LEGISLATION TO PROVIDE VETERANS BENEFITS TO MEMBERS OF THE PHILIPPINE COMMONWEALTH ARMY AND THE MEMBERS OF THE SPECIAL PHILIPPINE SCOUTS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. GILMAN. Mr. Speaker, I am proud to introduce legislation to amend title 38, of the U.S. Code, to provide that persons considered to be members of the Philippine Commonwealth Army veterans and members of the Special Philippine Scouts—by reason of service with the Armed Forces during World War II—should be eligible for full veterans benefits from the Department of Veterans' Affairs.

We must correct the grave injustice that has befallen this brave group of veterans, since their valiant service, on behalf of the United States, during World War II.

ON July 26, 1941, President Roosevelt issued a military order, pursuant to the Philippines Independence Act of 1934, calling members of the Philippine Commonwealth Army into the service of the United States Forces of the Far East, under the command of Lt. Gen. Douglas MacArthur.

For almost 4 years, over one hundred thousand Filipinos, of the Philippine Commonwealth Army fought alongside the Allies to reclaim the Philippine Islands from Japan. Regrettably, in return, Congress enacted the Rescission Act of 1946. This measure limited veterans eligibility for service-connected disabilities and death compensation and also denied the members of the Philippine Commonwealth army the honor of being recognized as veterans of the United States Armed Forces.

A second group, the Special Philippine Scouts called New Scouts who enlisted in the U.S. Armed Forces after October 6, 1945, primarily to perform occupational duty in the Pacific, were similarly excluded from benefits.

I believe it is long overdue to correct this injustice and to provide the members of the Philippine Commonwealth Army and the Special Philippine Scout with the benefits and the services that they valiantly earned during their service in World War II.

Accordingly, I have introduced legislation, H.R. 836 that will provide veterans of the Philippine Commonwealth Army and the Special Philippine Scouts with the benefits, the compensation, and most importantly with the recognition they courageously earned.

I urge my colleagues to carefully review this legislation that corrects this grave injustice and provides veterans benefits to members of the Philippines Commonwealth Army and the members of the Special Philippine Scouts.

Mr. Speaker, I request that the full text of H.R. 836 be included at this point in the RECORD.

H.R. 836

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 ''Filipino Veterans Equity Act of 1995''.

SEC. 2. CERTAIN SERVICE IN THE ORGANIZED MILITARY FORCES OF THE PHILIPPINES AND THE PHILIPPINE SCOUTS DEEMED TO BE ACTIVE SERVICE.

(a) IN GENERAL.—Section 107 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out ''not'' after ''Army of the United States, shall''; and

(B) by striking out '', except benefits under—'' and all that follows and inserting in lieu thereof a period; and

(2) in subsection (b)—

(A) by striking out ''not'' after ''Armed Forces Voluntary Recruitment Act of 1945 shall''; and

(B) by striking out ''except—'' and all that follows and inserting in lieu thereof a period.

(b) CONFORMING AMENDMENTS.—(1) The heading of such section is amended to read as follows:

''§ 107. Certain service deemed to be active service: service in organized military forces of the Philippines and in the Philippine Scouts''.

(2) The item relating to such section in the table of sections at the beginning of chapter 1 of such title is amended to read as follows:

''107. Certain service deemed to be active service: service in organized military forces of the Philippines and in the Philippine Scouts.''.

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act shall take effect on .

(b) APPLICABILITY.—No benefits shall accrue to any person for any period before the effective date of this Act by reason of the amendments made by this Act.

HONORING SIOUX TAYLOR

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. ENGEL. Mr. Speaker, today I speak to honor a woman who has done so much for the people of her community, her city and her State. Sioux Taylor has been active in her community, serving since 1992 as commissioner of the Mount Vernon Recreation Dept. and for 14 years before that as executive director of the Mount Vernon Youth Bureau.

But her contributions exceed that service. Since receiving her masters of science from New York University she has served in many capacities; as a member of the steering committee, New York State Coalition for the Aging, chairperson of the Mount Vernon Chapter of the Martin Luther King, Jr., Institute for Social Change, president of the lay organization, Allen Temple AME Church, as a district leader of the Mount Vernon Democratic Party since 1978, and as a member of the executive committee of the Mount Vernon Council Community Services. She was named 1988 social worker of the year for Westchester County and a year later, social worker of the year: New York State. She was awarded the second annual Governor's Award for African-Americans of Distinction. She has served as the convener and first president of Southern Westchester NOW and is a founding member of the National Women's Political Caucus and the Westchester Black Women's Political Caucus.

On her retirement, Sioux Taylor leaves her community far richer for her work. She has been a great help to me, serving as a guide and advisor so I could better represent Mount Vernon in Congress. I join with everyone there in thanking her for all she gave.

ON EDUCATION

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to raise the issue of our commitment to our young people. What can we in Congress really do to help them into the 21st Century? What can we do to make sure they have a future? What will we do to make sure they are ready to compete in a global economy?

Mr. Speaker, you know what we have to do. Everyone in this chamber knows what needs to be done. Education, Education, Education. Fix our schools infrastructure, make our schools safer and give our schools standards that make sense.

With all this talk of bipartisanship politics—and I have to admit the members on the other side of the aisle have come a long way from the last Congress when they proposed the largest education cuts in history and wanted to abolish the Department of Education—maybe we can do something this term for our young people. Maybe we can agree that Pell grants need be raised. Maybe we can agree that we can give hope to our young people that they have a chance to go to college if they want to go—that their parents will get a break from the huge financial burden of sending their children to college.

Mr. Speaker, we know what we have to do this term, we know what the American people want us to do for our schools and their children. Let's get about the people's business and get it done, let's get going for the sake of our children and for the sake of the future of this country.

MODERNIZING THE WHITE COLLAR EXEMPTION OF THE FAIR LABOR STANDARDS ACT

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. PETRI. Mr. Speaker, on February 6, 1997, I introduced a bill, H.R. 647, to clarify and modernize the white collar exemption of the Fair Labor Standards Act. I hope this bill will receive close attention during this session of Congress.

The Fair Labor Standards Act is intended to protect workers with provisions like the minimum wage and the 40-hour workweek. As a result, any attempt to tinker with the FLSA is immediately perceived as an attack on these basic protections or at least is so portrayed by political opponents. It is apparent, however, that after a half century of hands-off politics, we are left with a law that is out of step with the times and needs improvement.

Two recent developments have brought the issue to a head. First, disgruntled employees have begun to use the FLSA's salary basis

test as a tool for seeking revenge and not for logically distinguishing exempt from nonexempt employees. They do this by claiming that anyone subject to a pay reduction for taking partial day leave is not paid on a salary basis and is therefore entitled to overtime pay, including retroactively. The problem would not be so bad if it were limited to a few individual overtime awards; but it is not. Instead, seizing upon a two-word phrase in the regulations, employees and their attorneys have argued that everyone theoretically subject to a technically flawed payroll policy is entitled to the same windfall—regardless of whether the flaw affected any particular employee's pay. Employers, of course, rarely issue separate payroll policies for different groups of exempt employees; thus, every employee, up to the top levels of the corporate boardroom, becomes an equally viable candidate for a large windfall. The potential overtime liability is as enormous as it is irrational.

Furthermore, the FLSA's duties test is being applied on an increasingly arbitrary basis. Concepts like ''discretion and independent judgment'' have always been difficult to define. These ideas seemed manageable in the era of assembly lines and hierarchical management structures, but this has radically changed. Instead, technology has diversified job duties, service-based employment has proliferated, and even old-line manufacturing operations have moved to team management concepts. In this environment, employers can no longer rely on cookie-cutter paradigms in making duties judgments. Employers often have to guess—and too many are guessing wrong. Even the courts struggle to achieve consistency, reaching irreconcilable results in cases involving the growing ranks of quasi-professionals such as accountants, engineers, insurance adjusters, and journalists.

The legislation I have introduced addresses these problems in three separate ways. First, it restores original understandings of the salary basis test by requiring the Department of Labor and the courts to focus on actual pay reductions rather than speculation as to potential deductions under some nebulous policy. The FLSA still will protect exempt employees from inappropriate practices, since regulatory provisions denying exempt status for employees experiencing actual salary deductions for taking partial day leave would remain unchanged. My legislation, however, will prevent employees from using a policy's theoretical application to extort huge overtime windfalls for company-wide classes of highly paid employees who never could have imagined themselves as nonexempt laborers.

Second, my proposal will address perhaps the most confusing and indefensible requirement among the FLSA's duties tests: the attempted distinction between ''production'' and ''management'' workers. Under current regulations, for example, an administrative assistant might meet exemption standards simply by opening a management executive's mail and deciding who should handle it, because such a job is ''directly related to management policies or general business operations of the employer or the employer's customers.'' On the other hand, employees with far more sophisticated, challenging, and lucrative jobs may be nonexempt simply because they work on production tasks. The regulations reasonably expect an administrative employee to exercise a certain level of discretion and independent judgment, and my legislation would not alter that requirement. There is no reason to think, however, that a production or management label on the object of an employee's discretion or judgment has anything to do with that employee's professionalism, or the need for FLSA protections. Therefore, my bill eliminates the requirement that the employee's exercise of discretion and judgment be ''directly related to management policies or general business operations of the employer or the employer's customers.''

Finally, my legislation would create an income threshold that automatically exempts from FLSA scrutiny the highest paid strata of the workforce. This would directly reverse the trend toward questionable and irrational overtime awards for highly compensated employees. There is no reason that the FLSA, which was passed to protect laborers who ''toil in factory and on farm,'' and who are ''helpless victims of their own bargaining weakness,'' should ever be interpreted to protect workers making high five-figure or six-figure incomes. Yet, without considering the policy implications, courts are reaching such conclusions on an alarmingly frequent basis.

A worker drawing a large salary must perform some valuable services for an employer. Why, then, should that employer have to satisfy a complex set of artificial and archaic duties tests to prove that the employee is valuable? A worker drawing a large salary also must possess considerable bargaining leverage. Why then, should employers be forced, regardless of the employee's needs or preferences, to calculate paychecks only in the inflexible manner dictated by Government salary basis regulations?

The FLSA, in nearly six decades, has strayed from its laudable goal of protecting the poorest and weakest laborers from workplace abuses. The Department of Labor and the courts need to refocus their efforts. By directly exempting highly paid employees and by making long overdue adjustments to the salary and duties tests, my proposal goes a long way toward providing this new direction.

THE 1998 BUDGET

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, February 19, 1997, into the CONGRESSIONAL RECORD.

THE PRESIDENT'S 1998 BUDGET

The most important document in the government is the budget. It is a plan of how the government spends your money, how it pays for its activities, and how it borrows money to pay the bills. It affects the nation's economy, and it is affected by that economy. This month President Clinton sent his 1998 budget to Congress.

The President submitted a $1.687 trillion budget. With revenues projected at $1.567 trillion, that leaves a $120 billion deficit, down slightly from $126 billion in 1997. The President lays out a plan to eliminate the deficit by 2002, while protecting Medicare and Social Security without raising costs to beneficiaries. Unlike previous years, congressional leaders in both parties say the President's plan is not ''dead on arrival,'' and they will use his proposal as a starting point for budget negotiations.

The biggest spending in the President's budget goes for Social Security ($381 billion), Medicare and Medicaid ($310 billion), defense ($260 billion), and interest on the national debt ($250 billion). Non-defense discretionary programs, including education, training, research, housing, infrastructure, and law enforcement, receive a total of $287 billion. The downsizing of the federal workforce continues, with a 14% reduction on track for 1999. More than 250,000 positions have already been eliminated.

Over the next five years, the President would cut back discretionary spending by $137 billion and Medicare and Medicaid by $122 billion. The plan would raise $88 billion by closing tax loopholes, imposing new user fees, and auctioning new television broadcast spectrum rights. The President would restore $18 billion for nutrition programs cut in last year's welfare reform law, and cut taxes for middle-income individuals and certain small business by $98 billion.

The President projects a continuation of a good economic growth and no acceleration of inflation. He believes interest rates will fall markedly as a result of balancing the budget. The President's budget further reduces the deficit and provides middle class tax relief, but it does not do enough to boost investment in the future.

New Priorities: Within his plan, the President has proposed a significant realignment in government priorities. First, the President would increase our emphasis on education by expanding everything from the Head Start program for pre-schoolers to tax credits for college tuition and adult job training. Second, the President would extend health care coverage to children and unemployed families who currently lack health care coverage.

It is appropriate to reassess our proprieties, even as we cut back on the scope of government programs. The President's emphasis on education reflects growing public sentiment that we should pay more attention to the problems of our education system. Health care, especially for children, remains a critical issue for many families. I agree with these priorities, but have concerns about the specifics. Some of the President's education plans might create as many risks as rewards. For example, the tax credit for college students with a B average could push colleges to raise tuition, pressure professors to boost student grades, or require the IRS to monitor college transcripts. In broadening health care coverage, we must be careful not to create new runaway entitlements. In prioritizing budget cuts, we should also remember that the major cuts in spending in the last Congress were on assistance to the poor. The rest of us got a bye.

Other Investment: The President misses the mark by adding new investment only in education. Spending on roads, bridges, harbors, airports, and water systems, along with research in science and technology, is essential for new economic growth and for an increase in our living standards. I am concerned that the President would not increase this spending to keep up with inflation—or our global competitors. My view is that the nation's major economic problem is slow growth. We must accelerate economic growth by increasing investment in infrastructure and research.

Long-term changes: A key question is whether or not the budget will remain balanced beyond 2002. My concern is that unless the President and Congress make sweeping changes in the budget now, the deficit will bounce back after 2002. The President postpones the tough budget choices by shifting too many cuts to the last 2 years of his