where the witnesses or prosecutors or judges are attacked by packs of lawyers using the media as a way to avoid guilt, although the guilt is never denied. This will not do in a great country. It will not do among free people.

Humanity and pity are the two other values mentioned by Tolstoy. A strong feeling of humanity would make us evermore attentive to problems of poverty and education, and to seeing that every American is treated fairly and has a fair chance. Pity is more for the individual basis, but is a mark of decency—a standard to which we can all repair.

I hope that as you leave this great institution, you will take with you, as a part of your education, love of country and love of your fellow citizen. Even with its blemishes, ours is a great country; the greatest. I have always said that I am proud to be a Southerner, but am proudest of all to be an American.

And now ends your last lecture.

## A TRIBUTE TO MINNETONKA POLICE CHIEF RICHARD W. SETTER UPON HIS RETIREMENT

### HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 6, 1999*

Mr. RAMSTAD. Mr. Speaker, I rise today to pay tribute to a great Minnesotan who represents the absolute best in public service for his sterling leadership and remarkable professional career in law enforcement.

You see, Mr. Speaker, my hometown's Director of Public Safety and Chief of Police in Minnetonka, MN, Richard W. Setter, has had a profound impact on my career.

After 14 years in his current position, and following four distinguished decades in law enforcement, Richard Setter is retiring. He leaves an immense legacy.

Tough. Fair. Integrity. A real leader. Those are just a few of the descriptions that come to mind when you think about Dick Setter's impressive career.

He has superbly led the Minnetonka Police Department since April 30, 1984. In 1994, when he became Director of Public Safety as well as Chief of Police, he smoothly and effectively merged the police, fire and emergency management departments. With 149 full and part-time personnel serving our city of 53,000 people, Chief Setter has helped make the Minnetonka Department of Public Safety well known throughout Minnesota as a shining lighthouse of an example for other communities.

Mr. Speaker, when it comes to implementing community-oriented policing, organizing neighborhood crime watch groups, forging cooperative anti-drug task forces and creating anti-crime programs at multiple housing and shopping center sites, Chief Setter's Minnetonka Public Safety Department has shown the way. And when it comes to steering youth away from at-risk behavior, Dick Setter has been a real trend-setter. He knows how important it is to prevent crime by fighting its root sources and by putting resources into the front end, which saves our communities and the nation expensive resources in the long run.

It has been a long and remarkable run for Chief Setter, who has been honored repeatedly for this pioneering, visionary police work. The Boy Scouts of America named him recipient of the Silver Beaver and Youth Services Awards. Rotary selected him as a prestigious Paul Harris Fellow. The NAACP has praised Dick's public service. And our area's largest radio station, WCCO, has chosen him for its well-recognized ''Good Neighbor'' award.

This record of excellence pervades all that Dick Setter touches. Starting with his first position as a patrol officer in rural Owatonna, MN, and continuing wherever he has gone—including 23 years as a patrol officer, investigator, supervisor and chief of police in nearby St. Louis Park—Dick has been successful in making our streets, schools, and neighborhoods safer.

Dick Setter's superior performance has resulted in his repeatedly being asked to lead important law enforcement and crime-fighting efforts. Most recently, Chief Setter served as President of the 1,500-member FBI Law Enforcement Executive Development Association. He has been a member of that group for 17 years and in a leadership position for 12 years, including as a counselor at the FBI Academy in Quantico. He has also served as Chair and Vice Chair of the Minnesota Peace Officers Standards and Training Board, President and Vice President of the Hennepin County Chiefs of Police, a member of the board of the Minnesota Chiefs of Police Association, and in many other leadership positions.

Mr. Speaker, by any measure of merit, Chief Setter is one of America's best and brightest law enforcement professionals, and he will be sorely missed by the people of Minnetonka.

I truly value all the wise counsel Chief Setter has provided me through the years on so many matters. It is not possible to find words adequate enough to properly convey my appreciation for all Dick Setter has done for me and for the people of our community and State.

Mr. Speaker, Dick Setter's influence on my career has been substantial. As a direct result of my interaction with him, I have made the fight against crime and drugs—a battle which has ravaged our cities, infiltrated our schools and dramatically affected our neighborhoods and families—my top priority over the past 18 years as a State senator in Minnesota and here in Washington.

Because of Dick Setter and other good friends in law enforcement, I have successfully sought leadership positions in government to make a real difference on crime and drug policy, such as my present position as Co-Chair of the House Law Enforcement Caucus.

Mr. Speaker, I want to wish Dick Setter the very best in all his future endeavors, including his professorship at the Minnesota State University in Mankato—where he has been inspiring future law enforcement officers for two decades. I can't imagine a better role model.

Thanks again, Dick, for all you have done for the people of Minnetonka and for our State and Nation. God bless you and your wonderful wife Patty. You have made our community immeasurably stronger and safer, and we're deeply grateful!

## INTRODUCTION OF THE MEDICARE HMO IMPROVEMENT ACT OF 1999

### HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 6, 1999*

Mr. GEJDENSON. Mr. Speaker, I rise today to introduce the Medicare HMO Improvement Act of 1999.

By the end of 1998, over 8,000 senior citizens in my district—and over 13,000 throughout Connecticut—received perhaps the most frightening news any American can get. Their Medicare HMO's informed them that they are terminating their health insurance by the end of the year. Some of these seniors were recruited only months before through aggressive company marketing campaigns.

Insurers came to the Federal Government in the early 1980's and said ''We're private industry, we can run Medicare better than you can while giving more services to seniors. Give us a chance.'' Well, we gave them a chance and they let our seniors down. The companies thought they could just jump in and jump out of my district, and others around the country, without regard to the health and well-being of the seniors that they had signed up just months ago. Across our Nation, Medicare HMO's have terminated health insurance for nearly 440,000 seniors. That is not acceptable. That is not a responsible way to operate a business whose primary purpose is to ensure people's health.

The termination announcements sent shock waves through Tolland, Windham and New London counties. At a public meeting I hosted with Senator CHRIS DODD in September 1998 following the announcement that 7,000 seniors would lose their coverage by year's end, 400 seniors gathered to hear about their options for the future. The tension, anxiety and desperation of my constituents pervaded the room. One of my constituents, whose wife had recently had a stroke, was so upset about losing health insurance that after asking a question, he had a heart attack. That man, Frederick Kral, died on the way to the hospital.

Under the current system, Medicare HMO's can act with impunity. There no accountability, no responsibility. Profits are all that matter. Patients and quality health care are secondary. This is just wrong.

My legislation—the Medicare HMO Improvement Act of 1999—will inject some accountability into the Medicare HMO system. It will change the contract term from 1 year to 3 years. This change is designed to discourage HMO's from making short-term promises to seniors only to terminate coverage a year later when they don't make quite as much money as they hoped. It gives the Secretary of Health and Human Services (HHS) authority to enjoin contract terminations for up to one year if public health will be seriously threatened, insurance coverage will be compromised, or the Governor of the state affected requests that the Secretary exercise this authority.

Moreover, my legislation is designed to discourage HMO's from ''cherry picking'' between regions within a State by offering coverage only in those areas with the highest reimbursement rates. It accomplishes this goal by requiring the Secretary of HHS to terminate all contracts a Medicare HMO has for a metropolitan statistical area (MSA) if that HMO terminates coverage in any portion of the MSA in

that state. I selected the MSA as the geographical unit because it is already used in the law and should discourage ''cherry picking'' without reducing coverage on a state-wide basis. Finally, if a company terminates coverage and a beneficiary is currently receiving treatment, this bill requires the HMO to provide 90 days of coverage to allow the patient to continue to receive such treatment. This will ensure that patients under active treatment will have a few additional months to make the transition to another doctor or health plan.

Mr. Speaker, what Medicare HMO's did in my district—and what they are doing across the country—is unreasonable and irresponsible. The Medicare HMO Improvement Act is a reasonable approach which will provide badly needed protection to older Americans. I invite my colleagues to join me as co-sponsors.

## IN MEMORY OF HAL WALSH

### HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 6, 1999*

Mr. DEUTSCH. Mr. Speaker, I rise today to recognize and commemorate the many contributions Hal Walsh made to the Key West community. Hal was the executive director of Truman's Little White House Museum and a columnist for the Key West Citizen newspaper.

Hal came to Key West from New York City in 1993 after a career as a stock broker. His lifelong interest in American history drew him to the Truman Little White House Museum. In addition to his dedicated service as museum director, Hal was also an active member of the Lambda Democrats and was a founder of the Key West Gay and Lesbian Center. He never hesitated to keep me apprised of how politicians on every level of government were doing—right or wrong—regarding issues of concern to the gay community. He was an articulate and passionate advocate who was never afraid to speak his mind.

Hal's other affiliations include being first vice president of Old Island Restoration Foundation and a member of the Lower Keys Friends of Animals. His devotion to his cocker spaniels, Savannah and Sachem, rang clear in his weekly newspaper column which often included their antics.

A Key West Citizen editor Bernie Hun wrote, ''Hal Walsh was a big man in every sense . . . in generosity and spirit.'' He will be truly missed by those whose lives he touched.

## MUNICIPAL BIOLOGICAL MONITORING USE ACT OF 1999

### HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, January 6, 1999*

Mr. HEFLEY. Mr. Speaker, in this new Congress, I am again introducing the Municipal Biological Monitoring Use Act (''MBMUA'' or ''Biomonitoring Bill''). This bill amends the federal Clean Water Act (''CWA'' or ''Act''). I would respectfully request its consideration this year as separate legislation or in connection with other bills to amend the CWA.

The purpose of this legislation is to ensure that our nation's wastewater, stormwater and combined sewer facilities owned by local governments are not unfairly exposed to fines and penalties under the federal Clean Water Act when biomonitoring or whole effluent toxicity tests conducted at those facilities indicate an apparent test failure.

Similar legislation applicable to sewage treatment facilities was introduced in previous Congresses. In recent years, various offices of EPA have sought to apply WET test limitations to municipal separate storm sewer systems, combined sewer overflows, and other wet weather facilities. Therefore, as in the last Congress, this bill would also apply to wet weather facilities owned by local or state governments.

Enforcement of biomonitoring test failures is a concern of local governments nationwide. Where whole effluent toxicity is a NPDES permit limit, the limit is defined as a test method as provided in EPA regulations at 40 C.F.R. part 136. Any permit with whole effluent toxicity tests expressed as a discharge limit is subject to enforcement by EPA or a state delegated to implement the NPDES permit program, or under the Act's citizen suit provisions. Fines and penalties for such tests failures are up to $27,000 per day of violation. These tests are known, however, for their high variability and unreliability. Furthermore, because the source of WET at any given facility is usually not known until the tests are conducted, local governments are unable to take appropriate action to guarantee against test failure, and hence permit violation, before such violation occurs.

The bill we reintroduce today would retain the use of biomonitoring tests as a management or screening tool for toxicity. Our bill would, however, shift fine and penalty liability from liability for test failures to liability for failure to implement required procedures for identifying and reducing the source of WET when detected. In so doing, this legislation would in the long-run strengthen environmental protection by removing the enforcement disincentive for its use.

BACKGROUND

EPA or delegated states regulate wastewater discharges from sewage treatment, separate storm sewers and combined sewer systems through the NPDES permit program. NPDES permits include narrative or numeric limitations on the discharge of specifically named chemicals. Treatment facilities can be and are designed and built in order to assure compliance with such chemical specific limitations before a violation occurs. Compliance is determined by conducting specific tests for these specifically known chemicals.

NPDES permits may also include limits to control the unspecified, unexpected, and unknown toxicity of the sewage plant effluent which is referred to as whole effluent toxicity or WET. The authority for biomonitoring tests was added to the Clean Water Act by the 1987 amendments. Since then, EPA has issued regulations describing biomonitoring or WET test methods under Part 136, permit requirements under Part 136, and enforcement policies for the use of WET tests as a monitoring requirement or as a permit effluent limitation at POTWs. Compliance with WET as limits is determined by the results of biomonitoring or WET tests.

Biomonitoring or WET tests are conducted on treatment plan effluent in laboratories using small aquatic species similar to shrimp or minnows. The death of these species or their failure to grow or reproduce as expected in the laboratory is considered by EPA to be a test failure and therefore a permit violation.

Where such tests are included in permits as effluent limits, these test failures are subject to administrative and civil penalties under the CWA of up to $27,000 per day of violation. Test failures also expose local governments to enforcement by third parties under the citizen suit provision of the Act.

WET test failures can also trigger toxicity identification and reduction evaluations that include additional testing, thus exposing local governments to additional penalties if these additional tests are expressed as permit limits and also fail. The use of biomonitoring test failures as the basis for fines and policies is the issue which this bill addresses.

WET TEST ACCURACY CANNOT BE DETERMINED

EPA recognizes that the accuracy of biomonitoring tests cannot be determined. An October 18, 1995 FEDERAL REGISTER preamble document issued by the Agency in promulgating test methods determined that: ''Accuracy of toxicity test results cannot be ascertained, only the precision of toxicity can be estimated.'' (EPA, Guidelines for Establishing Test Procedures for the Analysis of Pollutants, 40 C.F.R. Part 136, 60 FR 53535, October 16, 1995.)

While the Agency cannot determine the accuracy of such tests, EPA still requires local governments to certify that WET test results are ''true, accurate, and complete'' in Discharge Monitoring Reports (''DMRs'') required by NPDES permits. This is a true Catch–22 requirement.

Laboratory biomonitoring tests are known to be highly variable in performance and results. Aquatic species used as test controls may die or fail to reproduce normally during test performance through no fault of the POTW or its effluent. False positive tests occur frequently. Yet test failure is the basis for assessing administrative and civil penalties.

EPA also recognizes that WET is episodic and usually results from unknown sources. These unknown sources can include synergistic effects of chemicals, household products such as cleaning fluids or pesticides, and illegal discharges to sewer systems. Even a well-managed municipal pretreatment program for industrial users cannot assure against WET test failures.

The inaccuracy and high variability of WET tests is the basis of a judicial challenge to EPA Part 136 WET test methods brought by the Western Coalition of Arid States (''WESTCAS'') in 1996. This litigation was settled by the Agency in 1998 but is still under court jurisdiction and supervision. Under the settlement, EPA agree to conduct additional tests as to the validity of WET testing and the test methods in Part 136. The responsibility for this new effort to justify the technical basis of WET testing is split between the EPA Office of Research and Development and the EPA Office of Water.

Scientific method blank or blind testing for WET tests was conducted by WESTCAS in 1997 preceding the settlement with EPA. These blind tests were conducted by a series of qualified laboratories throughout the United States. The purpose of these blind tests was to quantify the natural level of biological variability in test organisms and the variability inherent in the test procedures themselves.