchapter, the term 'applicable tax-exempt organization' means any organization which (without regard to any act of self-dealing or taxable inurement) would be described in paragraph (3) or (4) of section 501(c) and exempt from tax under section 501(a). Such term shall not include any private foundation.

"(b) DISQUALIFIED PERSON.—For purposes of this subchapter, the term 'disqualified person' means, with respect to any transaction—

"(1) any person who was an organization manager at any time during the 5-year period ending on the date of such transaction.

"(2) any member of a family (as defined in section 4946(d)) of any person described in paragraph (1), and

"(3) any 35-percent controlled entity of persons described in paragraph (1) or (2).

"(c) ORGANIZATION MANAGER.—For purposes of this subchapter, the term 'organization manager' means, with respect to any applicable tax-exempt organization, any officer, director, or trustee of such organization (or any individual having powers or responsibilities similar to those of officers, directors, or trustees of the organization). Such term includes any person performing substantial medical services as a physician for the applicable tax-exempt organization pursuant to an employment or other contractual relationship.

"(d) 35-PERCENT CONTROLLED ENTITY.—For purposes of this section—

"(1) 35-PERCENT CONTROLLED ENTITY.—The term '35-percent controlled entity' means—

"(A) a corporation in which persons described in paragraph (1) or (2) of subsection (b) own more than 35 percent of the combined voting power,

"(B) a partnership in which such persons own more than 35 percent of the profits interest, and

"(C) a trust or estate in which such persons own more than 35 percent of the beneficial interest.

"(2) CONSTRUCTIVE OWNERSHIP RULES.—Rules similar to the rules of paragraphs (3) and (4) of section 4946(a) shall apply for purposes of this subsection."

(b) APPLICATION OF PRIVATE INUREMENT RULE TO TAX-EXEMPT CIVIC LEAGUES.—Paragraph (4) of section 501(c) of such Code is amended to read as follows:

"(4)(A) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

"(B) Local associations of employees—

"(i) the membership of which is limited to the employees of a designated person or persons in a particular municipality, and

"(ii) which is operated exclusively for charitable, educational, or recreational purposes."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 4955 of such Code is amended—

(A) by striking "SECTION 4945" in the heading and inserting "SECTIONS 4945 and 4959", and

(B) by inserting before the period "or a taxable inurement for purposes of section 4959".

(2) Subsections (a), (b), and (c) of section 4963 of such Code are each amended by inserting "4958, 4959," after "4955,".

(3) Subsection (e) of section 6213 of such Code is amended by inserting "4958 (relating to acts of self-dealing), 4959 (relating to private inurement)," before "4971".

(4) The table of subchapters for chapter 42 of such Code is amended by striking the last item and inserting the following:

"Subchapter D. Acts of self-dealing and private inurement by certain exempt organizations.

"Subchapter E. Abatement of first and second tier taxes in certain cases."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions occurring on or after January 1, 1994.

PUBLIC FINANCE AND INFRASTRUCTURE INVESTMENT ACT OF 1993

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. NEAL of Massachusetts. Mr. Speaker, I would like to speak about public financing. As the former mayor of the city of Springfield, I am a firm believer in public financing. I have seen its benefits firsthand. In the past 12 years, Federal support to local and State governments has dramatically increased. Public financing can assist to fill this crucial void.

Today, Congressman COYNE is introducing the "Public Finance and Infrastructure Investment Act of 1993." I am a cosponsor of this legislation and I would like to commend Mr. COYNE for his work on putting together this worthy piece of legislation.

Former Congressman Beryl Anthony formed the Anthony Commission on Public Financing. The commission released a report that made recommendations on public financing. Most of the recommendations were in response to the restrictions placed on tax-exempt bonds by the Tax Reform Act of 1986. This legislation incorporates many of the objectives of the Anthony Commission.

Most of the provisions included in the legislation have already been passed by Congress. The bill includes one new provision, distressed community economic development bonds and I believe this type of bond compliments the enterprise zone legislation included in the Omnibus Budget Reconciliation Act of 1993. These bonds would help communities that face economic hardship and this would not just be large urban communities. Many smaller cities such as Springfield who are facing tough economic times would be able to qualify for distressed community economic development bonds.

The other provisions are needed changes and they are supported by the bond community. One of these provisions would eliminate the $15 million limit placed on output facilities. I have introduced a bill on this issue. There is no reason output facilities such as public powerplants should not be treated differently from other facilities.

The purpose of this legislation is to improve the provisions concerning tax-exempt bonds in the Internal Revenue Code. The provisions would include indexation of the volume cap and a small issuer exception for bank deductibility.

Public financing touches many aspects of our everyday life. Municipal bonds are used by State and local governments to finance public facilities such as school, hospitals, roads, and ports. I urge you to review this important piece of legislation. I look forward to a debate on municipal financing during the next session of Congress.

TRIBUTE TO THE PASHAMI DANCERS

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. CARR. Mr. Speaker, I appreciate this opportunity to extend my congratulations to the Pashami Dancers of Lansing, MI, on the occasion of their 25th anniversary.

The Pashami Dancers, a nonprofit dance company specializing in traditional West African dance, have been sharing their knowledge and love of West African culture with the people of Michigan since 1970. Through their local teaching and performances, they have fostered a great appreciation for the richness and complexity of West African dance, music, and culture.

In addition to their local activities, the Pashami Dancers have traveled extensively within the United States, as well as to several West African countries. Members of the group have performed and studied with local dancers in such countries as Benin, Cote D'Ivoire, The Gambia, Ghana, Nigeria, Senegal, and Togo. The Pashami Dancers have also performed for such distinguished persons as Nobel Peace Prize winner Desmond Tutu and Zimbabwe President Robert Gabriel Mugabe.

The Pashami Dancers have enjoyed continued success under the leadership of Dr. Dorothy H. Jones, assistant professor of social

work at Michigan State University, and founder and artistic director of the Pashami Dancers. Other members of the company are active in such varied fields as business, education, engineering, law, and medicine.

The Pashami Dancers have done our community a great service through their teaching and performance of West African dance. Please join me in recognizing their many years of contribution to the cultural life of Michigan, and in wishing them continued success in their endeavors.

TRIBUTE TO HUMBERTO J. TIJERINA

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to a very dear friend, and a man who has molded the souls and the minds of students, both young and old.

Mr. Speaker and colleagues, Mr. Humberto J. Tijerina, of Kingsville, TX, will retire soon, on December 2, 1993. I would ask that all of you join me in commemorating the long and distinguished career of an educator—a career, which to me, is the most important job in our society.

Mr. Tijerina—affectionately known as Mr. T to his friends, is literally a product of the Kingsville educational system. He attended schools in Kingsville, graduating from Henrietta King School, before attaining his degree at Texas A & I University in Kingsville. He majored in accounting and minored in teaching.

He first taught school in Raymondsville, TX, for a year before returning to Corpus Christi, where he worked a stint in the old Army Operations and Inspections Center at Corpus Christi Naval Air Station. The following year, 1957, he joined the Corpus Christi independent school system. Mr. T had realized during his tenure at the Raymondsville independent school district that he loved the art of teaching.

Teaching moved him. Nothing made him happier than seeing others realize their potential. In 1965, he began working with the adult learning center in Corpus Christi. He says that the most enriching reward of all is seeing others summon the very best in themselves as they learn. He feels great pleasure in seeing people attain their goals of receiving an education.

When Mr. T first started at the adult learning center, they only offered graduate equivalency degrees [GED], but soon they moved toward programs that emphasized English as a second language. During the years Mr. T has worked at the adult learning center, he has seen it grow to include language services and informational and self-help programs for welfare mothers.

I would ask that the house join me today—as well as Mr. T's family; his wife Rose, and his sons Terence Neil and Darin Dale—in commending Mr. Humberto J. Tijerina for his lifetime achievements in the field of education.

TRIBUTE TO WILBUR BUCHER

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. GOODLING. Mr. Speaker, today I would like to recognize the accomplishments of Mr. Wilbur Bucher of Mechanicsburg, PA, in the 19th Congressional District, which I represent.

Mr. Bucher has lived in Mechanicsburg all of his life and has contributed much to the community and the Commonwealth of Pennsylvania. In addition to being a leader in local agriculture, he has also served on the Monroe Township Planning Commission.

In December 1993, Mr. Bucher will celebrate his 80th birthday. Many of his friends and family, including myself, will join him for this celebration, which will be held at the Allenberry resort in Boiling Springs, PA.

Mr. Bucher has certainly earned the respect bestowed upon him by the community. He has been an active member of the Cumberland County and Pennsylvania Farmers Association and has ably served on their legislative committee. Mr. Bucher was a member of the very first 4–H Baby Beef Club of Cumberland County. In addition to serving in these official capacities, Mr. Bucher has served on my own Agriculture Advisory Board, which is comprised of about 30 residents of the 19th congressional district to advise me on the impact of Federal Government policies and legislation on local agriculture. I have certainly been very appreciative of Mr. Bucher's efforts through the years.

Mr. Bucher has also provided dedicated service to his community. He has served as a member of the Monroe Township Planning Commission for 27 years 1967–1993. He served as chairman for a majority of those years. As my colleagues know, this is often a thankless job, but one for which a qualified and dedicated individual can make a great difference for the community.

Many communities are built around their churches. For Mr. Bucher, the church is an important part of the community and the foundation upon which to build our future. He has volunteered his time as a Sunday school teacher, assistant superintendent and superintendent of the Sunday school at the Trindle Spring Lutheran Church.

In addition to serving his community, Mr. Bucher also enjoys reading and traveling.

I would like to express the thanks of the entire community to Mr. Bucher for his tireless commitment to the community. We greatly appreciate the knowledge and wisdom he has provided through the years. As he completes his final term as a member of the planning commission, we would like to wish him the very best of luck in all of his future endeavors and hope he continues to enjoy a full and happy life.

THE STATE OF NEW COLUMBIA

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. FARR. Mr. Speaker, this body agonized over whether to extend statehood to Washington, DC. I favored statehood for the District and have a hard time understanding why the segment of the American population living in this city has been singled out for disenfranchisement.

I would like to share with my colleagues a resolution passed by the California Legislature dealing with this issue. It lays out quite clearly the contributions the District of Columbia has made to the country and how its situation parallels that of so many of the existing States.

Though H.R. 51 failed passage yesterday, I believe this is an issue that will return to be reconsidered; maybe not soon, but it will return, nonetheless. It is only right that the people living in this city receive fair and equal representation due each and every American, regardless of their place of residence.

Text of California Assembly Joint Resolution No. 3 follows:

ASSEMBLY JOINT RESOLUTION NO. 3

Assembly Joint Resolution No. 3—Relative to extending statehood to Washington, D.C.

[Filed with Secretary of State Sept. 14, 1993]

This measure would memorialize the President and the Congress of the United States to extend statehood to Washington, D.C.

Whereas, the American Revolution and War for Independence was ultimately declared citing the principle "taxation without representation is tyranny," and there are nearly 650,000 taxpaying American citizens in the District of Columbia who have no federal voting representation in Congress; and

Whereas, of the 117 countries in the world with elected national legislatures, the United States stands alone in depriving the residents of its capital a voice and a vote in our national legislative body; and

Whereas, District of Columbia residents pay more federal income tax per capita than the residents of 48 states, and more in local taxes than the residents of any state in the country; and

Whereas, the District of Columbia's per capita income is $32,000, exceeding the national average by 42 percent and is well positioned for growth as a leader in a number of service industries, for example, law, business services, communications, and tourism; and

Whereas, District of Columbia residents serve disproportionately in the military; have served in all wars since the War for Independence and during the Vietnam War, had more casualties than 10 states and more casualties per capital than 47 states; and

Whereas, the District of Columbia sent more soldiers to the Persian Gulf than 20 states (more per capita than all but four states), and yet had no voting representation on the floor of the House of Representatives or Senate when Congress approved military involvement; and

Whereas, there is no constitutional prohibition against creating the State of New Columbia out of nonfederal parts of the District of Columbia, and the District of Columbia meets all statehood requirements traditionally imposed by Congress; and

Whereas, the District of Columbia has 639,000 residents, nearly as many or more

residents than six states: Wyoming (465,000), Alaska (552,000), Vermont (565,000), North Dakota (641,000), Delaware (669,000), and South Dakota (699,000) with each state possessing two Senators; and

Whereas, historically, statehood has been granted when three criteria were met: (1) the people, through some democratic process, express their desire to become a state; (2) the people accept the republican form of government required by the United States Constitution and practiced in the United States; and (3) there are sufficient people and economic resources to support a state; and

Whereas, District of Columbia residents have democratically expressed their desire to become a state through passage of a statehood referendum (November 1980); approval of a Constitution by district delegates (May 1982); transmittal of the Constitution and a petition for statehood (September 1983) to Congress; and in the tradition of Tennessee in 1796, election of their own statehood delegation to appeal to Congress to accept their petition for admission to the Union as the 51st state; and

Whereas, statehood will provide District of Columbia residents with federal voting representation, as well as local legislative, budgetary, and judicial autonomy: Now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress to extend statehood to Washington, D.C.; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

PUERTO RICO'S FUTURE

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. DE LUGO. Mr. Speaker, as chairman of the subcommittee with jurisdiction over matters relating to Puerto Rico's political status, I have noted, that Congress has a duty to seriously consider the decision that the people of Puerto Rico made in an act of self-determination.

To explore with representatives of the administration and the Puerto Rican people how we can constructively respond, the Subcommittee on Insular and International Affairs will hold a hearing at the beginning of the next session.

Our purpose will not be to reopen the debate among the status options that 1.7 million citizens voted upon.

Again, it will be to receive recommendations regarding the measures that the Federal Government should take in reaction to the wishes that were expressed.

Several newspapers have commented on the results of the plebiscite. Thoughtful suggestions about the Nation's responsibility to address Puerto Rico's fundamental problems were made in editorials which I will include in the RECORD.

[From the New York Times, Nov. 16, 1993]

PUERTO RICO CHOOSES, FOR NOW

The close vote in Puerto Rico favoring continued commonwealth status rather than statehood will be greeted with relief in Washington. It spares Congress from deciding how and whether to admit a Spanish-speaking island to the Union.

Gov. Pedro Rossello's New Progressive Party hoped that Sunday's nonbinding referendum would build momentum for Puerto Rico's admission as the 51st state. But this course was preferred by only 46 percent of the voters, compared with 48 percent for commonwealth status and 4 percent for independence. That effectively sidetracks the statehood campaign, at least for now.

Yet the plebiscite does not resolve a more fundamental question: Is Puerto Rico a colony? The honest answer is yes and no.

Puerto Rico is clearly a willing subordinate. President Clinton, and most mainlanders, agree that the islanders themselves should be free to choose their final status. And overwhelmingly, Puerto Ricans favor one of two forms of association with the United States; there is no clamor for independence. In 1952 Congress approved commonwealth status, and a year later Washington persuaded the United Nations to take Puerto Rico off its list of colonies.

Even so, in vital respects Puerto Rico remains a dependent ward. Under commonwealth status Puerto Ricans are U.S. citizens, to a point. They can settle anywhere on the mainland, and on the island they elect their Governor and legislature. But because islanders pay no Federal income taxes, they do not elect U.S. senators or representatives or vote for President.

This arrangement, sweetened by other tax breaks, has spurred investment from the mainland, created jobs and raised wages, a boon that doubtless caused many Puerto Ricans to prefer remaining in a familiar halfway house to the risks of economic pain with any change.

But Puerto Ricans are reminded of their diminished citizenship when Washington gives short shrift to their petitions. The Treasury Department barely consulted islanders this year in proposing elimination of Federal tax incentives that Puerto Ricans deem essential to their economy. Twice since 1953, Puerto Ricans petitioned Congress for changes to enhance commonwealth status; Congress did nothing. Nor could it agree two years ago on a plebiscite whose results would be binding.

Many who voted for continued commonwealth status did so to protect Puerto Rico's distinct culture from homogenization into the English-speaking mainland. This choice of cultural autonomy short of national independence deserves respect in a world groping with the dilemmas of self-determination. Now that Puerto Rico has voiced its preference, it is incumbent upon Washington to react more sensitively to Puerto Rican requests and to continued exploration of the island's status.

[From the New York Daily News, Nov. 17, 1993]

WHAT NOW FOR PUERTO RICO?

Congress heaved a sigh of relief when voters in Puerto Rico narrowly rejected petitioning for statehood in favor of remaining a United States commonwealth. The results of Sunday's referendum, though, don't mean that all is well between Puerto Rico and the U.S. The relationship will not be sound until the island moves toward greater autonomy and less economic dependence.

The Puerto Rican statehood movement is driven by powerful forces—a sense of second class status and feelings of lost identity, among them. Impatience at having citizenship but not the right to vote in federal elections or any true representation in Washington is widespread even among those who voted for the status quo. Their ballots were cast for economic reasons: Statehood would mean having to pay federal income tax while losing much of the assistance that has elevated Puerto Rico, poor as it is, over other islands.

The mission now is to chart a course that moves Puerto Rico toward self-sufficiency. The effort will have to be made jointly by the island's leadership and Congress, but early movements do not bode well. Those who supported maintaining Puerto Rico as a commonwealth are proposing an "enhanced commonwealth" status, whose components leave a lot to be desired. If anything, they'd increase the island's dependency.

The "enhancement" goes no further than asking Congress to restore tax breaks to mainland and foreign companies investing in Puerto Rico, to impose tariffs on some imported agricultural products, and to make Puerto Ricans eligible both for Supplemental Security Income, a federal aid program for the elderly and handicapped, and full food stamp benefits. The cost of the latter two alone would be $1.6 billion annually. Even in good times Washington would balk.

A real "enhanced commonwealth" proposal would include ideas such as allowing Puerto Rico to initiate its trade relations with other countries and to participate in regional economic organizations. It would also seek to give Puerto Rico greater control over its own borders. The more the island is encouraged to go it alone, the better off it will be in the long run.

[From the Washington Post, November 18, 1993]

STATELESS IN SAN JUAN

For years the principal issue in Puerto Rican politics has been the so-called status question. Is the island better off in the constitutional halfway house it currently occupies as a "commonwealth," or should it try to become a state? That's what divides the two major island political parties. The plebiscite last Sunday can't have been a great comfort to either. Commonwealth won—but only by 48 percent to 46 percent. The voters are split; the fight will go on. For now, however, a plurality seems to think the likely cost of becoming a state is greater than the likely benefit. That's probably right.

Statehood would mean tremendous economic change for Puerto Rico. It's anything but clear that the change would be for the better. The island now is a major enterprise zone. Mainland companies are given a lucrative tax break if they build plants there. In part because of the lure of this tax break, Puerto Rico has a high per capita income by Latin American standards. At the same time, more than half the population is officially poor by mainland standards.

If the island were to become a state on a par with all others, it would lose the tax advantage (already reduced last summer). Puerto Ricans would also have to pay federal income taxes, which they don't now. At the same time, they would presumably become entitled to full federal welfare and related benefits, which they also aren't now; benefits currently are limited, lest they flood the economy. If benefits went up, wages would likely have to be increased to match. Labor

costs would rise; the island would lose competitive advantage. The Congressional Budget Office has estimated that the unemployment rate, already too high, could approach a quarter of the work force. The statehooders haven't really spelled out how they would deal with this. Some commonwealthers also argue that statehood would cost the island some of its cultural identity.

The statehooders' leading contrary argument is that commonwealth status is politically unjust. Puerto Ricans are U.S. citizens who serve in the armed forces, are subject to other federal law and yet can't vote in federal elections. They could if Puerto Rico became a state—but that's the bargain that the voters rejected last Sunday. It isn't clear that Congress would have been receptive to a statehood petition anyway.

The plebiscite was a gamble by the statehood party now in power on the island. The statehooders lost, just as the commonwealthers also lost when they tried to lock up the issue a couple of years ago when they were in power. The lesson may be to leave status alone for a while and work on the island's other problems. Status aside, what should U.S. policy be toward Puerto Rico, and how well do present policies fulfill the federal obligation? That's the right question.

TRIBUTE TO MARIA PAPAIOANNOU

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. BILIRAKIS. Mr. Speaker, I rise today to pay tribute to a good friend—both to the Washington, DC, community and to me—Maria Papaioannou, wife of Rev. Dr. George Papaioannou, who died of cancer in October.

It is difficult to express what this woman meant to her family as well as her community. Maria Papaioannou's active participation in the St. George Greek Orthodox Church in Bethesda, MD should be an inspiration to us all.

She was the mother of three daughters, however, one could argue that she was also the true matriarch of the St. George Greek Orthodox community. She was always teaching the principles of the church and touching the lives of so many in a positive and enduring way.

Recently, the St. George Greek Orthodox Church erected a youth cultural center, which will be used by the entire Washington, DC, Greek Orthodox community. It is fitting that the parish at St. George chose to dedicate this building to her loving memory.

Maria will always be remembered for the support that she gave to her husband and the compassion she exhibited for the parish. The love that she elicited from the parish is a testimonial to this.

Despite her illness, Maria displayed greater courage than any of us have had to show, commitment to the church in such a loving way that was so characteristic of her. May her dedication and steadfastness be an example to future generations and provide them inspiration to do the same.

Maria Papaioannou will be sorely missed by all who knew her and loved her. May her memory be eternal.

HONORED AND PRIVILEGED TO SERVE

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. UNDERWOOD. Mr. Speaker, I rise today honored and privileged to be a part of this legislative body and to have participated in this democratic process. As this first year of the 103d Congress comes to a close, I am pleased to note that the work we did over the past year will have a profound impact for my constituents on Guam. My constituents are very important to me and I have the honor and privilege of being their representative in the U.S. Congress.

I have learned much about the political process, but most importantly, I have made new friends that I feel will become lifelong companions.

As the Thanksgiving holiday approaches, I have many things to be thankful for: first and foremost, I give thanks to God for my strength and faith and for blessing me with a healthy family and wonderful constituents to represent on Guam. I would also like to thank my family for being patient with me as I work long hours and as I split my time with them because of my responsibilities. I would like to thank my staff for all their hard work and dedication. Lastly, I want to thank my colleagues for all their cooperation and understanding of issues that are important to the people of Guam.

May your holiday season be bright and joyous, and may all of you have continued health, happiness, and contentment throughout the holiday season and in the years to come.

FOR THE RELIEF OF MARK A. POTTS

HON. MARJORIE MARGOLIES-MEZVINSKY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Ms. MARGOLIES-MEZVINSKY. Mr. Speaker, I am today introducing a private bill on behalf of Mark A. Potts that would remove barriers to make it possible for him to receive an immigrant visa.

Mark is a 20-year-old native and citizen of the United Kingdom. He is the adopted foster son of Derek and Christine Riley, who reside in Exton, PA. Mark and his brother, Darren, have lived with the Rileys since October 1973, when Mark was only 10 months old. Mark has always been hard working and law abiding.

The Rileys are the only family Mark has ever known. In England, it was not the normal practice to go through formal adoption procedures in the case of foster children.

Unless relief is granted by way of a private bill, Mark will be separated from the only family he has ever know—the Rileys and his biological brother. He will be required to return to the United Kingdom, where he has no immediate relatives and no family residence.

Therefore, I am proud to introduce a private bill today on behalf of this deserving young man and encourage my colleagues to join me in making sure that this young man can stay with the only parents he has ever known.

HONORING BRUCE A. COOK

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. PORTMAN. Mr. Speaker, I would like to pay tribute today to a distinguished constituent of mine who will soon be the recipient of a prestigious award in Cincinnati, OH—Bruce A. Cook. On January 14, 1994, Mr. Cook will be warded the Spirit of Life Award by the Greater Cincinnati Executive Council for City of Hope National Medical Center. The center is world renowned for its scientific firsts, such as the laboratory synthesis of human insulin and growth hormone, and its pioneering research to eliminate cancer, leukemia, and heart, blood, and lung diseases. This is the highest honor a person can receive from the center, and it could not be presented to a more deserving community figure.

Mr. Cook has made a significant contribution to his country and to the city of Cincinnati during his life. Although I cannot adequately describe his many accomplishments in a brief time, I would like to highlight some of his most notable achievements.

Mr. Cook served in the U.S. Airborne Infantry from October 1946 through March 1948, including overseas duty with occupational forces in Sendai, Japan, with the 11th Airborne Division. Graduating from the University of Illinois in 1954, he joined the Trane Co., in LaCrosse WI, and since 1969 Mr. Cook has been the president of Bruce A. Cook, Inc., representing the Trane Co. in Cincinnati.

Mr. Cook has been active in a number of local civic groups, including the Greater Cincinnati Chamber of Commerce and the Cincinnati Club Reciprocity Table. He has served as the president of the University of Illinois Alumni Association and currently serves as the vice president of the University of Illinois Mechanical Engineering/Industrial Engineering Alumni Board.

A Rotarian since 1969, Mr. Cook was Rotary International Director from 1987 through 1989. He is a member and past president of the Rotary Club of Cincinnati. In addition, he has held the position of district governor for Rotary International District 6670 in 1981–82, has served as secretary-treasurer, a member of the board of directors, and as chairman of numerous committees of the Rotary Club of Cincinnati.

As you can tell from this incomplete, but distinguished, list of accomplishments, Bruce Cook is a deserving recipient of the prestigious Spirit of Life Award. Today, I praise his good work for the betterment of his country and commend this man who has throughout his life given others the spirit of life and hope.

LEGISLATION TO GIVE THE MAYOR OF THE DISTRICT OF COLUMBIA AUTHORITY OVER THE DISTRICT OF COLUMBIA NATIONAL GUARD INTRODUCED

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Ms. NORTON. Mr. Speaker, today, at the request of the Mayor of the District of Columbia, I am introducing legislation that would give the District's Mayor the same authority over the National Guard as the Governors of all 50 states and the four territories.

This bill is simply another legislative step necessary to complete the transfer of full self-government powers that Congress itself began with the passage of the Home Rule Act of 1973. As a U.S. jurisdiction, the District is entitled all of the attributes of self-government.

THE BYRON WHITE FEDERAL COURTHOUSE

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. SCHAEFER. Mr. Speaker, today I am introducing legislation that would name the new Federal courthouse in Denver, CO, after Supreme Court Justice Byron White, who retired in July 1993.

Justice White is a native Coloradan and the only citizen of our State to serve on the U.S. Supreme Court. His tenure on the Court typified his Western origins and self-reliant nature. During his service some of the most controversial and politically divisive decisions were handed down. Nevertheless, he maintained an independent train of thought, true to his vision of the Constitution.

Mr. Speaker, Justice White served his country well and his distinguished service has made his home State proud. I ask my colleagues to join me today in honoring Justice White by designating the new Federal courthouse in Denver, CO, "The Byron White Federal Courthouse."

INTRODUCTION OF THE CONTAMINATED SITES RECLAMATION ACT OF 1994

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. UPTON. Mr. Speaker, one constant of legislative policymaking is the proverbial "Law of Unintended Effects." We know it well here on Capitol Hill. It attests to the fact that, despite our best intentions, laws and programs often have effects unforeseen at the time of their creation.

The Superfund program was created in 1980 with passage of the Comprehensive Environmental Response, Compensation and Liability Act [CERCLA]. It was reauthorized and amended significantly in 1986 under the Superfund Amendments and Reauthorization Act [SARA]. The latest authorization expires in 1994.

Hearings have been held before several House committees, including the Committee on Energy and Commerce. A cottage industry has sprung up producing studies and reports on the program and its failings. In his first appearance before a joint session of Congress, President Clinton singled out Superfund as an example of a program long in need of fixing.

The President isn't the only observer to note Superfund's failings, merely the most prominent. Thoughtful analysts in all walks of life have pointed out that Superfund cleanups cost too much, take too long and often impose unjust and disproportionate costs on potentially responsible parties. Superfund has become a super headache.

The core of Superfund is its draconian liability provisions. It doesn't just apply to those who have unlawfully dumped hazardous materials. It applies to anyone who generated or transported hazardous waste or who arranged for its transport. It applies to anyone who owned or operated the land, facility or vessel where the hazardous constituents were found.

Superfund liability is strict, meaning that the Government must only prove that a party was involved in a disposal site. There is no need to prove negligence. It is retroactive, meaning that the action creates liability even if it was lawful at the time that it took place. Lastly, Superfund liability is joint and several, meaning that a party can be held liable for cleanup costs far in excess of its contribution to the contamination requiring cleanup.

This heavy liability burden was devised to discourage the creation of new contaminated sites. Who would willingly incur such liability? Unfortunately, the effects of Superfund's liability have gone much farther than anticipated.

Throughout the United States, but especially in older manufacturing areas, the fear of Superfund liability has scared investors and businesses away from previously used sites. With cleanups averaging more than $30 million per site, it's safer to avoid the brownsites in established manufacturing areas in favor of the greensites where there has been no industrial activity.

The result is thousands of abandoned or virtually abandoned sites that will not be redeveloped because the potential redevelopers fear the staggering liability that can come with a contaminated site. Such sites create great gaps in our cities, like missing teeth. Jobs relocate along with the factories, leaving older manufacturing areas with higher unemployment and shrinking tax bases.

New facilities are built on the periphery stretching infrastructural features like water, sewerage and electricity. Employees must often commute over great distances because greensites aren't near public transportation. New strains are placed on the local ecosystem. Irreplaceable wildlife habitat is lost. Prime agricultural farmland is destroyed.

It's frustrating when Federal programs don't achieve their desired or anticipated results. It's infuriating, however, when a program functions to undermine other efforts to improve American life. We spend money on community development to breathe new life into our older cities and towns. We spend to build public transit, to save farmland and to protect animal habitat. We spend billions to create jobs. These costly efforts are undermined when the Superfund program has opposite effect.

No one planned it. No one wanted it. No one anticipated it, but the Superfund Program has created a chain of dead zones from one end of America to the other. It is a classic case of shooting ourselves in the foot. Common sense dictates that we do something about it.

Mr. Speaker, I am today introducing H.R. 3620, the Contaminated Sites Reclamation Act to address problems the current Superfund Program has created. This proposal has four parts.

First, it strengthens the innocent landowner defense for those who unwittingly acquire contaminated property. The current act exempts innocent landowners from liability, but it simply isn't sufficiently specific about what actions parties must take to shelter themselves from liability for someone else's mess. Basically, the bill protects those who take certain reasonable steps to determine if contamination exists when buying commercial or industrial property.

Second, it provides a framework for negotiated voluntary cleanups when contamination is found. A party might find a site, have it investigated under provisions of the innocent landowner title and still seriously consider buying it. He or she needs to be able to approach EPA or the appropriate State agency and determine just how much needs to be done and how much it will cost. That's very difficult now, some say it is impossible. EPA and State agencies are oriented toward making unwilling polluters pay up through tough liability and enforcement. A voluntary cleanup by a party that didn't create the mess in the first place is not something they're used to dealing with.

Third, it provides tax incentives to those who voluntarily clean up sites they did not contaminate. Let me emphasize this point, Mr. Speaker: In those cases where a party doing the cleanup had no role in creating the contaminated site, there would be a 25-percent tax credit for all expenses incurred in cleaning up the site. It would also allow the expensing of cleanup costs in other situations.

Fourth, it clarifies the lender liabilities provisions that already exist in the Superfund law. There have been some occasions when lenders were held liable for actions taken by interests to whom they had loaned money despite language in the act exempting those "who, without participating in the management of a vessel or facility, hold indicia of ownership primarily to protect his security interest * * *." Lenders have been reluctant to make loans to those who would redevelop previously used sites and this has exacerbated the rush to greensites.

Let me emphasize, Mr. Speaker, that this bill does not carve out new exceptions to Superfund's liability provisions. Both innocent landowners and lenders are ostensibly sheltered in the current law. My bill simply clarifies these existing provisions.

When a law doesn't work, Mr. Speaker, or, worse yet, when a law has effects virtually opposite those intended, we have an obligation

to put things right. We have here a law that was intended to ensure the cleanup of contaminated sites. Instead, it has led to the wholesale abandonment of sites, many of which aren't contaminated, most of which are in our cities and older manufacturing areas. The legislation I am introducing today will not right all of Superfund's wrongs, but it will reverse the program's most important unintended effect.

ABOLISH MANDATORY MINIMUM SENTENCES AND "LET JUDGES DECIDE"

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. EDWARDS of California. Mr. Speaker, Judge Harold Greene, of the Federal district court in the District of Columbia, has written an excellent article in today's Washington Post urging Congress not to enact more mandatory minimum sentences. While Judge Greene writes for himself, my survey of Federal judges shows his views are the same as those of 93 percent of his colleagues on the Federal bench. When Congress considers this issue next year, we should repeal the mandatory minimums already on the books, not enact new ones.

LET JUDGES DECIDE

(By Harold H. Greene)

Congress is engaged in an urgent effort to enact legislation requiring mandatory minimum sentences for a considerable number of criminal offenses. Writing only on my own behalf and not for the judiciary as such, I submit that, whatever else it may accomplish, this effort is not in the interest of justice.

Congress has the power under the Constitution to enact laws governing the sentencing of individuals convicted of crime. Moreover, there is no doubt that members of Congress in their bidding wars of toughness on crime—when a proposal for life imprisonment for a particular violation may be trumped the next day by one for the death penalty—are carrying out the wishes of many, if not most, of their constituents. Indeed, mandatory penalties far beyond the few that exist now for special cases seem to be inexorably on the march toward passage as part of the crime bill. This is to counsel a stop-look-and-listen.

Especially when it comes to matters of fundamental justice, more must be included than polls, the desires of constituents, legitimate anxieties and political calculations. That is the lesson of the Constitution itself and of the Bill of Rights. It is also the lesson of such actions as the internment of Japanese Americans after Pearl Harbor, which most of the participants came to regret even though at the time the internment had the overwhelming support of the citizenry.

Why do some of us believe that it is not consistent with justice to decree flatly that those who engage in the drug trade or in acts of violence be punished by rigid, mandatory sentences of imprisonment for 10, 20 or 30 years, or for life, all without the possibility of parole? No one engaged in the administration of justice would argue that sentences of that magnitude are not sometimes, or even frequently, appropriate or necessary. Drugs and violence have gotten out of hand. They are disrupting our national life, particularly in the large cities, and stern measures must be taken against those responsible. And federal judges in all parts of the country, including here in Washington, have shown through the years that they do not flinch from their duty to be stern and even harsh when appropriate. But the question is whether fixed, mandatory sentences are a fair and just means for dealing with the crime-justice problem.

I submit that they are not. It is simply not true that all those involved in drug transactions or offenses accompanied by a degree of violence deserve a mandatory life sentence or close to it, regardless of what they actually did and what their backgrounds may be. The members of Congress, who of necessity deal only in general principles, cannot be expected to be familiar with the distinctions that should, in equity and fairness, be made, based on facts as distinguished from broad generalities.

It would seem that the judges who will ultimately be called upon to implement the sentencing laws enacted by Congress, and who have wrestled with sentencing problems day-in and day-out, thus have a contribution to make at the take-off, so to speak, not only at the crash landing. The judges, after all, do know from experience, not from philosophical or other general writings, that an individual who is a courier carrying a small amount of cocaine in a bus from one city to another, enticed to do so by a relatively small sum of money, does not deserve the same fixed sentence as a drug kingpin who imports and distributes drugs on a large scale. They also know from experience that violent crimes may differ greatly with respect to such factors as intent, premeditation, provocation, brutality and many others. All of the perpetrators of such crimes deserve punishment, but surely not identical punishment.

Judges also know, having seen the examples many times, that a genuinely contrite offender, perhaps with a distinguished war record or a record of service to the community before becoming addicted and thereafter enmeshed in the drug trade, should not be punished to the same extent as an antisocial defendant who has never done productive work, does not support his family and is unlikely for a long time, if ever, to be anything but a leech on society. Yet under the legislation Congress may be about to decree, the practical effect would be that the sentencing judges must treat them all alike. That is not justice.

It is probably for these reasons that the federal judges of this country, apparently with few exceptions, regard the fixed, mandatory sentencing laws as unjust and an affront to conscience. That revulsion is not limited to the usual suspects—the so-called bleeding heart liberals. It extends from the judicial appointees of President Carter to those appointed by President Reagan and Bush. And the members of the latter group, at least, may safely be assumed to have been nominated, at least in part, on account of their known or expected toughness with respect to crime.

Why, then, are the judges of this view? Cynics might surmise that this is so because the mandatory sentences and the related guidelines issued by the United States Sentencing Commission deprive them of their unrestrained sentencing power and the pleasure that presumably comes from the ability to exercise that power. The cynics are wrong. Left to his or her own devices, each conscientious judge spends a great deal of time, energy and moral capital attempting to fashion a just sentence. Balancing the competing forces of deterrence and retribution, the needs of society, the injury to the victim and the personal circumstances of the defendant is a complex and daunting task, taking much time and thought.

It is far easier on the judicial schedule and the judge's conscience to issue a flat sentence in accordance with a congressionally imposed mandate. Such a sentence requires neither deliberation nor the balancing of competing considerations; it is simply announced. Under that system, when conscience calls it can be stilled by the words that others have used when required to perform unjust acts, "I am just carrying out orders." Yet most judges feel a profound sense of wrong when they have to sit by, powerless, while sentence are imposed in their names and by their voices that are entirely at odds with what justice and basic morality and equity require.

One final word. In many cases, the Draconian, mandatory sentence requirements will be counterproductive, even on their own terms. Jurors are not stupid or uninformed, and they by and large have a profound sense of basic fairness. When they learn, as they will, what will happen upon conviction under the mandatory sentence regime to those who by any rational standard are not really major offenders, they will often engage in the practice of nullification: They will choose to exercise their ability to find the defendant or defendants not guilty, no matter what the evidence.

In sum, notwithstanding their popular appeal, and the undoubted need for toughness on crime and criminals, mandatory sentences are likely very often to be incompatible with the requirements of justice. The nation should be slow and careful before embarking on so radical a departure from traditional norms.

PRESIDENTIAL MEDAL OF FREEDOM FOR "COLONEL MAGGIE"

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. McNULTY. Mr. Speaker, on Tuesday, November 2, President Bill Clinton awarded to Ms. Martha Raye the Presidential Medal of Freedom, the highest civilian award of the U.S. Government.

In issuing his 1945 Executive order, President Harry S. Truman stated that the Medal of Freedom shall be awarded to any person who "* * * has performed a meritorious act or service which has aided the United States in the prosecution of a war against an enemy or enemies * * *." Throughout World War II, Korea, and Vietnam, Martha Raye did just that.

"Colonel Maggie," as she became known to the U.S. Marines and Special Forces units who commissioned her an honorary lieutenant colonel, dedicated many months of her life to our troops serving abroad during those wars. During World War II, although stricken with yellow fever, Ms. Raye entertained as a U.S. trouper. She nursed the wounded in Korea as well, yet never sought recognition for her selfless actions.

During the Vietnam war, she spent 3 to 6 months each year with our service men and women. She traveled to remote camps, under enemy fire, to entertain the soldiers and to care for the wounded.

Veterans' groups from all over the country cooperated in an effort to recognize Martha Raye's dedication to her country. These groups include AMVETS, the Military Order of the Purple Heart, and the American Legion Auxiliary, all of whom remembered her service and wished to honor her accordingly.

However, no group worked harder to ensure that "Colonel Maggie" be recognized for her work than the Medals' for Maggie Committee, headquartered in Albany, NY, in my congressional district. Ms. Margaret "Noonie" Fortin and Ms. Belle Pellegrino, both Vietnam-era veterans, were devoted and untiring in their efforts to achieve this well-deserved recognition for Ms. Raye.

Mr. Speaker, on Monday, November 15, we were successful. Marine Maj. Leo Mercado, representing the President of the United States, presented the Medal of Freedom to Ms. Martha Raye. God bless you, Colonel Maggie.

TRIBUTE TO CURT FLOOD

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. CLAY. Mr. Speaker, Curt Flood, a friend of mine, was not only a great athlete and great individual, but also a better than average artist. I shall never forget the night I was preparing to open a cocktail lounge in St. Louis. My cousin Arthur, another better than average artist, and Flood started painting caricatures on the walls and ceiling to be highlighted by the black lights of my Glow Worm lounge. At 6 o'clock the next morning Flood left, went home, and prepared for a daytime game where he started as usual.

I would like to share the following article about Curt Flood with my colleagues. The article appeared in the November 21, 1993, edition of the Washington Post.

A BASEBALL LESSON IN FREEDOM

(By George F. Will)

NEW YORK.—Curt Flood, a 165-pound whippet of a centerfielder, could outrun most fly balls, but it took him 24 years to catch up to his 1969 Gold Glove award. His story is rich with lessons about courage, freedom and the conceit that we can predict freedom's consequences.

He has a career batting average of .283 in 15 seasons, 12 with the Cardinals. But nothing so became him in baseball as his manner of leaving it. Although he played 13 games with the 1971 Senators, he really left after the 1969 season when the Cardinals traded him to Philadelphia and he said, hell no, I won't go.

Black ballplayers have done much to move freedom forward. In 1944, 11 years before Rosa Parks refused to move to the back of a bus in Montgomery, Ala., a lieutenant in Texas faced a court-martial for a similar refusal on an Army bus: Lt. Jackie Robinson. A similar spiritedness made Flood help win for players the elemental right to negotiate with employers their terms of employment.

He was born in Houston in 1938 and played his way up through minor leagues in the South in the 1950s, before public accommodations were desegregated. He received food at the back door of restaurants that served his white teammates, and he relieved himself behind the bus on the shoulder of the highway.

In the 1950s and 1960s, pitchers were driven to distraction by black players such as Henry Aaron and Frank Robinson who played with an implacable intensity that suggested the controlled venting of indignation stored up during many minor league and spring training experiences in a South in transition. The Cardinals of the 1960s were fueled partly by the fierce pride of our black men who were taking out their anger on the ball and on opponents—Flood, Bill White (now president of the National League) and two Hall of Famers, Lou Brock and Bob Gibson, the take no-prisoners pitcher who once drilled the ribs of a rookie who had the impertinence to hit a long foul off him.

When the Cardinals traded Flood, he challenged baseball's reserve clause, which bound a player to a team until that team traded or released him. Seeking to win for players the right to sell their labor in a free market, he challenged baseball's antitrust exemption. He lost the 1970 season and lost in the Supreme Court, but he had lit a fuse.

In 1975 the clause was overturned by an arbitrator. Loud were the lamentations predicting the end of baseball's competitive balance—a few rich teams would buy the best players—and a decline of attendance. Well.

The decade 1978–87 was the first in baseball history in which 10 different teams won the World Series. Until 1990 there had been no "worst-to-first" volatility in this century—no team won a pennant the year after finishing last. The Twins and Braves did in 1991, and the Phillies did in 1993. The 1993 A's were the first team since 1915—the A's Philadelphia ancestors—to finish alone in last place the year after finishing first.

In 1993 the team with the worst attendance—the Padres with 1,375,432—drew more fans than the St. Louis Browns drew in the entire 1930s (1,184,436). The Orioles' lowest attendance for two consecutive regularly scheduled games was 83,307—more than the Browns (who became the Orioles in 1954) drew in all of 1935.

In 1954, the year Jacques Barzun wrote that anyone who would know America must know baseball, the average attendance was 13,000. This year the Padres averaged 17,191, and the major league average was 31,337. The Rockies drew 4,483,350, more people than live in Minnesota or 31 other states. Major League attendance was 70,257,938, more than the combined population of 32 states.

But no one last year bought a ticket to see an owner. Because of what Flood started, the players, who largely create baseball value, now receive their share of that value. In 1969 the players' average salary was $24,909. In 1993 it was $1.1 million, much more than Flood earned in his entire career.

Rawlings Gold Gloves are awarded annually to the nine players in each league voted best defensively at their positions. Flood won in 1969, when this could have been said of him: "Two-thirds of the planet is covered by water and the rest is covered by Flood." But in the turbulence of his rebellion he never collected his glove. He got it here last week at this year's award ceremony.

He once said, "I am pleased that God made my skin black, but I wish He had made it thicker." Friends of baseball, and of freedom, are pleased that He didn't.

AMERICA'S ECONOMICALLY UNDERSERVED COMMUNITIES

HON. FLOYD H. FLAKE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. FLAKE. Mr. Speaker, H.R. 3474 is the product of bipartisanship—both on the House Banking, Finance, and Urban Affairs Committee and in the House as a whole. H.R. 3474 addresses one of the Nation's most urgent and pressing concerns—America's economically underserved communities. I commend the President and my colleagues on the Banking Committee for moving this legislation with such speed and decision. The Nation can be proud of its House today as we strive to make economic opportunity a reality for more Americans.

Mr. Speaker, H.R. 3474 removes burdensome regulations from financial institutions, while not jeopardizing their safety and soundness or their ability to serve their customers. By freeing banks of these unnecessary constraints, they will be better prepared to make a positive impact in this country.

I particularly commend Representatives JIM LEACH and TOM RIDGE for their commitment to the idea of community development and the Bank Enterprise Act and its mission of making banks active participants in community development. Their support made this bill work for all of us.

Mr. Speaker, I have dedicated a great deal of my life to community development. I was successful in part because of the participation of mainstream financial institutions. In 1978, I arrived in Queens, NY to a community which the media called "A community in decline."

Today, Queens is bouncing back. There are storefront shopping districts, decent and affordable housing for low- and middle-income homeowners, and most importantly, desperation and stagnation have been replaced by hope and promise.

Hope exists because of the hard work of community organizations and residents who have fought back in the face of adversity. Belief in themselves and their neighbors has allowed them to see the light at the end of a dark tunnel.

Promise comes from banks who make real commitments to the communities where they take deposits.

Mr. Speaker, when I began to develop the community around my church in 1977, I was unable to get banks to participate to their potential. Their participation in 1977 would have increased my church's ability to create the 700 jobs which it now provides to the Queens community. It would have made it easier to build decent, affordable housing units for low- and moderate-income residents in Queens. Their participation would have made the grounds of my community more fertile fields of long-term economic growth which ultimately creates a safer and healthier place to live.

Mr. Speaker, this legislation is not about creating an unaccountable social/welfare program. instead, this legislation is about mainstreaming people who otherwise might not have access to needed capital and credit.

Again, I would like to express my appreciation and gratitude to Representatives JIM

LEACH, TOM RIDGE and their staffs and to all of the Members who supported the Bank Enterprise Act amendment in the Banking Committee.

Mr. Speaker, I urge my colleagues to support H.R. 3474.

AAA PRESIDENT HONORED

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. SCHUMER. Mr. Speaker, on December 9, 1993, the New York County Lawyers' Association will honor Robert Coulson, president of the American Arbitration Association since 1972, with the William Nelson Cromwell Award for useful and outstanding service to the profession and the community. I join in offering my congratulations to him and my appreciation for the energy and intellect he has brought to our profession. Indeed, his work has affected all our lives and most directly the causes of alternative dispute resolution and legal reform.

Robert Coulson joined the American Arbitration Association in 1963. The AAA was founded in 1926 by leaders in the business and legal communities and has become the standard-setting institution for alternative dispute resolution with more than 7,000 members, and more than 52,000 panelists who work on cases involving billions of dollars each year. Mr. Coulson explained AAA's growth on the occasion of its 65th birthday several years ago as a reflection of the fact that arbitration and mediation are favored by business executives and their lawyers as less costly, less time-consuming and more rational ways of settling disputes, particularly when the court system is flooded with cases.

Robert Coulson's passion for reform has affected every activity in which he is involved. He has been active in the Association of the Bar of the City of New York and the American Bar Association, serving as chairman of the Commercial Arbitration Committee of the corporation section of the ABA and cochairman of the Collective Bargaining and Arbitration Committee of the labor section. He serves on the board of the Fund for Modern Courts and is an Honorary Fellow of the Arbitrator's Institute of Canada. He has written and lectured extensively on management-labor relations and dispute resolution. Mr. Coulson is the author of "How to Stay Out of Court," "Family Mediation Will Work for You," "The Termination Handbook," "Business Arbitration," "Labor Arbitration," "Arbitration in the Schools," "Alcohol, Drugs and Arbitration," "Empowered at 40." "How to Stay Out of Court," published in 1968, sold more than 100,000 copies, attracted mainstream media attention, and brought alternative dispute resolution to the attention of the country. The Arbitration Journal, published by the AAA, continues as a preeminent publication in its field.

Robert Coulson is a graduate of Yale University and Harvard Law School. He has received honorary doctorates from Bryant College and Hofstra University. He is married to Cynthia Cunningham Coulson, has five children, and lives with his family in Connecticut.

GREGORY LEWIS HONORED BY THE CARING INSTITUTE

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to recognize one of my constituents, an exceptional young man from Kings Park, NY. In December, Gregory Lewis will be one of 10 young adults honored by the Caring Institute for selflessness, compassion, and caring.

Gregory has been a leader among Long Island chapters of Students Against Drunk Driving [SADD]. During his 3-year tenure as the president of Kings Park High School's Students Against Drunk Driving, Mr. Lewis formed a coalition composed of SADD students from every school district in Suffolk County, Long Island. Among the group's activities was a workshop dealing with drug hotlines, drunk driving, alcoholism, and government relations.

In addition to his work with Students Against Drunk Driving, Gregory established a drug awareness reading program and founded the Athletes Detest Drugs Organization in the Kings Park school district. Furthermore, Gregory Lewis led the charge to heighten the public's awareness of drug abuse. Gregory's efforts included a request to have the board of education declare April as Alcohol and Other Drug Abuse Awareness Month.

Mr. Speaker, I join the Caring Institute in commending Gregory Lewis and Americans who show their concern for humanity everyday. The efforts of these outstanding citizens are truly deserving of the highest praise and I am certain that their work will continue to have a positive impact on our society.

EXEMPTION FOR CLASSIFIED WORKERS UNDER THE FAIR LABOR STANDARDS ACT

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. LEHMAN. Mr. Speaker, I rise today to introduce legislation to assist community colleges across the Nation by amending the Fair Labor Standards Act. This legislation will exempt classified personnel from overtime pay provisions as a result of their part-time academic work.

Classified work is that which does not require academic certification, and it includes such activities as support and maintenance. However, many classified personnel earn academic certification in order to teach certain courses at the community college in which they are employed. Unfortunately, under current law community colleges such as Fresno City College and Kings River Community College in California are financially prohibited from hiring classified staff in an educational capacity.

According to the Fair Labor Standards Act, any additional workload which exceeds the 40-hour per week limit is to be considered overtime and the employee must be compensated for the work performed regardless if the work occurs in a certified or classified position. Community colleges that abide by this Federal law are therefore forced to pay not only the negotiated part-time instructor salary for the academic duties, but also the overtime pay formula mandated by the Fair Labor Standards Act. This double-paying by community colleges has forced many districts to discontinue the practice of hiring classified staff as part-time instructors.

In response to the financial shortfalls confronting community colleges and the education system as a whole, I am proposing legislation which exempts classified employees from the overtime pay requirement for additional academic duties they perform. It is my desire to provide classified employees with the opportunity to continue an enjoyable and self-enhancing activity, while not creating an undue financial burden on our educational system.

Classified employees play an important role in our educational system, however, without amending the Fair Labor Standards Act, community colleges will be permanently prohibited from utilizing these valuable people in an academic capacity. I urge my colleagues to cosponsor this important legislation which has the support of the State Center Community College District in Fresno, the California Federation of Teachers and the California State Educational Employees Association.

HAITIAN REFUGEE FAIRNESS ACT

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. MEEK. Mr. Speaker, today I am introducing legislation, the Haitian Refugee Fairness Act, which will bring the treatment of Haitian refugees by the United States Government into conformity with international law and will make the treatment that Haitian refugees receive from the United States Government consistent with the treatment given to refugees from other nations.

Since May 24, 1992, the United States has been repatriating Haitians interdicted at sea without first assessing whether they are fleeing persecution at the hands of the violent military junta that has seized control in Haiti. My bill would require the United States to determine the legitimacy of such persons' refugee claims and would prohibit repatriation if their claims are found to be legitimate. My bill would apply to Haitians interdicted outside United States territory or within the territorial waters of another nation. Most important, while the legislation would prohibit the return of such persons deemed to be refugees to their country of persecution, it would not require that they be brought to the United States.

My legislation has additional provisions that bring our treatment of Haitian refugees into conformity with the way the United States treats refugees from other nations. For example, it would permit Haitians already in this country as of November 18, 1993, to apply for temporary protected status, a status that has been granted to nationals of other nations,

such as Kuwait, Somalia, Bosnia, and El Salvador, during conflict in their countries.

The Haitian Refugee Fairness Act will ensure that the United States is better prepared to handle future outflows of refugees from Haiti by requiring Federal reimbursement to State and local governments for costs associated with Haitians paroled into the United States.

Why is this legislation needed? It is needed because Haitians are dying on the high seas, and they are being murdered and tortured in their own homeland. My legislation would provide temporary protected status to those who understandably fear returning to the chaos and lawlessness in Haiti, who have been physically present here in the United States since November 17, 1993.

Mr. Speaker, the ultimate solution to the problem of refugee flight from Haiti is to restore democracy there. In the meantime, we must treat those fleeing persecution with the same compassion that we treat refugees from other countries and other parts of the world. I urge my colleagues to join me in this effort by becoming an original cosponsor of the Haitian Refugee Fairness Act.

A summary of the Haitian Refugee Fairness Act follows:

SUMMARY OF THE HAITIAN REFUGEE FAIRNESS ACT

SECTION 1. SHORT TITLE

Designates the bill's short title as the "Haitian Refugee Fairness Act of 1993."

SECTION 2. ADHERENCE TO INTERNATIONAL LAW REQUIREMENT OF NONREFOULEMENT

(a) CONGRESSIONAL STATEMENT.—States the Sense of Congress that the U.S.'s consent to the U.N. Protocol on Refugees obligates the United States under international and U.S. law to refrain from returning refugees it encounters while inside or outside of U.S. territory to their countries of persecution.

(b) OBLIGATIONS OUTSIDE THE UNITED STATES.—Requires that the U.S. determine whether or not foreign nationals are refugees before returning them to their country of persecution if the U.S. encounters such nationals while they are outside of such country. Further precludes the U.S. from returning or otherwise taking an action that causes the return of such foreign nationals who it determines to be refugees.

(c) OBLIGATIONS WITHIN THE TERRITORIAL WATERS OF ANOTHER COUNTRY.—Precludes the U.S. from returning or otherwise taking an action that causes the return of foreign nationals who it encounters inside of the territorial waters of another country unless it first makes a determination that such nationals are not refugees.

(d) LIMITATIONS.—

(1) Provides that the U.S. would not be obligated to protect nationals from return if the nationals participated in the persecution of others or if they had been convicted by a final judgment of an aggravated felony.

(e) RULE OF CONSTRUCTION.—Clarifies that the bill should not be construed to require the U.S. to protect nationals from returning if they are in a U.S. embassy of their country of persecution.

SECTION 3. DESIGNATION OF HAITI UNDER TEMPORARY PROTECTED STATUS

Designates Haiti for Temporary Protected Status (TPS) for a period of 24 months or until the President certifies to Congress that a democratically elected government is securely in place in Haiti, whichever occurs later. Such designation would make Haitians in this country prior to November 18, 1993, eligible to apply for TPS. Once granted such status, the U.S. would be required to refrain from returning a grantee to his home country and the grantee would be eligible for work authorization until the designation expires.

SECTION 4. REIMBURSEMENT FOR STATE AND LOCAL GOVERNMENT COSTS

Requires the Attorney General to reimburse state and local governments for incremental costs they incur in association with Haitians paroled into the United States. Such reimbursement would come from the emergency fund that was created by section 404(b) of the Immigration and National Act.

SECTION 5. EARMARK OF FUNDS FOR CUBAN/HAITIAN PRIMARY SECONDARY MIGRATION PROGRAM FOR FISCAL YEARS 1994

Earmarks $6 Million for each of fiscal years 1994, 1995, and 1966 for the Cuban Haitian Primary Secondary Migration Program, operated by the Community Relations Service of the U.S. Department of Justice, and earmarks $27 Million for each of fiscal years 1994, 1995, and 1996 for the Community Relations Service.

SECTION 6. CUBAN/HAITIAN ENTRANT EMERGENCY FUND

Creates a Cuban/Haitian Entrant Emergency fund to be used to provide primary and secondary resettlement services for Cuban and Haitian parolees in the event that more Haitians and/or Cubans are paroled into the U.S. than planned for and that regular funds appropriated for this purpose are inadequate.

NINTH CIRCUIT COURT OF APPEALS REORGANIZATION ACT OF 1993

HON. MICHAEL J. KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. KOPETSKI. Mr. Speaker, today I am introducing legislation to divide the Ninth Judicial Circuit of the United States, thereby creating a new judicial circuit in the Federal judicial system.

Mr. Speaker, the Ninth Circuit Court of Appeals is the largest of the Federal circuit courts in terms of the numbers of judges which serve it. It currently has 28 judges, 11 more judges than the next largest circuit—the fifth circuit which has 17 judges. In all likelihood, there will be 10 more judges added to the ninth circuit in the near future. The judges are necessary to meet the rapidly growing caseload. The additional judges will bring the total number of judges in the circuit to 38. In addition, the ninth circuit is the largest circuit in terms of geographic size. It stretches from the Arctic Circle to the Mexican border, from the Northern Mariana Islands and Guam to Montana and Arizona.

The increasing number of judges adversely affects the operation of the circuit. There is a limit on the number of judges which can be added to a circuit. At one time, it was thought that 15 was the outer limit on the number of judges. The ninth circuit has far exceeded that number for some time. Judges serving a circuit need to maintain collegiality and uniformity within the circuit. Also, the increased number of judges can slow decisions issued by a circuit, which is a hardship for litigants.

There have been previous recommendations and legislation to split the ninth circuit. The Congressional Commission on the Revision of the Federal Court Appellate System recommended that the ninth and fifth circuits be split in 1973. The fifth circuit was divided by the Congress in 1981. The ninth circuit instituted a number of innovative measures in an effort to continue to function effectively. Although the judges are to be commended for their ingenuity and innovations in dealing with the sheer numbers and size which complicate their work, it is time to look again to a fundamental solution.

The bill proposes to form a new 12th circuit from the central and southern districts of California, Arizona, and Nevada. Oregon, Alaska, Idaho, Montana, Washington, Hawaii, Guam, the Northern Mariana Islands, the northern and eastern districts of California will remain in the ninth circuit. A new intercircuit panel is proposed for the resolution of conflicts, within the State of California, between the ninth and proposed 12th circuits.

Finally, Mr. Speaker, I want to emphasize that this bill is not motivated out of a desire to split the Northwest, particularly Oregon and Washington, from California in an attempt to affect substantive legal opinions. In fact, the bill would include northern California in the ninth circuit. The only motivation behind the introduction of the bill is to remove what has become an impediment to the swift and uniform administration of the law for all those currently under the ninth circuit. I urge swift consideration of this important legislation.

INTRODUCTION OF THE PUBLIC FINANCE AND INFRASTRUCTURE INVESTMENT ACT OF 1993

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. COYNE. Mr. Speaker, today I am introducing a bill to provide State and local governments with much-needed Federal assistance in financing investments in infrastructure and economic development.

This legislation, the Public Finance and Infrastructure Investment Act of 1993, makes changes in the Internal Revenue Code that will increase the usefulness of tax-exempt bonds in meeting pressing State and local government capital financing needs.

My service on the Pittsburgh City Council has provided me with substantial first-hand knowledge about the challenges facing State and local governments. Since I left the city council to become a Member of Congress, the demands on State and local governments have increased substantially, and the resources at their disposal have declined.

In the last 12 years, the Federal Government has eliminated General Revenue Sharing and Urban Development Action Grants, and it has limited funding for programs like the Economic Development Administration and Community Development Block Grants.

At the same time, the Federal Government has imposed a number of unfunded mandates

on State and local governments that require expensive new investments in infrastructure like water and sewage treatment facilities. Such investments clearly improve Americans' quality of life, but they also consume large portions of State and local governments' scarce capital budgets, which might otherwise be used to foster economic development.

Tax-exempt bonds are important tools in financing both types of large capital investments.

The legislation I am introducing today is necessary because the tax-exempt bond provisions in the Tax Code have been developed in a haphazard fashion over the last 25 years. According to a Congressional Research Service study, Congress enacted 18 laws between 1968 and 1990 that contained tax-exempt bond provisions. As recently as this summer, the reconciliation bill included changes to the tax-exempt bond provisions in the tax code. As a result of these piecemeal changes, many of the provisions that affect tax-exempt bonds are confusing and needlessly complex.

Tax-exempt bonds were last addressed in a comprehensive fashion in the Tax Reform Act of 1986. The Tax Reform Act of 1986 was a monumental piece of legislation that dramatically reformed many provisions in the Federal tax code. This law made significant positive changes in the code with regard to tax-exempt bonds. Some of these changes need to be revisited, however. In addition, a broad consensus has developed in Congress since 1986, primarily as a result of the work of the Anthony Commission on Public Finance, that a number of additional reforms in our tax-exempt bond laws are necessary. Lastly, subsequent events unrelated to, or only indirectly related to, the Tax Reform Act of 1986 have had an impact on States and local governments, and on the market for tax-exempt bonds, and these changes need to be addressed as well.

Since 1986, a number of bills have been introduced to correct some of these problems. Many of the provisions in this bill were included in H.R. 11, the Revenue Act of 1992, which was passed by Congress last year but subsequently vetoed by President Bush. Many of them were also included in H.R. 13, the Tax Simplification Act of 1993, as originally introduced by Ways and Means Committee Chairman DAN ROSTENKOWSKI earlier this year. In fact, with the exception of the distressed community economic development bond, which is a new proposal, most of these provisions have enjoyed a long history of strong support from the public finance community.

The Public Finance and Infrastructure Investment Act of 1993 would streamline the definition of tax-exempt private activity bonds, simplify existing arbitrage rebate requirements, increase the small-issuer exception for bank deductibility of interest, index the private activity bond volume cap to inflation, and establish a new type of tax-exempt private activity bond, the distressed community economic development bond.

Over the years, Congress has modified the definition of tax-exempt private activity bonds, adding different provisions to prevent issuers from abusing the Federal interest subsidies provided through tax-exempt financing. Today, however, a cap on the total annual volume of private activity bonds that can be issued effectively forces States and local governments to choose their investment initiatives from among many needed projects. As a result of this change to the tax code, several older provisions of the Internal Revenue Code today increase the system's administrative complexity without contributing significantly to reducing abuse or Federal revenue loss. Consequently, this legislation repeals the 5 percent unrelated and disproportionate private use test and the lower private business test for certain output facilities, and it increases the nominal limit on the private loan financing test from $5 million to $15 million.

The Public Finance and Infrastructure Investment Act of 1993 also contains a number of provisions that simplify the tax-exempt bond arbitrage provisions in the Internal Revenue Code. A number of arbitrage restrictions in the tax code predate the adoption of the arbitrage rebate requirement. Now, in light of the comprehensive rebate requirement, these provisions add little to the code but administrative complexity. In addition, the bill expands the small issuer arbitrage rebate exception to cover issuers that issue up to $10 million in a given calendar year. The current limit of $5 million exempted more than half of the issuers of tax-exempt bonds from the arbitrage rebate requirement in 1992. The bonds issued by these small issuers made up less than 5 percent of the volume of long-term municipal new issues that year. Increasing the exception to issuers issuing $10 million or less in any given year would exclude over 70 percent of municipal issuers from the requirement to track, calculate, and rebate arbitrage profits. Those issuers combined produced less than 10 percent of the long-germ municipal issues that year.

Banks and other financial institutions are, for the most part, denied a deduction for the portions of their interest expenses attributable to investment in tax-exempt bonds required after August 7, 1986. An exception to this disallowance is permitted for tax-exempt bonds issued by governments that issue no more than $10 million of such bonds during a calendar year. This provision is known as the small-issuer exception.

Six thousand of the eight thousand and five hundred issuers of tax-exempt municipal bonds each issued less than $10 million in bonds in 1992. These issuers were responsible for only $19 billion of the $235 billion in long-term municipal new issues that year. Increasing the limit from $10 million to $25 million would provide over 1,000 more issuers the benefits of the bank deductibility of interest exception; such issuers were responsible for only $17 billion in long-term municipal new issues in 1992.

The bill increases the small issuer exception from $10 million to $25 million. This change substantially increases the number of tax-exempt bond issuers eligible for coverage under this provision without a proportionate impact on Federal revenue loss. In addition, it addresses the impact of inflation in the years since the Tax Reform Act of 1986 was enacted; due to inflation, the $10 million volume limit now affects small issuers that the Congress never intended to exclude from coverage under this provision.

The bill also indexes annual State volume cap allocations for inflation in calendar year 1994 and each year thereafter. This change would address the impact of inflation in the years since the Tax Reform Act of 1986. Due to the decrease in the purchasing power of the dollar since 1987, the volume cap now allows a smaller volume of private activity bond issuance that the Congress intended in 1986. Moreover, the volume cap level was set with the understanding that mortgage revenue bonds and small-issue industrial development bonds would expire at the end of 1987. These tax-exempt bond provisions were subsequently extended and have now been made permanent, reducing the volume of private activity bonds available under the cap for other purposes to a level less than that Congress intended in 1986. Consequently, indexation of the private activity bond volume cap is advisable.

Finally, the bill creates a new type of tax-exempt bond, the distressed community economic development bond. The distressed community economic development bond would be targeted at communities that have been hard-hit by population loss, job loss, slow growth, or military base closings. Communities which meet the bill's criteria for designation as distressed communities could issue private activity bonds to promote a wide range of economic development projects within their jurisdictions. In light of the sharp decline in Federal support for State and local governments in recent years—and the concurrent growth in federally imposed mandates on those same governments—congressional action to encourage development is long overdue.

The Federal Government's financial support for community and economic development activities has declined markedly over the last 12 years. At the same time, other government policies and changes around the world have adversely affected particular communities and regions of our country. For example, U.S. efforts to open up global trade markets benefit domestic manufacturers of export products, but they have at times had adverse impacts on other domestic industries and specific regions of the country. Another informative example is defense spending. Defense production and military activities encouraged the growth of many communities over the last 50 years. With the end of the cold war, these same communities face shrinking economic opportunities and a surplus of operational infrastructure assets.

In addition, national infrastructure programs have had inadvertent secondary effects which have placed many hard-hit communities at a disadvantage in attracting new sources of employment. For example, in the past, Federal funding for new highway construction often encouraged the location of business facilities in suburban or rural green field sites, to the detriment of existing communities with the necessary infrastructure already in place.

As a result, many communities have experienced unprecedented job loss and economic dislocation. These communities are in desperate need of economic development activities that will provide new jobs and tax revenues.

There have been other adverse effects as well. Certain Federal policies increase the overall cost of providing public services by encouraging underutilization of existing infrastructure in some areas and shifting demand

for such services to areas where new infrastructure must be built. Moreover, many of these same policies produce insidious side effects like excessive energy consumption and increased air pollution. The Federal policies described above, however, provide important benefits to society. Such policies should not be eliminated; rather, additional Federal action is needed to offset their adverse effects on communities that have been hard-hit by major changes in the economy, and to recognize the value of existing infrastructure like housing, roads, schools, and water and sewage treatment facilities.

The bill addresses these problems by creating a new type of tax-exempt private activity bond, the economic development bond. The proceeds of such bonds could be used to finance economic development projects in areas which qualify as distressed communities.

The eligibility criteria consist of: First, population loss equal to or greater than 5 percent, second, an average 5-year unemployment rate of not less than 8 percent, third, slow job growth, or fourth, a military base closing resulting in the loss of not less than 500 jobs.

Only 50 percent of any economic development bond will be counted toward the issuing authority's volume cap allocation, and banks could deduct the interest costs of purchasing economic development bonds issued by qualified small local governments.

I believe that these bonds will provide economically hard-hit communities—whether they are large or small, urban or rural—with the necessary means to foster economic growth and create new jobs. In short, these bonds will help communities that have been hit by the recent recession at a time when local and State governments find themselves without sufficient resources to make important long-term investments.

The Public Finance and Infrastructure Investment Act of 1993 would increase the usefulness of tax-exempt bonds in meeting pressing State and local infrastructure needs. I urge my colleagues to cosponsor this legislation.

HEALTH CARE REFORM

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. LEVIN. Mr. Speaker, on November 20, President Clinton's health care reform plan was formally introduced as legislation in both the House and the Senate. After 12 years of not-so-benign neglect by previous administrations, this President is to be commended for putting health care reform on the front burner, where it belongs.

Although I do not endorse all aspects of this proposal, I want to work with the President and my colleagues in the Congress—on both sides of the aisle—to achieve serious health care reform. Certainly the final product will be different than the bill that was introduced yesterday. But let us not lose sight of the significance of this moment: We are, at last, beginning the debate on health care reform. As complex and controversial as this issue is, we are eager to roll up our sleeves and work hard to shape a good bill—one that will provide quality health care to all Americans at an affordable price.

Let us also recognize that the President's bill is just the starting point. The bill that Congress will eventually pass will be the product of a long process of debate, discussion, negotiation, and compromise. Democrats and Republicans will help write this bill. But we also need the advice and counsel of health care providers, business owners, insurance companies, retirees, families, and the disabled, to name but a few. In other words, we need to hear from the American people.

For the past several months, in town meetings and in my office, through surveys and roundtable discussions, I have listened to my constituents' ideas on and concerns with health care reform. I know that they do not want to fund health care reform with any increase in general income taxes. As I have made clear from the outset, neither do I. Over the next several months, I want to learn as much as I can about my constituents' views. Their input on health care reform is crucial. Each and every one of us has a stake in this. Health care reform is an area where we can and must find common ground. I want to work with my constituents to pass a bill that we can support.

As we proceed, I will rely on six basic principles to guide my work on this bill: First, quality; second, choice; third, affordability; fourth, security; fifth, universal access; and sixth, a realistic approach. Let me say a few words about each of these, in turn.

First, we must maintain the high quality care that most Americans now have and want to keep. There is much that is right with our health care system. For those who can afford it, America has the finest health care system in the world. We have—and continue to develop—the most sophisticated technology available, and we can diagnose and treat what were once fatal diseases. Our biomedical research is unsurpassed. But we also have the highest infant mortality rate of any industrialized nation. We do not even immunize all of our children against serious, but preventable, diseases. There are millions of working families who cannot afford even basic health care.

To address these disparities, we must change certain components of our health care system. However, we must make sure that we do not throw out the baby with the bath water. We must identify what works in our current system, and build on it. Therefore, we should begin this debate—and I will work on this bill—with the presumption that we do not want to diminish the quality of America's medical care.

Second, we must all be able to continue to choose our doctors and other health care providers. Before the administration sent its proposal to the Congress, I told key officials it was imperative to allow all qualified fee-for-service providers to compete under any new system. I am very pleased that the President and his advisors have since amended their proposal to make this possible. His plan also requires Health Maintenance organizations [HMOs] to offer members a "point-of-service" option, which allows members to go outside the HMO for care—at a higher co-payment rate. I strongly believe that we must be free to choose our health care providers. That way, we have an extensive choice of doctors and the increased competition in the marketplace should lead to lower costs.

Third, we must make health care affordable by bringing health care spending and inflation under control. In the last 10 years, the average Michigan family's health payments rose 257 percent faster than wages. If health care inflation continues unabated, in the year 2000—just 7 years from now—Michigan families can expect to spend, on average, over $11,000 per year on health care, compared to average annual expenditures of $4,569 per family in 1991.

Federal and State government budgets are being decimated by out-of-control health care costs. In 1980, total Federal spending for health—which is mostly for Medicare and Medicaid—accounted for about 12 percent of all Federal spending; this amount rose to 15.4 percent in 1990. If our system remains unchanged, Federal spending on health is estimated to nearly double to 29 percent by the year 2000. Much the same is happening in the States. State spending on health care accounted for about 8 percent of total State expenditures in 1980, increasing to 12.5 percent in 1990. This percentage is expected to grow to 19 percent by the year 2000, with all the increase attributable to rising Medicaid costs.

Trends in private sector spending on health care are just as troubling: In Michigan, between 1980 and 1991, employers' annual health expenditures rose by 175 percent. Nationwide, the average cost to employers to provide health insurance to their workers increased by over 140 percent, from $1,645 per worker per year in 1984 to $3,968 in 1992. Ultimately, it is employees who bear much of the burden of these increases in the form of lower wages, or the reduction or even elimination of health insurance benefits.

Escalating prices affect not only our pocketbooks, but our global competitiveness. American employers spent 107 percent of corporate after-tax profits in health care in 1991, compared to only 48 percent in 1980. These exploding health care expenditures drive up the cost of labor, raise the retail prices of American goods and services, and severely restrict our ability to compete in the global marketplace.

In my home State of Michigan, the Big Three automakers are at a decided disadvantage when it comes to competing with Japanese manufacturers, even if those Japanese cars are manufactured in this country. According to a recent study conducted by the University of Michigan, Japanese facilities in this country have a $600 per car advantage over the Big Three automakers, which can be entirely attributed to health care costs. We simply must get these escalating health care costs and runaway inflation under control.

Fourth, we must be secure in the knowledge that our health care will always be there for us—even if we change jobs or are laid off, and especially if we or our loved ones become seriously ill. Some 30 percent of Americans cannot change jobs because of job lock. Workers often find that if they change jobs, and consequently health insurers, they cannot get coverage if they or their dependents have

a preexisting condition, such as diabetes or even pregnancy. Sometimes, the new employer's insurer may charge ridiculously high premiums; sometimes, they flatly refuse to provide coverage at any price. For these reasons, many people feel trapped, unable to take new jobs because they or their families will lose their health insurance.

We also want to make certain that when a serious illness strikes—and we or our loved ones need our health insurance the most—it will be there for us. We have all heard stories about people who became critically ill, and suddenly the cost of their health insurance skyrocketed—or worse, was canceled. Many of us are just one catastrophic illness away from financial disaster.

Fifth, we must strive, over time, to make access to basic health care services available to all Americans. In Michigan alone, it is estimated that some 76,000 people are losing health care each month. Nationally, more then one-half of the uninsured in 1990 were full-time workers and their families. More than 1 million of those who lost their health insurance in 1991 were earning between $25,000 and $40,000 annually, and almost one-half of the uninsured go without health insurance for 2 years or more.

By making basic health care universal, we will end the destructive and costly practice of cost shifting, where those of us with private insurance are charged more for medical services in order to pay for medical care provided to those without such insurance. People without health insurance end up paying, on average, about 20 percent of the cost of any health care they might receive. But those of us with insurance are charged, on average, 130 percent of the cost of the care we receive. The excess amounts we pay help defray the costs of caring for those without insurance. In health care, as in all other things, there is no free lunch.

Cost-shifting also affects businesses. Just as privately insured individuals help subsidize the uninsured, employers who provide health care insurance for their workers and dependents are unintentionally subsidizing the medical costs of workers left uninsured by other employers. The 75 percent of all employers who now provide health care insurance shouldering more than their fair share of health care costs. These employers' annual health care tabs are rising, on average, by 15 percent per year—nearly four times the annual inflation rate. This is particularly tough on the two-thirds of all small businesses who now insure their employees. These small businesses, lacking the purchasing clout of big corporations, already pay premiums one-third higher, on average, then their big-business counterparts.

Sixth, if we are to achieve serious health care reform, we must be clear-eyed and hard-headed—short, realistic. We cannot bankrupt ourselves or our businesses as we undertake any reforms. As we continue to reduce our budget deficit, we need to make absolutely sure than any reforms we propose are fiscally sound, affordable, and fairly financed. At this stage, it is impossible to know with complete accuracy how much any plan we may finally pass will cost. But I will not vote for a plan if I cannot explain how it works or if I am not confident about the precision of the cost estimates. And of course, we must be certain that we can afford to make the changes we are contemplating. We must not bite off more than we can chew.

Mr. Speaker, I will use these six criteria as we work through this enormously complex legislation: Quality, choice, affordability, security, universal access, and realism. I will, for example, evaluate two of the bill's linchpin provisions—the employer mandates and small-business subsidies—in the context of cost-shifting, sound fiscal policy, and labor-force implications.

I want to support a health care bill that is good for us—the patients using the system—and good for business. Toward that end, I strongly support the President's proposal to have the Federal Government assume most of the costs of early retirees health care benefits. These are individuals who retire between the ages of 55 and 64 and who are not yet eligible for Medicare. In the past, many of these people decided they could afford to retire because their employers promised to continue providing health care coverage. However, as American businesses continue to downsize and seek ways to lower their operating costs, older workers and early retirees are often the first casualties.

As a result, millions of early retirees are finding their health care benefits severely reduced or even terminated. As corporate America continues to retrench, increasing numbers of older workers will be forced into early retirement, only to find their families' health care benefits in serious jeopardy. It is extremely difficult for these older individuals to get health insurance on their own. Many insurance companies consider people between the ages of 55 and 64 "uninsurable," and do not even offer coverage. And those individual policies that are available are often prohibitively expensive, particularly for those living on a fixed income, as most retirees are.

Businesses that do provide health care coverage for their retirees are at a decided competitive disadvantaged both in global and domestic markets. Because nearly all industrialized countries have national health care programs, foreign businesses have much lower health care costs. And U.S. employers who do not provide health care benefits to their early retirees or, for that matter, to any of their workers, have an obvious operating cost advantage.

Moreover, many industries in this country—including automobile manufacturing, steel, mining, telecommunications, and airlines—have an aging workforce and large numbers of early retirees for whom they already provide health care benefits. These industries are subsidizing a disproportionately large number of these retirees, both in relation to their roster of active workers and in relation to American industry in general. This is yet another example of the cost-shifting that occurs in our current patchwork system. The burden of high health care costs for early retirees in lopsided—borne primarily by certain industries.

To address this inequity, the Clinton plan will have the Federal Government assume, over time, 80 percent of the costs of these retirees' health care premiums—simultaneously securing their health care coverage and lifting a great economic burden from their former employer. This is an excellent example of how health care reform can be good for both families and business. I will work diligently to keep this provision in the final bill.

There are many other components of the President's plan that I support, including the home and community-based long-term care benefits for the elderly and disabled, as well as the Medicare prescription drug program. I am also pleased to see the prominence of preventive care in the basic benefits package, as well as the coverage of basic mental health services, although I would like to see more of an emphasis on non-institutional care. There are some gaps in the basic benefits package, such as vision care and routine dental care for adults, that I would like to explore further. I am also very interested in encouraging the education and training of more primary care practitioners, particularly given the emphasis on preventive care. In addition, I will pay close attention to the quality assurance provisions of the plan, and want to highlight the active role of the consumer in promoting and protecting quality of care. The role of the health alliances, and their relationships to employers and employees, must be meticulously crafted, as will the risk adjustments the alliances make to the various participating health plans.

And so, Mr. Speaker, with this bill's introduction, we make a start. This is an historic undertaking, in which I am proud to be involved. I will work very hard to help shape what I hope will be a bipartisan reform of which this country will be proud: Quality health care available to all Americans, at a price we can afford. It is about time.

TRIBUTE TO JESSE L. BROWN, FIRST AFRICAN-AMERICAN NAVAL AVIATOR

HON. GENE TAYLOR

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. TAYLOR of Mississippi. Mr. Speaker, on April 30, 1994, the Knox-class frigate *Jesse L. Brown* will be hot-transferred to the Egyptian Navy. The ship bears the name of the first African-American naval aviator. I am proud to say Jesse L. Brown was from Hattiesburg, MS. He served with great distinction during the Korean war, and it is only fitting that today we pay our respect to the memory of one of America's finest heroes.

On December 4, 1950, four naval aviators scrambled to their F4U Corsairs in a gallant attempt to save American soldiers trapped by Chinese forces at the Chosin Reservoir in east central North Korea.

Eight Chinese divisions had encircled the 1st Marine Division and the Army's 7th Infantry Division, and it was up to these aviators to pave the way for the American troops as they hiked 40 miles to escape down a narrow valley road to safety.

One of those naval aviators was Ens. Jesse L. Brown. Brown at the age of 19 enlisted in the U.S. Naval Reserve in 1946 as an engineering student at Ohio State University. He excelled first in his studies, and later as an officer candidate.

In just a little more than 2 years Brown achieved his life-long ambition, and on October 21, 1948, he was awarded his wings of gold and designated a naval aviator. At 22, Brown became the Navy's first African-American aviator.

Shortly after the outbreak of the Korean war, Ensign Brown and his squadron were sent to the Sea of Japan. While aboard the carrier U.S.S. *Leyte,* he flew a total of 19 combat missions. His commanding officer, Capt. Thomas Sisson of Winona, MS, called Brown "one of the best pilots of the air group."

However, on his 20th mission Brown was flying a low altitude run when his plane was hit by enemy gunfire. As his plane trailed smoke, Brown meticulously set his plane down on a barren rocky slope on a rugged snow-covered mountain. The plane came to an abrupt halt, apparently striking a rock. Upon impact, the fuselage broke in two and the engine was ripped loose.

Strong-willed, the badly injured Brown survived the crash, but was trapped in the cockpit by twisted metal. Valiant attempts were made to rescue the downed pilot. One of his wing mates went as far as to crash his own plane next to Brown's in an attempt to pull him from the burning wreckage. But after hours of unsuccessful attempts in near-zero temperatures to free Brown, he could hold on no more.

The story of Brown should survive forever. In 1948, he accomplished a goal that had never been accomplished by an African-American before him. As an aviator and as an officer, he made tremendous strides in the U.S. Armed Forces and saved innumerable lives. We must never forget unselfish acts of courage. After 43 years Michael Gregory, a Marine who was fighting around the Chosin Reservoir as Brown offered protection from overhead, explains, "Jesse L. Brown died for us, the survivors."

Today I would like to request that the Foreign Affairs Committee, when they meet with the Navy in regard to the *Jesse L. Brown*'s transfer, have all the ship's major artifacts, such as the ship's plague, bell and any other artifacts that bear the name Jesse L. Brown, be transferred to the people of Hattiesburg, MS, so they may establish a memorial in his honor.

TRIBUTE TO WOLFGANG RUPPE

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. COLEMAN. Mr. Speaker, I rise today to honor the achievements of Wolfgang Ruppe, a man of great character and integrity who has unselfishly given of his time to help the Allied cause in Berlin.

Born in East Germany in 1939, Wolfgang Ruppe forged his ties to the West very early in life when at the age of 10 he escaped to West Berlin to pursue an advanced education, an education that was forbidden in his native East Germany.

At the end of 1973, Mr. Ruppe forged an intimate relationship with the commanders of the third Allied military hospital in Berlin. With this relationship, Mr. Ruppe was able to assist in the formation of the Berlin International Medical Society [BIMS] in 1978. The BIMS was established to foster cooperation and professional medical interaction between allied medical professionals and their counterparts among civilian medical professionals in West Berlin. As a result of this effort, the lives and health of many U.S. soldiers, family members, and civilians were greatly enhanced because of increased access to high quality specialty care. The BIMS has been a great success and it continues to serve the public in the present day.

Because of his work with the BIMS, Mr. Ruppe became a personal supporter and sponsor of many United States military units in Berlin, most prominently, the U.S. Army Hospital in Berlin. Currently, the stewards the BIMS administrative division with overall responsibility for ensuring the continued cooperative efforts between the Berlin medical community and the remaining allied military medical facilities and their supported population.

Wolfgang Ruppe's generosity was also felt during one of the darkest hours of modern West German history: The La-Belle disco terrorist bombing in 1986. In the aftermath of this event, Mr. Ruppe gave his personal and financial support in a multitude of ways to ease the impact of this attack on its victim and their loved ones. Because of these actions and his efforts as BIMS cofounder, the Scroll of Appreciation was conferred upon him by Gen. Glenn K. Otis, Commander of the U.S. Army-Europe, in 1987.

Mr. Speaker, this gentleman gave of his time, and of his financial resources without any expectation of recognition or gratitude. Time and again, Mr. Ruppe has exhibited tireless dedication to the Allied cause in Berlin and his garnered the trust, respect, and admiration of Allied medical personnel and the senior leadership of the Allied forces. Wolfgang Ruppe is a true friend of the American, British, and French forces and the Democratic principles they represent. Today, let us honor and celebrate his example of charity. The spirit by which he has lived his life is truly an ideal for which to strive.

ABC NEWS "20/20" TRANSCRIPT NO. 1349

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. CALVERT. Mr. Speaker, my congressional district recently suffered a catastrophic brush fire that destroyed homes and lives. The devastation and suffering that were caused by this fire is hard for anyone to understand who is not from an arid region. But one possibility has been reported in the press that may add an additional element of tragedy to this situation: some homeowners who are now homeless believe that they lost their homes due to the rigid implementation of the Endangered Species Act.

The November 16, 1993, edition of the Los Angeles Times contains an article in which several homeowners allege that the Endangered Species Act protection of the Stephens kangaroo rat prevented the development of the types of firebreaks that could have protected their homes from brush fires. The ABC news show "20/20" aired an expose on Friday, November 19, 1993, on this same topic. I will be investigating this situation further over the winter recess.

Mr. Speaker, all of us are concerned about species extinction. However, we must also ensure that our laws for protecting species are sensitive to the needs of humans. If, in fact, the Endangered Species Act has contributed to the loss of homes in Riverside County, the Endangered Species Act will, inevitably, lose public support. When we reauthorize the Endangered Species Act next year, we must ensure that the act balances the needs of humans with the need to preserve and enhance endangered and threatened species—so that the act may continue to enjoy the strong support of the public. That is why I am pleased to be a cosponsor of H.R. 1490, the Endangered Species Act Reform Amendments of 1993, which seeks to accomplish this goal.

Mr. Speaker, I insert a copy of the article from the November 16, 1993, edition of the Los Angeles Times and the transcript from "20/20" to be printed into the RECORD at this point.

[From ABC News "20/20," Nov. 19, 1993]

MY HOUSE FOR A RAT?

Hugh Downs, ABC News: Good evening. I'm Hugh Downs.

Barbara Walters, ABC News: And I'm Barbara Walters and this is 20/20.

Announcer: Tonight, the untold story of the California fires. How many homes were lost to protect this rodent?

Anna Klimko, Lost House in California Fire: In seven minutes, everything was gone. For what? A rat?

Announcer: The kangaroo rat—its home was saved, but theirs weren't.

John Stossel, ABC News: It says here even to annoy the rat is illegal.

Announcer: Have we taken animal protection too far? John Stossel with some outraged victims. They're asking, "My House For a Rat?"

Hugh Downs: Can you imagine letting your house burn down to save a rat? Some victims of the recent California fires say that that's just what happened to them. As flames swept down on their neighborhood, they knew what they should have done to try to save their homes, but their hands were tied by a law that you may not have paid much attention to up to now. But this law might eventually threaten your home and property, too.

Barbara Walters: It's the Endangered Species Act, a well-intentioned and valuable law that's supposed to see that animals and even insects aren't squeezed out by the existence of man. The question is, does this law go too far?

Should we have to sacrifice our homes for theirs? If you're not sure, John Stossel's report may help you decide.

John Stossel, ABC News: Most every year there are fires in California, but this year it was worse. One reason was the weather. It was unusually windy and dry. And of course, more homes were destroyed simply because more people live here now. But in the aftermath of the fires, some who lost their homes now say one cause of the disaster was government's rules.

Anna Klimko, Lost House in California Fire: I did exactly what they required of me. My home is gone.

2nd Homeowner: [?] If they were smart, they would have let us do what we had to do up there—make firebreaks and do all these things—and they would have saved the whole thing.

Stossel: These people believe they could have protected their property, but the government wouldn't let them because of a rat. Let me explain. One of the best ways to stop brush fires is to create a firebreak—to clear out a strip of vegetation so that when the fire gets here, it won't have anything to burn. Doing it with this machine is called disking, and the people around here have disked their property for years, until a few years ago when the government told them they could not because disking, by digging into the ground destroys the burrows of the Stevens [sp?] kangaroo rat. Most kangaroo rats live in the desert, but the Stevens rat—here's a better look—likes to live around Riverside County. This is a problem only because humans want to live here, too.

A few years ago, the U.S. Fish and Wildlife Service decided that all this homebuilding is enough of a threat to the rat that it should be protected under the Endangered Species Act. This means Riverside County must now spend up to $300 million to protect the rat. For local residents, this also meant that when the Fire Department posted signs ordering people, "Get rid of flammable vegetation on your property," residents were not allowed to disk the brush under. A Fish and Wildlife field officer told Michael Rowe, "You may not disk because your property is occupied."

Michael Rowe, House Survived California Fire: That was his statement. "Your land is occupied by kangaroo rats. You cannot remove the fire—vegetation hazard by disking.

Stossel: Well, what about just disking a strip?

Mr. Rowe: That's all we were asking is just a strip.

Stossel: The government followed up with a threatening letter from the Interior Department. "Provides civil and criminal penalties."

Mr. Rowe: Correct.

Stossel: So they, what, put you in jail for this?

Mr. Rowe: Yes. The term is one year in prison and $100,000 fine.

Stossel: It says here even to annoy the rat is illegal.

Mr. Rowe: Annoying means many things—shining a flashlight on it is considered annoying the rat.

Stossel: This means the homeowners are caught between Fish and Wildlife, which says, "Don't hurt the rats," and the Forestry Service, which says the best way to stop fires is to disk. Michael Rowe obeyed the non-disking rule until last month, when the California fires hit. Rowe saw flames roar through the valley toward his house.

Mr. Rowe: I went down to my equipment area and got my tractor that had the disk hooked up on it, brought it up here, cut my neighbor's fence, which you see right here, and began disking a firebreak in as much of this area as I could along the property line to protect my buildings. By the time I got about 50 feet by 200 feet disked in this particular area, the fire was already on me, burning all around the area that I had disked.

Stossel: You saved the house.

Mr. Rowe: I saved the house, no question about it.

Stossel: Twenty-nine of his neighbors lost their homes. Others here say they, too, saved their homes by breaking the law.

2nd Homeowner: And my property was in the middle of the fire and it's still there today because I do disk my property.

Mr. Stossel: Fish and Wildlife officials say, "We're not responsible for the disaster."

Dr. John Bradley, U.S. Fish and Wildlife Service: That's a tragedy of a wildfire and even disked firebreaks don't guarantee that a house is not going to burn down.

3rd Homeowner: [?] I disked in front of my house, which was illegal, from fence line to fence line. That's what saved my house. Beyond the fence line, it burned.

Stossel: Ken Tessier obeyed the law to protect the rat. He lost his home.

Ken Tessier, Lost House in California Fire: I feel that they've put—the government and the biologists have put a rodent before the human being.

Stossel: Fish and Wildlife says the Fire Department approved mowing, that that was enough.

2nd Homeowner: Mowing is not enough. I have a neighbor that mowed hers and hers is history.

Stossel: His neighbor is Anna Klimko. She followed the government's suggestion and mowed her property. Mowing doesn't disturb the rat's burrows, but it also doesn't get rid of all the vegetation, which then burned.

Ms. Klimko: In three minutes, my house was fully consumed in flames and in seven minutes, everything was gone. For what? A rat?

Stossel: But maybe this kangaroo rat is key to the ecosystem. Maybe——

Mr. Rowe: Well, you know, I sort of have a feeling that I have some key role in this society, too.

Stossel: When the Endangered Species Act passed 20 years ago, it passed easily. Everyone wants to stand for protecting nature, especially species like the bald eagle and the grizzly bear. But laws like this tend to grow.

When the act was passed, many people assumed it would protect perhaps a few dozen species, but as of this week, Fish and Wildlife has declared 600 species in danger. In the future, they say, they may expand the list to another 3,000 species.

And species aren't just animals. The act gives Fish and Wildlife power to set rules protecting insects and plants.

People who want to build are going to be confronted by you folks much more often as you classify these other 3,000 species.

Gail Kobetich, U.S. Fish and Wildlife Service: That's true. There is no doubt about it, and my advice to folks outside of California where they don't have the pressures that we have here now is to begin to plan now.

Stossel: People are going to be hearing from you?

Dr. Bradley: Yes.

Stossel: Just this spring, Fish and Wildlife declared the California gnat catcher endangered. An Orange County fire chief says this meant brush in Emerald Canyon couldn't be cleared away, and that helped this fire burn.

There are how many species—three million, 10 million, 100 million?

Dr. Bradley: Very conservative estimates are three million. There are 100 million, maybe.

Stossel: Are they all necessary?

Dr. Bradley: We don't know, but——

Stossel: So you've got to preserve all of them?

Mr. Kobetich: I'm much more inclined to the idea of protecting them and just part.

Stossel: All 600,000 species of beetle should be protected:

Mr. Kobetich: If we can.

Stossel: More people are being born all the time. Where will they live?

Mr. Kobetich: Develop denser living quarters in areas that are already developed.

Ms. Klimko: It's impossible to save every species. We can't feed every mouth on the planet. How can we possibly save every microscopic species? We've got a fly that was listed here a month ago—300 acres for this fly and 250,000 acres for a bird and 88,000 acres for a rat. The list goes on and on and on and where does it stop, till they have it all?

Downs: That's a problem, John. I can see that. Is it likely to happen again next year in California where people can't clear out brush and save their house?

Stossel: Oh now, after the fires, they are willing to talk about some compromise.

Downs: You know—I know you're aware nature weeds out species, had—and throughout geologic time, isn't there something to be said for natural selection? We're part of nature and do we—as you said, do you need all 600,000 species of beetle?

Stossel: Well, I mean, this is a good point in that evolutionary theory tells us nature is changing, adapting all the time. Lots of species have already gone extinct, many new ones are being created. The law is sort of unnatural in that it seeks to stop the clock now. And we certainly want more diversity—more species makes life richer—but do we want to turn life upside down to preserve all of them?

Downs: To preserve all of them—yeah, and the question exists whether we should preserve all of them, a trade-off seems to be almost inevitable and necessary here.

Stossel: Well, the law does not allow for a trade-off.

Downs: Interesting, John, Thank you.

[From the Los Angeles Times, Nov. 16, 1993]

IRE AFTER THE FIRE—VICTIMS SAY ENDANGERED RAT GOT MORE PROTECTION THAN THEIR HOMES

(By David W. Myers)

A group of Riverside County residents who claim they needlessly lost their homes in the recent fires are teaming up with local developers to campaign for changes in federal laws designed to protect endangered animals and plants.

Almost half a dozen burned-out families in the Winchester area of south Riverside County say their homes might have been saved if government officials had given them permission to clear the brush and build firebreaks around their property earlier this year.

But officials from the county, state and federal government discouraged home-owners from wholesale clearing because it could have displaced the Stephens' kangaroo rat, a tiny rodent put on the federal endangered species list in 1988.

The Winchester fire, which roared through the mostly rural area in late October, charred 25,100 acres and destroyed 29 homes—some of which may have been saved if homeowners had cleared their land.

"My home was destroyed by a bunch of bureaucrats in suits and so-called environmentalists who say animals are more important than people," said angry rancher Yashmael Garcia, who lost his 3,000-square-foot home in the fire.

"I'm now homeless, and it all began with a little rat."

But environmentalists worry that the emotional stories of people like Garcia may encourage lawmakers to pass hasty, ill-conceived changes to the Endangered Species Act, without considering the long-term consequences.

"These fires weren't started by the kangaroo rat, and it shouldn't be made a scapegoat for something that happened naturally," said Anne Dennis, an official with the

nearby San Gorgonio chapter of the Sierra Club. "To use this as an excuse to scrap the whole Endangered Species Act would be ludicrous."

The furry kangaroo rat has been the bane of many homeowners and developers in the inland Empire for years.

The Endangered Species Act either bans or strictly limits development on most of the 77,000 acres that have been deemed "rat study" areas in Riverside County.

Builders complain that dozens of new housing projects have either been scuttled or delayed by the rodent, while some homeowners gripe that they can't even remodel their homes or build firebreaks without running afoul of the federal law.

Efforts to ease restrictions on the rat habitat and open up it up for more development have so far been unsuccessful. But now some of the fire victims, as well as other local homeowners, plan to work more closely with Southland home builders and Riverside farmers to either "de-list" the rat or repeal or amend the Endangered Species Act.

"What happened a couple of weeks ago is tragic, but the stories of the fire victims might finally help us put a human face on the cost of all this foolishness," said Michael Rows, a Riverside real estate agent who has so far been thwarted in his attempts to replace the one-bedroom house on his 20-acre parcel with a larger home.

Ironically, Rowe says his home was spared by last month's fire because he hastily built a break by completely clearing, or "discing," a swath of land as the blazes approached. The flames didn't jump the break and the house was saved, he said.

But Garcia and some of Rowe's other neighbors say they lost their homes because they obeyed the rules discouraging discing, which can kill or displace the kangaroo rat. By clearing the land to save his own house, Rowe may have violated the Endangered Species Act and could be jailed or fined.

No charges have yet been filed against Rowe.

Officials at the Riverside County Fire Department and the U.S. Fish and Wildlife Service say they had been encouraging homeowners in the fire area to mow their grass and remove the trimmings with a grass catcher.

But Rowe, Garcia and some of their neighbors say that mowing dozens of acres would be too expensive and impractical, in part because a blade that strikes a rock can spark a fire by itself.

"Besides, grass burns whether it's four inches tall or four feet tall," Garcia said. "The only way to protect against fire is to build a firebreak, and we weren't allowed to do that.

Riverside County Deputy Fire Chief Bob Martinez agreed that discing is the best way to protect property against fires, but his department had encouraged property owners to simply mow their land to appease Fish and Wildlife officials.

In addition, Martinez said there is no guarantee that discing would have saved any of the names given the intensity of the firestorm.

John Bradley, a biologist for Fish and Wildlife's Carigbad office, said no one at his agency ever explicitly told Rowe or any other homeowner in the area that discing would break federal law.

But in a letter concerning's Rowe's request to build a firebreak several months ago, the supervisor of the Carisbed office, Brooks Harper, told Rowe that the proposed break posed "potential endangered species conflicts" and that harming the rat or its habitats would make him "liable for both State and Federal prosecution."

Rowe's ongoing battles with government officials have made him an unofficial spokesman for some of the homeowners fed up with the government's restrictions on their property.

The group's efforts to amend or repeal the act, which is up for reauthorization by Congress next year, are being joined by two powerful local trade groups, the Riverside Building industry Assn, and the Riverside Farm Bureau.

"I think the public is starting to realize that the kangaroo rat is not an issue that affects only big developers," said Jon Friedman, president of the builders group, who claimed to have had two housing projects torpedoed by concerns over the rodent.

"Hopefully, something good will come out of these fires," said Dennis Hollingsworth, the Farm Bureau's environmental manger, who complained that some farmers have been prevented from working their land because it could displace the rat.

"It was bad enough that some people had to lose their homes," Hollingsworth said, "It would be even worse if Congress ignored their loss and leaves the act intact."

Indeed, the political heat caused by last month's fires is being felt in Washington.

"We have to change the [environmental] laws so they show more concern about human life and property rights," said Rep. Ken Calvert (R-Riverside), who added that he may ask fire victims to testify before Congress in his efforts to amend the Endangered Species Act.

At the very least, Deputy Fire Chief Martinez hopes that last month's blasts will lead to some type of compromise that will balance the Fire Department's primary responsibility to protest the public with the government's goal of protecting endangered species.

A CITATION HONORING A. JOHN MENICHETTI, PRESIDENT AND CHIEF EXECUTIVE OFFICER, NEWINGTON CHILDREN'S HOSPITAL

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. KENNELLY. Mr. Speaker, since coming to Newington Children's Hospital as president and chief executive officer in 1976, A. John Menichetti has dedicated himself to improving the delivery of health care services to the children in Connecticut.

In August, John Menichetti announced that he is taking a medical retirement, effective June 30, 1993.

In honor of John Menichetti's 17 years of service, Newington Children's Hospital is honoring him during its annual meeting of the board of directors and board of governors on December 7.

As Newington's president, John Menichetti has been responsible for the development of goals and objectives for the hospital; coordination of institutional operations; integration of activities of the board of directors and hospital management; served as the hospital's primary representative to its patients and the public and provided leadership to the hospital's more than 700 employees.

In 1985, as the result of a corporate restructuring, John Menichetti assumed the additional responsibilities of president and chief executive officer of a number of new corporate entities including NCH Corporation, the hospital's parent corporation; the Newington Children's Hospital Foundation, NCH affiliates, Inc. a nonprofit subsidiary corporation; and Newington Ventures, a for-profit subsidiary corporation.

John Menichetti's most significant accomplishment at Newington has been his unswerving leadership toward the creation of a comprehensive children's hospital. Since the early 1980's his vision of a hospital that could serve all a child's medical needs in one location has guided Newington Children's Hospital toward this goal.

Today, Newington Children's Hospital is at the crossroads of the most significant new direction in its 95-year history of providing specially medical and surgical care to children with disabilities. Through a consolidation with the pediatric programs and personnel of Hartford Hospital and the University of Connecticut Health Center's John Dempsey Hospital, a new Newington Children's Hospital will be built in Hartford.

This new children's hospital will provide a full spectrum of health care services to the children of Connecticut. It's mission will be to keep children healthy and safe, provide sophisticated medical and surgical care when they are sick or injured, and help children reach their full development potential.

In 1986, the first formal step toward this goal was taken when Newington Children's Hospital signed a memorandum of understanding with Hartford Hospital to embark on this new course. In 1989 Newington Children's Hospital joined Hartford Hospital's parent organization, Connecticut Health System, providing the institutional flexibility necessary to make the new children's hospital a reality.

Throughout a long regulatory approval process, John Menichetti's leadership and dedication helped keep the plan for the new children's hospital moving forward.

He guided the hospital's board of directors through the considerable compromises and accommodations necessary to achieve approval. His commitment to the vision of the new children's hospital was confirmed by the many courageous decisions made by the board.

Newington Children's Hospital is trying to accomplish something that only one other hospital in the country is even considering. It is moving from a suburban location that has been home for 95 years, to the inner city of Hartford, the fourth poorest city in the country in one of the Nation's wealthiest States.

This move will greatly improve children's access to badly needed primary and preventive health care services. The new children's hospital will be the hub of a complete range of pediatric practitioners of the future.

To further demonstrate it's commitment to improving children's health, Newington Children's Hospital has taken a leadership role in committing $15 million to endow the Greater Hartford Children's Fund. This fund, the first of its kind in the Nation, will provide grants to

community-base initiatives supporting such programs as preventing lead poisoning and curbing adolescent violence.

It takes a leader with extraordinary courage and foresight to commit a hospital to the kind of dramatic changes required by the health care situation in this country, and that person is A. John Menichetti.

Thank you, John, on behalf of all the children who will benefit from what we know will be a great hospital for the children of Connecitcut.

IN HONOR OF KENNETH BEATY

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. SARPALIUS. Mr. Speaker, I rise today to honor an individual who has shown his strength and courage to all of America. Kenneth Beaty was recently released from a Iraqi prison, after serving 7 months of an 8-year prison term.

Mr. Beaty was sentenced to prison in Iraq for illegally entering that Middle East country from Kuwait. The oil man, employed by Santa Fe Drilling based in Orange, CA, has problems with his health and several of my colleagues and I soon began asking for his humanitarian release. Senator DAVID BOREN, of Oklahoma, went to Iraq on the weekend of November 14 after President Saddam Hussein honored that humanitarian request, and was able to bring Mr. Beaty home to the United States.

Mr. Beaty graduated in 1966 from Borger High School. He attended Oklahoma State University before going to work for Santa Fe Drilling. His current home is in Mustang, OK. He is married to the former Robin Smith of Cushing, OK, and they have two young daughters.

While in prison, Mr. Beaty was kept relatively comfortable along with several other prisoners from Sweden, Britain, the Philippines, and Pakistan. The prisoners were allowed to leave their cells, cook together, and socialize. Mr. Beaty's health was monitored fairly closely.

Prison is not a pleasant experience, and it is especially unpleasant in a foreign country. But Mr. Beaty demonstrated extreme courage during the past 7 months, and he never lost faith in the possibility of a happy ending.

Mr. Speaker, I thank my colleagues who help in the humanitarian effort and ask that they all join me in this special honor to Kenneth Beaty.

FEDERATION OF STATE MEDICAL BOARDS

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. BLILEY. Mr. Speaker, during the debate of the North American Free-Trade Agreement [NAFTA], it was my intention to have correspondence between the Federation of State Medical Boards of the United States, Inc., and the Office of the United States Trade Representative included as part of my remarks. It is important to have this correspondence included in the CONGRESSIONAL RECORD, for it explains how NAFTA will not preempt the authority of State medical boards.

Unfortunately, due to a clerical error, these letters were not part of my remarks. For that reason, I wanted to take this opportunity to place the correspondence into the CONGRESSIONAL RECORD.

THE FEDERATION OF STATE MEDICAL BOARDS OF THE UNITED STATES, INC.,

Ft. Worth, TX, November 9, 1993.

Ambassador MICHAEL KANTOR,

United States Trade Representative, Washington, DC.

Re: North American Free Trade Agreement.

DEAR AMBASSADOR KANTOR: The Federation of State Medical Boards is a national organization, the members of which are the state medical licensing and disciplinary boards in the fifty states, the District of Columbia, Guam, Puerto Rico and the Virgin Islands. The Federation has examined the North American Free Trade Agreement in an attempt to determine its effect, if any, upon state medical board licensing activities, an issue of great concern to our membership and to the public. Our review has focused primarily on the issue of whether NAFTA will preempt a state's authority to license physicians. We believe NAFTA does not preempt the licensing authority of the states, and we are writing to you for confirmation or refutation of our interpretation of the treaty.

Under NAFTA's definitions physician services fall under professional services and are addressed in Chapter Twelve "Cross-Border Trade in Services" and Chapter Sixteen "Temporary Entry for Business Persons." Using these chapter titles, we have stated our conclusions and presented our reasoning for these conclusions on the topics of licensing and certification, mutual recognition of licensed professionals, and temporary entry procedures.

CROSS-BORDER TRADE IN SERVICES

1. It is our conclusion that state medical board licensing standards are not preempted.

NAFTA's objective in relation to licensing is to prevent licensing requirements from being "unnecessary barriers to trade." Art. 1210, sec. 1 provides that any state licensing requirements be 1) based on objective and transparent criteria, 2) not be unduly burdensome, and 3) not constitute a disguised restriction on the provision of services across borders. These standards are not necessarily preemptive of the states' licensing authority. A state can set its own licensure requirements as long as the requirements fall within these standards. Requirements not based upon competence or which are considered to restrict trade will have to be revised or eliminated by the states.

NAFTA sets requirements for processing applications for licenses and certifications (Annex 1210.5). NAFTA requires that upon receipt of complete applications a determination on the application and notification of that determination must be made within "a reasonable time". Upon receipt of an incomplete application the applicant must be informed "without undue delay" of the status of the application and what information is necessary to complete the application. Thus, although a state licensing board may be obliged to review licensure applications of physicians from NAFTA countries, the board may apply the same standards and criteria in reviewing the qualifications of these applicants as it applies to domestic applicants. If such items as educational and training qualifications are not within the state's established standards, the state will be under no obligation to grant a license to an individual just because that person is a citizen of a NAFTA party.

2. It is our conclusion that Art. 1203 "most favored nation" designation will not change state licensure requirements or standards.

Article 1210, section 2(a) expressly states that most favored nation treatment (Art. 1203) does not require the recognition of education, experience, licenses or certifications obtained in other countries. Although NAFTA countries must give each other adequate opportunity to demonstrate that their respective education, experience, or licenses or certifications should be recognized, any process by which these issues are discussed in the context of medical licensure will not lead to coercive efforts to force a state's acceptance of any element of an applicant's qualifications.

3. It is our conclusion that some state medical boards' requirements concerning citizenship and permanent residency will be affected by NAFTA.

Art. 1206 of NAFTA requires elimination of all citizenship and permanent residency requirements for licensing of professionals within two years after implementation of the treaty. As a result of this provision, any state seeking to maintain citizenship or permanent residency requirements may need to seek an exception, or "reservation" from NAFTA. A board seeking such a reservation will not, however, be subjected to any dispute settlement cases under the treaty.

4. It is our conclusion that the provisions dealing with mutual recognition of licensed professionals do not to require automatic recognition of credentials of physicians of other countries.

Contrary to the concept of automatic recognition of credentials, the provisions of Annex 1210.5 suggest and encourage, but do not mandate, the development of standards and criteria for licensing which are mutually acceptable to all of the countries under the Agreement. Education, examination, experience, conduct and ethics, professional development and re-certification, scope of practice, local knowledge and consumer protection are given as possible but not exclusive criteria upon which the NAFTA parties may develop such standards. It is our understanding that the section will not be used to force NAFTA countries to agree to any common standards, but is suggestive only.

TEMPORARY ENTRY FOR BUSINESS PERSONS

1. It is our conclusion that Chapter 16 provisions do not prohibit state medical boards from applying applicable licensure standards to physicians.

Annex 1602, section D, pertains only to physicians desiring to enter the United States to teach or research, not physicians wanting to practice medicine temporarily in the U.S. The purpose of this Chapter is to simplify the documentation required for physicians desiring to teach or research temporarily in a NAFTA country. This chapter does not circumvent state licensure requirements, and a citizen of a NAFTA country seeking to enter the U.S. even in a teaching or research capacity will be required to meet licensure requirements of a given state as required for the activities that individual will undertake.

We look forward to your comments about our interpretations of this important document. If our interpretation is incorrect on any points, please inform us so that we may reevalute our position based on new information.

Thank you in advance for your consideration of and prompt response to this letter.

Yours truly,

DOROTHY G. HARWOOD, JD,
Assistant Vice President,
Administrative and Legislative Affairs.

OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE,
Washington, DC.

Ms. DOROTHY G. HARWOOD, JD,
Assistant Vice President, Administrative and Legislative Affairs, The Federation of State Medical Boards of the United States, Inc., Fort Worth, TX.

DEAR MS. HARWOOD: Thank you for your letter of November 9 outlining the results of your review of the North American Free Trade Agreement. Your letter addresses the five issues most asked about by medical professionals and other concerned individuals.

We agree with your interpretations of Chapter 12 and Chapter 16 of the NAFTA, and how they will affect the duties of state medical boards. The NAFTA does not permit Mexican or Canadian health care professionals—or any professional service providers—to circumvent state licensing and certification procedures. The NAFTA does not permit Mexican or Canadian professionals to practice a licensed profession in the United States, even on a temporary basis, without meeting all applicable state licensing criteria and receiving such a license. Nor does the NAFTA require any change in state certification or licensing criteria or procedures, except for citizenship or permanent residency requirements. The Statement of Administrative Action presented to the Congress by the President also states this very clearly.

I appreciate the effort you have made in taking the time to thoroughly review the NAFTA. If you need additional information, please do not hesitate to contact my office.

Sincerely,

DONALD S. ABELSON,
Assistant U.S. Trade Representative
for Services, Investment,
and Intellectual Property.

OCEANSIDE COMES TOGETHER TO RESPOND TO BIGOTRY

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. KING. Mr. Speaker, it is truly remarkable to see an entire community come together to respond to a crisis. I am proud to report that Oceanside, NY, a community in my district, is one such place where this is happening.

I had intended to rise today only to condemn and express my outrage at recent acts of anti-Semitic vandalism in Oceanside. And I do want to clearly state that these incidents are disgusting acts and an unacceptable affront to the decent and hard-working people of Oceanside and neighboring communities on Long Island. Very simply, such acts cannot and will not be tolerated.

However, rather than taking time to discuss the outrageous actions of a few very troubled individuals, I want to report to the Members of this institution on the admirable response of the people of Oceanside and an important event scheduled for this Sunday.

From the beginning of this crisis, people have decided to come together. An antibias task force was formed. A community meeting was scheduled to develop a strategy and more than 400 people attended—far in excess of anyone's predictions. Civic organizations, religious leaders, educators, merchants, law enforcement officials, and concerned citizens have all been working together to promote awareness—among young and old of the threat posed by the haters.

Mr. Speaker, I am pleased to report that the task force has scheduled a day-of-unity rally to make a stand against prejudice. The event will be held at Oceanside High School on Sunday, November 28 at 1:30 p.m. I am proud to say that I will attend and have personally encouraged my friends, neighbors, and other government officials to do so.

Since taking office earlier this year, I have made it a top priority to condemn the kinds of acts that have plagued the people of Oceanside and to speak out at schools, houses of worship, in public forums, and in the Chamber. I have also contacted local law enforcement officials to urge that every effort be made to bring to justice those responsible for crimes of hate.

I am pleased to report that the dedicated men and women of the Nassau County Police Department have worked tirelessly in this matter. They have established a 24-hour hotline for anyone who has information about bias-related vandalism. The telephone number is (516) 573–7717.

Mr. Speaker, if we have learned any lesson from the past, it is that we cannot remain silent in the face of intolerance and bigotry. I commend the people of Oceanside who are responding to this insidious threat and who, by coming together, have already won a great victory over hate.

OUTSTANDING COMMUNITY INVESTMENT AWARD

1993

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. MEEHAN. Mr. Speaker, I want to call attention to the fine work performed by the Coalition for a Better Acre and Enterprise Bank and Trust in the development of my hometown, Lowell, MA. CBA and Enterprise are being recognized by the Social Compact in conjunction with the 1993 Outstanding Community Investment Awards program, which focuses national attention on outstanding efforts to strengthen disadvantaged neighborhoods.

The Coalition for a Better Acre [CBA] is Lowell's only community based nonprofit development organization. Its Hispanic Empowerment and Leadership Project and Southeast Asian Organizing Project help local residents strengthen their communities and revitalize their neighborhoods. The Enterprise Development Center focuses on the creation and retention of local jobs by supporting the smallest and newest business ventures in high-growth sectors of the economy. In the field of affordable housing, the CBA has developed nearly 400 residential units for low- and moderate-income people.

The Acre community in Lowell is one of New England's most diverse—and poorest—communities, with nearly 85 percent of its 15,000 residents living in poverty. With thousands of jobs lost in the Lowell area since the beginning of the recession in 1989, home businesses, self-employment ventures and micro-sized enterprises have exploded in number and represent a critical source of income for the urban poor in the Acre and provide a realistic alternative to minimum wage jobs and welfare.

With the help of Enterprise Bank and Trust, CBA created the Minority Enterprise Development Assistance Initiative [MEDAI] in 1992. MEDAI is based on a micro-enterprise development model created by the Grameen Bank in Bangladesh. The program offers $500 working capital loans to individuals who form peer groups of up to seven members. To be eligible for participation in MEDAI, peer members must be currently living on some type of public assistance. As a group, the members review each other's business plans and then approve and co-sign each other's loans. Loans graduate up to $1,500 when members stay current on payments.

Enterprise played a lead role in capitalizing the experimental MEDAI peer loan program by pledging $25,000. In addition, the chief executive officer and assistant vice president actively participated in the planning and development of the program and continue to offer their advice and expertise on a regular basis.

CBA secured operating funds from the city of Lowell, private foundations, and national religious philanthropic organizations, including the Theodore Edson Parker Foundation, Sun Microsystems Inc., the Marianist Sharing Fund, and the Adrian Dominican Sisters. In addition to loan fund capital supplied by Enterprise, loan pool resources were committed from five additional banks, the city of Lowell, and religious philanthropies. In all, 11 different sources of funds were found to begin the MEDAI program.

This awards program is built upon a national competition which seeks out the most innovative and effective affordable housing, community and/or economic development strategies carried out by partnerships between financial services institutions and neighborhood-based nonprofit organizations. With the support of the country's national nonprofit housing and community development leadership, almost 2,000 applications were distributed and 120 applications received. The award-winning partnerships are representative of each of the types of financial services institutions represented in the pool of applicants. Each of these nonprofit partners receives a grant averaging $5,000 to further their work. The CBA/Enterprise Bank and Trust partnership was chosen as one of sixteen honorees in the Outstanding Community Investment Awards competition. I think the keen competition for this award speaks to the exemplary quality of work

by both the coalition and Enterprise in helping restore the economic vitality of Lowell.

FEDERAL PROGRAM FOR ARTS IN SMALL COMMUNITIES

HON. J. ROY ROWLAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. ROWLAND. Mr. Speaker, a modest Federal program to help devleop the arts in smaller communities throughout the country is something I have long supported. Such a program not only enriches communities from a cultural standpoint, it also has real economic benefits. Artistic activities such as theater, musical events, and museums greatly enhance the growth potential as well as the quality of life of every community.

Tift County and neighboring areas of southwest Georgia are an example of this. Artistically, this is an area that is really on the move. There are a number of reasons for this, including the work of the arts experiment station at Abraham Baldwin College in Tifton, the contributions of the Georgia Council for the Arts, the assistance from the National Endowment for the Arts, and, most of all, the support of civic leaders like the Tifton-Tift Chamber of Commerce and the community at large.

These are the artistic initiatives now underway: The renovation of an historic church building in Tifton so it can be converted into a museum of arts and cultural heritage; a chamber music program in Tift, Turner, Irwin, Ben Hill, and Colquitt Counties through a 9-month residency of 11 professional musicians; a series of professional performing events for the community including dance, storytelling, orchestral programs, and theater; an exhibition of Georgia artists in two shows, including a national show attracting artists from throughout the country and an art display specially designed for the visually impaired; a series of performing art programs in the public schools; and recognition of a fine arts festival as a cultural olympiad event by the Atlanta Committee for the Olympic Games.

This is an example of how a partnership between private citizens and State and Federal Government can work for the benefit of everyone. Community development is what NEA does best. And it is the part of NEA's mandate that should be emphasized more.

TRIBUTE TO HAROLD BATESON ON THE OCCASION OF HIS RETIREMENT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. GILLMOR. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to Harold Bateson, on the occasion of his retirement as auditor of Wood County, OH.

A lifelong resident of Wood County, Harold has been auditor since 1971. He and his wife, Betty, have a farm partnership with their two sons, Tom and Mike. The Batesons also have two daughters, Sally and Ann.

Prior to becoming auditor, Mr. Bateson served three terms as a Liberty Township trustee and has served as president of both the Wood County Township Trustees Association and Ohio Township Trustees Associations. He is a former president of the Wood County Cooperative Extension and Advisory Committee and served three terms as director of the Wood County Soil and Water Conservation.

Bateson was actively involved in promoting the State constitutional amendment creating the Agricultural Land Use Program. He also was instrumental in passage of the Farmland Preservation Act which creates agricultural districts. Since his initial election as auditor, he has expanded the modernization of Wood County's tax accounting procedures through massive computerization, all without additional staff or the incident costs to the taxpayers.

He is past president of the County Auditor's Association of Ohio and currently represents that organization on the State Advisory Board for current agricultural land use. As a member of the legislative committee for the County Auditor's Association, Mr. Bateson is frequently called upon to offer expert testimony before various State senate and house committees in Columbus.

The professionalism demonstrated by Bateson's administration has been recognized by the voters in his past campaigns. He would often receive the highest percentage vote of any candidate, regardless of party affiliation, on the ballot in Wood County.

Mr. Speaker, I ask my colleagues to join me in congratulating Harold Bateson on a job well done and wish him the best in the years ahead.

TRIBUTE TO WALTER CHRISTIAN PLOESER

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. TALENT. Mr. Speaker, I rise today to recognize the Honorable Walter Christian Ploeser, a former distinguished Member of this body, who passed away on November 16, 1993, at the age of 86. He was a remarkable man who epitomized the concept that with hard work, you can accomplish anything regardless of income. Orphaned at age 7 and raised by maternal and paternal aunts, hawking newspapers in Wyoming at age 11, selling insurance at age 15, and forming his own business at age 26, he took life's setbacks as challenges to expand his opportunities beyond most people's imagination.

Mr. Ploeser's drive for excellence is shown in the many ways he served his country. In 1931, at age 25, he was elected to serve as a State representative to the Missouri General Assembly. At that time he was the youngest person ever elected to the State House. In 1934 he founded the Young Republicans Federation of Missouri and served as its first president until 1935. From 1937–38 Mr. Ploeser served as regional chairman of the Republican National Program Committee. In 1941 he was elected to represent the 12th U.S. Congressional District of Missouri, where he served until 1949. While there, he served as a member of the Republican Steering Committee, was the Chairman—80th Congress—Select Committee on Small Business, was chairman of the Appropriation Subcommittee on Government Corporations, and was a member of the Navy Appropriations Committee. He was rated one of Congress' six best orators in the 1940's.

In 1953, Mr. Ploeser served as citizen advisor to the U.S. Senate Committee on Banking and Currency. In 1957, President Eisenhower appointed him to be U.S. Ambassador to Paraguay. He served in that position until 1959, and was decorated with the Grand Cross of the Republican or Paraguay. In 1966, he served as the Republican National Committeeman for Missouri. In 1970, President Nixon appointed him U.S. Ambassador to Costa Rica, a position he held until 1972.

During his time of political service, Mr. Ploeser received numerous awards. Among them: The Navy Certificate of merit, an Honorary Doctor of Law from Norwich University, and Honorary Doctorate of Honoris Causa-National University of Asuncion, Paraguay, the Wisdom Award of Honor of Wisdom Hall of Fame and the Religious Freedom Award.

Mr. Ploeser's accomplishments and service were not limited to just the political front. In 1964, he served as chairman of the Salvation Army Tree of Lights Campaign, an organization with which he was involved for many years. He was active in many Masonic organizations as well. In 1986, he was inducted into the Demolay Hall of Fame. In 1961, he rose to 33 degree status in the Scottish Rite, the highest level of Scottish Rite masonry. That year he also served as potentate of Moolah Shrine Temple. In 1967, he was appointed Sovereign Grand Inspector General of the Orient of Missouri of the Scottish Rite. He retired from that position in 1988.

Mr. Ploeser is listed in Who's Who in America, Who's Who in the World, Who's Who in Finance and Industry, Who's Who in the Midwest, and Who's Who in American Politics.

Mr. Speaker, the Honorable Walter Christian Ploeser is survived by his two daughters, five grandchildren, and six great-grandchildren. He will be greatly missed by his family and the many friends whose lives he has touched.

ELECTIONS IN JORDAN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. HAMILTON. Mr. Speaker, on November 8, 1993, the Jordanian people participated in free and open parliamentary elections. These elections were the first multiparty elections to take place in Jordan in nearly 40 years. They were among the freest ever to take place in the Arab world. The people of Jordan can be justifiably proud of their emerging democracy, which has produced a democratically elected, representative parliament.

The United States has placed a high value on helping other nations around the world

achieve democratic forms of government. The people and Government of Jordan should know that the American people support them in this noble undertaking. It is my hope that the example set by Jordan will inspire similarly free elections elsewhere in the Arab world and that the spread of democracy will augur an era of peace, prosperity, and stability in the Middle East.

QUEENS PUBLIC LIBRARY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. ACKERMAN. Mr. Speaker, it is with great pride that I bring to the attention of the House a special project under consideration in my home district of Queens, NY. The Queens Public Library, the busiest library in the United States and one of the most appreciated institutions in all of New York City, is spearheading a visionary effort to construct an Asian Center as part of their new, state-of-the-art library complex in Flushing, NY. When completed, this multifaceted library will serve as a cultural resource and beacon for the multiethnic residents of the Borough of Queens and the Greater New York Metropolitan area.

Recognizing both the critical need and the crucial importance of library functions, the city of New York has pledged over $20 million in construction financing for this important new building. No city funds, however, are available for the proposed Asian Center, an integral component of this development.

The Queens Library makes an essential contribution to the cohesiveness of community unity by providing thousands of free programs—educational, cultural, and practical self-help—along with free borrowing privileges for books, tapes, and videos. The Queens Library provides critical services to tens of thousands of new immigrants who daily come to its doors for help. For example, a newly arrived Chinese or Korean immigrant will find free classes in English as well as programs in their native language to help them find a job or to adjust to the bewilderment of life in America.

The Borough of Queens in New York City is the most ethnically diverse region in the country, and has the largest concentration of Asian-Americans east of California. They have, as all ethnic groups do, special language and cultural needs. Through the proposed Asian Center, the library will establish a bridge between its Asian and non-Asian residents. The Asian Center will promote community harmony and cultural understanding by providing a forum—open to all residents—for a limitless range of programs on Asian culture, such as lectures, music appreciation, readings, et cetera. The proposed Asian Center will become an important business reference resource for the growing number of Asian businesses which are locating and expanding in Queens.

I applaud the Queens Library for undertaking this project. I look forward to reporting to the House that financial support has been secured and the Asian Center's potential has begun to be realized.

DEVELOPMENT OF ARTICLES OF INCORPORATION FOR TERRITORIES OF THE UNITED STATES

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. YOUNG of Alaska. Mr. Speaker, I am introducing legislation today to provide a process to permit any U.S. territory to be considered decolonized by international standards through incorporation with the United States. The citizens of a territory could seek full self-government with constitutional rights and responsibilities equal to those of citizens in the several States, by the development of articles of incorporation. The goal, if possible, is to achieve decolonization for all of the U.S. territories by the end of this decade.

It would be at the discretion of a territory to initiate a request of the United States to discuss incorporation with the United States of America. Both the President of the United States and the Governor of the territory would designate special representatives to consult and develop, in good faith, articles of incorporation for the territory concerned. The proposed articles would include measures that lead to the political empowerment of the U.S. citizens of the territory. Those measures may include special Federal laws or a constitutional amendment to address the matter of enfranchisement and representation. Incorporation provisions could be phased in over an extended period of time, with varying transition periods for benefits and responsibilities.

The articles of incorporation and an accompanying report would be submitted to the Congress within 1 year after the appointment of the special representatives, but not later than December 31, 1998. This would give Congress time to act on the matter before the end of the decade. It is expected that incorporation would not become effective until the congressionally approved articles of incorporation had been accepted by the people of the requesting territory in a freely expressed act of self determination.

The United Nations has declared the 1990's as the International Decade for the Eradication of Colonialism. A territory may be considered fully self-governing and decolonized, either as an independent and sovereign entity through independence or free association, as in the case of the Philippines and the Marshall Islands, or by being incorporated into an administering power. The residents of U.S. territories currently live in unincorporated areas in which the Constitution has not been extended in full.

I am aware of the aspirations of the citizens in the territories as I have served for over 20 years on the committee in the House with primary jurisdiction for insular affairs. I represent Alaska which was an unincorporated territory for 45 years. Then, in 1912, Congress enacted legislation in order for the Constitution to have the same force and effect in the Territory of Alaska as in the several States. A similar act of incorporation had been passed some years earlier for the Territory of Hawaii. No other territory has subsequently been extended the full protections and rights under the Constitution. Although the act of incorporation has carried with it a promise of equal citizenship rights, it has been incorrectly assumed that those rights could only be attained through statehood. This misperception has lead to the limited application of the Constitution to the territories.

To help clarify this matter, in December, 1989, I asked the General Accounting Office to analyze and study the extent to which the Constitution applied to the territories. In June 1991, the GAO responded with a report entitled "The Applicability of Relevant Provisions of the U.S. Constitution to the Territories." The report indicated that not only does the Constitution not apply in full to the territories, but its application varies with each of the unincorporated territories: American Samoa, Guam, the Northern Mariana Islands, Puerto Rico and the U.S. Virgin Islands.

The history of United States decolonization has shown that the only status options which have successfully lead to full self-government have been independence and statehood. While some form of an unincorporated territory has been developed with the label of "commonwealth" in the cases of Puerto Rico and the Northern Mariana Islands, neither of these has been recognized as having achieved decolonization. Other creative formulations of commonwealth have been proposed by Guam, Puerto Rico and other territories, although the fundamental resulting status will be that of an unincorporated territory. This is not in opposition to the title "commonwealth." An incorporated commonwealth is consistent with the U.S. Federal system. There are currently four incorporated commonwealths; all happen to be States. The question that must be answered is, Can an unincorporated territory under the territorial clause of the Constitution, as defined in the insular cases, achieve full self-government and equality of rights, and thereby be considered decolonized? The answer so far is "no" and it is implausible that it could ever be otherwise.

A void has existed in the development of an alternative mechanism toward full self-government and equality of constitutional rights of the citizens in the U.S. territories, particularly for the smaller territories which have not met the traditional profile of a State. This legislation is a serious attempt to provide a path for the people of a territory who want to be a permanent part of the United States, but do not believe unincorporated territorial status provides a viable basis for permanent union.

For years attempts have been made to develop relationships between the Federal Government and the unincorporated territories which provide a degree of self-government which would be viewed as fully self-governing by international standards. In many instances these were precedent-setting acts which did provide for increased local self-government. Territories were authorized to elect their own Governors and establish legislatures, court systems, and local constitutions. Today, nearly all of the territories are represented in the Congress by a nonvoting delegate. Special Federal laws have been enacted to provide for economic development in the territories. All of these have contributed to the development of self-government in the territories. However, the fundamental Federal-territorial relationship remains as an unincorporated territory.

Regardless of how one attempts to embellish or enhance these relationships, as long as

the Constitution has not been extended in full, or conversely withdrawn along with U.S. sovereignty, an unincorporated territorial status exists. I hope no one misconstrues what I am saying as derogatory to the development in self-government that has taken place in the territories. Both the United States and the territories can proudly point to the many substantive developments in self-government which have occurred over the years in the territories.

However, the United Nations has defined what it means for a non-self-governing territory to be considered fully self-governing. The territory either becomes incorporated into the administering power or a separate and distinct sovereign entity. The latter means independence or a form of independence termed "free association." We have had a number of territories or trust territories which have chosen separate sovereignty from the United States: Cuba, the Philippines, the Marshall Islands, the Federated States of Micronesia, and most recently, Palau.

The attempts which have been made to develop self-government in the unincorporated territories have yet to result in decolonization. When the cold war was raging, the United States was attacked as a colonial power by the Communist block. The United States responded for many years by pointing to various improvements in self-government in the territories. However, all of the possible improvements to self-government in unincorporated territories have been insufficient to meet the decolonizing definition of full self-government.

It is important to have this process for the incorporation of any U.S. territory to become law if a genuine effort is to be made to bring about decolonization before the end of this century. It remains up to the people of the territories to determine if they want to seek a closer relationship with the United States. This will provide a path to explore arrangements unique to the needs of a territory, while achieving full self-government and equality of rights.

The following is the text of the bill to provide consultations for the development of articles of incorporations for territories of the United States.

H.R. 3715

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

SECTION 1. ARTICLES OF INCORPORATION.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds that—

(A) the United Nations General Assembly has declared the 1990's to be the International Decade for the Eradication of Colonialism;

(B) the United States is one of the remaining administering powers responsible for the evolution of self-government in territories;

(C) a territory may be considered de- colonized once incorporated into an administering power consistent with a freely expressed act of self-determination of the people of the territory;

(D) nearly 4,000,000 United States citizens live in unincorporated territories in which the United States Constitution has not been extended in full; and

(E) the citizenship of residents born in the unincorporated United States territories is of a subordinated nature without equal protection, rights, and responsibilities of those born in the several States.

(2) PURPOSE.—The purpose of this Act is to provide for a process to enable the people of any United States territory to become self-governing with constitutional rights and responsibilities equal to those of the citizens in the several States, through consultation and working with the United States.

(b) GENERAL AUTHORITY.—Before the period ending on December 31, 1998, a territory of the United States may develop, in consultation with the United States, and submit to the Congress proposed Articles of Incorporation, which shall include measures that lead to the political empowerment of the United States citizens of the territory.

(c) APPOINTMENT OF SPECIAL REPRESENTATIVES.—At the request of a government of a territory of the United States to discuss incorporation with the United States of America, the President of the United States and the Governor of the requesting territory may designate special representatives to consult and develop in good faith, Articles of Incorporation, with the United States.

(d) SUBMISSION TO CONGRESS.—The proposed Articles of Incorporation and accompanying report of the consultations shall be transmitted to the United States Congress within one year after the appointment of the special representatives, but not later than December 31, 1998.

(e) DEFINITION.—As used in this section, the term "territory of the United States" includes the Territory of American Samoa, the Territory of Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the Territory of the United States Virgin Islands.

EXEMPT ORGANIZATION REFORM ACT OF 1993

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. STARK. Mr. Speaker, today I rise to introduce a bill with three reforms to exempt organization law. My bill would first, create a category of transactions that would be considered self-dealing because of insiders involved in a transfer of 501(c)(3) and 501(c)(4) organization assets; second, clarify that private inurement prohibitions apply to 501(c)(4) organizations; and third, impose intermediate sanctions on both private inurement and self-dealing transactions.

This bill is necessary because assets accumulated by organizations enjoying tax exempt status are being raided through certain business transactions and the IRS does not have appropriate sanctions to address the problem.

Problems of insiders inappropriately benefiting from a tax exempt entity are all too common among nonprofit healthcare providers. For this reason, I have introduced this bill now, with the hope that it will be incorporated into any health reform proposal enacted. However, the problem is broader than what is evident in the health care field. The following examples illustrate transactions in which individuals have enriched themselves at the public's expense while nonprofit organizations have been looted.

The Cystic Fibrosis Foundation, one of the country's largest and best known charities, recently announced a plan to transfer the use of its most valuable assets to the foundation's current president, Robert K. Dresser. Mr. Dresser reportedly was interested in leaving the nonprofit sector and starting up his own business. To assist Mr. Dresser in his new venture, the board of trustees is considering the transfer of half of the work force of the nonprofit, the direct mail list that raised $13.8 million in contributions last year, the mail order pharmaceutical operation that reported sales of $10 million last year, and its home health services that generated $3.4 million in revenues last year.

In considering the transfer of assets to the current president, the foundation's board rejected the idea of requiring Mr. Dresser to bid or compete with other companies for the work his new company will perform.

Televangelist Pat Robertson, chairman of Christian Broadcasting Network [CBN], and his son, Timothy, turned a $150,000 investment into stock worth $90 million by the 1992 sale to the public of cable TV stock they had originally bought from CBN.

This story is complicated, with twists and turns that often exist in self-dealing and private inurement cases. A cable TV programming company, the Family Channel, was started in 1977 as a division of the nonprofit CBN and financed with charitable donations of viewers. CBN wanted to sell the Family Channel in 1989, partly because the Family Channel was so lucrative that it jeopardized the tax exempt status of the CBN—IRS rules require charities to get their revenues more from charitable activities than from business activities. The family channel reportedly generated $17.5 million in just 9 months of 1989.

For the purchase in 1990, Pat and Tim Robertson formed a for profit company, the International Family Entertainment, Inc., [IFE], with a minority shareholder and bought the Family Channel. The Robertsons put up $150,000—2.22 cents a share—and the minority shareholder put up $22 million.

IFE/Family Channel went public at $15 a share in 1992, and the Robertsons' $150,000 investment became worth $90 million. They retain 69 percent control of IFE/Family Channel. The Family Channel continues to be a cash cow. Pat Robertson's 1992 salary and bonus from IFE/Family Channel amounted to $390,611. His son, Tim, received $465,731 in 1992.

All the while, Robertson remains chairman of the nonprofit CBN that created the lucrative Family Channel.

Health Net in California is a third example of what should not happen.

Health Net, a not for profit health plan with 844,000 members, proposed a conversion to for profit status. Health Net's board of directors approved an offer by a group of insiders—many of the board members and key management personnel—for significantly less than all other bidders. This self-dealing by the organization's insiders could reap a benefit of hundreds of millions of dollars.

Health Net insiders led by Health Net chairman Roger Greaves initially bid $108 million for Health Net. The bid was later increased to $127. The Health Net insiders' deal would have required them to pay only $1.5 million in cash and a note for the balance owed to be

paid out of the profits of the new entity. Tax law requires that the value of the assets at the time of conversion must go to a charitable organization.

When outsiders bid on Health Net, offers ranged from $130 million to $300 million. Salomon Bros. appraised Health Net for one of the bidders and came up with an estimated value of between $252 and $302 million—more than twice the amount that the board agreed to accept from the Greaves group of insiders.

Health Net's stated reason for the conversion was to get access to capital and yet they summarily rejected a merger offer by Blue Cross of California which would have provided a substantial source of debt-free capital, significantly reduced administrative costs, and maintained the not-for-profit status as well.

But the insiders had a different standard for what was a good deal.

Another example of abuse by insiders involved directors of a nonprofit psychiatric hospital purchasing the hospital's assets for $6.3 million and selling them 2 years later for $29.6 million. In this case, although the IRS retroactively revoked the hospital's exempt status, no tax penalties exist to levy against the directors who pocketed $23 million on the deal.

In the medical area, there are, and will continue to be, a growing number of transactions involving the purchase of private medical practices. Sale of physician practices often involves physicians with a substantial influence over the exempt organization purchaser. Two recent IRS rulings illustrate the amounts and issues at stake.

Under the first ruling, the exempt organization paid $110 million for private medical practices and assets, including intangible assets such as covenants not to compete, HMO contracts, an assembled work force, warranty rights, trademarks and trade names. In the second ruling, the facts involved an $8 million purchase of stock of a private medical corporation whose assets consisted largely of intangible assets such as its trade name, patient files and records, software, a work force in place, contracts to provide medical services, noncompetition agreements, and goodwill.

In both cases, the IRS approval was contingent upon no more than fair market value being paid to the physicians in the practice. However, the IRS cannot rule on valuation in advance; it can only determine whether fair market value was paid when it subsequently audits the exempt organization. Thus, it could be years before we find out if the exempt organizations paid the appropriate amount for these mostly intangible assets which are so hard to value.

Another way insiders profit from their association with a tax exempt organization is through the receipt of no-interest or low-interest loans. According to an April 22, 1993, article in the Philadelphia Inquirer, Children's Hospital of Philadelphia loaned its president $600,000 to purchase a $550,000 house in Chester County. The loan was for a term of 10 years with no interest. Georgetown University loaned a senior officer of the Medical Center $107,700 at 5 percent interest and $644,380 with no interest charged—a blatant example of charitable contributions being diverted from the charitable purpose.

Under current law, the only sanction available to the IRS to combat private inurement is revocation of the organization's exempt status. Unfortunately, the IRS rarely imposes this sanction. In addition, even where it is imposed, it may not be effective because there are no penalties imposed directly on the persons responsible for the organization's loss of exemption.

At a July 10, 1991, hearing before the Ways and Means Committee, the IRS testified that although its agents do find questionable transactions involving private benefit and private inurement, they revoke a hospital tax exemption infrequently. According to John Burke, Assistant Commissioner of the IRS Exempt Organizations Division, "agents are reluctant to propose revocation of exemption because the sanction of revocation of a hospital's exempt status greatly outweighs the private gain of a few individuals."

Current IRS Commissioner Margaret Milner Richardson testified this year that the lack of intermediate sanctions cause "significant enforcement difficulties."

At the July 10, 1991, hearing, the Treasury Department also testified that the sole sanction for noncompliance under current law—loss of tax exempt status—may merit reexamination. Treasury suggested that intermediate sanctions for tax exempt organziations may be needed. In the Treasury's view, such sanctions should be modeled on the private foundation excise tax provisions that impose monetary penalties on responsible persons. My legislation takes this approach. It is based on the private foundation rules applicable to self-dealing transactions.

A summary prepared by the Joint Committee on Taxation follows:

EXPLANATION OF BILL

PRESENT LAW

Under the Internal Revenue Code (the "Code"), a tax-exempt charitable organization described in section 501(c)(3) must be organized and operated exclusively for a charitable, religious, educational, scientific, or other exempt purpose specified in that section, and no part of the organization's net earnings may inure to the benefit of any private shareholder or individual. Organizations described in section 501(c)(3) are classified as either private foundations or public charities. Organizations described in section 501(c)(4) also must be operated on a non-profit basis, although there is no specific statutory rule prohibiting the net earnings of such an organization from inuring to the benefit of shareholder or individual.

Under the Code, penalty excise taxes may be imposed on private foundations, their managers, and certain disqualified persons for engaging in certain prohibited transactions (such as so-called "self-dealing" and "taxable expenditure" transactions, see sections 4941 and 4945). In addition, under present law, penalty excise taxes may be imposed when a public charity makes an improper political expenditure (section 4955). However, the Code generally does not provide for the imposition of penalty excise taxes in cases where a public charity (or section 501(c)(4) organization) engages in a transaction that results in private inurement. In such cases, the only sanction that may be imposed under the Code is revocation of the organization's tax-exempt status.

SELF-DEALING

The bill would amend the Code to impose penalty excise taxes as an intermediate sanction in cases where a public charity described in section 501(c)(3) (such as a hospital) or organization described in section 501(c)(4) (such as an HMO) engages in a self-dealing" transaction with certain disqualified persons. The bill refers to such organizations as "applicable tax-exempt organizations."

For purposes of the bill, "self-dealing" generally means any direct of indirect transfer, lease, or license of property between an applicable tax-exempt organization and a disqualified person. However, the bill provides exceptions for transfers of property by an organization (or disqualified person) in the ordinary course of its activities (or the person's trade or business), provided that the transaction is made on a basis comparable to the basis on which similar transactions are made in the ordinary course of such activities (or business). Thus, the bill imposes penalties on unique sales or exchanges of property between applicable tax-exempt organizations and disqualified persons (where there is significant potential for private inurement). It does not, for example, prohibit an organization from selling gift shop items to a disqualified person on the same basis that such items ordinarily are sold to the general public. Likewise, a disqualified person could sell items to an organization on the same basis that the person ordinarily sells such items to the public as part of the person's trade or business. In addition, the bill excludes from the definition of "self-dealing" goods or facilities furnished free of charge by a disqualified person to an exempt organization for use in furthering the organization's exempt purposes.

Under the bill, "self-dealing" also includes the lending of money or other extension of credit between an applicable tax-exempt organization and a disqualified person, other than the lending of money by a disqualified person on a no-interest (and no-other-charge) basis, if the proceeds are used by the organization to further its exempt purposes.

"Disqualified persons" would be defined under the bill as any person who was an organization manager at any time during the five-year period prior to the self-dealing transaction at issue, as well as certain family members and 35-percent owned entities. The term "organization manager" means any officer, director, or trustee of a public charity or social welfare organization (or any individual having powers or responsibilities similar to those of officers, directors, or trustees). The bill specifically provides that any person performing substantial medical services as a physician for the organization shall be deemed to be an "organization manager."

The bill would provide for a two-tiered penalty excise tax structure, similar to the excise tax penalty provisions applicable under present law to prohibited transactions by private foundations and political expenditures by public charities. Under the bill, an initial tax equal to 5 percent of the amount involved would be imposed on a disqualified person who participates in self-dealing transaction. In general, the "amount involved" with respect to an act of self-dealing would be the greater of (1) the amount of money and fair market value of other property given, or (2) the amount of money and fair market value of other property received. Organization managers who participate in self-dealing transactions, knowing that the transaction constitutes self-dealing, would be subject to a tax equal to 2.5 percent of the amount involved (subject to a maximum amount of tax of $10,000), unless such participation was not willful and was due to reasonable cause.

Additional, second-tier taxes would apply under the bill if the self-dealing transaction is not "corrected," meaning undoing the transaction to the extent possible, but at least ensuring that the organization is in a financial position not worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards. If a self-dealing transaction is not corrected within a specified time period (generally ending 90 days after the IRS mails a notice of deficiency), then the disqualified person would be subject to a tax equal to 200 percent of the amount involved. Any organization manager refusing to agree to correction would be subject to tax equal to 50 percent of the amount involved (subject to a maximum amount of tax of $10,000). Under the bill, if more than one person is liable for a first-tier or second-tier tax with respect to any one self-dealing transaction (or instance of taxable inurement, discussed below), then all such persons would be jointly and severally liable for the tax.

TAXABLE INUREMENT

In addition to imposing penalty excise taxes on "self-dealing" transactions, the bill also provides for a two-tiered penalty excise tax regime applicable to cases involving "taxable inurement." "Taxable inurement" is defined as any direct or indirect inurement of any part of the net earnings of a public charity described in section 501(c)(3) or an organization described in section 501(c)(4) to the benefit of a disqualified person (as defined above). These penalty excise taxes would apply, for example, in cases where a disqualified person receives excessive compensation from the organization. The organization would be subject to a first-tier penalty tax equal to 10 percent of the amount of taxable inurement (e.g., the amount exceeding reasonable compensation). Beneficiaries of taxable inurement would be subject to a first-tier penalty tax equal to 5 percent of the amount of the taxable inurement. Organization managers who participate taxable inurement would be subject to a first-tier penalty tax of 2.5 percent of the amount of taxable inurement (subject to a maximum amount of tax of $10,000).

Additional, second-tier taxes would apply if "taxable inurement" is not corrected within a specified time period. In such cases, the organization would be subject to a penalty tax equal to 100 percent of the amount of taxable inurement, the beneficiary would be subject to a penalty tax equal to 200 percent of the amount of taxable inurement, and an organization manager who refuses to agree to correction would be subject to a penalty tax equal to 50 percent of the amount of taxable inurement (subject to a maximum amount of tax of $10,000). For this purpose, "correction" would mean undoing the taxable inurement to the extent possible, establishing safeguards to prevent future taxable inurement, and where fully undoing the inurement is not possible, taking such additional corrective action as prescribed by the Secretary of the Treasury by regulations.

APPLICATION OF PRIVATE INUREMENT RULE TO SOCIAL WELFARE ORGANIZATIONS

The bill would amend section 501(c)(4) to provide tax-exempt status to civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, provided that no part of the net earnings of such organization inures to the benefit of any private shareholder or individual. The bill would not alter the present-law standards under section 501(c)(4) governing the tax-exempt status of local associations of employees.

EFFECTIVE DATE

The provisions of the bill would be effective for transactions occurring after December 31, 1993.

HONORING THE 122D ANNIVERSARY OF UNION BAPTIST CHURCH IN HARTFORD, CT

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. KENNELLY. Mr. Speaker, on December 12, the members of Hartford's Union Baptist Church and their many friends will mark their 122d anniversary in our city. This thriving congregation plays a vital part in Hartford's religious and community life, and I welcome this opportunity to congratulate them.

Union Baptist Church had its beginnings in 1871, when a group newly arrived from Virginia and began holding Sunday meetings at various homes. Through the years, the congregation has had many places of worship. Starting with a boxcar on Spruce Street in Hartford, the congregation moved to Albany Avenue, to Wooster Street, and to Mather Street. It was not until 1921 that Union Baptist Church occupied its current home at 1921 Main Street. Through the Great Depression, through the 1983 hurricane, and through the struggle for civil rights, Union Baptist has been a force in Hartford.

Many of us still remember Dr. J.C. Jackson, pastor of the church for many years, and known as the Old Patriarch. His accomplishments are a rollcall of social justice: his efforts to get black teachers and social workers employed in Hartford; his work toward the establishment of the State's Inter-Racial Commission, which tracked employment discrimination; and his membership of the original 10-member commission, which today is known as the Connecticut Commission for Human Rights and Opportunities.

Union Baptist continues to thrive. This congregation is a historic part of our community, and so it is fitting that the church and the near-by Jackson Center are both listed on the National Registry of Historic Places. But this is also a congregation committed to the city and its people, who joined in the celebration when Union Baptist dedicated its parish house.

It is part of Union Baptist's history that its first congregants, walking to services, used lanterns to light their ways at night. Union Baptist continues to light the way today. I congratulate the congregation and Pastor Emeritus Rev. D. A. Roger Williams, and look forward to working with the next pastor when he is named.

TRIBUTE TO ERNESTINE "LULU" DOUGLAS

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. RUSH. Mr. Speaker, I rise today to honor the achievements of Ernestine "Lulu" Douglas on the occasion of her retirement from the Chicago Board of Education and the celebration of her 65th birthday.

Mrs. Douglas, born to Walter and Eva Penn in Winston Salem, NC, moved to Chicago in 1954. She worked as a clerk for the Cook County Department of Public Aid from 1960 until 1974. From 1974 until this year, Mrs. Douglas served with distinction as a clerk for the Chicago Board of Education.

Mrs. Douglas is an active member of the Trinity United Church of Christ and the CHUMS organization. She is a highly respected member of the Beverly community area located in my congressional district.

Mr. Speaker, it is with great pride that I salute the life and legacy of Ernestine "Lulu" Douglas. I am privileged to enter these words of congratulations into the RECORD.

SEXUAL HARASSMENT IN THE FEDERAL WORKPLACE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. LANTOS. Mr. Speaker, in 1988, the U.S. Merit Systems Protection Board [MSPB] released a report which found that sexual harassment in the Federal workplace is a pervasive, costly, systemic problem. The MSPB report emphasized the need for tough enforcement of the laws against sexual harassment.

The Government Operations Subcommittee on Employment, Housing, and Aviation, of which I am a member, and which has oversight responsibility over the MSPB, received allegations that, earlier this year, an MSPB employee was fired in retaliation for complaining of sexual harassment by a high-level official at the MSPB. Yet, no investigation of the allegations was done. Rather, the MSPB settled this case with a sealed settlement agreement.

The subcommittee investigation into the process by which MSPB settled the allegations revealed serious flaws. Therefore, I joined today with other subcommittee members in referring the matter to President Clinton, with the request that he take steps to assure than an independent, impartial investigation of these allegations be carried out and a determination made of the factual issues involved. A copy of the subcommittee's referral letter follows:

COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC, November 22, 1993.

President BILL CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: A six-month staff investigation by the Subcommittee on Employment, Housing, and Aviation has uncovered serious flaws in the procedures used by the U.S. Merit Systems Protection Board (Board) to respond to a complaint of discrimination brought by an excepted service employee against Antonio C. Amador, then vice chairman of the Board. Subcommittee staff reviewed the Board's official file on its review of these allegations and interviewed key officials and employees of the Board.

Based on the results of the Subcommittee's investigation, we believe it is appropriate at

this time to refer the matter to your Office. We request that a full investigation of the allegations against this official be carried out by an independent, statutory inspector general from another agency, and a determination made of the factual questions involved. Further action, if so indicated by the results of such an investigation, can be considered at that time.

In May of this year, the Subcommittee learned of allegations that Mr. Amador, then vice chairman (and now member) of the Board, sexually harassed an employee[1] (Complainant) on his staff over a one-year period both in the office and off federal premises, and summarily fired her after she raised the sexual harassment allegations with an agency equal employment opportunity (EEO) counselor. Although Mr. Amador denied all allegations, the Board resolved the informal complaint through a sealed settlement agreement with the Complainant under which she was reinstated, assigned to a regional office, and received a cash payment of $17,500.

Charges of sexual harassment and retaliatory firing are serious allegations against any presidential appointee, but are even more significant in this case. As one of three Board members, Mr. Amador is responsible for adjudicating appeals for retaliatory firing and sexual harassment cases brought to the Board by federal employees. The allegations against him raise serious questions as to his ability to maintain impartiality in considering such cases.

If true, the charges suggest a breach of public trust by a high-ranking government official, a probable violation of Title VII of the Civil Rights Act, and possible malfeasance in office, one of the grounds for which a member of the Board may be removed from office under 5 U.S.C. 1202(d). Given Mr. Amador's significant position of trust, the charges raise both ethical and legal considerations.

The process by which the Board responded to and settled these allegations was seriously flawed. No investigation of the allegations was done. The agency's pre-complaint counseling process consisted merely of interviews of the Complainant and Mr. Amador, and a review of relevant personnel records. Other potential witnesses to the allegations were not contacted. No findings, of fact were made prior to the negotiation of the settlement agreement. The Board's General Counsel, though charged with drafting the settlement agreement, did not review the records of interviews with the Complainant and Mr. Amador prior to negotiating the settlement on the agency's behalf.

Intimidation, fear, and the desire to avoid public disclosure of the allegations pervaded the process. Shortly after the Complainant brought her informal complaint on February 17, 1993, the Complainant's EEO counselor withdrew, stating a fear of intimidation and a desire to remain anonymous. Janice Fritts, the Board's director of the Office of Equal Employment Opportunity, advised then Chairman Daniel R. Levinson that, due to the nature of the allegations and the rank of the accused, intimidation of agency employees who participated in the investigation was a serious risk. Ms. Fritts then assumed responsibility for serving as the employee's EEO counselor.[2]

Ms. Fritts also requested that the Equal Employment Opportunity Commission (EEOC) become involved in investigation at the pre-complaint counseling stage because: "the counselor in this action is alleging sexual harassment and termination based on sex (female) and reprisal, and the alleged perpetrator of these actions is an agency official at the highest levels in the agency. These facts, combined with the small size of the agency, make it *virtually impossible to conduct an inhouse counseling and investigation of these allegations in an objective intimidation-free environment.*[3] (emphasis added)

The next day, February 24, 1993, after a meeting with Chairman Levinson and General Counsel Llewellyn M. Fischer, Ms. Fritts withdrew her request to EEOC, noting in the EEO Counselor's Report (EEO report) that the Board would handle the matter internally "in order to expedite the counseling process rather than waiting on EEOC." The Board was well aware that if the informal complaint could not be settled within 30 days, the Complainant had the right to then file a formal, recorded complaint.

Chairman Levinson had written to General Counsel Fischer recommending that an outside inspector general be brought in the investigate the matter. No outside investigators were ever called in, however, because Mr. Levinson had also directed his subordinates to take no action without the consensus of the Board members. Mr. Amador did not consent. In effect, Chairman Levinson accorded Mr. Amador veto power concerning an independent investigation.[4] The Board's inspector general was going to interview Mr. Amador, but dropped his inquiry when the general counsel told him the Complainant had been reassigned elsewhere.

Ms. Fritts conducted a preliminary review of the allegations at the pre-complaint counseling stage. Her review of relevant personnel records and interviews with Mr. Amador and the Complainant, while useful, cannot substitute for an independent investigation. Indeed, the EEO report also contains allegations pertaining to racial discrimination by Mr. Amador, which are never addressed.

The chronology that follows is based on documents contained in the energy investigative file, including the EEO Counselor's Report (EEO report), and on interviews conducted by Subcommittee staff.

The EEO report compiled by Ms. Fritts contained information suggesting that Mr. Amador abruptly dismissed the Complainant after he learned that she had taken action to trigger EEO discrimination complaint procedures, as well as a defense by Mr. Amador. Ms. Fritts interviews Mr. Amador on February 24, 1993, and recorded in the EEO report: "The Vice Chairman stated on February 19, Robert Hernandez, his Executive Assistant, said he had talked to [the Complainant]. She was upset and told him that she wasn't going to leave, that the VC was not going to fire her; that if the VC fired her, she was going to file a sexual harassment charge against the VC, unless the VC kept her employed until September. The VC said this shattered all of his trust and confidence in her and *he decided to terminate her employment sooner*—that he wasn't going to be held hostage. He said that he was amenable to settlement." (emphasis added)

In an interview with Subcommittee staff on November 12, 1993, Mr. Amador said that, despite the superior performance ratings he gave the employee on February 9, 1993, he had lost confidence in her, and therefore, on that same day, he had given her 30 days' notice to find another job. The EEO report notes that on February 10, the Complainant told Mr. Amador's executive assistant that she [the Complainant] was being pressured to leave because of sexual harassment. Mr. Amador told Subcommittee staff that his response upon learning of this conversation was, "No one was going to blackmail me."

On February 17, 1993, the Complainant met with an EEO counselor at the agency, alleging sex discrimination in the form of sexual harassment and naming Mr. Amador as the harasser. By statute, this meeting triggered prescribed Title VII/EEO procedures, beginning with a 30-day period for investigation and pre-complaint counseling.

Around 11:15 a.m. on February 18, 1993, Mr. Amador fired the Complainant. According to the EEO report, Mr. Amador ordered his executive assistant, Robert Hernandez,[5] to escort the Complainant out of the office immediately. The Complainant left so quickly that she did not have the opportunity to retrieve her personal belongings. Agency personnel files recorded the Employee's involuntary determination on February 19, 1993.

Mr. Amador gave the Complainant notice on February 9 that he would no longer employ her after march 9. Mr. Amador could not recall to Subcommittee staff his reason for having the Complainant physically removed from the office at midday on February 18. One significant intervening event was the Complainant's filing an informal complaint of sexual harassment on February 17.

The Subcommittee makes no judgment as the validity of the allegations. However, this sequence of events and the EEO report suggest retaliatory firing, which should be investigated to determine if it violated Title VII of the Civil Rights Act. From both a legal and an ethnical perspective, violation of Title VII may constitute a breach of trust and malfeasance in office, one of the grounds for removal from office under 5 U.S.C. 1202(d). As then vice chairman of the Merit Systems Protection Board, it is reasonable to expect that Mr. Amador should have foreseen the implications of his action on February 18, 1993.

The severity of the consequences flowing from these allegations, and the information compiled in the EEO report suggesting possible wrongdoing by Mr. Amador, should have prompted the agency to arrange for a more thorough, independent investigation. Instead, the agency closed ranks and rushed to settle the matter within the 30-day, pre-complaint stage prescribed by EEOC regulations. This guaranteed that there would not be a formal, recorded complaint against Mr. Amador.

On March 17, 1993, the Complainant, through her counsel, notified the Board that she would not agree to an extension of the 30-day counseling period. The Complainant requested from the Board a notice of final interview, giving her the right to file a formal discrimination complaint within 15 days after receipt of the notice. On March 18, 1993, the Complainant and the Board entered into a confidential settlement agreement of her informal complaint.

Because there was no formal hearing and determination of the validity of the allegations, the question of whether Mr. Amador sexually harassed the Complainant, and then fired her in retaliation for her making an informal complaint, remains unanswered. Without an independent investigation and a factual determination as to the validity of the allegations, the integrity and impartiality of the agency as an adjudicatory body may be compromised.

The failure of the Board's own IG to investigate these allegations, and the intimidation of agency employees, indicate the need for an independent investigation. Therefore, we suggest that an independent, statutory inspector general carry out a full investigation of the allegations.[6] In the interim, it is

essential that Mr. Amador be required to recuse himself from consideration of all cases involving sexual harassment or retaliatory firing.

Due process for the accused in discrimination cases and accountability of high-level agency officials are not mutually exclusive. This case, however, is an example of inadequacy of the present system when a small agency fails to arrange for an independent, impartial investigation of the allegations against the official, but instead settles the matter with a sealed agreement. Secrecy does nothing to counter the perception that a high-level Administration official—in one of the federal agencies charged with rooting out discrimination—fired an employee in retaliation for her filing a complaint of sexual harassment, thus triggering the EEO process, and got away with it.

If your staff has any questions or needs additional information with respect to this referral, please contact Edith Holleman, Subcommittee staff director and counsel, or Andrea Nelson, Subcommittee counsel, at 202/225-6751. Thank you for your attention to this matter.

Respectfully yours,

COLLIN C. PETERSON,
Chairman, Subcommittee on Employment, Housing and Aviation.
TOM LANTOS.
KAREN L. THURMAN.
BOBBY L. RUSH.
FLOYD H. FLAKE.
BARBARA-ROSE COLLINS.

FOOTNOTES

[1]The employee, as confidential assistant to Mr. Amador, worked as one of his four staff members from March 11, 1991, until she was fired on February 18, 1993. As a Schedule C political appointee, the employee had none of the usual job protections accorded to career federal employees. However, under Title VII of the Civil Rights Act, it is illegal to fire any employee, including a Schedule C political appointee, based on discriminatory reasons. Dismissal of an employee in response to the employee's filing of an informal complaint is illegal under Title VII.

The employee's performance was rated "Outstanding" on February 6, 1992, for which she received a performance award of $1,621. She was promoted from GS-11 to GS-12 on April 5, 1992. And, on February 9, 1993, little more than one week before the employee was fired, Mr. Amador rated her job performance as "Exceeds Fully Successful," and recommended another cash award.

[2]29 C.F.R. 1614.105 sets out the procedures for the pre-complaint processing of discrimination complaints. In summary, individuals who believe they have been discriminated against on the basis of sex must consult a Counselor prior to filing a complaint. After reviewing relevant documents and interviewing interested parties, the Counselor must prepare an "EEO Counselor's Report."

[3]February 23, 1993, letter to Ronnie Blumenthal, Office of Federal Operations, U.S. Equal Employment Opportunity Commission, from Janice E. Fritts, Director, Office of Equal Employment Opportunity, U.S. Merit Systems Protection Board.

[4]March 1, 1993, memorandum from Daniel R. Levinson to he agency's General Counsel and Director of EEO states ". . . have the allegations underlying the matter investigated by an Inspector General in another agency. Please make sure that the Vice Chairman knows about this effort, and that Member Parks concurs in the choice of the designated Inspector General." In an interview with Subcommittee counsel, General Counsel Fischer stated that his directions were to proceed only with the consensus of the Members, and since that could not be obtained, he did not make arrangements for an independent IG investigation.

[5]Mr. Hernandez was not interviewed by Janice Fritts.

[6]The individual charged with conducting a full investigation may wish to interview the following current and former officials and employees of the Board: Daniel R. Levinson, former chairman, Ben Erdreich, chairman; Antonio C. Amador, former vice chairman; now member; Jessica L. Parks, vice-chair; Llewellyn M. Fischer, general counsel; Paul Riegart, Inspector General; Janice E. Fritts, director of the Office of Equal Employment Opportunity; Judy Bowes, confidential assistant to Vice Chair Parks; Evangeline W. Swift, director, Office of Policy and Evaluation; Robert Hernandez, exective assistant to Amador; and the Complainant.

SOMALIS MUST HELP THEMSELVES

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. PORTER. Mr. Speaker, the United States and the United Nations have sent a clear message to the Somali people, "Stop fighting each other and begin rebuilding your country or we are going to stop trying to help you."

Last December, the United States sent 28,000 troops to Somalia and joined the international community in providing billions of dollars of food to try to avert the starvation of as many as 2 million Somalis, mostly women and children. We had no ulterior motive in doing this. We simply wanted to help, and we realized that no other nation was willing to take the lead. As we have so many other times in our history, we took the chance, assumed the leadership role, and stepped forward to do what we knew was right. Our best effort, combined with assistance from other nations, was successful and hundreds of thousands were saved.

While we achieved the initial goal of saving the starving, we have had a far more difficult time getting the Somalis themselves to work toward stability in their own country. Somalia's 16 different political factions continue to fight among themselves and the safety of international relief workers is in doubt. Worse yet, the ability of United Nations and United States efforts to promote a long term solution to Somalia's problems through local institutions—police, courts, schools, village councils—is greatly hampered by the Internal Somali situation.

This apparent lack of interest in compromise for the greater good of their country has prompted U.S. and U.N. officials to threaten a cut-off of assistance to factions that impede nation-building.

Rebuilding Somalia will be a difficult task. Tremendous efforts must be made to build local institutions and to promote trust and understanding among the factions. The people of the United States have willingly started the wheel turning. The Somali people must understand very clearly that responsibility for rebuilding is theirs, not ours. The United States has been extremely generous in its efforts to give the Somali people a chance for stability. But we can go only so far.

I applaud Madeline Albright's announcement that United States assistance will go only to Somali factions willing to seriously negotiate a settlement to Somali's problems. I also call on Somali faction leaders to attend the assistance conference in Addis Ababa next week.

United States troops will be withdrawing from Somalia the latest on March 31. The Somali people must know that they have only until that date to take their destiny into their own hands and create a viable system to govern their country. After March 31, we will be gone and if they do not act now, their opportunity for a peaceful future may be lost.

FEDERAL JUNIOR DUCK STAMP CONSERVATION PROGRAM

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. ORTIZ. Mr. Speaker, I rise today to introduce legislation to establish the Federal Junior Duck Stamp Conservation Program within the U.S. Fish and Wildlife Service.

The Federal Junior Duck Stamp Design Contest and Conservation Program targets youth in grades K-12 for participation in activities which lead to a greater awareness of our Nation's living resources. Establishing conservation education in the arts, plus other subjects which have been traditionally associated with conservation education, will provide more students with learning opportunities related to concerns for the preservation of waterfowl and their habitat.

The annual Federal Junior Duck Stamp Design Contest, and numerous exhibitions of the winning stamp designs at State fairs, national refuges, art galleries, museums, Government buildings, and at educational conferences have been of invaluable assistance in helping to inform the public about the maintenance and the protection of waterfowl and wetlands. Conservation education materials are distributed to schools, refuges, organizations, and to individuals by the Federal Duck Stamp Office, in order to provide information on the Federal Junior Conservation Education Programs.

Mr. Speaker, the authorization I propose will allow the program to expand from 8 States to all 50 States. In addition to the social benefits of this program, it is expected that expansion of the Junior Duck Stamp Program will lead to an increase in future revenues generated by the larger Duck Stamp Program, thereby covering the costs of administering an expanded Federal Junior Duck Stamp Conservation Program. I urge you and the other Members of the House to support this initiative.

PRESIDENT CLINTON'S RETREAT FROM THE WAR ON DRUGS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. SOLOMON. Mr. Speaker, drug pushers are the primary cause of violent crime in this country and I take strong exception to the liberal rhetoric which argues that they are not violent criminals and therefore should not be taking up prison space. That's like saying an individual who pays another person to commit murder is not guilty of murder.

Drug pushers are responsible for most of the violence occurring on our streets. And for

President Clinton, in a speech last week, lecturing the African community on the need to take responsibility for this violence when his administration has retreated from the war on drugs is totally disingenuous.

The President gutted the Drug Czars Office. He tried to cut $240 million in domestic drug programs. His administration is trying to cut drug interdiction by over $200 million. They oppose the death penalty for drug kingpins and worst of all, the President has yet to develop a comprehensive drug control strategy.

And guess what the result has been? Drug use is up in this country. According to recent reports, drug use by eighth graders in this country is up. Crack, marijuana, LSD, heroin, and cocaine use is up. And drug related violence is up across the country.

We can all agree with the President's program to do more to rehabilitate hard-core drug addicts. What we cannot agree with is the administration's coddling of so-called recreational drug users and drug pushers!

Mr. Speaker, I've offered many drug amendments. A recent one was incorporated into the new National Service Program. It conditions eligibility in the program to remaining drug free.

If you live in Ohio, Massachusetts, Florida, Pennsylvania, Texas, Virginia, New York, and several other States and receive a drug conviction, your driver's license is automatically suspended. This was a result of my amendment to the 1991 DOD appropriations bill.

These amendments all have a common thread. They all emphasize the need to reduce drug demand in this country by going after casual drug users. Something this administration just doesn't get.

I would again point to the conclusion of the Rand Corp. study entitled "Money From Crime: A Study of the Economics of Drug Dealing in Washington, DC." According to this study, 74 percent of the cocaine purchased in Washington, DC is sold to casual drug users in the suburbs.

Just think about that for a minute, up to 75 percent of the cocaine sold in our major cities is bought by these so-called casual drug users in the suburbs.

People who use cocaine or other illegal drugs are financing the drug-related violence in the inner cities. And yet this President has been dead silent about casual drug use.

Is it only coincidental that the President's reactions to these events always coincide with the latest poll results.

Well, the drive-by shootings are taking the lives of innocent young children all year. And the leading cause of death for all African-Americans, between the ages of 15 and 34 is homicide. And most are drug related. The war on drugs is turning into a massacre in the black community but it was wrong of the President to place all of the blame on them.

It took a serious election defeat before this administration even woke up to the seriousness of the problem. The next time President Clinton is looking to place blame for this problem he should locate the closest mirror.

There is a direct correlation between the white flag this administration has hoisted in the war on drugs and the level of violence on America's streets.

This administration's casual policy regarding casual drug users puts criminals right back on the streets.

Let me just conclude by referring back to the Rand Corp. study and a quote from Washington Post columnist William Raspberry. "With affluent buyers at risk of obtaining criminal records or even imprisonment, selling in the street markets becomes much less attractive.

"The most effective strategies involve stiffening the sanctions on drug users, particularly the nonpoor, so-called recreational users."

Mr. Speaker, at this time I would include into the RECORD the most recent poll results regarding crime and drugs. It seems to be the only way to get this administration's attention.

THE RISE OF THE CRIME ISSUE

[In percent]

Survey date	Crime	Drugs
October	2	2
January 1993	5	3
April 1993	5	3
July 1993	5	4
September 1993	14	4
October 1, 1993	16	4
October 26, 1993	15	6

CONGRESSIONAL REFORM NEEDS MORE WORK

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. EMERSON. Mr. Speaker, this morning the Joint Committee on the Organization of Congress reported out the House version of congressional reform. Today marks the end of one phase and the beginning of another in the reform process, with the final destination being a vigorous—and probably heated—debate on the House floor culminating in a vote by the full House early next year. I look forward to that time. It will be a very important event for Congress and the Nation.

Briefly, I want to thank my colleagues on the Joint Committee who worked diligently and honestly towards the reform effort. It was a long and interesting year of hearings and meetings and discussions and debate. The bill before us proposes some positive changes—changes I have advocated and strongly support such as biannual budgeting, committee and subcommittee membership limits, a longer work week, floor and committee scheduling improvements and important oversight requirements. Unfortunately, I cannot say that the bill before us is my idea of profound and far-reaching congressional reform. However, this is the only bill the House Members of the Joint Committee will have to work with. This being the case, I am committed to working within the legislative process to vastly improve this document so that it will reflect a vision of real congressional reform; and, we hope this measure will come to the floor under a generous and open rule that will permit the House full debate of the subjects that have been the preview of the Joint Committee, and the opportunity to amend the committees work.

It is difficult for a representative democracy to thrive in a climate when leaders are constantly eyed with suspicion and distrust. Still, I believe that this institution is worthy of great respect, and one of the tasks still before us is to restore public confidence in our Government. Today, we are moving toward that end, but we are not yet there.

Understandably, congressional reform is not necessarily a well-understood subject, but needed reform will positively impact the Congress and the Nation. The day-to-day business of Congress and how this body operates does affect the substance and quality of the legislation we pass. Most importantly, unless Congress can prove to the country that it has both the fortitude and desire to change itself, Congress will not have the credibility to make the changes the country needs.

In closing, I would like to remind my colleagues of the truly bipartisan spirit which led to the creation of the Joint Committee on the Organization of Congress. I hope that this spirit that unfortunately was missing in the mark-up will find its way to the House floor where I believe more of our colleagues are committed to true congressional reform. I would like to submit for the RECORD, and associate myself with the remarks made by my colleague, the distinguished vice chairman of the Joint Committee on the Organization of Congress, my friend and congressional classmate, the Honorable DAVID DREIER of California. Mr. DREIER's remarks follow:

STATEMENT OF VICE CHAIRMAN DAVID DREIER, JOINT COMMITTEE ON THE ORGANIZATION OF CONGRESS

Mr. Chairman, it has been a long and somewhat disappointing process. After nearly a year of deliberations, including six months of hearings and taking testimony from hundreds of witnesses, and in speaking with colleagues on both sides of the aisle, I was confident that all of the major options for reform would be placed before us in the chairman's mark. I, as well as my House Republican colleagues, came away from our two-day full committee retreat at the Naval Academy with optimism that the reform process would yield a bicameral and bipartisan series of recommendations that would significantly change this institution for the better.

Yet, our joint markup slipped from early September to October to November 3rd. After the third delay in the joint committee process, the Senate subcommittee moved on its own, and they were justified in taking that action. At this late date, we all have to acknowledge that the full Joint Committee on the Organization of Congress will never meet together again. That is a tragedy for the process of reform.

During this week, the House subcommittee has attempted to do as much as it can to move the process forward. I acknowledge that there are some significant elements in the base bill—particularly the recommended reforms in the ethics process and in bringing Congress into compliance with most, if not all, of the laws that apply to the private sector and the executive branch. I also acknowledge that the committee assignment limitations in the base bill are a significant step forward, and I would note that those limitations and the tough waiver provisions to accompany them were contained in my amendment to comprehensively reform the committee system.

I also acknowledge that eight amendments, offered by Republican Members, were adopted during the markup of the subcommittee. Some were more significant than others. I was particularly pleased that biennial budgeting, including appropriations, and

our proposal to make committee voting records more accessible to the public through the Congressional Record were accepted by a clear bipartisan majority of the subcommittee.

Nevertheless, there are several very important elements to comprehensive congressional reform that do not appear in the bill, as amended. A ban on proxy voting, jurisdictional reform, a significant reduction in the cost and unnecessary bureaucracy of the legislative branch, as well as a number of other bold new ideas for reform were all rejected. We were not even able to agree that the Rules Committee should be required to spell out waivers of points of order—a proposal that would make it possible for Members to have a clear understanding of which provisions of the standing Rules of the House are being abused in the consideration of legislation.

I have long been concerned by the attempts of a small but vocal, faction of the Democratic Caucus to derail this effort. To some degree, they have succeeded. Twenty-five amendments, offered by House Republicans, fell in a 6-6 tie. The irony, of course, is that many of these amendments were not meant just to benefit the minority. Their purpose was to enhance the ability of a majority of members, Democrats and Republicans, to work their will in the People's House.

We can do better than this, and I hope we can on the floor of the House under an open rule. The Chairman admitted as much when we opened our proceedings this week when he indicated that this package was not all he had hoped for. I appreciate the assurances of the Chairman that he is willing to support as generous a rule as possible. It will come as no surprise to him, however, that "generous" is not, in my view, how we should proceed. This is just the first step toward reform of the Congress. Our recommendations will have to be reviewed by our colleagues. It is they that, in the end, should have the final vote. Only an open rule will assure that the will of the House can be determined. This institution belongs to the people and it is to the people's representatives that we should fully entrust the responsibility on this question.

Nevertheless, despite my deep and serious misgivings about these recommendations as a whole, I will support the motion to report to keep the process moving. In doing so, I want to state emphatically that this package is the lowest common denominator reform package. It is not a bipartisan package. It is the Democrats' package.

However, I have faith, not in the "old bulls," but in the membership. At some point, Mr. Chairman, the House will have an opportunity to work its will. Based on my recent experience with the bipartisan effort that went into the successful passage of the North American Free Trade Agreement, I am holding out the hope that we will be able to work in a similar bipartisan fashion that will allow the House to work its will on the floor. If so, I am confident that the membership, Democrats and Republicans, will do the right thing.

INTRODUCTION OF THE POSTAL RESPONSIBILITY ACT OF 1993

HON. SAM COPPERSMITH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. COPPERSMITH. Mr. Speaker, today, sixteen of my colleagues and I introduced the Postal Service Fiscal Responsibility Act of 1993. This legislation requires the Postal Service to reconsider its unwise decision to replace its existing logo with a new bird.

Given our Federal budget deficit no Government agency or quasi governmental agency has any business in exalting style over substance. If the Postal Service truly wishes to improve its image among its customers, our constituents, it should do so by improving reliability, improving service, and fulfilling its claims of job reductions. The Postal Service should focus its attention, and that of the public, on its substantive efforts, not on style and dress.

My legislation is simple. Unless the Postal Service withdraws its plans to put the new logo on stationary, buildings, uniforms, and trucks, Congress will rescind $6.6 million from the fiscal year 1994 appropriation. This bill sends a clear message that Congress understands symbolism too, and that our constituents consider the new bird wasteful spending, brought to us by the same Madison Avenue thinking that gave us new Coke.

Postal workers from my district have told me that they disagree with the decision to spend money on an unneeded change at this time. Our constituents are tired of gimmicks. They want real, substantive change, not a glossy new logo.

We should not allow image to triumph over today's reality of frugality. Join me as a cosponsor of the Postal Service Fiscal Responsibility Act of 1993 and return the new bird to sender. Your constituents will thank you for it.

TRIBUTE TO BISHOP-ELECT LARRY D. TROTTER

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. RUSH. Mr. Speaker, I rise today to honor Rev. Larry Darnell Trotter, pastor of the Sweet Holy Spirit Missionary Baptist Church in Chicago on the occasion of his appointment and consecration to the office of bishop in the Full Gospel Baptist Fellowship over the Midwest region of the United States of America on December 30, 1993.

Bishop-elect Trotter has served as pastor of Sweet Holy Spirit for the past 12 years. During his pastroate, the Sweet Holy Spirit congregation has grown from 25 members to nearly 5,000 Saints. Bishop-elect Trotter served as youth minister at the Greater New Mount Eagle Baptist Church from 1976 until 1981.

A native of Chicago, IL, Bishop-elect Trotter is a graduate of the Chicago Public School system. He attend the Moody Bible Institute. He and has wife, the former Ms. Celeste Gibbs, have been blessed with five children.

Bishop-elect Trotter is the president of the African-American Pastors Fellowship and a member of the Southern Baptist Convention and the Illinois Baptist State Association. He is also a member of the Chicago Metropolitan Baptist Association, the Black Council of Churches, the Roseland Clergy Association, Operation PUSH, and the Baptist Pastors Conference.

A world-renown speaker, Bishop-elect Trotter has preached in Greece, Belgium, Israel, Kenya, Uganda, Ethiopia, and Zimbabwe. He has spoken extensively in the United States, including the States of New York, Missouri, Pennsylvania, Michigan, New Mexico, Tennessee, Alabama, Georgia, and Ohio.

Mr. Speaker, Bishop-elect Larry Darnell Trotter has dedicated his life to God. Through his ministry, thousands have been blessed, healed, and delivered. I am privileged that in this life our paths have crossed. I am proud to enter these words into the RECORD.

THE HOUSE VOTE ON H.R. 51—THE NEW COLUMBIA ADMISSION ACT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Ms. NORTON. Mr. Speaker, I come to the floor this morning to thank Members who voted to give the District a seat at the table of democracy yesterday. I especially thank the leaders of the House for allowing a historic debate for the first time in more than 200 years.

For many, yesterday's vote was not the easiest vote they have ever cast. But Members who voted with us were unable to vote against parity in citizenship for Americans who bear the full weight of citizenship obligations.

We got many votes from unexpected quarters in this House. Some who had sat through debates where District laws were summarily overturned were unable to justify the District as the lone exception to American principles of democratic representation and self-government. Others remembered how fiercely their own constituents resist taxes even with representation in the House. They could imagine the Federal tax-paying rage of District residents who rank third per capita, far above what most Americans who are represented here pay.

I say to you, my colleagues, "I shall return" to statehood. With a base now of 60 percent of the Democrats, a substantial majority of my own party, I will not stop until we go over the top.

However, I do not intend to let the House and the Senate off the hook while we continue to build support for statehood. Many in the House have indicated that they indeed want greater self-rule for the District. Well, some elements of statehood are immediately achievable. I intend to give Members the opportunity to make good on the prevailing sentiment I hear on both sides of the aisle in the House—that statehood or not, some way should be found to afford District residents at least the self-government and representation rights other Americans enjoy. I will press next year for bills no American, who claims democracy as a creed, can oppose.

H.R. 2071 will give the District control over its own tax funds raised exclusively in the District. It also will allow District laws to become effective as soon as enacted rather than after 30 to 60 legislative days, a period that can stretch to months. This bill takes little authority from the Congress. What it does is to remove the shortcuts Congress employs to overturn District laws. Until statehood is achieved, Congress could still do so by introducing legislation through the normal process.

After yesterday's vote, I hope that this House will not resist this additional dose of democracy for the District. "Try it, you might like it." District residents deserve it. And so does the Congress. These bills will relieve the House of the details of local government, which miniaturize this body and distract it from the large and urgent issues confronting our country.

I invite Members to call my office and agree to cosponsor H.R. 2071. I thank you again for the votes so many of you gave the District yesterday. I ask you to continue to march with us until my constituents are as free and equal as you have insisted that yours must be.

H.R. 2921, THE HISTORICALLY BLACK COLLEGES AND UNIVERSITIES BILL

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. HASTINGS. Mr. Speaker, I wish to announce my support for H.R. 2921, a bill which authorizes grants to historically Black colleges and universities. This is a subject that is near and dear to my heart since I am a proud graduate of Fisk University.

This bill will authorize $25 million to assist historically Black colleges and universities in the restoration process of historic landmarks on their campuses. Five million dollars of this funding will go directly to Fisk University to help rehabilitate beautiful historic buildings that are in great need of repair.

Fisk, which first opened its doors as the Fisk School to a student body of former slaves in 1866, is a symbol in African-American communities nationwide of what can be achieved through high quality higher education coupled with dedicated work. The university is a small, predominantly Black institution with a strong liberal arts and sciences emphasis.

I urge my colleagues to join me in supporting H.R. 2921 to ensure that the Fisk tradition may be extended to teach young African-American students well into the future.

FINDING A SUITABLE REPOSITORY FOR HIGH-LEVEL RADIOACTIVE WASTE

HON. MARJORIE MARGOLIES-MEZVINSKY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Ms. MARGOLIES-MEZVINSKY. Mr. Speaker, recently Members of the Pennsylvania congressional delegation wrote to President Clinton bringing to his attention the concerns of our State regarding the Nation's spent nuclear fuel management program. Underscoring the importance of this issue to our State, the Pennsylvania House of Representatives voted 194 to 0 earlier this year in favor of a resolution calling upon the President and Congress to act expeditiously in finding a suitable repository for the Nation's high-level radioactive waste.

Members of the Pennsylvania delegation likewise believe it is imperative that the Federal Government move forward with its efforts to develop a suitable storage site for spent nuclear fuel and that the Department of Energy take action to ensure it will meet its obligation to begin accepting spent fuel from utilities beginning in 1998.

The reason for this urgency is that in Pennsylvania, all but two of the nine electricity generating reactors will be out of spent fuel storage space shortly after the turn of the century. After that, we face the choice of either constructing additional temporary storage facilities, which is a safe but expensive option, or having to shut down efficient, reliable, and nonpolluting powerplants that supply a significant percentage of the State's electricity.

It is important for my colleagues to understand that this program is being funded by American electric ratepayers in 41 States who have paid more than $7.6 billion into the nuclear waste fund. Pennsylvania ratepayers have paid more than $500 million into the fund. For the sake of our energy security, for economic stability, for environmental safety and in fairness to the hardworking American ratepayers who have paid in good faith for this program, justice demands that this money be made available to get on with the work of resolving this issue.

We applaud Secretary O'Leary's recognition of DOE's moral obligation to move forward with its program to determine the suitability of Yucca mountain as a repository site and meet its 1998 responsibilities. However, Congress has the responsibility to make the funds available for this to happen.

The Pennsylvania congressional delegation joins with the Pennsylvania House of Representatives in supporting Secretary O'Leary's efforts to establish a new funding mechanism—a revolving fund—which would ensure that ratepayer money is available to the program as needed and not subject to congressional budgetary constraints, which would divert these funds for deficit reduction. To be sure, this would be accomplished while retaining strong congressional oversight.

Mr. Speaker, this is not only an urgent matter for Pennsylvanians, but for our environment, for our energy security, and for American ratepayers who are shouldering the expense, which I stated to date is more than $7.6 billion. I ask Members to join with me in urging DOE to fulfill its responsibilities with the spent-fuel management program and adopt a revolving fund mechanism to jump start this vital energy program and ensure that sufficient funds are available when needed.

Mr. Speaker, I ask that the letter sent by the Pennsylvania delegation to the President of the United States and the resolution adopted by the Pennsylvania House of Representatives be inserted into the RECORD.

PENNSYLVANIA HOUSE RESOLUTION NO. 91

A Resolution memorializing the President and Congress to act expeditiously in procuring a site or sites for the storage of high-level radioactive waste

Whereas, Decades into the commercial use of nuclear power the government has failed to establish a permanent high-level radioactive waste disposal facility; and

Whereas, Nuclear power facilities must store high-level nuclear waste onsite; and

Whereas, There are currently 25 nuclear facilities in the United States that will be forced to expand onsite storage capacity by 1996; and

Whereas, Congress enacted the Nuclear Waste Policy Act of 1982 and directed the Department of Energy (DOE), through its Office of Civilian Radioactive Waste Management, to establish a program for the management of the nation's high-level waste, including high-level radioactive waste and spent nuclear fuel, and for its permanent disposal in a deep geologic repository; and

Whereas, Congress placed a fee on electricity generated by nuclear energy plants and directed that the funds collected via the fee be deposited in the Nuclear Waste Fund to pay for the development of a waste depository program; and

Whereas, Both the National Academy of Sciences and the Nuclear Waste Technical Review Board, which were established to provide Congress and the Administration with sound scientific and technical advice, have concluded that they do not know of any scientific reason to discontinue the studies at Yucca Mountain, Nevada; and

Whereas, Both the National Academy of Sciences and the Nuclear Waste Technical Review Board have also recommended more studies to determine if the site is suitable for a repository, particularly studies underground; and

Whereas, DOE is prepared to begin underground studies if adequate funding is available; in fact, DOE has begun constructing the experimental studies facility and broke ground on November 30, 1992, at the Yucca Mountain site for the surface facilities needed to support the experimental studies; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania call upon the President and Congress to take action to ensure that a timely and comprehensive study at sites, including the site at Yucca Mountain, be conducted and concluded to establish a site for a permanent repository; and be it further

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania call upon the President and Congress to work with the utilities and other affected industries and to explore approaches that will allow DOE to meet its obligation and satisfy the requirements set forth in the Nuclear Waste Policy Act and contained in its contract with nuclear facilities to receive spent fuel from utilities beginning in 1998; and be it further

Resolved, That copies of this resolution be transmitted to the President, the President pro tempore of the United States Senate, the Speaker of the House of Representatives and to each member of Congress from Pennsylvania.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 10, 1993.

Hon. BILL CLINTON,
The President, The White House,
Washington, DC.

DEAR MR. PRESIDENT: Earlier this year, the Pennsylvania House of Representatives, by a

vote of 194–0, approved a resolution (attached) "memorializing the President and Congress to act expeditiously in procuring a site for the storage of high-level radioactive waste."

As members of the Pennsylvania Congressional Delegation, we believe it is imperative that the Federal government move forward with its efforts to find a suitable site for storing high-level radioactive waste.

Specifically, we fully support the resolution's call for action to ensure that the Department of Energy will meet its obligation to begin accepting spent fuel from utilities beginning in 1998.

Many utilities are concerned about delays in waste acceptance because they will soon be unable to continue to store spent fuel onsite in their spent fuel pools. Of the nine reactors in Pennsylvania, all but two are expected to lose their full core discharge capability shortly after the turn of the century. The construction of additional on-site storage facilities, while safe, is expensive. Utilities and their ratepayers will be, in effect, paying twice for the storage and disposal of waste—first to the Nuclear Waste Fund, and second time for added on site storage necessitated by delays in the DOE program.

In addition, we would like to express our support for Secretary of Energy Hazel O'Leary's efforts to establish a revolving fund which would allow contributions to the program to be spent in a timely and efficient manner. It is imperative that the program receive adequate funding if the Department is to meet its obligation in 1998.

Since enactment of the Nuclear Waste Policy Act, electric utilities in 41 states have paid $7.523 billion into the Nuclear Waste Fund through 1992. Pennsylvania utilities have contributed $534.1 million to the Fund through 1992. Less than half of the money collected in the Nuclear Waste fund has been spent on the high-level waste program. Nearly $4 billion remains unexpended in the Fund.

Finally, it is our understanding that the Department of Energy has announced that it will be conducting a review of the high-level waste program in the coming months. We would like to express our hope that the review will not be accompanied by a moratorium on the valuable and necessary work currently being conducted by the Department at Yucca Mountain and that the review will be limited in scope so that it will not in any way interfere with forward progress on the characterization of the site at Yucca Mountain.

Thank you for your consideration of our views on this very important issue.

Sincerely,

Hon. John Murtha, Hon. William Coyne, Hon. Thomas Foglietta, Hon. Robert Borski, Hon. Paul McHale, Hon. Tim Holden, Hon. Ron Klink, Hon. Paul Kanjorski, Hon. Joseph McDade, Hon. Robert Walker, Hon. William Clinger, Jr., Hon. Curt Weldon, Hon. Rick Santorum, Hon. James Greenwood, Hon. Lucien Blackwell, Hon. Marjorie Margolies-Mezvinsky.

PENNSYLVANIA CONGRESSIONAL DELEGATION,

Washington, DC, September 24, 1993.

Hon. BILL CLINTON,
The President, The White House
Washington, DC.

DEAR MR. PRESIDENT: Earlier this year, the Pennsylvania House of Representatives, by a vote of 194–0, approved a resolution (attached) "memorializing the President and Congress to act expeditiously in procuring a site for the storage of high-level radioactive waste."

As members of the Pennsylvania Congressional Delegation, we believe it is imperative that the Federal government move forward with its efforts to find a suitable site for storing high-level radioactive waste.

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Thank you for your consideration of our views on this very important issue.

Sincerely,

Hon. Harris Wofford, Hon. Bud Shuster, Hon. Tom Ridge, Hon. Arlen Specter, Hon. George Gekas, Hon. Bill Goodling.

TRIBUTE TO WRYM 840 AM

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. KENNELLY. Mr. Speaker, I rise today to recognize a very important occasion in the First Congressional District of Connecticut. I speak of the 25th anniversary of the establishment of the State's largest and oldest Spanish-language radio station, WRYM–AM. I also wish to give equal recognition to the accomplishments of the founder and director of WRYM, Mr. Omar Aguilera.

Radio communications has traditionally been one of the primary sources of news, information, and entertainment for diverse groups in our State. WRYM and Omar Aguilera have been performing this task successfully and admirably for a quarter century in the Spanish-speaking community of our State. Presently WRYM reaches over one-quarter million people in our region with information, commentary, music, and live coverage of many important events. Omar Aguilera and WRYM have provided a forum for many worthy causes and valuable public services.

Omar Aguilera first came to the United States from Argentina in 1962. Then a professional soccer player, he brought a wealth of enthusiasm and knowledge to our area about this great sport. He joined with Mr. Walter Martinez in founding Spanish-language programming on WRYM in 1962, beginning with a half-hour broadcast on Saturdays. In the intervening 25 years a full range of Spanish-language programming has taken to the air 7 days a week, and Mr. Aguilera has brought to our community important and exciting reporting from throughout the United States and Latin America.

Assisting Mr. Aguilera at WRYM is a team of dedicated professionals, including Mr. Alberto Virdo, engineer; Mr. Karl Virdo Ciarci, secretary; and announcers Pedro Garcia, Danny Delgado, Felix Pagan, and Juan Campos, all of whom have endeared themselves to the Spanish-speaking audience throughout the State.

Mr. Speaker, I am very pleased to mark for the benefit of my colleagues 25 years of valuable public service by WRYM and Mr. Omar Aguilera, and to wish them many more accomplishments in the future.

THE NEXT BOSNIA

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. ENGEL. Mr. Speaker, the horrors which the world has witnessed in Bosnia and Herzegovina continue unabated. Many foreign policy experts argue rightfully that this tragedy would have been prevented by firm international action at the onset of the crisis.

Western governments are now faced with yet another opportunity to stem aggression in former Yugoslavia. The Republic of Kosova, where 2 million Albanians live under brutal Serbian-imposed repression, threatens to become the next Bosnia. Already, Serbian leaders, such as accused war criminal Zeljko Arkan Raznjatovic, have expressed their desire to cleanse Albanians from Kosova.

The early warning signs of nearing aggression are clear: Serbs have closed Albanians schools and health care facilities, Albanians have been dismissed from their jobs, thousands of armed Serbians regular and paramilitary troops have been moved into Kosova and heavy artillery guns are aimed at major Kosova cities.

The United States must make certain that bloodshed in the Balkans does not spread into Kosova. We must make it clear to the Serbs

that the international community will not tolerate gross human rights abuses and threats of massacre in Kosova. Only through such vigilance can the next Bosnia be prevented.

The following article written for the New Republic by Anna Husarska from Kosova's capital, paints a vivid portrait of the tangible fear which currently exists in Kosova. I commend the article to my colleagues and invite them to address inquires on Kosova to the Albanian Issues Caucus co-chaired by myself and Representative MOLINARI.

[From the New Republic, Nov. 15, 1993]

THE NEXT BOSNIA

(By Anna Husarska)

Waiting at the bus terminal in Skopje, Macedonia, I took out my digital wristwatch, which holds telephone numbers, and entered the names of my contacts in Pristina, the capital of the southern Serb Province of Kosovo. I must have looked slightly ridiculous, because Marco, an Italian photographer accompanying me to Pristina, stared at me, bemused. So as not to seem paranoid, I handed him a stack of reports and press clippings on human rights abuses in Kosovo. Several cited cases of journalists having their notebooks confiscated.

No sooner had we crossed the border from Macedonia into Kosovo than the bus—filled entirely with Albanians—was stopped at a checkpoint. Serbian policemen came on board and, at random, dragged off two men and searched them thoroughly. Then the policemen ripped up the address books that the Albanians had in their wallets. The two men returned to the bus and sat without a word. When I asked them what happened, they shrugged. It obviously was not the first or the last time such a thing had happened to them; they; too, said they had made copies of their addresses.

My interest in their face won Marco and me some sympathy among the passengers. When we arrived in Pristina, a couple of them offered to show us the way to the municipal bus stop. But when we started the usual chit-chat, they kindly asked us not to speak to them in public, and to walk at some distance. Befriending foreigners can bring them trouble. (I had read about that in my stack of reports, too.)

We wanted a good half-hour for the bus the embargo imposed on the whole of Serbia has hit Kosovo as well, stymieing municipal transportation, electricity and most other utilities and public services. During those thirty minutes, two convoys of cars decorated with "Just Married" streamers passed by honking. Both were adorned with flags bearing a double-headed black angle on a red background. This is the Albanian flag, and—as the people at the bus stop explained to us—except for weddings, Albanians in Kosovo cannot display it.

One does not have to be an habitué of repressive regimes to feel the tension here. The Serbian militia is everywhere. (Our contacts in Pristina instructed us to meet them on a back street close to the Grand Hotel, but not in front of it. The hotel, they explained, is the hangout of the Serb army and secret police forces.) While the Serbs continue their war in Bosnia, here in tiny Kosovo (population 2 million) they apply a subder combination of oppression and repression. The oppression is patterned after apartheid: a minority denying all rights to a majority (in Kosovo, Albanians outnumber the Serbs nine to one, but the Serbs outgun the Albanians ten to zero). The repression is reminiscent of Polish martial law: Serb forces (black and blue camouflage, bullet-proof vests, walkie-talkies) patrol the towns and villages, arresting and beating Albanians with little regard to law. The Albanians' response is a nonviolent resistance a la Solidarity.

When we finally hooked up with our contacts, they led us to a small wooden hut that stood in a muddy wasteland next to the central police station. A few expensive Japanese cars were parked outside. Plaques on either side of the door read: "Albanian PEN Center" and "Kosovo Writers Association." It did not look like a base of the Albanian resistance (especially given its proximity to the police), but it is one. Although there is no plaque announcing it, this is the headquarters of the Democratic League of Kosovo (LDK), the leading party of the republic. Inside, amid humming faxes and photocopying machines, a staff of well-dressed young men who look like they're fresh from Wall Street prepares statements, translates bulletins and informs the world about the persecution all around them.

The normality is deceptive. The Serbs avoid hurting Albanian leaders because it would get them bad publicity; but they do not shy away from beating and arresting civilians, raiding houses and stealing jewelry, foreign cash and cameras from ordinary people. Adam Demaci, president of Kosovo's Council on Human Rights, says that in the town of Glogovac (population 6,000), 171 houses were raided, 403 people were beaten and 156 arrested in reprisal for the deaths of two Serb policemen.

This sort of thing has been going on for nearly four years, as Kosovo's status as a de facto autonomous republic within the Yugoslav federation, granted by Josip Broz Tito in 1974, was gradually taken away. Ever since he came to power, Serbia's President Slobodan Milosevic saw the Kosovo issue as a way to increase his own power by inflaming Serb nationalism. He dissolved the local parliament in July 1990, and Belgrade embarked on a wave of mass purges of "disloyal" Albanians. According to Muhamet Hamiti of the Kosovo Information Center, more than 130,000 ethnic Albanians, or Kosovars, have been dismissed from jobs in government, the police, media schools and hospitals since 1989. Hamiti, formerly a professor of English literature at the University of Pristina, was thrown out from his job and replaced by a Serb.

The Albanians' response to the Serbs' seizure and monopolization of Kosovo's public institutions was to boycott them and create their own. The parliament went underground (it now operates from Stuttgart), in October 1991 it declared the region's independence. In May 1992 secret parliamentary and presidential elections were held in Kosovo: LDK won 76 percent of the vote, and Dr. Ibrahim Rugova, a poet and literary critic, was elected president of the republic.

Under the independent government, Kosovars set up their own schools with Albanian curriculums and their own clinics and hospitals where Albanians (denied health care in Serb-run hospitals) are attended by Albanian doctors, most of whom were fired from their previous posts. These institutions, plus the welfare system for those who lost their jobs, are financed by the Kosovo Central Fund, whose money comes from Kosovan émigrés. (Last year, it received more than $1 million in donations.)

President Rugova is 48 years old; his hair, balding on top, is long and disheveled on the sides. When he received us in his office in the LDK hut, he was uncharacteristically without the trademark kerchief that he wears around his neck. Rugova says he is very proud of Kosovars—"we succeeded in leading a nonviolent fight and in surviving"—but is rather pessimistic about the future of the region. "The bloodbath would be worse here than in Bosnia, because of the higher population density. And besides, we have nowhere to go. The border with Albania is all mountains."

Rugova says he is counting on international support to avoid being swallowed by the Serbs. "We want preventive measures. We have asked for the establishment of an international trusteeship or a protectorate." His demands sounded faintly unrealistic, coming just a week after the Serbs expelled from Kosovo a group of observers from the Conference on Security and Cooperation in Europe. "The Serbs now want all of our territory," he says matter-of-factly. "In Bosnia, they grabbed the land because of ethnic rights; here in Kosovo they claim historical rights."

In deed, for the Serbs the region is the cradle of their civilization. In 1889, under czar Lazar, the Serbs battled the Ottoman forces. They lost, and the defeat ended the medieval Serb Empire. Six hundred years later, Milosevic pledged to more than 1 million Serbs gathered for the anniversary of the battle that never again would anyone beat the Serbs. Until now, he has been proved right. The Serbs are getting away with creating a Greater Serbia. With the war in Bosnia almost over, the may look for other outlets for their aggression. Kosovo is in their sights.

CONGRATULATIONS TO OAKLAND, CA: AN ALL-AMERICA CITY

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. DELLUMS. Mr. Speaker, today I rise to share with you and my colleagues that Oakland, CA, my hometown, the city which I represent, in the ninth California Congressional District, has been awarded the distinguished All-America City Award for 1993.

The National Civic League has designated Oakland a 1993 All-America City. This prestigious award is given to cities that demonstrate outstanding levels of citizen participation and innovation in government. The award also recognizes Oakland's diversity and community vision.

The All-America City Award is a constant reminder that people in a community can work together to identify and solve their common problems. The 44-year-old AAC Award Program, sponsored by the Allstate Foundation, is a major part of the National Civic League's efforts to encourage and recognize civic excellence. The major award criteria are as follows: Broad-based citizen involvement, reflecting the communities demographics; public, private, and nonprofit sectors participate in decision making; community resources are utilized and mobilized creatively; projects have significant impact in light of challenges, resources and circumstances; community is willing to confront critical issues; project results and impacts are clearly demonstrated and measurable.

Oakland's winning application included descriptions of three projects that were examples

of the above criteria: Safe streets now; the Native American health center; the firestorm recovery project.

Oakland was chosen out of 151 cities who were considered, and prevailed out of the 151 to be No. 1. Oakland has the prestigious position of being the only All-America City in California to have won this award twice, the time before being in 1956. Oakland won twice, Oakland applied twice. Oakland also is the first city to have won this award and also be chosen to host the America-City awards celebration for the next year's competition, which will be held June 12, 1994.

You see why I am so pleased and proud to share this news as it testifies that Oakland truly exemplifies a city where diversity is strength. These strengths can provide a guide for other cities, as we seek to improve the quality of life for our communities.

AN ACT TO PROVIDE FOR ENVIRONMENTAL RESPONSE

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. OXLEY. Mr. Speaker, today, I am introducing legislation that, if enacted into law, will dramatically improve the way in which contaminated sites are cleaned up in this country. It is intended to establish a process that provides for faster, protective response actions at more sites at a lower overall cost and thus achieve the fundamental goal of expeditiously abating significant risk to human health and the environment through cost-effective methods based on accurate risk analysis. The bill finds its origin in H.R. 6199, the Voluntary Environmental Response Act of 1992, introduced by Norman F. Lent in the 102d Congress, when he was my esteemed colleague and ranking minority member of the Committee on Energy and Commerce. He spearheaded the efforts of this body to jump-start voluntary cleanups at contaminated sites and I am pleased to follow him in this important endeavor.

This bill creates an alternative, streamlined mechanism to be administered by State governments for the purpose of addressing contaminated sites through voluntary response actions. This bill provides financial assistance for States to develop and administer State voluntary respone programs or qualified programs. Moreover, it provides flexibility to States by allowing existing State laws, regulations, or programs that meet the requirements of the act to obtain such funding.

This legislation would allow parties wishing to respond to releases of contaminates at eligible sites to "opt in" to a State's qualified program. By conducting an environmental response under a qualified program, a party would be able to efficiently and expeditiously remediate a site in an alternative, simplified regulatory scheme without becoming entangled in the burdensome bureaucratic process currently in place. At the same time, such voluntary response would be required to achieve standards that ensure the protection of human health and the environment, an important aspect of the bill is that it allow for streamlined review of response actions under State qualified programs. Moreover, of sites that are primarily of State interest, States have additional flexibility to develop their own review procedures.

Another significant and fundamental aspect of this bill is the provision for selecting response actions based on site-specified risk assessment that would rely on reasonable exposure assumptions and would consider the current and future use of the site. This is a significant departure and improvement upon current EPA practice under superfund and other environmental statutes with response to risk assessment. In addition, the bill provides for more balanced consideration of remedial options, including both containment and treatment, so as to allow implementation of containment remedies or remedies that combine treatment and containment methods provided they ensure the long-term protection of human health and the environment with no preordained preference either method.

This legislation is desperately needed at this time. It is a well known fact that the remediation of identified contaminated sites in this country has proceeded at a disgracefully slow pace and that Government agencies simply do not have the resources to address these sites. Moreover, the current regulatory and statutory process has led to excessive cost with correspondingly little accomplishment in terms of actual cleanup and has delayed the revitalization urban industrial areas.

The benefits of providing a mechanism to address contaminated sites at the State level while ensuring protection of human health and the environment would be tremendous. These qualified programs would relieve the pressure on overburdened State and Federal agencies by encouraging private parties to voluntarily undertake response actions. By streamlining the process, response actions would proceed at a more expeditious pace. Furthermore, the significant transaction costs associated with response actions initiated pursuant to current regulatory programs would be greatly reduced. Finally, the economic distress experienced by the communities in and around urban industrial areas would be relieved as these areas are revitalized thus providing economic and employment opportunities for the people of the United States, particularly the poor, unemployed, and disadvantaged.

Mr. Speaker, this legislation is intended as a response to the growing backlog of contaminated sites that are not being addressed in a timely manner under the existing statutory cleanup programs. The failure of these programs to result in any meaningful improvement in our Nation's hazardous waste problems is well known. Something must be done to solve this problem. I urge my colleagues to support this legislation.

LEGISLATION TO AMEND SECTION 1341, TITLE 28 U.S.C. INTRODUCED

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. SYNAR. Mr. Speaker, today I introduce legislation designed to restore fairness to the collection of State and local property taxes from large, interstate railroads. My bill simply requires that property tax disputes between railroads and State and local governments be litigated first in State court, rather than in Federal District Court, just as is required in any other State or local property tax dispute. The bill also treats railroads like any other taxpayer by allowing unlimited access to Federal District Courts, once all State court remedies are exhausted.

My bill is needed because the railroads' current ability to go directly into Federal court to litigate State and local property tax disputes deprives States, local governments, and school districts of millions of dollars in property tax revenue. This problem stems from the Railroad Revitalization and Regulatory Reform Act of 1978 (4-R Act), which, as originally conceived, gave railroads a direct entree into Federal court to protect them against potential State discrimination in taxing railroad property.

Unfortunately, what started out as a good idea has been expanded through an aggressive litigation strategy into a nifty property tax avoidance scheme by interstate railroads. Current Federal court decisions have expanded the original intent of the 4-R Act, which was to protect railroads from discriminatory taxes, into providing railroads with preferential tax rates vis-a-vis other State and local property taxpayers.

In addition to preferential tax rates, the 4-R Act also allows unending Federal injunctive relief for the disputed portion of railroad property taxes while their cases are pending, as well as automatic Federal court jurisdiction over other types of State taxation and fees, not just property taxes. Finally, court interpretations of the act have also changed the very role of the court system in arbitrating disputes. The Supreme Court has interpreted the 4-R Act in such a way that the original tax issue the act was intended to address has been superseded and, as a result, Federal courts have gone into the State property tax appraisal business. All of these allowances are contrary to the standard practice in which Federal courts cannot interfere with State tax collection—a fundamental tenet of our Federalist system.

This special tax treatment of railroads has set a dangerous precedent, and correcting this situation is becoming increasingly critical for States. Not only is the present situation depriving the States of needed revenue—in Oklahoma more than $3 million over a 4-year period was enjoined in railroad valuation cases—but other interstate industries are petitioning to be extended the same benefits. Oklahomans are concerned that expanding these tax privileges will place an even heavier burden on the local farmers, homeowners, and business people. Unless it is corrected, this provision will continue to shrink the property tax base that State and local governments use for schools, fire and police protection and road repair. These services and infrastructure are public goods and must be supported by all public and private interests that are located within a State's borders.

My bill would take an important step to correct the current tax unfairness. By requiring the railroad industry to exhaust the State administrative and court procedures for handling

their tax disputes before going into the Federal courts, the State courts, which are the experts in State valuation cases, would play a much larger role in setting tax rates for railroads. In addition, Federal courts, notorious for their crowded dockets, would be freed from having to play State tax assessor and be able to attend to more pressing criminal and civil cases. Finally, in cases where railroads felt they were discriminated against, they would still have the remedy of appealing to Federal district courts.

The overly preferential treatment for interstate railroads which disadvantages our States is a situation that can be addressed cleanly, simply and without undue burden to any party. I urge my colleagues to support this legislation and restore fairness to the property tax system for all taxpayers.

TAX EXEMPT STATUS OF GOVERNMENT SPONSORED ENTERPRISES

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. STARK. Mr. Speaker, today I am introducing a bill that would provide an opportunity for states and the District of Columbia to raise additional revenue. My bill would remove the exemption from State and local income taxes enjoyed by three Government sponsored enterprises—the Federal National Mortgage Association [Fannie Mae], the Student Loan Marketing Association [Sallie Mae], and the Federal Home Loan Mortgage Corporation [Freddie Mac]. Since Fannie Mae and Sallie Mae have their principal places of business in the District of Columbia, my proposal would allow District officials to consider taxing the substantial income of these entities.

My bill also specifies that within 90 days of the law's enactment, the mayor of the District of Columbia shall submit a report to the House Committee on the District of Columbia and the Committee on Governmental Affairs of the Senate detailing the potential effects of the bill on the revenues of the District of Columbia.

It is a well documented and often acknowledged fact that the citizens and businesses of the District of Columbia bear one of the highest tax burdens in the Nation. The burden acts as a major impediment to the retention and expansion of the District's tax base. While there are many reasons for these high taxes, one significant factor is the proliferation of congressionally mandated tax exemptions. Some of these exemptions make sense because the beneficiaries are foreign missions or nonprofit organizations. Fannie Mae, Sallie Mae, and Freddie Mac, however, are major corporations that are privately owned and managed.

It may be reasonable to assume that when Congress chartered Fannie Mae, Sallie Mae, and Freddie Mac they were fledgling corporations in need of these tax exemptions. This is no longer the case. The approximate 1992 revenues of these entities were as follows: Fannie Mae—$14.5 billion, Freddie Mac—$4.5 billion, and Sallie Mae—$2.8 billion. These corporations are not exempt from Federal tax liability, and their combined 1992 Federal taxable income was nearly $5 billion. While there is the potential for substantial revenues to accrue to the jurisdictions in which these corporations are located, it is important to note that the bill does not require that any State taxes actually be imposed.

I urge my colleagues to support this proposal.

TRIBUTE TO REV. RONALD I. SCHUPP

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. RUSH. Mr. Speaker, I rise today to honor the Rev. Ronald I. Schupp, a Baptist minister and civil rights leader, who has been active in Chicago in fighting to end apartheid in South Africa.

For the past 8 years, Reverend Schupp has conducted a fast and vigil at the South African consulate in Chicago, renewing attention to violence and injustice in South Africa. Fittingly, Reverend Schupp has chosen Dr. Martin Luther King Jr. Day to hold his fast and vigil.

Mr. Speaker, I applaud the tireless dedication of Reverend Schupp. It is through his efforts and all those who seek fairness and justice, that the majority people of South Africa shall enjoy democracy to the fuller extent possible.

I am proud to enter these words of congratulation into the RECORD.

NO RETRIBUTION AGAINST MEXICAN NAFTA CRITICS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. LAFALCE. Mr. Speaker, it has come to my attention that Mexican critics of NAFTA and those working for democratic and human rights reforms have been targeted in the Mexican press as traitors to Mexico. In several advertisements and columns in Mexico prior to the United States congressional vote of NAFTA November 17, Mexican politicians and academics who dared to speak out against NAFTA and Mexico's authoritarian practices by the PRI have been branded as working for the "interests of foreign powers" and forming a "Perot-PRD alliance against Mexico." These advertisements and articles named not only position political leaders, but leaders of Mexico's intellectual community who have had the courage to testify before committees of the United States Congress.

Several Mexican citizens representing various organizations and interests—human rights, political and electoral reform, labor rights, the PRD and PAN, the church, economic reform—have appeared before my Small Business Committee and other Congressional fora to make a case for democracy, fair and open elections, and freedom from intimidation and corruption. Many now fear that the passage of NAFTA enhance the power of the PRI and provides a signal and human rights abuses my continue with impunity. They fear that reprisals may be taken against them for their stand for freedom, their exercise of free speech, and their efforts to provide information to United States citizens and the Congress about Mexico that is not widely known.

Mr. Speaker, I believe the United States—and particularly the U.S. Congress and the administration—must be vigilant to ensure that no untoward actions, either professional blacklisting or physical harm, are taken against Mexican citizens who have spoken out against NAFTA. We in the Congress owe a debt of gratitude to those who came before our committees, and we must not forget them.

I have sent a letter to our United States Ambassador to Mexico, former Representative James R. Jones, requesting that his staff in the Embassy monitor for possible reprisals against Mexican citizens who spoke against NAFTA. I asked him to convey to the Mexican Government that the United States Congress will certainly condemn any actions that may be interpreted as reprisals against Mexicans who came to Capitol Hill to provide their views on NAFTA and Mexico's authoritarian form of democracy. Mr. Speaker, I ask that a copy of my letter to Ambassador Jones be inserted in the RECORD.

COMMITTEE ON SMALL BUSINESS,
Washington, DC, November 21, 1993.

Hon. JAMES R. JONES,
U.S. Ambassador to Mexico, Laredo, TX

DEAR JIM: Now that the NAFTA vote is behind us and implementation will proceed on January 1, 1994, I believe it incumbent on all of us to ensure that the citizens of Mexico who opposed NAFTA will not encounter negative repercussions for their activities.

It has come to my attention that several advertisements and press columns in Mexico last week specifically identified individuals as working for the "interests of foreign powers" and forming a "Perot-PRD alliance against Mexico." In addition to opposition politicians Cuauhtemoc Cardenas and Porfirio Munoz Ledo, academics Jorge Castaneda and Adolofo Aguilar Zinser were specifically identified and are being painted as traitors to Mexico.

Dr. Castaneda and Mr. Aguilar Zinser, along with many other Mexican citizens, appeared before my Small Business Committee and other Congressional committees and conferences. Mexican representatives from human rights and electoral organizations, the Church, PRD, and labor as well as individual economists came before Congress. Some were intimidated and threatened for speaking out before the NAFTA vote in the U.S. Congress, and some are now concerned about their professional and personal safety.

Jim, please have your Embassy staff monitor any possible backlash against these NAFTA opponents. I believe it would also be used to convey to the highest levels of the Mexican Government that the U.S. Congress will not look favorably on any actions against individuals who testified before Congress.

Sincerely,

JOHN J. LAFALCE,
Chairman.

NUCLEAR POWER'S CONTRIBUTION TO A CLEANER WORLD ENVIRONMENT

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. HASTERT. Mr. Speaker, I want to bring to the attention of my colleagues the important contribution nuclear energy is making to a cleaner world environment. As the second largest source of electricity in the United States, providing 22 percent of the Nation's electricity, nuclear energy is supplying the needs of 65 million households with virtually no air polluting emissions.

I commend the Clinton administration for acknowledging nuclear energy is important in the Climate Challenge Program, thereby recognizing nuclear energy's ability to help achieve the Nation's environmental objectives.

I can tell you first-hand about the environmental advantages of nuclear energy since my district gets about 80 percent of its electricity from nuclear energy.

But you need not take just the administration's and my word for the environmental benefits of nuclear energy. The World Energy Council just reported, "if global policymakers are serious about reducing greenhouse gases in the long term, nuclear power must make a comeback. There is no chance of stabilizing greenhouse gas emissions at 1990 levels until the nuclear energy question is resolved."

The Congressional Office of Technology Assessment stated in a 1991 report that nuclear energy is the only nonfossil energy option that can be rapidly expanded, thereby offering the greatest potential for "achieving deep cuts in carbon dioxide emission." The National Academy of Sciences agreed that nuclear energy is "the most technically feasible alternative" to replace fossil fuels as the primary source of electricity.

Mr. Speaker, I ask my colleagues to carefully consider the important role that nuclear energy plays for a cleaner environment and I encourage my colleagues to support policies that enhance America's nuclear energy option.

25TH ANNIVERSARY OF SESAME STREET

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. PORTER. Mr. Speaker, 25 years ago today, the Children's Television Workshop [CTW] production of "Sesame Street" first appeared on public television and changed children's TV forever. Today, "Sesame Street" is the most widely televised children's program in the world.

When the CTW first created "Sesame Street," its mission was the education of children. Over the years, this mission has remained constant as characters have expanded to meet new curriculum goals and to reach low-income and minority youngsters.

Today "Sesame Street" communicates with children through new media—print, software, and outreach programs—to enhance its impact. A new "Sesame Street" component, the "Preschool Education Program" [PEP], uses televised story book reading, artwork, and parent involvement to reach children in day care settings, including thousands in my State of Illinois.

Both the New York Times and the USA Today ran articles today commemorating the 25th anniversary of "Sesame Street," and I ask that they be reprinted here as a part of my statement.

I offer my sincere congratulations to the Children's Television Workshop and my hope that it will continue to provide exceptional children's programming into the next century.

[From the New York Times, Nov. 22, 1993]

IT'S 25 AND STILL THINKING LIKE A CHILD

(By John J. O'Connor)

Known as the longest street in the world, stretching in one form or another around the globe, "Sesame Street" celebrates its 25th birthday today with a characteristic eye on the future and a meandering stroll to a new playground that it calls "just around the corner." The Children's Television Workshop's pioneering blend of carefully researched education and quality entertainment has lost none of its imaginative freshness. Hillary Rodham Clinton, flanked by Big Bird and Rosita, drops by today in a gesture of richly deserved tribute.

The survival of "Sesame Street" has involved struggle and occasional controversy. In the 1970's, the BBC rejected the program, ostensibly because of its ultra-American, hard-sell teaching techniques; Britons were later allowed to watch the series, seemingly without ill effect. When the project was conceived in the 1960's by Joan Ganz Cooney and Lloyd Morrisset, children's television was a generally sorry affair, with cartoons at one end and dull instructional classics at the other. The Children's Television Workshop created something entirely new: an education program that was great fun to watch.

The program is aimed at all pre-schoolers, but is especially eager to reach disadvantaged children whose early exposure to school-related skills might be limited. The underlying theory is that more than half of a child's lifetime intellectual abilities are formed by the age of 5. Lessons are delivered, for the most part, by showing, not by lecturing. In the show's multicultural society, children of all sorts mix easily with one another and, of course, with furry creatures representing all colors of the rainbow. The memorable duet of Ray Charles and Kermit the Frog on "Bein' Green" was anything but an accident.

So today, as Big Bird leads a parade of youngsters and Muppets to the new playground, it's hardly surprising to discover that the new faces in the crowd look like an illustration for a United Nations brochure. Tarah (Tarah Lynne Schaeffer) is a 9-year-old whose physical disability keeps her in a wheelchair. All of the newcomers are helping introduced this week, and will be developed more fully in future episodes.

Meanwhile, the scene on Sesame Street is punctuated with brief taped segments that might offer a lesson on a letter or number, an illustration of concepts (Zero Mostel's take on "Big" and "Little" is a series classic), or a vignette with an understated point. Today, for instance, two girls are found waking up in a bedroom that is obviously middle-class comfortable. One girl is black, the other is white. The white girl is the visitor. This season, Asian-American cultures are being highlighted. Among the scheduled guests: the tennis star Michael Chang.

When Children's Television Work-shop researchers went to day-care centers and asked children what they would like to see on the show, the most frequent answer was a place to play. The new playground, which required moving the production to the larger quarters of the Kaufman Studios in Astoria, Queens, should satisfy the most demanding of young viewers. In the course of the hour, the First Lady urges those watching to eat fruits and vegetables, get plenty of exercise and rest. In a rap song, Cookie Monster admits that nobody should eat just cookies. And the show ends with an announcement that this edition of "Sesame Street" was brought to you by the letters of C and O, and by the number 8. Talk about enlightened sponsorship.

The Children's Television Work-shop has moved well beyond "Sesame Street" as, seeking feasible ways to support its many activities, it has branched into television specials, videos, books and even items like a Cookie Monster cookie jar. There have been critics of this commercialization inside and outside the organization. David V.B. Brit, its president, disagrees, though he says perhaps the name should be changed to the Children's Media Workshop.

Sadly, as one of the brightest jewels in public television's now lopsided crown, "Sesame Street" has failed in one crucial sense, one that is beyond its control. Despite its demonstrable success, television executives and politicians have largely failed to follow up with adequately financed projects of similar caliber for young audiences. The level of education in the nation today is abysmal. All those preschoolers so lovingly prepared are being betrayed by schools impoverished on just about every level. "Sesame Street" has shown how to proceed with intelligence and style. Perhaps some day. * * *

Meanwhile, let's get on with the next 25 years.

[From USA Today, Nov. 22, 1993]

MAKING KIDS AND LEARNING FEEL AT HOME

(By Donna Gable)

The safest street in the world stretches from the inner cities of the USA across the ocean to the Middle East and beyond.

It's not on any map, but you can get there from here. And no matter the name—Sesamstrasse in Germany; Plaza Sesamo in Latin America; Rachov Sumsum in Israel; or Iftah Ya Simsim in Kuwait—Sesame Street has always been a protected place for kids to play and learn. From the early days when it taught tots their ABCs and 1-2-3s, to today's life lesson in race relations, Sesame Street is a reflection of our times for the eyes of children.

Today, the Emmy-winning PBS children's series turns a corner, metaphorically and physically, as it begins its 25th season. But the Street is not just growing up, it's growing out. For the first time, we get to see what's "Around the Corner" from the familiar brownstone and Mr. Hooper's Store.

Executive producer Michael Loman says the set was designed as a cuddly S-shaped cul-de-sac "so there are no streets to cross." There's a dance studio, a thrift shop, a playground, a home care center, and The Furry Arms, a Muppet hotel "where everyone stays when they're in town."

And while there are newcomers—including Zoe, "a bright orange, 3-year-old monster girl that smiles from ear to ear"—they're all old friends on the Street.

Dr. Valeria Lovelace, assistant vice president/director of research, says the new set is

"a way through which we can show the contributions that families make to children's success in school and life."

Three fresh faces—Angela (Angel Jemmott) and Jamal (Jou Jou Papailler), a black couple, and their 6-month-old, Kayla—are related to series regulars Susan and Gordon.

"We want to show the family as a socializing agent, the most important part of a child's life," Lovelace says. The knowledge gained from the show's race relations curriculum "will guide our thinking on families, in terms of looking at their diversity."

Through Celina (Miss Saigon's Annette Calud), an Asian-American dance instructor, the show will explore issues like exclusion and name-calling.

Today's season opener is a backdrop for the myriad Muppets and others who parade down the lane. First lady Hillary Rodham Clinton stops by to christen the new season and inspire Cookie Monster to rap about the importance of eating more than cookies to stay healthy.

Upcoming celebrity guests who will stay at the Furry Arms include poet Maya Angelou, singer Garth Brooks and actress/comedian Lily Tomlin.

"These celebrities have helped draw the parent to the child's side . . . and they sit and watch Sesame Street together," say Peggy Charren, founder of Action for Children's television. "Research shows when children and parents watch together they learn more."

Ruth Buzzi—who joins the cast as Ruthie the offbeat owner of Finders Keepers, which offers such collectibles as Cinderella's glass slippers and Jack and Jill's legendary pail—credits the show's stable of "creative, ingenious and nutty writers" for the show's longevity.

"Writing comedy every day, day in, day out, is not all laughs," says Buzzi, who compares the cadre of scriptmeisters with those of her Rowan & Martin's Laugh-In days. "After a while your brain dies out. The only way to keep the momentum going and keep it fresh is to have a LOT of writers."

Charron says the program "could've been a wonderful model for the people in the commercial broadcast world. We'd hoped it would send a message to them: that you can do it right and still win. But what was their response? Let PBS do it."

The Street has always been safe but it hasn't been a blind alley or a dead end. Since 1969, it's evolved from an experimental educational program for preschoolers to a multimedia educational institution seen in 90 countries.

And even though the conventional wisdom is that Barney has taken the spotlight, the world on the Street—from the top down—is "there's room for everybody."

It doesn't matter whether kids tune in to a big yellow bird or a purple dino, says Loman, "as long as they're learning and having fun."

"We don't look at Barney as being in competition with us because we're both on PBS," he says, besides, "We'd rather have them watch Barney than a violent or nonsensical cartoon on another channel."

Sonia Manzano, who has played Maria on the show since its third season, agree "Kids have the right to have more than one show to choose from. Adults have lots of choices . . . and still complain there's nothing on."

Besides, the show has more important things than Barney's bite to focus on, such as continuing its 25-year legacy.

And everyone agrees, the days have been a little less sunny without Jim Henson, the mastermind behind the Muppet menagerie, who died suddenly in 1990.

And in strolling down the street, you cannot overlook his touch. Puppeteer Kevin Clash, who won an Emmy for breathing life into a fuzzy, red Muppet named Elmo, says Henson's death "was a difficult loss."

"Jim loved coming to Sesame Street and putting on Ernie and Kermit. I miss that immensely," says Clash, who grew up watching Sesame Street and "dreamt of working" with the brilliant Muppet-making man-boy.

"The love that's behind the scenes and comes across on camera—that's Jim. And some days when something goes really right, Jim's there. You can feel it."

Clash—who also portrays Baby Sinclair, the tiny dino on ABC's sitcom Dinosaurs—hopes his 11-month-old daughter, Shannon, will someday don a fuzzy alter-ego.

"I'm envious of Elmo. I'd love to keep that positive. But when you become an adult, sometimes things can get you down," he says. "It's great to be able to cover yourself with these characters and become young again.".

The most important lesson, he says, may be "how to find your way back" to the Sesame Street inside us all.

Mansano says she's looking forward to the next 25 years.

"If this show is the only thing I ever do in my career, that's not a bad credit," she says. "When I looked back at my life I could say, 'I lived a good life. I lived on a nice street.'"

LEGISLATION TO AMEND OCSLA

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. ORTIZ. Mr. Speaker, I rise today to introduce legislation which will amend the Outer Continental Shelf Lands Act [OCSLA]. The bill will authorize the Secretary of the Interior to negotiate agreements for the use of Outer Continental Shelf [OCS] sand, gravel, and shell resources for public works projects. The OCSLA was designed primarily to govern leasing, permitting, collecting of data, and operations for oil, gas, and sulphur on the OCS. Section 8(k) of the OCSLA provides explicit authority for the Secretary to grant leases for any OCS mineral other than oil, gas, and sulphur on the basis of competitive bonus bidding.

Because of diminishing onshore and nearshore supply sources, there is increasing interest from coastal States in using OCS sand, gravel, and shell resources for beach and barrier island restoration projects. Also, sand gravel, and shell resources from the OCS have been identified for possible use in connection with some U.S. Army Corps of Engineers congressionally authorized projects for coastal wetlands and storm damage protection. The requirement that marine minerals from the OCS must be leased on a competitive basis does not provide the flexibility needed by State and local governments or the access to OCS resources needed by the U.S. Army Corps of Engineers.

The option for negotiated agreements allows the Secretary of the Interior to, One, specify and better control the end use and quantity of the resource which can be extracted; two, work with the U.S. Army Corps of Engineers with necessary environmental and decision-making studies, thus avoiding duplication of efforts, three, negotiate fees with other government entities or assess no fee for the sand for certain projects substantially funded by the Federal Government—for example, certain corps funded projects; and four, avoid unexpected or speculative bidding which could have a negative effect on public works projects by diverting the resource to other uses or inflating total Government project costs. I urge you and the other Members of the House to support this initiative.

Last, I want to thank Mr. WELDON, the ranking member of the Subcommittee on Oceanography, Gulf of Mexico, and the Outer Continental Shelf, Mr. LEHMAN, the chairman of the Subcommittee on Energy and Mineral Resources, and Mr. TAUZIN, the chairman of the Subcommittee on Coast Guard and Navigation, for cosponsoring this important legislation.

THE NONNEGOTIABLE PRINCIPLES OF HEALTH REFORM

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. DINGELL. Mr. Speaker, I commend to my colleagues the following article, entitled "Health Care: Some Basic Reform Principles Shouldn't Be Negotiated" that appeared in the November 10 Detroit Free Press. The article speaks to the goals which must be preserved through upcoming lengthy and difficult negotiations on details of health care reform. The most important of these goals is universal coverage. It is the one goal upon which we cannot waiver.

The article follows:

[From the Detroit Free Press, Nov. 10, 1993]

HEALTH CARE—SOME BASIC REFORM PRINCIPLES SHOULDN'T BE NEGOTIATED

Enacting an adequate health care reform plan will require a lot of tugging and pulling in Congress, and willingness to change, as Hillary Rodham Clinton acknowledged this week. But certain reform principles are so fundamental that they must not be compromised, under special-interest, partisan or ideological pressure.

The most basic principle is universal coverage, the notion that no American will be denied the medical care he or she needs. Such coverage should be phased in promptly, not gradually, and it should include a comprehensive clearly defined package of affordable minimum benefits.

We believe a single-payer health care system similar to Canada's, in which most coverage is financed directly by government, would be best suited to meeting that objective. Such a system would collect premiums, pay bills, negotiate rates with doctors, and regulate annual hospital budgets. It has the virtue of relative simplicity.

But the Clinton administration deserves the opportunity to show that its hybrid "managed competition" model also can do the job. That plan would require employers to help pay for workers' health care, from quasi-governmental regional purchasing alliances for health insurance, and limit the growth of private insurance premiums.

Even as she searches for common ground with proponents of alternative plans that also aim, for universal coverage, Mrs. Clinton is correct to reject those "reform" schemes that do not. An overreliance on "market forces" to provide coverage has helped leave tens of millions of Americans without health insurance, and many more with inadequate, discriminatory or exorbitantly priced coverage.

Such people—a large number of them children—often are forced to seek costly, subsidize emergency treatment once their illnesses become critical, rather than earlier, less expensive care that could have prevented or mitigated them. That raises the nation's health care bill for everyone.

Other principles ought to be preserved as well. The reform process must maintain the quality of care and technological innovation that has made American medicine a global model. It must control costs and be equitably financed. It must promote administrative efficiency. It should encourage primary and preventive care. It should allow consumers to choose their doctors, within reasonable limits. It should not tie coverage too tightly to employment.

Inevitably, these values will come into conflict as Congress and the White House negotiate a health care reform compromise. Accommodations will have to be made. But the first lady has identified universal coverage and a defined benefit package as the administration's bottom line. It's a line that should not be erased.

LEGISLATION TO PROVIDE DEATH BENEFITS FOR POLICE & FIRE CHAPLAINS

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. MANZULLO. Mr. Speaker, I am introducing legislation that would amend the Omnibus Crime Control and Safe Streets Act of 1968 to ensure that families of police and fire chaplains killed in the line of duty will receive well-deserved death benefits. Should the rare occurrence take place, the families of these courageous men and women will not be left out in the cold. These unsung heroes will have the assurance of knowing that their loved ones will be taken care of.

Mr. Speaker, these police and fire chaplains are often called upon to enter dangerous circumstances. They are counted upon to fill-in when necessary, walk-in to situations where criminals are holding hostages, drive an ambulance if needed, and even pickup a fire-ax if called upon. These men and women go to work every day and perform their duties diligently and quietly, responding to the same crime and fire scenes that their counterparts do.

I would like to take this opportunity to ask my colleagues that they join me in cosponsoring this simple legislation which would reward the families of police or fire chaplains who, while in the line of duty, could pay the highest price possible for doing their job, with their lives.

NAFTA

HON. JENNIFER B. DUNN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Ms. DUNN. Mr. Speaker, without doubt, the prolonged discussion over the North American Free-Trade Agreement [NAFTA] has been the most spirited—and, too often, heated—debate in which the American public and Congress have engaged in many years.

At the outset, I must emphasize one point: I was extremely disturbed by reports that the President and Vice President had secured votes of undecided House Members by making certain concessions to them. At no time was I offered—nor did I seek—any special consideration for my support of NAFTA. I emphatically reject that kind of politicking. It is my belief the Clinton Administration let the American people down by trading "pork" for votes.

During recent weeks thousands of people from Washington State have contacted me regarding the controversial issue of NAFTA, and were sharply divided in their views. I fully appreciated the frequently mentioned fear that the agreement could lead to United States manufacturing jobs flowing to Mexico, where the wage levels are low.

I listened, also, to many heartfelt concerns about the further degradation of the environment that might occur with added economic activity in Mexico. And I listened intently to the honest, thoughtful worries of some that the operating panels and other mechanisms of the agreement might somehow threaten America's sovereignty.

During my campaign, I supported NAFTA's principles of free and fair trade. These ideals weighed heavily on my mind and were reflected in the final decision I made in my vote. After lengthy study, fact-finding and balancing the pluses and minuses, I concluded NAFTA was in the best long-term interest of our Nation and its citizens, especially the people I represent. I want to share the process and factors which led me to support the agreement. The following are considerations I felt persuasive.

There was discussion about NAFTA's potential to erode the United States' sovereignty. However, the best legal authorities have concluded that nothing in the agreement preempts Federal or State laws. NAFTA's commissions cannot supersede our laws nor do they have the power to compel any action to change them. Rather than changing any domestic law, NAFTA makes clear that a government may choose to allow another country to suspend trade benefits—such as tariff concessions—against it following an adverse panel report. Thus a commission can make only recommendations, not new laws. By limiting the power of government bureaucrats to restrict trade, NAFTA restores sovereignty of individual Americans to sell to and buy from whomever they please.

Some raised the argument that NAFTA will degrade the environment of Mexico. NAFTA did not create the pollution that currently exists, but it is the most practical course toward remedying the problem. This agreement is the first which places environmental concerns on an equal footing with those of free trade. NAFTA is the best vehicle to clean up the environment. Without it, GATT rules on the environment apply and they are not nearly as strong. NAFTA eliminates the status quo and will positively affect the environment. Environmental groups such as the National Wildlife Federation, World Wildlife Fund, Audubon Society and others fully endorse NAFTA. They represent 7.5 million members and some 80 percent of those belonging to environmental groups.

I share the concerns expressed regarding job dislocation and the fear of businesses moving to Mexico. But, it seems to me that it is the current system that is causing such events. In order for American companies to sell their goods in Mexico, they must either manufacture their products there or export them under the burden of tariffs which are on average two-and-a-half times higher than those of the United States. These additional fees inhibit our competitive edge with products of other nations—thereby creating incentives for our manufacturing plants to move to Mexico in order to avoid these tariffs. I truly believe NAFTA will alleviate these inequities and in some cases, provide incentives for companies to move back home.

In fact, we are already seeing some dividends from NAFTA. The United Parcel Service [UPS] announced a new order for 10 additional Boeing 757–200 Package Freighters. This illustrates the company's belief that increased trade with Canada and Mexico benefits the entire U.S. economy. This is only one example I see of how NAFTA can create jobs in Washington State and in America.

NAFTA is not about the jobs we have already lost around the world. Those are gone. NAFTA represents a new vision of job creation at home. Knowing that we live in a country that produces more than it consumes, we must continue to open up protective markets. NAFTA does this.

While it is true Mexican wages are lower than ours, it is also true that the American worker is on average five times more productive than his or her counterpart in Mexico. Americans enjoy high paying jobs because they are the most productive workers in the world. Global competition creates greater productivity; protectionism historically has bred stagnation and inefficiency. Increasing our productivity, not protectionism, is the secret to keeping our wages high and our jobs in America.

Although I believe NAFTA ultimately will create more American jobs through increased trade for our district's job-creating businesses, I also believe it can establish a broad set of other benefits for America. NAFTA can serve as a model for future trade agreements. It will reinforce our commitment to free trade in a global economy. By advancing the ideals of free trade and not foreign aid, we will allow for other countries to provide for themselves. If we foster economic development in Mexico as well as here at home, NAFTA can lead to reduced illegal immigration, and help our neighbor to the South continue on the path of needed political, social and economic reform.

It is my duty and obligation as an elected official to advance the long-term health of the economy by promoting basic U.S. political, social, and economic interests. No, NATFA is

not perfect. However, it is the best answer to some of the problems in our globalized economy. We cannot allow the perfect to become the enemy of the good. I honestly believe this agreement will help America.

LONG-TERM CARE INSURANCE

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. JOHNSON of Connecticut. Mr. Speaker, one of the greatest fears of our senior constituents is the fear of saving for retirement only to lose it all if nursing home care becomes necessary. This fear is not unfounded. Forty-three percent of all Americans turning 65 this year eventually will enter a nursing home. Twenty-five percent of that group will stay at least 1 year, at a cost of $30,000 to $60,000.

One solution to this problem is long-term care insurance. Although relatively new, long-term care insurance is a rapidly growing market that offers the best option for providing greater coverage for nursing home and home care. In 1986, 30 insurers were selling long-term care insurance policies and 200,000 people were covered by these policies. By 1991, over 2.4 million policies had been sold, with over 135 insurers offering coverage.

Unfortunately, it's expensive to purchase long-term care insurance and policies don't always deliver what they appear to promise. Some insurers have designed long-term care policies that limit their liability in ways purchasers don't suspect. Many policies are medically underwritten to exclude persons with certain illnesses or contain fine print benefit restrictions that limit access to what one would assume was covered care. Although the National Association of Insurance Commissioners has taken steps toward establishing standards for regulating long-term care insurance, most States have been slow to adopt them. Only 12 States prohibit the practice of post claims underwriting and only 17 States have standards for home care benefits. The Long-Term Care Insurance Standards Act, which I introduced today, rectifies the inconsistencies in the long-term care insurance market by addressing:

Inflation protection.—Without inflation protection, the value of the benefit will shrink dangerously by the time a policyholder needs care.

Nonforfeiture of benefits.—Without nonforfeiture of benefits, policyholders will lose their entire equity in the policy if they can't afford to keep paying the premiums.

Premium increases.—Any increase in long-term care premiums must first be open to public comment and approved through a State process.

Limitations on agent sales practices.—This includes high-pressure sales tactics, misleading advertising, or incomplete or fraudulent long-term care insurance comparisons.

Mr. Speaker, I urge my colleagues to examine this legislation in the context of health care reform and invite their cosponsorship.

THE UKRAINIAN GOVERNMENT'S HUMANITARIAN AID TO THE REPUBLIC OF GEORGIA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. GILMAN. Mr. Speaker, I would like to bring to the attention of my colleagues a very interesting and encouraging article recently released by the Embassy of Ukraine.

We are all aware of the vicious fighting that took place recently in the Abkhazian region of the Republic of Georgia. Many of us may not have noted, however, the very constructive role that the Government of Ukraine sought to fill in providing humanitarian assistance to the thousands of refugees from that fighting. Specifically, Ukrainian Air Force helicopters, by order of the Ukrainian Government, delivered food, medicine, and other items to stranded refugees and also transported the most sick and exhausted refugees to places of safety.

Mr. Speaker, I would like to insert a copy of this article for the review of my colleagues. I also want to commend the Government of Ukraine, which, beset by serious economic problems in its own country, still undertook to help the people of a neighboring state in need.

Mr. Speaker, the article provided to me by the Embassy of Ukraine follows:

[From the Embassy of Ukraine, Oct. 27, 1993]

UKRAINE PROVIDES HUMANITARIAN AID TO REFUGEES FROM ABKHAZIA

Heavy battles between Georgia's government troops and Abkhaz armed paramilitary units in late September-early October caused unjustified losses of human lives, massive exodus of refugees, mostly senior citizens, women and children.

As is known, this motivated the Head of the Republic of Georgia Eduard Shevardnadze to appeal to the governments of friendly states and world public with a request to help save the civilian population.

In response to that appeal President of Ukraine Leonid Kravchuk ordered the Cabinet of Ministers of Ukraine to render necessary humanitarian aid to Georgia.

Ukraine's Air Force, the Ministry of Foreign Affairs, other ministries and agencies, public associations and trade unions were involved in the relief operation. Ukrainian helicopter crews began to evacuate refugees from Abkhazia as early as October 10, 1993. Seventeen Ukrainian helicopters including 15 NI-8MTs from the towns of Vapnyarka and Kherson, and two KA-27 helicopters from Ochakiv manned by 90 servicemen performed 2 to 3 daily flights to deliver bread, flour and other food products to the mountainous areas, and transported sick and exhausted people to safe places. Only during the four days between October 10 and 14, the Ukrainian relief teams made 291 flights having rescued 7,634 refugees and delivered 487 tons of food, medicines, clothing and fuel.

Ukrainian public, different associations and funds joined in the humanitarian campaign, including the Federation of Ukrainian trade Unions, Social Security Fund, State Export-Import Bank, Ukrainian Investment Bank and other institutions. The raised funds were used to purchase basic necessities for the refugees, linen, warm clothing and food products which were delivered to Thilisi by the Ukrainian Air Force.

At the request of the German government, three Ukrainian Air Force transport planes IL-76 carried more than 50 tons of urgent humanitarian aid from Cologne (Germany) to Tbilisi.

The campaign for providing humanitarian aid to the fraternal Georgian people continues to gain in scale and strength in Ukraine. In addition to trade unions, the "greens", religious parishes, different organizations and individual citizens are joining in.

The leadership of the Republic of Georgia, Head of State Eduard Shevardnadze expressed sincere gratitude for the assistance, and highly assessed the moral and material support rendered by Ukraine to the people of Georgia.

JUDGE GILBERT RABIN—LEGAL SCHOLAR, PUBLIC SERVANT, AND COMMUNITY LEADER

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. LOWEY. Mr. Speaker, I rise today to congratulate Judge Gilbert Rabin on the occasion of his well-deserved retirement from the Yonkers City Court. Judge Rabin has been an inspiring community servant whose contribution to New York's civic life will be missed but not forgotten.

Through an extraordinary career, Judge Rabin has exemplified our highest standards of rectitude, commitment to the rule of law, and excellence in public service.

Admitted to practice before the U.S. Supreme Court, Judge Rabin has since served in a variety of distinguished roles on such important bodies as the Committee on Law Reform of the Bronx County Bar Association, the New York University Law Review, the Yonkers Lawyers Association, the Westchester County Bar Association, and the New York State Bar Association. Judge Rabin's tenure on the Yonkers City Court—a body to which he has been repeatedly elected by the citizens of Yonkers—culminated in his selection as Chief Judge in 1992.

A life-long resident of Westchester County, Judge Rabin has been a leader in a wide range of community and service organizations. These include Children's Hearing Education and Research, the Lincoln Park Taxpayers Association, the Big Brother/Big Sister Committee, the Yonkers Community Action Program, and the United Givers Fund.

Judge Rabin has also been a devoted and active member of his synagogue, the Lincoln Park Jewish Center, for a time serving as the president of its congregation.

Judge Rabin's remarkable example has been noted by leaders throughout the Nation. Indeed, my good friend and colleague, Representative CARRIE MEEK of Florida; has spoken to me of his exceptional reputation and impressive career.

Mr. Speaker, I am confident that, even as Judge Rabin takes time to enjoy his family and the special pleasures of retirement, he will continue to be an active and inspiring leader in our community. His work has made an important difference for Yonkers and for Westchester, and will serve as an example to public servants for many years into the future.

THE MUTUAL BANK CONVERSION ACT

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. GONZALEZ. Mr. Speaker, today I introduce with Congressman NEAL, chairman of the Financial Institutions Subcommittee, and Congressman LEACH, the ranking minority member of the Banking Committee, the Mutual Bank Conversion Act. This legislation is intended to address the increasingly common—and very troublesome—practice by insured depository institutions of converting from mutual to stock from outside the scrutiny of Federal rules and regulations.

The Home Owners' Loan Act currently provides that savings associations may convert from mutual to stock form in accordance with Federal regulations only. Those Federal regulations, found in 12 CFR 363b, are designed to protect the interests of the mutual savings association's owners—its account holders—and prevent windfall profits to insiders and insider abuse. Thus, the regulations address the determination of the market value of stock in the converted savings association, the subscription rights of the mutual's account holders, require appropriate disclosures made to account holders and potential purchases, and most importantly, place limits on the amount of stock that insiders may purchase.

The Federal regulations have worked well, allowing thrifts to recapitalize while protecting the mutual account holders. In fact, they may have worked so well that lobbyists, lawyers and States have developed a way to evade them. The latest game involves converting from a mutual thrift to a mutual State savings bank. Then, those mutual banks convert to stock form of ownership under liberal State laws that are being adopted at a rapid pace. Often, these conversions are done in connection with mergers where a bank purchases the institution after it converts to stock form but before it goes public. All types of incentives are thrown in—free stock for thrift managers, retention of management, contributions to executive stock option plans—the 1990's equivalent of a toaster. In one such recent transaction, the acquiring bank purchased a mutual with a pro forma book value of $19 million for $9 million. Insider management and the acquirer profited by the difference. States have been rushing to pass these laws, and approve applications filed under them. Over 195 institutions, with over $39 billion in assets, have converted from Federal to State charters—the first step of these mutual to stock transactions—from January 1992 to date.

While these conversions, and the State laws that allow them, have been defended as consistent with the "free market", the more apt description is "free lunch"—for the insiders and big bank acquirers. This legislation simply applies existing laws and regulations for thrifts to these bank transactions to insure that account holders are adequately informed, that institutions are properly valued, and that insiders and acquirers don't benefit at the expense of the institution and its account holders. The legislation, upon enactment, will retroactively apply to all State bank conversion transactions taking place on or after November 22, 1993. This will prevent a "rush to convert" prior to the passage of this legislation and the FDIC's promulgation of regulations.

THE GREENING OF TECHNOLOGY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. MORELLA. Mr. Speaker, On November 18, I introduced H.R. 3540, a bill to coordinate the life-cycle assessment activities and resources of the Federal Government, relating to environmental technologies. The bill encourages a shift in thinking for both policymakers and business leaders. Environmental policies previously have focused on cleanup, and now we are turning to waste prevention and minimization, which will lead to greater environmental protection and long-term economic growth.

In September, 1992, the Science, Space, and Technology Subcommittee on Environment held a hearing in Rockville, MD, on Green Technology. Dr. Indira Nair from Carnegie Mellon University, chair of the advisory panel for the Office of Technology Assessment Report, Green Products By Design: Choices for a Cleaner Environment, commented on the report and recommended ways the Federal Government can encourage efforts to promote the concept of Green Design.

This legislation would ensure that the Federal Government coordinates its own programs that support the development of data and methods of life-cycle assessment. The Federal Government would also make its resources available to non-Federal entities, State and local governments, and businesses. The Federal Government would also use information from non-Federal sources who have developed successful programs.

Life-cycle assessment is simple in concept, but difficult to put into practice. At a November 18 Technology, Environment, and Aviation Subcommittee hearing, we listened to Daniel Imhoff of Esprit International describe how an international apparel company designed its Ecollection:

> In 1990 Esprit initiated an internal environmental audit of garment manufacturing as a means of improving its own products and influencing the fashion industry. * * * Esprit established a separate research and development project with a two-fold mission: to identify the environmental and social impacts of conventional manufacturing; and to seek out and test innovative materials and technologies. * * * Over the next two years, every aspect of garment production was examined: fibers and fabrics, dyeing and finishing processes, even buttons and trims.

Esprit's Ecollection uses organically grown cotton, and recycled wool. It does not use dyes containing heavy metals, but does use biodegradable enzyme washes to soften fabrics. Handpainted buttons from a women's cooperative in rural North Carolina and handknit sweaters from the Appalachian Fiber Artisans Cooperative are a part of the Ecollection. Esprit is influencing other companies to think green. Mission Valley Mills in Texas has opened the first organic cotton textile mill because Esprit has continued to purchase U.S.-grown organic cotton fibers.

This legislation encourages this new way of green thinking. I urge my colleagues to cosponsor H.R. 3540 and bring creative approaches to protecting the environment and promoting long-term economic growth.

THE RURAL CALIFORNIA HOUSING CORP. AND THE BANK OF AMERICA COMMUNITY DEVELOPMENT BANK

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. FAZIO. Mr. Speaker, I rise this evening in recognition and appreciation of a truly unique partnership between the Rural California Housing Corp. [RCHC] and the Bank of America Community Development Bank. These two entities have joined forces with the city of Williams, CA, the State of California, Catholic Healthcare West Corp. [CHCWC] and the Farmers Home Administration to create homeownership opportunities for low-income families in my district.

Agricultural workers in the city of Williams, in the heart of Colusa County, were in critical need of safe, affordable housing for their families. Yet, as we all know, during these times of high costs and scarce funding, homeownership has become more and more elusive for even middle income American families, let alone for workers whose wages are at the bottom of the pay scale.

Given these obstacles, the Bank of America Community Development Bank knew that the more traditional approaches toward meeting the challenge of affordable housing in rural America were not going to work—that different tactics were required—so they came up with a more creative strategy. They devised a plan whereby the State's Predevelopment Loan Program and Farmworker Housing Grant Program provided part of the funding for the land acquisition. The next step was for RCHC to work with the seller to buy the land over 3 years at an agreed upon fixed cost. Then, the Bank of America Community Development Bank truly became a partner—not just a lender—in this enterprise. It changed its standard for low-income housing appraisals, enabling it to make higher construction loans. Then it advanced a loan for land acquisition and site development, waiving its customary loan fee. At this point, the CHCWC stepped in and made a linked deposit that reduced the interest expense on the site development loan, thereby increasing the loan amount. The Farmers Home Administration [FHA] did its share by providing combined home construction/takeout financing for individual borrowers. And, to help offset costs, the city of Williams modified its standard performance requirements. Unanticipated cost increases were covered by additional contributions form the RCHC.

The end result is a subdivision of 123 selfhelp homes, 90 of which are completed and the remainder of which will be finished early

next year. The community has been strengthened and low income Williams residents have become first-time homebuyers at monthly costs less then what they were previously paying for rented apartments or mobile homes.

Mr. Speaker, a little over 1 year ago, on the occasion of RCHC's 25th anniversary, I paid a similar tribute to this organization and its efforts on behalf of quality, affordable housing for low- and moderate-income families in northern California. Today, I am once again pleased to be able to congratulate RCHC, the Nation's second largest producer of self-help housing, as well as the rest of this team, for collaborating on this innovative team effort.

IN RECOGNITION OF THE NEED TO BUY AMERICAN

HON. JAN MEYERS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. MEYERS of Kansas. Mr. Speaker, I would like to call to the attention of the House a group of people dedicated to increasing the public's awareness of American-made products. Buy American, Inc., is a not-for-profit organization based in the metropolitan Kansas City area comprised of civic, labor, and business leaders interested in a positive approach to promoting the concept of buying American through education and public relations efforts designed to strengthen the job base in the United States.

As part of this initiative, the thousands of Buy American, Inc. volunteers and supporters encourage the recognition of Friday, November 26, 1993, as "Buy American Day, 1993." On this busy shopping day, it is important for consumers to recognize the availability of high-quality, domestically produced goods. Additionally, and very importantly, many American jobs depend on strong domestic sales during the crucial holiday season.

Mr. Speaker, I support Buy American, Inc. goals to educate consumers and focus attention on the vitality of American job growth. Increased consumer awareness can positively impact sales on this day of intense commercial activity as well as contribute to the financial health of our country.

BUCKET DROWNING PREVENTION ACT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. PALLONE. Mr. Speaker, I have just introduced a bill that I hope will address a problem that has not received much public attention, but which has brought tragedy to over 200 families. Although most parents are aware that their homes contain ordinary items that are capable of causing harm to their young children, most are not aware of the drowning hazard presented by 4- to 6-gallon buckets.

As a new father, I am quickly learning that even the most seemingly innocuous items in my home can bring serious harm to my 2-month-old daughter, Rose Marie. Before this issue was brought to my attention, I was not aware of the danger presented by 4- to 6-gallon buckets and I am certain that there are many other parents like me.

Most people find these buckets at a work site or construction area and bring them into their homes for use as a diaper pail, or to use when mopping floors or washing cars. I know that parents must watch their children every moment, but there are times when parents look away for a moment. The tragedy occurs in bucket drowning cases because parents do not realize that their child has fallen into the bucket. They have looked away, and are unable to locate their son or daughter. By the time the parent realizes that the child has fallen into the bucket, it is too late—the child has drowned.

I want to stop these unnecessary deaths from occurring. My bill will require a label on buckets that will warn parents of the danger that is presented when buckets that contain even a small amount of liquid are left unattended. I believe that if parents are informed of the risk, they will be better armed to keep their children away from this dangerous situation, and we will soon see a dramatic decrease in the number of bucket drownings.

I am not alone in recognizing this problem. California has passed a bucket labeling law and New York is considering similar legislation. In order to ensure uniformity, I believe a Federal standard is appropriate, and I hope that the House will work with the other body which passed a similar bill yesterday. Several consumer groups and members of the industry have endorsed this bill and it is my hope that the House will pass a workable standard that is not overly burdensome on industry, but that provides the public with a strong warning and which has the effect of preventing accidents and saving lives.

IN RECOGNITION OF THE RETIREMENT OF COL. STEVEN P. STROBRIDGE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. SKELTON. Mr. Speaker, I rise to commend and pay tribute to one of our Nation's most dedicated and professional military officers, Col. Steven P. Strobridge. Colonel Strobridge is retiring from the Air Force after 24 years of dedicated and distinguished service to his country.

Because of his superb reputation as a leader in the Air Force personnel community, Colonel Strobridge has filled critical positions in both the Office of the Secretary of Defense and on the Air Staff. As deputy director and later director, officer and enlisted personnel management, he was responsible for establishing policies on military personnel promotions, utilization, retention, separation, and retirement. Colonel Strobridge was assigned to his present position as chief, military compensation division, Air Force directorate of personnel programs, education and training in 1989.

Colonel Strobridge has been instrumental in numerous significant improvements to military entitlements, compensation and benefits that contribute directly to the recruitment and retention of the top quality personnel required to maintain the high standards and challenging mission needs of our Armed Forces, in both peace and in time of war. Those who know him, and especially those fortunate enough to have served with him, recognize his unwavering commitment to the welfare of the soldiers, sailors, airmen, and marines on whose service we all depend so heavily. Colonel Strobridge is a dedicated, unselfish, and tireless leader who has truly left his mark not only on the Air Force, but on the entire Department of Defense. His leadership and personal sacrifice will be missed, but not forgotten. He is a professional we can all look to with pride and admiration.

Mr. Speaker, I ask to enter into the RECORD our commendation, sincere appreciation, and best wishes to Colonel Strobridge for his outstanding service to the U.S. Air Force and to our great Nation.

BEULAH BAPTIST CHURCH

HON. CYNTHIA A. McKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Ms. McKINNEY. Mr. Speaker, Beulah Baptist Church is celebrating 97 years of service and inspiration to residents of Georgia's 11th Congressional District.

I submit the history of the great Beulah Baptist, Rev. Jerry Black, pastor, for the CONGRESSIONAL RECORD:

BEULAH BAPTIST CHURCH—A BRIEF HISTORY, 1896–1993

One June 4, 1896, Beulah had its humble beginnings at an old time prayer meeting in a one room shack located on Mayson Avenue in northeast Atlanta. This was the home of Deacon and Mrs. Harry Oliver. Reverend W.F. Paschall, Elbert Lofton, Harry Williams, Eliza Gaither, and Lizzie Goldsmith were among the band of Christian followers who held weekly "fire burning" prayer meetings that shaped Beulah's future to come.

As a result of these weekly prayer meetings, Beulah Baptist Church was organized by its first pastor, Reverend W.F. Paschall, on Thursday night, November 20, 1896, along with the ever faithful and devoted band of Christians. Reverend Paschall served faithfully for thirty-three years, 1896–1929, until he accepted the call to another church. Reverend Dorsey Gordon, Reverend Henry White, Reverend Sam Barnes, Reverend T.H. Seals, and Reverend Paul Scruggs were among the ministers present at this grand event. Later, the members moved to Hardee Street under the latticed bush arbor where Mrs. Lizzie Goldsmith was the first baptized member, as well as the first mother of the church. A Women's Home Mission society, headed by Mrs. Lula Paschall, and a Sunday School were among the first organizations to take form within our newly organized church.

The years which followed ushered in new goals, ideas, and challenges for a growing congregation. This prompted the purchase of land for the sum of $100.00 at the corner of Wesley and Hardee streets on which a wooden church was built. As the membership continued to increase, the church was enlarged

and bricked to accommodate the growing needs of the congregation.

Reverend E.M. Johnson, who displayed unusual qualities of leadership and possessed an eloquent speaking ability, pastored Beulah between 1929–1935. Thus, the membership increased greatly. Reverend Johnson passed on the gospel torch to Reverend R.J. Hawk who became pastor for one year, 1935–1936. He was succeeded by Reverend C.A. Moore who served from 1937–1942, while Reverend B.R. Watts served as pastor from 1942–1948. It was under Reverend Watts' administration when Beulah experienced its most memorable event which was the burning of the church's mortgage note. It was the development and implementation of the ward system that proved beneficial in Beulah's financial efforts in recovering the church's deeds.

The church then called Reverend E.D. Thomas who proudly served as our pastor for thirty-six years, 1948–1974. It was during this time that the Mary White Carlton Fellowship Hall was dedicated. This dedication consisted of a grand finale, which was the unveiling of Ms. Carlton's portrait by her grandchildren. Under his powerful leadershp, the church continued to grow and prosper even more, as progressive thinking became instilled in the minds of the congregation. We stepped out on faith and accepted the task to build a $76,000 education annex, purchase the only organ in the history of the church, install new pews and carpeting, and purchase other property. Due to Beulah's innovative search for financial freedom, a restructuring of financial procedures occurred. This resulted in the changing of the name "ward captain" to "birth month president" and the establishment of a building fund. Through it all, God was before us and beside us and we became debt free. We thank God for Reverend Thomas for thirty-six years of leadership as an humble and beloved pastor. He died January 1978, but his memory will forever be in our hearts.

On the first Sunday, June 1975, we accepted a new challenge and an even greater blessing from the Lord. We marched into a beautiful edifice known as the New Beulah Baptist Church located at 2046 Sage Land in Southeast Atlanta. It was a glorious occasion long to be remembered by many. Yet, we will always cherish our memories of the site at 1536 Hardee Street.

Notable contributions were made by Reverend Littleton Price who pastored from 1976–1977. Reverend Price later accepted the call to pastor another church leaving Reverend J.I. Jones, a member of Beulah, with the task of serving as interim pastor until 1978 when Reverend Jimmie Lee Smith accepted the pastorship of the church. His tenure ended in 1990, but not before he led the Beulah family to higher grounds.

Reverend Smith inspired our prayer services, organized Bible study classes, implemented tutoring classes for people with poor reading skills, assisted in the opening of a daycare nursery during Sunday morning services, established scouting troops for boys and girls, and encouraged other sporting activities and events throughout the church. The laying of the cornerstone at the present Beulah location is one memorable event which occurred while Reverend Smith servied as pastor of our church. The cornerstone was laid on the first Sunday, June 1978, with a very impressive ceremony.

From 1990–1991, Reverend Zeddie Scott served as interim pastor. Beulah thanks Reverend Scott for keeping the church together. He served faithfully until August 29, 1991, when the conference called Reverend Jerry D. Black as its new spiritual leader. Reverend Black, who is truly a man of God, came to us with his sleeves rolled up. Beulah has become energized because of "The Black Concept", which emphasizes humbleness of heart, increased personal and spiritual growth, and earnest commitment is service to our Lord and fellowman. Organizations formed, reorganized and some even became revitalized under his auspices. These organization include the Ministers Wives Guild, Ministry for the Incarcerated, Overcomers Outreach Ministry, Christian Education Department, Wednesday Noonday Prayer Service, Sunday School Teachers Meeting, Men's Ministry, Young Men for Christ, and a class regarding Effective Tools for Witnessing.

Beulah's rich history and heritage also include the ordination of several ministers who were called to go into the Lord's vineyard to preach the gospel. Among these are the following Reverends: D. A. Guy Banks, Joe Spear, O. Rutland, Richard Gammage, Hubert Hamilton, William E. Flippin, Lois Anderson, Lonnie White, Woodrow Williams, George Scott Freddie Anderson, Michael Caldwell, Zeddie Scott, Stephen King, and Duane Jackson.

History is like a river. As the river flows to its final destination, it changes its course at various points; but whatever its form or direction, it is the same river. Like the river, Beulah's history reveals that we have changed course at various points; but we are, nonetheless, God's church and we will continue our mission in faith, hope, and love. As we look back over these 97 years, we have been given a perspective of how far we have come and how far we have to go in our work for the Master.

VEHICLE EMISSIONS AND URBAN AIR QUALITY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. KILDEE. Mr. Speaker, as co-chairman of the Congressional Automotive Caucus, I would like to bring to my colleagues attention an article that recently appeared in the July 2, 1993, Science magazine, entitled: "Achieving Acceptable Air Quality: Some Reflections on Controlling Vehicle Emissions." This article, co-authored by four experts in this field, contains some intriguing findings that will interest members who are concerned with urban air quality.

Mr. Speaker, the authors of this article make three major points concerning this issue. First, urban air quality, which is affected by both automobile emissions and emissions from so-called stationary sources—like factories and drycleaners—has greatly improved since Congress first passed clean air legislation 25 years ago. Second, we still have a more to do to meet the law's requirements. Third, the most cost effective way to make further reductions is through measures aimed at cars already on the road, not by imposing additional emission controls on new cars.

As many of my colleagues know, improvements in vehicle emission systems have reduced ozone concentrations by 8 percent from 1982 to 1991, and carbon monoxide levels are down 30 percent over the same period. The innovation of the catalytic converter alone is responsible for the reduction of the three major pollutants, hydrocarbons [HC's], nitrogen oxide [NO_x] and carbon monoxide [CO] by a factor of 5 to 10. These reductions have made our cities healther and cleaner places to live.

However, as the authors note, many metropolitan areas still suffer periodic levels that exceed current air quality standards. The situation will only get tougher for cities as the stricter requirements of the 1990 Clean Air Act are phased in. In fact, several recent studies document higher vehicle emissions than predicted by the computer models used to forecast air quality.

The authors site data which show that about 50 percent of auto emissions come from only 10 percent of the vehicles on the road. Many of these are the older models, the clunkers, as they are known, with limited, if any emission control systems. However, the data shows that this group is not limited to just the clunkers—it includes a significant portion of recent year models and brand new vehicles. In fact, some of the worst emitters are the newest models. The evidence indicates that tampering has occurred in several instances. Some automobiles have had their emission control systems tampered with, some have been misfueled with leaded, instead of unleaded gas, which has ruined the catalytic converter and emission control system, and a significant portion of the high emitters either do not have the required maintenance performed or do not have it performed properly.

The authors also cite other causes for higher than anticipated emissions. There are more cars on the road, problems with evaporative emissions, effects of weather conditions, and variations in testing conditions.

The Clean Air Act of 1990 sets out three basic ways emission reductions can be achieved and the authors evaluate each of them. These include improving the vehicle, enhancing the fuel or emission system, and bettering inspection and maintenance programs [I&M].

On vehicle improvement, there is extensive research being conducted world-wide. Improvements look promising in the areas of basic engine design, control systems and the exhaust system.

While this may take some time, more effective control systems for evaporative hydrocarbon emissions are on a faster track. The authors believe these new systems, combined with fuel volatility controls and better inspection procedures, will eliminate evaporative emissions in a few years as a major source of hydrocarbon emissions.

With respect to the fuel option for reducing emissions, the authors believe that reformulated gasoline gives the biggest bang for the buck. They rate it as far superior to alternative fuels like natural gas, or alcohol fuels like ethanol, for several key reasons. It is more cost effective to produce, it is easily marketed through existing facilities, and it results in significant reductions in both tail pipe and evaporative emissions for the entire vehicle population, not just new vehicles.

Improvements in inspection and maintenance programs offer the greatest potential for additional emission reductions, the authors conclude. As every car owner in a major metropolitan area knows, these are the required

inspections of the car's emission control system which ensures it is operating effectively. When a problem is discovered, the owner must correct it before the car registration is renewed. However, it has not been as effective as anticipated because First, high emitting vehicles have been exempted from the repair requirements, second, repair shops often perform the tests sloppily or incompletely, and third, auto owners and repair shops have cheated on the tests, either by modifying the vehicle before the test or by altering the results if the vehicle fails the inspection. The end result is that there are a lot of cars on the road which are emitting far more pollutants than they should.

Mr. Speaker, if we really want to reduce auto emissions in a cost effective manner, we need to focus on the real problems, such as old cars and high emitters. The authors suggest that in order to reduce the disproportionate amount of emissions from these vehicles, I&M programs should be tightened up, and penalties should be increased for cheaters.

According to the article, "Recent studies * * * have shown that if all auto emissions are removed from the emissions inventory in Los Angeles by 2010, ozone concentrations will be only about 10 percent lower than they are projected to be if current regulations are implemented." Los Angeles and much of California will clearly have to take extraordinary steps to clean up the air, like requiring new cars with zero emissions. However, Los Angeles and California are not the rest of the country and mandating such extreme measures for everyone else will squander our scarce financial resources. We will, in effect, subsidize the small number of vehicles which are responsible for the majority of emissions if we continue to focus only on developing more complex and expensive controls for new vehicles. Equally important, this misplaced focus will not give us the kind of air quality improvement our constituents deserve. Mr. Speaker, I urge my colleagues to read this important article.

SALUTE TO JOHN CONNELL

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. POSHARD. Mr. Speaker, I rise to pay tribute to John Connell, who is retiring after 21 years of dedicated service to the village of Energy, a community which I am proud to serve in the U.S. House of Representatives.

John Connell started working for the village in November 1972. He worked under four different mayors—the Honorable Dale Walker, Bob Jeralds, Stanley Bloodworth, and Rex Piper. But mostly, he worked for the people of Energy, which is the kind of community where you know most everyone by name and care about them as friends and neighbors.

John was responsible for a nearly 100-percent improvement in the Energy water, sewer, and road systems. The widening of important arteries such as Pershing and College Streets was also the result of his oversight and hard work. Even as supervisor of public works, John also found time to serve as fire chief, improving the village's fire rating and striving again to make Energy a better, more safe place to live.

Friends I have talked with about John always point out how responsible he is and how he always accomplished whatever task needed to be done. When the snows would fall or when the storms would bring down branches and limbs, John would be out early and late to clean things up and make Energy presentable and open for business. He went above and beyond the call of duty because he cared about what he was doing.

Maybe that stems from his 22 years of service in the U.S. Army, where he earned the Bronze Star. Or maybe he draws his strength from the love and support of his wife of 42 years, Esther, and the three children and four grandchildren with whom they share their lives. Either way, we are lucky to have had someone like John working on our behalf, and we all wish him the greatest success and enjoyment in his retirement.

EXPLANATION OF THE MEDICARE CHANGES INCLUDED IN THE COMMON CENTS DEFICIT REDUCTION ACT OF 1993 THE HONORABLE CASS BALLENGER

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. BALLENGER. Mr. Speaker, I have received several inquiries from constituents questioning the Medicare spending provisions included in the Penny-Kasich Common Cents Deficit Reduction Act of 1993. The fact sheet below, provided by the House Budget Committee Republican staff, explains the Medicare reforms.

A FACT SHEET

The Penn/Kasich plan would reduce the increase in Medicare spending $34 billion over five years. Of these savings, $11.2 billion comes from asking those with higher incomes to pay more for Part B premiums rather than receive a 75% subsidy. This compares with the $124 billion in Medicare reductions in the Clinton health care proposal. Penny/Kasich includes provisions instituting coinsurance on the two remaining Medicare benefits that currently have no coinsurance, and begins means testing Part B premiums and Part A deductible at $70,000 of income for individuals and $90,000 of income for couples. All of these proposals are accepted by health care reformers as reasonable and needed for true cost containment.

No Medicare beneficiary at or below 150% of poverty would pay the coinsurance.

A prospective payment system is established for home health to standardize rates and protect beneficiaries from being overcharged.

The Clinton administration believes home health coinsurance is good policy because they include it in their health plan.

Coinsurance for Medicare services is not a new concept; in fact, the home health benefit is one of the two remaining Medicare services with no coinsurance requirement.

CLINICAL LABS

Clinical lab services are part of the voluntary Medicare Part B program.

Clinicial labs had a coinsurance requirement in the past. It is one of only two Medicare benefits with no coinsurance requirement.

The Clinton administration believes clinical lab coinsurance is good policy because they include it in their health plan.

MEANS TEST PART B PREMIUM

Only individuals with incomes above $70,000 and couples with incomes above $90,000 would pay the higher premiums.

The current premium is based on the national average and is subsidized 75 percent. Penny/Kasich gradually eliminates the premium subsidy.

The Clinton administration believes means testing the Part B premium is good policy because they include a similar proposal in their health plan.

THE FACTS

There has been concern over the Medicare provisions in the Penny/Kasich plan. This fact sheet will detail the provision, discuss inaccuracies of critics, and give examples of potential payments by Medicare beneficiaries. Medicare is projected to spend $989 billion over five years. Penny/Kasich affects this amount by only 3 percent.

HOME HEALTH

1. The Home Health benefit is one of the two Medicare programs without coinsurance requirement for beneficiaries (the other being clinical labs). The Penny/Kasich Deficit Reduction Plan institutes a 20 percent coinsurance on these services, which include visits by skilled nurses, physical therapists, speech therapists, occupational therapists, medical social services, and home health aides. The benefit is used by 2.2 million of the 31.3 million Medicare recipients (7 percent).

As a free benefit, home health services spending has risen 45.9 percent, 30.1 percent, and 47.4 percent respectively over the past three years. In 1993, it is estimated the program will increase 42.4 percent for total spending of $10.184 billion. Over the next five years, the program is projected to spend $95.5 billion. In other word, this one program will spend more than the Penny/Kasich plan reduces from the entire federal budget.

2. The proposal includes two important provisions to ease the burden of the coinsurance. These are as follows:

"a. Medicare beneficiaries at or below 150 percent of the poverty rate (individual $10,455; couple $14,145) will not pay the coinsurance. The coinsurance will be paid by the Qualified Medicare Beneficiary program, which currently pays Medicare premiums, deductibles, and coinsurance for those at the poverty rate.

"b. A prospective payment system is established at 93 percent of the mean rate. The 20 percent coinsurance would be based on a rate limited to no higher than 93 percent of the mean (the current limit is 112 percent of mean). A national association and most home health agencies support the new system."

The prospective payment system provision also includes regulatory relief from current cost reporting requirements. For some home health agencies, this reporting accounts for 40 percent of the cost of operation. This regulatory relief will lower costs, thus lowering the charge to Medicare for services. The provision will establish standard rates and thus remove the variance charges for the same service. This will protect the Medicare beneficiary from being overcharged for a coinsurance payment.

3. Clearly, Medicare beneficiaries or their medical insurance will have to pay a fraction

of the cost of a service they now receive without cost. However, the 20 percent coinsurance is reasonable, and brings home health services in line with the rest of Medicare coinsurance requirements. Health care economists agree that the days of providing benefits with no coinsurance are over. The propensity to overspend when using other peoples' money is proven by the data. Spending on benefits provided with no cost consciousness is unsustainable.

Attack: The AARP sent letters claiming high costs to Medicare beneficiaries. One letter asserts the coinsurance would "cost the average home health user another $850 in 1994."

Truth: 1. The average home health user (7 percent of all Medicare beneficiaries) is not paying anything now—how can it be "another $850"?

2. The methodology used to calculate the costs per beneficiary was flawed. They multiplied averages by averages and created a distorted number which overstated the cost by more than double. Some basic math skills would have prevented these inaccuracies. Using a weighted average for each type of services provided to beneficiaries, the total average coinsurance cost would be $391.08. This more accurately represents the use of services by a beneficiary and thus the average coinsurance. (Source data: Prospective Payment System Report to the Congress, June 1993; Federal Register July 8, 1993)

The home health provision does entail costs for the beneficiary. We would expect Medigap policies and private insurance coverage to adjust to this policy change.

Finally, it is charged that the coinsurance is a new "sick" tax. The question arises: when exactly should we pay for health care? The Clinton administration believes coinsurance is good policy coinsurance provisions are included in their health plan. This is an effort to implement spending restraint in a deficit-ridden budget.

CLINICAL LAB SERVICES 20 PERCENT INSURANCE

The coinsurance on clinical lab services would require Medicare beneficiaries to pay 20 percent of the cost of tests. Clinical lab services is part of Medicare Supplemental Medical Insurance (SMI), or Medicare Part B. It is a voluntary benefit, and covers physician services. Part B is currently subsidized 75 percent by general tax revenues.

In the past, the clinical lab program charged a 20 percent coinsurance. It was removed when the payment system was changed. The Penny/Kasich plan would reinstate the coinsurance, requiring nominal payments by the beneficiary. The service includes the typical tests given at a doctor's office, and either analyzed in an office lab or sent to a clinical lab. They include blood tests, urinalysis, electrocardiogram, pap smears, etc.

"For example: Mrs. Smith goes to the doctor for an annual complete physical. Typical tests and charges would be a urinalysis ($12.50), SMAC/CBC comprehensive blood test ($40), pap smear ($18), hemoccult ($7), and electrocardiogram ($15), for a total of $92.50. The total coinsurance paid by the beneficiary for all tests would be $18.50."

Many Medicare beneficiaries will have the coinsurance paid by employer-provided retirement coverage or other types of insurance. The coinsurance will not be onerous as the cost of clinical lab tests are modest. The Clinton administration includes the 20 percent coinsurance in their plan.

MEANS TEST MEDICARE PART B PREMIUM

The Penny/Kasich plan gradually reduces the Medicare Part B premium subsidy beginning at $70,000 for individuals and $90,000 for couples. The subsidy would be phased out in increments of 3 percent per $1,000 of income above the threshold. The full national average premium would be paid by individuals above $95,000 and couples above $115,000 income.

Attack: The Democratic Study Group claims the proposal would make elderly overpay for Medicare Part B coverage.

Truth: Again, the Penny/Kasich plan is attacked by specious logic and bad math skills. Using their logic, all (not just high income) Medicare beneficiaries in rural counties are overpaying their premium now. If they are paying 25 percent of the national average, they are not receiving as much subsidy as those in high cost areas. A national average is just that—a national average. Pointing to a county with low costs and claiming overpayment of a national average makes no sense.

Everyone knows Medicare underpays providers and shifts costs to the private sector. Does anyone really believe someone over 65 could purchase part B coverage for $164 per month? The national average for private sector health insurance is $400. Most people were paying $400 per month for health insurance before entering Medicare. It's still a good deal even without the subsidy.

Finally, a very similar proposal is included in the Clinton health plan. It is widely recognized the current subsidy needs to be eliminated.

CAVEAT CONSUMERS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. DINGELL. Mr. Speaker, I commend to my colleagues the following November 5, 1993 Detroit Free article which points to the dangers posed by special interest groups to rational debate on health care reform. As the article aptly points out, policymakers need to maintain a critical eye and sharp mind against the frontal attack that will be waged by those with special interests in the outcome in the health care debate. If we are going to produce sound, rational health care policy, we must insist on well articulated and factual arguments.

HEALTH CARE—WARNING: INDUSTRY ADS MAY BE HAZARDOUS TO REFORM

The hyperbole and special pleading that distort the national debate on health care can only be expected to grow, now that President Bill Clinton's complicated reform proposal offers such a fat target to naysayers and nitpickers.

So Hillary Rodham Clinton's broadside this week against the heath insurance industry's TV commercials opposing the White House plan provides a useful reminder—even if you disagree with the first lady—that consumers must remain skeptical of sincere-sounding rhetoric and slick, expensive advertising, from whatever source.

Ms. Clinton accused the industry of greed and dishonesty in asserting in its ads that the administration's reform initiative would cost too much, create too much regulatory bureaucracy, and impermissibly limit patients' choice of doctors and hospitals. To the contrary, she argued, health insurers' profit-motivated restrictions on medical coverage have diminished choice, denied affordable insurance to millions of Americans, and brought the U.S. health care system "to the brink of bankruptcy."

By contrast, the president's (and her) managed "competition" proposal, she said, would enhance choice and security by allowing Americans to select from an array of health care plans, including the traditional fee-for-service model. But what happens, critics ask, if one's preferred plan is oversubscribed or runs out of money?

The insurance industry defends the accuracy of its ads, and insists it seeks universal coverage and what it calls "comprehensive" reform rather than the status quo. In the next breath, though, it opposes as chaotic White House attempts to contain the growth of health insurance premiums and to provide medical benefits through regional purchasing alliances.

We think Ms. Clinton is more nearly right than the industry. To maintain public support, the administration will have to defend its proposal aggressively against interest-group criticism from many directions, even as it remains willing to negotiate details with Congress.

But the danger of a White House war on insurance companies, drug manufacturers, Republicans, doctors, employers, or any other medical lobby or trade group, is that it could deflect administration—and public—attention from the central questions that must guide the health care debate: cost efficiency, quality, access and innovation.

The squabble between the first lady and the insurance industry persuades us more than ever that the best way to curb the industry's dominance would be to remove it from the health-care system—except, perhaps, for claims processing—by embracing a progressively financed, government-administered, single-payer system.

INTRODUCTION OF THE HEALTH EQUITY AND ACCESS REFORM TODAY

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. THOMAS of California. Mr. Speaker, when we return for the second session of this Congress, one issue will dominate the agenda—health care reform.

Thus far, the debate on this issue has centered on the Clinton Administration plan which uses the heavy hand of federal regulation, massive bureaucracy and an enormous tax increase to deliver universal health coverage. The average American, worried about losing control of their personal health decisions to the federal government, remains unconvinced by the President's approach.

That is why I am introducing health reform legislation today that guarantees every American coverage but leaves the individual in charge of his own health choices. This legislation, The Chafee-Thomas Health Equity and Access Reform Today bill, or HEART, is being jointly introduced by myself and Senator JOHN CHAFEE. HEART is the most comprehensive Republican health care plan to date and represents the tireless efforts of many Republicans to meet the President head-on in the health reform debate.

And I would like to thank my staff, the staffs of both the House Ways and Means Committee and Senator CHAFEE's office, particularly

Ann LaBelle and Christine Ferguson, for their fine efforts and hard work in helping to develop the HEART proposal. I would also like to thank the House Legislative Counsel staff, particularly Edward Grossman, Noah Wofsy, Lawrence Johnson and Susan Fleishman, and Senate Legislative Council Mark Mathiesen, William Baird, Susan Fauver, and Julie Simon for their tremendous support in helping to draft this bill.

We all agree that our Nation's health care system is in need of reform. Many people cannot acquire or pay for adequate health insurance. Others face precarious situations when they get sick, change jobs or their employer changes coverage. Access, security and cost are the three most pressing issues on Americans' minds when it comes to health care.

HEART will give everyone access to a standard package of benefits including medical and surgical services, prescription drugs and preventative services. Every health insurance plan would have to offer this coverage or lose their tax deductibility. Furthermore, insurance plans could not reject or hike up premiums to any applicant because they are sick or have a pre-existing condition. Plans would be forced to compete on the basis of price and quality of services they can bring to their customers.

All employers, both large and small, must offer the standard benefit package. While employers are not required to pay for this coverage, small employers, who currently find coverage unaffordable, may take advantage of HEART's new purchasing cooperatives to buy insurance with the same price and administrative advantages as big companies.

These purchasing cooperatives, of which there may be several competing for business in one area, will also operate for the benefit of the self-employed and other individuals who wish to purchase insurance on their own. Even the low income individual, which is not Medicaid eligible, can get standard coverage form the cooperative where he/she lives. A government voucher, phased in over a ten year period, will help those with incomes up to 240 percent of the poverty line buy the standard benefits.

HEART also makes the tax treatment of health benefits more equitable. Self-employed workers and individuals who buy their own insurance will be able to deduct all their premiums just like companies do now. In addition, long term health insurance will receive favorable tax advantages to enhance American health security.

My proposal does require that by the year 2005 every American obtain health coverage. But purchasers still retain many choices. For example, individuals may choose a catastrophic plan with an integrated, tax deductible medical savings account to meet their coverage requirements. Employers may also offer these plans and make contributions without tax consequences to their employees.

But Mr. Speaker, the most important standard by which this plan or any other plan should be measured is in its affordability—the standard of reality. For without this, all the promises of access, security and quality are empty.

This plan does not make promises it cannot keep. It does not mandate huge tax increases on working Americans. It does not sacrifice the quality of medical care. And it does not rely on phoney price controls to support a huge new layer of bureaucracy.

Mr. Speaker, it is important to note that this is the same approach used in the other Republican health care reform plan, the "Affordable Health Care Now Act," of which I am also a cosponsor. This is the only effective approach to reform.

The HEART plan pays for the low income voucher assistance by reducing the growth of Medicare and Medicaid from the current 12 percent rate to 9 percent. And that's not just a promise. Our budget enforcement requires that the reductions be certified by the OMB before the expansion of the assistance programs proceed.

Mr. Speaker, U.S. medicine is one of the wonders of the modern world. It was built by American genius, innovation and the marketplace. The HEART plan uses the strengths of the current system and addresses the ills of the system with a dose of reality, a characteristic that has been all too uncommon in the health reform debate until now.

SUMMARY OF THE "HEALTH EQUITY AND ACCESS REFORM TODAY ACT OF 1993" [HEART]

The "Health Equity and Access Reform Today Act of 1993" guarantees every individual access to affordable and secure health coverage through substantial health insurance market reforms. Low income individuals will receive government vouchers to help purchase insurance. The vouchers are phased in through 2005 as savings in current government health programs are realized. The legislation will constrain the growth of health care costs through structural reforms and other savings.

HEART makes important changes in the tax treatment of health insurance that will make it easier to obtain coverage. The proposal also creates equity in the tax code. Individuals and the self-employed will be able to deduct all of their reasonable health insurance expenses. Tax code clarification will also help make long-term care insurance more affordable.

In addition, special assistance is provided for medically underserved, frontier, rural, and inner-city areas. "HEART" also contains important administrative, antitrust, medical fraud, malpractice, and quality assurance initiatives.

SECURE AND EQUITABLE HEALTH INSURANCE COVERAGE

Insurance and Consumer Protection Reforms

To be fully tax deductible, an insurance plan must be certified by the state as a "qualified health plan" following federal benefit and other standards. All qualified health insurance plans must meet the following requirements:

Guarantee eligibility to all applicants.

Prohibit discrimination based on illness or preexisting conditions.

Guarantee renewal.

Ensure delivery of services throughout the entire geographic area (or Health Care Coverage Area) in which they are offered.

Offer either a standard or catastrophic/medical savings account benefit package (or both).

Encourage formation of purchasing groups for individuals and small businesses (100 or fewer employees).

Comply with administrative reforms, meet quality assurance and solvency standards, participate in risk-adjustment programs among insurers, and implement requirements to reach the medically underserved.

Individual and Small business Purchasing Groups

To provide some of the same market advantages large businesses enjoy, and to disseminate better consumer information, purchasing groups may be established through which individuals and small businesses may choose from among several qualified health plans. States will establish geographic areas called Health Care Coverage Areas (HCCAs) in which one or more purchasing groups may compete for members. An HCCA may also be formed by interstate agreement to cover more than one state.

Vouchers to Assist Low Income Purchasers

Starting in 1997, those with incomes below 90 percent of the poverty level (and who are not eligible for Medicaid) will receive vouchers to buy insurance through purchasing groups. Voucher assistance will expand annually up to 240 percent of the poverty line in the year 2005.

Uniform Benefits Package

The standard benefit package includes medical and surgical services and equipment, prescription drugs, preventive services, rehabilitation home health services for acute care, hospice care, and some mental health services—all of which are based on a medically necessary or appropriate standard. Copayments and deductibles may apply to all but preventive services. An alternative catastrophic benefit plan can also serve as qualified coverage.

A Benefits Commission, appointed by the President and Congressional leadership, will report to Congress on any needed clarifications of the benefit plan. Annually, the Commission may recommend benefit changes for the approval of the Congress and President.

UNIVERSAL COVERAGE: INDIVIDUAL AND EMPLOYER RESPONSIBILITIES

Individual Responsibility for Health Care Coverage

All individuals must obtain health insurance coverage by 2005. The requirement is phased in based upon an individual's ability to purchase the standard plan and will be tied to the gradual expansion of federal assistance for low-income uninsured individuals. Individuals who enter the health care system uninsured will pay a penalty equal to the average yearly premium of the local area plus 20 percent.

Employer Responsibility for Health Care Coverage

Small employers (those with 100 employees or less) must offer (but need not pay for) a standard benefit package or alternative catastrophic insurance obtained from a qualified health plan. Employees of small businesses may choose not to join any of the plans offered by their employer. They may, instead, purchase insurance through a different group or qualified health plan.

Large employers (those with more than 100 employees) must offer both a standard and catastrophic benefit package to all employees. The employer may form a purchasing group, purchase from a qualified health plan, or self-insure for the purpose of providing insurance; however, its plan must comply with all consumer protection and insurance reforms.

TAX TREATMENT OF HEALTH CARE COVERAGE

Individual and Employer Tax Provisions

All purchasers of qualified health plans will receive favorable tax treatment up to the "applicable dollar limit." Employees

with employer paid insurance will not count the premium payments as income when the premiums do not exceed this amount; premiums in excess of the cap will be taxable to the employee as income. The health insurance deduction for self-employed persons is extended permanently and increased to cover 100 percent of the cost of qualified health plans, up to the "applicable dollar limit." The medical expense deduction for health insurance premiums of other taxpayers would be expanded to permit the deduction of 100 percent of the cost of qualified health plans (up to the amount discussed above), even for individuals who do not itemize deductions.

Medical Savings Accounts (MSAs)

Medical Savings Accounts can be part of any qualified catastrophic benefit plan. Contributions to an MSA will be fully deductible up to the applicable dollar limit. If the employer makes the contribution, the amount contributed is excluded from the employee's income. These accounts are available to pay the cost sharing requirement of the catastrophic health plan and may also be used to purchase long-term care.

FEATURES TO IMPROVE THE CURRENT HEALTH CARE SYSTEM

Quality Assurance and Medical Research

All health plans must have a quality assurance program consistent with federal guidelines. Federal research on effectiveness outcomes will be expanded, and a clearinghouse and other registries on clinical trials research will be developed. A Medical Research Trust Fund is established to guarantee funding for research.

Assistance To Underserved Areas and Provider Incentives

Health plans may be required to provide additional benefits to special needs populations in defined geographic regions. Plans will be compensated for such care through grants or enhanced reimbursement.

In order to increase the number of primary care providers, the National Health Service Corps and other health profession funding would be increased. States may apply for Medicare graduate medical education demonstration authority to experiment with methods of changing physician specialties.

JUDICIAL REFORMS

Malpractice Reforms

To lower health care costs, parties in malpractice suits must participate in alternative dispute resolution systems before entering regular litigation procedures. Noneconomic damages are capped at $250,000, and liability for such damages shall be based on proportion of fault. Providers following practice guidelines approved by the Agency for Health Care Policy and Research (AHCPR) shall have a presumptive defense against malpractice claims.

Anti-Fraud and Abuse Control Program

The bill establishes a national health care fraud prevention program. It increases and applies civil penalties for Medicare and Medicaid fraud to all health care programs. Providers convicted of fraud will be excluded from the Medicare program.

Antitrust Reforms

The Attorney General, along with HHS and FTC, shall establish competition guidelines for approved providers, health care plans, and purchasing groups. Justice, HHS and the FTC will establish expedited waiver procedures from antitrust laws. Cooperative ventures shall be subject to the "rule of reason analysis."

"HEART" FINANCING GUARANTEES NO INCREASE IN FEDERAL HEALTH COSTS

Reductions in Medicare/Medicaid Programs

Savings in Medicare and Medicaid finance fully the low income voucher program. Savings arise from means testing the Medicare Part B premiums, phasing out payments to hospitals for uncompensated care and for enrollee bad debt, and instituting a managed care program in Medicaid.

Budget Procedures to Protect Against Cost Overruns

The voucher program expansion proceeds only after certification by OMB that savings are occurring as scheduled. In the event that savings occur more rapidly, the phase-in will be accelerated. In the case of a savings shortfall, it will be decelerated. The Benefits Commission may make recommendations to Congress to reduce the deficit amount by restructuring benefits or restructuring health care entitlements. If Congress enacts such recommendations, the deceleration in voucher coverage will be appropriately adjusted.

CONGRESSMAN KILDEE HONORS DAVID NUSSBAUM

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. KILDEE. Mr. Speaker, I rise today to honor a dear friend of mine, Mr. David Nussbaum, who has recently announced he will be leaving my hometown of Flint, MI for a new position in Richmond, VA.

Mr. Speaker, for the past 10 years, David Nussbaum has been a dynamic, and effective community leader as the executive director of the Flint Jewish Federation. He organized and strengthened the Flint Jewish community, which has always been a strong advocate for human dignity and justice. In this capacity, David has worked to improve the quality of life for not only the Flint Jewish community, but the entire community.

David is a compassionate human being who cares deeply about people and their problems. He understood the need for social services in the Jewish community so he established the Flint Jewish Family and Children Services to address those unique problems. But David knew that a community is only healthy when all of its people are strong. David understands that people are a community's strongest assets, and Mr. Speaker, that is indeed true of both Flint, MI and David Nussbaum.

In serving our community, David was an officer in the Urban Coalition of Greater Flint, he was the president of the Greater Flint Sunrise Rotary, chair of the city of Flint Human Relations Commission, community co-chair of the 1986 Martin Luther King, Jr. Flint Holiday observance, and a board member of both the Mott Community College Foundation Board and the Endowment Board. In addition to these activities, David maintained a national presence through his deep involvement in the National Jewish Community Relations Advisory Council.

David was one of those special people that you knew you could always count on to lend a hand. I knew that I could call David at any time, at any place, and he would do what was humanly possible to help. And when David called me for assistance, it was to help a person in need. David was also active in the Democratic party. He would often call me in Washington, DC, to give me his views on the issue of the day. Most of the time, it was a view that we both shared. He was someone I could count on for honest and politically astute advice. But, as I told David, when I am in Washington, DC, he will now be only 90 miles away. So, I know I will see him often.

Mr. Speaker, if losing David were not bad enough, we feel another loss in that David's wife, Laurie MacArthur, will be leaving for Richmond as well. Laurie has lived most of her life in Flint, and has also been very active in the Flint community. She is currently the executive director of the Flint Visually Impaired Center, and a member of the Bishop International Airport Authority and the board of Health Plus of Michigan. Laurie is also a founder and executive board member of 100 Women, a group promoting women's issues and candidates throughout the State of Michigan. She also served as president of the Junior League of Flint and chairperson of the board of the Department of Social Service in Genesee County. A Michigan State University graduate, she served as associate executive of the United Way of Genesee and Lapeer County.

Mr. Speaker, our community will certainly miss David and Laurie for all they did to enhance our community. What makes life so special is being able to share time with people like David and Laurie, who touch people's lives in the most positive way. Most of all, I will miss their friendship, which I will cherish forever. I wish them the best in their future endeavors, and I want them to know they will always have a place to call home in Flint.

AIRCRAFT NOISE OVER NEW JERSEY IS INTOLERABLE

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. FRANKS of New Jersey. Mr. Speaker, like all other congressional offices on Capitol Hill, my office regularly receives hundreds of phone calls, facsimiles, and letters each day from constituents. Today, my office was contacted by Ms. Ann Reynolds of Scotch Plains, NJ concerning the issue of aircraft noise. While it is not unusual for my office to receive complaints about the high level of aircraft noise over the communities of central New Jersey, Ms. Reynolds relayed a unique story concerning aircraft noise that deserves to be brought to my colleagues' attention.

The Reynolds family moved from Manhattan to Scotch Plains last July to seek peace and quiet in a residential setting. The Reynolds family specifically chose a home away from busy streets, churches, and schools to ensure that their new home would be free from noise. Unfortunately, the first night the Reynolds spent in their new home, they were rudely awakened by a type of noise they didn't expect: the sounds of jets roaring overhead, coming from and going to Newark International Airport. Nearly 4 months later, this intolerable cacophony of noise continues

unabated, disturbing the Reynolds, and all of their neighbors in the communities around Scotch Plains.

Mr. Speaker, the Reynolds, and all other families who have put up with aircraft noise day and night since the FAA's expanded east coast plan was implemented 7 years ago, deserve relief. They deserve to live in their homes without outrageous disturbances. They deserve to live in their homes in quiet enjoyment, a legal principal implied in all leases and deeds. While the issue of aircraft noise is often shrouded in mind-numbing statistics and bizarre FAA-speak, the Reynolds' plight shows that there is also a human side to this issue. I urge my colleagues not to forget families like the Reynolds, and to join me in my ongoing effort to reduce aircraft over our residential communities.

THE TENTH—A DISTRICT OF CARING COMMUNITIES

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. PAYNE. Mr. Speaker, I want my colleagues to know that I am proud to represent a district of caring communities. Wednesday, December 1, 1993, is World AIDS Day and a number of activities have been planned in my district to bring attention to this dreaded disease and its impact on our local, national, and international communities. From hosting health fairs, information and screening sessions, to ceremonies commemorating the first day issue of the AIDS awareness postage stamp, to community meetings, and candlelight vigils, the day will be filled with opportunities to draw attention to HIV/AIDS and its impact on the urban community, to educate our constituents on how to prevent the spread of HIV or AIDS, and how to increase/provide compassionate care for affected persons.

The people of New Jersey's 10th Congressional District are always ready and willing to work for the benefit of the community at-large. On September 10, 1993, I had the pleasure to work with the Union County HIV Consortium, a 30-plus member organization, during its day of caring. The day's events included an open house for the Union County HIV Consortium Resource Center, a legislative reception, and a town hall meeting. The day focused on issues centered around providing community awareness and education; disseminating information, and providing a forum for provider agencies; and developing coordinated plans to respond to the HIV epidemic, and identifying and assessing needs and services delivery.

Just as the events of World AIDS Day will be coordinated chiefly through a corps of volunteers, so was the September 10 Union County Day of Caring. I would like to take this opportunity to thank the Union County HIV Consortium Planning Committee members for their stalwart support and commitment of serving a population in great need. They are Catherine Miranda, board president; Mary Beth Kelly, former board president; Michelle Doran McBean, committee chair; Charles Jones, executive director; Freeholders Linda DiGiovanni, and Linda Lee Kelly, Lisa Berlin, Carmen Solis, Susan Moore, Patty Devereau, Louise Yohalem, Karen Dinsmore, Alvin Hester, Tony Jirau, Anne Dashensky, Carmen Lopez, Patricia Morris, and Mary Wegryn. Special thanks also goes to Joseph Manfredi, Urbano Venero, and Nathan Dodge McBean for their assistance. I would be remiss if I did not thank my town hall meeting panelists—Douglas Morgan, Arlene Enabulele, Ann Baran, Tinga Buckly, and Evelyn Sullivan—other speakers and participants.

AN INTERNATIONAL SOLUTION FOR ASYLUM REFORM

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. FRANKS of New Jersey. Mr. Speaker, I rise today to introduce a concurrent resolution which would restore integrity to the political asylum process by creating a fair and effective international asylum strategy.

Immigration has historically been a great source of strength for our Nation upon which we have built a foundation for past and future success. One unique component of America's immigration policy is our willingness to provide safe haven for individuals who have been persecuted in another country. Because of widespread abuses, however, this historic tradition is in jeopardy. I believe a cohesive international approach to the asylum process must be taken in order to provide relief to America's overburdened asylum system, while also preserving refuge for those suffering from legitimate persecution.

Americans across the country have expressed frustration with our Nation's immigration policies—and for good reason. This year alone, almost 150,000 aliens will arrive at American ports of entry seeking political asylum. Before coming to the United States, many of these individuals travel through countries which provide safe haven from persecution. Rather than applying for asylum at one of these safe haven nations where refuge is immediately available, these asylum seekers continue their journey to the United States primarily in search of economic opportunity. This country shopping has contributed to a growing backlog of 330,000 asylum cases, creating a situation that not only strains America's limited resources but also, as we have seen in New York, poses a serious threat to national security.

Recently, the nations of the European Community negotiated a multilateral treaty to alleviate similar problems. In conjunction with independent asylum reform measures, their multilateral agreement helped countries like France, Italy, and the United Kingdom reduce asylum applications by 50 percent since 1991. It is time for America to do the same. If we do not, the overflow of asylum seekers will pass through Europe and be sent on the United States.

The legislation I am introducing today would help generate an international approach by urging the Secretary of State to negotiate multilateral first safe haven guidelines for real asylum reform. This legislation would prevent thousands of fraudulent claimants from ever reaching U.S. soil. It is a cost-effective approach which would eliminate the incentive to country shop in search of economic relief, yet ensure political asylum for valid claims where political asylum is most immediate available.

Mr. Speaker, it is time to set forth a vision for American immigration policy for the coming century. This legislation will begin that process by constructing a frame work which would significantly reduce the aggregate number of asylum seekers in the United States while preserving safe haven for all who need it. Finally, I would like to thank my colleagues, Representative DON JOHNSON and Representative RALPH REGULA for their assistance in introducing this much needed, bipartisan legislation.

CONGRESSMAN KILDEE HONORS ALICE SHOTWELL GUSTAFSON

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. KILDEE. Mr. Speaker, it is with great pride that I rise before you today to pay tribute to a remarkable woman who has, throughout her lifetime, demonstrated a total commitment to excellence in her profession. Alice Shotwell Gustafson has grown to become a truly influential leader in the Michigan business community. Her sphere of influence not being limited to the business world, Ms. Gustafson has proven herself a tireless advocate for the development of our Nation's most valuable natural resources, our youth. In recognition of her lifetime of service, the Clinton Valley Council of the Boy Scouts of America will honor Alice Shotwell Gustafson at the 18th Annual Distinguished Citizen Dinner on December 2, 1993 at the Pontiac Silverdome.

Barely out of high school and armed only with an unwavering desire to succeed, Alice Shotwell Gustafson was hired by Hubert Distributors Incorporated as a file clerk. Today, 46 years after that humble beginning, she has risen through the ranks to become the chief executive officer of the corporation which now grosses over $42 million a year. Under her leadership, Hubert Distributors built a $6 million distribution, warehousing and administrative complex in Pontiac. Hubert Distributors commands a 51 percent market share of the Anheuser-Busch products it distributes, making it the market leader in Oakland County and Michigan's third largest distributor.

Alice Shotwell Gustafson and her company have been the recipients of numerous awards for their record of excellence and competitiveness. In 1989, Alice Shotwell Gustafson and her company received Anheuser-Busch's highest honor, when Hubert Distributors Incorporated was named a Gold Dimensions of Excellence Distributor. Ms. Gustafson and Hubert Distributors have been featured in countless articles in leading industry publications such as Michigan Business, The Beverage Journal, Crain's Detroit Business, Oakland-Tech News and The Oakland Press.

A true pathfinder, Alice Shotwell Gustafson has helped to break down gender and age

barriers in many arenas, including business and sports. She was named the first woman chair of her industry association, The Michigan Beer and Wine Wholesalers Association. She was the first woman member of the Pontiac Rotary Club as well as its first woman president. Not only was Alice Shotwell Gustafson chair of the committee that sponsored the Olympic Torch Run through Pontiac, she was a participant in the run as well.

Alice Shotwell Gustafson has been the Michigan woman water skiing champion five times. She holds a commercial pilots license with instrument and multiengined ratings as well as a Sea Plane Rating. Ms. Gustafson is the oldest women in the United States to obtain a jet captain rating. In June 1991, Alice Shotwell Gustafson was appointed to the Michigan Aeronautics Commission for a term ending in September 1995.

Ms. Gustafson is the Honorary Chair of the Boys Club and a recipient of its highest honor, the Golden Boy Award. She serves on the board of trustees of the Young Womens Christian Association and the executive planning committee for the largest yearly fundraiser of the Clinton Valley Council of the Boy Scouts of America. Alice Shotwell Gustafson established a grant to build the Shotwell-Gustafson Pavilion at Oakland University in Rochester, MI. She purchased the Howard Shelly outdoor wildlife firm series and donated the films to Oakland University. Ms. Gustafson is a member of both the university's President's Club as well as the board of the university's foundation.

Mr. Speaker, it is indeed an honor for me to rise before you and my fellow Members of the 103d Congress, to pay tribute to the lifetime accomplishments of Alice Shotwell Gustafson. She has become a part of the living history of my home State of Michigan and our Nation. Alice Shotwell Gustafson has spent her life demonstrating that those who place no limits on their dreams shall achieve greatness. She will serve as an inspiration for Americans for decades to come.

THE CIVIL RIGHTS STANDARDS RESTORATION ACT: RESTORING THE LONGSTANDING LEGAL FRAMEWORK

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. OWENS. Mr. Speaker, today I am introducing with Congressman ALCEE I. HASTINGS, the Civil Rights Standards Restoration Act, to overturn the Supreme Court's Hicks decision. I would like to applaud Senator METZENBAUM's leadership on this issue.

Last summer, in St. Mary's Honor Center versus *Hicks*, a bare 5-4 majority of the Supreme Court abandoned the three-step legal framework federal courts have used for 20 years to resolve civil rights claims involving intentional discrimination. The Court repudiated its own long-standing precedents, rejecting the position taken by the Reagan Administration, the Bush Administration, the Clinton Administration, and a majority of the federal courts of appeals. In its place, the Court adopted a scheme that Justice Souter (in dissent) called "unfair to plaintiffs, unworkable in practice, and inexplicable in forgiving employers who present false evidence in court."

1. The 20-year-old Legal Framework. Twenty years ago, in McDonnell Douglas Corp. versus Green, 411 U.S. 792 (1973), the Supreme Court laid out a three-step framework for resolving Title VII cases involving intentional discrimination. This scheme has been employed in thousands of federal civil rights cases and was reaffirmed by the Court in *Texas Dep't of Community Affairs versus Burdine, 450 U.S. 248 (1983). The framework is as follows:*

First, the plaintiff must establish a prima facie case of discrimination by offering evidence strong enough to result in a judgment that the employer discriminated, if the employer offers no evidence of its own.

Second, if the plaintiff establishes a prima facie case, the employer must then come forward with a clear and specific nondiscriminatory reason for the challenged action.

Third, if the employer offers a nondiscriminatory reason for its conduct, the plaintiff then must establish that the reason the employer offered was a pretext for discrimination. Significantly, the Supreme Court made clear in Burdine that the plaintiff can prevail at this third stage "either directly by persuading the court that a discriminatory reason more likely motivated the employer or indirectly by showing that the employer's proffered explanation is unworthy of credence."

2. Hicks: Lower Courts. At trial, Melvin Hicks, an African-American corrections officer, established a prima facie case that his employer had suspended, demoted and terminated him based on his race. The employer responded by claiming that the plaintiff had violated work rules. The district court rejected that reason as a pretext, but still ruled in the employer's favor, based on a different reason—personal animosity of the plaintiff's supervisor—that was never put forward by the employer at trial to explain its conduct. The 8th Circuit Court of Appeals reversed, holding (based on McDonnell Douglas, Burdine, and a clear majority of federal courts of appeals) that the plaintiff should prevail as a matter of law where he proves a prima facie case of intentional discrimination and that the nondiscriminatory reasons offered by the employer were not credible.

3. Hicks: Supreme Court. In a 5-4 decision written by Justice Scalia, the Supreme Court reversed the 8th Circuit's decision and upheld the district court's judgment for the employer. In an opinion by Justice Scalia, the Court abandoned the 20-year-old McDonnell-Douglas framework, holding that the plaintiff was not entitled to judgment even though he had proved a prima facie case of discrimination and disproved the employer's only proffered reason for its conduct. Instead, the Court held that plaintiffs may be required not just to prove that the reasons offered by the employer were pretextual, but also to "disprove all other reasons suggested, no matter how vaguely, in the record." Justice Scalia acknowledged that the majority's decision will place an employer who lies in a better position than one who says nothing.

4. Souter Dissent. Justice Souter wrote a dissenting opinion, joined by Justices Blackman, White, and Stevens. Souter charged that the majority's decision "stems from a flat misreading of Burdine and ignores the central purpose of the McDonnell Douglas framework." The Court is throwing out the rule," Justice Souter asserted, "for the benefit of employers who have been found to have given false evidence in a court of law." Justice Souter expressed particular concern that the decision "provides [the plaintiff] with no opportunity to produce evidence showing that the district court's hypothesized explanation, first articulated six months after trial, is unworthy of credence."

5. Impact of Hicks. Justice Souter identified a number of likely consequences from the Court's decision. First, by making intentional discrimination substantially more difficult to prove. Hicks will discourage discrimination victims from enforcing their rights, thus frustrating Title VII's purposes.

Second, the decision saddles plaintiffs "with the tremendous disadvantage of having to confront, not the defined task of proving the employer's stated reasons to be false, but the amorphous requirement of disproving all possible nondiscriminatory reasons that a factfinder might find lurking in the record." Justice Souter rightly concluded that Hicks "will promote longer trials and more pro-trial discovery, threatening increased expense and delay in Title VII litigation for both plaintiffs and defendants, and increased burdens on the judiciary."

Third, the Hicks decision suggests that many discrimination victims will be unable to prove a Title VII violation without "smoking gun" evidence of intentional discrimination. As Justice Souter recognized, the need to allow plaintiffs to prove their cases based on circumstantial evidence is "crucial to the success of most Title VII claims, for the simple reason that employers who discriminate are not likely to announce their discriminatory motive."

6. The Civil Rights Standards Restoration Act. The bill creates a new, free-standing statutory provision (Section 1984) which applies in federal civil rights cases in which the McDonnell Douglas/Burdina framework is used to establish intentional discrimination (this includes Title VII, the ADEA, the ADA, etc.). The bill adopts the precise language of these two cases, providing that, where the plaintiff establishes a prima facie case of discrimination, and the defendant offers a nondiscriminatory explanation for its conduct, the plaintiff may still prevail by proving that either (1) "a discriminatory reason more likely motivated the [employer]," or (2) "the [employer's] proffered explanation is unworthy of credence."

HEALTH PLAN PURCHASING COOPERATIVES

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mrs. JOHNSON of Connecticut. Mr. Speaker, as we prepare to reform our Nation's health care system, a key challenge is making affordable insurance available to small employers and individuals. While this is not the only challenge, it is key to both increasing access and cutting the cost of health care. Though States have begun to address the group of issues involved, Federal action will enable them to move more rapidly and more consistently. Further, by building on successful programs that have been piloted in our States, we will increase the chances that reform will mean just that.

Consequently, I invite cosponsorship of a bill to address a piece of the health care reform puzzle that in and of itself is complicated

but very important to assuring affordable health care for all. This piece creating purchasing cooperatives can then be fit with other legislative proposals to assure the systemic reform we know is necessary.

Under my proposal, States would establish voluntary health plan purchasing cooperative [HPPC's] in which individuals without insurance and small employers could freely enroll and select from a wide array of competing health plans all providing a standard benefit plan governed by the rules of a reformed health insurance industry. In addition, the Health Plan Purchasing Cooperative Act would:

Make available to individuals and small employers at least three standard plan choices—managed care, fee-for-service, and a medisave option.

Require all health care plans to sell their products for the same price both inside and outside of the HPPC so that neither the HPPC plans nor the plans outside the HPPC receive an inequitable share of risk.

Assure that all plans would comply with proposed insurance reforms—guarantee availability, renewability and continuity of coverage, limits on the use of preexisting conditions, and adjusted community rating.

Enable members to benefit from the cooperative's contracting expertise, the administrative savings, and the consumer information they would provide.

Encourage competition, increase access, bring down costs, and improve quality.

I urge my colleagues to join me in establishing the voluntary health plan purchasing cooperative model. The Health Plan Purchasing Cooperative Act would increase access, bring down costs, and improve quality. Competition, based on consumer choice would determine who would succeed and who would not.

SUPPORT FOR REAL CAMPAIGN FINANCE REFORM

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. FRANKS of New Jersey. Mr. Speaker, I rise today in opposition to H.R. 3 and in support of the Michel campaign finance substitute offered by the Republican leader from Illinois.

It is obvious to all of us here today that the American political process is in urgent need of campaign finance reform. I have sat and listened as Members on both sides of the aisle have accosted the unclean sources of funding which pervade the current system.

There are two ways to rid campaigns of special interests and potentially corrupting influences. One is to simply eliminate them from the list of eligible donors. The second is to subsidize politicians with taxpayer dollars. Unfortunately, Mr. Speaker, the bill we are here to consider today would implement the latter.

The simple facts are these: The Michel substitute would eliminate PAC's. H.R. 3 would not. The Michel substitute would require candidates to have the financial backing of their constituents by requiring a majority of funds to originate from within a candidate's district. H.R. 3 would not. The Michel substitute would place a complete ban on soft money and bundling. H.R. 3 would not. And most importantly, the Michel substitute would apply to the 1994 elections. H.R. 3 would not.

Mr. Speaker, I made a pledge to the people of the Seventh District of New Jersey to clean up campaign financing and make that reform apply to the next congressional elections. I cannot in good conscience support a measure which does neither and would continue to protect incumbent at the expense of the American taxpayer. I therefore urge my colleagues to reject H.R. 3 and vote in favor of the Michel substitute.

BEST WISHES DR. KENYON C. BURKE

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. PAYNE of New Jersey. Mr. Speaker, I would like to bring to the attention of my colleagues, the retirement to Dr. Kenyon C. Burke. Dr. Burke is retiring from the National Council of the Churches of Christ in the United States. He is unit director associate general secretary for Prophetic Justice. On Monday, December 13, 1993, a gala celebration will be held in his honor.

As unit director, Dr. Burke has been responsible for the council's social action arm. He administered diverse programs, focusing on issues of economic and environmental justice/hunger concerns, racial justice, justice for women and health justice, child and family justice, including substance abuse and the AIDS crisis. Dr. Burke believes that churches have a serious responsibility in assuring that the disadvantaged and unprotected in our society gain equal access to services and resources, and that they are not abused. An Episcopal layperson, he describes his mission with the Prophetic Justice unit as an effort to help people perceive the church in its prophetic role as a vehicle for social action, in order to harness the talent and interest already present in the religious community and in the greater society.

Before joining the council staff in 1980, Dr. Burke was associate director for program at the NAACP. He has also been affiliated with Planned Parenthood/World Population, Anti-Defamation League of B'nai B'rith, the Urban League of Essex County, Engelhard Minerals, Seton Hall University, and the New Jersey Rehabilitation Commission.

Dr. Burke serves on the executive boards of the Leadership Conference on Civil Rights, the NAACP/Special Contribution Fund, the Center for the Study of Harassment of African-Americans, the National Coalition on Black Voter Participation, and the AIDS National Interfaith Network.

Mr. Speaker, I am sure my colleagues will want to join me as I offer my best wishes to Dr. Kenyon Burke on the occasion of his retirement.

H.R. 617, THE LIMITED PARTNERSHIP ROLLUP REFORM ACT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. DINGELL. Mr. Speaker, today the House will consider final passage of limited partnership rollup reform legislation as part (title III) of the substitute amendment to S. 422, the Government Securities Act Amendments of 1993. I urge my colleagues' support for this important investor protection legislation.

Rollup transactions can take many different forms—the typical rollup combines a number of previously untraded individual limited partnerships into a single new entity that publicly trades on a national securities exchange or on the national market system—and can be beneficial to investors by providing them with liquidity and enhanced value. This legislation however represents our response to widespread abuses and conflicts of interest associated with partnership rollup transactions that have led to substantial financial losses to investors, as documented in the House and Senate hearing records. This bill originated as legislation introduced in the 102d Congress (H.R. 1885) and culminates over 3 years of House and Senate hearings and legislative activity. I want to single out for particular commendation, Mr. MARKEY, the chairman of our Subcommittee on Telecommunications and Finance, for his strong and effective leadership on this issue. This legislation contains a series of directives that we consider necessary to protect investors in limited partnerships that undergo rollup transactions. The SEC and the NASD have acted in the interim since 1990 to respond to those directives, but more needs to be done. The potential abuses faced by investors in limited partnerships undergoing a rollup are serious in nature and devastating in their financial impact for investors.

On March 2, 1993, the House passed H.R. 617, the Limited Partnership Rollup Reform Act of 1993, and on August 6, 1993, the Senate passed S. 424, the Limited Partnership Rollup Reform Act of 1993. The legislation that we consider today is, with a few modifications, analogous to the bill that was passed by the Senate on August 6, 1993. These modifications are reflected in an amendment to S. 422 that was passed by the Senate earlier today. In lieu of a conference report, this statement presents a discussion of the amendment's major provisions and is intended to serve as the legislative history, along with Senate Report 103–121 (August 3, 1993) and CONGRESSIONAL RECORD (August 6, 1993) and House Report 103–21 (February 25, 1993) and CONGRESSIONAL RECORD (March 2, 1993).

MAJOR PROVISIONS

Special Provisions for Proxy Rules—The amendment makes it unlawful for any person to solicit any proxy, consent, or authorization concerning a limited partnership rollup transaction or to make any tender in furtherance of a limited partnership rollup transaction unless the transaction is conducted in accordance with specified SEC rules. The rules must provide for the following:

Communications among shareholders—The rules must permit holders of securities in a proposed limited partnership rollup transaction to engage in preliminary communications with other limited partners, for the purpose of determining whether to solicit proxies, consents, or authorizations in opposition to the proposed transaction, without being required to file soliciting material with the SEC. SEC rules relating to fraudulent, deceptive or manipulative acts or practices would continue to apply.

Shareholder lists—The rules must require the issuer to provide limited partners involved in a rollup transaction a list of names of other limited partners involved in the proposed transaction, subject to such reasonable terms and conditions as the SEC may specify.

Differential compensation—The rules must prohibit compensating any person soliciting proxies, consents, or authorizations from security holders concerning a limited partnership rollup transaction: (i) on the basis of whether the solicited proxies, consents, or authorizations either approve or disapprove the proposed transaction; or (ii) contingent on the transaction's approval, disapproval, or completion. This provision would address the conflict of interest that arises when a broker-dealer or proxy solicitor is soliciting proxies and is compensated for the delivery of a specific outcome (generally, approval) of the proposed partnership rollup transaction.

Full and fair disclosure—The rules must require clear, concise and comprehensible disclosure of:

(i) Any changes, in the business plan, voting rights, form of ownership interest or the general partner's compensation in the proposed partnership rollup transaction from each of the original limited partnerships;

(ii) The conflicts of interest, if any, of the general partner;

(iii) Whether it is expected that there will be a significant difference between the exchange value of the limited partnership and trading price of the securities to be issued in the partnership rollup transaction;

(iv) The valuation of the limited partnership and the method used to determine the value of limited partners' interests to be exchanged for the securities in the partnership rollup transaction;

(v) The differing risks and effects of the transactions for limited partners in different partnerships proposed to be included, and the risks and effects of completing the transaction with less than all partnerships;

(vi) The required fairness statement by the general partner; and

(vii) Such other matters deemed necessary or appropriate by the SEC.

Fairness statement—The rules must require a statement by the general partner as to whether the proposed rollup transaction is fair or unfair to investors in each limited partnership, the basis for that conclusion, and description of alternatives to the rollup transaction.

Fairness opinions—The rules must require that, where the general partner or sponsor obtains an opinion, appraisal, or report prepared by an outside party and that is materially related to the rollup transaction, the soliciting materials must contain clear, concise and comprehensible disclosure of:

(i) the analysis of the transaction, scope of review, preparation of the opinion, and basis for and methods of arriving at conclusions, and related representations and undertakings;

(ii) the identity and qualifications of the person who prepared the opinion, the method of selection of such person, and any material past, existing, or contemplated relationships between the person or any of its affiliates and the general partner, sponsor, successor, or any other affiliate;

(iii) any compensation of the preparer of such opinion, appraisal, or report that is contingent on the transaction's approval or completion; and

(iv) any limitations imposed by the issuer on the access afforded to such preparer to the issuer's personnel, premises, and relevant books and records.

Where the general partner or sponsor has not obtained an independent fairness opinion on the proposed transaction, the soliciting materials must contain or be accompanied by a statement of the reasons for concluding that such an opinion is not necessary in order to permit the limited partners to make an informal decision on the proposed transaction. Within 18 months of the date of enactment, GAO must conduct a study and report to Congress on fairness opinion preparation, cost, disclosure and use.

Summary—The rules must require that the soliciting material contain a clear, concise, and comprehensible summary of the limited partnership rollup transaction, including specific matters listed, with the risks of the transaction set forth prominently.

Minimum offering period—The rules must require that all shareholders have at least sixty calendar days to review a limited partnership rollup transaction disclosure document, unless a lesser period is required under state law.

Definition Of Limited Partnership Rollup Transaction—The amendment defines the term "limited partnership rollup transaction" to mean a transaction involving the combination or reorganization of one or more limited partnerships, directly or indirectly, in which

(i) some or all of the investors in any of such limited partnerships will receive new securities, or securities in another entity, that will be reported under a transaction reporting plan declared effective before the date of enactment by the SEC under Exchange Act section 11A;

(ii) any of the investors' limited partnership securities are not, as of the date of filing, reported under a transaction reporting plan declared effective before the date of enactment by the SEC under section 11A;

(iii) investors in any of the limited partnerships are subject to a significant adverse change with respect to voting rights, the term of existence of the entity, management compensation, or investment objectives; and

(iv) any of such investors are not provided an option to receive or retain a security under substantially the same terms and conditions as the original issue.

The amendment provides conditional exceptions from this definition for certain transactions. It is not intended that these exclusions be used to conduct through the excluded categories the abusive behavior that gave rise to this legislation, thus eviscerating the Act's protections. We expect the SEC to monitor this area, and to take action, as necessary, for the protection of investors and to advise Congress of any problems that require legislative remedies. Nothing in this amendment shall be construed to limit the SEC's authority under any other subsection of section 14 of the Exchange Act or any other provision of the federal securities laws or to preclude the SEC from imposing a remedy or procedure required to be imposed thereunder.

Given the concerns expressed about certain REIT (real estate investment trust) and UPREIT (umbrella-partnership real estate investment trust) transactions, it is our intention that the SEC pay special attention to transactions involving these entities and their disclosure documents. Relatedly, the amendment excludes from the definition transactions involving only issuers that are not required to register or report under Section 12 of the Exchange act both before and after the transaction. If a transaction involved the issuance of a security that, after the transaction, would be convertible into a security of an issuer that is required to register or report under Section 12, this exclusion would not be available since the transaction would not involve only Section 12 issuers.

Rules Of Fair Practice In Rollup Transactions.—The amendment requires that the rules of a registered securities association (such as the NASD) to promote just and equitable principles of trade include rules to prevent members of the association from participating in any limited partnership rollup transaction that does not provide procedures to protect the rights of limited partners. The amendment also prohibits an exchange from listing any securities resulting from a rollup transaction, unless such transaction provides certain rights for limited partners. Moreover, the amendment requires that the rules of a registered securities association prohibit the authorization for quotation on an automated interdealer quotation system sponsored by the association of any security designated by the SEC as a national market system security resulting from a rollup transaction, unless such transaction provides certain rights for limited partners.

These rights, identical in all three cases, must include:

(A) the right of dissenting limited partners to one of the following:

(i) an appraisal and compensation;

(ii) retention of a security under substantially the same terms and conditions as the original issue;

(iii) approval of the limited partnership rollup transaction by not less than 75 percent of the outstanding securities of each of the participating limited partnerships;

(iv) the use of a committee that is independent, as determined in accordance with rules prescribed by the association or exchange, of the general partner or sponsor, that has been approved by a majority of the outstanding securities of each of the participating partnerships, and that has such authority as is necessary to protect the interest of limited partners, including the authority to hire independent advisors, to negotiate with the general partner or sponsor on behalf of the limited partners, and to make a recommendation to the limited partners with respect to the proposed transaction; or

(v) other comparable rights that are prescribed by rule by the association or exchange and that are designed to protect dissenting limited partners;

(B) the right not to have their voting power unfairly reduced or abridged;

(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

By defining "dissenting limited partner" to mean a person who is a holder of the limited partnership interests on the date on

which soliciting material is mailed, who then votes against the transaction and complies with procedures established by the association or exchange to assert dissenters' rights, the amendment intends to prevent persons from buying into dissenters' rights.

CONSUMER CHOICE SECURITY ACT OF 1993

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. STEARNS. Mr. Speaker, today I am introducing the Consumer Choice Security Act of 1993. For the benefit of Members, please include the attached bill in its entirety in today's CONGRESSIONAL RECORD under Extension of Remarks:

H.R. 3698

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Consumer Choice Health Security Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Purposes.

TITLE I—TAX AND INSURANCE PROVISIONS

Subtitle A—Tax Treatment of Health Care Expenses

Sec. 101. Refundable health care expenses tax credit.
Sec. 102. Medical savings accounts.
Sec. 103. Other tax provisions.

Subtitle B—Insurance Provisions

PART I—FEDERALLY QUALIFIED HEALTH INSURANCE PLAN

Sec. 111. Federally qualified health insurance plan.
Sec. 112. Family security benefits package.
Sec. 113. Rating practices.
Sec. 114. Guaranteed issue.
Sec. 115. Guaranteed renewability.

PART II—CERTIFICATION OF FEDERALLY QUALIFIED HEALTH INSURANCE PLANS

Sec. 117. Establishment of regulatory program for certification of plans.
Sec. 118. Standards for regulatory programs.

Subtitle C—Employer Provisions

Sec. 121. General provisions relating to employers.
Sec. 122. Conversion of non-self-insured plans.
Sec. 123. Provisions relating to existing self-insured plans.
Sec. 124. Continuation of employer-provided health coverage required until effective date of new coverage under this Act.
Sec. 125. Requirements with respect to cashing out employer-sponsored plans.
Sec. 126. Enforcement.

Subtitle D—State Plan Requirements

Sec. 131. State plan requirements.

Subtitle E—Federal Preemption

Sec. 141. Federal preemption of certain State laws.

TITLE II—MEDICARE AND MEDICAID REFORMS

Subtitle A—Medicare

Sec. 201. Study of medicare private health insurance program.
Sec. 202. Elimination of medicare hospital disproportionate share adjustment payments.
Sec. 203. Reduction in adjustment for indirect medical education.
Sec. 204. Imposition of copayment for skilled nursing facility services.
Sec. 205. Shift payment updates to January for all payment rates under hospital insurance program.
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Sec. 211. Cap on Federal payments made for acute medical services under the medicaid program.
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Sec. 431. Preemption of State quill pen laws.

TITLE V—ANTI-FRAUD

Subtitle A—Criminal Prosecution of Health Care Fraud

Sec. 501. Penalties for health care fraud.
Sec. 502. Rewards for information leading to prosecution and conviction.

Subtitle B—Coordination of Health Care Anti-Fraud and Abuse Activities

Sec. 511. Application of Federal health anti-fraud and abuse sanctions to all fraud and abuse against any health insurance plan.

TITLE VI—ANTITRUST PROVISIONS

Sec. 601. Exemption from antitrust laws for certain competitive and collaborative activities.
Sec. 602. Safe harbors.
Sec. 603. Designation of additional safe harbors.
Sec. 604. Certificates of review.
Sec. 605. Notifications providing reduction in certain penalties under antitrust law for health care cooperative ventures.
Sec. 606. Review and reports on safe harbors and certificates of review.
Sec. 607. Rules, regulations, and guidelines.
Sec. 608. Definitions.

TITLE VII—LONG-TERM CARE

Sec. 701. Exclusion from gross income for amounts withdrawn from individual retirement plans or 401(k) plans for long-term care insurance.
Sec. 702. Certain exchanges of life insurance contracts for long-term care insurance contracts not taxable.
Sec. 703. Tax treatment of accelerated death benefits under life insurance contracts.
Sec. 704. Effective date.

TITLE VIII—WELFARE RESTRICTIONS FOR ALIENS

Sec. 801. Ineligibility of aliens for public welfare assistance.
Sec. 802. State AFDC agencies required to provide information on illegal aliens to the Immigration and Naturalization Service.

TITLE IX—INCREASE IN ASSISTANCE TO COMMUNITY AND MIGRANT HEALTH CENTERS FROM RESIDUAL SAVINGS

Sec. 901. Grant program to promote primary health care services for underserved populations.

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) provide Americans with secure, portable health insurance benefits and greater choice of health insurance plans,

(2) make the American health care system responsive to consumer needs and encourage the provision of quality medical care at reasonable prices through enhanced competition,

(3) provide more equitable tax treatment of health insurance and medical care expenses, and

(4) assist low-income and uninsured Americans in purchasing health insurance and receiving primary medical care.

TITLE I—TAX AND INSURANCE PROVISIONS

Subtitle A—Tax Treatment of Health Care Expenses

SEC. 101. REFUNDABLE HEALTH CARE EXPENSES TAX CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable personal credits) is amended by inserting after section 34 the following new section:

"SEC. 34A. HEALTH CARE EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of a qualified individual, there shall be allowed

as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the applicable percentage of the sum of—

"(1) 25 percent of the sum of the qualified health insurance premiums and the unreimbursed expenses for medical care paid by such individual during the taxable year which does not exceed 10 percent of the adjusted gross income of such individual for such year, plus

"(2) 50 percent of the sum of such premiums and such unreimbursed expenses so paid which exceeds 10 percent but does not exceed 20 percent of such adjusted gross income, plus

"(3) 75 percent of the sum of such premiums and such unreimbursed expenses so paid which exceeds 20 percent of such adjusted gross income.

"(b) QUALIFIED INDIVIDUALS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified individual' means the taxpayer, the spouse of the taxpayer, and each dependent of the taxpayer (as defined in section 152) who is enrolled in a federally qualified health insurance plan.

"(2) FEDERALLY COVERED INDIVIDUALS.—The term 'qualified individual' does not include any individual whose medical care is covered under—

"(A) title XVIII or XIX of the Social Security Act,

"(B) chapter 55 of title 10, United States Code,

"(C) chapter 17 of title 38, United States Code, or

"(D) the Indian Health Care Improvement Act.

"(3) SPECIAL RULE IN THE CASE OF CHILD OF DIVORCED PARENTS, ETC.—Any child to whom section 152(e) applies shall be treated as a dependent of both parents.

"(4) MARRIAGE RULES.—The determination of whether an individual is married at any time during the taxable year shall be made in accordance with the provisions of section 6013(d) (relating to determination of status as husband and wife).

"(c) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage for any taxable year is determined by the number of whole months in such year in which the taxpayer is a qualified individual.

"(d) QUALIFIED HEALTH INSURANCE PREMIUMS.—For purposes of this section, the term 'qualified health insurance premiums' means premiums for—

"(1) a federally qualified health insurance plan, and

"(2) any other benefits or plans supplementary to such a federally qualified health insurance plan.

"(e) FEDERALLY QUALIFIED HEALTH INSURANCE PLAN.—For purposes of this section, the term 'federally qualified health insurance plan' means a health insurance plan which is described in section 111 of the Consumer Choice Health Security Act of 1993.

"(f) MEDICAL CARE.—For purposes of this section—

"(1) IN GENERAL.—The term 'medical care' means amounts paid—

"(A) for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body, and

"(B) for transportation primarily for and essential to medical care referred to in subparagraph (A).

"(2) AMOUNTS PAID FOR CERTAIN LODGING AWAY FROM HOME TREATED AS PAID FOR MEDICAL CARE.—Amounts paid for lodging (not lavish or extravagant under the circumstances) while away from home primarily for and essential to medical care referred to in paragraph (1)(A) shall be treated as amounts paid for medical care if—

"(A) the medical care referred to in paragraph (1)(A) is provided by a physician in a licensed hospital (or in a medical care facility which is related to, or the equivalent of, a licensed hospital), and

"(B) there is no significant element of personal pleasure, recreation, or vacation in the travel away from home.

The amount taken into account under the preceding sentence shall not exceed $50 for each night for each individual.

"(3) COSMETIC SURGERY.—

"(A) IN GENERAL.—The term 'medical care' does not include cosmetic surgery or other similar procedures, unless the surgery or procedure is necessary to ameliorate a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease.

"(B) COSMETIC SURGERY DEFINED.—For purposes of this paragraph, the term 'cosmetic surgery' means any procedure which is directed at improving the patient's appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease.

"(4) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)).

"(g) SPECIAL RULES.—For purposes of this section—

"(1) LIMITATION WITH RESPECT TO MEDICINE AND DRUGS.—

"(A) IN GENERAL.—An amount paid during the taxable year for medicine or a drug shall be taken into account under subsection (a) only if such medicine or drug is a prescribed drug or is insulin.

"(B) PRESCRIBED DRUG.—The term 'prescribed drug' means a drug or biological which requires a prescription of a physician for its use by an individual.

"(2) SPECIAL RULE FOR DECEDENTS.—

"(A) TREATMENT OF EXPENSES PAID AFTER DEATH.—Expenses for the medical care of the taxpayer which are paid out of the taxpayer's estate during the 1-year period beginning with the day after the date of the taxpayer's death shall be treated as paid by the taxpayer at the time incurred.

"(B) LIMITATION.—Subparagraph (A) shall not apply if the amount paid is allowable under section 2053 as a deduction in computing the taxable estate of the decedent, but this subparagraph shall not apply if (within the time and in the manner and form prescribed by the Secretary) there is filed—

"(i) a statement that such amount has not been allowed as a deduction under section 2053, and

"(ii) a waiver of the right to have such amount allowed at any time as a deduction under section 2053.

"(3) FORM OF INSURANCE CONTRACT.—In the case of an insurance contract under which amounts are payable for other than medical care—

"(A) no amount shall be treated as paid for insurance to which subsection (a) applies unless the charge for such insurance is either separately stated in the contract, or furnished to the policyholder by the insurance company in a separate statement,

"(B) the amount taken into account as the amount paid for such insurance shall not exceed such charge, and

"(C) no amount shall be treated as paid for such insurance if the amount specified in the contract (or furnished to the policyholder by the insurance company in a separate statement) as the charge for such insurance is unreasonably large in relation to the total charges under the contract.

"(4) EXCLUSION OF AMOUNTS ALLOWED FOR CARE OF CERTAIN DEPENDENTS.—Any expense allowed as a credit under section 21 shall not be treated as an expense paid for medical care.

"(5) COORDINATION WITH ADVANCE PAYMENT AND MINIMUM TAX.—Rules similar to the rules of subsections (g) and (h) of section 32 shall apply to any credit to which this section applies.

"(6) SUBSIDIZED EXPENSES.—No expense shall be taken into account under subsection (a), if—

"(A) such expense is paid, reimbursed, or subsidized (whether by being disregarded for purposes of another program or otherwise) by the Federal Government, a State or local government, or any agency or instrumentality thereof, and

"(B) the payment, reimbursement, or subsidy of such expense is not includable in the gross income of the recipient.

"(7) COORDINATION WITH MEDICAL SAVINGS ACCOUNTS.—The amount otherwise taken into account under subsection (a) shall be reduced by the amount (if any) of the distributions from any medical savings account of the taxpayer during the taxable year which is not includible in gross income by reason of being used for qualified medical expenses (as defined in section 25A(c)(2)).

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(b) ADVANCE PAYMENT OF CREDIT.—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by inserting after section 3507 the following new section:

"SEC. 3507A. ADVANCE PAYMENT OF HEALTH EXPENSES CREDIT.

"(a) GENERAL RULE.—Except as otherwise provided in this section, every employer making payment of wages with respect to whom a health care expenses eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment equal to such employee's health care expenses advance amount.

"(b) HEALTH CARE EXPENSES ELIGIBILITY CERTIFICATE.—For purposes of this title, a health care expenses eligibility certificate is a statement furnished by an employee to the employer which—

"(1) certifies that the employee will be eligible to receive the credit provided by section 34A for the taxable year,

"(2) certifies that the employee does not have a health care expenses eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer,

"(3) states whether or not the employee's spouse has a health care expenses eligibility certificate in effect, and

"(4) estimates the amount of premiums for a federally qualified health insurance plan and unreimbursed expenses for medical care (as defined in section 34A) for the calendar year.

For purposes of this section, a certificate shall be treated as being in effect with respect to a spouse if such a certificate will be in effect on the first status determination date following the date on which the employee furnishes the statement in question.

"(c) HEALTH CARE EXPENSES ADVANCE AMOUNT.—

"(1) IN GENERAL.—For purposes of this title, the term 'health expenses advance amount' means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee's wages from the employer for such period,

"(B) on the basis of the employee's estimated premiums for a federally qualified health insurance plan and unreimbursed expenses for medical care included in the health care expenses eligibility certificate, and

"(C) in accordance with tables provided by the Secretary.

"(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(C) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables and the tables prescribed under section 3507(c).

"(d) OTHER RULES.—For purposes of this section, rules similar to the rules of subsections (d) and (e) of section 3507 shall apply.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.".

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 34 the following new item:

"Sec. 34A. Health care expenses.".

(2) The table of sections for chapter 25 of such Code is amended by adding after the item relating to section 3507 the following new item:

"Sec. 3507A. Advance payment of health care expenses credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 102. MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25 the following new section:

"SEC. 25A. MEDICAL SAVINGS ACCOUNTS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 25 percent of the amount paid in cash during such year by or on behalf of such individual to a medical savings account.

"(b) LIMITATIONS.—For purposes of this section—

"(1) ONLY 1 ACCOUNT PER FAMILY.—No credit shall be allowed under subsection (a) for amounts paid to any medical savings account for the benefit of an individual, such individual's spouse, or any dependent (as defined in section 152) of such individual if such individual, spouse, or dependent is a beneficiary of any other medical savings account.

"(2) DOLLAR LIMITATION.—The aggregate amount of contributions which may be taken into account under subsection (a) with respect to any individual for any taxable year shall not exceed the sum of—

"(A) $3,000, plus

"(B) $500 for each individual who is a dependent (as so defined) of the individual for whose benefit the account is established.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MEDICAL SAVINGS ACCOUNT.—

"(A) IN GENERAL.—The term 'medical savings account' means a trust created or organized in the United States exclusively for the purpose of paying the qualified medical expenses of the individual for whose benefit the trust is established, but only if the written governing instrument creating the trust meets the following requirements:

"(i) No contribution will be accepted unless it is in cash and contributions will not be accepted for any taxable year in excess of the amount determined under subsection (b)(1).

"(ii) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(iii) No part of the trust assets will be invested in life insurance contracts.

"(iv) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(v) The interest of an individual in the balance in such individual's account is nonforfeitable.

"(vi) Under regulations prescribed by the Secretary, rules similar to the rules of section 401(a)(9) shall apply to the distribution of the entire interest of beneficiaries of such trust.

"(B) TREATMENT OF COMPARABLE ACCOUNTS HELD BY INSURANCE COMPANIES.—An account held by an insurance company in the United States shall be treated as a medical savings account (and such company shall be treated as a bank) if—

"(i) such account is part of a federally qualified health insurance plan (as defined in section 34A(e)),

"(ii) such account is exclusively for the purpose of paying the medical expenses of the beneficiaries of such account who are covered under such health insurance plan, and

"(iii) the written instrument governing the account meets the requirements of clauses (i), (v), and (vi) of subparagraph (A).

"(2) QUALIFIED MEDICAL EXPENSES.—The term 'qualified medical expenses' means amounts paid by the individual for whose benefit the account was established for premiums for a federally qualified health insurance plan (as so defined) and the unreimbursed expenses for medical care (as determined under section 34A) of such individual, the spouse of such individual, and any dependent (as so defined) of such individual.

"(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—A contribution shall be deemed to be made on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any amount paid or distributed out of a medical savings account shall be included in the gross income of the individual for whose benefit such account was established unless such amount is used exclusively to pay the qualified medical expenses of such individual.

"(2) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Paragraph (1) shall not apply to the distribution of any contribution paid during a taxable year to a medical savings account to the extent that such contribution exceeds the amount allowable under subsection (b) if—

"(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year,

"(B) no credit is allowed under subsection (a) with respect to such excess contribution, and

"(C) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (C) shall be included in the gross income of the individual for the taxable year in which it is received.

"(3) PENALTY FOR DISTRIBUTIONS NOT USED FOR MEDICAL EXPENSES.—The tax imposed by this chapter for any taxable year in which there is a payment or distribution from a medical savings account which is not used to pay the medical expenses of the individual for whose benefit the account was established, shall be increased by 10 percent of the amount of such payment or distribution which is includible in gross income under paragraph (1).

"(4) ROLLOVERS.—Paragraph (1) shall not apply to any amount paid or distributed out of a medical savings account to the individual for whose benefit the account is maintained, if the entire amount received (including money and any other property) is paid into another medical savings account for the benefit of such individual not later than the 60th day after the day on which the individual received the payment or distribution.

"(e) TAX TREATMENT OF ACCOUNTS.—

"(1) EXEMPTION FROM TAX.—Any medical savings account is exempt from taxation under this subtitle unless such account has ceased to be a medical savings account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) LOSS OF EXEMPTION OF ACCOUNT WHERE INDIVIDUAL ENGAGES IN PROHIBITED TRANSACTION.—

"(A) IN GENERAL.—If, during any taxable year of the individual for whose benefit the medical savings account was established, such individual engages in any transaction prohibited by section 4975 with respect to the account, the account ceases to be a medical savings account as of the first day of that taxable year.

"(B) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be a medical savings account by reason of subparagraph (A) on the first day of any taxable year, paragraph (1) of subsection (d) applies as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day) and no portion of such distribution was used to pay qualified medical expenses.

"(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year, the individual for whose benefit a medical savings account was established uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual and not used to pay qualified medical expenses.

"(f) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if—

"(1) the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which he will administer the account will be

consistent with the requirements of this section, and

"(2) the custodial account would, except for the fact that it is not a trust, constitute a medical savings account described in subsection (c).

For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(g) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1997, each applicable dollar amount shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment for the calendar year in which the taxable year begins.

"(2) COST-OF-LIVING ADJUSTMENT.—For purposes of paragraph (1), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(A) the deemed average total wages (as defined in section 209(k) of the Social Security Act) for the preceding calendar year, exceeds

"(B) the deemed average total wages (as so defined) for calendar year 1996.

"(3) APPLICABLE DOLLAR AMOUNT.—For purposes of paragraph (1), the term 'applicable dollar amount' means the $3,000 and $500 amounts in subsection (b)(2).

"(4) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $10, such amount shall be rounded to the nearest multiple of $10 (or, if such amount is a multiple of $5 and not of $10, such amount shall be rounded to the next highest multiple of $10).

"(h) REPORTS.—The trustee of a medical savings account shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations.".

(b) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 of the Internal Revenue Code of 1986 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting "**MEDICAL SAVINGS ACCOUNTS,**" after "**ACCOUNTS,**" in the heading of such section,

(2) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) a medical savings account (within the meaning of section 25A(c)(1)),",

(3) by striking "or" at the end of paragraph (1) of subsection (a), and

(4) by adding at the end thereof the following new subsection:

"(d) EXCESS CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—For purposes of this section, in the case of a medical savings account (within the meaning of section 25A(c)(1)), the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the account exceeds the amount allowable under section 25A(b)(2) for such taxable year. For purposes of this subsection, any contribution which is distributed out of the medical savings account and a distribution to which section 25A(d)(2) applies shall be treated as an amount not contributed.".

(c) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 of the Internal Revenue Code of 1986 (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR MEDICAL SAVINGS ACCOUNTS.—An individual for whose benefit a medical savings account (within the meaning of section 25A(c)(1)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical savings account by reason of the application of section 25A(e)(2)(A) to such account.", and

(2) by inserting "or a medical savings account described in section 25A(c)(1)" in subsection (e)(1) after "described in section 408(a)".

(d) FAILURE TO PROVIDE REPORTS ON MEDICAL SAVINGS ACCOUNTS.—Section 6693 of the Internal Revenue Code of 1986 (relating to failure to provide reports on individual retirement account or annuities) is amended—

(1) by inserting "**OR ON MEDICAL SAVINGS ACCOUNTS**" after "**ANNUITIES**" in the heading of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 25A(h) to file a report regarding a medical savings account at the time and in the manner required by such section shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause.".

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25 the following:

"Sec. 25A. Medical savings accounts.".

(2) The table of sections for chapter 43 of such Code is amended by striking the item relating to section 4973 and inserting the following:

"Sec. 4973. Tax on excess contributions to individual retirement accounts, medical savings accounts, certain 403(b) contracts, and certain individual retirement annuities.".

(3) The table of sections for subchapter B of chapter 68 of such Code is amended by inserting "or on medical savings accounts" after "annuities" in the item relating to section 6693.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 103. OTHER TAX PROVISIONS.

(a) EXEMPTION AMOUNT DISALLOWED FOR UNINSURED INDIVIDUALS.—

(1) IN GENERAL.—Subsection (d) of section 151 of the Internal Revenue Code of 1986 (relating to allowance of deductions for personal exemptions) is amended by adding at the end thereof the following new paragraph:

"(5) EXEMPTION AMOUNT DISALLOWED FOR UNINSURED INDIVIDUALS.—The exemption amount for any individual for such individual's taxable year shall be zero, unless the individual includes the policy number of the federally qualified health insurance plan or an enrollment code regarding a State program described in section 131(b) of the Consumer Choice Health Security Act of 1993 for such individual in the return claiming such exemption amount for such individual.".

(2) EMPLOYER ROLE.—Section 3402 of the Internal Revenue Code of 1986 (relating to income tax collected at source) is amended—

(A) by striking "section 151(d)(2)" in subsection (f)(1)(A) and inserting "paragraph (2) or (5) of section 151(d)", and

(B) by adding at the end the following new subsection:

"(t) DETERMINATION OF STANDARD DEDUCTION STATUS.—For purposes of applying the tables in subsections (a) and (c) to a payment of wages, the employer shall treat the employee as having an exemption amount of zero unless there is in effect with respect to such payment of wages a withholding exemption certificate furnished to the employer by the employee by April 1, indicating the policy number of the federally qualified health insurance plan or an enrollment code regarding a State program described in section 131(b) of the Consumer Choice Health Security Act of 1993 for such individual.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

(b) TERMINATION OF MEDICAL EXPENSE DEDUCTION.—Section 213 of the Internal Revenue Code of 1986 (relating to medical, dental, etc., expenses) is amended by adding at the end thereof the following new subsection:

"(g) TERMINATION.—No amount paid after December 31, 1996, shall be treated as an expense paid for medical care.".

(c) TERMINATION OF DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—

(1) IN GENERAL.—Section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking paragraph (6).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1996.

(d) TERMINATION OF EXCLUSION FOR EMPLOYER-PROVIDED HEALTH INSURANCE.—Section 106 of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to any amount paid after December 31, 1996.".

Subtitle B—Insurance Provisions

PART I—FEDERALLY QUALIFIED HEALTH INSURANCE PLAN

SEC. 111. FEDERALLY QUALIFIED HEALTH INSURANCE PLAN.

(a) IN GENERAL.—A federally qualified health insurance plan is a health insurance plan offered, issued, or renewed on or after January 1, 1997, which is certified by the applicable regulatory authority as meeting, at a minimum, the requirements of sections 112, 113, 114, and 115, and the regulatory program described in section 117.

(b) GENERAL DEFINITIONS.—As used in this Act—

(1) HEALTH INSURANCE PLAN.—The term "health insurance plan" means any hospital or medical service policy or certificate, hospital or medical service plan contract, or health maintenance organization group contract and, in States which have distinct licensure requirements, a multiple employer welfare arrangement, but does not include any of the following offered by an insurer:

(A) Accident only, dental only, disability only, or long-term care only insurance.

(B) Coverage issued as a supplement to liability insurance.

(C) Workers' compensation or similar insurance.

(D) Automobile medical-payment insurance.

(2) APPLICABLE REGULATORY AUTHORITY.—The term 'applicable regulatory authority' means—

(A) in the case of a State with a program described in section 117, the State commissioner or superintendent of insurance or other State authority responsible for regulation of health insurance; or

(B) if the State has not established such a program or such program has been decertified under section 117(b), the Secretary.

(3) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(4) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, America Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 112. FAMILY SECURITY BENEFITS PACKAGE.

(a) IN GENERAL.—The requirements of this section are met, if the health insurance plan—

(1) provides coverage for all medically necessary acute medical care described in subsection (b),

(2) does not exclude coverage for selected illnesses or selected treatments if consistent with medically accepted practices, and

(3) meets the patient cost sharing requirements of subsection (c).

(b) ACUTE MEDICAL CARE.—Coverage for all medically necessary acute medical care is described in this subsection if such coverage includes—

(1) physician services,

(2) inpatient, outpatient, and emergency hospital services and appropriate alternatives to hospitalization, and

(3) inpatient and outpatient prescription drugs.

Nothing in this subsection may be construed to require the inclusion of abortion services.

(c) COST SHARING REQUIREMENTS.—The requirements of this subsection are as follows:

(1) LIMITATION ON DEDUCTIBLES.—A health insurance plan shall not provide a deductible amount for benefits provided in any plan year that exceeds—

(A) with respect to benefits payable for items and services furnished to a single individual enrolled under the plan, for a plan year beginning in—

(i) a calendar year prior to 1998, $1,000; or

(ii) for a subsequent calendar year, the limitation specified in this subparagraph for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year; and

(B) with respect to benefits payable for items and services furnished to a family enrolled under the plan, for a plan year beginning in—

(i) a calendar year prior to 1998, $2,000 per family; or

(ii) for a subsequent calendar year, the limitation specified in this subparagraph for the previous calendar year increased by such percentage increase.

If the limitation computed under subparagraph (A)(ii) or (B)(ii) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

(2) LIMITATION ON COPAYMENTS AND COINSURANCE.—

(A) IN GENERAL.—A health insurance plan may not require the payment of any copayment or coinsurance for an item or service for which coverage is required under this section after an individual or a family covered under the plan has incurred out-of-pocket expenses under the plan that are equal to the out-of-pocket limit for a plan year.

(B) LIMIT ON OUT-OF-POCKET EXPENSES.—As used in this paragraph—

(i) OUT-OF-POCKET EXPENSES DEFINED.—The term "out-of-pocket expenses" means, with respect to an individual or a family in a plan year, amounts payable under the plan as deductibles and coinsurance with respect to items and services provided under the plan and furnished in the plan year on behalf of the individual or the family covered under the plan.

(ii) OUT-OF-POCKET LIMIT DEFINED.—The term "out-of-pocket limit" means for a plan year beginning in—

(I) a calendar year prior to 1998, $5,000; or

(II) for a subsequent calendar year, the limit specified in this clause for the previous calendar year increased by the percentage increase in the consumer price index for all urban consumers (United States city average, as published by the Bureau of Labor Statistics) for the 12-month period ending on September 30 of the preceding calendar year.

If the limit computed under subclause (II) is not a multiple of $10, it shall be rounded to the next highest multiple of $10.

SEC. 113. RATING PRACTICES.

(a) IN GENERAL.—The requirements of this section are met, if, except as provided in subsection (b), the health insurance plan provides for—

(1) a variation in premium rates only on the basis of age, sex, and geography, and

(2) a charge of the same premium rates to new applicants and existing policyholders with the same age, sex, and geographic characteristics.

(b) INCENTIVE DISCOUNTS.—A plan may discount an individual's premium rate as an incentive for participating in a program, approved by the applicable regulatory authority to be offered in conjunction with the coverage, which has as its objective, 1 or more of the following:

(1) To promote healthy behavior.

(2) To prevent or delay the onset of illness.

(3) To provide for screening or early detection of illness.

SEC. 114. GUARANTEED ISSUE.

(a) IN GENERAL.—Except as provided in paragraph (2), in the case of applications made on and after January 1, 1998, the following rules apply:

(1) IN GENERAL.—The requirements of this section are met, if, except as provided in paragraph (2), the health insurance plan—

(A) provides guaranteed issue at standard rates to all applicants, and

(B) does not exclude from coverage, or limit coverage for, any preexisting medical condition of any applicant who, on the date the application is made, has been continuously insured for a period of at least 1 year prior to the date of the application under 1 or more of the following health insurance plans or programs:

(i) Another federally qualified health insurance plan.

(ii) An employer-sponsored group health insurance plan in effect before the date of the enactment of this Act.

(iii) An individual health insurance plan in effect before such date.

(iv) A program described in—

(I) title XVIII or XIX of the Social Security Act,

(II) chapter 55 of title 10, United States Code,

(III) chapter 17 of title 38, United States Code,

(IV) chapter 89 of title 5, United States Code, or

(V) the Indian Health Care Improvement Act.

(2) BREAK IN COVERAGE.—In the case of an applicant who has not been continuously insured for a period of 1 year prior to the date the application is made, the health insurance plan may exclude from coverage, or limit coverage for, any preexisting medical condition for a period no greater than the lesser of—

(A) the number of months immediately prior to the date of the application during which the individual was not insured since the illness or condition in question was first diagnosed, or

(B) 1 year.

(b) TRANSITION RULE.—In the case of applications made in 1997, the requirements of this section are met, if the health insurance plan—

(1) provides guaranteed issue at standard rates to all applicants, and

(2) does not exclude from coverage, or limit coverage for, any preexisting medical condition of any applicant.

SEC. 115. GUARANTEED RENEWABILITY.

The requirements of this section are met, if the health insurance plan provides the policyholder with a contractual right to renew the coverage which stipulates that the insurer cannot cancel or refuse to renew the coverage except for cases of—

(1) nonpayment of premiums by the policyholder, or

(2) fraud or misrepresentation by the policyholder.

PART II—CERTIFICATION OF FEDERALLY QUALIFIED HEALTH INSURANCE PLANS

SEC. 117. ESTABLISHMENT OF REGULATORY PROGRAM FOR CERTIFICATION OF PLANS.

(a) IN GENERAL.—Each State shall establish no later than January 1, 1997, a regulatory program which meets the standards referred to in section 118.

(b) PERIODIC SECRETARIAL REVIEW OF STATE REGULATORY PROGRAM.—The Secretary periodically shall review each State regulatory program to determine if such program continues to meet and enforce the standards referred to in section 118. If the Secretary initially determines that a State regulatory program no longer meets and enforces such standards, the Secretary shall provide the State an opportunity to adopt a plan of correction that would bring such program into compliance with such standards. If the Secretary makes a final determination that the State regulatory program fails to meet and enforce such standards after such an opportunity, the Secretary shall decertify such program and assume responsibility with respect to health insurance plans in the State.

SEC. 118. STANDARDS FOR REGULATORY PROGRAMS.

(a) IN GENERAL.—The Secretary, in consultation with the National Association of Insurance Commissioners (hereafter in this section referred to as "NAIC") shall develop by not later than 1 year after the date of the enactment of this Act, in the form of model Acts and model regulations, State regulatory program standards which include—

(1) procedures for certifying that the requirements of part I of this subtitle have been met by a health insurance plan applying for certification as a federally qualified health insurance plan,

(2) the requirements described in subsections (b), (c), and (d),

(3) requirements with respect to solvency standards and guaranty funds for carriers of

federally qualified health insurance plans, and

(4) reporting requirements under which carriers report to the Internal Revenue Service regarding the acquisition and termination by individuals of coverage under federally qualified health insurance plans.

(b) PASSBACK OF CLAIMS AND PREMIUMS.—The requirements of this subsection are met, if, in the case of an applicant who has been continuously insured, as described in section 114(b)(1)(B), and is at the time of the application receiving treatment for a preexisting medical condition—

(1) the federally qualified health insurance plan is allowed to pass back to the applicant's previous plan any claims relating to such condition, together with a portion of the premium, and

(2) such previous plan is required to pay such claims and premium incurred during the lesser of—

(A) the duration of the course of the treatment or spell of illness, or

(B) 2 years from the date at which coverage commenced under the federally qualified health insurance plan.

(c) MARKETING PRACTICES.—The requirements of this subsection are met, if the carrier offering the federally qualified health insurance plan retains the right to select agents with whom such plan contracts and to determine the amount and form of compensation to such agents, except that—

(1) if the carrier chooses to contract with an agent, the carrier may not terminate or refuse to renew the agency contract for any reason related to the age, sex, health status, claims experience, occupation, or geographic location of the insureds placed by the agent with such plan, and

(2) the carrier may not, directly or indirectly, enter into any contract, agreement, or arrangement with an agent that provides for, or results in, any consideration provided to such agent for the issuance or renewal of such a plan to vary on account of the age, sex, health status, claims experience, occupation, or geographic location of the insureds placed by the agent with such plan.

(d) RISK ADJUSTMENT OR REINSURANCE PROGRAMS.—The requirements of this subsection are met, if the carrier offering the federally qualified health insurance plan participates in a State-administered risk adjustment program (or, at the option of the State, a reinsurance program) designed to compensate for the potential occurrence of grossly disproportionate distributions of above-standard or below-standard insured risks among federally qualified health insurance plans.

(e) NONBINDING STANDARDS.—The Secretary, in consultation with NAIC, shall also develop within the 1-year period described in subsection (a), nonbinding standards for premium rating practices and guaranteed renewability of coverage which, if the insurer so elects, is more generous (additional benefits or lower cost sharing or both) than the requirements under part I of this subtitle for federally qualified health insurance plans.

Subtitle C—Employer Provisions

SEC. 121. GENERAL PROVISIONS RELATING TO EMPLOYERS.

(a) PREMIUMS WITHHELD.—Each employer shall—

(1) withhold from each employee's wages the amount of the employee's health insurance premium and remit, directly or indirectly, such premium to the insurance plan of the employee's choice according to an agreed upon schedule, and

(2) within the first 30 days of any calendar year or the date of the hire of an employee, notify each employee of the employee's right to claim an advance refundable tax credit for such premium under section 34A of the Internal Revenue Code of 1986.

(b) EFFECTIVE DATE.—The requirements under subsection (a) shall apply with respect to calendar year 1997 and thereafter.

SEC. 122. CONVERSION OF NON-SELF-INSURED PLANS.

In the case of an employer-sponsored health insurance plan in force on the date of the enactment of this Act, and which is not a self-insured plan, the insurer from whom the plan was purchased (or, in the event such insurer refuses, any new subsidiary, corporation, insurer, union, cooperative, or association willing to become the new sponsor of the plan) shall—

(1) notify, not later than October 1, 1996, all of the primary insured beneficiaries of the employer-sponsored plan of their rights to convert their insurance coverage to a federally qualified health insurance plan (as defined in section 111) offered by the insurer with benefits identical to, or actuarially equivalent to, those of the employer-sponsored plan and the rates of that coverage, and provide such beneficiaries 60 additional days to decline or accept the new coverage, and

(2) offer such coverage beginning January 1, 1997, at premium rates which vary only by age, sex, and geography, except that the combined total of the new rates charged separately to the various beneficiaries may not exceed the total group rate paid by the employer or employees or both under the employer-sponsored plan on the last day it is, or was, in force.

SEC. 123. PROVISIONS RELATING TO EXISTING SELF-INSURED PLANS.

(a) IN GENERAL.—In the case of an employer-sponsored health insurance plan in force on the date of the enactment of this Act, and which is a self-insured plan, the employer sponsoring the plan may, at anytime following such date sell, transfer, or assign the plan to any existing or new, subsidiary, corporation, insurer, union, cooperative or association, willing to become the new sponsor of the plan, except that—

(1) such sale, transfer, or assignment may not take effect unless first approved by a two-thirds majority vote of all the primary-insured beneficiaries of the plan, and

(2) the terms or conditions and benefits or coverage of the plan, and the eligibility criteria for participation in the plan, may not be altered before such date.

(b) PROVISIONS GOVERNING PLAN.—As of the date of the enactment of this Act, the sponsor of the plan described in subsection (a) becomes subject to all laws governing the operation of a corporation selling health insurance in the applicable State or States and to the provisions of section 122.

SEC. 124. CONTINUATION OF EMPLOYER-PROVIDED HEALTH COVERAGE REQUIRED UNTIL EFFECTIVE DATE OF NEW COVERAGE UNDER THIS ACT.

(a) IN GENERAL.—Clause (i) of section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 (relating to period of coverage) is amended by inserting after subclause (V) the following new subclause:

"(VI) QUALIFYING EVENT INVOLVING END OF PLAN.—In the case of an event described in paragraph (3)(G), December 31, 1996.".

(b) QUALIFYING EVENT INVOLVING END OF PLAN.—Paragraph (3) of section 4980B(f) of the Internal Revenue Code of 1986 (defining qualifying event) is amended by inserting after subparagraph (F) the following new subparagraph:

"(G) The termination by the employer of the group health plan after the date of the enactment of the Consumer Choice Health Security Act of 1993.".

(c) CONFORMING AMENDMENT.—Clause (ii) of section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended by striking "The date" and inserting "Except in the case of a qualifying event described in paragraph (3)(G), the date".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to qualifying events occurring after the date of the enactment of this Act.

SEC. 125. REQUIREMENTS WITH RESPECT TO CASHING OUT EMPLOYER-SPONSORED PLANS.

(a) NON-FEDERAL EMPLOYERS.—

(1) IN GENERAL.—Each employer contributing in whole or in part to an employer-sponsored health insurance plan on December 1, 1996, shall, within 30 days after such date—

(A) notify each employee participating in the plan of the amount spent by the employer on the employee's health insurance, as determined under paragraph (2),

(B) add such amount to the cash wages of the employee commencing with pay periods beginning on and after January 1, 1997, and

(C) hold each employee harmless for the employer's share of any payroll taxes due under chapter 31 of the Internal Revenue Code of 1986 on such amount.

(2) AMOUNT OF INCLUSION.—The amount described in paragraph (1)(A) shall equal the actuarial value of the employer's contribution for group health issuance coverage apportioned to the plan's beneficiaries according to the new premiums for individual and family coverage determined by the insurer.

(3) PRIOR TERMINATION.—Any beneficiary of an employer-sponsored health insurance plan who voluntarily terminates coverage under such a plan before December 1, 1996, forfeits the right to receive the value of the beneficiary's coverage in cash.

(b) COMMISSION ON CASHING OUT FEHBP BENEFITS.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—There is established an independent board to be known as the "Benefits Cash Out Commission" (in this subtitle, referred to as the "Commission").

(B) DUTIES.—The Commission shall study and propose a procedure under which individuals may cash out health benefits under chapter 89 of title 5, United States Code, and pay scales and retirement benefits would be adjusted accordingly. The Commission shall report to Congress regarding such study and proposal not later than 1 year after the date of the enactment of this Act.

(C) MEMBERSHIP.—

(i) IN GENERAL.—The Commission shall be composed of 13 members appointed by the President by and with the advice and consent of the Senate.

(ii) CONSULTATION.—In selecting individuals for nominations for appointments for the Commission, the President should consult with—

(I) the Speaker of the House of Representatives concerning the appointment of 3 members;

(II) the Majority Leader of the Senate concerning the appointment of 3 members;

(III) the Minority Leader of the House of Representatives concerning the appointment of 3 members; and

(IV) the Minority Leader of the Senate concerning the appointment of 3 members.

(iii) CHAIR.—The President shall designate 1 individual described in clause (ii) who shall serve as Chair of the Commission.

(iv) COMPOSITION OF COMMISSION.—The membership of the Commission shall include individuals with national recognition for expertise in the valuation of health insurance benefits and of Federal civilian pay and retirement benefits.

(D) ADMINISTRATIVE PROVISIONS.—

(i) MEETINGS.—Each meeting of the Commission shall be open to the public.

(ii) PAY AND TRAVEL EXPENSES.—

(I) IN GENERAL.—Each member, other than the Chair, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(II) CHAIR.—The Chair shall be paid for each day referred to in subclause (I) at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(III) TRAVEL EXPENSES.—Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(iii) STAFF.—

(I) IN GENERAL.—Subject to subclauses (II) and (III), the Chair, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(II) PAY.—The Chair may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of 120 percent of the annual rate of basic pay payable for GS–15 of the General Schedule.

(III) DETAILED PERSONNEL.—Upon request of the Chair, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Commission to assist the Commission in carrying out its duties under this Act.

(iv) OTHER AUTHORITY.—

(I) CONTRACT SERVICES.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(II) LEASES, ETC.—The Commission may lease space and acquire personal property to the extent funds are available.

(2) CONSIDERATION.—

(A) IN GENERAL.—The proposal described in paragraph (1)(B) shall be considered by the Congress under the procedures for consideration of an "approval resolution" as described in subparagraph (D).

(B) EFFECTIVE DATE OF IMPLEMENTATION.—The provisions of the proposal shall become effective on January 1, 1997.

(C) PERIOD FOR RESUBMISSION OF PROPOSAL IN CASE OF NONAPPROVAL.—If the proposal of the Commission described in subparagraph (A) is not approved by Congress, the Commission shall by not later than January 1, 1996, submit a new proposal to Congress.

(D) RULES GOVERNING CONGRESSIONAL CONSIDERATION.—

(i) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subparagraph is enacted by the Congress—

(I) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of approval resolutions described in clause (ii), and supersedes other rules only to the extent that such rules are inconsistent therewith; and

(II) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(ii) TERMS OF THE RESOLUTION.—For purposes of subparagraph (A), the term "approval resolution" means only a joint resolution of the 2 Houses of the Congress, providing in—

(I) the matter after the resolving clause of which is as follows: "That the Congress approves the recommendations of the Benefits Cash Out Commission as submitted by the Commission on _____", the blank space being filled in with the appropriate date; and

(II) the title of which is as follows: "Joint Resolution approving the recommendation of the Benefits Cash Out Commission".

(iii) INTRODUCTION AND REFERRAL.—On the day on which the recommendation of the Commission is transmitted to the House of Representatives and the Senate, an approval resolution with respect to such recommendation shall be introduced (by request) in the House of Representatives by the Majority Leader of the House, for himself or herself and the Minority Leader of the House, or by Members of the House designated by the Majority Leader and Minority Leader of the House; and shall be introduced (by request) in the Senate by the Majority Leader of the Senate, for himself or herself and the Minority Leader of the Senate, or by Members of the Senate designated by the Majority Leader and Minority Leader of the Senate. If either House is not in session on the day on which such recommendation is transmitted, the approval resolution with respect to such recommendation shall be introduced in the House, as provided in the preceding sentence, on the first day thereafter on which the House is in session. The approval resolution introduced in the House of Representatives and the Senate shall be referred to the appropriate committees of each House.

(iv) AMENDMENTS PROHIBITED.—No amendment to an approval resolution shall be in order in either the House of Representatives or the Senate; and no motion to suspend the application of this clause shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this clause by unanimous consent.

(v) PERIOD FOR COMMITTEE AND FLOOR CONSIDERATION.—

(I) IN GENERAL.—Except as provided in subclause (II), if the committee or committees of either House to which an approval resolution has been referred have not reported it at the close of the 30th day after its introduction, such committee or committees shall be automatically discharged from further consideration of the approval resolution and it shall be placed on the appropriation calendar. A vote on final passage of the approval resolution shall be taken in each House on or before the close of the 30th day after the approval resolution is reported by the committees or committee of that House to which it was referred, or after such committee or committees have been discharged from further consideration of the approval resolution. If prior to the passage by 1 House of an approval resolution of that House, that House receives the same approval resolution from the other House then the procedure in that House shall be the same as if no approval resolution had been received from the other House, but the vote on final passage shall be on the approval resolution of the other House.

(II) COMPUTATION OF DAYS.—For purposes of subclause (I), in computing a number of days in either House, there shall be excluded any day on which the House is not in session.

(vi) FLOOR CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

(I) MOTION TO PROCEED.—A motion in the House of Representatives to proceed to the consideration of an approval resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(II) DEBATE.—Debate in the House of Representatives on an approval resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the bill or resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit an approval resolution or to move to reconsider the vote by which an approval resolution is agreed to or disagreed to.

(III) MOTION TO POSTPONE.—Motions to postpone, made in the House of Representatives with respect to the consideration of an approval resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(IV) APPEALS.—All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to an approval resolution shall be decided without debate.

(V) GENERAL RULES APPLY.—Except to the extent specifically provided in the preceding provisions of this clause, consideration of an approval resolution shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

(vii) FLOOR CONSIDERATION IN THE SENATE.—

(I) MOTION TO PROCEED.—A motion in the Senate to proceed to the consideration of an approval resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(II) GENERAL DEBATE.—Debate in the Senate on an approval resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours. The time shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader or their designees.

(III) DEBATE OF MOTIONS AND APPEALS.—Debate in the Senate on any debatable motion or appeal in connection with an approval resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the approval resolution, except that in the event the manager of the approval resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the Minority Leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of an approval resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(IV) OTHER MOTIONS.—A motion in the Senate to further limit debate is not debatable.

A motion to recommit an approval resolution is not in order.

SEC. 126. ENFORCEMENT.

(a) IN GENERAL.—Chapter 47 of the Internal Revenue Code of 1986 (relating to excise taxes on qualified pension, etc. plans) is amended by inserting after section 5000 the following new sections:

"SEC. 5000A. FAILURE OF EMPLOYERS WITH RESPECT TO HEALTH INSURANCE.

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of any person to comply with the requirements of sections 121 and 125(a) of the Consumer Choice Health Security Act of 1993 with respect to any employee of the person.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to an employee shall be $50 for each day in the noncompliance period with respect to such failure.

"(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period—

"(A) beginning on the date such failure first occurs, and

"(B) ending on the date such failure is corrected.

"(3) CORRECTION.—A failure of a person to comply with the requirements of section 121 or 125(a) of the Consumer Choice Health Security Act of 1993 with respect to any employee of the person shall be treated as corrected if—

"(A) such failure is retroactively undone to the extent possible, and

"(B) the employee is placed in a financial position which is as good as such employee would have been in had such failure not occurred.

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the first date any of the persons referred to in subsection (d) knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the following shall be liable for the tax imposed by subsection (a) on a failure:

"(A) In the case of a health insurance plan other than a multiemployer plan, the employer.

"(B) In the case of a multiemployer plan, the plan.

"(C) Each person who is responsible (other than in a capacity as an employee) for administering or providing benefits under the health insurance plan and whose act or failure to act caused (in whole or in part) the failure.

"(2) SPECIAL RULES FOR PERSONS DESCRIBED IN PARAGRAPH (1)(C).—A person described in subparagraph (C) (and not in subparagraphs (A) and (B)) of paragraph (1) shall be liable for the tax imposed by subsection (a) on any failure only if such person assumed (under a legally enforceable written agreement) responsibility for the performance of the act to which the failure relates.

"SEC. 5000B. FAILURE OF CARRIERS WITH RESPECT TO HEALTH INSURANCE.

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of any carrier offering any health insurance plan to comply with the requirements of sections 122 and 123 of the Consumer Choice Health Security Act of 1993.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of tax imposed by subsection (a) by reason of 1 or more failures during a taxable year shall be equal to 50 percent of the gross premiums received during such taxable year with respect to all health insurance plans issued by the carrier on whom such tax is imposed.

"(2) GROSS PREMIUMS.—For purposes of paragraph (1), gross premiums shall include any consideration received with respect to any health insurance contract.

"(3) CONTROLLED GROUPS.—For purposes of paragraph (1)—

"(A) CONTROLLED GROUP OF CORPORATIONS.—All corporations which are members of the same controlled group of corporations shall be treated as 1 carrier. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(B) PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, all trades or business (whether or not incorporated) which are under common control shall be treated as 1 carrier. The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(c) LIMITATION ON TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) with respect to any failure for which it is established to the satisfaction of the Secretary that the carrier on whom the tax is imposed did not know, and exercising reasonable diligence would not have known, that such failure existed.

"(2) TAX NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the carriers on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.".

(b) CLERICAL AMENDMENTS.—The table of sections for such chapter 47 is amended by adding at the end thereof the following new items:

"Sec. 5000A. Failure of employers with respect to health insurance.

"Sec. 5000B. Failure of carriers with respect to health insurance.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1997.

Subtitle D—State Plan Requirements

SEC. 131. STATE PLAN REQUIREMENTS.

(a) IN GENERAL.—As a condition of receiving Federal funds for health care programs after December 31, 1996, each State shall meet the requirements of the following subsections.

(b) HEALTH PLANS FOR UNINSURED.—The requirement of this subsection is met, if the State establishes a program to provide health insurance coverage at least equal to that of the federally qualified health insurance plans (as defined in section 111) to any resident (other than a federally covered individual (within the meaning on section 34A(b)(2) of the Internal Revenue Code of 1986) who refuses to voluntarily purchase such insurance coverage privately. Such coverage may be through—

(1) the State's program under title XIX of the Social Security Act,

(2) an existing or new State health care program, including a State program established under section 1933 of the Social Security Act,

(3) any private insurer the State contracts with for this purpose, or

(4) any health insurance plan available to the resident.

(c) ENROLLMENT IN PLAN.—The requirement of this subsection is met, if—

(1) in the case of any uninsured individual described in subsection (b) who is eligible for assistance under a State program established under section 1933 of the Social Security Act, such individual is identified by the State and provided with assistance through such a program, and

(2) in the case of any uninsured individual described in subsection (b) who is not eligible for such assistance, such individual is identified by the State and automatically enrolled in the program described in subsection (b), except that—

(A) the State may charge such individual a premium for coverage under the program which the State deems appropriate given the cost of coverage and the individual's ability to pay, and

(B) such individual may, upon submitting proof of having purchased a federally qualified health insurance plan (as so defined), terminate coverage under the State program without penalty.

(d) MONITORING.—The requirement of this subsection is met, if the State designates or creates an office of the State government to monitor the health insurance coverage status of workers and their dependents residing in the State for the purposes of determining eligibility for State health care assistance programs.

Subtitle E—Federal Preemption

SEC. 141. FEDERAL PREEMPTION OF CERTAIN STATE LAWS.

All State laws in existence on January 1, 1997, in the following areas are preempted:

(1) MANDATED INSURANCE BENEFIT LAWS.—Laws requiring health insurance policies to cover specific diseases, services, or providers.

(2) ANTI-MANAGED CARE LAWS.—Laws restricting the ability of managed care plans to selectively contract with providers of their choice.

(3) MANDATED COST-SHARING LAWS.—Laws restricting the extent to which insurers may

require enrollee cost sharing as part of their plans, or restricting the extent to which managed care plans may impose different levels of cost sharing on enrollee claims for treatment by providers not participating in the plan.

TITLE II—MEDICARE AND MEDICAID REFORMS

Subtitle A—Medicare

SEC. 201. STUDY OF MEDICARE PRIVATE HEALTH INSURANCE PROGRAM.

(a) STUDY.—The Secretary shall conduct a study of the feasibility of permitting future medicare beneficiaries to elect, upon attaining medicare eligibility, to retain private health insurance coverage and receive, in lieu of the medicare benefits such beneficiaries would otherwise be entitled to, certificates for use in purchasing private health insurance coverage. The study shall recommend—

(1) certificate amounts which—

(A) provide the maximum assistance possible to eligible individuals,

(B) are adjusted for different classes of beneficiaries on the basis of age, sex, and geography to reflect actuarial differences in the cost of insurance, and

(C) will not further jeopardize the future solvency of the medicare program, as projected by the trustees of the medicare trust funds as of the date of the report of the study,

(2) a mechanism for annually adjusting such amounts, and

(3) legislative, regulatory, and administrative reforms necessary or desirable for establishing such a program.

(b) REPORT.—The Secretary shall submit a report regarding the study described in subsection (a) to the Congress no later than January 1, 1996.

SEC. 202. ELIMINATION OF MEDICARE HOSPITAL DISPROPORTIONATE SHARE ADJUSTMENT PAYMENTS.

Section 1886(d)(5)(F)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(F)(i)) is amended by inserting "and before September 30, 1994," after "1986,".

SEC. 203. REDUCTION IN ADJUSTMENT FOR INDIRECT MEDICAL EDUCATION.

Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended to read as follows:

"(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor is equal to c * (((1+r) to the nth power) - 1), where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds and 'n' equals .405. For discharges occurring on or after—

"(I) May 1, 1986, and before October 1, 1994, 'c' is equal to 1.89,

"(II) October 1, 1994, and before October 1, 1995, 'c' is equal to 1.395, and

"(III) October 1, 1995, 'c' is equal to 0.74.".

SEC. 204. IMPOSITION OF COPAYMENT FOR SKILLED NURSING FACILITY SERVICES.

(a) IN GENERAL.—Paragraph (3) of section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)) is amended to read as follows:

"(3) The amount payable for post-hospital extended care services furnished an individual during any spell of illness shall be reduced by a copayment amount equal to 20 percent of the average of all per day costs for such services furnished under this title (as determined by the Secretary on a prospective basis for services furnished during a calendar year).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to post-hospital extended care services furnished on or after October 1, 1994.

SEC. 205. SHIFT PAYMENT UPDATES TO JANUARY FOR ALL PAYMENT RATES UNDER HOSPITAL INSURANCE PROGRAM.

(a) PPS HOSPITALS.—

(1) IN GENERAL.—Section 1886(b)(3)(B)(i) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(A) in the matter preceding subclause (I), by striking "fiscal year" and inserting "particular time period",

(B) in subclause (IX), by striking "fiscal year 1994",and inserting "the 15-month period beginning on October 1, 1993",

(C) in subclauses (X), (XI), and (XII), by striking "fiscal year", and

(D) in subclause (XIII), by striking "fiscal year 1998 and each subsequent fiscal year" and inserting "1998 and each subsequent calendar year".

(2) OTHER HOSPITALS.—

(A) IN GENERAL.—Section 1886(b)(3)(B)(ii) of such Act (42 U.S.C. 1395ww(b)(3)(B)(ii)) is amended—

(A) in subclause (V)—

(i) by striking "fiscal years 1994 through 1997" and inserting "the 15-month period beginning on October 1, 1993,", and

(ii) by striking "and" at the end, and

(B) by striking subclause (VI) and insert the following:

"(VI) 1995 through 1997, is the market basket percentage increase minus the applicable reduction (as defined in clause (vi)(II)), or in the case of a hospital for a calendar year for which the hospital's update adjustment percentage (as defined in clause (vi)(I)) is at least 10 percent, the market basket percentage increase, and

"(VII) subsequent calendar years is the market basket percentage increase.".

(B) CONFORMING AMENDMENT.—Section 1886(b)(3)(B) of such Act (42 U.S.C. 1395ww(b)(3)(B)) is amended by adding at the end the following new clause:

"(vi) For purposes of clause (ii)(VI)—

"(I) a hospital's 'update adjustment percentage' for a calendar year is the percentage by which the hospital's allowable operating cost of inpatient hospital services recognized under this title for the cost reporting period beginning in fiscal year 1990 exceeds the hospital's target amount (as determined under subparagraph (A)) for such cost reporting period, increased for each calendar year (beginning with 1995) by the sum of any of the hospital's applicable reductions under subclause (VI) for previous years; and

"(II) the 'applicable reduction' with respect to a hospital for a calendar year is the lesser of 1 percentage point or the percentage point difference between 10 percent and the hospital's update adjustment percentage for the calendar year.".

(3) SOLE COMMUNITY AND MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS.—

(A) IN GENERAL.—Section 1886(b)(3)(B)(iv) of such Act (42 U.S.C. 1395ww(b)(3)(B)(iv)) is amended—

(i) in subclause (II), by striking "fiscal year 1994" and inserting "the 15-month period beginning on October 1, 1993",

(ii) in subclause (III), by striking "fiscal year", and

(iii) in subclause (IV), by striking "fiscal year 1996 and each subsequent fiscal year" and inserting "1996 and each subsequent calendar year".

(B) TARGET AMOUNT ADJUSTMENT.—Section 1886(b)(3)(C) of such Act (42 U.S.C. 1395ww(b)(3)(C)) is amended—

(i) in clause (iii), by inserting "or portion of a cost reporting period occurring before December 31, 1994," before "the target amount", and

(ii) in clause (iv), by striking "fiscal year 1995 and each subsequent fiscal year" and inserting "1995 and each subsequent year".

(C) EXTENSION OF REGIONAL FLOOR.—Section 1886(d)(1)(A)(iii)(II) of such Act (42 U.S.C. 1395ww(d)(1)(A)(iii)(II)) is amended—

(i) by striking "for discharges occurring during a fiscal year ending on or before September 30, 1996" and inserting "for discharges occurring during the 15-month period beginning on October 1, 1993, and during any calendar year ending on or before December 31, 1996", and

(ii) by striking "such fiscal year" and inserting "such 15-month period or such calendar year, as the case may be".

(4) CONFORMING AMENDMENTS.—

(A) Section 1886(b)(3)(B)(iii) of such Act (42 U.S.C. 1395ww(b)(3)(B)(iii)) is amended—

(i) by inserting "beginning in" after "cost reporting periods",

(ii) by striking "fiscal year" the first place it appears and inserting "particular time period",

(iii) by striking "or fiscal year" the first and second place it appears, and

(iv) by striking "cost reporting period or fiscal year" and inserting "period".

(B) Section 1886(d)(1)(A) of such Act (42 U.S.C. 1395ww(d)(1)(A)) is amended in the matter preceding clause (i) by inserting "or calendar" after "fiscal".

(C) Section 1886(d)(2)(D) of such Act (42 U.S.C. 1395ww(d)(2)(D)) is amended by inserting "or calendar" after "fiscal" each place it appears.

(D) Section 1886(d)(3) of such Act (42 U.S.C. 1395ww(d)(3)) is amended in the first sentence by inserting "or calendar" after "fiscal" the first place it appears and by inserting "for each fiscal year through 1994" after "in the United States, and".

(E) Section 1886(d)(3)(A)(ii) of such Act (42 U.S.C. 1395ww(d)(3)(A)(ii)) is amended—

(i) by striking "1994," and inserting "1993, and occurring in the 15-month period beginning on October 1, 1993,", and

(ii) by striking "fiscal year" the second and last place it appears and inserting "time period".

(F) Section 1886(d)(3)(A)(iii) of such Act (42 U.S.C. 1395ww(d)(3)(A)(iii)) is amended by striking "the fiscal year beginning on October 1, 1994" and inserting "1995".

(G) Section 1886(d)(3)(A)(iv) of such Act (42 U.S.C. 1395ww(d)(3)(A)(iv)) is amended—

(i) by striking "fiscal year beginning on or after October 1, 1995" and inserting "year beginning on or after January 1, 1996",

(ii) by striking "and within each region", and

(iii) by striking "fiscal" each place it appears.

(H) Section 1886(d)(3)(D) of such Act (42 U.S.C. 1395ww(d)(3)(D)) is amended—

(i) by inserting "or calendar" after "fiscal" each place it appears, and

(ii) by inserting "for each fiscal year through 1994" after "and shall establish".

(I) Section 1886(d)(3)(E) of such Act (42 U.S.C. 1395ww(d)(3)(E)) is amended—

(i) in the second sentence, by striking "at least every 12 months thereafter" and inserting "beginning January 1, 1995, at least every 12 months thereafter", and

(ii) in the last sentence, by inserting "or calendar" after "fiscal" the first and last place it appears.

(J)(i) Section 1886(d)(4)(C)(iii) of such Act (42 U.S.C. 1395ww(d)(4)(C)(iii)) is amended—

(I) by inserting "or calendar" after "fiscal" the first place it appears, and

(II) by deleting "fiscal" the last place it appears.

(ii) The requirements of paragraphs (3)(E) and (4)(C)(iii) of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)(4)(C)(iii)) shall be applied on a 15-month basis for the period beginning on October 1, 1993, and ending on December 31, 1994.

(K)(i) Section 1886(d)(5)(A) of such Act (42 U.S.C. 1395ww(d)(5)(A)) is amended—

(I) in clause (i), by striking "fiscal years ending on or before September 30, 1997" and inserting "calendar years ending on or before December 31, 1997",

(II) in clause (ii), by striking "fiscal years beginning on or after October 1, 1994" and inserting "calendar years beginning on or after January 1, 1995",

(III) in clause (iv), by inserting "or calendar" after "fiscal",

(IV) in clause (v), by striking "fiscal year" each place it appears, and

(V) in clause (vi), by striking "fiscal" and inserting "calendar".

(ii) The requirement of section 1886(d)(5)(A)(iv) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(A)(iv)) shall be applied on a 15-month basis for the period beginning on October 1, 1993, and ending on December 31, 1994.

(L) Section 1886(d)(5)(E)(ii) of such Act (42 U.S.C. 1395ww(d)(5)(E)(ii)) is amended by inserting "or calendar" after "fiscal".

(M) Section 1886(d)(6) of such Act (42 U.S.C. 1395ww(d)(6)) is amended by inserting "or December 1 of each calendar year (beginning with calendar year 1995)" after "1984)".

(N) Section 1886(d)(9)(A) of such Act (42 U.S.C. 1395ww(d)(9)(A)) is amended in the matter preceding clause (i) by striking "fiscal year" and inserting "particular time period".

(O) Section 1886(d)(9)(C)(i) of such Act (42 U.S.C. 1395ww(d)(9)(C)(i)) is amended—

(i) by striking "fiscal year" the first place it appears and inserting "time period",

(ii) by striking "for fiscal year 1989", and

(iii) by striking "fiscal years" and inserting "time periods".

(P) Section 1886(d)(10)(C) of such Act (42 U.S.C. 1395ww(d)(10)(C)) is amended—

(i) in clause (i), by striking "fiscal year" and inserting "particular time period", and

(ii) in clause (ii), by inserting "or calendar" after "fiscal" the first place it appears and striking "fiscal" the last place it appears.

(Q) Section 1886(e)(2) of such Act (42 U.S.C. 1395ww(e)(2)) is amended—

(i) in subparagraph (A), by striking "fiscal years" and inserting "particular time periods", and

(ii) in subparagraph (B), by striking "fiscal year" each place it appears and inserting "particular time period".

(R) Section 1886(e)(3) of such Act (42 U.S.C. 1395ww(e)(3)) is amended—

(i) in subparagraph (A)—

(I) by striking "before the beginning of each fiscal year (beginning with fiscal year 1986)", and

(II) by striking "that fiscal year" and inserting "the succeeding year", and

(ii) in subparagraph (B)—

(I) by striking "before the beginning of each fiscal year (beginning with fiscal year 1989)", and

(II) by striking "that fiscal year" and inserting "the succeeding year".

(S) Section 1886(e)(4)(A) of such Act (42 U.S.C. 1395ww(e)(4)(A)) is amended in the first sentence by striking "fiscal" the first and last place it appears and by striking "(beginning with fiscal year 1988)".

(T) Section 1886(e)(4)(B) of such Act (42 U.S.C. 1395ww(e)(4)(B)) is amended by striking "fiscal" the first place it appears and by striking "(beginning with fiscal year 1992)".

(U) Section 1886(e)(5) of such Act (42 U.S.C. 1395ww(e)(5)) is amended—

(i) in subparagraph (A), by striking "the May 1 before each fiscal year (beginning with fiscal year 1986) and inserting "May 1" and by striking "that fiscal year" and inserting "the succeeding year",

(ii) in subparagraph (B), by striking "fiscal",

(V) The second and third sentences of section 1886(e)(5) of such Act (42 U.S.C. 1395ww(e)(5)) are each amended by striking "fiscal" each place it appears.

(W) Section 1886(g)(1)(A) of such Act (42 U.S.C. 1395ww(g)(1)(A)) is amended—

(i) by striking "fiscal years 1992, through 1995" and inserting "fiscal years 1992 and 1993, the 15-month period beginning on October 1, 1993, and calendar year 1995", and

(ii) by striking "such fiscal year" and inserting "such period".

(5) CLERICAL AMENDMENTS CONCERNING TRANSITIONAL PAYMENTS FOR A RECLASSIFIED HOSPITAL.—

(A) Section 1886(d)(8)(A) of such Act (42 U.S.C. 1395ww(d)(8)(A)) is amended in the matter preceding clause (i), by striking "cost reporting periods" and inserting "years".

(B) Section 1886(d)(8)(A)(i) of such Act (42 U.S.C. 1395ww(d)(8)(A)(i)) is amended—

(i) in the matter preceding subclause (I), by striking "cost reporting period" and inserting "year" and by striking "reporting period" and inserting "year",

(ii) in subclause (I), by striking "reporting period" and inserting "year", and

(iii) in subclause (II), by striking "reporting period" and inserting "year".

(C) Section 1886(d)(8)(A)(ii) of such Act (42 U.S.C. 1395ww(d)(8)(A)(ii)) is amended—

(i) in the matter preceding subclause (I), by striking "cost reporting period" and inserting "year" and by striking "reporting period" and inserting "year",

(ii) in subclause (I), by striking "reporting period" and inserting "year", and

(iii) in subclause (II), by striking "reporting period" and inserting "year".

(b) HOME HEALTH AGENCIES.—Clause (iii) of section 1861(v)(1)(L) of such Act (42 U.S.C. 1395x(v)(1)(L)) is amended by striking "July 1, 1991, and annually thereafter (but not for cost reporting periods beginning on and after July 1, 1994, and before July 1, 1996)" and inserting "July 1 of 1991, 1992, and 1993 (but not for cost reporting periods beginning on and after July 1, 1994, and before January 1, 1997), and annually thereafter ".

(c) HOSPICE CARE.—

(1) IN GENERAL.—Clause (ii) of section 1814(i)(1)(C) of such Act (42 U.S.C. 1395f(i)(1)(C)) is amended—

(A) in subclause (II), by striking "fiscal year 1994" and inserting "the 15-month period beginning on October 1, 1993", and

(B) in subclauses (III), (IV), (V), and (VI), by striking "fiscal year" each place it appears and inserting "calendar year".

(2) CONFORMING AMENDMENT.—Section 1814(i)(2) of such Act (42 U.S.C. 1395f(i)(2)) is amended by adding at the end the following new subparagraph:

"(D) For purposes of subparagraph (A), the term 'accounting year' means—

"(i) fiscal years 1985 through 1993,

"(ii) the 15-month period beginning on October 1, 1993, and

"(iii) calendar years beginning on or after January 1, 1995.".

(d) SKILLED NURSING FACILITY SERVICES.—

(1) IN GENERAL.—The last sentence of section 1888(a) of such Act (42 U.S.C. 1395yy(b)) is amended by striking "October 1, 1995" and inserting "January 1, 1996".

(2) CONFORMING AMENDMENTS.—

(A) Section 1888(d)(4) of such Act (42 U.S.C. 1395yy(d)(4)) is amended by striking "fiscal" each place it appears.

(B) Subsections (a)(1) and (b) of section 13503 of the Omnibus Budget Reconciliation Act of 1993 are amended by striking "fiscal years 1994 and 1995" each place it appears and inserting "the 15-month period beginning on October 1, 1993, and calendar year 1995".

SEC. 206. ACCELERATION OF TRANSITION TO PROSPECTIVE RATES FOR FACILITY COSTS IN HOSPITAL OUTPATIENT DEPARTMENTS.

(a) OUTPATIENT SURGERY.—Section 1833(i)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395l(i)(3)(B)(ii)) is amended—

(1) in subclause (I)—

(A) by striking "and 42 percent" and inserting "42 percent", and

(B) by striking "1991" and inserting "1991, and beginning on or before September 30, 1994, 25 percent for portions of cost reporting periods beginning in fiscal year 1995, and 0 percent for portions of cost reporting periods beginning on or after October 1, 1995", and

(2) in subclause (II)—

(A) by striking "and 58 percent" and inserting "58 percent", and

(B) by striking "1991" and inserting "1991, and beginning on or before September 30, 1994, 75 percent for portions of cost reporting periods beginning in fiscal year 1995, and 100 percent for portions of cost reporting periods beginning on or after October 1, 1995".

(b) OUTPATIENT RADIOLOGY AND DIAGNOSTIC SERVICES.—Section 1833(n)(1)(B)(ii)(I) of the Social Security Act (42 U.S.C. 1395l(n)(1)(B)(ii)(I)) is amended by striking "January 1, 1991." and inserting "January 1, 1991, and beginning on or before September 30, 1994. The term means 25 percent for portions of cost reporting periods beginning in fiscal year 1995 and 0 percent for portions of cost reporting periods beginning on or after October 1, 1995.".

Subtitle B—Medicaid

SEC. 211. CAP ON FEDERAL PAYMENTS MADE FOR ACUTE MEDICAL SERVICES UNDER THE MEDICAID PROGRAM.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by redesignating section 1931 as section 1932 and by inserting after section 1930 the following new section:

"CAP ON FEDERAL PAYMENT MADE FOR ACUTE MEDICAL SERVICES FURNISHED UNDER THE MEDICAID PROGRAM

"SEC. 1931. (a) ANNUAL FEDERAL CAP.—For purposes of furnishing acute medical services to eligible individuals, the Secretary shall pay to a State for a fiscal year under section 1903 an amount that does not exceed the State's total funding amount for such fiscal year determined under subsection (b).

"(b) STATE TOTAL FUNDING AMOUNT.—

"(1) IN GENERAL.—A State's total funding amount for a fiscal year is an amount equal to the lesser of—

"(A) the sum of—

"(i) the product of—

"(I) the per-adult funding amount for the State for such fiscal year, and

"(II) the total number of eligible individuals who are at least 21 years of age who will receive acute medical services in the State during the fiscal year; and

"(ii) the product of—

"(I) the per-child funding amount for the State for such fiscal year, and

"(II) the total number of eligible individuals who are under 21 years of age who will

receive acute medical services in the State during the fiscal year; or

"(B) the maximum Federal amount for such State (as determined under paragraph (3)).

"(2) PER-ADULT AND PER-CHILD FUNDING AMOUNTS.—The Secretary shall calculate for each State a per-adult funding amount and a per-child funding amount for each fiscal year as follows:

"(A) IN GENERAL.—

"(i) FISCAL YEAR 1995.—For fiscal year 1995—

"(I) the per-adult funding amount for a State shall be an amount equal to the base per-adult funding amount determined under subparagraph (B) increased by 20 percent of such amount; and

"(II) the per-child funding amount for the State shall be an amount equal to the base per-child funding amount for the State determined under subparagraph (C) increased by 20 percent of such amount.

"(ii) SUBSEQUENT FISCAL YEARS.—For fiscal year 1996 and subsequent fiscal years, the per-adult funding amount for a State and the per-child funding amount for a State, respectively, shall be an amount equal to the amount determined under this subparagraph for the previous fiscal year updated, through the midpoint of the period, by the estimated percentage change in the Consumer Price Index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in the Consumer Price Index, plus 1 percentage point.

"(B) BASE PER-ADULT FUNDING AMOUNT.—The base per-adult funding amount for a State is an amount equal to—

"(i) the total amount of Federal funds paid to such State under section 1903(a) for fiscal year 1993 for providing acute medical services to eligible individuals who were at least 21 years of age; divided by

"(ii) the total number of eligible individuals who were at least 21 years of age who received acute medical services in such State during fiscal year 1993.

"(C) BASE PER-CHILD FUNDING AMOUNT.—The base per-child funding amount for a State is an amount equal to—

"(i) the total amount of Federal funds paid to such State under section 1903(a) for fiscal year 1993 for providing acute medical services to eligible individuals who were under 21 years of age; divided by

"(ii) the total number of eligible individuals who were under 21 years of age who received acute medical services in such State during fiscal year 1993.

"(3) MAXIMUM FEDERAL AMOUNT.—The Secretary shall calculate for each State a maximum Federal amount for each fiscal year as follows:

"(A) IN GENERAL.—

"(i) FISCAL YEAR 1995.—For fiscal year 1995, the maximum Federal amount for a State shall be an amount equal to the base maximum Federal amount determined under subparagraph (C) increased by 20 percent of such amount.

"(ii) SUBSEQUENT FISCAL YEARS.—For fiscal year 1996 and subsequent fiscal years, the maximum Federal amount for a State shall be an amount equal to the amount determined under this subparagraph for the previous fiscal year updated, through the midpoint of the period, by the estimated percentage change in the Consumer Price Index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in the Consumer Price Index, plus 2.5 percentage points.

"(B) BASE MAXIMUM FEDERAL AMOUNT.—

"(i) IN GENERAL.—The base maximum Federal amount for a State is an amount equal to the State's applicable percentage (as determined under clause (ii)) of the State's total maximum amount (as determined under clause (iii)).

"(ii) STATE'S APPLICABLE PERCENTAGE.—A State's applicable percentage determined under this clause is a percentage equal to the quotient of—

"(I) the amount of Federal funds paid to the State for the furnishing of acute medical services to eligible individuals and the provision of administrative services to such individuals in fiscal year 1993, divided by

"(II) the amount of Federal funds paid to all States for the furnishing of acute medical services to eligible individuals and the provision of administrative services to such individuals in fiscal year 1993.

"(iii) STATE'S TOTAL MAXIMUM AMOUNT.—A State's total maximum amount determined under this clause is an amount equal to the applicable percentage of the total amount of Federal funds paid to all States for the furnishing of acute medical services to eligible individuals and the provision of administrative services to such individuals in fiscal year 1993.

"(c) MINIMUM EXPENDITURE BY STATES.—

"(1) IN GENERAL.—For the purpose of furnishing acute medical services to eligible individuals and providing administrative services to such individuals in a fiscal year, a State shall incur expenditures which are at least equal to the product of—

"(A) the State's updated per capita amount, and

"(B) the total number of eligible individual's receiving acute medical services in the State during such fiscal year.

"(2) UPDATED PER CAPITA AMOUNT.—For purposes of paragraph (1)(A)—

"(A) IN GENERAL.—The updated per capita amount for a State shall be—

"(i) for fiscal year 1995, an amount equal to the State's base per capita amount, and

"(ii) for fiscal year 1996 and each succeeding fiscal year, an amount equal to the amount determined under this subparagraph for the first preceding fiscal year updated by the percentage change in the consumer price index between such first preceding fiscal year and the second preceding fiscal year (as determined by the Secretary of Commerce).

"(B) BASE PER CAPITA AMOUNT.—The base per capita amount for a State shall be an amount equal to the quotient of—

"(i) the total amount of State expenditures in fiscal year 1993 for the furnishing of acute medical services to eligible individuals and the provision of administrative services to such individuals, divided by

"(ii) the total number of eligible individuals receiving acute medical services during fiscal year 1993.

"(d) DEFINITIONS.—For purposes of this section—

"(1) ACUTE MEDICAL SERVICES.—The term 'acute medical services' means all of the care and services furnished to individuals eligible under a State plan under this title except the following:

"(A) Nursing facility services (as defined in section 1905(f)).

"(B) Intermediate care facility for the mentally retarded services (as defined in section 1905(d)).

"(C) Personal care services (as described in section 1905(a)(24)).

"(D) Private duty nursing services (as referred to in section 1905(a)(8)).

"(E) Home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915.

"(F) Home and community care furnished to functionally disabled elderly individuals under section 1929.

"(G) Community supported living arrangements services under section 1930.

"(H) Case-management services (as described in section 1915(g)(2)).

"(I) Home health care services (as referred to in section 1905(a)(7)).

"(J) Hospice care (as defined in section 1905(o)).

"(2) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual who is eligible to receive medical assistance under the State plan under this title.

"(3) FEDERAL FUNDS.—The term 'Federal funds' means funds paid to a State under section 1903, excluding funds paid under such section with respect to expenditures by such State in the form of payment adjustments made by such State in order to comply with the requirement under section 1902(a)(13)(A) (as in effect on the date of the enactment of this section) that payments to hospitals to take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs.

"(4) STATE EXPENDITURES.—The term 'State expenditures' means expenditures by a State under its plan under this title, excluding expenditures in the form of payment adjustments made by such State in order to comply with the requirement under section 1902(a)(13)(A) (as in effect on the date of the enactment of this section) that payments made by the State to hospitals take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to fiscal years beginning after September 30, 1994.

SEC. 212. WAIVERS FOR THE FURNISHING OF ACUTE MEDICAL SERVICES UNDER THE MEDICAID PROGRAM.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by redesignating section 1932 as section 1933 and by inserting after section 1931 the following new section:

"WAIVERS FOR THE FURNISHING OF ACUTE MEDICAL SERVICES UNDER THE MEDICAID PROGRAM

"SEC. 1932. (a) IN GENERAL.—The Secretary shall establish a process under which a State with a State plan approved under this title may apply for waivers of any of the requirements under this title in order to establish innovative and cost effective programs for furnishing acute medical services (as defined in section 1931(d)(1)) to eligible individuals (as defined in section 1931(d)(2)).

"(b) APPLICATION FOR WAIVERS.—

"(1) IN GENERAL.—In order to receive a waiver under subsection (a), a State shall submit an application to the Secretary at such time and containing such information as the Secretary determines appropriate.

"(2) APPROVAL OF APPLICATION.—

"(A) INITIAL REVIEW.—Within 60 days after an application is submitted by the State under this subsection, the Secretary shall review and approve such application or provide the State with a list of the modifications that are necessary for such application to be approved.

"(B) ADDITIONAL REVIEW.—Within 60 days after a State resubmits any application

under this subsection, the Secretary shall review and approve such application or provide the State with a summary of which items included on the list provided to the State under subparagraph (A) remain unsatisfied. A State may resubmit an application under this subparagraph as many times as necessary to gain approval.

"(c) DURATION OF WAIVERS.—Except as provided in subsection (d), any waiver under this section shall be granted for a period of 5 years, and renewed for subsequent 5-year periods, unless the Secretary determines that the State has failed to furnish acute medical services in accordance with the terms of the waiver and any provisions of this title with respect to which the Secretary has not granted a waiver.

"(d) TERMINATION OF WAIVERS.—The Secretary may terminate a waiver granted under this section at any time if the Secretary determines that the State has failed to furnish acute medical services in accordance with the terms of the waiver and any provisions of this title with respect to which the Secretary has not granted a waiver.

"(e) REPORTS.—

"(1) IN GENERAL.—The State shall, through an independent entity, evaluate the programs operated under a waiver granted under this section and submit interim and final reports to the Secretary at such times and containing such information as the Secretary shall require.

"(2) REPORT TO CONGRESS.—Not later than 60 days after the receipt of a final report by the State regarding a waiver granted under this section, the Secretary shall submit a report to Congress.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to fiscal years beginning after September 30, 1994.

SEC. 213. TERMINATION OF DISPROPORTIONATE SHARE PAYMENTS.

(a) IN GENERAL.—

(1) ELIMINATION OF STATE PLAN REQUIREMENT.—Section 1902(a)(13) of the Social Security Act (42 U.S.C. 1396a(a)(13)) is amended by striking "which, in the case of hospitals, take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs and".

(2) CONFORMING AMENDMENTS.—(A) Section 1923 of such Act (42 U.S.C. 1396r-4) is repealed.

(B) Section 1902(a)(55) of such Act (42 U.S.C. 1396a(a)(55)) is amended by striking "facilities defined as disproportionate share hospitals under section 1923(a)(1)(A) and".

(C) Section 1902(s) of such Act (42 U.S.C. 1396a(s)) is amended by striking ", and to children who have not attained the age of 6 years and who receive such services in a disproportionate share hospital described in section 1923(b)(1),".

(D) Section 1903(a)(1) of such Act (42 U.S.C. 1396b(a)(1)) is amended by striking "and subsection 1923(f)".

(E) Section 1903(d)(6) of such Act (42 U.S.C. 1396b(d)(6)) is amended—

(i) by striking "(6)(A)" and inserting "(6)",

(ii) by striking "(i)" and "(ii)" and inserting "(A)" and "(B)", respectively, and

(ii) by striking subparagraph (B).

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective on and after October 1, 1996.

SEC. 214. GRANTS FOR HEALTH INSURANCE COVERAGE, ACUTE MEDICAL SERVICES, PREVENTIVE CARE, AND DISEASE PREVENTION.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by redesignating section 1933 as section 1934 and by inserting after section 1932 the following new section:

"GRANTS FOR HEALTH INSURANCE COVERAGE, ACUTE MEDICAL SERVICES, PREVENTIVE CARE, AND DISEASE PREVENTION

"SEC. 1933. (a) IN GENERAL.—The Secretary shall provide grants to States for the purpose of conducting State programs under which individuals with incomes below 150 percent of the income official poverty line are provided health insurance coverage, acute medical services, preventive care, and disease prevention services. A State receiving a grant under this section shall conduct a program described in this section in consultation with the Secretary and in any manner determined appropriate by the State which is in accordance with subsection (b).

"(b) REQUIREMENTS ON PROGRAMS.—

"(1) PRIORITY OF BENEFITS.—A State program conducted under this section shall give priority to individuals who—

"(A) are ineligible for benefits under a State plan under title XIX of the Social Security Act,

"(B) are eligible for the tax credit established under section 34A of the Internal Revenue Code of 1986, and

"(C) has unreimbursed expenses for health insurance coverage and medical care—

"(i) exceeding 5 percent of the individual's adjusted gross income, and

"(ii) not otherwise taken into account in determining the credit under section 34A of the Internal Revenue Code of 1986 for such individual.

"(2) SERVICES.—

"(A) MANDATORY.—A State program conducted under this section shall provide financial assistance as determined by the State for purchasing health insurance coverage and paying medical bills to individuals described in paragraph (1).

"(B) OPTIONAL.—A State program conducted under this section may provide—

"(i) medical services directly to eligible individuals,

"(ii) primary and preventive care services to underserved populations,

"(iii) funding for community and migrant health centers,

"(iv) delivery of outpatient primary and preventive health services,

"(v) improvements to the availability and quality of emergency medical services and trauma care,

"(vi) transportation of victims of medical emergencies, including air transportation for victims of medical emergencies in rural areas, and

"(vii) telecommunications systems between rural medical facilities and other medical facilities which have expertise in certain areas or equipment that can be utilized by rural facilities through such systems.

"(c) FEDERAL FUNDS AVAILABLE FOR GRANTS.—

"(1) IN GENERAL.—The total amount of Federal funds available under this title for grants to States under this section shall be—

"(A) $14,200,000,000 for fiscal year 1997,

"(B) $15,800,000,000 for fiscal year 1998,

"(C) $17,400,000,000 for fiscal year 1999,

"(D) $20,000,000,000 for fiscal year 2000, and

"(E) for each fiscal year thereafter, the amount for the preceding fiscal year increased by 7.5 percent of such amount.

"(2) FORMULA FOR DISTRIBUTION OF GRANTS.—

"(A) IN GENERAL.—The Secretary shall pay to each State conducting a program under this section for a fiscal year an amount equal to the State's percentage (as determined under subparagraph (B)) of the total amount available for grants under this section as provided in paragraph (1).

"(B) STATE PERCENTAGE.—

"(i) IN GENERAL.—A State's percentage determined under this subparagraph for a fiscal year is a percentage equal to the quotient of—

"(I) the number of individuals in the State's needy population (as defined in clause (ii)) for such fiscal year, divided by

"(II) the total number of individuals in the needy populations of all States for the fiscal year.

"(ii) STATE NEEDY POPULATION.—The term 'State's needy population' means, with respect to a fiscal year, the number of individuals equal to the product of—

"(I) the average number of individuals in the State with incomes below the income official poverty line during the 3 preceding fiscal years (as determined by the Secretary), and

"(II) the State's Federal percentage (as determined under clause (iii)).

"(iii) STATE FEDERAL PERCENTAGE.—

"(I) IN GENERAL.—A State's Federal percentage for a fiscal year is the greater of—

"(aa) 1 minus the percentage determined under subclause (II), or

"(bb) 40 percent.

"(II) PERCENTAGE DETERMINED.—The percentage determined under this subclause is the product of—

"(aa) .40, and

"(bb) the product of the amount determined under subclause (III) multiplied by itself.

"(III) AMOUNT DETERMINED.—The amount determined under this subclause is the quotient of—

"(aa) the State's share of total taxable resources, divided by

"(bb) the State's share of need.

"(d) STATE EXPENDITURES.—

"(1) IN GENERAL.—For a fiscal year, a State shall expend for purposes of conducting the State program described in subsection (a) an amount at least equal to—

"(A) for fiscal year 1997, the base year DSH payment for the State (as defined in paragraph (2)) updated by the percentage change in the consumer price index between fiscal year 1996 and fiscal year 1995 (as determined by the Secretary of Commerce), and

"(B) for fiscal year 1998 and each succeeding fiscal year, an amount equal to the amount determined under this clause for the first preceding fiscal year updated by the percentage change in the consumer price index between such first preceding fiscal year and the second preceding fiscal year (as determined by the Secretary of Commerce).

"(2) BASE YEAR DSH PAYMENT.—For purposes of paragraph (1), the term 'base year DSH payment' means the amount of expenditures made by the State in fiscal year 1996 in the form of payment adjustments in order to comply with the requirement under section 1902(a)(13)(A) (as in effect on the date of the enactment of this section) that payments made by the State to hospitals take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs.

"(e) OTHER DEFINITIONS.—

"(1) INCOME OFFICIAL POVERTY LINE.—For purposes of this section, the term 'income official poverty line' means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981).

"(2) STATE'S SHARE OF TOTAL TAXABLE RESOURCES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'State share of total taxable resources' for a fiscal year means an amount equal to the quotient of—

"(i) the average of total taxable resources for the State (as determined by the Secretary of the Treasury based on data available for the 3 most recent calendar years), divided by

"(ii) the average of the total taxable resources for all States (as determined by the Secretary of the Treasury based on data available for the 3 most recent calendar years).

"(B) SPECIAL RULE FOR THE DISTRICT OF COLUMBIA.—Notwithstanding subparagraph (A), with respect to the District of Columbia, the term 'State share of total taxable resources' for a fiscal year means an amount equal to the quotient of—

"(i) the average of the total personal income in such District for the 3 preceding calendar years (as determined by the Secretary of Commerce), divided by

"(ii) the average of the total personal income for all States for the 3 preceding calendar years (as determined by the Secretary of Commerce).

"(3) STATE'S SHARE OF NEED.—The term 'State's share of need' for a fiscal year means the quotient of—

"(A) the average number of individuals in the State with incomes below the income official poverty line for the 3 preceding fiscal years (as determined by the Secretary), divided by

"(B) the average number of individuals in all States with incomes below the income official poverty line for the 3 preceding fiscal years (as determined by the Secretary).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective with respect to fiscal years beginning after September 30, 1996.

TITLE III—HEALTH CARE LIABILITY REFORM

SEC. 301. SHORT TITLE.

This title may be cited as the "Health Care Liability Reform Act of 1993".

SEC. 302. DEFINITIONS.

For purposes of this title the term—

(1) "approved by the Food and Drug Administration" means, with respect to a health care product, that the health care product—

(A) was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging or labeling of such drug or device, and such drug or device was approved by the Food and Drug Administration; or

(B) is generally recognized as safe and effective under conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations;

(2) "arbitration" means a dispute resolution process in which the parties submit the dispute outside of a Federal or State civil justice system for resolution by a person or panel of persons;

(3) "economic losses" means losses for hospital and medical expenses, lost wages, lost employment, and other pecuniary losses;

(4) "health care malpractice action" means a civil action alleging a health care malpractice claim against a health care provider or health care professional;

(5) "health care malpractice claim" means any claim relating to the provision of (or the failure to provide) health care services based on negligence or gross negligence, breach of express or implied warranty or contract, or failure to discharge a duty to warn or instruct to obtain consent;

(6) "health care product" means a drug, as defined under section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) or a medical device, as defined under section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)), or any combination thereof;

(7) "health care product liability action" means a civil action alleging a health care product liability claim against a manufacturer or seller of a health care product or against a health care provider or health care professional;

(8) "health care product liability claim" means any claim relating to harm alleged to have been caused by a health care product;

(9) "health care professional" means any individual who provides health care services in a State and who is required by State law or regulation to be licensed or certified by the State to provide such services in the State, including a physician, nurse, chiropractor, nurse midwife, physical therapist, social worker, or physician assistant;

(10) "health care provider" means any organization or institution that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State;

(11) "injury" means any injury, illness, disease, or other harm that is the subject of a health care malpractice claim; and

(12) "noneconomic losses" means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, and other nonpecuniary losses.

SEC. 303. HEALTH CARE MALPRACTICE.

(a) APPLICATION.—The provisions of this section shall apply to any health care malpractice action filed in any Federal or State court and any health care malpractice claim resolved through arbitration.

(b) PAYMENTS.—No person may be required to pay more than $100,000 in a single payment in damages for expenses to be incurred in the future, but such person shall be permitted to make such payments on a periodic basis. The periods for such payments shall be determined by the court, based on projections of when expenses are likely to be incurred.

(c) DAMAGES.—(1) The total amount of damages received by an individual shall be reduced, in accordance with paragraph (2), by any other payment which has been made or which will be made to such individual to compensate such individual for an injury, including payments under—

(A) Federal or State disability or sickness programs;

(B) Federal, State, or private health insurance programs;

(C) private disability insurance programs;

(D) employer wage continuation programs; and

(E) any other source of payment intended to compensate such individual for such injury.

(2) The amount by which an award of damages to an individual for an injury shall be reduced under paragraph (1) shall be—

(A) the total amount of any payments (other than such award) which have been made or which will be made to such individual to compensate such individual for such injury; minus

(B) the amount paid by such individual (or by the spouse, parent, or legal guardian of such individual) to secure the payments described under subparagraph (A).

(d) STATUTE OF LIMITATIONS.—(1) Except as provided under paragraph (2), no health care malpractice claim may be initiated after the expiration of the 2-year period that begins on the date the alleged injury should reasonably have been discovered, or the expiration of the 4-year period that begins on the date the alleged injury occurred, whichever is later.

(2) In the case of an alleged injury suffered by a minor who has not attained 6 years of age, no health care malpractice claim may be initiated after the expiration of the 2-year period that begins on the date the alleged injury should reasonably have been discovered, or the date on which the minor attains 10 years of age, whichever is later.

(e) ATTORNEYS' FEES.—With respect to any health care malpractice action or any health care malpractice claim, attorneys' fees may not exceed—

(1) 40 percent of the first $50,000 of any award or settlement under such action or claim;

(2) 33⅓ percent of the next $50,000 of any award or settlement under such action or claim;

(3) 25 percent of the next $500,000 of any award or settlement under such action or claim; and

(4) 15 percent of any additional amounts.

SEC. 304. HEALTH CARE PRODUCT LIABILITY OF MANUFACTURER OR SELLER.

(a) NONAPPLICATION OF STRICT LIABILITY.—A manufacturer or seller of a health care product approved by the Food and Drug Administration shall not be strictly liable for any injury alleged to have resulted from—

(1) a defect in the design of the health care product; or

(2) a failure to warn or instruct regarding a risk posed by the health care product that was neither known nor reasonably knowable at the time the health care product left the control of the manufacturer or seller.

(b) DUTY TO WARN.—(1) A manufacturer or seller of a health care product that is to be prescribed by, or used at the direction of, a health care professional shall not be liable for harm allegedly caused by a failure to warn or instruct the ultimate user or recipient of the product about a risk if the manufacturer or seller provided adequate warning or instruction to the user's or recipient's health care professional.

(2) This subsection shall not apply to any health care product to which the Food and Drug Administration specifically provides that a warning or instruction regarding such product shall be given by the manufacturer or seller directly to the ultimate user or recipient.

SEC. 305. GENERAL PROVISIONS RELATING TO HEALTH CARE LIABILITY.

(a) LIMITATION ON NONECONOMIC DAMAGES.—(1) Except as provided under paragraph (2), the total amount of damages which may be awarded to an individual and the family members of such individual for noneconomic losses resulting from an injury which is the subject of a health care malpractice claim or a health care product liability claim may not exceed $250,000, regardless of the number of defendants against whom the claim is brought, the number of claims brought with respect to the injury, or the number of actions brought with respect to the injury.

(2)(A) In any jury trial, the jury shall not be informed of the limitation established under paragraph (1). If the jury awards an amount for noneconomic damages that exceeds $250,000, the court shall reduce the

award to $250,000 unless the court finds that special circumstances (such as egregious injury) would make such reduction unjust.

(B) In any case in which the court finds a reduction under subparagraph (A) would be unjust, the court may—

(i) decline to reduce such award; or

(ii) reduce such award by a lesser amount than provided for under subparagraph (A).

(b) SEVERAL LIABILITY FOR NONECONOMIC LOSS.—(1) In any health care malpractice action or health care product liability action the liability of each defendant for noneconomic loss and for punitive damages shall be several only and shall not be joint. Each defendant shall be liable only for the amount of noneconomic loss and punitive damages allocated to such defendant in direct proportion to such defendant's percentage of responsibility as determined under paragraph (2). A separate judgment shall be rendered against such defendant for that amount.

(2) For purposes of this subsection, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

SEC. 306. PUNITIVE DAMAGES.

(a) IN GENERAL.—Punitive damages may, if otherwise permitted by applicable law, be awarded against a defendant in a health care malpractice action or a health care product liability action only if the claimant establishes by clear and convincing evidence that the harm suffered by the claimant was the result of conduct manifesting conscious, flagrant indifference to the health of the claimant or to the health of those persons who might be harmed by the health care product.

(b) DETERMINATION OF AMOUNT.—The amount of any punitive damages award shall be determined (subject to appellate review as permitted by applicable law) by the trial judge.

(c) LIMITATION CONCERNING CERTAIN HEALTH CARE PRODUCTS.—Punitive damages shall not be awarded against a manufacturer or seller of a health care product approved by the Food and Drug Administration where that health care product caused the claimant's harm.

SEC. 307. EXCEPTIONS.

The provisions of sections 304(a) and 306(c) shall not apply in any case in which—

(1) the defendant, before or after premarket approval of a drug or device, withheld from or misrepresented to the Food and Drug Administration or any other agency or official of the Federal Government required information that is material and relevant to the performance of such drug or device and is causally related to the harm which the claimant allegedly suffered; or

(2) the defendant made an illegal payment to an official of the Food and Drug Administration for the purpose of either securing or maintaining approval of such drug or device.

SEC. 308. RULES OF CONSTRUCTION.

Nothing in this title shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the grounds of inconvenient forum;

(6) restrict or limit the preemptive effect of any other Federal law; or

(7) create any cause of action under Federal law.

TITLE IV—ADMINISTRATIVE COST SAVINGS

Subtitle A—Standardization of Claims Processing

SEC. 401. ADOPTION OF DATA ELEMENTS, UNIFORM CLAIMS, AND UNIFORM ELECTRONIC TRANSMISSION STANDARDS.

(a) IN GENERAL.—The Secretary shall adopt standards relating to each of the following:

(1) Data elements for use in paper and electronic claims processing under health insurance plans, as well as for use in utilization review and management of care (including data fields, formats, and medical nomenclature, and including plan benefit and insurance information).

(2) Uniform claims forms (including uniform procedure and billing codes for uses with such forms and including information on other health insurance plans that may be liable for benefits).

(3) Uniform electronic transmission of the data elements (for purposes of billing and utilization review).

Standards under paragraph (3) relating to electronic transmission of data elements for claims for services shall supersede (to the extent specified in such standards) the standards adopted under paragraph (2) relating to the submission of paper claims for such services. Standards under paragraph (3) shall include protections to assure the confidentiality of patient-specific information and to protect against the unauthorized use and disclosure of information.

(b) USE OF TASK FORCES.—In adopting standards under this section—

(1) the Secretary shall take into account the recommendations of current task forces, including at least the Workgroup on Electronic Data Interchange, National Uniform Billing Committee, the Uniform Claim Task Force, and the Computer-based Patient Record Institute;

(2) the Secretary shall consult with the National Association of Insurance Commissioners (and, with respect to standards under subsection (a)(3), the American National Standards Institute); and

(3) the Secretary shall, to the maximum extent practicable, seek to make the standards consistent with any uniform clinical data sets which have been adopted and are widely recognized.

(c) DEADLINES FOR PROMULGATION.—The Secretary shall promulgate the standards under—

(1) subsection (a)(1) relating to claims processing data, by not later than 12 months after the date of the enactment of this Act;

(2) subsection (a)(2) (relating to uniform claims forms) by not later than 12 months after the date of the enactment of this Act; and

(3)(A) subsection (a)(3) relating to transmission of information concerning hospital and physicians' services, by not later than 24 months after the date of the enactment of this Act, and

(B) subsection (a)(3) relating to transmission of information on other services, by such later date as the Secretary may determine it to be feasible.

(d) REPORT TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall report to Congress recommendations regarding restructuring the medicare peer review quality assurance program given the availability of hospital data in electronic form.

SEC. 402. APPLICATION OF STANDARDS.

(a) IN GENERAL.—If the Secretary determines, at the end of the 2-year period beginning on the date that standards are adopted under section 401 with respect to classes of services, that a significant number of claims for benefits for such services under health insurance plans are not being submitted in accordance with such standards, the Secretary may require, after notice in the Federal Register of not less than 6 months, that all providers of such services must submit claims to health insurance plans in accordance with such standards. The Secretary may waive the application of such a requirement in such cases as the Secretary finds that the imposition of the requirement would not be economically practicable.

(b) SIGNIFICANT NUMBER.—The Secretary shall make an affirmative determination described in subsection (a) for a class of services only if the Secretary finds that there would be a significant, measurable additional gain in efficiencies in the health care system that would be obtained by imposing the requirement described in such paragraph with respect to such services.

(c) APPLICATION OF REQUIREMENT.—

(1) IN GENERAL.—If the Secretary imposes the requirement under subsection (a)—

(A) in the case of a requirement that imposes the standards relating to electronic transmission of claims for a class of services, each health care provider that furnishes such services for which benefits are payable under a health insurance plan shall transmit electronically and directly to the plan on behalf of the beneficiary involved a claim for such services in accordance with such standards;

(B) any health insurance plan may reject any claim subject to the standards adopted under section 401 but which is not submitted in accordance with such standards;

(C) it is unlawful for a health insurance plan (i) to reject any such claim on the basis of the form in which it is submitted if it is submitted in accordance with such standards or (ii) to require, for the purpose of utilization review or as a condition of providing benefits under the plan, a provider to transmit medical data elements that are inconsistent with the standards established under section 401(a)(1); and

(D) the Secretary may impose a civil money penalty on any provider that knowingly and repeatedly submits claims in violation of such standards or on any health insurance plan (other than a health insurance plan described in paragraph (2)) that knowingly and repeatedly rejects claims in violation of subparagraph (B), in an amount not to exceed $100 for each such claim.

The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under subparagraph (D) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act.

(2) PLANS SUBJECT TO EFFECTIVE STATE REGULATION.—A plan described in this paragraph is a health insurance plan—

(A) that is subject to regulation by a State, and

(B) with respect to which the Secretary finds that—

(i) the State provides for application of the standards established under section 401, and

(ii) the State regulatory program provides for the appropriate and effective enforcement of such standards.

(d) TREATMENT OF REJECTIONS.—If a plan rejects a claim pursuant to subsection (c)(1), the plan shall permit the person submitting

the claim a reasonable opportunity to resubmit the claim on a form or in an electronic manner that meets the requirements for acceptance of the claim under such subsection.

SEC. 403. PERIODIC REVIEW AND REVISION OF STANDARDS.

(a) IN GENERAL.—The Secretary shall—

(1) provide for the ongoing receipt and review of comments and suggestions for changes in the standards adopted and promulgated under section 401;

(2) establish a schedule for the periodic review of such standards; and

(3) based upon such comments, suggestions, and review, revise such standards and promulgate such revisions.

(b) APPLICATION OF REVISED STANDARDS.—If the Secretary under subsection (a) revises the standards described in 401, then, in the case of any claim for benefits submitted under a health insurance plan more than the minimum period (of not less than 6 months specified by the Secretary) after the date the revision is promulgated under subsection (a)(3), such standards shall apply under section 402 instead of the standards previously promulgated.

SEC. 404. HEALTH INSURANCE PLAN DEFINED.

In this title, the term "health insurance plan" has the meaning given such term in section 111(b) and includes—

(1) the medicare program (under title XVIII of the Social Security Act) and medicare supplemental health insurance, and

(2) a State medicaid plan (approved under title XIX of such Act).

Subtitle B—Electronic Medical Data Standards

SEC. 411. MEDICAL DATA STANDARDS FOR HOSPITALS AND OTHER PROVIDERS.

(a) PROMULGATION OF HOSPITAL DATA STANDARDS.—

(1) IN GENERAL.—Between July 1, 1995, and January 1, 1996, the Secretary shall promulgate standards described in subsection (b) for hospitals concerning electronic medical data.

(2) REVISION.—The Secretary may from time to time revise the standards promulgated under this subsection.

(b) CONTENTS OF DATA STANDARDS.—The standards promulgated under subsection (a) shall include at least the following:

(1) A definition of a standard set of data elements for use by utilization and quality control peer review organizations.

(2) A definition of the set of comprehensive data elements, which set shall include for hospitals the standard set of data elements defined under paragraph (1).

(3) Standards for an electronic patient care information system with data obtained at the point of care, including standards to protect against the unauthorized use and disclosure of information.

(4) A specification of, and manner of presentation of, the individual data elements of the sets and system under this subsection.

(5) Standards concerning the transmission of electronic medical data.

(6) Standards relating to confidentiality of patient-specific information.

The standards under this section shall be consistent with standards for data elements established under section 401.

(c) OPTIONAL DATA STANDARDS FOR OTHER PROVIDERS.—

(1) IN GENERAL.—The Secretary may promulgate standards described in paragraph (2) concerning electronic medical data for providers that are not hospitals. The Secretary may from time to time revise the standards promulgated under this subsection.

(2) CONTENTS OF DATA STANDARDS.—The standards promulgated under paragraph (1) for non-hospital providers may include standards comparable to the standards described in paragraphs (2), (4), and (5) of subsection (b) for hospitals.

(d) CONSULTATION.—In promulgating and revising standards under this section, the Secretary shall—

(1) consult with the American National Standards Institute, hospitals, with the advisory commission established under section 415, and with other affected providers, health insurance plans, and other interested parties, and

(2) take into consideration, in developing standards under subsection (b)(1), the data set used by the utilization and quality control peer review program under part B of title XI of the Social Security Act.

SEC. 412. APPLICATION OF ELECTRONIC DATA STANDARDS TO CERTAIN HOSPITALS.

(a) MEDICARE REQUIREMENT FOR SHARING OF HOSPITAL INFORMATION.—As of January 1, 1996, subject to paragraph (2), each hospital, as a requirement of each participation agreement under section 1866 of the Social Security Act, shall—

(1) maintain clinical data included in the set of comprehensive data elements under section 411(b)(2) in electronic form on all inpatients,

(2) upon request of the Secretary or of a utilization and quality control peer review organization (with which the Secretary has entered into a contract under part B of title XI of such Act), transmit electronically the data set, and

(3) upon request of the Secretary, or of a fiscal intermediary or carrier, transmit electronically any data (with respect to a claim) from such data set,

in accordance with the standards promulgated under section 411(a).

(b) WAIVER AUTHORITY.—Until January 1, 2000:

(1) The Secretary may waive the application of the requirements of subsection (a) for a hospital that is a small rural hospital, for such period as the hospital demonstrates compliance with such requirements would constitute an undue financial hardship.

(2) The Secretary may waive the application of the requirements of subsection (a) for a hospital that is in the process of developing a system to provide the required data set and executes agreements with its fiscal intermediary and its utilization and quality control peer review organization that the hospital will meet the requirements of subsection (a) by a specified date (not later than January 1, 2000).

(3) The Secretary may waive the application of the requirement of subsection (a)(1) for a hospital that agrees to obtain from its records the data elements that are needed to meet the requirements of paragraphs (2) and (3) of subsection (a) and agrees to subject its data transfer process to a quality assurance program specified by the Secretary.

(c) APPLICATION TO HOSPITALS OF THE DEPARTMENT OF VETERANS AFFAIRS.—

(1) IN GENERAL.—The Secretary of Veterans Affairs shall provide that each hospital of the Department of Veterans Affairs shall comply with the requirements of subsection (a) in the same manner as such requirements would apply to the hospital if it were participating in the Medicare program.

(2) WAIVER.—The Secretary of Veterans Affairs may waive the application of such requirements to a hospital in the same manner as the Secretary of Health and Human Services may waive under subsection (b) the application of the requirements of subsection (a).

SEC. 413. ELECTRONIC TRANSMISSION TO FEDERAL AGENCIES.

(a) IN GENERAL.—Effective January 1, 2000, if a provider is required under a Federal program to transmit a data element that is subject to a presentation or transmission standard (as defined in subsection (b)), the head of the Federal agency responsible for such program (if not otherwise authorized) is authorized to require the provider to present and transmit the data element electronically in accordance with such a standard.

(b) PRESENTATION OR TRANSMISSION STANDARD DEFINED.—In subsection (a), the term "presentation or transmission standard" means a standard, promulgated under subsection (b) or (c) of section 411, described in paragraph (4) or (5) of section 411(b).

SEC. 414. LIMITATION ON DATA REQUIREMENTS WHERE STANDARDS IN EFFECT.

(a) IN GENERAL.—If standards with respect to data elements are promulgated under section 411 with respect to a class of provider, a health insurance plan may not require, for the purpose of utilization review or as a condition of providing benefits under the plan, that a provider in the class—

(1) provide any data element not in the set of comprehensive data elements specified under such standards, or

(2) transmit or present any such data element in a manner inconsistent with the applicable standards for such transmission or presentation.

(b) COMPLIANCE.—

(1) IN GENERAL.—The Secretary may impose a civil money penalty on any health insurance plan (other than a health insurance plan described in paragraph (2)) that fails to comply with subsection (a) in an amount not to exceed $100 for each such failure. The provisions of section 1128A of the Social Security Act (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act.

(2) PLANS SUBJECT TO EFFECTIVE STATE REGULATION.—A plan described in this paragraph is a health insurance plan that is subject to regulation by a State, if the Secretary finds that—

(A) the State provides for application of the requirement of subsection (a), and

(B) the State regulatory program provides for the appropriate and effective enforcement of such requirement with respect to such plans.

SEC. 415. ADVISORY COMMISSION.

(a) IN GENERAL.—The Secretary shall establish an advisory commission including hospital executives, hospital data base managers, physicians, health services researchers, and technical experts in collection and use of data and operation of data systems. Such commission shall include, as ex officio members, a representative of the Director of the National Institutes of Health, the Administrator for Health Care Policy and Research, the Secretary of Veterans Affairs, and the Director of the Centers for Disease Control.

(b) FUNCTIONS.—The advisory commission shall monitor and advise the Secretary concerning—

(1) the standards established under this subtitle, and

(2) operational concerns about the implementation of such standards under this subtitle.

(c) STAFF.—From the amounts appropriated under subsection (d), the Secretary shall provide sufficient staff to assist the advisory commission in its activities under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of fiscal years 1995 through 2000 to carry out this section.

Subtitle C—Development and Distribution of Comparative Value Information

SEC. 421. STATE COMPARATIVE VALUE INFORMATION PROGRAMS FOR HEALTH CARE PURCHASING.

(a) PURPOSE.—In order to assure the availability of comparative value information to purchasers of health care in each State, the Secretary shall determine whether each State is developing and implementing a health care value information program that meets the criteria and schedule set forth in subsection (b).

(b) CRITERIA AND SCHEDULE FOR STATE PROGRAMS.—The criteria and schedule for a State health care value information program in this subsection shall be specified by the Secretary as follows:

(1) The State begins promptly after enactment of this Act to develop (directly or through contractual or other arrangements with 1 or more States, coalitions of health insurance purchasers, other entities, or any combination of such arrangements) information systems regarding comparative health values.

(2) The information contained in such systems covers at least the average prices of common health care services (as defined in subsection (d)) and health insurance plans, and, where available, measures of the variability of these prices within a State or other market areas.

(3) The information described in paragraph (2) is made available within the State beginning not later than 1 year after the date of the enactment of this Act, and is revised as frequently as reasonably necessary, but at intervals of no greater than 1 year.

(4) Not later than 6 years after the date of the enactment of this Act the State has developed information systems that provide comparative costs, quality, and outcomes data with respect to health insurance plans and hospitals and made the information broadly available within the relevant market areas.

Nothing in this section shall preclude a State from providing additional information, such as information on prices and benefits of different health insurance plans, available.

(c) GRANTS TO STATES FOR THE DEVELOPMENT OF STATE PROGRAMS.—

(1) GRANT AUTHORITY.—The Secretary may make grants to each State to enable such State to plan the development of its health care value information program and, if necessary, to initiate the implementation of such program. Each State seeking such a grant shall submit an application therefor, containing such information as the Secretary finds necessary to assure that the State is likely to develop and implement a program in accordance with the criteria and schedule in subsection (b).

(2) OFFSET AUTHORITY.—If, at any time within the 3-year period following the receipt by a State of a grant under this subsection, the Secretary is required by section 422 to implement a health care information program in the State, the Secretary may recover the amount of the grant under this subsection by offset against any other amount payable to the State under the Social Security Act. The amount of the offset shall be made available (from the appropriation account with respect to which the offset was taken) to the Secretary to carry out such section.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to make grants under this subsection, to remain available until expended.

(d) COMMON HEALTH CARE SERVICES DEFINED.—In this section, the term "common health care services" includes such procedures as the Secretary may specify and any additional health care services which a State may wish to include in its comparative value information program.

(e) STATE DEFINED.—In this title, the term "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa.

SEC. 422. FEDERAL IMPLEMENTATION.

(a) IN GENERAL.—If the Secretary finds, at any time, that a State has failed to develop or to continue to implement a health care value information program in accordance with the criteria and schedule in section 421(b), the Secretary shall take the actions necessary, directly or through grants or contract, to implement a comparable program in the State.

(b) FEES.—Fees may be charged by the Secretary for the information materials provided pursuant to a program under this section. Any amounts so collected shall be deposited in the appropriation account from which the Secretary's costs of providing such materials were met, and shall remain available for such purposes until expended.

SEC. 423. COMPARATIVE VALUE INFORMATION CONCERNING FEDERAL PROGRAMS.

(a) DEVELOPMENT.—The head of each Federal agency with responsibility for the provision of health insurance or of health care services to individuals shall promptly develop health care value information relating to each program that such head administers and covering the same types of data that a State program meeting the criteria of section 421(b) would provide.

(b) DISSEMINATION OF INFORMATION.—Such information shall be made generally available to States and to providers and consumers of health care services.

Subtitle D—Preemption of State Quill Pen Laws

SEC. 431. PREEMPTION OF STATE QUILL PEN LAWS.

(a) IN GENERAL.—Effective January 1, 1996, no effect shall be given to any provision of State law that requires medical or health insurance records (including billing information) to be maintained in written, rather than electronic form.

(b) SECRETARIAL AUTHORITY.—The Secretary may issue regulations to carry out subsection (a). Such regulations may provide for such exceptions to subsection (a) as the Secretary determines to be necessary to prevent fraud and abuse, with respect to controlled substances, and in such other cases as the Secretary deems appropriate.

TITLE V—ANTI-FRAUD

Subtitle A—Criminal Prosecution of Health Care Fraud

SEC. 501. PENALTIES FOR HEALTH CARE FRAUD.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1347. Health care fraud

"(a) OFFENSE.—Whoever, being a health care provider, knowingly engages in any scheme or artifice to defraud any person in connection with the provision of health care shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) DEFINITION.—In this section, the term 'health care provider' means—

"(1) a physician, nurse, dentist, therapist, pharmacist, or other professional provider of health care; and

"(2) a hospital, health maintenance organization, pharmacy, laboratory, clinic, or other health care facility or a provider of medical services, medical devices, medical equipment, or other medical supplies.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following new item:

"1347. Health care fraud.".

SEC. 502. REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.

Section 3059 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make a payment of up to $10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution under section 1101.

"(2) A person is not eligible for a payment under paragraph (1) if—

"(A) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

"(B) the person knowingly participated in the offense;

"(C) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

"(i) in a criminal, civil, or administrative proceeding;

"(ii) in a congressional, administrative or General Accounting Office report, hearing, audit, or investigation; or

"(iii) by the news media, unless the person is the original source of the information; or

"(D) when, in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

"(3) For the purposes of paragraph (2)(C)(iii), the term 'original source' means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

"(4) Neither the failure of the Attorney General to authorize a payment under paragraph (1) nor the amount authorized shall be subject to judicial review.".

Subtitle B—Coordination of Health Care Anti-Fraud and Abuse Activities

SEC. 511. APPLICATION OF FEDERAL HEALTH ANTI-FRAUD AND ABUSE SANCTIONS TO ALL FRAUD AND ABUSE AGAINST ANY HEALTH INSURANCE PLAN.

(a) CIVIL MONETARY PENALTIES.—Section 1128A of the Social Security Act (42 U.S.C. 1320a–7a) is amended as follows:

(1) In subsection (a)(1), in the matter before subparagraph (A), by inserting "or of any health insurance plan," after "subsection (i)(1)),".

(2) In subsection (b)(1)(A), by inserting "or under a health insurance plan" after "title XIX".

(3) In subsection (f)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) With respect to amounts recovered arising out of a claim under a health insurance plan, the portion of such amounts as is determined to have been paid by the plan shall be repaid to the plan.".

(4) In subsection (i)—

(A) in paragraph (2), by inserting "or under a health insurance plan" before the period at the end, and

(B) in paragraph (5), by inserting "or under a health insurance plan" after "or XX".

(b) CRIMES.—

(1) SOCIAL SECURITY ACT.—Section 1128B of such Act (42 U.S.C. 1320a-7b) is amended as follows:

(A) In the heading, by adding at the end the following: "OR HEALTH INSURANCE PLANS".

(B) In subsection (a)(1)—

(i) by striking "title XVIII or" and inserting "title XVIII,", and

(ii) by adding at the end the following: "or a health insurance plan (as defined in section 1128(i)),".

(C) In subsection (a)(5), by striking "title XVIII or a State health care program" and inserting "title XVIII, a State health care program, or a health insurance plan".

(D) In the second sentence of subsection (a)—

(i) by inserting after "title XIX" the following: "or a health insurance plan", and

(ii) by inserting after "the State" the following: "or the plan".

(E) In subsection (b)(1), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health insurance plan".

(F) In subsection (b)(2), by striking "title XVIII or a State health care program" each place it appears and inserting "title XVIII, a State health care program, or a health insurance plan".

(G) In subsection (b)(3), by striking "title XVIII or a State health care program" each place it appears in subparagraphs (A) and (C) and inserting "title XVIII, a State health care program, or a health insurance plan".

(H) In subsection (d)(2)—

(i) by striking "title XIX," and inserting "title XIX or under a health insurance plan,", and

(ii) by striking "State plan," and inserting "State plan or the health insurance plan,".

(2) TREBLE DAMAGES FOR CRIMINAL SANCTIONS.—Section 1128B of such Act (42 U.S.C. 1320a-7b) is amended by adding at the end the following new subsection:

"(f) In addition to the fines that may be imposed under subsection (a), (b), or (c), any individual found to have violated the provisions of any of such subsections may be subject to treble damages.".

(3) IDENTIFICATION OF COMMUNITY SERVICE OPPORTUNITIES.—Section 1128B of such Act (42 U.S.C. 1320a-7b) is further amended by adding at the end the following new subsection:

"(g) The Secretary shall—

"(1) in consultation with State and local health care officials, identify opportunities for the satisfaction of community service obligations that a court may impose upon the conviction of an offense under this section, and

"(2) make information concerning such opportunities available to Federal and State law enforcement officers and State and local health care officials.".

(c) HEALTH INSURANCE PLAN DEFINED.—Section 1128 of such Act (42 U.S.C. 1320a-7) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) HEALTH INSURANCE PLAN DEFINED.—For purposes of sections 1128A and 1128B, the term 'health insurance plan' means a health insurance program other than the medicare program, the medicaid program, or a State health care program.".

(d) CONFORMING AMENDMENT.—Section 1128(b)(8)(B)(ii) of such Act (42 U.S.C. 1320a-7(b)(8)(B)(ii)) is amended by striking "1128A" and inserting "1128A (other than a penalty arising from a health insurance plan, as defined in subsection (i))".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1995.

TITLE VI—ANTITRUST PROVISIONS

SEC. 601. EXEMPTION FROM ANTITRUST LAWS FOR CERTAIN COMPETITIVE AND COLLABORATIVE ACTIVITIES.

(a) EXEMPTION DESCRIBED.—An activity relating to the provision of health care services shall be exempt from the antitrust laws if—

(1) the activity is within one of the categories of safe harbors described in section 602;

(2) the activity is within an additional safe harbor designated by the Attorney General under section 603; or

(3) the activity is specified in and in compliance with the terms of a certificate of review issued by the Attorney General under section 604 and the activity occurs—

(A) while the certificate is in effect, or

(B) in the case of a certificate issued during the 2-year period beginning on the date of the enactment of this Act, at any time on or after the first day of the 2-year period that ends on the date the certificate takes effect.

(b) AWARD OF ATTORNEY'S FEES AND COSTS OF SUIT.—

(1) IN GENERAL.—If any person brings an action alleging a claim under the antitrust laws and the activity on which the claim is based is found by the court to be exempt from such laws under subsection (a), the court shall, at the conclusion of the action—

(A) award to a substantially prevailing claimant the cost of suit attributable to such claim, including a reasonable attorney's fee, or

(B) award to a substantially prevailing party defending against such claim the cost of such suit attributable to such claim, including reasonable attorney's fee, if the claim, or the claimant's conduct during litigation of the claim, was frivolous, unreasonable, without foundation, or in bad faith.

(2) OFFSET IN CASES OF BAD FAITH.—The court may reduce an award made pursuant to paragraph (1) in whole or in part by an award in favor of another party for any part of the cost of suit (including a reasonable attorney's fee) attributable to conduct during the litigation by any prevailing party that the court finds to be frivolous, unreasonable, without foundation, or in bad faith.

SEC. 602. SAFE HARBORS.

The following activities are safe harbors for purposes of section 601(a)(1):

(1) COMBINATIONS WITH MARKET SHARE BELOW THRESHOLD.—Activities relating to health care services of any combination of health care providers if the number of each type or specialty of provider in question does not exceed 20 percent of the total number of such type or specialty of provider in the relevant market area.

(2) ACTIVITIES OF MEDICAL SELF-REGULATORY ENTITIES.—

(A) IN GENERAL.—Subject to subparagraph (B), any activity of a medical self-regulatory entity relating to standard setting or standard enforcement activities that are designed to promote the quality of health care provided to patients.

(B) EXCEPTION.—No activity of a medical self-regulatory entity may be deemed to fall under the safe harbor established under this paragraph if the activity is conducted for purposes of financial gain.

(3) PARTICIPATION IN SURVEYS.—The participation of a provider of health care services in a written survey of the prices of services, reimbursement levels, or the compensation and benefits of employees and personnel, but only if—

(A) the survey is conducted by a third party, such as a purchaser of health care services, governmental entity, institution of higher education, or trade association;

(B) the information provided by participants in the survey is based on prices charged, reimbursements received, or compensation and benefits paid prior to the third month preceding the month in which the information is provided; and

(C) if the results of the survey are disseminated, the results are aggregated in a manner that ensures that no recipient of the results may identify the prices charged, reimbursement received, or compensation and benefits paid by any particular provider.

(4) JOINT VENTURES FOR HIGH TECHNOLOGY AND COSTLY EQUIPMENT AND SERVICES.—Any activity of a health care cooperative venture relating to the purchase, operation, or marketing of high technology or other expensive medical equipment, or the provision of high cost or complex services, but only if the number of participants in the venture does not exceed the lowest number needed to support the venture. Other providers may be included in the venture, but only if such other providers could not purchase, operate, or market such equipment or provide a competing service either alone or through the formation of a competing venture.

(5) HOSPITAL MERGERS.—Activities relating to a merger of 2 hospitals if, during the 3-year period preceding the merger, one of the hospitals had an average of 150 or fewer operational beds and an average daily inpatient census of less than 50 percent of such beds.

(6) JOINT PURCHASING ARRANGEMENTS.—Any joint purchasing arrangement among health care providers if—

(A) the purchases under the arrangement represent less than 35 percent of the total sales of the product or service purchased in the relevant market; and

(B) the cost of the products and services purchased jointly accounts for less than 20 percent of the total revenues from all products or services sold by each participant in the joint purchasing arrangement.

(7) NEGOTIATIONS.—Activities consisting of good faith negotiations to carry out any activity—

(A) described in this section,

(B) within an additional safe harbor designated by the Attorney General under section 603,

(C) that is the subject of an application for a certificate of review under section 604, or

(D) that is deemed a submission of a notification under section 605(a)(2)(B),

without regard to whether such an activity is carried out.

SEC. 603. DESIGNATION OF ADDITIONAL SAFE HARBORS.

(a) IN GENERAL.—

(1) SOLICITATION OF PROPOSALS.—Not later than 30 days after the date of the enactment of this Act, the Attorney General shall publish a notice in the Federal Register soliciting proposals for additional safe harbors.

(2) REVIEW AND REPORT ON PROPOSED SAFE HARBORS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General (in consultation with the Secretary of Health and Human Services and the Chair of the Federal Trade Commission) shall—

(A) review the proposed safe harbors submitted under paragraph (1); and

(B) submit a report to Congress describing the proposals to be included in the publication of additional safe harbors described in paragraph (3) and the proposals that are not to be so included, together with explanations therefore.

(3) PUBLICATION OF ADDITIONAL SAFE HARBORS.—Not later than 180 days after the date of the enactment of this Act, the Attorney General (in consultation with the Secretary of Health and Human Services and the Chair of the Federal Trade Commission) shall publish in the Federal Register proposed additional safe harbors for purposes of section 601(a)(2) for providers of health care services. Not later than 180 days after publishing such proposed safe harbors in the Federal Register, the Attorney General shall issue final rules establishing such safe harbors.

(b) CRITERIA FOR SAFE HARBORS.—In establishing safe harbors under subsection (a), the Attorney General shall take into account the following:

(1) The extent to which a competitive or collaborative activity will accomplish any of the following:

(A) An increase in access to health care services.

(B) The enhancement of the quality of health care services.

(C) The establishment of cost efficiencies that will be passed on to consumers, including economies of scale and reduced transaction and administrative costs.

(D) An increase in the ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

(E) An improvement in the utilization of health care resources or the reduction in the inefficient duplication of the use of such resources.

(2) Whether the designation of an activity as a safe harbor under subsection (a) will result in the following outcomes:

(A) Health plans and other health care insurers, consumers of health care services, and health care providers will be better able to negotiate payment and service arrangements which will reduce costs to consumers.

(B) Taking into consideration the characteristics of the particular purchasers and providers involved, competition will not be unduly restricted.

(C) Equally efficient and less restrictive alternatives do not exist to meet the criteria described in paragraph (1).

(D) The activity will not unreasonably foreclose competition by denying competitors a necessary element of competition.

SEC. 604. CERTIFICATES OF REVIEW.

(a) ESTABLISHMENT OF PROGRAM.—In consultation with the Secretary and the Chair, the Attorney General shall (not later than 180 days after the date of the enactment of this Act) issue certificates of review in accordance with this section for providers of health care services and advise and assist any person with respect to applying for such a certificate of review.

(b) PROCEDURES FOR APPLICATION FOR CERTIFICATE.—

(1) FORM; CONTENT.—To apply for a certificate of review, a person shall submit to the Attorney General a written application which—

(A) specifies the activities relating to the provision of health care services which satisfy the criteria described in section 603(b) and which will be included in the certificate; and

(B) is in a form and contains any information, including information pertaining to the overall market in which the applicant operates, required by rule or regulation promulgated under section 607.

(2) PUBLICATION OF NOTICE IN FEDERAL REGISTER.—Within 10 days after an application submitted under paragraph (1) is received by the Attorney General, the Attorney General shall publish in the Federal Register a notice that announces that an application for a certificate of review has been submitted, identifies each person submitting the application, and describes the conduct for which the application is submitted.

(3) ESTABLISHMENT OF PROCEDURES FOR ISSUANCE OF CERTIFICATE.—In consultation with the Chair and the Secretary, the Attorney General shall establish procedures to be used in applying for and in determining whether to approve an application for a certificate of review under this title. Under such procedures the Attorney General shall approve an application if the Attorney General determines that the activities to be covered under the certificate will satisfy the criteria described in section 603(b) for additional safe harbors designated under such section and that the benefits of the issuance of the certificate will outweigh any disadvantages that may result from reduced competition.

(4) TIMING FOR DECISION ON APPLICATION.—

(A) IN GENERAL.—Within 90 days after the Attorney General receives an application for a certificate of review, the Attorney General shall determine whether the applicant's health care market activities are in accordance with the procedures described in paragraph (3). If the Attorney General, with the concurrence of the Secretary, determines that such procedures are met, the Attorney General shall issue to the applicant a certificate of review. The certificate of review shall specify—

(i) the health care market activities to which the certificate applies,

(ii) the person to whom the certificate of review is issued, and

(iii) any terms and conditions the Attorney General or the Secretary deems necessary to assure compliance with the applicable procedures described in paragraph (3).

(B) APPLICATIONS DEEMED APPROVED.—If the Attorney General does not reject an application before the expiration of the 90-period beginning on the date the Attorney General receives the application, the Attorney General shall be deemed to have approved the application and to have issued a certificate of review relating to the applicant's health care market activities covered under the application.

(5) EXPEDITED ACTION.—If the applicant indicates a special need for prompt disposition, the Attorney General and the Secretary may expedite action on the application, except that no certificate of review may be issued within 30 days of publication of notice in the Federal Register under subsection (b)(2).

(6) ACTIONS UPON DENIAL.—

(A) NOTIFICATION.—If the Attorney General denies in whole or in part an application for a certificate, the Attorney General shall notify the applicant of the Attorney General's determination and the reasons for it.

(B) REQUEST FOR RECONSIDERATION.—An applicant may, within 30 days of receipt of notification that the application has been denied in whole or in part, request the Attorney General to reconsider the determination. The Attorney General, with the concurrence of the Secretary, shall notify the applicant of the determination upon reconsideration within 30 days of receipt of the request.

(C) RETURN OF DOCUMENTS.—If the Attorney General denies an application for the issuance of a certificate of review and thereafter receives from the applicant a request for the return of documents submitted by the applicant in connection with the application for the certificate, the Attorney General and the Secretary shall return to the applicant, not later than 30 days after receipt of the request, the documents and all copies of the documents available to the Attorney General and the Secretary, except to the extent that the information has been made public under an exception to the rule against public disclosure described in subsection (g)(2)(B).

(7) FRAUDULENT PROCUREMENT.—A certificate of review shall be void ab initio with respect to any health care market activities for which the certificate was procured by fraud.

(c) AMENDMENT AND REVOCATION OF CERTIFICATES.—

(1) NOTIFICATION OF CHANGES.—Any applicant who receives a certificate of review—

(A) shall promptly report to the Attorney General any change relevant to the matters specified in the certificate; and

(B) may submit to the Attorney General an application to amend the certificate to reflect the effect of the change on the conduct specified in the certificate.

(2) AMENDMENT TO CERTIFICATE.—An application for an amendment to a certificate of review shall be treated as an application for the issuance of a certificate. The effective date of an amendment shall be the date on which the application for the amendment is submitted to the Attorney General.

(3) REVOCATION.—

(A) GROUNDS FOR REVOCATION.—In accordance with this paragraph, the Attorney General may revoke in whole or in part a certificate of review issued under this section. The following shall be considered grounds for the revocation of a certificate:

(i) After the expiration of the 2-year period beginning on the date a person's certificate is issued, the activities of the person have not substantially accomplished the purposes for the issuance of the certificate.

(ii) The person has failed to comply with any of the terms or conditions imposed under the certificate by the Attorney General or the Secretary under subsection (b)(4).

(iii) The activities covered under the certificate no longer satisfy the criteria set forth in section 603(b).

(B) REQUEST FOR COMPLIANCE INFORMATION.—If the Attorney General or Secretary has reason to believe that any of the grounds for revocation of a certificate of review described in subparagraph (A) may apply to a person holding the certificate, the Attorney General shall request such information from such person as the Attorney General or the Secretary deems necessary to resolve the matter of compliance. Failure to comply with such request shall be grounds for revocation of the certificate under this paragraph.

(C) PROCEDURES FOR REVOCATION.—If the Attorney General or the Secretary determines that any of the grounds for revocation of a certificate of review described in subparagraph (A) apply to a person holding the certificate, or that such person has failed to comply with a request made under subparagraph (B), the Attorney General shall give written notice of the determination to such person. The notice shall include a statement of the circumstances underlying, and the reasons in support of, the determination. In the 60-day period beginning 30 days after the notice is given, the Attorney General shall

revoke the certificate or modify it as the Attorney General or the Secretary deems necessary to cause the certificate to apply only to activities that meet the procedures for the issuance of certificates described in subsection (b)(2).

(D) INVESTIGATION AUTHORITY.—For purposes of carrying out this paragraph, the Attorney General may conduct investigations in the same manner as the Attorney General conducts investigations under section 3 of the Antitrust Civil Process Act, except that no civil investigative demand may be issued to a person to whom a certificate of review is issued if such person is the target of such investigation.

(d) REVIEW OF DETERMINATIONS.—

(1) AVAILABILITY OF REVIEW FOR CERTAIN ACTIONS.—If the Attorney General denies, in whole or in part, an application for a certificate of review or for an amendment to a certificate, or revokes or modifies a certificate pursuant to paragraph (3), the applicant or certificate holder (as the case may be) may, within 30 days of the denial or revocation, bring an action in any appropriate district court of the United States to set aside the determination on the ground that such determination is erroneous based on the preponderance of the evidence.

(2) NO OTHER REVIEW PERMITTED.—Except as provided in paragraph (1), no action by the Attorney General or the Secretary pursuant to this title shall be subject to judicial review.

(3) EFFECT OF REJECTED APPLICATION.—If the Attorney General denies, in whole or in part, an application for a certificate of review or for an amendment to a certificate, or revokes or amends a certificate, neither the negative determination nor the statement of reasons therefore shall be admissible in evidence, in any administrative or judicial proceeding, concerning any claim under the antitrust laws.

(e) PUBLICATION OF DECISIONS.—The Attorney General shall publish a notice in the Federal Register on a timely basis of each decision made with respect to an application for a certificate of review under this section or the amendment or revocation of such a certificate, in a manner that protects the confidentiality of any proprietary information relating to the application.

(f) ANNUAL REPORTS.—Every person to whom a certificate of review is issued shall submit to the Attorney General an annual report, in such form and at such time as the Attorney General may require, that contains any necessary updates to the information required under subsection (b) and a description of the activities of the holder under the certificate during the preceding year.

(g) RESTRICTIONS ON DISCLOSURE OF INFORMATION.—

(1) WAIVER OF DISCLOSURE REQUIREMENTS UNDER ADMINISTRATIVE PROCEDURE ACT.—Information submitted by any person in connection with the issuance, amendment, or revocation of a certificate of review shall be exempt from disclosure under section 552 of title 5, United States Code.

(2) RESTRICTIONS ON DISCLOSURE OF COMMERCIAL OR FINANCIAL INFORMATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no officer or employee of the United States shall disclose commercial or financial information submitted in connection with the issuance, amendment, or revocation of a certificate of review if the information is privileged or confidential and if disclosure of the information would cause harm to the person who submitted the information.

(B) EXCEPTIONS.—Subparagraph (A) shall not apply with respect to information disclosed—

(i) upon a request made by the Congress or any committee of the Congress,

(ii) in a judicial or administrative proceeding, subject to appropriate protective orders,

(iii) with the consent of the person who submitted the information,

(iv) in the course of making a determination with respect to the issuance, amendment, or revocation of a certificate of review, if the Attorney General deems disclosure of the information to be necessary in connection with making the determination,

(v) in accordance with any requirement imposed by a statute of the United States, or

(vi) in accordance with any rule or regulation promulgated under subsection (i) permitting the disclosure of the information to an agency of the United States or of a State on the condition that the agency will disclose the information only under the circumstances specified in clauses (i) through (v).

(3) PROHIBITION AGAINST USE OF INFORMATION TO SUPPORT OR ANSWER CLAIMS UNDER ANTITRUST LAWS.—Any information disclosed in an application for a certificate of review under this section shall only be admissible into evidence in a judicial or administrative proceeding for the sole purpose of establishing that a person is entitled to the protections provided by such a certificate.

SEC. 605. NOTIFICATIONS PROVIDING REDUCTION IN CERTAIN PENALTIES UNDER ANTITRUST LAW FOR HEALTH CARE COOPERATIVE VENTURES.

(a) NOTIFICATIONS DESCRIBED.—

(1) SUBMISSION OF NOTIFICATION BY VENTURE.—Any party to a health care cooperative venture, acting on such venture's behalf, may, not later than 90 days after entering into a written agreement to form such venture or not later than 90 days after the date of the enactment of this Act, whichever is later, file with the Attorney General a written notification disclosing—

(A) the identities of the parties to such venture,

(B) the nature and objectives of such venture, and

(C) such additional information as the Attorney General may require by regulation.

(2) ACTIVITIES DEEMED SUBMISSION OF NOTIFICATION.—The following health care cooperative ventures shall be deemed to have filed a written notification with respect to the venture under paragraph (1):

(A) SUBMISSION OF APPLICATION FOR CERTIFICATE OF REVIEW.—Any health care cooperative venture for which an application for a certificate of review is filed with the Attorney General under section 603.

(B) CERTAIN VENTURES.—Any health care cooperative venture meeting the following requirements:

(i) The venture consists of a network of non-institutional providers not greater than—

(I) in the case of a nonexclusive network in which the participating members are permitted to create or join other competing networks, 50 percent of the providers of health care services in the relevant geographic area and 50 percent of the members of the provider specialty group in the relevant market; or

(II) in the case of an exclusive network in which the participating members are not permitted to create or join other competing networks, 35 percent of the providers of health care services in the relevant geographic area and 35 percent of the members of the provider specialty group in the relevant market.

(ii) Each member of the venture assumes substantial financial risk for the operation of the venture through risk-sharing arrangements, including (but not limited to)—

(I) the acceptance of capitation contracts;

(II) the acceptance of contracts with fee withholding mechanisms relating to the ability to meet established goals for utilization review and management; and

(III) the holding by members of significant ownership or equity interests in the venture, where the capital contributed by the members is used to fund the operational costs of the venture such as administration, marketing, and computer-operated medical information, if the venture develops and operates comprehensive programs for utilization management and quality assurance that include controls over the use of institutional, specialized, and ancillary medical services.

(3) SUBMISSION OF ADDITIONAL INFORMATION.—

(A) REQUEST OF ATTORNEY GENERAL.—At any time after receiving a notification filed under paragraph (1), the Attorney General may require the submission of additional information or documentary material relevant to the proposed health care cooperative venture.

(B) PARTIES TO VENTURE.—Any party to a health care cooperative venture may submit such additional information on the venture's behalf as may be appropriate to ensure that the venture will receive the protections provided under subsection (b).

(C) REQUIRED SUBMISSION OF INFORMATION ON CHANGES TO VENTURE.—A health care cooperative venture for which a notification is in effect under this section shall submit information on any change in the membership of the venture not later than 90 days after such change occurs.

(4) PUBLICATION OF NOTIFICATION.—

(A) INFORMATION MADE PUBLICLY AVAILABLE.—Not later than 30 days after receiving a notification with respect to a venture under paragraph (1), the Attorney General shall publish in the Federal Register a notice with respect to the venture that identifies the parties to the venture and generally describes the purpose and planned activity of the venture. Prior to its publication, the contents of the notice shall be made available to the parties to the venture.

(B) RESTRICTION ON DISCLOSURE OF OTHER INFORMATION.—All information and documentary material submitted pursuant to this section and all information obtained by the Attorney General in the course of any investigation or case with respect to a potential violation of the antitrust laws by the health care cooperative venture (other than information and material described in subparagraph (A)) shall be exempt from disclosure under section 552 of title 5, United States Code, and shall not be made publicly available by any agency of the United States to which such section applies except in a judicial proceeding in which such information and material is subject to any protective order.

(5) WITHDRAWAL OF NOTIFICATION.—Any person who files a notification pursuant to this section may withdraw such notification before a publication by the Attorney General pursuant to paragraph (4). Any person who is deemed to have filed a notification under paragraph (2)(A) shall be deemed to have withdrawn the notification if the certificate of review in question is revoked or withdrawn under section 604.

(6) NO JUDICIAL REVIEW PERMITTED.—Any action taken or not taken by the Attorney

General with respect to notifications filed pursuant to this subsection shall not be subject to judicial review.

(b) PROTECTIONS FOR VENTURES SUBJECT TO NOTIFICATION.—

(1) IN GENERAL.—

(A) PROTECTIONS DESCRIBED.—The provisions of paragraphs (2), (3), (4), and (5) shall apply with respect to any action under the antitrust laws challenging conduct within the scope of a notification which is in effect pursuant to subsection (a)(1).

(B) TIMING OF PROTECTIONS.—The protections described in this subsection shall apply to the venture that is the subject of a notification under subsection (a)(1) as of the earlier of—

(i) the date of the publication in the Federal Register of the notice published with respect to the notification; or

(ii) if such notice is not published during the period required under subsection (a)(4), the expiration of the 30-day period that begins on the date the Attorney General receives any necessary information required to be submitted under subsection (a)(1) or any additional information required by the Attorney General under subsection (a)(3)(A).

(2) APPLICABILITY OF RULE OF REASON STANDARD.—In any action under the antitrust laws, the conduct of any person which is within the scope of a notification filed under subsection (a) shall not be deemed illegal per se, but shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition, including, but not limited to, effects on competition in relevant markets.

(3) LIMITATION ON RECOVERY TO ACTUAL DAMAGES AND INTEREST.—Notwithstanding section 4 of the Clayton Act, any person who is entitled to recovery under the antitrust laws for conduct that is within the scope of a notification filed under subsection (a) shall recover the actual damages sustained by such person and interest calculated at the rate specified in section 1961 of title 28, United States Code, for the period beginning on the earliest date for which injury can be established and ending on the date of judgment, unless the court finds that the award of all or part of such interest is unjust under the circumstances.

(4) AWARD OF ATTORNEY'S FEES AND COSTS OF SUIT.—

(A) IN GENERAL.—In any action under the antitrust laws brought against a health care cooperative venture for conduct that is within the scope of a notification filed under subsection (a), the court shall, at the conclusion of the action—

(i) award to a substantially prevailing claimant the cost of suit attributable to such claim, including a reasonable attorney's fee, or

(ii) award to a substantially prevailing party defending against such claim the cost of such suit attributable to such claim, including reasonable attorney's fee, if the claim, or the claimant's conduct during litigation of the claim, was frivolous, unreasonable, without foundation, or in bad faith.

(B) OFFSET IN CASES OF BAD FAITH.—The court may reduce an award made pursuant to subparagraph (A) in whole or in part by an award in favor of another party for any part of the cost of suit (including a reasonable attorney's fee) attributable to conduct during the litigation by any prevailing party that the court finds to be frivolous, unreasonable, without foundation, or in bad faith.

(5) RESTRICTIONS ON ADMISSIBILITY OF INFORMATION.—

(A) IN GENERAL.—Any information disclosed in a notification submitted under subsection (a)(1) and the fact of the publication of a notification by the Attorney General under subsection (a)(4) shall only be admissible into evidence in a judicial or administrative proceeding for the sole purpose of establishing that a party to a health care cooperative venture is entitled to the protections described in this subsection.

(B) ACTIONS OF ATTORNEY GENERAL.—No action taken by the Attorney General pursuant to this section shall be admissible into evidence in any judicial or administrative proceeding for the purpose of supporting or answering any claim under the antitrust laws.

SEC. 606. REVIEW AND REPORTS ON SAFE HARBORS AND CERTIFICATES OF REVIEW.

(a) IN GENERAL.—The Attorney General (in consultation with the Secretary and the Chair) shall periodically review the safe harbors described in section 602, the additional safe harbors designated under section 603, and the certificates of review issued under section 604, and—

(1) with respect to the safe harbors described in section 602, submit such recommendations to Congress as the Attorney General considers appropriate for modifications of such safe harbors;

(2) with respect to the additional safe harbors designated under section 603, issue proposed revisions to such activities and publish the revisions in the Federal Register; and

(3) with respect to the certificates of review, submit a report to Congress on the issuance of such certificates, and shall include in the report a description of the effect of such certificates on increasing access to high quality health care services at reduced costs.

(b) RECOMMENDATIONS FOR LEGISLATION.—The Attorney General shall include in the reports submitted under subsection (a)(3) any recommendations of the Attorney General for legislation to improve the program for the issuance of certificates of review established under this title.

SEC. 607. RULES, REGULATIONS, AND GUIDELINES.

(a) SAFE HARBORS, CERTIFICATES, AND NOTIFICATIONS.—The Attorney General, with the concurrence of the Secretary, shall promulgate such rules, regulations, and guidelines as are necessary to carry out sections 602, 603, 604, and 605, including guidelines defining or relating to relevant geographic and product markets for health care services and providers of health care services.

(b) GUIDANCE FOR PROVIDERS.—

(1) IN GENERAL.—To promote greater certainty regarding the application of the antitrust laws to activities in the health care market, the Attorney General, in consultation with the Secretary and the Chair, shall (not later than 1 year after the date of the enactment of this Act), taking into account the criteria used to designate additional safe harbors under section 603 and grant certificates of review under section 604, publish guidelines—

(A) to assist providers of health care services in analyzing whether the activities of such providers may be subject to a safe harbor under sections 602 or 603; and

(B) describing specific types of activities which would meet the requirements for a certificate of review under section 604, and summarizing the factual and legal bases on which the activities would meet the requirements.

(2) PERIODIC UPDATE.—The Attorney General shall periodically update the guidelines published under paragraph (1) as the Attorney General considers appropriate.

(3) WAIVER OF ADMINISTRATIVE PROCEDURE ACT.—Section 553 of title 5, United States Code, shall not apply to the issuance of guidelines under paragraph (1).

SEC. 608. DEFINITIONS.

In this title, the following definitions shall apply:

(1) The term "antitrust laws"—

(A) has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition; and

(B) includes any State law similar to the laws referred to in subparagraph (A).

(2) The term "Chair" means the Chair of the Federal Trade Commission.

(3) The term "health insurance plan" has the meaning given such term in section 111(b).

(4) The term "health care cooperative venture" means any activities, including attempts to enter into or perform a contract or agreement, carried out by 2 or more persons for the purpose of providing health care services.

(5) The term "health care services" means any services for which payment may be made under a health insurance plan, including services related to the delivery or administration of such services.

(6) The term "medical self-regulatory entity" means a medical society or association, a specialty board, a recognized accrediting agency, or a hospital medical staff, and includes the members, officers, employees, consultants, and volunteers or committees of such an entity.

(7) The term "person" includes a State or unit of local government.

(8) The term "provider of health care services" means any individual or entity that is engaged in the delivery of health care services in a State and that is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State.

(9) The term "specialty group" means a medical specialty or subspecialty in which a provider of health care services may be licensed to practice by a State (as determined by the Secretary in consultation with the certification boards for such specialties and subspecialties).

(10) The term "standard setting and enforcement activities" means—

(A) accreditation of health care practitioners, health care providers, medical education institutions, or medical education programs,

(B) technology assessment and risk management activities,

(C) the development and implementation of practice guidelines or practice parameters, or

(D) official peer review proceedings undertaken by a hospital medical staff (or committee thereof) or a medical society or association for purposes of evaluating the professional conduct or quality of health care provided by a medical professional.

TITLE VII—LONG-TERM CARE

SEC. 701. EXCLUSION FROM GROSS INCOME FOR AMOUNTS WITHDRAWN FROM INDIVIDUAL RETIREMENT PLANS OR 401(k) PLANS FOR LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS AND SECTION 401(k) PLANS FOR LONG-TERM CARE INSURANCE.

"(a) GENERAL RULE.—The amount includible in the gross income of an individual for the taxable year by reason of qualified distributions during such taxable year shall not exceed the excess of—

"(1) the amount which would (but for this section) be so includible by reason of such distributions, over

"(2) the aggregate premiums paid by such individual during such taxable year for any long-term care insurance contract for the benefit of such individual or the spouse of such individual.

"(b) QUALIFIED DISTRIBUTION.—For purposes of this section, the term 'qualified distribution' means any distribution to an individual from an individual retirement account or a section 401(k) plan if such individual has attained age 59½ on or before the date of the distribution (and, in the case of a distribution used to pay premiums for the benefit of the spouse of such individual, such spouse has attained age 59½ on or before the date of the distribution).

"(c) DEFINITIONS AND SPECIAL RULES RELATING TO LONG-TERM INSURANCE CONTRACTS.—

"(1) LONG-TERM CARE INSURANCE CONTRACT.—

"(A) IN GENERAL.—For purposes of this section, the term 'long-term care insurance contract' means any insurance contract issued if—

"(i) the only insurance protection provided under such contract is coverage of qualified long-term care services and benefits incidental to such coverage,

"(ii) the maximum benefit under the policy for expenses incurred for any day does not exceed $200,

"(iii) such contract does not cover expenses incurred for services or items to the extent that such expenses are reimbursable under title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount,

"(iv) such contract is guaranteed renewable,

"(v) such contract does not have any cash surrender value, and

"(vi) all refunds of premiums, and all policyholder dividends or similar amounts, under such contract are to be applied as a reduction in future premiums or to increase future benefits.

"(B) SPECIAL RULES.—

"(i) PER DIEM, ETC. PAYMENTS PERMITTED.—A contract shall not fail to be treated as described in subparagraph (A)(i) by reason of payments being made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

"(ii) CONTRACT MAY COVER MEDICARE REIMBURSABLE EXPENSES WHERE MEDICARE IS SECONDARY PAYOR.—Subparagraph (A)(iii) shall not apply to expenses which are reimbursable under title XVIII of the Social Security Act only as a secondary payor.

"(iii) REFUNDS OF PREMIUMS.—Subparagraph (A)(vi) shall not apply to any refund of premiums on surrender or cancellation of the contract.

"(2) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, and rehabilitative services, and maintenance or personal care services, which—

"(i) are required by a chronically ill individual in a qualified facility, and

"(ii) are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"(B) CHRONICALLY ILL INDIVIDUAL.—

"(i) IN GENERAL.—The term 'chronically ill individual' means any individual who has been certified by a licensed health care practitioner as—

"(I) being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living (as defined in clause (ii)) for a period of at least 90 days due to a loss of functional capacity, or having a similar level of disability (as determined by the Secretary in consultation with the Secretary of Health and Human Services), or

"(II) having a similar level of disability due to cognitive impairment.

"(ii) ACTIVITIES OF DAILY LIVING.—For purposes of clause (i), each of the following is an activity of daily living:

"(I) MOBILITY.—The process of walking or wheeling on a level surface which may include the use of an assistive device such as a cane, walker, wheelchair, or brace.

"(II) DRESSING.—The overall complex behavior of getting clothes from closets and drawers and then getting dressed.

"(III) TOILETING.—The act of going to the toilet room for bowel and bladder function, transferring on and off the toilet, cleaning after elimination, and arranging clothes or the ability to voluntarily control bowel and bladder function, or in the event of incontinence, the ability to maintain a reasonable level of personal hygiene.

"(IV) TRANSFER.—The process of getting in and out of bed or in and out of a chair or wheelchair.

"(V) EATING.—The process of getting food from a plate or its equivalent into the mouth.

"(C) QUALIFIED FACILITY.—The term 'qualified facility' means—

"(i) a nursing, rehabilitative, hospice, or adult day care facility (including a hospital, retirement home, nursing home, skilled nursing facility, intermediate care facility, or similar institution)—

"(I) which is licensed under State law, or

"(II) which is a certified facility for purposes of title XVIII or XIX of the Social Security Act, or

"(ii) an individual's home if a licensed health care practitioner certifies that without home care the individual would have to be cared for in a facility described in clause (i).

"(D) MAINTENANCE OR PERSONAL CARE SERVICES.—The term 'maintenance or personal care services' means any care the primary purpose of which is to provide needed assistance with any of the activities of daily living described in subparagraph (B)(ii).

"(E) LICENSED HEALTH CARE PRACTITIONER.—The term 'licensed health care practitioner' means any physician (as defined in section 1861(r) of the Social Security Act) and any registered professional nurse, licensed social worker, or other individual who meets such requirements as may be prescribed by the Secretary.

"(3) INFLATION ADJUSTMENT OF $200 BENEFIT LIMIT.—

"(A) IN GENERAL.—In the case of a calendar year after 1995, the $200 amount contained in paragraph (1)(A)(ii) shall be increased for such calendar year by the medical care cost adjustment for such calendar year. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

"(B) MEDICAL CARE COST ADJUSTMENT.—For purposes of subparagraph (A), the medical care cost adjustment for any calendar year is the percentage (if any) by which—

"(i) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the preceding calendar year, exceeds

"(ii) such component for August of 1994.

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) INDIVIDUAL RETIREMENT ACCOUNT.—The term 'individual retirement account' has the meaning given such term by section 408(a).

"(2) SECTION 401(k) PLAN.—The term 'section 401(k) plan' means any employer plan which meets the requirements of section 401(a) and which includes a qualified cash or deferred arrangement (as defined in section 401(k)).

"(e) SPECIAL RULES FOR SECTION 401(k) PLANS.—

"(1) WITHDRAWALS CANNOT EXCEED ELECTIVE CONTRIBUTIONS UNDER QUALIFIED CASH OR DEFERRED ARRANGEMENT.—This section shall not apply to any distribution from a section 401(k) plan to the extent the aggregate amount of such distributions for the use described in subsection (a) exceeds the aggregate employer contributions made pursuant to the employee's election under section 401(k)(2).

"(2) WITHDRAWALS NOT TO CAUSE DISQUALIFICATION.—A plan shall not be treated as failing to satisfy the requirements of section 401, and an arrangement shall not be treated as failing to be a qualified cash or deferred arrangement (as defined in section 401(k)(2)), merely because under the plan or arrangement distributions are permitted which are excludable from gross income by reason of this section.".

(b) CONFORMING AMENDMENTS.—

(1) Section 401(k) of such Code is amended by adding at the end the following new paragraph:

"(11) CROSS REFERENCE.—

"For provision permitting tax-free withdrawals for payment of long-term care premiums, see section 137.".

(2) Section 408(d) of such Code is amended by adding at the end the following new paragraph:

"(8) CROSS REFERENCE.—

"For provision permitting tax-free withdrawals from individual retirement accounts for payment of long-term care premiums, see section 137.".

(3) The table of sections for such part III is amended by striking the last item and inserting the following new items:

"Sec. 137. Distributions from individual retirement accounts and section 401(k) plans for long-term care insurance.

"Sec. 138. Cross references to other Acts.".

SEC. 702. CERTAIN EXCHANGES OF LIFE INSURANCE CONTRACTS FOR LONG-TERM CARE INSURANCE CONTRACTS NOT TAXABLE.

Subsection (a) of section 1035 of the Internal Revenue Code of 1986 (relating to certain exchanges of insurance contracts) is amended by striking the period at the end of paragraph (3) and inserting "; or", and by adding at the end thereof the following new paragraph:

"(4) a contract of life insurance or an endowment or annuity contract for a long-term care insurance contract (as defined in section 137(c)(1)).".

SEC. 703. TAX TREATMENT OF ACCELERATED DEATH BENEFITS UNDER LIFE INSURANCE CONTRACTS.

Section 101 of the Internal Revenue Code of 1986 (relating to certain death benefits) is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, any amount paid or advanced to an individual under a life insurance contract on the life of an insured—

"(A) who is a terminally ill individual, or

"(B) who is a chronically ill individual (as defined in section 137(c)(2)(B)) who is confined to a qualified facility (as defined in section 137(c)(2)(C)(i)),

shall be treated as an amount paid by reason of the death of such insured.

"(2) TERMINALLY ILL INDIVIDUAL.—For purposes of this subsection, the term 'terminally ill individual' means an individual who has been certified by a physician as having an illness or physical condition which can reasonably be expected to result in death in 12 months or less.

"(3) PHYSICIAN.—For purposes of this subsection, the term 'physician' has the meaning given to such term by section 137(c)(2)(E).".

SEC. 704. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to taxable years beginning after December 31, 1994.

TITLE VI—WELFARE RESTRICTIONS FOR ALIENS

SEC. 801. INELIGIBILITY OF ALIENS FOR PUBLIC WELFARE ASSISTANCE.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsections (b) and (c), no alien shall be eligible for any program referred to in subsection (d).

(b) EXCEPTIONS.—

(1) REFUGEE EXCEPTION.—Subsection (a) shall not apply to an alien admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act until 6 years after the date of such alien's arrival into the United States.

(2) AGED EXCEPTION.—Subsection (a) shall not apply to an alien who—

(A) has been lawfully admitted to the United States for permanent residence;

(B) is over 75 years of age; and

(C) has resided in the United States for at least 5 years.

(3) CURRENT RESIDENT EXCEPTION.—Subsection (a) shall not apply to the eligibility of an alien for a program referred to in subsection (d) until 1 year after the date of the enactment of this Act if, on such date of enactment, the alien is residing in the United States and is eligible for the program.

(c) PROGRAMS FOR WHICH ALIENS MAY BE ELIGIBLE.—The limitation under subsection (a) shall not apply to the following programs:

(1) Medical assistance with respect to emergency services (as defined for purposes of section 1916(a)(2)(D) of the Social Security Act).

(d) PROGRAMS FOR WHICH ALIENS ARE INELIGIBLE.—The programs referred to in this subsection are the following:

(1) The program of medical assistance under title XIX of the Social Security Act, except emergency services as provided in subsection (c).

(2) The Maternal and Child Health Services Block Grant Program under title V of the Social Security Act.

(3) The program established in section 330 of the Public Health Service Act (relating to community health centers).

(4) The program established in section 1001 of the Public Health Service Act (relating to family planning methods and services).

(5) The program established in section 329 of the Public Health Service Act (relating to migrant health centers).

(6) The program of aid and services to needy families with children under part A of title IV of the Social Security Act.

(7) The child welfare services program under part B of title IV of the Social Security Act.

(8) The supplemental security income program under title XVI of the Social Security Act.

(9) The program of foster care and adoption assistance under part E of title IV of the Social Security Act.

(10) The food stamp program, as defined in section 3(h) of the Food Stamp Act of 1977 (7 U.S.C. 2012(h)).

(11) The school lunch program carried out under the National School Lunch Act (42 U.S.C. 1751 et seq.).

(12) The special supplemental food program for women, infants, and children carried out under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(13) The nutrition programs carried out under part C of title III of the Older Americans Act of 1965 (42 U.S.C. 3030e et seq.).

(14) The school breakfast program carried out under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(15) The child and adult care food program carried out under section 17 of the National School Lunch Act (42 U.S.C. 1766).

(16) The Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note).

(17) The summer food service program for children carried out under section 13 of the National School Lunch Act (42 U.S.C. 1761).

(18) The commodity supplemental food program authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note).

(19) The special milk program carried out under section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772).

(20) The program of rental assistance on behalf of low-income families provided under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(21) The program of assistance to public housing under title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.).

(22) The loan program under section 502 of the Housing Act of 1949 (42 U.S.C. 1472).

(23) The program of interest reduction payments pursuant to contracts entered into by the Secretary of Housing and Urban Development under section 236 of the National Housing Act (12 U.S.C. 1715z-1).

(24) The program of loans for rental and cooperative housing under section 515 of the Housing Act of 1949 (42 U.S.C. 1485).

(25) The program of rental assistance payments pursuant to contracts entered into under section 521(a)(2)(A) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(2)(A)).

(26) The program of assistance payments on behalf of homeowners under section 235 of the National Housing Act (12 U.S.C. 1715z).

(27) The program of rent supplement payments on behalf of qualified tenants pursuant to contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s).

(28) The loan and grant programs under section 504 of the Housing Act of 1949 (42 U.S.C. 1474) for repairs and improvements to rural dwellings.

(29) The loan and assistance programs under sections 514 and 516 of the Housing Act of 1949 (42 U.S.C. 1484, 1486) for housing for farm labor.

(30) The program of grants for preservation and rehabilitation of housing under section 533 of the Housing Act of 1949 (42 U.S.C. 1490m).

(31) The program of grants and loans for mutual and self-help housing and technical assistance under section 523 of the Housing Act of 1949 (42 U.S.C. 1490c).

(32) The program of site loans under section 524 of the Housing Act of 1949 (42 U.S.C. 1490d).

(33) The program under part B of title IV of the Higher Education Act of 1965.

(34) The program under subpart 1 of part A of title IV of the Higher Education Act of 1965.

(35) The program under part Cof title IV of the Higher Education Act of 1965.

(36) The program under subpart 3 of part A of title IV of the Higher Education Act of 1965.

(37) The program under part E of title IV of the Higher Education Act of 1965.

(38) The program under subpart 4 of part A of title IV of the Higher Education Act of 1965.

(39) The program under title IX of the Higher Education Act of 1965.

(40) The program under subpart 5 of part A of title IV of the Higher Education Act of 1965.

(41) The programs established in sections 338A and 338B of the Public Health Service Act and the programs established in part A of title VII of such Act (relating to loans and scholarships for education in the health professions).

(42) The program established in section 317(j)(1) of the Public Health Service Act (relating to grants for immunizations against vaccine-preventable diseases).

(43) The program established in section 317A of the Public Health Service Act (relating to grants for screening, referrals, and education regarding leading poisoning in infants and children).

(44) The program established in part A of title XIX of the Public Health Service Act (relating to block grants for preventive health and health services).

(45) The programs established in subparts I and II of part B of title XIX of the Public Health Service Act.

(46)(A) The program of training for disadvantaged adults and youth under part A of title II of the Job Training Partnership Act (29 U.S.C. 1601 et seq.), as in effect before July 1, 1993.

(B)(i) The program of training for disadvantaged adults under part A of title II of the Job Training Partnership Act (29 U.S.C. 1601 et seq.), as in effect on and after July 1, 1993.

(ii) The program of training for disadvantaged youth under part C of title II of the Job Training Partnership Act (29 U.S.C. 1641 et seq.), as in effect on and after July 1, 1993.

(47) The Job Corps program under part B of title IV of the Job Training Partnership Act (29 U.S.C. 1692 et seq.).

(48) The summer youth employment and training programs under part B of title II of the Job Training Partnership Act (29 U.S.C. 1630 et seq.).

(49) The programs carried out under the Older American Community Service Employment Act (42 U.S.C. 3001 et seq.).

(50) The programs under title III of the Older Americans Act of 1965.

(51) The programs carried out under part B of title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5011–5012).

(52) The programs carried out under part C of title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5013).

(53) The program under the Low-Income Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

(54) The weatherization assistance program under title IV of the Energy Conservation and Production Act (42 U.S.C. 6851).

(55) The program of block grants to States for social services under title XX of the Social Security Act.

(56) The programs carried out under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

(57) The program of legal assistance to eligible clients and other programs under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.).

(58) The program for emergency food and shelter grants under title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 et seq.).

(59) The programs carried out under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

(60) A State program for providing child care under section 402(i) of the Social Security Act.

(61) The program of State legalization impact-assistance grants (SLIAG) under section 204 of the Immigration Reform and Control Act of 1986.

(e) NOTIFICATION OF ALIENS.—Any Federal agency that administers a program referred to in subsection (d) shall, directly or through the States, notify each alien receiving benefits under the program whose eligibility for the program is or will be terminated by reason of this section.

SEC. 802. STATE AFDC AGENCIES REQUIRED TO PROVIDE INFORMATION ON ILLEGAL ALIENS TO THE IMMIGRATION AND NATURALIZATION SERVICE.

Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended—

(1) by striking "and" at the end of paragraph (44);

(2) by striking the period at the end of paragraph (45) and inserting "; and"; and

(3) by inserting after paragraph (45) the following:

"(46) require the State agency to provide to the Immigration and Naturalization Service the name, address, and other identifying information that the agency has with respect to any individual unlawfully in the United States any of whose children is a citizen of the United States.".

TITLE IX—INCREASE IN ASSISTANCE TO COMMUNITY AND MIGRANT HEALTH CENTERS FROM RESIDUAL SAVINGS

SEC. 901. GRANT PROGRAM TO PROMOTE PRIMARY HEALTH CARE SERVICES FOR UNDERSERVED POPULATIONS.

(a) AUTHORIZATION.—The Secretary of Health and Human Services shall provide for a program of grants to migrant and community health centers (receiving grants or contracts under section 329, 330, or 340 of the Public Health Service Act) in order to promote the provision of primary health care services for underserved individuals. Such grants may be used—

(1) to promote the provision of off-site services (through means such as mobile medical clinics);

(2) to improve birth outcomes in areas with high infant mortality and morbidity;

(3) to establish primary care clinics in areas identified as in need of such clinics; and

(4) for recruitment and training costs of necessary providers and operating costs for unreimbursed services.

(b) CONDITIONS.—(1) Grants under this subsection shall only be made upon application, approved by the Secretary.

(2) The amount of grants made under this section shall be determined by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated for each fiscal year, in the 5-fiscal-year period beginning with fiscal year 1995, such amounts as the Secretary estimates, in consultation with the Director of the Office of Management and Budget, reflects the net savings to the Federal Government in the fiscal year of the enactment of this Act.

(2) LIMITATION.—The total amount of funds made available under this section in such 5-fiscal-year period may not exceed $13.1 billion.

(3) USE OF FUNDS.—Of the amounts appropriated each fiscal year under this section, at least 10 percent shall be used for grants described in subsection (a)(1) and at least 10 percent shall be used for grants described in subsection (a)(2). The Secretary may use not to exceed 50 percent of the amounts appropriated to carry out this section for the purpose of making new grants or contracts under sections 329, 330, and 340 of the Public Health Service Act.

(d) STUDY AND REPORT.—The Secretary shall conduct a study of the impact of the grants made under this section to migrant and community health centers on access to health care, birth outcomes, and the use of emergency room services. Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on such study and on recommendations for changes in the programs under this section in order to promote the appropriate use of cost-effective outpatient services.

THE INTRODUCTION OF A SENSE-OF-THE-CONGRESS RESOLUTION ON AIDS EDUCATION

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. NADLER. Mr. Speaker, I rise today to introduce a sense of the Congress resolution which expresses the need for quality HIV/AIDS education to help prevent the spread of AIDS.

This resolution calls for a real AIDS education initiative. With 315,390 AIDS deaths and more than 194,300 AIDS-related deaths since the discovery of the disease 12 years ago, the AIDS epidemic rages unabated. The need to marshall the powers of the Federal Government and communities across the Nation behind an all-out AIDS education effort to prevent the spread of this dreadful disease has never been greater. Clearly, we cannot battle AIDS without first ensuring that every American is educated about the disease and is continuously reminded of ways to prevent it.

That is why I am introducing a resolution which calls for greater AIDS education and prevention initiatives. This resolution calls for States to provide quality sex education programs in school for young adults who are least educated about the disease and at great risk for contracting it. It also calls for the Secretary of Health and Human Services and the Surgeon General to develop guidelines for the prevention of AIDS and HIV infection and to distribute those guidelines to parents and their children.

It also expresses the sense of the Congress that condom use for television, advertisements, and public service announcements should be encouraged rather than discouraged. Finally, it calls for the reinstatement of the National Commission on AIDS which has provided useful information about the disease.

Mr. Speaker, this country has been negligent in making AIDS education a public health priority. While we wait for a cure to put an end to this deadly disease, we must in the meantime take the necessary and appropriate prevention measures to help stop the spread of this disease which is devastating to so many Americans. I urge my colleagues to join me in cosponsoring this important measure.

JUSTICE DEPARTMENT MISCUE

HON. MARIA CANTWELL

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Ms. CANTWELL. Mr. Speaker, numerous economic studies and statistics make it clear that the computer software industry is one of our Nation's strongest assets in today's global economy. To maintain our national leadership in this fast-changing industry of today and tomorrow, our policymakers should be certain that they do not inadvertently hobble U.S. software makers.

Two highly respected economists have written on this issue in recent days: Lester Thurow, professor of management and economics at MIT, and Robert Shapiro, vice-president of the Progressive Policy Institute and a principal economic advisor during President Clinton's election campaign. I commend their views to the attention of Members. I ask unanimous consent that the text of those articles be included at this point.

[From the Boston Globe, Nov. 9, 1993]

JUSTICE DEPARTMENT MISCUE

(By Lester Thurow)

The rest of the world must watch us with a mixture of envy, horror, and wonder.

The envy comes from the fact that the U.S. computer software industry sells 75 percent of the prepackaged software in the world and controls 50 percent of the overall nationwide market for all software sales and services; $20 billion in sales are made to foreigners each year. This is one of the industries of the 21st century that everyone would like to capture—a labor-intensive industry with growing employment (420,000) people now work there in the United States) paying high wages. It is the stuff of national economic dreams.

The horror springs from the fact that the Justice Department is thinking about bringing an antitrust case to hobble the most powerful firm, Microsoft, in the industry—a firm with a 50 percent market share for personal computer operating systems but a 6 percent overall market share.

In an antitrust tradition that dates back to the dinosaurs, "big is bad." If someone is

successful in their market, they must have done something bad and if they haven't been doing something bad, they surely are planning to do something bad. If their prices haven't been too high, then surely their prices have been too low (one of the charges the Justice Department is thinking about bringing against Microsoft). If there is an economic success story out there in the big economy, it is the duty of the antitrust division of the Justice Department to ride to the rescue and break up the stuff of dreams.

The rest of the world knows that if they had a successful firm in a successful industry, they would be asking how their governments could help make that industry even more successful at home and abroad. They would be asking their governments to do something about the computer software piracy (copying of programs without paying for them—mostly in Asia) that deprives American firms of $12 billion in revenue that could make them even stronger in the future.

The last thing foreigners can imagine is doing anything to weaken either such firms or such an industry. Other countries all have active national industrial policies designed to capture the computer software industry. One of my colleagues at MIT, Mike Cusumano, has written a book about the Japanese computer software factory and the Japanese strategy for driving the American firms out of this industry.

The rest of the world's wonder comes from their wonderment at their good luck in that the American Justice Department will do something for them they haven't been able to do for themselves—weaken the American software firms and give them a chance to break into the industry. For if Microsoft were broken up or hobbled, the winners would not be other American firms but foreign firms who would first use this gap in the market to get their own national markets weaned back away from those American operating systems.

With local operating systems, other forms of American software couldn't be sold and foreign applications software firms would have a change to also get their national markets away from the Americans. Then, having established an unassailable national base, it would be time to use the profits made in this national base to attack the big American market and get some market share away from the Americans.

For the rest of the world, this is a dream come true. Who needs national strategy for capturing computer software when the Americans will give it to you?

If the Justice Department looks up and thinks for a few minutes, it will realize that almost by definition the computer software industry cannot be monopolized. It is just an industry that is too easy to enter. It doesn't take a lot of money. All it takes is a few bright computer programmers who get together and make the next breakthrough. It has happened in the past (that's how the Microsofts got big) and it will happen again in the future.

Even today there are seven or eight competing operating systems for personal computers—some of them owned by companies like Apple, IBM, Sun and AT&T, who are certainly too big to be driven out of business by prices that are too low and certainly plenty big enough to take advantage of anyone who attempts to set prices too high. Even if this weren't true, piracy sets a limit on how high software prices can be set. If prices were set too high and there were no effective competition, everyone would start illegally copying the systems they wanted but could not afford.

The Justice Department should wake up and understand that the world of the 1890s (the era when our anti-trust laws were formed) is not the era of the 1990s. Today's world is not a world where if one American firm is hobbled the beneficiary will automatically be another American firm. It is a world where nations vigorously attempt to create economic advantages for their own national firms.

[From the Washington Post, Nov. 14, 1993]

ONE WORLD UNDER DOS?

(By Robert J. Shapiro)

Health-care reform, NAFTA, national service, deficit reduction, public investment, welfare reform—virtually every part of President Clinton's domestic agenda can be seen as an attempt to help us become more competitive. But does the rest of his government get the message? Does it understand how the new economy works?

If reports on the business pages of many newspapers are accurate, the antitrust division in the Justice Department is considering moving against the Microsoft company, because the market share held by its MS-DOS operating system is deemed too big for healthy competition. For an administration disposed toward aggressive regulation of domestic markets, this case presents the first important test of its understanding of the new terms of competition in a global economy.

The case concerns, at base, two crucial changes in the rules of economic competition. The first is the most fundamental: In global competition, a firm's capacity to innovate is fast becoming more important than its ability to cut costs by being more efficient. After all, Honda succeeded not by building a Ford more cheaply but by introducing innovative processes, materials and designs that defined a new market segment—and Ford came back by doing much the same thing with the Taurus. The second change at issue here concerns the way that technological breakthroughs create their own markets that, as they expand, tend to strengthen the relative position of the market's leading firm.

If we proceed as if these changes had never happened, we may injure not only the world-class competitiveness of one U.S. firm, but the productivity of our software industry and even the large U.S. economy.

In many respects, the U.S. software industry epitomizes the new economy in which competitiveness is driven more by innovation than by traditional measures of efficiency. Global competition creates a dynamic in which new market segments are created or defined around the world by new products, production processes, sources of labor and materials and ways of marketing, financing and distribution. In this competitive hothouse, firms succeed not by producing a standard good more cheaply but by continually restructuring their resources so they can outpace their rivals.

What difference does this make for the case that a firm should be restrained because it has a large share of a segment of the software market? In the old economy, a large market share could confer on a firm the monopolist's power to preclude real competition. The reason is that size brings with it economies of scale, including better access to the investment capital crucial to becoming more efficient.

But in the new economy, where innovation is more important than simple efficiency, market share is a poor proxy of market power because a firm with an innovative product or process can overtake the industry leader without matching its scale. Software entrepreneurs don't have to raise the capital to build a plant as large as the industry leader's; rather, they have to find and motivate a handful of programming geniuses who can develop a program with new features or greater capacity. That's why the Horatio Alger route to success is so common in information-technology businesses—and so rare in old-economy industries. With a few exceptions such as IBM software, industry leaders have been born in garages and graduate-school labs, not in the divisions of large corporations.

In new-economy businesses, therefore, the competition that antitrust regulators are charged with protecting depends less on having a number of rivals of roughly the same size than on easy entry into a business line that requires human resources that no firm can monopolize.

In addition to the market power of innovation, the new information markets have a particular feature that makes market share an especially wrong-headed measure of market power. When these markets function well, they almost invariably—almost inherently—are dominated by one firm. The reason is what economists call network externalities. That's an intimidating term for a simple dynamic in which one innovation creates opportunities for more, which can work only in tandem with the original. A firm, for example, develops a new computer system or operating program with more power or versatility than current conversions, which attracts the attention of the people who write the application programs that consumers use, from word-processing and spreadsheets to graphics and games. As more applications are developed for the new software or hardware, the firms' market expands rapidly.

Nearly every segment of the information-technology market repeats this big-player pattern because it is, in a word, efficient. Microsoft is the significant player in operating systems for IBM-type computers—although others with market weight include IBM, Novell, Sun and Apple-Macintosh. But Novell has an even bigger share of the market niche for networking software. ATEX is the leading supplier of software designed for the publishing industry. Intel is the leader in the market for personal-computer microprocessors. IBM used to be the only big player in computer hardware—until innovators displaced it.

It is true that dominant products and players are aided by the fact that for an information technology to be useful for a broad variety of applications, it must conform to a standard in wide use—and patent and copyright laws protect the property rights of those who set those standards. But big players still run large risks: When a new product sets off network externalities, the market share of the old leader tends not to erode slowly but to collapse quickly. What competitive markets give they also can take away—which is why most contracts within the industry are short-term.

As a matter of national competitiveness, these market arrangements work well. Over the last decade, software has been the fastest-growing industry in the U.S. economy, with revenues up 239 percent (after inflation) since 1982 and employment growth of six to nine times the rates of the rest of the economy. And virtually alone among all our major industries, it has no foreign peers.

U.S. software companies hold 95 percent of the American market and 60 percent of foreign markets.

Curbing the leader in one segment of this well-functioning industry at the behest of the leader's lagging rivals would, in effect, subsidize firms that have not competed as successfully and so weaken all players' economic incentives for innovation. In a global economy with many advanced nations matching America's economies of scale, our chief competitive advantage lies in technological superiority. Software innovations play a crucial role in this process because they enable other industries to innovate and become more productive. For example, some close observers forecast that software advances on the horizon may enable U.S. firms to reclaim much of the market in consumer electronics. The lesson for the Justice Department's antitrust enforcers is that nothing is gained by restricting an industry leader in one important segment of a healthy market—and a great deal could be lost.

TRIBUTE TO MARY B. BURCH

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. PAYNE of New Jersey. Mr. Speaker, life experiences have taught me that no one becomes who and what he or she is alone. There are always individuals who influence our lifestyle, our way of thinking and living. Sometimes these transformations are the result of luck or sometimes, the lack of luck. Sometimes they come about because of careful planning and monitoring.

One of the great influences on my life was my experience with the Leaguers and its founders, Dr. Reynold and Mrs. Mary Burch. Mr. Speaker, on Saturday, December 4, special tribute is being paid to Mrs. Mary Beasley Burch. On that day, friends, associates, and mentees will join in this tribute to a warm and loving person who shepherded so many of us to become successful men and women. Mrs. Burch is approaching her 90th birthday, the beginning of a new decade. A more appropriate time could not be found to say "thanks, Mrs. Burch, just for being there."

Mary Beasley Burch is a former schoolteacher who opened up her home to children in her neighborhood when she found them to be mischievous because they lacked a constructive use of leisure time. Mrs. Burch set up a system of rewarding displays of more positive behavior, and banded these young people into a formal group which met weekly. She planned weekly outings to theaters, museums, legislative sessions, cultural events, and so forth, and within a matter of months, young people came from all over the Essex County, NJ, area to her home as the news spread of this unique club. In 1948, the club became the Junior Leaguers.

Many young people attended important events under Mrs. Burch's leadership—events they would never have had the opportunity to attend. In 1949, there was the swearing-in ceremonies for Mayor Villani at Newark's city hall. There was the visit to Assemblyman Bowser's office in Trenton in 1950, and a weekend exchange to Philadelphia in 1951. One of the most memorable events was the first debutante cotillion in 1951 where high school students had an opportunity to attend a formal affair and garner social amenities. The cotillion became a scholarship fundraising event. The organization and its supporters devoted their energies to generating scholarship aid and assistance to a population of young people who, without it, had no hopes for college training.

The list of former leaguers who have become prominent citizens is endless. Former leaguers are serving in government, science, business, education, the performing arts, the judicial system, the diplomatic service, and medicine. I am proud to be a former leaguer. So are Secretary of Energy Hazel R. O'Leary, playwright Amiri Baraka, and recording artist Dionne Warwick.

Mr. Speaker, over the years I have had the privilege of working with young people as teacher, advisor, mentor, and friend. Working with our young people is one of the most important jobs I have held. I am sure my sense of commitment and dedication to our young people—our future—stem from my acquaintance with people like Mrs. Burch.

Mrs. Burch is a woman of courage, conviction, and high standards. She has given of herself in a tireless, unselfish way. She chose to invest her time, her energy, her money, and other resources in the development of youth. Mrs. Burch, on behalf of the generations who have gone before and those that will be, I want to thank you for having the courage and foresight to take some troublesome youth into your home and arms, and nurture them into fine and productive men and women.

RECOGNITION OF RONALD B. LAMB, VICE PRESIDENT, GOVERNMENT RELATIONS, LOS ANGELES CHAMBER OF COMMERCE

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. DIXON. Mr. Speaker, I rise today to recognize the contributions of several dedicated individuals who worked hard to ensure affordable housing for the military personnel at the Los Angeles Air Force Base/Space and Missile Systems Center in Los Angeles, CA. Former Los Angeles mayor, Tom Bradley; former deputy mayor, Linda Griego; Los Angeles unified school board superintendent, Sidney Thompson; and former Congressman Mel Levine are four individuals who played important roles in preventing the relocation of the Los Angeles Air Force Base/Space and Missile Systems Center. I also want to recognize the significant contribution of Ronald B. Lamb, vice president of government relations of the Los Angeles Area Chamber of Commerce.

Ron's exceptional leadership and commitment, brought to the forefront of our community's agenda, an issue which represents thousands of jobs and billions of dollars annually to the Los Angeles area. The civilian and military jobs that the Air Force base generates are vital to our economy. This support was vital to our success in retaining the Los Angeles Air Force Base and its important mission in Los Angeles.

In 1991 and earlier this year, the Department of Defense had considered relocating the Los Angeles Air Force Base to another city. When it was determined that the lack of affordable housing for military personnel was the critical factor in the base closure deliberations, Ron Lamb launched an exhaustive effort to find suitable property to meet the Air Force's housing needs, with support from local, State, and Federal officials. Several months ago, the Defense Base Realignment and Closure Commission recommended that the Los Angeles Air Force Base/Space and Missile Systems Center not be relocated.

The signing of the property lease agreement on October 16 by California Governor Wilson, Los Angeles unified school district superintendent Sidney Thompson, and a representative from the Air Force was a major milestone in our campaign. The unified school district property will be used by the Air Force to build affordable housing units.

Mr. Speaker, I ask my colleagues to join me in honoring Ron Lamb for his major role in ensuring that the Los Angeles Air Force Base/Space and Missile Systems Center remains in our community. I look forward to working with Mr. Lamb and community leaders on other projects that will maintain jobs and promote economic growth and development in the Los Angeles area.

COMMUNITY SCHOOL BOARD 8 QUINCENTENNIAL CELEBRATION OF THE DISCOVERY OF PUERTO RICO

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. SERRANO. Mr. Speaker, I rise today in recognition of the celebration Community School Board 8 will hold next Tuesday, November 30, at the Bronx's Public School 75 in honor of the quincentennial of the discovery of Puerto Rico.

Five hundred years ago a sailing ship from Spain made landfall on the island of Puerto Rico. That momentous event set in motion the forging of a new culture, which over the centuries has grown and spread and thrived, both on the island of Puerto Rico and on the mainland of the United States.

Mr. Speaker, I would like to express my appreciation to Community Superintendent Max Messer; Deputy Superintendents Michael M. Kadish and Harriett McFeeters; Principal Eva Garcia of Public School 75; the officers and members of Community School Board 8—President James Vacca, Vice President Ciro Guerra, Secretary Rose Foley, Treasurer Julia Rodriguez, Dennis R. Coleman, Jorge Martinez, Lynn M. Gerbino, Anne L. Schuster, and Carol Trotta; as well as all of the other individuals involved in the holding of this special celebration in this historic year.

TIME TO PLAN FOR A PEACEFUL FUTURE

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. NADLER. Mr. Speaker, today I am introducing the Defense Alternative Use Committee Act. This legislation, when enacted, will help move this Nation's bloated defense establishment toward a peaceful, more productive, and economically competitive future.

With the end of the cold war, there is really no excuse for this Nation to waste billions of dollars each year stockpiling and developing the world's most sophisticated arsenal. If these expenditures are unnecessary, they are an obscene waste in a era in which children go hungry, tens of thousands of our neighbors must live on the streets, and our education system lacks the resources to train citizens for a productive future.

So why do we do it? Why, when earlier today we listened to hours of speeches denouncing wasteful spending? The answer is that large sectors of our economy are still dependent on defense purchases by our Government and by foreign governments. Members of this House will never vote for a rational and realistic Defense budget until we are able to reverse the militarization of our economy.

This bill is an attempt to reverse that process. When enacted, it would require all defense contractors, companies seeking permission to export arms, and federally operated defense plants to establish alternative use committees, composed of management, labor, and community representatives, whose job would be to plan for a peaceful and productive future for the plant and its employees.

This approach, pioneered by my predecessor, the late Ted Weiss, would reshape our Nation's defense conversion policy in an important way. Right now most of our energies are directed at helping workers and communities after the plant closes. These programs are important and often stand between the affected communities and economic disaster. But we need to do still more.

By relying on those who know the plant and the capabilities of its work force to plan for a peaceful future, the Defense Alternative Use Committee Act will provide a smooth transition to a peacetime economy.

Mr. Speaker, it is not simply a matter of making things we do not need—we are not making things we do need. You can't buy a VCR made in America. Ride on a passenger rail car in this country and you will see the logo of a foreign corporation. The list is endless, but the story is always the same—our best and brightest, the finest, most productive workers in the world are being wasted building doomsday weapons we must never use. These communities need more than the promise of Government-sponsored severance pay when the Federal Government stops buying their weapons. We owe it to these communities to bring planning for a peacetime economy, and for a stronger, more competitive national economy.

Mr. Speaker, I hope every Member of this House will join me in supporting the Defense Alternative Use Committee Act.

IN SUPPORT OF H.R. 3650

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. WAXMAN. Mr. Speaker, today with the support of Representative JOHN DINGELL and Representative TOM BLILEY, the chairman of the Committee on Energy and Commerce and the ranking minority member of the Subcommittee on Health and the Environment, I attempted to bring to the House floor legislation that would assure consumers continued access to dietary supplements. This bill, H.R. 3650, would establish beyond any possible doubt that the Food and Drug Administration may not require prescriptions for dietary supplements. It would also have placed a moratorium on any FDA action on claims for dietary supplements under the Nutrition Labeling and Education Act through June 30, 1994.

Regrettably and inexplicably, we were blocked in this effort by some of the very people who claim to be fighting for consumers who use dietary supplements. Representatives RICHARDSON and GALLEGLY informed me that they would object to the consideration of H.R. 3650, even though that bill would have both guaranteed consumers access to supplements and imposed a 6-month moratorium on claims.

For the past year, the manufacturers of vitamins and other dietary supplements have waged an extraordinary campaign to liberalize the advertising restrictions on their products. To build support for their effort, they have told the public that access to vitamins, minerals, herbs, amino acids, and other dietary supplements is threatened.

It worked. Thousands of people are scared and angry because they believe that the Food and Drug Administration is about to require prescriptions for vitamins and pull other dietary supplements off store shelves. Those people have written us countless letters asking Congress to keep those products available.

The Health Subcommittee held a hearing on this issue in June and I hoped we could draft consensus legislation that would have addressed all of the issues. We ran out of time to get it done, but it was clear to me we should not have left without assuring people they would have access to their food supplements.

H.R. 3650 would have done that. It would have assured consumers around our Nation that access would be maintained. It would prohibit the FDA from requiring prescriptions for supplements, and it would make it clear that products on the market before November 15, 1993 could stay on the market unless the FDA can prove that they are unsafe.

Mr. Speaker, the experience of this evening demonstrates the total irrationality that pervades the debate about dietary supplements. It is my hope that next year we will be able to resolve these issues in a way that both assures consumers access to these products but prohibits manufacturers from making health claims that are not supported by good scientific evidence.

Mr. Speaker, I insert H.R. 3650 immediately following this statement:

H.R. 3650

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dietary Supplement Access and Claims Moratorium Act of 1993".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Many consumers use vitamins, minerals, herbs, amino acids, and other dietary supplements.

(2) There has been a public campaign to convince consumers that the Food and Drug Administration intends to require prescriptions for many dietary supplements, or that the FDA will otherwise act to take these products off the market.

(3) Due to public concern, it is appropriate for Congress to assure consumers that they will have access to the dietary supplements that are currently on the market.

(4) The dietary supplement industry is concerned that the Nutrition Labeling and Education Act of 1990 will prohibit health claims on dietary supplements. Congress shall extend the moratorium on FDA actions under such Act with respect to dietary supplements.

TITLE I-ACCESS TO DIETARY SUPPLEMENTS

SEC. 101. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

SEC. 102. ACCESS TO DIETARY SUPPLEMENTS.

(a) FDA MAY NOT REQUIRE PRESCRIPTIONS FOR DIETARY SUPPLEMENTS.—Section 503(b) (21 U.S.C. 353(b)) is amended by adding at the end the following:

"(6) For a dietary supplement marketed on or before November 15, 1993, the Secretary may not, after November 15, 1993, require a prescription. For a dietary supplement first marketed after November 15, 1993, this subsection as it was in effect on the date of the enactment of the Dietary Supplement Access and Claims Moratorium Act of 1993 shall apply.".

(b) FDA MAY NOT REQUIRE PREMARKET APPROVAL FOR DIETARY SUPPLEMENTS.—

(1) FOOD ADDITIVES.—Section 201(s) (21 U.S.C. 321(S)) is amended—

(A) by striking out the period at the end of subparagraph (5) and inserting in lieu thereof "; or"; and

(B) by adding after subparagraph (5) the following:

(6) any dietary ingredient in a dietary supplement.".

(2) DRUGS.—Section 201(g)(1) (21 U.S.C. 321(g)(1)) is amended by adding at the end the following: "A dietary supplement which was on the market on or before November 15, 1993, and for which no claim is made is not a drug.".

(c) BURDEN OF PROOF ON FDA.—

(1) IN GENERAL.—Section 402 (21 U.S.C. 342) is amended by adding at the end the following:

"(f) If it contains a dietary ingredient at a level that may be injurious to health or is a dietary supplement which when used in accordance with the conditions of use may be injurious to health.".

(2) CONFORMING AMENDMENT.—Section 402 (21 U.S.C. 342) is amended by striking "food" in the matter preceding paragraph (a) and inserting "food or dietary supplement".

(d) DEFINITIONS.—

(1) IN GENERAL. Section 201(21 U.S.C. 321) is amended by adding at the end the following:

"(gg) The term 'dietary ingredient' means—

"(1) a vitamin,

"(2) a mineral,

"(3) an herb,

"(4) an amino acid, or

"(5) other ingredient,

contained in a product marketed in the United States as a dietary supplement on or before November 15, 1993.

"(hh) The term 'dietary supplement' means a product which contains one or more dietary ingredients and—

"(1) which is marketed to supplement the diet,

"(2) which is intended for use in tablet, capsule, powder, softgel, or liquid form and if in liquid form is formulated in a fluid carrier and is intended for ingestion in daily quantities measured in drops or similar small units of measure.

"(3) which is not represented for use as conventional food or as a sole item of a meal or of the diet, and

"(4) which does not include any ingredient other than a vitamin or mineral which has been approved as the active ingredient of a drug.".

(2) SECRETARIAL ACTION.—For purposes of the definitions added by paragraph (1), the Secretary of Health and Human Services shall, not later than 180 days after the date of the enactment of this Act, issue a regulation identifying the dietary ingredients which were marketed on or before November 15, 1993.

TITLE II—MORATORIUM ON DIETARY SUPPLEMENT CLAIMS

SEC. 201. REFERENCE.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Prescription Drug User Fee Act of 1992.

SEC. 202. PROHIBITION OF IMPLEMENTATION.

Section 202(a)(1) (21 U.S.C. 343 note) is amended—

(1) by striking "December 15, 1993" and inserting "June 30, 1994", and

(2) by inserting "amino acids," after "herbs,".

SEC. 203. ISSUANCE OF REGULATIONS.

The amendments made by sections 202(a0(2)(B)(i) and 202(a)(2)(B)(ii) (212 U.S.C. 343 note) are each amended—

(1) by striking "December 31, 1993" and inserting "June 30, 1994", and

(2) by inserting "amino acids," after "herbs,".

SEC. 204 STATE ENFORCEMENT.

The amendment made by section 202(a)(3) (21 U.S.C. 343 note) is amended by striking "to such dietary supplement on December 31, 1993" and inserting "to dietary supplements of vitamins, minerals, herbs amino acids, or other similar nutritional substances on June 30, 1994".

SEC. 205. CLAIM APPROVAL.

Section 202(b) (21 U.S.C. 343 note) is amended—

(1) by striking "December 15, 1993" and inserting "June 30, 1994", and

(2) by inserting "amino acids," after "herbs,".

THE DOLLAR COIN: IT MAKES CENTS TO BUCK TRADITION

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. KOLBE. Mr. Speaker, I rise today to bring to my colleagues' attention legislation that Congressman ESTEBAN TORRES and I have introduced a bill that would save taxpayers at least $395 million annually. H.R. 1322, the United States One Dollar Coin Act of 1993, already has 226 cosponsors and continues to gain momentum.

The bill is simple. It would phaseout the $1 note in favor of a gold-colored $1 coin commemorating our veterans of war. And over the past several years that this legislation has been introduced, it has received broad-based support from the Federal Reserve Board, public-transit systems, coin collectors, vending operators, environmentalists, and consumers.

Despite all the support, skepticism still runs strong. But when the facts are made clear, much of the skepticism turns first into grudging acceptance, then enthusiastic support. I commend to my colleagues' attention several items that effectively lay out these facts—an article that appeared in the Washington Post, an article appearing in Forbes, and a letter to the editor appearing in today's Washington Post.

[From the Washington Post, Nov. 5, 1993]

THE DOLLAR COIN: IT MAKES CENTS TO BUCK TRADITION

(By James K. Glassman)

Here's a simple way for the government to cut the deficit by a half billion dollars or so a year and make our lives easier besides: Replace the anachronistic one-dollar bill with a coin.

Yes, I know, I know. The Susan B. Anthony dollar coin (1979-81) was a disaster. But it was the wrong design, introduced the wrong way. And since the suffragette made her ignominious exit, a high-denomination (dollar or thereabouts) coin has supplanted paper notes in nearly every industrialized country.

Some learned from our mistakes. Canada, for example, brought out a dollar coin in 1987 that could serve as model for the United States. Like the Anthony, this coin is roughly the size of a quarter, but it isn't quite round (it has 11 sides). More important, it's gold-colored and has smooth, rather than "reeded" edges.

The British one-pound coin (worth about $1.50) and the French 10-franc coin ($1.70) are relatively small, but thick. By touch alone in your pocket, you can tell what they are. And Mexico recently brought out a gorgeous, tow-tone 10-peso ($3.20) coin that's my own aesthetic ideal.

Even if the Anthony coin hadn't been so easy to confuse with a quarter, it would have been doomed from the start for another reason: It had to compete with the dollar bill. Experts agree that the coin has to replace the bill, not coexist with it; otherwise, inertia will prevent merchants and consumers from making a change.

But why do we need a dollar coin, anyway? One big reason is that the government will save hundreds of millions of dollars. A study by the Federal Reserve Board in 1992 said the coin would cut the deficit by $395 million a year over 30 years. George McCandless, a University of Chicago economist, estimates the savings at $862 million annually.

Much of the savings would come from the simple fact that dollar bills wear out in an average of about 17 months while coins last 30 years. A coin costs more to make—about 6 cents to 8 cents, compared with 3 cents for a bill—but it's around a lot longer.

The private sector would benefit from the change, too, since dollar bills aren't particularly amenable to use in vending machines—a bigger and bigger problem as the value of the dollar erodes through inflation.

A dollar-bill reader on a vending machine costs $400 or $500, and much of that cost—utterly unnecessary in Canada, Mexico, Australia, etc.—gets passed along to the consumer.

The Coin Coalition, which is lobbying for the change, says that processing dollar coins instead of dollar bills will save the mass transit industry alone more than $124 million a year. The Southern California Transit District, for example, has such a difficult time with crumpled-up dollar bills that it sells them to a contractor for 97 cents to "process"—which is to say, un-wrinkle by hand. Tom Rubin, the transit district's controller, says that a coin would save $4.5 million a year.

The Chicago Transit Authority does it own bill-unfolding, at a cost of $22 per thousand; processing coins costs just $1.64 per thousand.

One objection to the coin is that it weighs down pockets, but, under the new regime, you'll probably be carrying around fewer quarters. While four quarters weigh about 23 grams, one dollar coin will weigh about 8 grams.

There's really no reasonable argument against replacing the dollar bill with a dollar coin. Still, the chances that H.R. 1322, the "United States One Dollar Coin Act of 1993," will pass are no better than 50-50. The main reason, as the director of the Mint put it in testimony before Congress in 1990: "People like bills."

They do. Remember that scene in the movie "Big" where Tom Hanks, a kid who suddenly turns into an adult, asks for his entire paycheck in one-dollar bills, just for the tactile thrill?

Although bills are ostensibly flimsier than coins, people seem to consider them more "valuable." In a psychological sense, to turn a bill into a coin is almost to devalue it.

Even Canadians, "who are often more docile in such matters than U.S. citizens, registered unhappiness when their Royal Mint announced the dollar coin—now affectionately called a "loonie" after the diving bird depicted on it.

A poll by Gallup Canada Inc. in December 1986, just before the coin came out, registered just 38 percent approval and 32 percent disapproval. But, in less than a year, opposition dwindled. The government stood firm, and production of dollar bills stopped in 1989.

Just to test whether they still pine for paper, the General Accounting Office, Congress's auditing arm, hired Gallup to survey 1,025 Canadians in August 1992. Approval of the coin was 49 percent, disapproval 18 percent. "Knowledgeable Canadian officials believe resistance is no longer an issue," said the GAO in a report issued in March 1993.

But Canada has a parliamentary form of government, less swayed by the week-to-week vagaries of public opinion. Will Congress and the administration be able to hang tough if the radio talk show hosts whip up

anti-coin sentiment? If there's an outcry about "debasing" the currency?

Don's count on any profiles in courage. So far, about 200 House members have signed on as sponsors to H.R. 1322, but it's far from a top priority. In 1979, worry over an adverse reaction to the Susan B. Anthony caused lawmakers to insist on continued production of dollars bills, thereby dooming the dollar coin, concluding, The GAO, with no ax to grind, comes out strongly for replacing the bill with the coin, * * * in an environment of difficult and unpopular deficit reduction measures, the alternative of securing $395 million in annual budget savings through updating our coinage is likely to be a relatively painless sacrifice."

Agreed, but the Clinton administration has more grandiose matters on its mind, and, in the end, the fate of the dollar coin—like other multibillion-dollar matters of state—may rest on the outcome of a battle between two sets of fairly insignificant interests groups.

The Coin Coalition has lined up the vending machine, convenience store, mass transit and copper folks. the status quo has support from ink and paper makers, as well as Congress's ubiquitous Texans—since the Forth Worth plant of the Bureau of Engraving and Printing prints about half of all dollar bills.

In addition, the firm that makes the paper for the bills, Crane & Co., is based in Dalton, Mass., home state of Rep. Joseph P. Kennedy II (D), chairman of the House subcommittee that has jurisdiction.

Ah, but the pro-coin forces know how to play the game! Their bill states, "The reverse side of the dollar shall have a design recognizing America's veterans." And veterans, of course, are a large and powerful interest group.

There's no requirement in the bill for what's depicted on the other side, the "obverse." But don't count on a flag or a bird. Eagles don't sway many votes in Congress. What about a band of sportsmen with rifles? Or some hearty union members? Or a crowd of civic-mined senior citizens?

[From Forbes, Nov. 8, 1993]

UNCLE, CAN YOU SPARE A COIN?

(By Peter Samuel)

Remember when you tossed down a coin or two for the price of a hot dog, a beer, a subway ride? You didn't have to reach for your wallet, find some greenbacks and count your change. During the decades when the cost of these items has climbed from around a quarter to well over $1, the quarter—which won't even buy most newspapers these days—has remained the highest commonly available coin. The dollar bill, once kept neat and crisp for relatively higher value purchases, is today typically a bedraggled shadow of its former self—faded and crumpled through overuse in all manner of small transactions.

For most people today coins aren't an asset, they are a nuisance.

Why not bring back a meaningful coin? Both the Federal Reserve and the General Accounting Office think it would be a good idea. So should Albert Gore if he is serious about looking for ways to cut out unnecessary federal spending. Because those dollar bills wear out so fast, using them for small purchases means they must be constantly replaced. The Fed and the GAO have estimated savings of about $400 million a year to the federal budget from the replacement of the $1 bill with a $1 coin.

Almost half of the 8.4 billion bills printed annually by the Bureau of Engraving & Printing are the $1 variety. Each dollar note costs about 4 cents to make.

A $1 coin would cost more—an estimated 8 cents. But the coins last 30 years, compared with 17 months for the dollar bill. On a per-year basis it costs almost ten times as much to keep a dollar bill in circulation as it would a dollar coin.

Various businesses and utilities stand to gain even more than the government by a dollar coin: vending machine operators, telephone companies with coin phones, transit systems, convenience stores, cities with parking meters, fast-food establishments, and toll roads and bridges.

At these establishments the handling of dollar bills is extremely difficult and costly to automate. Bills have to be manually sorted and straightened out and faced the right way before being inserted into counting machines. (How often has that vending machine turned up its nose at your slightly crumpled dollar bill?)

By contrast, coins can simply be dumped unsorted into the hoppers of counting machines that do all the work of sorting, counting and bagging automatically. William Buetow, treasurer at the Chicago Transit Authority, has said bills cost $22 per thousand to count, whereas coins cost less than $2 per thousand dollars.

The Los Angeles County Metropolitan Transportation Authority does not bother to sort its dollar bills. It sells them by weight to private sector contractors unprocessed for 98 cents on the dollar. Buetow has estimated Chicago could save about $2 million a year if a $1 coin were used rather than a bill. Los Angeles' transit authority says it could save $4 million.

The U.S. vending industry has had to install bill acceptors in many of its 4.5 million soda, snack and hot drink machines. The acceptors add about $400 to the capital cost of each machine—around 20%—and probably more to servicing costs, since bills are notorious for getting jammed.

In Canada, where a dollar coin was introduced in 1987, vending machine turnover has boomed, during which time sales from U.S. vending machines have been relatively flat.

So where's the $1 coin? Earlier this year bills for a dollar coin were reintroduced in both the U.S. House and the Senate. The Coin Coalition, a lobby group representing some 30 industry associations, made a major push to attract the attention of the Clinton Administration. But in Congress the bill is bottled up in a banking subcommittee chaired by Joseph P. Kennedy II (D-Mass.). Representative Kennedy seems to be too busy to bother with such trifles. As his staff puts it, "The congressman has higher priorities." Kennedy, of course, is very much in the family tradition. As this instance shows, he's more interested in spending government money than in saving it, more interested in bashing business than in helping it.

Other than Kennedy's laziness and short attention span, the only real opposition comes from the American Bankers Association, which stresses changeover costs in the switch from bill to coin and is concerned about the extra weight of coin in transportation.

The last two efforts at introducing a dollar coin—the Eisenhower coin in 1971 and the Susan B. Anthony in 1979—were flops, the latter because people had trouble distinguishing it from a quarter. In both cases, the government kept churning out $1 greenbacks. Most other countries that introduced higher-denomination coins stopped printing the equivalent-value bills. As long as both exist, a lot of people will prefer the paper because it is easier to carry and doesn't make your pockets bulge.

But does the $1 greenback make economic sense? It buys what a quarter bought 25 years ago; $5 does what the dollar did 35 years ago.

But given this Administration's lack of interest, such a desirable changeover is highly unlikely. So private industry is proceeding on its own. One of the largest teller machine networks, Money Access Service Inc. (MAC), based in Wilmington, Del., is investing heavily in development and trials of cards for vending machines, gasoline, transit, telephones, fast food, parking, meters, newspaper racks and convenience stores.

Existing credit and debt cards are okay for bigger transactions, where the transaction is large enough to justify charges for all the credit verification wizardry. But for the little transactions, it is too expensive. Donald Gleson, a president at MAC, is working on a stored value card that takes transactions of less than $20 electronically and can be read from, and written to, in a cheap, stand-alone point-of-sale terminal. None of that expensive instantaneous on-line communication with a central computer.

Joseph Schuler, a card consultant based in Gaithersburg, Md., says cards with a tiny microprocessor built in (dubbed "smart cards") will be the vehicle for this cash substitute. Current magnetic stripe cards like familiar ATM and credit cards are too limited in capability and increasingly subject to fraud. The smart card may, all in one credit-card-size piece of plastic, incorporate ATM cash card, credit card and a stored value cash substitute.

In all, the combined annual savings to both government and business could run into the billions if the use of paper money for small transactions could be reduced. Just one number to leave you with: Where motorists pay their tolls with a prepaid card in Oklahoma, costs per lane are $15,800 per year. A coin basket lane—which would be much more widespread with dollars coins—$16,500. Manned booths, a mighty $176,000.

[From the Washington Post, Nov. 22, 1993]

SAVE MONEY, THROW OUT DOLLAR BILLS

Last winter there was an article in The Post touting the savings of switching to a dollar coin and eliminating the dollar bill ["Durable Dollar Coin Proposed Again," news story, March 12]. I responded then that saving hundreds of millions of dollars a year was a nice piece of change to save for very little sacrifice. In the past year, we have spent an estimated $395 million to $862 million on dollar bills and are no closer to a new dollar coin ["The Dollar Coin," business, Nov. 5].

What is the delay? I don't want to hear that we have higher priorities than saving tax dollars or that "the Clinton administration has more grandiose matters on its mind." Nor do I want to hear that it will inconvenience a few people. Even if we decided today to go to a dollar coin, it would probably be two years before we could start using it. That means millions of dollars more have been wasted because of inaction on the part of Congress.

If members of Congress would take action on some of the smaller, simpler cost-savings matters before it, we would probably save a fortune. I think it is time for our great deliberative bodies to stop deliberating and start acting, especially on something that makes a lot of "cents."

Mr. Speaker, Congress is often chided for not leading, for not making tough decisions.

Here is an example of where Congress can lead and save taxpayers at least $395 million each year. I'm convinced that we will have a dollar coin. The only question is how much time and money will we waste before we have one?

LEGISLATION TO AMEND THE EXPORT ADMINISTRATION ACT OF 1979

HON. MARIA CANTWELL

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Ms. CANTWELL. Mr. Speaker, I am today introducing legislation to amend the Export Administration Act of 1979 to liberalize export controls on software with encryption capabilities.

A vital American industry is directly threatened by unilateral U.S. Government export controls which prevent our companies from meeting worldwide user demand for software that includes encryption capabilities to protect computer data against unauthorized disclosure, theft, or alteration.

The legislation I am introducing today is needed to ensure that American companies do not lose critical international markets to foreign competitors that operate without significant export restrictions. Without this legislation, American software companies, some of America's star economic performers, have estimated they stand to lose between $6 and $9 billion in revenue each year. American hardware companies are already losing hundreds of millions of dollars in lost computer system sales because increasingly sales are dependent on the ability of a U.S. firm to offer encryption as a feature of an integrated customer solution involving hardware, software, and services.

The United States' export control system is broken. It was designed as a tool of the cold-war, to help fight against enemies that no longer exist. The myriad of Federal agencies responsible for controlling the flow of exports from our country must have a new charter, recognizing today's realities.

Next year, the House Foreign Affairs Subcommittee of Economic Policy, Trade and the Environment, of which I am a member, will be marking up legislation to overhaul the Export Administration Act. It is my hope that the legislation I introduce today will be included in the final Export Administration Act rewrite.

This legislation takes some important steps to resolve a serious problem facing some of our most dynamic industries. It would give the Secretary of Commerce exclusive authority over dual use information security programs and products, eliminates the requirement for export licenses for generally available software with encryption capabilities, and requires the Secretary to grant such validated licenses for exports of other software with encryption capabilities to any country to which we already approve exports for foreign financial institutions.

The importance of this legislation cannot be overstated. America's computer software and hardware companies, including such well-known companies as Apple, DEC, Hewlett-Packard, IBM, Lotus, Microsoft, Novell, and WordPerfect, have been among the country's most interntionally competitive firms earning more than one-half of their rvenues from exports.

The success of American software and hardware companies overseas is particularly dramatic and the importance of foreign markets is growing. Currently, American software companies hold a 75 percent worldwide market share and many derive over 50 percent of their revenues from foreign sales. American computer hardware manufacturers earn more than 60 percent of their revenues from exports.

As my colleagues are well-aware, we are participants in a new information age that is quickly transforming local and national marketplaces and creating new international marketplaces where none previously existed. President Clinton and Vice President GORE have both spent considerable time explaining their vision of the National Information Infrastructure that is essential to our continued economic growth.

Part of that infrastructure is already in place. International business transactions that just a few years ago took days or weeks or months to complete can now be accomplished in minutes.

Driving this marketplace transformation is the personal computer. And, at the heart of every personal computer is computer software. Even the most computer illiterate of us recognize that during the past decade, computer prices have dropped dramatically while computer capabilities have increased exponentially. That combination has made it possible to exchange information and conduct business at a scale that was considered science fiction only a few years ago.

Indeed, we all now rely on computer networks to conduct business and exchange information. Whether it be the electronic mail or "e-mail" system that we all now use in our congressional offices or the automated teller system relied on to conduct our personal financial affairs, we rely on computer networks of information.

In the future, individuals will use information technologies to conduct virtually any of the routine transactions that they do today in person, over the telephone, and through paper files. From personal computers at home, in schools, and in public libraries, they will access books, magazine articles, videos, and multimedia resources on any topic they want. People will use computer networks to locate and access information about virtually any subject imaginable, such as background on the candidates in local political races, information on job opportunities in distant cities, the weather in the city or country they will be visiting on their vacation, and the highlights of specific sports events.

Consumers will use their computers and smart televisions to shop and pay for everything from clothing and household goods to airline tickets, insurance, and all types of on-line services. Electronic records of the items they purchase and their credit histories will be easy to compile and maintain.

Individuals will access home health programs from their personal computers for instant advice on medical questions, including mental health problems, information about the symptoms of AIDS, and a variety of personal concerns that they would not want other family members, or their neighbors and employers to know about. They will renew their prescriptions and obtain copies of their lab results electronically.

The U.S. economy is becoming increasingly reliant on this information network. While we may not often think about these networks, they now affect every facet of our professional, business, and personal lives. They are present when we make an airline reservation; when we use a credit card to make a purchase; or when we visit a doctor who relies on a computer network to store our medical information or to assist in making a diagnosis. These networks contain information concerning every facet of our lives.

For businesses, the reliance on information security is even greater. While businesses rely on the same commercial use networks that individual consumers use, in addition, businesses are now transmitting information across national and international borders with the same ease that the information was once transmitted between floors of the same office building.

While all of this information exchange brings with it increased efficiencies and lower operating costs, it has also brought with it the need to protect the information from improper use and tampering.

Information security is quickly becoming a top priority for businesses that rely on computer networks to conduct business. According to a recent survey of Fortune 500 companies conducted for the Business Software Alliance, 90 percent of the participants said that information security was important to their operations. Indeed, almost half of the Fortune 500 companies surveyed recently stated that data encryption was important to protect their information. One third of those companies said they look for encryption capabilities when buying software.

The challenge for information security can be met by America's computer companies. American companies are deeply involved in efforts to ensure that the information transmitted on computer networks is secure. Numerous companies have developed and are developing software products with encryption capabilities that can ensure that transmitted information is received only by the intended user and that it is received in an unaltered form. Those encryption capabilities are based on mathematical formulas or logarithms of such a size that makes it almost impossible to corrupt data sources or intercept information being transmitted.

I wish I could stand here today and tell my colleagues that U.S. export control laws were working and encryption technology was only available to American software companies.

However, this is not the case. Sophisticated encryption technology has been available as a published public standard for over a decade and many private sources, both domestic and foreign, have developed encryption technology that they are marketing to customers today. It is an industry where commercial competition is fierce and success will go to the swift.

Software is being developed and manufactured with encryption capabilities for the simple reason that software customers are demanding it. Computer users recognize the vulnerability of our information systems to corruption and improper use and are insisting on protection. That protection will be purchased or obtained from American companies or from foreign software companies. The choice is not whether the protection will be obtained, but from which company.

Incredible as it may seem to most of my colleagues, the executive branch has seen fit to regulate exports of American computer software with encryption capabilities—that is, the same software that is available across the counter at your local Egghead or Computerland software store—munitions and thereby substantially prohibit its export to foreign customers. This policy, which has all the practical effect of shutting the barn door after the horses have left in preventing access to software with encryption capabilities, does have the actual detrimental effect of seriously endangering sales of both generally available American software and American computer systems.

This is because increasingly sales are dependent on the ability of a U.S. firm to offer encryption as a feature of an integrated customer solution involving hardware, software and services.

Indeed, software can be exported abroad by the simplest measures and our intelligence gathering agencies have no hope of ever preventing it. Unlike most munitions that are on the prohibited export list, generally available software with encryption capabilities can be purchased without any record by anyone from thousands of commercial retail outlets, or ordered from hundreds of commercial mail order houses, or obtained for free from computer bulletin boards or networks. Once obtained, it can be exported on a single indistinguishable floppy disk in the coat pocket of any traveler or in any business envelope mailed abroad.

Moreover, both generally available and customized software can be exported without anyone ever actually leaving the United States. All that is necessary are two computers with modems, one located in the United States and one located abroad. A simple international phone call and a few minutes is all that it takes to export any software program.

Once a software program with encryption capabilities is in a foreign country, any computer can act as a duplicating machine, producing as many perfect copies of the software as needed. The end result is that the software is widely available to foreign users.

All this was demonstrated at a hearing held on October 12 by Chairman GEJDENSON's Economic Policy Trade and Environment Subcommittee of the Foreign Affairs Committee.

Furthermore, while current executive branch policy regulates the export of American manufactured software with encryption capabilities, it is obviously powerless to prevent the development and manufacture of such software by foreign competitors. Not surprisingly, that is exactly what is happening. We heard testimony at the Subcommittee's hearing that over 200 foreign hardware, software and combination products for text, file, and data encryption are available from 20 foreign countries. As a result, foreign customers, that have, in the past, spent their software dollars on American-made software, are now being forced, by American policy, to buy foreign software—and in some cases, entire foreign computer systems. The real impact of these policies is that customers and revenue are being lost with little hope of regaining them, once lost. All precipitated by a well-intentioned, but completely misguided and inappropriate policy.

There were efforts, in the last Congress to correct this policy. In response, the Bush administration did, in fact, marginally improve its export licensing process with regard to mass market software with limited encryption capabilities. However, those changes are simply insufficient to eliminate the damage being done to American software companies.

My legislation is strongly supported by the Business Software Alliance. The Business Software Alliance represents the leading American software businesses, including Aldus, Apple Computer, Autodesk, Borland International, Computer Associates, GO Corp., Lotus Development, Microsoft, Novell, and WordPerfect. In addition, Adobe Systems, Central Point, Santa Cruz Operation, and Symantec are members of BSA's European operation. Together, BSA members represent 70 percent of PC software sales.

The legislation is also supported by the Industry Coalition on Technology Transfer, an umbrella group representing 10 industry groups including the Aerospace Industries Association, American Electronic Association, Electronics Industry Association, and Computer and Business Equipment Manufacturing Association.

All these companies are at the forefront of the software revolution. Their software, developed for commercial markets, is available throughout the world and is at the core of the information revolution. They represent the finest of America's future in the international marketplace, and the industry has repeatedly been recognized as crucial to America's technological leadership in the 21st century.

My legislation is straightforward. It would allow American companies to sell the commercial software they develop in the United States to their overseas customers including our European allies—something that is very difficult if not impossible under present policies.

I urge my colleagues to support this legislation and ask unanimous consent that the text of the bill and a section-by-section explanation be printed at this point.

SECTION-BY-SECTION ANALYSIS OF REPORT CONTROL LIBERALIZATION FOR INFORMATION SECURITY PROGRAMS AND PRODUCTS

SECTION 1

Section 1 amends the Export Administration Act by adding a new subsection that specifically addresses exports of computer hardware, software and technology for information security including encryption. The new subsection has three basic provisions.

First, it gives the Secretary of Commerce exclusive authority over the export of such programs and products except those which are specifically designed for military use, including command, control and intelligence applications or for deciphering encrypted information.

Second, the government is generally prohibited from requiring a validated export license for the export of generally available software (e.g. mass market commercial or public domain software) or computer hardware simply because it incorporates such software.

Importantly, however, the Secretary will be able to continue controls on countries of terrorists concern (like Libya, Syria, and Iran) or other embargoed countries (like Cuba and North Korea) pursuant to the Trading With The Enemy Act or the International Emergency Economic Powers Act (except for instances where IEEPA is employed to extend EAA-based controls when the EAA is not in force).

Third, the Secretary is required to grant validated licenses for exports of software to commercial users in any country to which exports of such software has been approved for use by foreign financial institutions. Importantly, the Secretary is not required to grant such export approvals if there is substantial evidence that the software will be diverted or modified for military or terrorists' end-use or re-exported without requisite U.S. authorization.

SECTION 2

Section 2 provides definitions necessary for the proper implementation of the substantive provisions. For example, generally available software is offered for sale or licensed to the public without restriction and available through standard commercial channels of distribution, is sold as is without further customization, and is designed so as to be installed by the purchaser without additional assistance from the publisher. Computer hardware and computing devices are also defined.

DON BOSCO TECHNICAL HIGH SCHOOL MARKS 45 YEARS

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. KLEIN. Mr. Speaker, I rise today to recognize a truly outstanding educational institution in my Eighth Congressional District of New Jersey, Don Bosco Technical High School. 1993 marks the 45th anniversary of the school's foundation. On December 4, 1993, Don Bosco Technical High School will hold a dinner and dance celebration at the school.

From its beginnings in September 1949, the school has contributed an extremely positive presence in the greater Paterson community. The educational program at Don Bosco Technical High School was purposefully designed to balance the spiritual, academic, and vocational training in order to enable the students to become good Christians and useful citizens.

In 1984, upon receiving their accreditation from the Middle States Association of Colleges and Schools, the school received the highest of praise from the accreditation team who commended the school for creating a climate which creates a family atmosphere. This atmosphere that the administrators and teachers have been able to create has successfully prepared students year after year to ably enter the work force or to continue their technological education in college.

It is not every day that you find a school that is so beloved by teachers, administrators, parents, students, and city residents alike.

Don Bosco Tech has combined learning, religion, athletics, and community service to establish a 45-year tradition of excellence. Therefore it is with great pleasure that I urge my colleagues to join with me in recognizing December 4, 1993, as Don Bosco Tech Day throughout the Eighth Congressional District.

RON HARDMAN RETIRES AFTER 27 YEARS ON THE HILL, "HAPPY NEW YEAR!"

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. MYERS of Indiana. Mr. Speaker, when the House adjourns today, a "Happy New Year" greeting will be echoed on both sides of the aisle. But, in our office Happy New Year not only will signal the end of the session, it will signal the retirement of my administrative assistant, Ron Hardman, who came to Congress with me when I was elected in 1966.

For as long as anyone can remember, Ron has ended his telephone conversations with Happy New Year and bid goodbye to constituents in the office with those inevitable three words. Now, it is our turn to say Happy New Year to a dear friend and one of this institution's most loyal staff.

Ron was born with a passion for politics and a nose for news. So passionate was he to get a story for the Terre Haute Tribune Star about a young upstart from Covington who was running for Congress the he arrived for our interview out of breath and in need of a pen, which he borrowed from me.

That nose for news turned him into a broadcasting major at DePauw and Indiana State Universities, a reporter with Armed Forces Radio Network during his military service, an anchor on WTHI-News in Terre Haute, and a political reporter for the Terre Haute Star. And who can forget his recounting of interviews with Lyndon Johnson, John F. Kennedy, Richard Nixon, and Eleanor Roosevelt?

Ron started out in our office as the press secretary and for the last 20 years has served as my chief of staff. All along he's made certain I've gotten good coverage and good counsel. Ron has added another dimension to our office—a veritable Fourth of July parade with all the bells and whistles. With the enthusiasm of a drum major, he has led the office through our country's national crises from Vietnam to Watergate to the Persian Gulf and has been the first to offer comfort in any personal crisis.

Ron's commitment to public service has served the Seventh District well. That dogged determination to go the extra mile, make another phone call, write another letter, has indeed made things happen, changed lives and in one instance prolonged a life. His belief in finding something good in every person has brought out that good and produced a trust and confidence that is rare in public life.

Ron is a talker. But he's also a listener. He's a good friend. A good husband to Martha; a good father to Dora and Anne. And this Greencastle native has attracted a wide circle of friends on the Hill and in the Washington area while still keeping a loyal following in the Seventh District. So profound has been his influence that my constituents have wondered when he was going to run for my seat.

I shall miss Ron. And our office will miss him. We Hoosiers stick together. And Ron stuck with me and by me, with us and by us. Our friendship is something I will always cherish and his leadership, dedication, and spirit are his legacy to our office.

Happy New Year, Ron.

THE REGULATORY SUNSET ACT OF 1993

HON. JIM CHAPMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. CHAPMAN. Mr. Speaker, today I am introducing the Regulatory Sunset Act of 1993, a bill that will cut the costs of Federal regulations by putting a framework in place to abolish or modify regulations that are obsolete, inconsistent, duplicative, or impeded competition. Since 1978, each administration has sought to address the growing number of regulations and their economic impact on the Nation. Today, we still have a regulatory program that can be more of a burden than a benefit to American consumers, businesses, and the economy as a whole. It is time to force action on this issue.

In 1978, President Carter issued an Executive order to improve Government regulations. He announced,

> I came to Washington to reorganize a Federal Government which had grown more preoccupied with its own bureaucratic needs than with those of the people. This Executive order is an instrument for reversing this trend. It promises to make Federal regulations clearer, less burdensome, and more cost-effective.

In 1981, President Ronald Reagan issued his own directive to executive agencies to strengthen the key elements of President Carter's order. The Office of Management and Budget was made a central clearing house for regulations and a Presidential Task Force on Regulatory Review was established to review new and existing regulations.

In 1989, President Bush established the President's Council on Competitiveness to review regulatory issues and in January 1992 he declared a 90-day moratorium and review on Federal regulations. Executive agencies were to refrain from issuing new regulations and develop proposals to eliminate existing regulations that imposed unnecessary burdens.

Last month, President Clinton issued his own Executive order on Federal regulations. This order incorporates the key elements from earlier orders such as agency review of regulations, OMB oversight of regulatory compliance, and implementation of the most cost-effective rules.

I applaud President Clinton and the recognition by the National Performance Review that "thousands upon thousands of outdated, overlapping regulations remain in place" and that we must "clear the thicket of regulation by undertaking a thorough review of the regulations already in place". But, history has demonstrated that reliance upon the executive branch to tackle this problem alone will not result in overwhelming reform.

At the end of 1991, 59 difference agencies were working on approximately 4,900 regulations. Federal regulatory spending has grown to more than $13 billion annually. The cost to the private sector of complying with regulations is approximately $430 billion annually.

President Clinton's Executive order makes the case for reform very clear when it states,

> The American people deserve a regulatory system that works for them, not against them: a regulatory system that protects and improves their health, safety, environment, and well-being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society; regulatory policies that recognize that the private sector and private markets are the best engine for economic growth; regulator approaches that respect the role of State, local, and tribal governments; and regulations that are effective, consistent, sensible, and understandable. We do not have such a regulatory system today.

The Regulatory Sunset Act of 1993 will require agencies to review their regulations and make recommendations to terminate, continue, or modify those regulations. It will designate a Regulatory Review Officer within each agency, who is responsible for furthering compliance with this directive. This is consistent with the National Performance Review's recommendation and President Clinton's Executive order.

However, regulatory reform will require an unprecedented relinquishing of power by executive agencies, and my legislation recognizes this. The Regulatory Sunset Act will mandate the automatic termination of agency regulations that do not measure up to criteria outlined in the bill; such as whether the regulation is obsolete, duplicative, cost-effective, impeded competition, et cetera. All existing regulations will sunset in 7 years unless reauthorized and new regulations promulgated after enactment of this bill will be subject to a 3-year sunset unless reauthorized. Once a regulation has been reauthorized, it will be subject to continuous review every 7 years thereafter.

Finally, the bill establishes a Regulatory Sunset Commission that will review agency recommendations on regulations and has the final authority over whether regulations should be continued, terminated, or modified. If the Commission recommends modification of a regulation, it provides time for the agencies to make appropriate modifications so the regulation can then be continued.

Federal regulations are necessary to meet statutory requirements and protect the environment and health and safety of individuals. However, regulatory burdens have increasingly impacted our ability to ensure an expanding economy. It is past time to address regulations that have unintended adverse impacts. The Regulatory Sunset Act of 1993 calls for taking a new approach to reforming our regulatory program.

COUNCILMAN SAM HORWITZ: A CAREER OF DISTINGUISHED SERVICE

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. NADLER. Mr. Speaker, at the end of this year, a truly remarkable era in the life of New York City will come to an end. My good friend and colleague, Councilman Sam Horwitz will leave office after two decades of distinguished service to the people of the 47th councilmanic district and the people of Brighton Beach, Coney Island, Seagate, Bensonhurst and Gravesend. It is with both sorrow and deep gratitude that the people of these communities say goodbye and thank you for a job well done.

Sam Horwitz has served in several prominent positions in the council, reflecting his abilities and the regard in which he has been held by his colleagues. He served as the leader of the councils' Brooklyn delegation from 1982–86. From 1986–90, he chaired the committee on committees.

In the early 1980's, he was appointed chairperson of the council's committee on transportation. Sam was not content to sit in the committee chambers, but took to the streets, the subway stations, and the train yards. His work helped remove graffiti from trains, push forward the MTA's program to make the system fully accessible to all New Yorkers, reduce noise, and improve service. Having served as Sam's counterpart in the State assembly, I fully understand the challenges and difficulties he faced. It was a task as important to our city's future as it was challenging. It was our good fortune that Sam was more than up to the job.

In 1985, Sam took over the council's committee on general welfare which oversees all of the city's social services and the vast city agencies charged with serving our neighbors most in need. Sam improved the work of these agencies by getting more caseworkers and improving caseload distribution for Protective Services for Adults.

Sam's service to our city has been so varied, and has had such an impact, that it would be hard in the space of a single statement to encompass all he has done. Perhaps CBS News Radio put it best when it described Sam as a "legislator closest to the people."

Mr. Speaker, most of all, Sam Horwitz has been a good neighbor, and a tireless advocate for his community. Together with his wife, Estelle, their son Mark, daughter Susan, and granddaughter Phoebe, they have been stalwart citizens of Brooklyn. Through storms, whether brought by the forces of nature of politics, Sam Horwitz has served our city. On behalf of our city, I join my neighbors tonight in saying thank you to Councilman Sam Horwitz.

TRIBUTE TO BOB DELAZARO

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. FRANKS of New Jersey. Mr. Speaker, as the first session of the 103d Congress draws to an end, I would like to pay tribute to Bob DeLazaro, an outstanding member of my staff who is retiring at the end of this year.

Bob has had a long and distinguished career. Bob graduated from Syracuse University in 1951, after serving a stint in the Army during the Korean war. Bob also attended graduate school at Columbia University and Stanford University. After attaining his undergraduate degree, Bob worked for a number of years as a newspaper reporter, columnist, and editor for such publications as the Courier News and the now-defunct Elizabeth Daily Journal. During this career as a newspaperman, Bob received an award from the American Political Science Association for distinguished reporting. Bob also won several awards from the New Jersey Press Association for distinguished reporting as an editorial writer and as a political editor.

In 1973, Bob joined the staff of my predecessor, Congressman Matt Rinaldo, as his press secretary. Bob served in that capacity until Matt retired from the House last year. In January, I hired Bob—or Bob D., as he is affectionately known by the other members of my staff—to be my special assistant.

Recently, I spoke to Congressman Matt Rinaldo, and asked him to give me his impressions of Bob. Matt told me that

> Bob is a dedicated family man, conscientious, extremely loyal, and has a high sense of purpose. Bob was not an employee in the conventional sense of the word, but instead was a real friend. He was a person that I could rely on for counsel and advice, and he always gave me his best judgment. We had many of the same friends and enjoyed many an evening dinner meeting together. We have been friends since childhood, growing up only one block apart in the City of Elizabeth, New Jersey. I knew his brother and the other members of his family well. I believe he contributed to the common goals that we shared to do our very best for the people of the then 12th and now 7th District, many of whom we knew on a first-name basis.
>
> Bob is a person who went to the mat for me, and I will never forget his hard work and untiring efforts on my behalf. I wish him well in his retirement, and look forward to a continuing friendship with him and his wonderful wife Kathy.

Mr. Speaker, I wholeheartedly concur with the sentiments of Congressman Rinaldo. Bob has been an invaluable asset to my staff, and his experience and knowledge of the 7th District will be impossible to replace. I believe the people of the 7th District owe Bob DeLazaro a debt of gratitude for all his efforts to improve the quality of life in our community. I wish him well in his well-deserved retirement.

ADDITIONAL COSPONSORS OF H.R. 2921

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. CLEMENT. Mr. Speaker, several of my colleagues have asked that they be listed as cosponsors of H.R. 2921, the bill to create a matching grant program to preserve and restore the historic buildings on the campuses of the Nation's historically black colleges and universities. I thank my colleagues for their support of this important measure.

Since I cannot formally add the names to H.R. 2921 now that the bill has been reported from the Natural Resources Committee, I nonetheless want to acknowledge and thank them. They are Representatives ROBERT (BUD) CRAMER of Alabama, WILLIAM JEFFERSON of Louisiana, ROBERT UNDERWOOD of Guam, and LUCIEN BLACKWELL of Pennsylvania.

NATIONAL COMMUNICATIONS COMPETITIVENESS AND INFORMATION INFRASTRUCTURE ACT OF 1993

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. MARKEY. Mr. Speaker, today I am introducing, along with the ranking minority member of the subcommittee, Mr. FIELDS, and Messrs. BOUCHER, OXLEY, BRYANT, MOORHEAD, HALL, BARTON, HASTERT, LEHMAN, GILLMOR, RICHARDSON, and SCHENK, the National Communications Competition and Information Infrastructure Act of 1993.

This legislation represents what I believe to be the Nation's roadmap for the information superhighway.

The purpose of this act is to help consumers by promoting a national communications and information infrastructure. This legislation seeks to accomplish that goal by encouraging the deployment of advanced communications services and technologies through competition, by safeguarding ratepayers and competitors from potential anticompetitive abuses, and by preserving and enhancing universal service.

The legislation we are proposing has three key elements. A more detailed explanation follows.

First, the act will promote and accelerate access to advanced telecommunications capability as well as spur competition to the local telephone companies from diverse competitors. As part of a national policy to promote competition to communications monopolies, competitors and information providers will be granted the right to compete with the local telephone company and to use its facilities. Such competitors, which could be cable companies, independent phone companies, information service providers, or others, will be allowed equal access to, and interconnection with, the facilities of the local phone company

so that consumers are assured of the seamless transmission of telephone calls between carriers and between jurisdictions.

The FCC will be required to establish rules for compensating local telephone companies for providing interconnection and equal access to competitors.

Second, the legislation will promote and accelerate competition to the cable television industry by permitting telephone companies to compete in offering video programming. Specifically, the bill would rescind the ban on telephone company ownership and delivery of video programming that was enacted in the Cable Act of 1984. Telephone companies would be permitted, through a separate subsidiary, to provide video programming to subscribers in its telephone service area.

Telephone companies would be required to establish a video platform upon which to offer their video programming. Telephone companies, on a nondiscriminatory basis, must allow other providers to offer video programming to subscribers utilizing the same video platform. Other providers will be allowed to use up to 75 percent of the video platform capacity.

In order to protect against media concentration and to promote a more fully competitive marketplace, telephone companies would be prohibited from buying cable systems within their telephone service territory, with only tightly drawn exceptions. In this way, consumers would have at least one other independent delivery system from which to choose for telephone, video, or other multimedia services.

Third, the legislation will preserve and enhance the universal provision of telephone service at affordable rates. To ensure that universal service is preserved as local telephone service become more competitive, a Federal-State joint board is established by the legislation to develop a plan to perpetuate the universal provision of affordable, high quality telephone service. All providers of telecommunications services will be required to make an equitable contribution to the preservation of universal service.

To enhance universal service, the legislation requires that this joint board define the nature and extent of the services encompassed within a telephone company's universal service obligation. In addition, the legislation directs the FCC to investigate the policy changes needed to provide open platform service at affordable rates. Open platform service would provide digital phone service on a single line, end-to-end basis to residential subscribers. To ensure affordability, such service would be tariffed at reasonable rates.

Such digital service has the potential of enhancing the capacity of the existing twisted copper wire infrastructure tenfold for modest cost. A variety of applications for telemedicine, distance learning, and other multimedia services could utilize the additional capacity gained by going digital to empower consumers, schools, hospitals, small businesses and others.

In conclusion, I think this legislation represents a well-balanced approach to a difficult subject. In light of a recent court decision striking down the cabletelco prohibition as unconstitutional, this bill proposes consumer protections where there are now none. In addition, it continues a trend, starting in our country but emulated throughout the world, what shows consumers of telecommunications equipment and services benefit tremendously from competition. This bill will help achieve many of the goals I and my colleagues share for promoting an electronic superhighway to enrich the lives of all Americans in the information age. I urge my colleagues to join me in sponsoring this important telecommunications legislation.

SECTION-BY-SECTION SUMMARY OF THE NATIONAL COMMUNICATIONS COMPETITION AND INFORMATION INFRASTRUCTURE ACT

TITLE I—TELECOMMUNICATIONS INFRASTRUCTURE AND COMPETITION

Section 101. Section 101(a) adds new purposes of section 1 of the Communications Act of 1934. Section 101(b) adds new definitions to the Communications Act, including definitions for "information service" "telecommunications", "telecommunications service", "local exchange carrier", "telephone" "open platform service", and "equal access". The term "open platform service" is defined in functional terms as a service enabling subscribers to access voice, data, and video services on a single-line basis that is available throughout a State.

Section 102. This section adds a new subsection to section 201 of the Communications Act. Subsection (c) is entitled "Equal Access." Paragraph (1) of subsection (c) sets forth that all common carriers are subject to such rules of openness and accessibility as the Federal Communications Commission may require. It also set forth the obligations of local exchange carriers to provide access to their facilities.

Paragraph (2) directs the FCC to establish regulations providing reasonable and nondiscriminatory equal access to the facilities and capabilities of a local exchange carrier. This paragraph also directs the FCC to establish rules that compensate the local exchange carriers for opening up their facilities. In addition, this paragraph stipulates that rural exchange carriers do not have to provide access to another local exchange carrier. Significantly, the bill also gives the FCC authority to modify these requirements for carriers with fewer than 500,000 access lines. The bill directs the FCC to convene a Federal-State Joint Board to advise the Commission regarding access rules, and provides that the FCC can use existing rules if they are applicable.

Paragraph (3) provides that no State or local government may have rules or laws in place after one year that effectively prohibit the offering of telephone service or the entry of companies into the local telephone business.

Paragraph (4) requires local exchange carriers to have cost-based tariffs in place for equal access and interconnection services, and requires that the tariffs do not bundle together separable elements, features, or functions offered by the carrier.

Paragraph (5) establishes a process by which a local exchange carrier can obtain permission from State or federal authorities to have pricing flexibility in the offering of telecommunications services. The FCC is required to establish criteria for determining when pricing flexibility is appropriate, and then directs the FCC and States to use this criteria in reviewing applications for pricing flexibility. The FCC is required to respond to any application within 180 days.

Paragraph (6) establishes a Joint Board to formulate a plan to preserve universal service. The Joint Board is directed to develop a plan that establishes predictable mechanisms to ensure the continued viability of universal service, that promotes access to advanced telecommunications services, and that requires all providers of telecommunications services to contribute to preservation of universal service.

Paragraph (7) provides that the FCC and the States shall not prohibit resale of telephone exchange service. Paragraph (8) directs the FCC to review its rules established under this subsection to determine whether the goals of this legislation are being met. Paragraph (9) requires the FCC to conduct a study of rural phone service and the effects of competition on service in rural areas.

Subsection (d), paragraph (1) sets forth functionality and reliability obligations of common carriers. Paragraph (2) directs the FCC to establish procedures for coordinating network planning and for establishing procedures for the development of standards for interconnection and interoperability. Paragraph (3) directs the FCC to initiate an inquiry on the rules and policies necessary to make open platform service available to the public. This paragraph further directs the Commission to prescribe regulations as necessary for the provision of open platform service when such service is economically and technically feasible.

Paragraph (4) directs the Commission to establish regulations designed to make network capabilities and services accessible to individuals with disabilities. Paragraph (5) directs the Commission to designate performance measures or benchmarks for the purpose of ensuring the continued reliability of communications equipment and services. Paragraph (6) grants the FCC authority to waive or modify any of the requirements of subsection (d) for those companies serving rural areas.

Section 103. This section amends section 208 of the Communications Act to require that the FCC respond to any complaint on unreasonable or discriminatory interconnection within 180 days.

Section 104. This section amends section 7 of the Communications Act to provide for expedited licensing of new technologies.

Section 105. This section amends section 214 to require that a provider of telephone exchange service must address the means by which new or extended lines will meet the network access needs of individuals with disabilities.

TITLE II—COMMUNICATIONS COMPETITIVENESS

Section 201. This section amends section 613(b) of the Communications Act to provide that any common carrier subject to title II of the Communications Act may provide video programming to subscribers within its telephone service area provided that it provides video programming through a separate affiliate and otherwise consistent with part V of title VI of the Communications Act, as added by this legislation. This section also makes a conforming change to section 602 to define "telephone service area."

This section also amends title VI of the Communications Act to add a new "Part V—Cable Service Provided by Telephone Companies".

Section 651 defines key terms, such as "affiliated video programming", "control", "rural area", and "video platform".

Section 652 provides that a common carrier subject to title II must provide video programming through a separate affiliate. This section directs that the separate affiliate must maintain separate books, separate operations, and separate marketing, except telephone companies are permitted to handle in-coming inquiries on cable service. If a cable company is jointly marketing video

and telephone services, then the common carrier can petition the FCC for relief from the general joint marketing prohibition. This section also permits the FCC to grant waivers from these requirements for small or rural telephone companies or, beginning 5 years after enactment, for any company that can demonstrate that a waiver will not harm telephone ratepayers and is in the public interest.

Section 653 directs that a common carrier that provides video programming must establish a video platform that provides access to programmers on reasonable and nondiscriminatory terms. The FCC must respond to telephone company video dialtone platform petitions within one year. This section also requires the FCC to study whether it is in the public interest to make cable operators common carriers and subject to a video platform requirement.

Section 654 stipulates that a common carrier can reserve for itself no more than 25 percent of the available capacity of a basic platform established pursuant to section 653. This requirement is scheduled to expire 5 years after enactment.

Section 655 directs the FCC to prescribe regulations prohibiting common carriers from including in telephone rates any expenses associated with the provision of video programming. The Commission is also directed to prescribe regulations prohibiting cable operators from including in the cost of cable service any expenses associated with the provision of telephone service.

Section 656 contains a general prohibition on buyouts by a common carrier of a cable system within its service territory. Subsection (b) provides for exceptions, including one that would permit a common carrier to engage in a joint venture with a cable system or systems so long as in the aggregate the area served by the joint venture did not exceed ten percent of the households served by the carrier. Another exception would permit a carrier to use the "drop" from the curb to the home that is controlled by the cable company, if such use was limited in scope and duration. This section also contains a waiver process, under which the Commission could grant a waiver upon a showing of undue economic distress by the owner of the cable system if a sale to a telephone company is blocked.

Section 657 establishes penalties for violations of this Part. Section 658 sets forth consumer protection provisions, including the formation of a Joint Board to ensure proper jurisdictional separation and allocation of costs of establishing a video platform.

Section 659 provides which sections of title VI would be applicable to a video platform. This section requires that video programming affiliates would have to comply with the rules on privacy, program access, and consumer protection contained in title VI. This section also directs the FCC to prescribe regulations requiring a video platform to comply with the rules on "must carry", capacity for public, educational, and governmental use (PEG), and other carriage obligations that generally fall on cable systems. This section also requires the video programming affiliate of a carrier to pay a fee equivalent to a franchising fee to the local franchising authority.

Section 660 stipulates that many of the provisions added by this legislation (sections 652, 653, 654, and 656) do not apply to common carriers providing service in rural areas.

THE LOWER SALMON RIVER IN CENTRAL IDAHO

HON. LARRY LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. LAROCCO. Mr. Speaker, I had hoped in this particular month and in the concluding hours of the first session of this Congress to introduce legislation designating the Lower Salmon River as a component of the National Wild and Scenic River System.

Introduction of that legislation would be symbolically important to me and to thousands of Idahoans because November 1993 marks the 25th anniversary of enactment of the National Wild and Scenic Rivers Act. That section of Idaho's fabled Salmon River would complement a Wild and Scenic Rivers System which honors and protects our Nation's most outstanding river segments and their landscapes.

Any mark which I might leave in this Congress toward fulfillment of the National Wild and Scenic Rivers System also carries deep personal significance for me and for my family. We celebrate anniversaries together, and the celebration of this anniversary takes us back to earlier days when I worked for Idaho's Senator Frank Church.

Together with then-Interior Secretary Stewart Udall, Frank Church was the father and principal Senate sponsor of the National Wild and Scenic Rivers Act.

In those days, such legislation was a quixotic gesture. America had eclipsed other nations of the world in setting aside some measure of land as wilderness and extended protection for fish and wildlife in natural areas and alongside river corridors.

In pushing for legislation which recognized the unique role of rivers in our lives and in our landscapes, Stewart Udall and Frank Church allowed each of us to return to a particular river which flowed through our backyard and nurtured us through childhood—the memories of our fist fish, the torment of our first flood.

If their notion of selecting segments of our Nation's outstanding rivers for protection might then have been grounded by dreams, their actions are now anchored by reality. There is the reality of science, of finding ways of utilizing our natural resources to sustain communities within their natural surroundings.

There is also the reality of preserving a way of life which people value, and that seems to be at the heart of protecting the Lower Salmon River in my State.

The river corridor is remarkable. Idaho has a long history of competing with West Virginia as the whitewater capital of the world—a war which we are winning with much thanks to the Middle Fork. Main, and lower segments of the Salmon River.

Idaho battles in other arenas to prove its rivers to be the most remarkable in the Nation. In this case, my thought is that the designation of the Lower Salmon would contribute toward the full protection of the longest free-flowing river, without dams, in the Lower 48. A so-called expert told me I was wrong: that's the Yellowstone River. That expert reported back about the existence of a small dam on the headwaters of the Yellowstone River.

And so I'm right about the Salmon and glad to be encouraging a wild and scenic designation which would add significant protection to a free-flowing, 425-mile and as-yet-without-dams river system. The 150 miles which would remain unprotected are currently being studied jointly by the Bureau of Land Management and the USDA Forest Service as further—and for the Salmon final—additions to the National Wild and Scenic Rivers System.

The Lower Salmon flows from the community of Riggins, ID, to its confluence with the Snake River on the Idaho-Oregon border. It contains the physical evidence and sacred sites of ancient pathways for native Americans. As cultural history has evolved, the oral history and physical resources of the Lower Salmon have evolved as a fundamental element of traditional, as well as contemporary, Indian life in the Pacific Northwest.

And in history, the Lower Salmon provided much the same struggle against the elements for Asians who are now a substantial foundation in the Oregon and Idaho economic and social community. Brought unwillingly to this harsh land, shanghied Chinese ancestors endured their lives, pulling from the Lower Salmon corridor the mining and agricultural products from which they gained a real economic foothold throughout the Pacific Northwest.

As its name suggests, it remains today as a major—if struggling—habitat for spawning salmon. It sustains a sturgeon fishery and habitat which is probably equalled only by Oregon's Rogue River.

But today, the issues seem to be defined by personal values—a mixture of its spectacular natural geography, as well as the debate which surrounds the reasons for which people who were born along the Salmon River, continue to live along the Salmon River. And the reasons for which a few people who moved from urban areas in Idaho and elsewhere to the Salmon, don't wish to be followed by hordes of other urban refugees.

There are no specific and current threats to the corridor of the Lower Salmon River, but the kinds of trespass and development which have threatened other attractive rural communities are not going to be made welcome.

The question along the Salmon is, "Where do we go from here?" It's a question which plagues many rural and primitive areas of America which are rapidly becoming uncontrolled targets for destination tourism and unwelcome development. Some have successfully protected traditional land uses through the wild and scenic destination of the river as a recreational corridor. Community leaders in Riggins and Idaho County are pulling together the best information they can find from those experiences.

Mr. Speaker, it is important that I not take credit for identifying the need for a plan and a public process to resolve this question. Nor is the idea of turning to the Wild and Scenic Rivers Act for protection and sustained use of the Lower Salmon an idea which I originated.

Idaho's senior Senator recognized the community's problem, as long ago as when he still served as a Member of this body. Senator GORE has pursued the question for several years in collaboration with Lower Salmon landowners. Federal river managers, and with others in the State who are decisionmakers in the

future of our State's economy and cultural values.

In the last Congress, Senator CRAIG sponsored the initial legislation proposing to designate the Lower Salmon, which I was happy to cosponsor. That opened the Senator's individual discussions with Lower Salmon communities and the landowners along the river corridor to others in the State who feel they have a stake in the outcome.

Inevitably, the legislation raised new issues—problems related to current and prospective uses of the river, to the transportation system into the area—a lot of issues which are now on the table, as advocates of those issues are not at the table

The major stumbling block has always been scenic easements. We're closer today to real landowner protection than we've ever been in the history of Federal activities. There is a need to renew the legislative forum in order to move forward on that and all of the other issues.

Republican members of my House Committee on Natural Resources may well have found an appropriate and acceptable form of protections for landowners. These are words amended into legislation recently in work on another wild and scenic bill, on H.R. 914 to designate the Red River in Kentucky. With that language, we may be able to answer the as-yet-unresolved concerns of landowners along the Lower Salmon.

Much as I had hoped more progress on the Lower Salmon would be made by now in this now concluding session of Congress, I remain committed to the process.

Nonetheless, I can't help tonight but regret the passing of a symbolic opportunity. The debate about our utilization of natural resources and our protection of natural resources will rage forever, in Idaho as well as everywhere else in the world. Issue-by-issue, we will involve our people in reaching a decision which represents shared responsible use—working toward the best version of an outcome which we can achieve together.

A given in Idaho is the heritage of our rivers—their history, their resources, their potential for our future. I have disappointed many people tonight in not introducing wild and scenic legislation for the Lower Salmon. The letters are on my desk—people from Idaho who share the goal of protecting the Salmon River and who would have been glad of an opportunity to be part of a symbolic anniversary as well.

Legislation, however symbolic, would have renewed on this anniversary the tie of the Salmon River to Idaho's history. And if well-celebrated, anniversaries are also our transition into the future. I will spend the weeks ahead in Idaho and will return here in January. We'll move this opportunity forward.

INTRODUCTION OF THE HIV EMERGENCY SUPPLEMENTAL GRANTS AMENDMENTS OF 1993

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. NADLER. Mr. Speaker, I rise to introduce the HIV Emergency Supplemental Grants Amendments of 1993. This bill amends the way in which funding for the supplemental grant under the Emergency Relief Program regarding HIV is determined for each grant application by directing that the cities with the highest cumulative number of AIDS cases be given priority in the distribution of grant funding.

My district in New York City is in many ways at the epicenter of the AIDS epidemic. With over 48,000 cases of AIDS—the highest number of any city in the country—and over 29,000 more cases than the next highest city, New York City in 1993 was unfairly shortchanged in receiving its fair share of Ryan White supplemental grant funding. It was the original intent of Congress under the law that these moneys would go to the hardest hit cities. There is no city that is harder hit than New York. In the first 3 months of 1993, there were 4,069 new cases of AIDS reported in New York City, compared with 1,811 cases in the last 3 months in 1992. The growth of this epidemic in New York is prevalent.

Mr. Speaker, New York City is in dire need of adequate financial assistance, and this bill accurately reflects that need. For the sake of those cities hardest city hit by this deadly disease, I urge my colleagues to support this crucial measure.

CONFERENCE REPORT ON H.R. 3167, UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. FORD of Michigan. Mr. Speaker, I rise in support of the conference report on H.R. 3167, the Unemployment Compensation Amendments of 1993.

I strongly support extending the unemployment benefits program. While our Nation's economy is gradually improving, thousands of people in my congressional district are still out of work, and unable to find even part-time employment. In October, the State of Michigan had 322,000 people who were unable to find jobs. While this is a long way from the nearly double digit unemployment rates we faced last year, we must not forget those families who, through no fault of their own, are facing the terrible uncertainty of yet another month of electric bills and mortgage payments without a paycheck.

This bill extends the authorization for new claims of emergency benefits from its expiration date of October 2, 1993 to February 5, 1994. The extension will provide 7 or 13 weeks of extended benefits for workers who have exhausted their regular State benefits. States which have adjusted insured unemployment rates of at least 5 percent would be eligible for 13 weeks of extended benefits. The majority of States like Michigan, whose rate falls below this threshold, would be able to offer 7 weeks of extended benefits. The bill would reduce the deficit by $24 million over the next 5 years. This savings is achieved through two straightforward financing provisions: the institution of worker profiling, which will enable beneficiaries to find employment more rapidly, and by extending to 5 years from its current level of 3 years the amount of time that the income of the sponsors of legal aliens is taken into account in determining the alien's eligibility for Supplemental Security Income [SSI] benefits.

Mr. Speaker, more than a quarter million jobless workers have been denied extended benefits since the program expired on October 2. To have delayed this extension for over a month and a half is simply unconscionable. The conference committee was correct to remove the controversial provision added by the other body regarding reductions in the Federal work force. This provision will be thoroughly debated as the House undertakes its discussion on additional spending cuts. Consideration of an unemployment benefits extension is not now, and never was, the place to have such a discussion.

Our economy is improving, but hundreds of thousands of Americans still need and deserve our help. I urge my colleagues to approve this conference report. Thousands of jobless workers have waited too long already.

CANCEL THE SPACE STATION

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. ROEMER. Mr. Speaker, this year, the House almost made history. By a vote of 215–216, the amendment I introduced with Congressman ZIMMER and 19 others to end the space station program almost ended one of the largest tax dollar wastes in history.

Today, we have a new opportunity to restart the journey down the road to fiscal sanity. I am proud and pleased to be here today to reaffirm my support for eliminating measures that cost the taxpayers billions of dollars, yet have lost their merit for continued public support.

I strongly believe that what I and the 27 original cosponsors of this measure are trying to do is in the best interest of the country, the taxpayers and certainly of NASA and the American space program.

I am a strong supporter of the American space program. But I find it sad to see the productive, smaller space projects being shut down so that larger and larger amounts of funding are eaten up by a space station program that has cost about $11 billion already with no hardware to show for it.

We are told that this latest new design will cost over $19 billion additional dollars. However, this does not include the emergency crew escape vehicle, the equipment for the science experiments, or any potential cost overruns. The General Accounting Office has produced reports stating that these costs will be at least $10 billion more.

In addition, it is estimated that the operational cost to run the space station could run at or over $100 billion.

While I laud the administration's goal to reduce these costs and the necessary manpower by one-third, NASA's management history with this program does not inspire confidence that this can be done anytime soon.

In any case, we are still talking about a program that will cost the American taxpayer well over $100 billion.

Now we have the proposed joint United States/Russian space station effort. This is a phoenix rising from the ashes of the recent, failed U.S. space station redesign effort. Early this year, the President asked NASA to prepare three options for a replacement for space station *Freedom*, to cost $5 billion, $7 billion and $9 billion respectively. The result was five, not three options.

These options, in turn, evolved into space station *Alpha*, an amalgam of these five versions and the original *Freedom*. The pricetag: About $19.5 billion. Recently, NASA itself stated that the two countries did not have the resources to keep two space station programs going. Presumably, this is an admission that NASA knows we cannot go forward with a space station alone.

But this proposal to turn to the Russians for help is fraught with peril. The events of early October clearly demonstrate that the political instability in Russian could threaten the program. There remains great skepticism that the Russian launch facility, in the country of Kazakhstan, is in good working order. In fact, this facility known as the Baikinour Cosmodrome, is located in Leninsk, a crumbling city with no real resources.

Far too many questions remain unanswered. NASA has yet to determine or release any cost figures for this program, but continues to offer robust assurances that it will save money. NASA has yet to provide any public information on a dollar value of the Russian contribution, how much cash, hardware, and services the United States will be required to give the Russians, and how many United States jobs will go to Russian citizens.

In addition, all this hinges on Russian compliance with the Missile Technology Control Regime agreement. What if they break this pact? What if a new leader in 3 years refused to go along with it? It means the cancellation of a joint space station.

In fact, there are far too many questions to remain answered for the United States to be comfortable in signing any lasting agreements.

I am all for working with our former adversaries, and sharing our knowledge of important scientific issues. But NASA is not the place for a massive foreign aid program to Russia.

The United States and Russian space agencies have taken two large, difficult and complex space station programs, both of which cost huge amounts of money, neither which produces any quality science, and proposed to merge them, making them even more complex and riskier without increasing the promise of success or results.

It is time to end this program before it kills NASA and its mission. There would be no shame in admitting failure and going back to the drawing board. Pushing forward is an affront to the taxpayers and to good science.

I suggest that we allow NASA the time and resources to improve its management structure and redefine its mission first, rather than move ahead with a mammoth, multibillion-dollar program whose costs will almost assuredly go over-budget.

Mr. Speaker, the choice is clearer than ever. I urge my colleagues to support this bill.

CONGRATULATIONS TO JUDY AND CARL HERBET ON THEIR 50TH WEDDING ANNIVERSARY

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. ENGEL. Mr. Speaker, I wish to offer my heartfelt congratulations to my good friends, Judy and Carl Herbet, on the occasion of their 50th wedding anniversary.

Carl and Judy were married on December 11, 1943. Carl had been a firefighter in Oregon in the C.C.C. and served in the U.S. Coast Guard. For many years Judy worked for Metropolitan Life and Carl was enjoyed in the supermarket industry. They lived in my district in Bronx, NY before moving to Colorado. Judy and Carl are the proud parents of two daughters, Marilyn Pinsker and Susan Christopher. They have four beautiful granchildren, Rachel, Aaron, Daniel, and Jason.

Judy and Carl have enriched the lives of their families and neighbors through their active participation in the community. Their love of children has prompted both of them to volunteer at the Eisenhower Elementary School in Boulder, CO. They are deeply committed to their synagogue, the Bonai Shalom Congregation of Boulder, and their neighbors and friends are appreciative of all the good work they have accomplished.

I join with their daughters, grandchildren, and sons-in-law Jerry Pinsker and Paul Christopher in wishing them a happy 50th wedding anniversary and many more years of health and happiness.

INTRODUCTION OF THE SUPERFUND LIABILITY REFORM ACT

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. BOUCHER. Mr. Speaker, last December at his economic conference in Little Rock, then President-elect Clinton said he was "appalled by the paralysis" of the Superfund Program and "by the fact that the money's being blown."

The President was right. The Superfund Program is in deep trouble. In a recent editorial, the Washington Post said, "Of all the environmental laws that Congress has written in the past two decades, Superfund is the most deeply flawed and troubling. It was created to do a necessary job—to clean up hazardous waste dumps. But it is generating intolerable injustices and needs to be fixed." Superfund, the Post concluded "has become notorious for inequity and inefficiency, giving a bad name to a good cause."

The principal source of the inequity of the Superfund Program and the primary cause of the program's failure is its liability system. It is a harsh, punitive, and unfair system that has set off a chain reaction of lawsuits, leading to the meltdown of the entire cleanup program.

Mr. Speaker, today I am introducing the Superfund Liability Reform Act, legislation which will break the cycle of wasteful litigation and will help refocus the Superfund Program on its intended purpose. I am pleased to be joined by the gentleman from Michigan [Mr. UPTON] in offering this measure.

The Congress is now working closely with the administration to fashion comprehensive reform of the Superfund Program. There are many complex matters to discuss in the context of Superfund reform. We are introducing the Superfund Liability Reform Act today to stimualte discussion with regard to the liability provisions in the hope that this proposal will serve as the foundation for a new and more equitable liability structure as we draft comprehensive Superfund reform next year. We fully expect that constructive refinements in the proposed structure will be made as these discussions progress.

The National Advisory Council on Environmental Policy and Technology [NACEPT], which has been meeting for many months under the auspices of the Environmental Protection Agency, has carefully examined the many problems of the Superfund Program and has reached general consensus on the means to address many of those problems. The legislation we are introducing today embodies the framework of recommendations coming from the NACEPT discussions regarding Superfund liability reform.

NACEPT identified certain essential aspects of reform of Superfund's liability system, including the need to expedite the determination of liability of parties at each Superfund site, the need to allocate shares of liability fairly among those parties and need for a neutral and impartial third party to make the liability determinations. The EPA, the environmental community and a wide array of stakeholders at Superfund sites, all of whom were represented in the NACEPT process, agreed on those principles. The bill I am submitting today creates a new system of liability which encompasses those principles and reflects the consensus of the group.

The bill reforms the current system of joint and several liability by allocating shares of liability to ensure that liable parties will pay only their fair share of cleanup costs. Liable parties that accept their assigned shares are released from further liability for cleanup costs. This feature will help minimize, and hopefully eliminate the time-consuming and expensive cycle of litigation which exists today.

The assignment of shares of liability for each site would be determined by a three-member panel of specially trained administrative law judges. To make its determination, each allocation panel would consider the so-called Gore Factors, principles developed by Vice President GORE in 1980 during the original Superfund reauthorization when the Vice President was a Member of the House of Representatives. The Gore Factors include the degree to which a party's contribution of hazardous substances to a site can be distinguished, the amount of hazardous substances contributed by a party, the degree of toxicity of those substances, the degree and nature of a party's involvement at the site, and whether a party cooperated with Federal, State or local officials in preventing harm to public health or to the environment. The Gore Factors, which passed the House of Representatives in 1980

but were not incorporated into the Superfund statute as enacted, provide very sensible criteria for determining each party's share of liability for cleanup costs.

The allocation of shares of liability would be a final, binding allocation of all recoverable response costs at a site and would be subject only to limited judicial review. Any challenge to the binding allocation of responsibility would be filed in U.S. District Court. Unless the court finds the allocation decision to be arbitrary and capricious, or that the challenging party is not liable as a matter of law, the unsuccessful challenger would pay all attorneys' fees incurred in defending the challenge and would be held liable for the costs of the orphan share at the site. This strong disincentive to appeal the decision of an allocation panel would limit unnecessary judicial review, expediting the final determination of liability and greatly reducing transaction costs for liable parties.

Although liable parties would no longer be jointly and severally liable for all cleanup costs at a Superfund site, this legislation retains a critical aspect of joint and several liability for the EPA to use an enforcement tool. Under the bill, the EPA would still retain its authority to impose liability on a party to perform the entire cleanup at a hazardous waste site, but that party would retain the right to collect from other liable parties their respective assigned shares of the cleanup costs.

Liable parties which are insolvent, defunct or unknown are called orphan parties, and the legislation provides for the orphan shares to be paid by the hazardous substance Superfund. The EPA will have a strong incentive to bring as many parties as possible into the allocation proceeding for each site in order to reduce the size of the orphan share. In addition, for each site the EPA will designate a guardian of the fund who will ensure that all liable parties pay their maximum fair share and protect the Superfund from covering too large of an orphan share.

The legislation places a moratorium on cost-recovery litigation at all national priority list sites pending the allocation of shares of liability at each site. No cost recovery action, no governmental enforcement action, and no contribution action could be filed with respect to any national priority list site until 90 days after a binding allocation decision is issued.

There would also be simple and swift enforcement of the binding allocation decisions. Liable parties would be obligated to pay promptly and manage the cleanup efforts, or face substantial civil and criminal sanctions.

A recent study by the Rand Corp. found that one-third of all the money spent by potentially responsible parties at Superfund sites went toward legal fees and other costs not related to the cleanup of the sites. The study revealed that 60 percent of the money was spent on these transaction costs in some cases. Lloyd S. Dixson, one of the authors of the report, said the finding "raises doubts whether Superfund's liability approach as currently designed is an efficient way to clean up the Nation's hazardous waste sites."

After studying this matter in depth and for some time, I am convinced the current Superfund liability system is inefficient, wasteful, and in need of wholesale reform. The legislation I am introducing today will lead to more efficient cleanups of hazardous waste sites and will discourage excessive litigation and the evasion of responsibility.

The Superfund Liability Reform Act maintains the essential "polluter pays" principle established under the original statute, so that any party found to have polluted a site must help to pay for the cleanup. The legislation also encourages the EPA to bring the maximum number of potentially responsible parties to the negotiating table, minimizing the orphan shares assigned to the hazardous substance Superfund. It will also force the EPA and the States to do their homework, making them develop a more comprehensive body of information as to who is responsible for the hazardous waste at each site.

Mr. Speaker, we introduce the Superfund Liability Reform Act today to help move the debate forward, so that the Congress can complete the reauthorization of the Superfund program before the end of next year. This proposal has been very carefully crafted and enjoys substantial support from the private sector. Following this statement is a section-by-section analysis of the bill. I encourage my colleagues to examine this legislation closely and hope they can offer their support.

SUMMARY OF THE SUPERFUND LIABILITY REFORM ACT

The Superfund Liability Reform Act creates a new Title V to the Comprehensive Environmental Response. Compensation and Liability Act of 1980 ("CERCLA"), establishing a new process for determining the liability of potentially responsible parties at Superfund sites. The principal features of the bill are as follows:

LIABILITY FOR COSTS OF RESPONSE ACTIONS

Section 107(a) of CERCLA is amended to provide that a liable party at a National Priority List site shall be liable only for its assigned share of the cost of the response action at that site, as determined by the liability allocation process established under the new Title V.

Section 107(a) is also amended to provide that the assigned shares of "orphan parties," or liable parties which are no longer in existence, insolvent or unknown, shall be paid out of the Hazardous Substance Superfund.

LIABILITY FOR PERFORMANCE OF RESPONSE ACTIONS

Section 107 is clearified to allowed the Environmental Protection Agency to retain its enforcement authority to impose joint and several liability on any liable party to perform the entire response action at a National Priority List site. The party performing the response action retains its right to collect from other liable parties their respective allocated shares of the costs of the response action at the site.

LIABILITY WITH RESPECT TO RECYCLING TRANSACTIONS

A new Section 127 is added to CERCLA, providing that a recycling transaction shall not be construed as an "arrangement for the treatment and disposal" of hazardous substances [which would subject a party to liability under Section 107(a)] if the following conditions are met:

The material being used in the transaction meets a specification grade (referred to as "specification grade secondary material").

Such secondary material is used to make a new product and contains elements necessary to make such a product.

Such secondary material competes with a virgin material.

The production of the secondary material results in a substantial amount of the input material being made available for use as a feedstock to make a new product.

There is evidence of a market for the secondary material.

The secondary material does not include unnecessary hazardous substances introduced during recycling.

The secondary material consists primarily of metal, paper, plastic, glass, textiles or rubber.

Section 127 also requires the EPA Administrator to promulgate management standards applicable to the production or transfer of secondary materials used as a feedstock to make new products.

BINDING ALLOCATIONS OF RESPONSIBILITY

A new Title V is added to CERCLA, providing a process for allocating shares of liability for the costs of response actions at National Priority List Superfund sites:

General Provisions

Allocation Panels

The EPA Administrator appoints panels composed of three administrative law judges, called "allocation panels," which perform expedited proceedings to determine the liability of parties at National Priority List sites.

Qualification of Administrative Law Judges

Each administrative law judge on an allocation panel is required to complete at least 40 hours of education and training in the operation of the Superfund program and in the science of soil and groundwater contamination and the technology for treating such contamination.

Powers of Allocation Panels

Allocation panels shall have the power and authority to issue requests for information and for production of documents, to rule upon motions and offers of proof, to issue orders, to administer oaths, to examine witnesses, to admit or exclude evidence, to hear and decide questions of fact and law, to require parties to attend settlement conferences, to obtain or employ clerical and investigative services and computer information and database management services and to establish a document repository for all documents associated with the liability allocation proceeding.

Allocation panels shall also have the power of subpoena to collect all necessary or relevant information for conducting the allocation process, including the power to compel the attendance and testimony of witnesses and the production of documents.

Informal Rules of Evidence

The binding allocation process is not bound by the Federal Rules of Evidence, but instead is governed by the informal rules of evidence currently used by the EPA in its enforcement and permit revocation proceedings.

Service of Process

Documents are deemed served on a party if they are mailed to the counsel of record for the party or to the address designated by a party not represented by counsel.

Binding Allocation of Responsibility Proceeding

Initial Petition

Within 30 days after initiating the remedial investigation study for a National Priority List site, the EPA or the State where the site is located files a petition at the EPA identifying the site and the potentially responsible parties and summarizing the legal and technical issues specific to the site.

Guardian of the Fund

The petition includes the name of a person appointed by the EPA Administrator to serve as the guardian for the Hazardous Substance Superfund for the site in question.

Parties' Statements

Within 30 days after the filing of the initial petition, the EPA, the State, the guardian and any potentially responsible parties identified in the petition may file statements stating defenses to liability, equitable considerations pertaining to any party's liability, additional relevant facts and issues and the names of additional potentially responsible parties.

Information Requests/Production of Documents

Within 30 days after the filing of the initial petition, the allocation panel mails requests for information and for production of documents to the State, to the guardian and to all potentially responsible parties. All parties have 45 days in which to respond.

Addition of Potentially Responsible Parties

Within 120 days after the filing of the initial petition, any party may identify and nominate additional parties as potentially responsible parties.

Initial List of All Potentially Responsible Parties

Within six months after the filing of the initial petition, the allocation panel causes to be published in the Federal Register and in general circulation newspapers in the State wherein the site is located a list of all potentially responsible parties. The allocation panel may add new potentially responsible parties at any time before the issuance of the final decision allocating shares of liability among liable parties.

"De Micromis" Settlements

Within six months after the filing of the initial petition, the allocation panel issues a list identifying parties found to have contributed only a miniscule amount of hazardous substances to the site in question. A "de micromis" party may resolve its liability and may be released from further liability at the site by paying a premium of $1,000, which reflects the administrative costs and the cleanup costs to the federal government for the site for that party. The amount is earmarked in the Hazardous Substance Superfund to help cover the response costs at the site.

Advocacy Papers

Within 30 days after the publication of the initial list of potentially responsible parties, the guardian, the State and any potentially responsible party may file an allocation advocacy paper outlining the legal and factual criteria to be used in determining whether a potentially responsible party at the site is a liable party. Parties also have an opportunity to submit a second advocacy paper after the allocation panel's issuance of the first allocation report.

Allocation Reports

Within 90 days after the publication of the initial list of potentially responsible parties, the allocation panel issues an allocation report specifying the criteria to be used in identifying the liable parties and how such criteria will be applied to the case in determining assigned shares of liability for response costs at the site.

Following receipt of the second round of advocacy papers the allocation panel issues its second allocation report identifying all liable parties of the site and specifying the assigned share of response costs for each liable party.

Hearings

Any potentially responsible party may request a hearing before the allocation panel on the determination that the party is a liable party and on the determination of its assigned share. The allocation panel has the discretion to grant or deny such a request. Most evidence in the allocation process is offered through the submission of documents and not through hearings.

Determination of Orphan Share

The guardian, the State and each liable party may file an orphan share advocacy paper offering evidence as to which liable parties are orphan parties whose assigned share of response costs at the site should be assigned to the orphan share. Following receipt of orphan share advocacy papers the allocation panel issues an orphan share allocation report identifying the orphan share.

Determination of Non-Liable Parties

At any time during the period beginning six months after the filing of the initial petition and ending 18 months after the filing of the initial petition the allocation panel may issue a list identifying all potentially responsible parties determined not to have contributed any amount of hazardous substances to the site in question. Such non-liable parties are released from all future liability with regard to that site.

Final Binding Allocation of Responsibility Decision

Within 18 months after the filing of the initial petition the allocation panel shall issue a final decision listing all liable parties and the assigned share of response costs for each and all orphan parties and the total orphan share. The final decision is based on the following factors:

The degree to which each liable party's contribution to a discharge, release or disposal of hazardous substances can be distinguished;

The amount of hazardous substances contributed by each liable party at the site, compared to the total amount of hazardous substances at the site;

The degree of toxicity of the hazardous substances contributed by each liable party;

The degree of involvement by each liable party in the generation, transport, treatment, storage or disposal of the hazardous substances;

The degree of care exercised by each liable party with respect to the hazardous substances concerned, taking into account the characteristics of such hazardous substances;

The degree of cooperation by each liable party with federal, state or local officials to prevent any harm to the public health or to the environment;

The weight of evidence as to the liability and the appropriate shares of each liable party; and

Any other equitable factors deemed appropriate.

"De Minimis" Settlements

As part of the final decision or at any time before the issuance of the final decision, the allocation panel issues a list of all potentially responsible parties determined to contribute 1.0 percent or less of the total quantity of hazardous substances present at the site in question. Such "de minimis" parties may settle with the EPA Administrator by paying a specified amount based on the EPA's estimate of the total cost of cleanup at the site multiplied by the de minimis party's allocated share, and increased by a reasonable premium to reflect the benefit of an early and complete resolution of liability. The proceeds of the de minimis settlements go towards the cost of the response action at the site.

Judicial Review

The binding allocation of responsibility decision constitutes a final agency action under the Administrative Procedures Act. Any challenge to the final decision must be filed in U.S. District Court. Unless the court finds the allocation decision to be arbitrary and capricious or an abuse of discretion, or that the challenging party is not liable as a matter of law, the unsuccessful challenger must pay all attorneys' fees incurred in defending the challenge and is held jointly and severally liable for the orphan share of response costs at the site.

Collection and Enforcement

After the final allocation decision any party which has incurred response cost above the amount allocated to that party is considered a "creditor party" entitled to collect from "debtor parties" any or all of their shares of allocated response costs, depending upon the amount incurred by the creditor party. The creditor party is also entitled to collect from the Hazardous Substance Superfund amounts corresponding to the orphan parties' allocated shares.

Liable parties are obligated to pay their allocated shares promptly and to manage the cleanup efforts if ordered to do so by the EPA Administrator, or face substantial civil and criminal penalties.

Moratorium on Cost Recovery Litigation

No cost recovery action, no government enforcement action and no contribution action may be filed with respect to any National Priority List site until 90 days after a final binding allocation of responsibility decision is issued.

Transition Provisions

At all National Priority List sites where potentially responsible parties are performing CERCLA cleanup work at the time of enactment of this legislation, whether the work is pursuant to a consent order or an enforcement order, the potentially responsible party's obligation to perform the work and the deadline for completion of that work remain unaffected.

At all National Priority List sites where cost recovery, enforcement or contribution litigation is ongoing, such litigation is stayed until a binding allocation or responsibility decision is issued. Such a decision will conclusively determine the liability of all parties at the site. Litigation over other issues, such as EPA claims for civil penalties or private party claims based on contracts for insurance or indemnification, may resume following completion of the binding allocation process.

At National Priority List sites where one or more potentially responsible parties have been determined to be liable for all past and future response costs, no binding allocation process shall be performed and the prior liability determinations remain in effect.

At National Priority List sites where liability has been partially determined, the binding allocation process shall proceed and the allocation panel shall allocate liability for the costs of the entire cleanup. In doing so, the allocation panel shall give credit to each potentially responsible party for prior costs incurred or for prior work performed.

Voluntary Settlements

Prior to the issuance of a final binding allocation decision, any group of potentially responsible parties may offer voluntarily to cover 100 percent of the costs of the response

action at the site in question. No costs may be borne by the orphan share for such voluntary settlements and no party which is not a signatory to the voluntary binding allocation of responsibility may be held liable for any response costs at the site.

New Binding Allocations of Responsibility

A binding allocation decision may not be changed or revised for at least five years after the date of the final decision. New binding allocation proceedings may be available only if a party demonstrates that, due to new information not reasonably available during the original allocation proceeding, at least a 35 percent increase in total waste-in volume has been discovered.

DRUG COMPANIES JOIN IN RELIEF EFFORT TO AID THE FORMER YUGOSLAVIA

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. FRANKS of New Jersey. Mr. Speaker, this morning the first shipment of critically needed medicine donated 11 of the Nation's leading pharmaceutical companies left Andrews Air Force Base. Tomorrow it will arrive in Zagreb, Croatia. From there, the supplies will be distributed to 10 hospitals throughout Croatia and Bosnia by Project Hope. This shipment was the result of a major coordinated effort aimed at easing both the physical and mental trauma of the ongoing civil war in the former Yugoslavia.

I first realized the unique opportunity to organize a humanitarian assistance project when I received a letter from one of my constituents, Herb Ditzel of Garwood, who was seeking my assistance in obtaining drugs to help alleviate the suffering in the former Yugoslavia. Herb, one of the longest living survivors of childhood cancer, owes his life to living in a country that has the best medical treatment in the world. He wanted to make sure that children, caught in a tragic conflict halfway around the world, had a fighting chance for survival by having access to the advanced medicines produced in my home State of New Jersey.

When I turned to some of the leading pharmaceutical companies to participate in a coordinated humanitarian relief project, the response was instant and overwhelming. In fact, many of the pharmaceutical companies were already making contributions. I felt that by bringing together pharmaceutical companies in a coordinated program, we would ensure that more medicine, and more of the right medicine, would reach the people who need it most.

A number of the Nation's leading pharmaceutical companies—Schering-Plough, Merck, Hoffman-LaRoche, Hoechst—Rousell, Pfizer, Sandoz, Warner-Lambert, Bristol-Myers Squibb, Lederle Laboratories, Johnson & Johnson, and Glaxo—have agreed to pool their resources to help those suffering in the former Yugoslavia. The shipment that left today for Yugoslavia contains high-priority pharmaceuticals and medical supplies including: antibiotics, IV fluids and administration sets, diuretics, cardiovascular drugs, vitamins, surgical bandages and gloves, and other important pharmaceutical products and supplies.

Mr. Speaker, America's pharmaceutical companies have been the scapegoat for much of what is wrong with our health care system. However, this humanitarian assistance program to the former Yugoslavia is just one example of the pharmaceutical industry's concern for the health of people of all nations. I wholeheartedly thank those participating pharmaceutical companies and Project Hope for helping to make this humanitarian project a wonderful success.

INTRODUCTION OF A BILL TO ALLOW FOR INCREASED COBRA COVERAGE

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. NADLER. Mr. Speaker, I rise today to introduce a bill which will expand current COBRA health insurance statutes, which allows the Government to pay for private health insurance premiums for those who need it most—those Americans with debilitating diseases like AIDS who may be unable to work, and unable to afford health insurance.

This bill will extend health coverage provided by COBRA to individuals with incomes of up to 185 percent of the Federal poverty level. Current law allows States to assume the cost of health insurance premiums for persons needing medical attention who have incomes of up to 100 percent of the Federal poverty level.

Today, hundreds of thousands of people suffer from debilitating and fatal diseases like AIDS and cancer. Often, these diseases prevent their victims from working, and maintaining financial self-sufficiency. Disastrously, they also lose their private health insurance unless they can afford to incur both the employer and individual monthly share of the premium. At a time when these individuals need health care coverage the most, the cost of care becomes an overwhelming expenditure to the victim.

It is estimated that as much as a third of the Nation's medical costs stem from care given in the final year of life. In many of these cases, health insurance becomes unaffordable just when individuals can least afford to lose it. Worse still, in order to become eligible for Government assistance under current COBRA eligibility requirements, these individuals must become completely impoverished. This is simply not acceptable.

This legislation provides a much needed remedy. My bill calls on the Government to provide greater assistance to more people to help maintain their private health insurance coverage. Although these individuals are above the poverty level, they are truly in need of assistance.

This bill will provide increased health security through the continuation of private health care for more people. It will ensure access to services, a better quality of life, greater emotional and financial security, and will also save billions of dollars annually.

Mr. Speaker, I look forward to the day when we have adopted a national health care system that will alleviate the emotional and financial crisis that comes with debilitating diseases. Until that occurs, however, we must address the unmet health care needs of victims of diseases such as AIDS and cancer. I call on my colleagues to recognize the importance of this crucial measure in providing greater health and economic security for Americans. I urge you to cosponsor this important legislation.

NATIONAL PARK SERVICE REFORM INITIATIVE

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. VENTO. Mr. Speaker, today I am introducing a series of bills that both individually and collectively make needed changes and improvements to the natural, cultural, and recreational programs of the National Park Service [NPS]. Together these bills form an important National Park Service reform initiative to address pressing issues facing the heritage preservation policies of our Nation today.

NEW AREA STUDIES

The first bill I am introducing today is the National Park Service New Area Study Reform Act. This bill makes several important changes to the current process for studying new areas for potential addition to the National Park System. These changes will lead to improved quality of new area studies and enhance the process of expanding the National Park System.

The National Park Service is charged with the management of the Nation's most precious natural, cultural, and historical resources. The 367 areas which make up the National Park System are a diverse collection of parks, historic sites, memorials, monuments, seashores, battlefields, parkways, and trails. These areas and known throughout the world for their scenic beauty and historical significance. Each year, the areas which make up the National Park System are visited by over 260 million people.

Considering the exceptional quality of our national parks, it is our obligation to ensure that only outstanding resources are added to the National Park System. I disagree with those who say that our National Park System is complete and that nothing else should be added. In our National Park System, several important natural land forms and themes of American history and culture are underrepresented or not represented at all—as well as unique recreational resources that are of national significance. The National Park System needs the ability to expand in order to reflect the progression of history and to respond to a rapidly growing population. In expanding the System, great caution must be exercised in order to make sure that only high quality resources are included.

While Congress has the final say with regard to establishing new park units, it is the National Park Service which furnishes Congress with the information it needs to make

these policy decisions. Congress relies heavily on these studies to make evaluations about the significance of an area and its suitability for being designated as a national park unit. Between 1976 and 1981 the National Park Service had a program of identifying high priority candidates for study. This program was terminated by the Reagan administration and for the past 13 years the National Park Service has not had a legislative program. In the absence of any initiatives coming from the National Park Service, Congress directed numerous studies of specific areas in authorizing legislation and appropriations earmarks. Earlier this year the National Park Service revived their new area study program and for the first time in 13 years they requested funds for studying several areas.

There are several problems with the current new area study process. First, there are three separate sources for new area studies. These sources are the National Park Service itself, the authorizing committees and the Appropriations Committees. There is no agreed upon process for ranking the priority of these studies, nor is there adequate funding to get all of them done. Because studies usually take 2 to 3 years, some studies are delayed indefinitely or worse yet are started and stopped in midstream because all available funding in a particular fiscal year was earmarked for another study. The quality of the studies ranges widely, as does the level of review and scrutiny by the Washington office of the National Park Service. It has been too easy for political considerations to get injected into the study process, and recommendations of professional planners are sometimes changed and tailored for political reasons. Studies come to Capitol Hill without any preferred recommendation, often leading Members of Congress to push ahead with legislation to establish a unit when the resource involved might not meet the appropriate criteria or to select an inappropriate option.

The legislation I am introducing would make several changes to the new area study process. First, it would amend section 8 of the August 18, 1970 act commonly known as the General Authorities Act to require that all new area studies be authorized by Congress through an authorizations process. This applies to any study conducted by the National Park Service which may result in action by Congress to establish a new park system unit, affiliated area or major expansion of an existing unit. It does not cover projects or studies that provide technical assistance to State or local governments or studies addressing wild and scenic rivers, national trails system units, or wilderness areas. The bill requires the National Park Service to submit on January 1 of each year a list of new area studies they would like to undertake. This list would contain the highest study priorities of the National Park Service. Congress would then have to enact legislation directing the National Park Service to conduct specific studies. If enacted, it is likely that many of the candidates for study would come from the National Park Service list, and that these may be joined together with other priorities of Congress in an omnibus study bill. The National Park Service would then have 3 years from the date of enactment to complete the studies. The National Park Service would conduct the studies using the national significance, suitability and feasibility criteria currently defined in the National Park Service management policy guidebook. These studies should reflect the highest possible professional standards and provide a clear recommendation to Congress. If an area fails to meet established criteria, the study should clearly state this finding. The studies would be forwarded directly to the authorizing committees of Congress by the Director of the National Park Service.

Several other measures to change the new area study process have been introduced and I know the Clinton administration has indicated its interest in making some changes to the way new areas are studied and added to the System. I am committed to working with interested Members and the Clinton administration in fine-tuning this bill and in setting a course to guide the future evolution of the National Park System.

STEAMTOWN NATIONAL HISTORIC SITE

Last year, the House passed legislation, H.R. 3519, to provide significant policy reforms for Steamtown national historic site in Scranton, PA. That legislation would have put the Steamtown Project back on track and provided much needed reforms in the operations and development of the site.

In the 102d Congress, the other body declined to act on that legislation. In the meantime, the development of Steamtown national historic site, including the construction of a pedestrian bridge linking this unit of the National Park System to a shopping mall—named the shopping mall at Steamtown—has continued. My concerns are such that, frankly, it may be highly desirable to transfer this controversial park unit to the Commonwealth of Pennsylvania or to some other entity capable of better managing it and pursuing the nonpark policies that occupy this site's troubled management. However, my first and primary concern is to correct past mistakes to the extent possible and assure that the site's management be in accord with other units of the National Park System.

The bill I am introducing is identical to the bill that passed the House in 1992 with the one exception that language has been added to cap operations funding and ensure that further development, construction, or related activities will not be authorized without a specific act of Congress. While such development is substantially completed, this provision will cap the already high costs of creating Steamtown national historic site. I introduce this bill because I believe it is high time to resolve the future of Steamtown national historic site. The House took responsible action on this matter last year and I hope to again have my colleague's support in making these necessary reforms in the project.

NATIONAL PARKS AND LANDMARKS CONSERVATION

Our Nation's identity is steeped in images from our national parks: the power of Old Faithful in Yellowstone, the majesty of halfdome in Yosemite, the vision of Independence Hall, the endurance of Chaco Canyon's prehistoric ruins. These are places of national and international significance. Our Nation and people have been shaped by these special places which have come to symbolize America. We all care deeply about our national parks and landmarks and take great pride in them; they embody the best this Nation has. The statute of Liberty, the Everglades, Gettysburg, the Grand Canyon—these and other national parks help define us as an American people. In addition to the national parks, there are 2,000 national historical landmarks and 580 national natural landmarks, which although not owned or administered by the national Government have been found to be nationally significant and need to be protected in perpetuity as well as congressionally designated National Park sites.

Having inherited such wonders, we can do no less than pass them on to our descendants in the best condition possible. But today these special places are at risk, threatened by human-caused and natural forces. Numerous articles and studies report the threats, stress, strains, and degradation on our national parks and landmarks. Such problems and transboundary.

Threats to these resources originate both inside and outside parks and landmarks. Some dramatic threats are easily recognized. But other threats, whose impacts are often even more serious, are subtle and insidious. Our responsibility extends to all these special resources, and against all such threats.

As part of my effort to reform the National Park Service, I am introducing "The National Park and Landmark Conservation Act." It will help ensure that these resources and the threats they face are responded to in a manner and way that is both thoughtful and effective. Over 75 years ago when the National Park Service was established, park managers sincerely believed that they could ensure that national park resources would remain unimpaired by carefully managing actions within park boundaries. Today we know that national parks and landmarks are embedded in their larger ecosystems, and in their larger societal contexts. They are affected by forces from near and far. Today we realize that the forces endangering our national parks and landmarks are both more powerful and complicated than had been suspected. There is every reason to believe that such threats to our heritage will only become more complex as we learn more about them. Some threats are completely beyond our human control. But many other threats are very much within our power to counter. Public policy should strongly encourage communities and individuals around parks and landmarks to cooperate in their protection from careless, uncontrolled and adverse development. The law and public policy emanating from our Nation should direct other national agencies to coordinate with national parks and landmarks so that national dollars aren't simultaneously spent to save parks and landmarks, while other spending adversely impacts such special resources. National policy can provide mechanisms to deal with emergency situations so that we can avoid the crisis we encountered 3 years ago when the Manassas National Battlefield Park was under threat of a suburban shopping mall.

For this reason, I ask Members of join me in providing a renewed, thoughtful, and sensible framework for national park and landmark protection. The legislation is premised on cooperation rather than confrontation. This approach to national park and landmark protection combines a through knowledge of these

special places and their needs, with careful management and cooperative efforts to prevent crises, and to provide emergency tools for those times crises cannot be prevented.

We need the political will to act on our deep concerns for our natural and cultural heritage as embodied within our national parks and landmarks.

Today I am introducing comprehensive legislation that furthers the protection of these resources so that the fundamental goals and objectives of their designation, their use, and their enjoyment might be optimized in perpetuity. My legislation has five simple principles.

First, we must ensure that the National Park Service can manage the resources in its care in the most professional way possible. My legislation includes the Presidential appointment of a professional Director of the National Park Service with Senate conformation and with clear authority over the organization. The National Park Service should never again lend itself to service as a political pincushion. Neither the National Park Service or its personnel should be politically manipulated.

Second, we need to understand the conditions and needs of national parks and landmarks as accurately and fully as possible so that wise protection decisions can be made. The measure directs the National Park Service to maintain a dynamic research and data program concerning the condition of our national parks and landmarks and to use these insights to make appropriate management decisions.

Third, we need to establish cooperative mechanisms among national parks and landmarks and those organizations, individuals, and governmental entities that can be partners in their protection and public enjoyment. We must craft partnership with those who interact with national parks and landmarks, so that those who live near parks and landmarks and those held responsible for their management can jointly preserve and enjoy these resources.

Fourth, we must craft tools to handle emergencies when they arise. Once a bulldozer has scraped away archaeological resources or a species is extinct it is too late. The Congress cannot create natural or cultural resources. We can only designate—and when we do it must carry with it the inherent tools for the National Park Service to effectively discharge its stewardship duties. These are irreplaceable nationally significant resources and there are rare times when action to save them must be quick and effective.

Fifth, there should be consistency in Federal actions: common sense would dictate that national or State government agencies or their programs should not damage the national parks and landmarks that the National Park Service is entrusted by law to protect.

This legislation does not create buffer zones, impose draconian policies, or otherwise force a heavy governmental hand on areas near parks and landmarks. It recognizes that the preservation and interpretation of these special places is best a stewardship effort shared by all of us—a task of conscious cooperation, collaboration, and comity.

The National Park and Landmark Conservation Act includes all the units of the National Park System as well as all the national landmarks, places that have been designated for their national significance and physical integrity. These resources are irreplaceable. They contain some of the most precious treasures of America. They deserve our full care and attention. They are a natural and cultural legacy given to us by those who came before us; we are temporary guardians of that heritage for future generations of Americans. Seventy-six years ago people with great vision established the National Park Service. Over 100 years ago we began to set aside these special places. The preservation and conservation of our natural and cultural resources—America's crown jewels—is recognized as one of the best ideas our Nation ever had. Let's build upon that heritage and not allow it to be despoiled or decay. We all benefit from the early visionaries that preserved this heritage for us today. This legislation is intended to maintain the essence of such vision so that future generations, too, will be able to fully benefit from our national parks and landmarks—their American heritage legacy. By instituting these reforms today we will help ensure that inheritance for tomorrow.

AMERICAN HERITAGE PARTNERSHIP PROGRAM

Finally, I am introducing legislation to establish a heritage partnership program to reserve recreational, cultural, historic, and natural resources. Our Nation contains many geographically and thematically unified areas, which include significant resources worthy of preservation and conservation. In many cases, these areas are connected by greenways, trails, or natural corridors which could be the focus of innovative recreational management ideas. While such areas are important nationally, they may not meet the criteria for inclusion as units of the National Park Service, and may best be managed in a true Federal partnership with State and local governments and private entities.

In fact, the strong State, local, and private support these areas receive, and their diverse resources, indicate that national involvement, while welcome and necessary, should be limited. The professional expertise of the National Park Service can be useful in identifying and providing assistance for defining, establishing, and managing these important areas. However, the diversity of their resources, the ownership patterns, and the variety of uses and activities taking place, suggest that a true Federal partnership, wherein the national Government provides recognition and limited financial and technical assistance, and other entities through the State and local government manage and fund the largest share of the necessary preservation and interpretation, is the most appropriate method of preserving these areas.

Proposals for heritage areas or corridors have significantly increased in the past several years. Affiliated with the National Park Service, there are currently four such areas which have been recognized and funded with various levels of success. Budgetary reality suggests that limited funds will be available to accommodate existing units of the National Park System, and less will be available for establishing new national park units or proposed heritage corridor areas outlined in this proposal. This American heritage areas program would extend national preservation efforts in a new cost effective manner and would assure that new heritage areas or corridors will have been properly reviewed.

My proposal establishes an American heritage area partnership program within the Department of the Interior. Under this program, States would nominate areas eligible for inclusion in the program. Based upon a preliminary survey and determination by the Secretary that such an area is suitable, the nomination would require the approval of Congress. Upon AHACP designation, the Secretary would enter into a binding cooperative agreement with the State or its assigns to clarify respective State and Federal responsibilities for implementing a management plan for the area.

American heritage areas must include resources with demonstrated national importance, and a variety of natural, recreational, historic, and cultural resources and themes, and may be connected by natural corridors, greenways, or trails. The Secretary's approval must be based on these criteria and a demonstrated commitment by the State, local, and private organizations involved to operate and maintain the area on a long-term basis and to provide appropriate regulatory assistance in preserving the area. The area must be worth recognizing and preserving, and public and private entities involved must be willing to use such tools as zoning laws, alternative funding sources, and tax incentives to assure the restoration and preservation of resources within the area.

To participate in a cooperative agreement, the States and localities must provide assurances that such agreement will be implemented and followed, and must take such regulatory and financial actions to provide for the operation and maintenance of the resources. Federal funding of individual projects within the area would be contingent upon a 50 percent match and an agreement that changes in the project funding would require the Secretary's approval.

The American heritage area partnership program would be funded through the historic preservation fund. No new funding authorization would be required; this would merely authorize an additional purpose for existing available funds. The Federal contribution would be limited to $300,000 for each area for planning and technical assistance, and $3 million for capital improvements.

Mr. Speaker, Americans are increasingly interested in conserving and preserving natural areas and cultural symbols. There is also an increased understanding that resource preservation and economic viability are not mutually exclusive but compatible and mutually enhancing. Obviously, the national Government can neither own nor manage each property or area worthy of preservation. In these active communities containing a variety of resources, multiple management, and funding sources would be the most appropriate method of preserving and interpreting the nationally important resources and themes. The legislation I am introducing today provides national encouragement for protecting these assets without instituting a massive new Federal bureaucracy or providing significant Federal funding. The National Government will neither own nor manage the majority of resources assembled in these areas. These are dynamic, thriving communities, which with the assistance of the

National Park Service will maintain an appropriate balance between preservation and growth. I urge my colleagues to join me in this fiscally responsible resources protection initiative.

REMARKS ON PALAU COMPACT APPROVAL

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. UNDERWOOD. Mr. Speaker, in a plebiscite on November 9 the citizens of the Republic of Palau voted by an overwhelming margin of 68 to 32 percent to approve the Compact of Free Association between the Republic of Palau and the United States.

I congratulate the Republic of Palau on this historic vote. With the implementation of the compact, the United States terminates its trust relationship and fulfills its responsibility to grant self-determination and self-government to the Trust Territory of the Pacific Islands.

The people of Guam share the immense pride of the people of Palau on this historic occasion. As neighbors, we share their dream of a better world for their children, we share their confidence in the future, and we share their hope in the new Pacific era.

We also join the people of Palau in affirming the values stated eloquently in the Preamble of the Palau Constitution:

> We renew our dedication to preserve and enhance our traditional heritage, our national identity and our respect for peace, freedom, and justice for all mankind. We venture into the future with full reliance on our own efforts and the divine guidance of Almighty God.

STATEHOOD

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. CLAY. Mr. Speaker, I wrote these remarks more than 15 years ago and it is sad to think that they are still relevant today. I recall Dr. Martin Luther King, as he sought civil rights for black Americans, rhetorically posing the question—how long, how long must we wait before enjoying the fruits of full citizenship? This plaintive cry has not been answered especially for the citizens of our Nation's Capital.

On December 20, 1977, I wrote the following as my weekly column:

> Washington, D.C., a city of over 800,000 mostly federal workers, mostly black, stands out as a prime example of why many foreigners take America's boast of representative government as a farce. The District of Columbia, supposedly the citadel of the greatest representative democracy in the history of the world has no representatives in the affairs of the body that directly impacts their lives. They have been denied the fundamental right of electing members of Congress and have little control of the decisions in local matters. There are more permanent residents in D.C. than in 10 of our states (note: now reduced to three). Yet these residents do not have one voting member in either House of Congress.
>
> The people of D.C. are citizens in every aspect of the word. They are required to pay the same federal taxes as others. They must fight to defend this country. They must obey the laws of the land. However, the law which says that every citizen is entitled to be represented is totally ignored in their case. What a mockery. What justification can be advanced to continue this flagrant kind of colonialism just blocks from the White House?
>
> The ten states in the union which have populations smaller than that of the District have a combined total of 34 votes in Congress. Certainly no intelligent person would suggest that the citizens of Delaware, Montana or Alaska have made more significant contributions to the development or defense of this country than those in the District. Surely they would not argue that somehow the citizens of those ten states were destined by divine providence to enjoy constitutional rights while the residents of D.C. were not. It is absurd to even suggest such.
>
> So why don't we get on with the urgent business at hand? Why is it taking Congress so long to pass a constitutional amendment which would give the District of Columbia proportionate representation? I think the reason is apparent but I hesitate to state it publicly for fear the anti-busing, anti-affirmative action, anti-open housing clique would accuse me of racism.

Now, Mr. Speaker, 16 years later I ask as did Dr. King, "how long, how long?"

UNIVERSAL HEALTH CARE FOR OREGONIANS ACT OF 1993

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. WYDEN. Mr. Speaker, over the past several years, as the Federal Government has failed repeatedly to come to agreement on a package of national health reforms, States have taken the undisputed leadership role in devising strategies to expand access to health insurance and contain the growth of health costs.

The States have been widely praised for this pioneering work by Members of Congress on both sides of the aisle. Both current and previous administrations have hailed these ground breaking States as laboratories of democracy. And there is good reason for such enthusiasm. Over the years, many of our most cherished Federal institutions got their start in State programs, including Social Security, Medicaid, and child labor laws. More recently, the health care reforms that began two decades ago in New Jersey paved the way of the Medicare hospital reimbursement system reforms of 1982.

Now there is an unprecedented opportunity for achieving health reform on a national scale. Last Saturday, November 20, the majority leader introduced President Clinton's Health Security Act, H.R. 3600, to begin formal consideration of national health reform in Congress. I believe that this legislation has many positive features and the President and the First Lady deserve a great deal of credit for all their efforts. But enactment of the President's bill will not mean the States will suddenly become less important to health care reform. In fact, if H.R. 3600 is enacted promptly into law, the new system it ushers in will be one built on a rapid expansion of State health reform activities, not a sudden shift to Federal control.

Under these circumstances, the worst thing Congress could do is create uncertainty that undermines State action toward achieving universal health insurance coverage. Congress needs to send a message to States that they will be able to continue with their reform efforts, but within the context of a national system. I believe Congress must also prepare for the possibility that the defenders of the status quo will try to stall the enactment of comprehensive health reform, or that its provisions may be amended to provide for a protracted phase-in of universal coverage.

No matter what happens, the wisest course for Congress to take would be to reward State innovation in health reform, and firmly reject proposals that would reverse or punish States for their innovation in extending health insurance to the uninsured.

In my home State of Oregon, the Oregon Health Plan will begin to provide a solid package of essential health benefits to 120,000 uninsured low income persons in just 3 months' time. Another 303,000 uninsured workers will be covered through the State's "play or pay" employer mandate many months before the Health Security Act can be fully implemented—even if there are no further delays in the enactment or phasing-in of that Federal legislation.

Oregon is not alone. Millions of uninsured Americans living in diverse States, including Washington, Florida, Maryland, Minnesota, Tennessee, Vermont, Ohio, and California, will benefit from State health reforms before national health reform can be put into place. These vulnerable citizens need our help to assure, first, that they receive health insurance coverage as quickly as possible, and second, an orderly transition from State health reform to national health reform.

Unfortunately, Federal law is smothering many of the State health reform programs that would help the uninsured pay for health care they and their families require.

While the Clinton administration has made good its commitment to grant waivers to innovative State Medicaid programs, there is no legal process for a State to obtain a waiver from section 514(a) of the Employee Retirement Income Security Act of 1974 [ERISA], which preempts State authority to regulate or tax certain employee health benefit plans.

This is no small technical problem. Courts have held repeatedly that the broadly-worded ERISA preemption provisions prohibit any State reforms which relate to self-insured group health plans. Far from receiving the careful congressional consideration appropriate to such a sweeping Federal claim over State consumer and worker protection authority, these provisions were drafted hastily toward the end of ERISA's consideration in Congress. ERISA's overbroad Federal preemption language was possible in part because it was enacted at a time when health costs were

much more manageable for business, labor, and States, and when State health reforms were rarely enacted into law.

But today, more than half of the U.S. work force is employed by employers who are beyond the reach of even the most enlightened State health reforms, as a result of the sweeping preemption provisions of ERISA. Today, according to reports and testimony from the General Accounting Office [GAO/HRD–92–70], this ERISA preemption is a major hurdle that will be impossible for States to overcome unless Congress provides for selective ERISA exemptions for appropriate States.

Mr. Speaker, I would ask permission to include in the RECORD the executive summary of GAO's findings at the conclusion of my remarks.

In putting together this legislation to grant the State of Oregon a limited exemption from ERISA's preemption clause, I have sought to reach a balance among the interests involved in this debate. For example, I understand that any ERISA exemptions for States must be granted within the context of expected national health reform. In this bill, therefore, the State of Oregon would eventually be brought into the national health system likely to be enacted by this Congress, but Oregon would be allowed to come into the new system after it is fully established. In this way, I believe Congress can recognize and reward the State of Oregon for the substantial investment made by the State and its citizens in establishing its own system for covering the uninsured.

In addition, this bill and the Oregon Health Plan itself are careful not to jeopardize the self-insured employer health plans responsible for insuring so many Oregonians. While the ERISA exemption is critical to achieving universal coverage under the Oregon Health Plan, self-insured health plans in Oregon would feel little impact as a result of the full implementation of the Oregon Health Plan, because the State has adopted a "play or pay" approach. Self-insured health plans are already "playing" in the health care market, and would face no new obligation to "pay."

I wanted to take fully into account the concerns of these employers about future legislation, however, so my bill provides for equitable treatment of employers in the event that the State were to consider levying some form of assessment on employer based health plans at some point in the future, as a means of achieving universal health insurance coverage. Specifically, the ERISA exemption granted by this bill would require that any such assessment or tax be broadly based, and would prohibit any discriminatory assessment on employer health plans.

This provision is intended to prevent State tax levies from being imposed on too narrow a base. If States were to finance their health reforms solely through taxes on the ERISA plans, these taxes would rapidly become too burdensome on employers that already carry not only the burden of providing health insurance to their own employees, but also pay their competitors' employees' health costs through cost-shifting. This is precisely the circumstances that caused the demise of the long-established New Jersey system, and I can see no reason to duplicate that in Oregon.

No legislation is perfect upon introduction, and this bill, seeking to address a profoundly complex problem as it does, is certainly no exception. I offer this legislation to my colleagues and to States and organizations representing employers and employees in the hope that they will analyze and comment on it, and help me to perfect it over the months during and following the sine die adjournment.

Mr. Speaker, I thank my colleagues for their attention.

EXECUTIVE SUMMARY

PURPOSE

Providing health care to every American has become one of the most serious problems facing the nation. The number of individuals without—or with inadequate—health insurance is increasing, while the cost of providing care is growing. Chairmen John Dingell and Ron Wyden asked GAO to report on state initiatives to address the problems of access and affordability in the health care system and federal barriers that limit state options to achieve universal access to health care.

BACKGROUND

State governments have a major stake in financing and providing health care. States are concerned about the growing proportion of their budgets devoted to health—they already spend an average of 20 percent of their total budgets on health-related programs. Yet in some states, almost one-quarter of the population is uninsured.

In responding to the health care crisis, states are constrained by their budgetary problems. In addition, state reforms must comply with federal laws and regulations. The Employee Retirement Income Security Act of 1974 (ERISA) preempts state authority to regulate self-insured employer health plans. While ERISA primarily reacted to problems dealing with the solvency of employer-sponsored pension plans, its impact on employer-provided health benefits has grown as more firms have self-insured for health benefits. Over half of U.S. workers are employed in firms that self-insure, and states cannot require such employers to provide a specific health plan or pay state-imposed premium taxes. In addition, if a state wants to integrate the Medicaid program with a state plan, it needs federal permission to do so.

RESULTS IN BRIEF

States have taken a leadership role in devising strategies to expand access to health insurance and contain the growth of health costs. One hurdle that is difficult for states to overcome, however, is the restrictions imposed by ERISA's preemption clause. This clause effectively prevents states from exercising control over all employer-provided insurance. Hawaii, in part because its law requiring employers to provide health insurance took effect before ERISA war enacted, is the only state with an exemption. Even its exemption, however, has frozen the Hawaiian law in its original form, preventing state officials from making the improvements they would like to make.

Other states that have tried to move toward coverage of all their citizens have had to work within ERISA's constraints. One strategy, used by Massachusetts and Oregon, has been to create "play-or-pay" systems that rely on the State's power to tax. Employers are required to pay a tax to help finance state-brokered insurance; if they provide health insurance to employees, they generally receive a credit for the amount they spend on coverage. These laws, however, are expected to face legal challenges based on ERISA, and the outcome is uncertain.

Some state incentives have been more narrowly focused, creating programs to assist specific groups, such as low-income children and adults. These have successfully extended coverage to some residents, but state budgetary constraints have limited the programs to serving a small fraction of the uninsured population.

State efforts to help the medically uninsurable and small business employees gain access to coverage through the private health insurance market have also achieved modest results. In addition, while most States have concentrated on expanding access, a few have implemented payment reforms to control medical inflation and reduce administrative costs. Maryland, for example, has lowered cost growth through its hospital rate-regulation system.

GAO'S ANALYSIS

Hawaii approaches universal access with help of ERISA exemption

In some States, debate no longer centers on whether to set a goal of ensuring universal access to health care coverage, but on how to achieve it. Hawaii was the first state to try to extend coverage to all its residents, and its uninsured rate is the lowest of all the states. The principal tool that has allowed Hawaii to approach universal access is its 1974 law requiring employers to provide health insurance for full-time workers. Hawaii is able to enforce this requirement because its 1974 law is statutorily exempt from the ERISA preemption provisions. State requirements that virtually all employers provide insurance and that insurers cover all employees reduce uncompensated care and cost shifting. Most residents not covered by employers or Medicaid are eligible for a State-subsidized insurance program with less extensive benefits. Hawaii officials would like to refine their system, but the ERISA exemption precludes the state from modifying its existing employer-mandate law.

Massachusetts faces delays and obstacles

States adopting universal access plans more recently did not have Hawaii's option of requiring employer-provided insurance and had to devise other approaches. When Massachusetts enacted its package of reforms in 1988, it designed a play-or-pay provision that requires employers to pay a tax to a state-brokered health insurance fund. Employers that provide health insurance to employees may generally deduct their costs for providing the insurance from the required contribution. Although the play-or-pay system was specifically designed to be compatible with the requirements of ERISA, state officials are not sure whether it would withstand a legal challenge. Implementation of the play-or-pay requirement has been delayed until 1995. Programs targeted to specific uninsured groups—such as unemployed workers and disabled people—have been implemented and made some progress in expanding access to insurance, but tight budgets limit their effectiveness.

Oregon's comprehensive approach requires Federal waivers

Oregon, too, when exacting a comprehensive package of initiatives in 1989, chose a play-or-pay mechanism in the hope of avoiding an ERISA problem. Its requirement will go into effect in 1995, unless private market reforms are successful in reducing the uninsured population. One of the state initiatives is a Medicaid expansion that extends Medicaid benefits to all residents with incomes below the poverty level, including those who would not normally qualify for federal funds. Certain health services in the current benefits package would no longer be covered. The

Medicaid expansion requires a number of waivers from the federal government, and implementation of the play-or-pay requirement cannot proceed unless the state obtains the waivers needed to carry out the Medicaid plan. A decision on the waiver request is expected in June 1992.

New reform efforts in Minnesota, Florida, and Vermont

Proposals to achieve universal access continue to be developed in the states. Recently, Minnesota, Florida, and Vermont enacted comprehensive reform packages. Minnesota's initiative includes a provider tax to finance subsidized health insurance for low-income uninsured residents and measures to contain costs. Minnesota and Florida may seek ERISA exemptions to give them more flexibility.

Programs for low-income populations expand access incrementally

Instead of adopting comprehensive plans, some states have opted for programs targeted to specific uninsured groups, such as children. One in five American children lives in poverty, and one-third of poor children lack health insurance. Several states have created programs to assist these children. Access for low-income children is expanded through state-subsidized private health insurance, such as Minnesota's Children's Health Plan, or expanded Medicaid eligibility, such as Vermont's Dr. Dynasaur program. Both approaches successfully expanded access to some uninsured children, but there remain many uninsured children in both states who do not qualify for assistance.

Low-income adults, many of whom fall into the category of the working poor, are another population states have targeted with insurance and Medicaid expansion initiatives. Washington's Basic Health Plan (BHP) provides subsidized health insurance, and the Maine Health Program expands Medicaid eligibility. Budget constraints limit the extent to which these programs reach the target population: BHP enrolls fewer than 20,000 of the estimated 450,000 eligible, and Maine's programs have never covered more than 11,400 of its 113,000 uninsured.

States try to expand access to private insurance

Most states have also adopted measures to make it easier for people with high-cost health conditions and small business owners and employees to obtain affordable health insurance in the private market. Almost half the states have created high-risk pools to make insurance available to the medically uninsurable—people who cannot obtain conventional insurance because of their medical conditions—and to spread the risk of covering them among all insurers in the state. The funding base for the pools is limited because, as a result of ERISA constraints, the insurance assessments that supplement individual premiums do not apply to self-insured companies.

To address problems in the small business insurance market, states have adopted a broad range of initiatives, including subsidies and regulatory reforms, that attempt to make insurance more affordable and accessible. Thus far, most of these efforts have had only a modest effect on the number of small firms newly offering health insurance to their employees.[1]

[1] For a more detailed discussion of state efforts to modify the health insurance market for small businesses, see Access to Health Insurance: State Efforts to Assist Small Businesses (GAO/HRD-92-90, May 1992).

Payment reform helps control costs

While most states have focused their attention on expanding access to coverage, some have made efforts to control increasing costs. Through changes in methods for reimbursing providers, these states attempt to limit the health care system's cost growth and administrative burden. Since 1972, Maryland has operated a hospital rate-setting system that provides for nearly uniform payments by all insurers. During this period, Maryland hospital costs per admission fell from 25 percent above the national average to 10 percent below.

In an attempt to reduce administrative costs, New York State is now implementing a system to coordinate health care billing and payment procedures. The Single Payer Demonstration Project is expected to reduce claims-processing costs for participating hospitals.

MATTERS FOR CONGRESSIONAL CONSIDERATION

States are hampered by the ERISA preemption provision, which makes it difficult to design and implement innovative health care reforms. If the Congress wants to give states more flexibility to develop comprehensive reforms, it should consider whether to amend ERISA so that the Department of Labor can give states a limited waiver from ERISA's preemption clause in order to develop innovative approaches to employer-based health insurance. The Congress could define minimum standards—governing such factors as benefits packages, extent of coverage, and terms under which the waiver might be revoked—that a state must meet to receive and maintain such a waiver.

AGENCY COMMENTS

As requested, GAO did not obtain written agency comments on this report. GAO discussed the report with Department of Labor officials, who did not agree with our suggestion that the Congress consider amending ERISA to give states greater flexibility in developing comprehensive health care reforms. They believe that it is important (1) to maintain a voluntary approach to employee benefits and (2) to preserve the ability of employee benefit plans to serve employees in many jurisdictions without becoming subject to differing state laws. Because the comprehensive reform efforts of states are a response to perceived shortcomings in the voluntary system, GAO continues to believe that the Congress should consider giving states more flexibility.

THE REASONS WHY MANY IN OUR SOCIETY OPPOSE NAFTA

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. FRANK of Massachusetts. Mr. Speaker, at the height of the debate over NAFTA, the New Bedford Standard Times ran an extremely thoughtful piece expressing the reasons why many in our society oppose NAFTA as vigorously as they did. One fact which was underlined during this debate was the extent to which class divisions remain in our society, and to which people in different social and economic classes fail to understand each others real needs and fears. This editorial by the Standard Times is an articulate, thoughtful and rational discussion of the concerns that many anti-NAFTA opponents have, and it is presented in the way in which fundamental policy debates ought to be conducted: forcefully, but in a manner respectful of the opposition. Because I think it does make an extraordinarily useful contribution to a debate that has not ended with NAFTA, but will continue over the next few years until we resolve the underlying issues, I ask that this editorial be printed here.

TRADE PACT DEBATE OPENS NEW TERRITORY FOR AMERICAN POLITICS

Politics in America may never be the same after the debate over the North American Free Trade Agreement. Weeks of intense arguing forced into the open some issues that economists knew were out there, and many people at the local level in "Rust Belt" cities have been dealing with for years.

But the NAFTA debate was more than talk, more than speculation. People had to sort out their priorities and decide whether their old political allegiances made sense anymore. When Bill Clinton pushes for a trade deal forged by Republicans and backed by big business, he made a serious breach with organized labor—but not all of it. The service and government unions didn't get their backs up about NAFTA as much as the industrial and farm unions did. "Big Labor" will take some redefinition in the future, depending on the subject involved. And Democrats can't necessarily count on it.

Rep. Barney Frank noticed something significant about the NAFTA debate that others have sensed as well: That this is a class issue. For about a generation, people with relatively little education but a good work ethic and skilled hands could make a reliable, respectable living in American industry. Today, though, the American dream is slowly slipping away from them as the jobs disappear and any new growth appears in areas where better-educated people pursue careers in areas that the older, less-skilled group can't hope to match.

This is the problem facing such places as Greater New Bedford, as it tries to make the transition into a new world economy. What are we going to do with all the people who depended on the old one? Are they simply disposable?

NAFTA didn't address that problem, and so far neither does the Clinton administration, although as a candidate Bill Clinton made some noises in that direction. Labor Secretary Robert Reich expresses understanding of the problem, but offers little in the way of real hope. Commentators such as Russell Baker of The New York Times phrase it in dramatic ways, pointing with dismay to the ruins left behind when capitalism moves on. Some economists dryly insist that this is the way the world has always worked, that nothing is going to change it, and we might as well get used to it. Screenwriter Paddy Chayevsky's cynical monologues about capitalism in the 1974 movie "Network" are replayed today and ring truer than ever.

But this is The United States of America, not just any country. Are we helpless to help ourselves? Aren't we supposed to be a bit beyond the idea that we are carried wherever the currents take us? The natural currents of capitalism didn't accidentally build this great country, did they? Doesn't some of our fate rest in our own hands? And isn't NAFTA a conscious decision to row with the current, to accelerate the inevitable, to stand out of the way of what we cannot stop?

If that's the case, and we are making conscious decisions to discard the opportunities and the dreams of perhaps millions of Americans because others will profit even more in

the end, shouldn't this great country offer the economic outcasts anything more than a gold-plated watch and a map to the door?

When this newspaper looked closely at the economy of this area, we saw on a small scale many of the same issues that confront much of the nation. To their great credit, many creative, optimistic and intelligent people have rededicated themselves to building a new local economy. One of the jobs they will face is the plight of those who are being left behind as the old economy migrates. It's a perplexing problem with few clues to the answer.

But at least we're trying.

If President Clinton wants to keep his job in the next election, and if the two political parties want to maintain any credibility with a rightfully scared segment of the population, they had better get to work on breaking the fall for those who will pay the price for their world-conscious trade decisions. If doing so isn't the American way, we may begin to question the American way itself.

OPPOSING UNFAIR TOBACCO TAX

HON. THOMAS J. BARLOW III

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, November 22, 1993

Mr. BARLOW. Mr. Speaker, I am unalterably opposed to the exorbitant excise tax increases the administration has proposed on tobacco products. The cigarette tax will drastically reduce quotas and punish the farmers of western and southern Kentucky who have made their living growing burley tobacco since the State was first settled. The effect this tax will have on the rural communities in my district cannot be overstated. In Kentucky, pensioners pay their bills, students pay their tuition, and farmers pay their taxes with money earned through backbreaking labor on tobacco—the number one cash crop in my State. These communities would be devastated by the proposed cigarette tax.

The proposed taxes on smokeless tobacco products will be even more damaging. The proposal increases taxes on the two main smokeless products—chew and snuff—10,000 and 3,000 percent respectively. Mr. Speaker, I do not recall ever before having heard a proposal to increase any tax by 10,000 percent. It is unreasonable and unfair.

The dark tobacco used in smokeless products is grown predominantly in western Kentucky and Tennessee. The farmers of these counties are being asked to absorb reductions of 10 to 30 percent of their incomes as a result of these taxes. No farmer can absorb that kind of loss, and the towns and industries that rely on these farmers for revenue and business cannot either. Tobacco is the lifeblood of Kentucky agriculture and many of the communities of western and southern Kentucky. I support the hard-working tobacco farmers and workers of our country, and I will work hard to defeat these outrageous tax proposals.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, November 23, 1993, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 2

9:30 a.m.

Governmental Affairs

Regulation and Government Information Subcommittee

To hold hearings to examine the use of new technologies to improve Government service and reduce costs.

SD–342

DECEMBER 15

9:30 a.m.

Indian Affairs

To hold hearings on S. 1216, to resolve the 107th Meridian boundary dispute between the Crow Indian Tribe, the Northern Cheyenne Indian Tribe, and the United States and various other issues pertaining to the Crow Indian Reservation.

SR–485

JANUARY 27

2:00 p.m.

Indian Affairs

To hold hearings on H.R. 734, to amend the Act entitled "An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona."

SR–485