

It is incumbent upon the Secretary of Health and Human Services to require a reasonable relationship between the pricing of drugs, the public investment in those drugs, and the health and safety needs of the public. Unfortunately, taxpayer accountability was tossed aside when the Nation's reasonable pricing policy on drugs—which was put in place by the bush administration—was dropped in April 1995.

The reasonable pricing clause was dropped after extensive review of the policy, even though the review resulted in no certain recommendations. The rationale for this decision was that "the pricing clause had driven industry away from potentially beneficial scientific collaborations with the Public Health Service." Yet, there was no hard evidence given during the review to show that this was the case—only anecdotal stories by the drug industry.

When 42 percent of all U.S. health care research and development expenditures is paid for by the taxpayer, and 92 percent of the cancer drugs developed since 1955 were developed with Federal funding, we owe it to the taxpayer to give them a fair return on their investment with a reasonable price on the drugs they paid to develop. The Health Care Research and Development and Consumer Protection Act reinstates the reasonable pricing clause and gives the Secretary of HHS the authority to waive the clause when it is determined to be in the public interest to do so.

In determining a reasonable price for a drug, the Secretary shall consider—

The public interest in continued health care research and development;

The contribution of the person marketing such drug to the drug research and development expenses, including the amount, timing, and risk of investment in such research development;

The contribution of the Federal Government to the research and development of such drug, including the amount, timing, and risk of investment in such research and development;

The therapeutic value of such drugs;

The number patients who are expected to purchase drug;

The cost of producing and marketing of such drug;

The cost of therapies which are similar to the therapy using such drug; and

Other relevant factors.

In addition to restoring the reasonable pricing clause, this legislation will promote the research and development of new drugs by requiring the Secretary of Health and Human Services to adopt rules which set out minimum levels of reinvestment in research and development for persons engaged in the manufacture of drugs sold in the United States.

I urge my colleagues to restore accountability to the U.S. taxpayer and support The Health Care Research and Development and Consumer Protection Act.

"IT MATTERS WHEN AMERICA TAKES THE LEAD"—MADELEINE K. ALBRIGHT

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 27, 1996

Ms. ESHOO. Mr. Speaker, in an era of increasing interdependence, no one nation

alone can solve problems that cross national borders. That's why the United Nations [U.N.] was founded 50 years ago. In the last half of this century, the U.N. continues to address international social and economic problems such as terrorism, nuclear proliferation, the spread of disease, environmental degradation, and illicit drug trafficking.

The United Nations is essential: the U.N.'s work benefits the United States and advances America's foreign policy. As the only international organization seeking to save succeeding generations from the scourge of war. U.N. peacekeepers and human rights monitors have helped build democratic forms of government and prevented regional and global conflicts. In an era of stringent domestic budgets, it makes sense to work through the United Nations to solve transnational problems. The United Nations is an investment in the future of our children and the children of the world.

Making the United Nations more efficient: The United Nations has begun to implement internal reforms as the organization prepares for the next century, and yes, there is much that remains to be done. However we, as members of the United Nations, cannot seek reform when we have refused to meet our financial obligations. As U.N. Ambassador Madeleine Albright recently stated, "To achieve reform, you have to be a builder, not a destroyer; you have to embrace change, but you also have to understand that change does not occur without cost."

Our continued commitment: Our concerned constituents are sending personal checks to the United Nations to demonstrate their concern about our financial obligations to the United Nations. These Americans believe the U.N.'s goals are being hindered by the \$1 billion in back dues the United States has withheld. In fact, a recent poll conducted by the U.N. Association indicates that fully 64 percent of Americans believe the Congress should allocate enough resources to pay our dues in full and on schedule.

That's why I'm introducing a concurrent resolution recognizing the important of the United Nations and calling on the United States to meet our financial obligations in a full, timely, and consistent manner. Paying our dues and supporting the ongoing reform efforts will help the United Nations to effectively and efficiently meet the challenges of the 21st century. I urge my colleagues to support this important measure.

WHITE COLLAR REFORM ACT

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 27, 1996

Mr. PETRI. Mr. Speaker, today I am introducing a bill to clarify and modernize the white collar exemption in the Fair Labor Standards Act. I hope this bill will receive close attention in the next Congress.

The Fair Labor Standards Act enjoys a unique status among Federal labor laws. The rights it creates, including the minimum wage and the 40-hour workweek, have become as ingrained as constitutional guarantees. Any attempt to tinker with the FLSA is immediately perceived as an attack on these basic rights or at least is so portrayed by political opponents.

It is now becoming increasingly apparent, however, that more than a half century of hands-off politics has left a law that is seriously out of step with the times. No one is suggesting that the FLSA's fundamental precepts should be rethought in any way. Rather, it is the way the law achieves these ends that needs improvement.

Two relatively 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—not for logically distinguishing exempt from non-exempt employees—but rather for seeking revenge. 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 single two-word phrase in the regulations, employees 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 unexpected largesse. The potential overtime liability is as enormous as it is irrational.

Second, and just as disturbing, is the increasing arbitrariness of FLSA duties tests. Concepts such as discretion and independent judgment have always been difficult to define, but these problems seemed manageable in the era of assembly lines and hierarchical management structures. Today, however, 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 professionals, and journalists.

The legislation I am introducing addresses these problems in three separate ways. First, my proposal will restore 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 actual salary deductions 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 non-exempt 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.

Third, and perhaps most significantly, my legislation would directly reverse the recent trend toward questionable overtime awards for highly compensated employees by creating an income threshold exempting the highest stratum of the workforce from FLSA scrutiny. There is no reason that the FLSA, which was passed to protect laborers who toil in factory and on farm 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 job duty 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 in this direction. My proposal would go a long way—both by directly exempting highly paid employees and by making long overdue adjustments to the salary and duties tests—toward providing this new direction. I ask that a copy of the bill be printed in the RECORD at this point.

A BILL

To amend the Fair Labor Standards Act of 1938 to prescribe a salary base for an exemption of an employee from the wage requirements of such Act and for other purposes.

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

SECTION 1. SHORT TITLE AND REFERENCE.

(A) SHORT TITLE.—This Act may be cited as the "White Collar Reform Act".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provisions, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938.

SEC. 2. SALARY EXEMPTION.

(a) EXEMPTION AMENDMENT.—Section 13(a)(1) (29 U.S.C. 213(a)(1)) is amended by adding after "(1)" the following: "any employee whose rate of annual compensation is not less than \$40,000 or".

(b) DEFINITION.—Section 13 (29 U.S.C. 213) is amended by adding at the end the following:

"(k) For purposes of subsection (a)(1)—

"(1) the term 'annual compensation' includes all amounts reportable to the Internal Revenue Service for Federal income tax purposes by an employee's employer;

"(2) an employee's rate of annual compensation shall be determined without regard to the number of hours worked by the employee and shall be prorated for any employee who does not work for an employer during an entire calendar year to reflect annual compensation which would have been earned if the employee had been compensated at the same rate for the entire calendar year; and

"(3) reasonably anticipated bonuses, commissions, or other elements of annual compensation not paid on an evenly distributed bases throughout the year may be prorated over an entire calendar year or over the portion of the calendar year worked by the employee for the employer in determining the employee's rate of annual compensation."

SEC. 3. ADMINISTRATIVE EXEMPTION EMPLOYEE.

Section 13 (29 U.S.C. 213), as amended by section 2(b), is amended by adding at the end the following:

"(1) The relationship between an employee's job duties and the management policies or general business operations of the employee's employer or employer's customers shall not be considered in determining whether such employee is employed in a bona fide administrative capacity for purposes of subsection (a)(1)."

SEC. 4. EFFECT OF CERTAIN SALARY PRACTICES.

Section 13 (29 U.S.C. 213), as amended by section 3, is amended by adding at the end the following:

"(m)(1) The fact that an employee is subject to deductions from pay for absences of less than a full day or of less than a full pay period shall not be considered in determining whether such employee is an exempt employee described in subsection (a)(1) when there has not been an actual reduction in pay. For purposes of this paragraph, the term 'actual reduction in pay' does not include any reduction in accrued pay leave or any other practice that does not reduce the amount of the employee's pay for a period.

"(2) The payment of overtime compensation or other additions to compensation based on hours worked in excess of a daily or weekly amount shall not be considered in determining if the employee qualifies for the exemption under subsection (a)(1)."

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act and shall apply to any civil action involving section 13(a)(1) of the Fair Labor Standards Act of 1938 which has not reached final judgment before such date.

PROFESSOR HOFFMAN, YOU HAVE
MADE A DIFFERENCE

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 27, 1996

Mr. BARCIA. Mr. Speaker, education is a tool that informs and inspires each of us. And education is immensely influenced by the learned individuals who serve as instructors, teachers, and professors. One of the professors who was a mentor in my instruction was Dr. William S. Hoffman, who on January 1 will be retiring after 32 years at Saginaw Valley State University, my alma mater.

The gentleman has taught some of the most stimulating history classes known to any student. I know how vivid he made some of these events when I was his student. He not only made the event come back to life, he made sure that the significance of it lived on in our understanding and appreciation of what preceded us.

Dr. Hoffman was one of the three original faculty members of Saginaw Valley College, which later became Saginaw Valley State University. He was known for his expertise on Andrew Jackson, one of the key leaders of the Democratic party. Dr. Hoffman is someone who could easily be a member of any President's kitchen cabinet as his expertise provides a clarity of thought that truly allows us to learn from history.

Having taught at Wiley College in Texas, Appalachian State Teachers College in North Carolina, and Bay City Junior College, Delta College, and Saginaw Valley, he has certainly left his impression on great number of students. And with his publication of numerous articles, book reviews, and two books on North Carolina history, he has influenced countless others in appreciating portions of our national heritage.

Dr. Hoffman was certainly deserving of winning Saginaw Valley State University's first Landee Award for teaching excellence. But he will always be remembered as a man who knew history, who imparted its lessons by re-living it in his writings and instruction, and someone who could be counted upon to make a difference for a student, the highest accolade I believe there can be for any academic professional.

Mr. Speaker, as Dr. William S. Hoffman prepares to retire, and his many friends and colleagues at Saginaw Valley State University look forward to feting him prior to his departure, let me urge you and all of our colleagues to join me in wishing this man the very best as he earns his place in history, and moves forward to create even more in his retirement.

A TRIBUTE TO THE ST.
ELIZABETH COMMUNITY HOSPITAL

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 27, 1996

Mr. FAZIO of California. Mr. Speaker, I rise today to recognize the Sisters of Mercy of Auburn in celebration of their 19th anniversary of health care ministry through St. Elizabeth Community Hospital, Red Bluff.

St. Elizabeth Community Hospital has been located in Red Bluff since 1906 when Mother Mary Joseph Bolan saw a need for health care and founded the hospital.

Over the past 90 years, St. Elizabeth has demonstrated dedicated service to the community in providing the highest caliber of health care and improving the quality of life and well-being for the families of northern California.

St. Elizabeth Community Hospital is an invaluable asset to the community, and reflects the talents and commitment of the Sisters, the physicians and employees.

Upon this noteworthy occasion, St. Elizabeth Community Hospital deserves the most sincere congratulations and best wishes for a future filled with continued success.