

EXTENSIONS OF REMARKS

INTRODUCTION OF LEGISLATION

HON. LINDSEY O. GRAHAM

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. GRAHAM. Mr. Speaker, as the 105th Congress addresses the issue of financing campaigns, I believe we must first change the nature of our election cycle and limit the number of terms a Member can serve. The recent elections demonstrate that action on both campaign finance reform and term limits is needed and desired by the American people. Today, I am introducing legislation that combines a solution for achieving term limits and easing campaign finance burdens. This amendment would limit Members of the House to three 4-year terms and limit Senators to two 6-year terms. This is a lifetime ban. It would take effect only on terms of office beginning after the ratification of the amendment. By extending the terms of Representatives from 2 to 4 years, we can better limit the influence of politics and elections in the House and focus on better policies and laws for our country. Additionally, Members of the House would not be burdened by increasingly expensive elections every 2 years because the terms would be increased to 4.

Fundamental institutional change is needed in order to improve the American people's confidence in Congress and to return to the Founding Fathers' ideal of a citizen legislature. We should abide by the will of the people and end career politics as we know it. While term limits will not solve all our country's problems, or the need to overhaul our campaign finance system, it is a large step in the right direction. It continues the process of reform and strengthens the integrity of Congress. Let us succeed where we failed last congress and pass term limits.

IN MEMORY OF HUBERT A. ANDERSON—CIVIL RIGHTS AND WORLD PEACE ADVOCATE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. STARK. Mr. Speaker, today I wish to pay tribute to an educator, activist, and my longtime personal friend, Hubert A. Anderson, who passed away recently in Hopkins, MN, at the age of 68.

I was privileged to know Hubert Anderson at a special time in our lives and in our Nation's history. As a grass roots activist, Mr. Anderson took special interest in civil rights issues and the anti-Vietnam war movement. In 1970, a group of 31 Americans, including Hubert Anderson and myself, traveled to Paris with the People's Commission of Inquiry to discuss solutions to the war. Anderson, along with our group, participated in a week of talks in

France with North Vietnamese and South Vietnamese delegations and the American ambassador. During our stay he encouraged an open discussion in which he questioned, challenged and explored solutions to this problem of international scope.

Hubert Anderson was born and raised in Dwight, ND. He attended high school in Wahpeton, ND, and in Minneapolis, dropping out during his senior year to join the Navy. He was stationed in Bermuda for part of his tour and was chosen to run the admiral's launch that took President Truman deep sea fishing. An avid sportsman, he played offense and defense and was captain of the Navy football team. He contracted rheumatic fever during his service and suffered from its effects for the rest of his life.

Hubert finished his high school equivalency degree in the military. He went on to the University of Minnesota, the Wahpeton State School of Science, and graduated magna cum laude from Moorhead State University. He later earned a master's degree and completed doctoral work at the University of Minnesota. During his early college career, he played AAA baseball with the Minot, ND, Mallards and pitched against such notables as Satchel Paige and Roger Maris.

As an English, drama and debate teacher at Hopkins High School for 30 years, Hubert Anderson was a mentor to students in and out of the classroom. He led several debate teams to State championships, served on the faculty senate, and supported the American Field Service Program.

Hubert Anderson will be remembered as an avid reader, a lover of language, and a remarkable individual whose ideas reached far and wide. His genuine enthusiasm for American politics prompted people of all ages to become interested in government and civil service. Because I experienced Hubert Anderson's vitality and wisdom firsthand, I've no doubt that this tireless role model made Hopkins, MN, a richer place to live.

As friends and family reflect on his lifetime of achievement and scholarship, it is only fitting that we also pay tribute to this great man and good friend.

THURGOOD MARSHALL
COURTHOUSE BILL

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. GILMAN. Mr. Speaker, I rise today in strong support of the Thurgood Marshall Courthouse bill.

I do not believe that I am exaggerating when I state that history will regard Justice Marshall as one of the most influential individuals in the fields of constitutional and civil rights law in the 20th century.

Justice Marshall had a long and distinguished career as an assistant and later chief

counsel for the NAACP. As the lead attorney in *Brown v. Board of Education*, Marshall was instrumental in convincing the Supreme Court to overturn the 1898 separate but equal ruling of *Plessy v. Ferguson*, and begin the process of ending discrimination in public education.

As a justice of the U.S. Court of Appeals in the Second Circuit, Marshall wrote over 150 decisions which included support for immigrant rights, limiting government intrusion in illegal search and seizure, double jeopardy and right to privacy cases. As U.S. Solicitor General, Marshall won 14 of the 19 cases he presented before the Supreme Court.

In 1967, Thurgood Marshall became the first African-American appointed to the U.S. Supreme Court. He served as an Associate Justice on the Court for 24 years, retiring in 1991. He left a strong legacy of commitment to the weak and poor in America's justice system.

Accordingly, I strongly urge my colleagues to join me in supporting this important legislation, which will honor the memory of Justice Marshall and help preserve his legacy, by designating the U.S. courthouse under construction in White Plains, NY, as the Thurgood Marshall U.S. Courthouse.

TODD LANE ELEMENTARY'S GIFT
TO THE BEAVER COUNTY TIMES
GIVE-A-CHRISTMAS CAMPAIGN

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. KLINK. Mr. Speaker, I rise today in order to recognize the students and faculty of Todd Lane Elementary School in Center Township, Pennsylvania.

For the past quarter century, the Beaver County Times, in conjunction with the Salvation Army holds a donation drive known as the Give-A-Christmas Campaign. Its goal is to provide food and other necessities during the holiday season to those who are less fortunate. This year, like the past 20 years, the students and faculty of Todd Lane Elementary have participated in the Give-A-Christmas campaign. In an unprecedented showing of support Todd Lane was able to raise over \$10,650 in less than 1 month.

Through various donations as well as a highly successful candy sale, the students and faculty were able to give their largest donation ever to the Salvation Army. In the words of Principal John Zigerelli, "This year's record-breaking total collection is a testimony to that accomplishment." Furthermore, the effort put forth by Todd Lane shows a true commitment to their community, the 4th Congressional District, and our Nation.

With the help of the students and faculty of Todd Lane Elementary this year's goal of \$67,500 was met and exceeded by thousands. Since the advent of the Give-A-Christmas Campaign, more than \$1 million has been contributed. Todd Lane Elementary has contributed over \$115,000 or 11 percent of that generous amount.

• 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.

I would like to take this opportunity to applaud the students and faculty of Todd Lane Elementary as well the residents of Center Township who have donated year after year. Without you, Give-a-Christmas would not be possible. Your contributions have not gone unnoticed. Also a special thanks to Todd Lane's program coordinators: Larry Deep, Paul DeFilippi, Peggy Coladonato, Cindy Halsac, Kathy Fouse, and Principal Zigerelli. They should all be commended for their outstanding efforts.

On behalf of the thousands of families who have been fed, clothed and provided with Christmas gifts, I stand before my fellow members of Congress and thank you for a job well done. You have demonstrated the true meaning of the holiday season.

COLLEGE OF SAN MATEO'S 75th
ANNIVERSARY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. LANTOS. Mr. Speaker, I would like to bring attention to the outstanding achievements of the College of San Mateo and congratulate the institution on its 75th anniversary. As one of the leading community colleges in California, I have the pleasure of having this college in my district.

Founded in 1922 as the first community college on the Bay Area Peninsula, the College of San Mateo rose to meet the needs of the community. As the cost of universities rose, educators in San Mateo saw the need to provide education for those who could not afford 4 year universities. The College of San Mateo acted as a bridge to the University of California and Stanford when higher education became increasingly more important. Here, students could save money and still receive a high quality education.

The College of San Mateo never stopped serving the community. When World War II struck, the college became the top support center in northern California. As Dean Morris stated:

If the need was to have remedial courses, then there would be remedial courses. If a trade school was needed, then trade school classes would be provided. If the community requested adult education, then an adult school would be formed.

The college became an invaluable asset to the community and a most valuable tool for the economic future of the region.

Hundreds of thousands of students have been educated by the College of San Mateo since its founding 75 years ago. The college has helped start two other community colleges in the county and has been the only community college in northern California to sustain both a television and radio station.

As the college of San Mateo approaches the 21st century, the outlook of the community is very bright. For those student that are unable to attend 4 year institutions, this college is an equal alternative. I am proud to acknowledge the outstanding job the College of San Mateo has done educating our community for the past 75 years and will continue into the next century.

INTRODUCING THE ATOMIC
VETERANS MEDAL ACT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. RICHARDSON. Mr. Speaker, today I am introducing legislation that will award a medal for the service of America's atomic veterans.

My bill will recognize the sacrifice that these long forgotten veterans gave to their country. These soldiers were placed in harm's way by their country, and in many cases they were unaware of the dangers they faced. Many of these veterans have suffered severe health problems due to the radiation exposure they suffered during their service. Recognizing these veterans with a medal that signifies their extraordinary contribution to our national defense is the right thing for America to do.

I hope that you will join me in working to pass this bill in the 105th Congress and give long overdue recognition to these brave Americans.

TRIBUTE TO JOHN E. KOBARA

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding public service of John E. Kobara, the departing associate vice chancellor of university relations at UCLA. For the last 20 years, John has been leading and managing diverse, complex, and innovative organizations with close ties to the higher education community.

John is a graduate of UCLA where he received his BA in political science and sociology before going on to earn an MA in urban studies at Occidental College, and an MBA in marketing and finance at the University of Southern California. As an undergraduate he served on the Undergraduate Student Association, the student body of UCLA, demonstrating an early thirst for involvement in the affairs of the campus and an abiding concern for its welfare. These traits, coupled with his love of UCLA, would become landmarks of his professional career with the university. John is deeply committed to the realm of education and to addressing the issues of diversity and multiculturalism in education and in society at large.

As associate vice chancellor for university relations at UCLA, John has served as the chief external relations officer for the institution, overseeing the public relations, alumni relations, campus-wide marketing, government affairs and special events, and protocol offices. Bringing tremendous vision to this role, he has been instrumental in UCLA's embrace of advanced information technology in its external affairs programs, and in guiding the university onto its present course as a leader on the information superhighway. Prior to serving in this role, John served as executive director of the UCLA Alumni Association. His multifaceted career has also included positions as vice president and general manager of a cable television station, president of a theater, and president of a trade association.

John is a masterful communicator, highly regarded for his ability to further mutually respected relationships between and among communities. Committed to empowering others to recognize and actualize their full potential, John delivers dozens of presentations each year on career change, technology, networking, personal growth and empowerment. A Coro alumnus with an extensive record of community involvement, he serves on boards of the Coro Foundation, the East West Players, the Rose Bowl Operating Co., the Asian Pacific Women's Center, and the Council for Advancement and Support of Education.

Mr. Speaker, I ask that you join me, our colleagues, John's wife, Sarah, and his three children, in recognizing the many important contributions of this remarkable man. For his many year of dedicated service, it is only appropriate that the House recognize John Kobara today.

HEALTH INSURANCE ASSISTANCE
FOR THOSE 55 AND OLDER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. STARK. Mr. Speaker, in the 104th Congress, I introduced legislation to provide assistance in obtaining health insurance to those 55 and older. Today, I rise again to introduce the same legislation to make the COBRA health continuation program available to anyone between age 55 and the time they become eligible for Medicare.

The 1990's have confronted us with many difficult issues, both foreign and domestic. One issue in particular impacts an everincreasing segment of our population. According to statistics from the Department of Labor, in 1988, there were 13.1 million private sector retirees and 4.9 million had health insurance coverage. In 1994, the number of private sector retirees had risen to 17.4 million but the number of individuals covered by health insurance had declined to 4.7 million. In other words, the proportion of private sector retirees covered by health insurance from a former employer dropped from 37 percent in 1988 to 27 percent in 1994.

As the level of employer-provided insurance declines and as hundreds of thousands of older workers face early retirement because of corporate down-fixing, layoffs, and restructuring, the problem of health insurance for those not-yet-eligible for Medicare is becoming more and more serious.

As Corporate America continues to focus on profit levels, often at the expense of providing health insurance benefits to workers, these individuals face an uncertain and frightening future in the health care arena. The steady decline in coverage among active workers translates into lower likelihood of retiree health benefits being available.

The frightening reality of this situation will only get worse. In 1994, almost 24 percent of retirees—4.1 million, were between the ages of 55 and 64. The pressure on retiree health plans will only increase as the number of persons over the age of 55 nearly doubles—from 55 million today to nearly 100 million—by the year 2020.

There exist numerous examples that help demonstrate the significance of the situation to the older workers.

In October 1996, Philips Consumer Electronic Co. gave about 2,000 employees layoff warning notices. Union leaders involved contend that companies make these moves in part to get rid of older workers who cost more in wages and pension and health benefits and replace them with lower-wage, younger workers.

In October 1996, the Massachusetts State Department of Employment and Training confirmed that 36.1 percent of people claiming unemployment checks in August of the same year were 45 or older—usually considered the most productive, reliable group of workers.

In November 1995, Sunbeam Corp. announced that nearly 6,300 employees, half of its total work force would be let go.

At AT&T, 34,000 jobs had to be cut. Workers were to receive a lump-sum payment based on years of service, up to 1 year of paid health benefits and cash to cover tuition costs or to start a new business—but what happens to health coverage after 1 year?

Two giant New York City banks, Chase Manhattan and Chemical recently combined and 12,000 jobs from the combined banks were subsequently cut.

Since 1990, United Technologies has cut 33,000 jobs.

In 1994, Scott Paper cut 11,000 jobs or 35 percent of their work force.

A 1994 Nationwide study of 2,395 employers by A. Foster Higgins & Co., a New York-based benefits consulting firm, showed that among large companies—those with 500 or more employees—46 percent provide some form of coverage for early retirees, while only 39 percent provide insurance for Medicare-eligible retirees. Fewer than one in five large employers are willing to pay the entire cost of health care for their retirees, while 40 percent of the companies that do offer some form of health care coverage require the retiree to pay all of the costs. Those companies that do provide health care coverage for their retirees are increasingly requiring them to pay a share of the cost, especially for dependents.

Group health insurance is, of course, much less expensive than individual policy insurance, and that is why the COBRA benefit is so vital and useful. The difference in cost for obtaining group versus individual health insurance can easily be several thousand dollars.

Receiving help with the cost of this insurance is particularly important for those in their 50's and 60's because most insurance premiums rise sharply with age. For example, in the Los Angeles market, Blue Cross of California offers a basic, barebones in-hospital \$2,000 deductible plan. This plan is a PPO which restricts options for hospital usage. For a couple under age 29, the cost is \$64 a month. For a couple between age 60 and 64, the cost soars to \$229 a month.

In order to ensure that the cost of COBRA continuation is not an excessive burden to business, my bill calls for age-55+enrollees to pay 110 percent of the group rate policy—compared to 102 percent for most current COBRA eligible individuals and 150 percent for disabled COBRA enrollees.

I realize that the cost of paying one's share of a group insurance policy will still be too much of a burden for many Americans. Many of them will be forced into the uncertain mer-

cies of State Medicaid policies. But for many others, this bill will provide an important bridge to age 65 when they will be eligible for Medicare. I wish we could do more, but in the current climate, this bill is our best hope. We cannot allow the everincreasing ranks of early retirees to be without options in addressing necessary health insurance needs.

The following November 3, 1996 Washington Post article provides further data on why we need to pass this bill.

RETIRING? DON'T ASSUME HEALTH BENEFITS ARE FOREVER

(By Albert B. Crenshaw)

For 14 years, James Murdock worked as a brewing supervisor at Pabst Brewing Co., putting in long hours at the big Milwaukee-based beer producer. But two years ago, when his wife developed multiple sclerosis, he decided to take early retirement to be with her.

He checked the company's employee manual, which he said "guaranteed" health care coverage until age 65, including early retirees and their dependents.

But after giving Pabst notice and even selling his home, Murdock got a computer print-out describing his benefits. "Near the bottom was a sentence that said in essence that they had the right to modify, rescind, cancel and so on" his and his wife's health insurance, he recalled last week.

"It was the first I knew about it. By then it was too late" to halt his retirement. "My replacement was there and trained," he said.

Company officials were reassuring. "They said they never canceled anybody's benefits before," Murdock said.

But this time they did.

Less than two years after his retirement, Murdock is working part-time as a clerk in a hardware store to pay the premiums on a policy for himself. His wife, Carol, is uninsurable and has no coverage. The couple is praying her health holds up until next May, when she becomes eligible for Medicare because of her disability.

"That's going to be our oasis in the desert. I just hope we can get there before there's any major problems," he said.

Murdock's is not an isolated case. Rising medical costs and pressure for profits are driving more and more large employers to end or sharply curtail health care coverage for retirees. Others are boosting the share of the costs retirees are expected to pick up.

As recently as 1988, about 37 percent of retirees were covered by health insurance from a former employer; by 1994 that share had dropped to 27 percent. And those who still have coverage are paying more: In the same 1988-94 period, the proportion of retirees with coverage whose entire premium was paid by the companies declined to 42 percent from 50 percent.

In thousands of cases, workers and retirees are being caught by surprise, either because they assumed that the benefits always would be there, or because materials given to them by employers indicated that they would, but didn't really promise.

The courts are full of cases that turn on the question of what was a binding promise and what was not. The Labor Department is involved in lawsuits on behalf of about 87,000 retirees—including 800 from Pabst—whose benefits have been eliminated or reduced.

"Employees very often are premising their entire financial planning for retirement on the basis of the promises that are made to them by their employers," Labor Secretary Robert B. Reich said last week.

"Promises are made or assumed to be made and employees rely on them and then suddenly discover that they are not there. Retirees can be left holding the bag, can be in severe difficulty," he said.

Retirees aged 65 and older can fall back on the federal Medicare program, but in most cases that covers only the individual. Retirees with younger spouses or children will have to find other coverage for them.

Reich said the problem is growing as the number of retirees rises. He said the department is considering seeking legislation next year, assuming President Clinton is re-elected, that would at a minimum require "clearer disclosure so that workers know exactly what they are being promised."

At the other end of the option range, Reich said, might be legislation that would ensure that these promises "are treated like any other contracts.... If you have a reliance interest then they are enforceable."

He said the 1974 Employee Retirement Income Security Act sweeps these issues into the federal courts as pension issues rather than contract disputes that would be handled under state contract law. The federal courts have been "all over the place" on the issue, he said, making it very difficult for workers and retirees to determine whether their benefits are guaranteed.

In a number of cases, the company has seemed to guarantee the benefits in one place in their benefit plan documents, but has backed away from it somewhere else. In a case involving former salaried workers at General Motors Corp. whose benefits were cut, a federal appellate court has allowed legal claims to proceed. At Pabst, though, a federal district court ruled against retirees who lost coverage. Both cases are still in litigation.

Reich acknowledged that employers are not required to provide health insurance for workers or retirees, and any regulatory or legislative changes must strike a balance—protecting workers without discouraging companies from offering the benefits in the first place.

The Labor Department's Pension and Welfare Benefits Administration has issued a brief advisory bulletin that outlines steps you can take to assess your situation and to try to protect yourself.

The key step is to review your company's plan documents, which describe the benefits offered, spell out eligibility and give other details.

First, look at your Summary Plan Description. This gives the major features of the plan. It can be changed from year to year or contract to contract, so make sure you get a current one. The one in effect on the date you retire is the controlling document—get a copy and keep it.

There may be other documents as well, such as a collective bargaining agreement or an insurance contract. Look at them as well.

In the documents, look for language that looks like a clear promise to continue benefits or provide them for a certain period. But also look for language reserving the right to change or eliminate them.

This "reservation clause" typically will say something like: "The company reserves the right to modify, revoke, suspend, terminate or change the program, in whole or in part, at any time."

It's likely to be there. Companies want to avoid open-ended promises to workers and retirees.

When both a promise and a reservation are there, it's not clear what your rights will be. Some courts have refused to enforce what seemed to be a clear promise if there was a reservation clause; others have enforced a promise contained in the summary even though there was a reservation clause elsewhere in the plan documents.

Hang on to any other communications your company or supervisors give you. Courts sometimes take into account informal communications in deciding rights.

If you are taking early retirement, check out the documents concerning its terms. Special promises made in such deals can override other plan documents.

And don't be shy about protecting yourself. If you can negotiate a personal promise of health insurance for yourself and/or dependents in retirement, do it. If your company is anxious to see you go, it may well agree.

Talk to experts as well. If you're in a union, officials there can be helpful. Or you may want to run the material by a labor lawyer. There's a lot of money at stake.

Free copies of the Labor Department bulletin are available from the Pension and Welfare Benefits Administration's publication hotline at 202-219-9247. It's also on the World Wide Web, at <http://www.dol.gov/dol/pwba/>.

POW/MIA RESTORATION ACT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. GILMAN. Mr. Speaker, I rise today to introduce the POW/MIA Restoration Act. Last year, this body secured a victory for U.S. service personnel, their families, and the families of POW/MIA's by winning the passage of H.R. 945, the Missing Service Personnel Act.

H.R. 945 received unanimous support in the House as part of the Department of Defense Authorization Act of 1996.

Unable to prevent the passage of H.R. 945, the opponents of the legislation waited until last summer to attach a Senate amendment to the 1997 Defense Authorization Conference Report. That amendment essentially tore the heart out of the Missing Service Personnel Act.

In response, along with other supporters of our Nation's POW/MIA's, I introduced H.R. 4000, which would have restored the provisions which were stripped out by the Senate amendment. Unfortunately, while H.R. 4000 was passed unanimously by the House, it fell victim to the procedural rules of the Senate which were skillfully used by the bill's opponents to ensure that it was not taken up for consideration before Congress adjourned.

The POW/MIA Restoration Act would restore the provisions stricken from the Missing Service Personnel Act by the Senate amendment.

The first provision to be restored requires that military commanders report and initiate a search for any missing service personnel within 48 hours, rather than 10 days as proposed by the Senate amendment. While current regulations require local commanders to report any individual missing for more than 24 hours, such missing often fall through the cracks, especially during military operations.

The second provision covers missing civilian employees of the Defense Department. These civilians are in the field under orders to assist our military, and deserve the same protections afforded our men and women in uniform.

The third provision to be restored states that if a body were recovered and could not be identified by visual means, that a certification by a credible forensic authority must be made. There have been too many recent cases where misidentification of remains has caused undue trauma for families.

Finally, H.R. 4000 would restore the provision which would require criminal penalties for

any Government official who knowingly and willfully withholds information related to the disappearance, whereabouts, and status of a missing person.

Prompt and proper notification of any new information is essential to the successful investigation of each POW/MIA case. This cannot be achieved if individual bureaucrats deliberately seek to derail the process.

The opponents of the Missing Service Personnel Act have to this day never offered any credible reasons for their opposition to the legislation. Rather than create more redtape I believe these provisions will help streamline the bureaucracy and improve the investigation process.

Moreover the Missing Service Personnel Act has not been public law long enough to be adequately evaluated. To repeal provisions of a law after 5 months does not make sense, especially when that law has not yet had a chance to be tested.

Accordingly, I urge my colleagues today to join me in supporting the POW/MIA Restoration Act.

MILTON BERGERON, A MAN OF HEART AND SOIL

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. BARCIA. Mr. Speaker, I rise today to pay tribute to Milton Bergeron, who successfully combined teaching and conservation practices, his two passions, to make an important impact on the conservation efforts in Arenac County.

Milton is retiring from the Arenac Soil Conservation District Board after serving for 13 terms or 39 years. Elected to the Arenac Soil Conservation District Board in 1958, Milton has held the position of chairman, vice chair, secretary, and treasurer. While serving on the board, he taught and shared his knowledge of conservation with farmers, students, and teachers.

Born in Sterling, MI, Milton began his career in Holly, MI, he moved to Clintonville where he taught at School House Lake before becoming the principal of Waterford. He enjoyed teaching and working with young people, but his real love was farming. He bought his first 40 acre parcel and never stopped teaching, by sharing with other farmers conservation practices, he utilized in his own farming operation.

He founded an education program for the Arenac Conservation Board to help young people understand the importance of preserving high quality water and soil. Meeting with several teachers in the area, they started programs such as the annual poster contest now in its 30th year, the annual Arbor Day celebrations and taking fifth graders on an annual tour since the early 1970's.

Milton's dual passion for education and conservation fueled him to work with local teachers and the Department of Agriculture to sponsor a soil judging contest for high school students. Also wanting to recognize the teachers who were promoting conservation efforts in their classrooms, Milton presented a teacher of the year award at the district's annual meeting. Although Milton will continue to farm part time and participate in 4-H, church and community service.

Milton could not have been such an integral part of educating and promoting conservation efforts without the support of his wife, Lela, who he married in 1940 and his son and daughter-in-law, Ron and Mary Bergeron and his daughter and son-in-law, Ronella and Ron Berliński.

Mr. Speaker, as you can see, Milton is a leader in his field—educating people of all ages on the importance of conservation efforts. His generous contributions over the years should be applauded and I commend Milton Bergeron for his many accomplishments.

THE TWENTY-FIRST CENTURY PATENT SYSTEM IMPROVEMENT ACT

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. COBLE. Mr. Speaker, today I am pleased to introduce an updated version of legislation originally drafted in the last Congress by two former members of the Judiciary Committee who have since retired, Carlos Moorhead and Pat Schroeder. Many of us were cosponsors in the 104th Congress, including our distinguished chairman, Mr. HYDE, and ranking member, Mr. CONYERS. Original cosponsors of this bill include Mr. GOODLATTE, a senior member of the Subcommittee on courts and Intellectual Property, Mr. CONYERS, and Ms. LOFGREN, also a member of the subcommittee.

This legislation is necessary to allow American businesses to compete effectively in markets today and into the 21st century. The United States is by far the world's largest producer of intellectual property. This success is of course due to the great creativity of our citizens, but this success is also the direct result of a rational and sound policy of protecting intellectual property—a system that encourages the development of new inventions and processes. However, America does not have a monopoly on creativity. Many other nations have learned from our success—America no longer stands alone in its commitment to a strong system of patent protection for its inventors, small businesses and industries. Consequently, it is more important now than ever that we adopt certain reforms that will ensure that America maintains its position as the world leader in the production of intellectual property.

Under current law, foreign companies enjoy certain benefits in America that American companies do not enjoy in their countries, like the advantages of publication and prior user rights; the changes proposed today are especially useful for small businesses—many of which simply will not survive if foreign competitors continue to operate on a tilted playing field in America.

This legislation will benefit American inventors and innovators and society at large. First, by providing more efficient and effective operation of the Patent and Trademark Office; second, by furthering the constitutional incentive to disseminate information regarding new technologies more rapidly; third, by guaranteeing that patent applicants will not lose patent term due to delays that are not their fault;

fourth, by improving the procedures for reviewing the work product of patent examiners; fifth, by protecting earlier domestic commercial users of patented technologies; and sixth, by deterring invention promoters from defrauding unsuspecting inventors.

As I mentioned, this legislation is the successor to a bill developed by the Judiciary Subcommittee on Courts and Intellectual Property in the last Congress and reported by unanimous vote by the Judiciary Committee late in the second session. The version of the bill that I am introducing today is nearly identical to last year's bill, and includes the contents of a manager's amendment that was developed with the Senate, the Administration and the House Government Reform and Oversight Committee and which would have been offered if the bill had been scheduled for a vote in the House. This legislation was the subject of several days of hearings in the last Congress.

I would like to place in the RECORD a letter written by the Secretary of Commerce on September 12, 1996, that expressed the strong support of the Clinton administration for last year's bill, including the proposed manager's amendment.

THE SECRETARY OF COMMERCE,
Washington, DC, September 12, 1996.

Hon. CARLOS J. MOORHEAD,
Chairman, Subcommittee on Courts and Intellectual Property, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding Title I of H.R. 3460. The Department of Commerce is pleased that we have been able to work together in a truly bipartisan effort to "reinvent" the Patent and Trademark Office. We appreciate your staff's and Ranking Member Schroeder's staff's work to address the Administration's concerns with Title I. The Administration believes that the changes that we have crafted together in the en banc floor manager's amendment will create an organization consistent with the essential principles of the Vice President's vision for a Performance Based Organization, to further our mutual goal of creating a more efficient and effective patent and trademark office. In light of these changes, the Administration strongly supports House passage of H.R. 3460 with the en banc manager's amendment.

It is our joint vision to have a more business-like patent and trademark organization that can better serve the public and the innovators whose ideas are the engine of growth for our economy. By granting the new organization operational flexibility in exchange for greater accountability for achieving measurable goals, delineated in an annual performance agreement between the Secretary of Commerce and the Commissioner, the bill makes that vision a reality.

It is also our joint view that the Executive Branch must, as you put it, "be able to establish an integrated policy on commercial and technology issues." By making clear that the bill does not alter the Secretary of Commerce's statutory responsibility for directing patent and trademark policy with respect to the duties of the Patent and Trademark Office, we have ensured the continuity of appropriate policy direction and oversight.

We also believe that other changes you have added to address Administration concerns, such as ensuring that there is independent Inspector General oversight and adequate personnel safeguards, will strengthen accountability mechanisms that we all endorse. The Administration is also pleased

that the en banc manager's amendment addresses the central Constitutional and policy concerns of the Department of Justice with Title I.

We are committed to continuing to work together this year and in the future to perfect this bipartisan effort to invent anew the Patent and Trademark Office so that it will remain one of the Nation's most important resources for protecting and encouraging the preeminence of American innovation. We believe, for example, that there is still further work that we must do to address our concerns in the area of procurement, where we believe that the exemptions are broader than necessary to provide the flexibilities required.

H.R. 3460 contains five other titles that we believe will substantially improve the level of patent protection provided in the United States. These patent reforms are supported by the Administration and are of great importance to the Nation's economic competitiveness. We hope that they can be enacted in legislation this session.

Title II provides for the publication of patent applications eighteen months after the date on which they are filed or from the date on which the earliest referenced application was filed. This publication will help prevent economic disruption by those who now delay the grant of patents to extend their period of protection unfairly. It will also promote patent law harmonization that in the longer term will make it easier and cheaper for our small businesses and individual inventors to obtain protection abroad, as well as discouraging duplicative research. As a safeguard for those whose applications are published, it establishes a provisional patent right that allows a patent owner to obtain a reasonable royalty if, between the date of publication and the date of grant, another party infringes an invention substantially identically claimed in the published application and the patent. Also, it makes some administrative delays a basis for extension of the patent term, to ensure that diligent applicants are fully protected.

Title III creates a defense to an infringement action for parties that can establish prior use in commerce, including use in the design, testing, or production in the United States of a product or service before the date a patent application was filed in the United States or before the priority filing date. This ensures that inventors, who do not seek patent protection, will not be precluded unfairly from practicing their invention by other inventors who later obtain patent protection for the same invention.

Title IV is aimed at ensuring that inventors are fully informed prior to entering into a contract for invention development services. It also provides a cause of action if the service provider makes fraudulent claims or neglects to disclose material information to the inventor.

Title V amends the patent reexamination procedure to allow greater participation of their parties who request reexamination and expands the grounds for examination. Enhanced reexamination procedures will provide a less expensive and more timely alternative to costly patent litigation.

Lastly, Title VI contains several miscellaneous or "housekeeping" amendments, including one to ensure that our law provides priority consistent with our obligations to WTO countries and one to authorize submission of patent applications through electronic media. However, the Department of Justice opposes section 604 and the Administration urges that this provision be deleted. The recovery of attorneys' fees by individuals and small businesses from the Government in cases brought pursuant to 28 U.S.C. §1498(a) is already provided in the

Equal Access to Justice Act (EAJA), 28 U.S.C. §2412(d). By contrast to EAJA, section 604 would provide for attorneys' fees even where the position taken by the Government is substantially justified by the law. This provision would, in fact, place the Government in a worse position than a private defendant in a patent infringement suit, against whom attorney fees can be awarded in "exceptional" cases. The provisions would discourage appropriate settlements and engender unnecessary litigation, by allowing private litigants to reject reasonable settlement offers safe in the knowledge that the Government will pay their attorneys' fees even if they are awarded damages less than the settlement offer. For these reasons, the Administration will continue to seek deletion of Section 604 before final Congressional action on this legislation.

Once again, we thank you for your commitment to working together in the spirit of bipartisan cooperation to craft legislation that provides for important patent reforms to help to ensure our nation's continued economic growth. The Administration strongly supports House passage of H.R. 3460 with the en banc manager's amendment.

Sincerely,

MICHAEL KANTOR.

My bill is supported by an exceptionally large and diverse coalition of small and large companies, independent inventors and associations representing every type of U.S. industry and inventor that utilizes the patent system. The coalition includes companies that are responsible for large numbers of high wage manufacturing jobs in America, such as Microsoft Corp., Digital Equipment Corp., IBM Corp., Intel Corp., Caterpillar, Inc., Ford Motor Co., General Electric Co., Illinois Tool Works, and Procter & Gamble Co. The Biotechnology Industry Organization with over 560 members, has expressed its full support for this legislation. The White House Conference on Small Business supports this legislation. Independent inventors such as the inventor of the quartz technology used in watches support this legislation. I can proudly say that after many hearings and negotiating sessions, it now has the full and unqualified support of an overwhelming number of American industries that utilize our patent system.

Title I modernizes the U.S. Patent and Trademark Office by establishing it as a wholly owned government corporation—a government agency with operating and financial flexibility that will enable it to improve the services it offers to the public. The Office will remain under the policy direction of the Secretary of Commerce, but will not be subject to micro-management by Commerce Department bureaucrats.

Because the Patent and Trademark Office is funded completely by user fees, and not by tax dollars, it is one of the few government entities recommended by the National Academy for Public Administration to operate under structure and oversight commanded in the Government Corporation Act, rather than the structure followed by taxpayer-funded agencies. The bill has a variety of provisions in title I that will free the Patent and Trademark Office from the bureaucratic red tape that impedes the Office's efforts to modernize and streamline its operations. For example, the bill provides that the Office shall not be subject to any administratively or statutorily imposed limitation on the number of positions or employees. This will exempt the Office from ceilings on the number of full-time equivalent employees, giving the Office flexibility to hire the

number of employees it needs, based on its income from applications, to process the applications filed by and fully paid for by the users. The bill gives the Office greater flexibility with respect to management of its office space, procurement, and other matters. The users of the Patent and Trademark Office will be represented on a management advisory board that will advise the Director of the Patent and Trademark Office on the efficiency and effectiveness of the Office's operations. Making the Office accountable to its users through consultations with them is a significant step in improving its operations.

Title II improves the procedures for examining patent applications. It provides for the publication of most U.S.-origin applications 18 months after the date of application filing, unless a patent already has been granted by that time. It also requires publication of foreign-origin applications in the English language generally within 6 months after they are filed in the United States—a full 12 months earlier than under current law. Unlike the situation today, the owner of the patent application will have a provisional right to a royalty from other parties who use the invention after publication and before patent grant. Publication of new technologies eliminates duplication of effort and accelerates technology licensing. Early publication is accompanied by a guarantee that U.S. inventors, especially independent inventors and small businesses, can receive an indication of their likelihood of obtaining a patent before their application is published. They will then be able to make an informed decision regarding whether they should withdraw the application before publication. Title II also makes some other improvements including the rules for extending the term of a patent when delays occur that are not the fault of the applicant.

Title III creates a defense against infringement charges for parties who have independently developed and used technology in the United States before a patent application was filed on that technology by another party. This will protect the investments of innovative American manufacturers who have built plants using technology later patented by their foreign competitors.

Title IV protects inventors from the fraudulent practices of invention development firms by requiring disclosure of a firm's track record and allowing the inventor to withdraw from a contract with a developer within a reasonable time.

Title V makes improvements in the procedures for reexamining a patent in the Patent and Trademark Office after it has been granted by the Office. The refined reexamination procedures in the bill will give the public a fairer opportunity than is presently allowed to have the Office consider information missed by the examiner. The revised procedures will better balance the interests of the patentee and the public and offer an effective alternative to expensive litigation in court.

Title VI provides a number of other improvements in our patent laws. It ensures that U.S. law provides priority consistent with our obligations to WTO countries and authorizes submission of patent applications through electronic media.

I look forward to working with all interested parties as we prepare to move this important and necessary patent legislation through this Congress. The reforms contained in this bill

are needed to make the patent system best serve the country now and into the next century.

INDIAN REGIME MUST FREE
AMERICAN CITIZEN DHILLON

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. SOLOMON. Mr. Speaker, I rise today to ask when the Government of India will finally get around to letting American citizen Balbir Singh Dhillon come home to his family. He has been held since May on trumped-up charges.

Mr. Dhillon, a 43-year-old businessman and an American citizen, was arrested in May on charges that he was carrying RDX explosives with the intention of assassinating leaders of the Akali Dal, the Sikh, political party. The Human Rights Wing issued a report which proves these charges false. Yet the Indian regime continues to hold Mr. Dhillon anyway. On September 26, a bipartisan group of 36 Members of Congress also wrote to President Clinton urging his personal intervention to bring Mr. Dhillon back to the United States. The President wrote us back to assure us that Ambassador Frank Wisner has taken up his case with the regime. I am pleased that the administration is working on the case, but so far they have not gotten through to the Indian regime. Mr. Dhillon remains in the clutches of this brutal tyranny. While he is free on bail, he is not free to leave India.

Could the fact that Mr. Dhillon is a Sikh, a Khalistani American, be a factor in this case? The Indian regime has apparently decided to target Sikhs living outside of India or Khalistan. Dr. Gurmit Singh Aulakh, who is the president of the Council of Khalistan, was informed by the FBI that there is an assassination threat against him. His organization is leading the Sikh Nation's peaceful, democratic, nonviolent struggle to free Khalistan, the Sikh homeland. Khalistan declared its independence on October 7, 1987. Dr. Aulakh was also informed in a telephone call from Germany, where he will be visiting soon, that there is an assassination threat against him there also. Dr. Aulakh has been a valuable source of information for many of us in Congress. The civilized world will not accept this kind of outrageous effort to intimidate an articulate spokesman for his people's freedom.

In July, about 20 Indian Government agents severely beat Dr. Jagjit Singh Chohan, the leading Khalistani activist in Britain, when he requested emergency medical treatment for an acute heart condition. Dr. Chohan is a 68-year-old man whose right hand was amputated years ago. Clearly, the beating of Dr. Chohan and the continuing detention of Balbir Singh Dhillon are designed to send a message to any Sikhs who are thinking of getting involved in the struggle for freedom.

It is an outrage that this is allowed to happen to anyone, let alone an American citizen. It is time to take strong measures against the brutal, corrupt regime that is holding Mr. Dhillon. I would like to know why the American taxpayers are paying their hard-earned dollars to support a regime that can treat American citizens this way. What has happened to Mr.

Dhillon and his family is a terrible thing. The fact that we are sending money to the regime that is responsible for it just makes it worse.

The time has come to take action. We should stop sending United States aid to India. India is a country which votes against us at the United Nations more often than all but a couple of countries. It was a close ally of the Soviet Union. It is leading the nuclear arms race in South Asia. Khalistan, on the other hand, has promised to sign a 100-year treaty of friendship with the United States. There is an old saying in politics: Join the side you're on. It is time for America to join the side we are on by taking these strong measures to secure freedom, dignity, and prosperity for all the peoples of South Asia.

THE 50TH ANNIVERSARY OF VET-
ERANS OF FOREIGN WARS POST
8805

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. KLINK. Mr. Speaker, I rise today in order to commemorate the 50th anniversary of Veterans of Foreign Wars Post 8805 in Hopewell Township.

Named after Robert W. Young, the first Hopewell resident killed in duty during World War II. Young was killed when his ship, the USS Sims, was sunk by Japanese airplanes in the Battle of the Coral Sea on May 7, 1942.

VFW Post 8805 is currently home to over 600 veteran members and 280 ladies' auxiliary members. Many of these people are charter members of Post 8805. The first members were those returning from Europe and the Pacific and every other theater of World War II. From the beginning, VFW Post 8805 has been made up of citizen heroes, who left their homes and loved ones to undergo incredible hardships and sacrifices in defense of our freedoms. Fortunately, these people returned home to become some of the most outstanding members of the community. Contributing in peace as they had contributed in war.

A special salute to Ernest Parisi and Richard Paxton, two of the founding members of VFW Post 8805. Without their perseverance, the dream of Post 8805 would not have become a reality. They and all the members are a fine representation of the Fourth Congressional District.

Mr. Speaker, let us never forget the honor, courage, and valor displayed by all the members of the VFW. They have done a great service to our country. I ask you and all members to join me in a special salute to VFW Post 8805.

A TRIBUTE TO ALBERT TEGLIA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. LANTOS. Mr. Speaker, today I rise to recognize the outstanding achievements of Albert Teglia, a man who has dedicated his life not only to public office, but to public service. His dedication and devotion to duty has

helped countless numbers of San Francisco Bay area residents with problems ranging from fixing the burdensome Tax Code to fixing a burnt-out street light. For the past 20 years, Al Teglia's humor, compassion, and dedication to duty has been a source of inspiration to all of us who serve the public.

Al Teglia served five terms in the Daly City Council and four terms as mayor. He has served on numerous boards and commissions including the Airport Land Use Committee, California School Board Association, League of California Cities, the Peninsula Joint Powers Board, and many others. He was instrumental in negotiating the BART [Bay Area Rapid Transit] Colma extension and spearheaded the Orthodontia Program for San Mateo County. His outstanding achievements have been recognized by awards from the San Mateo Hispanic Council, the Italian American Federation, San Mateo Easter Seals, and Daly City Jaycee to name just a few.

The son of Genoese immigrants, Al Teglia has lived on the San Mateo Peninsula all his life. He and his wife of 43 years, Verna, share a love and joy for the bay area community. Too often these days people complain about this problem or that situation without ever lifting a finger to try and help solve it. People like Al Teglia remind us that a community is only as strong as the people in it. Al has given back so much to the community which raised him, we should all look to him as an example. People can actually point to Al Teglia and say, "He helped make my life better." This is the penultimate compliment for a public servant.

I hold Al Teglia in the highest regard. There is no task too daunting and no issue too small. With an uncompromising dedication to duty and service, he has touched many lives in the San Francisco Bay area. His presence on the Daly City Council will be sorely missed, but I am pleased he will remain active in the community. His undying devotion and dogmatic determination to serve his community should serve as inspiration to all who aspire to public service.

TRIBUTE TO STAFF SERGEANT
LEWIS F.M. SCOTT

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. SPENCE. Mr. Speaker, it is a pleasure for me to pay tribute today to a truly exceptional Marine, Staff Sergeant Lewis F.M. Scott, who will soon complete his assignment as the Marine Corps' congressional liaison staff non-commissioned officer. For the past 3½ years, Staff Sergeant Scott has provided a tremendous service to the Members of Congress and to all of our constituents. His dedication and professionalism, coupled with his warm personality, have endeared him to many of us on Capitol Hill, and we will miss him very much.

A native of Felton, DE, Lewis Scott enlisted in the Marine Corps on January 28, 1983, and attended recruit training in Parris Island, SC. After boot camp and specialty training in administration, he was assigned to the Marine Corps Air Ground Combat Center at 29 Palms, CA, as a clerk for the 3d Assault Amphibian Battalion. In April of 1985, he received orders to the 3d Reconnaissance Battalion in

Okinawa, Japan where he served with distinction until his transfer to the Logistics Base in Barstow, CA 1 year later. From July 1988 until June 1991, he served with the 12th Marine Corps District Headquarters in San Francisco before being reassigned to Headquarters, Marine Corps here in Washington where he served for 2 years.

On May 30, 1996, Staff Sergeant Scott reported for duty with the Marine Corps' House Liaison Office and immediately assumed responsibilities for coordinating, executing and supervising numerous tasks normally assigned to commissioned officers. He often served as a spokesperson on Marine Corps issues and rapidly established a reputation for exactness, professionalism, and integrity among Members of Congress, congressional staff members, and his peers in the Liaison Office.

During his career on Capitol Hill, Staff Sergeant Scott responded to over 4,000 telephonic inquiries from over 900 Congressional offices throughout the country and ensured that our constituents received timely and complete answers. He was instrumental in planning, coordinating and escorting Members and congressional staff on fact finding trips. In short, Staff Sergeant Scott's performance is consistent with the quality performance we have come to expect from our U.S. Marines.

During Staff Sergeant Scott's 14-year career, he and his family made many sacrifices for this Nation. I would like to thank them all—Lewis, his lovely wife, Angelia, and their three children, Christopher, Lewis, and Shannon for their contributions to the Marine Corps.

Mr. Speaker, Staff Sergeant Scott is a great attribute to the U.S. Marine Corps and to the country he so faithfully serves. As he prepares to depart for new challenges on an unaccompanied tour in Okinawa, Japan, I know that my colleagues on both sides of the aisle will join me in wishing him every success, as well as fair winds and following seas.

AMERICA'S VETERANS HAVE
EARNED EMPLOYMENT, TRAINING
AND SMALL BUSINESS OPPORTUNITIES

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. FILNER. Mr. Speaker, it has been my privilege to serve on the House Committee on Veterans' Affairs since I was first elected to Congress 4 years ago, and I look forward to continuing that service in the 105th Congress. I asked to serve on the Veterans' Affairs Committee because I believe that the men and women who serve in our Nation's Armed Forces are special members of our American family. Because of their service, the rest of us are able to fully enjoy the freedoms on which our country was founded. We have a unique debt to our veterans, and, as a member of the Veteran's Committee, I have worked to ensure that that debt is repaid.

On January 7, 1997, the first day of the 105th Congress, I introduced three bills of particular importance to veterans and members of the Reserves and National Guard. We have a longstanding national commitment to provide special assistance for veterans who want employment and training assistance, and these bills will help us fulfill that commitment.

Last year, a Supreme Court ruling mistakenly eliminated a portion of the job protection we have provided for 50 years for people who serve in the Reserves and National Guard. Because of this ruling, citizen soldiers who are also employees of a State government are at risk of not being restored to their civilian jobs following their military service. H.R. 166, the Veterans' Job Protection Act, would restore re-employment protection for these individuals by making it clear that States must obey the law and reestablish these men and women in their State jobs when they return from their military duties.

The Veterans' Training and Employment Bill of Rights Act of 1997, H.R. 167, would provide that service-disabled veterans and veterans who serve in combat areas would be "first in line" for federally funded training-related services and programs. Under current law, veterans are often underserved by national programs such as the Job Training Partnership Act [JTPA]. Veterans' service organizations have told us, for example, that program managers sometimes turn veterans away from JTPA dislocated worker programs because they mistakenly assume that veterans receive the same services from the Department of Veterans Affairs. My bill would reinforce our commitment to provide special training assistance for veterans and make it clear that eligible veterans have earned a place at the front of the line.

Additionally, H.R. 167 would update the Federal Contractor Job Listing Program. Under current law, Federal contractors with contracts of \$10,000 or more must make special efforts to employ certain qualified disabled veterans and veterans of the Vietnam era. These contractors are also required to file annual reports with the Department of Labor [DOL] regarding the number of veterans they have hired. H.R. 167 would increase the contract level to \$100,000. This level would reduce the number of reports filed and enable DOL to more carefully review and evaluate the contractor information.

This bill would also establish the first effective appeals process for veterans who believe their rights have been violated under certain veterans' employment-related programs. My bill would require the Secretary of Labor to assist veterans who think Federal contractors have not met their obligation to hire veterans. The Secretary would also be required to help veterans who believe they were not given preference for enrollment in Federal training programs. A veteran could also file a complaint directly with a district court. H.R. 167 would provide the "teeth" that have been missing from some veterans' training programs and would go a long way toward ensuring that veterans' rights are respected.

Many veterans have told me they would like to own a small business, and our national economy would certainly be strengthened if more veterans were able to establish their own companies. Because of this, I introduced H.R. 168, the Veterans' Entrepreneurship Promotion Act of 1997. This bill is designed to assist the development of small businesses owned by disabled and other eligible veterans. Under this measure, a program would be established to help eligible veteran-owned small businesses compete for Federal Government contracts. Additionally, because adequate capital is absolutely necessary for business start-up and expansion, H.R. 168 would establish a

guaranteed loan program in the Small Business Administration for veteran-owned businesses. Also included in my bill is a provision to establish a program of training, counseling, and management assistance for veterans interested in establishing a small business. Veterans are smart, disciplined, and hard workers—the kind of people we need to strengthen and expand our economy—and those who want to pursue self-employment should be supported and encouraged.

These bills would significantly increase training and employment opportunities for those unique members of our American family—our Nation's veterans. These special men and women have more than earned the assistance that would be provided by these measures.

I want to take this opportunity to thank the representatives of the major veterans' service organizations whose assistance in the development of these bills was invaluable. I also want to say that, as the ranking Democratic member of the Subcommittee on Benefits, I look forward to working closely with the chairman of the subcommittee and the chairman of the full Veterans' Affairs Committee on these and other issues of importance to America's veterans.

UNIVERSAL TELECOMMUNICATIONS SERVICES MUST MEET THE NEEDS OF NATIVE AMERICANS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. RICHARDSON. Mr. Speaker, today, I introduced a House Resolution expressing the sense of the House of Representatives that universal telecommunications service can only be met if the needs of Native Americans are addressed and policies are implemented with the cooperation of tribal governments. It is important that we keep pressure on decision makers within the Federal Communications Commission [FCC] to address the needs of Native Americans.

As the FCC prepares to adopt a policy on universal service, the implementation process of the Telecommunications Act reaches a critical stage. I believe it is important to make it perfectly clear that the intent of Congress can only be fulfilled if the universal service policies or procedures established to implement the Act address the telecommunications needs of low-income Native Americans, including Alaskan Natives.

While I concur with many of the universal service recommendations made by the Joint Federal-State Board, there are many questions left unanswered.

A genuine universal service policy will only take hold if it can be implemented at reasonable costs. These cost-effective solutions are best developed with the cooperation of tribal governments.

When congress enacted the Telecommunications Act in February, great emphasis was placed on ensuring the delivery of telecommunications services, including advanced telecommunications and information services, to all regions of the Nation. This principle of universal service is designed to address the exceptional needs of rural, insular, and high-

cost areas and make sure those services are available at reasonable and affordable rates.

This policy was established in the belief that telecommunications services have become essential to, education, public health, and public safety of all people within the United States.

Indian and Alaskan Native people live in some of the most geographically remote areas of the country, with 50 percent of Indian and Alaskan Native people living in Oklahoma, California, South Dakota, Arizona, New Mexico, Alaska, and Washington.

Indian poverty in reservation areas is 3.9 times the national average rate. The average phone penetration for rural Native Americans is only 50 percent. The actual penetration rates are often much lower than 50 percent—for example, the Navajo Nation estimates that 65 percent of its citizens do not have telephones. What phone service there is in Indian country is often sub-standard and prohibitively expensive.

there is a continuing need for universal service in Indian country and for tribal governments to be directly involved in providing these services.

Among the recommendations in the 1995 Office of Technology Assessment Report, "Telecommunications Technology and Native Americans" is a strengthened Federal/tribal government partnership in the telecommunications field to provide better services to persons in Indian country and to enable tribes to be direct providers of telecommunications services.

Now is the time to recognize the critical role that tribal governments can and must play in the implementation of universal service objectives.

The FCC has 4 months to implement the recommendations made by the Joint Federal-State Board. With the input of tribal leaders, I intend to introduce legislation that will codify the positive recommendations of the Board. This will encourage the FCC to implement a strategy of universal service that truly addresses the needs of tribes.

CAVEAT EMPTOR: LAW AGAINST SALE OF DUPLICATE INSURANCE POLICIES TO SENIORS WEAKENED

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. STARK. Mr. Speaker, just a word of warning to seniors: The law protecting against the sale of worthless, duplicative insurance policies which do not pay out benefits was weakened last year in the Kassebaum-Kennedy bill.

The following memo from the Institute on Law and Rights of Older Adults makes the deception clear. Congress legislated that 2 + 2 = 3 in saying that policies which "coordinate" with Medicare and don't have to pay out benefits are not "duplicate" policies.

PROTECTIONS AGAINST SALE OF DUPLICATE POLICIES WEAKENED

The Health Insurance Portability and Accountability Act of 1996 contains a provision that further weakens protections against selling health insurance policies to Medicare beneficiaries which provide benefits that du-

plicate their existing coverage. The new law changes the disclosure statement given to Medicare beneficiaries which was developed to warn them against purchasing a health insurance policy that duplicates Medicare coverage. The current statement: "Important Notice to Persons on Medicare—This Insurance Duplicates Some Medicare Benefits," has been changed to: "Some health care services paid for by Medicare may also trigger the payment of benefits under this policy."

This change, along with federal legislation passed in 1994 which allows insurance companies to offer policies containing benefits which duplicate private health benefits held by a Medicare beneficiary as long as the policy pays without regard to the other health benefits, may result in beneficiaries' being sold policies that duplicate Medicare and their private coverage and thus are of little value. Note that selling a new Medigap policy to someone who already has a Medigap policy is still against the law unless the person plans to drop the previously held Medigap policy. While the practice of insurance companies' selling policies (other than Medigap) to Medicare beneficiaries which pay benefits without regard to their other health coverage is allowed, the policies must include the following. "This policy must pay benefits without regard to other health benefit coverage to which you may be entitled under Medicare or other insurance."

The new law clarifies that a policy providing long-term care benefits (defined as nursing home and non-institutional coverage, nursing home only or home care only) which coordinates benefits with Medicare or other private health insurance policies (coordinates means that the long-term care policy pays secondary benefits or does not pay benefits for services covered under Medicare or other health insurance coverage) is not considered duplicate coverage. Additionally, long-term care policies must now include the statement, "Federal law requires us to inform you that in certain situations this insurance may pay for some benefits also covered by Medicare."

MANDATORY MINIMUM SENTENCES

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. GILMAN. Mr. Speaker, I rise today in strong support of this legislation which imposes tougher mandatory minimum sentences for those individuals who possess firearms while committing a violent or drug-related crime.

Under current law, an individual who uses or carries a firearm while committing a violent or drug-related crime automatically receives a mandatory 5-year sentence in addition to the sentence for the crime in question. However, a recent Supreme Court decision stated that the criminal must actively employ the weapon in order to trigger the mandatory sentence. This decision has hampered an effective tool for law enforcement.

This legislation will allow Federal prosecutors to apply the mandatory sentence even if the criminal does not fire or brandish the weapon. In addition, the mandatory sentence is now increased from 5 to 10 years. If the gun is fired, the sentence is 20 years, and the death penalty will apply if someone is killed. These mandatory sentences are imposed in addition to any for the actual crime.

Mr. Speaker, I believe this bill will serve to help our law enforcement agencies, and I strongly urge my colleagues to join me in supporting this legislation.

A TRIBUTE TO DEPUTY JAMES W. LEHMAN, JR. AND DEPUTY MICHAEL P. HAUGEN

HON. JERRY LEWIS

OF CALIFORNIA

HON. SONNY BONO

OF CALIFORNIA

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. LEWIS of California. Mr. Speaker, we would like to bring to your attention the memory of two Riverside County sheriff's deputies who became victims of a senseless and tragic act of violence on January 5, 1997. Early Sunday morning, Deputy James W. Lehmann, Jr. and Deputy Michael P. Haugen, two of our finest law enforcement officials, gave their lives in the line of duty.

The deputies, these husbands, these fathers went out everyday to make a difference and they did—some days in small ways, some days in big ways, and, on this date, at the cost of their lives. One cannot ask more of peace officers. Deputies Lehmann and Haugen deserve our deepest respect and gratitude.

Mr. Speaker, I ask that you and our colleagues join us today in remembering these fine men. Our prayers and most heartfelt sympathy are extended to their families and loved ones. To Deputy Lehmann's wife, Valerie, son, Christopher and daughter, Ashley; and Deputy Haugen's wife, Elizabeth, son, Stephen, and daughter, Catherine—we honor the memory of your loved ones and wish them God's peace.

INTRODUCTION OF THE DEPOSITORY INSTITUTION AFFILIATION AND THRIFT CHARTER CONVERSION ACT (H.R. 268)

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. VENTO. Mr. Speaker, I am pleased to join Chairwoman ROUKEMA in sponsoring the reintroduction of the Depository Institution Affiliation and Thrift Charter Conversion Act. This bill is a marker of our intent to move forward this year in a bipartisan manner on legislation that we are hopeful will translate into meaningful financial services modernization. It is a product of compromise between the most significant groups in the financial services industry who refer to themselves as the "Alliance".

Many members of the Banking Committee and other committees in the House have labored the past Congress to advance the cause of modernization. It has been a difficult road and efforts in the last Congress did not resolve the issue.

Our current U.S. financial laws and policy are lagging actual marketplace conditions, a circumstance that has been apparent for at

least the past 6 years. The U.S. mixed economy can best be served by a modernized legal framework, serving the dynamic U.S. financial system shaped by the marketplace and facilitated by congressional debate and law, rather than by incremental uncertain regulatory change. We advance this proposed measure as a continuation of, and building upon successful efforts to modernize that began with the passage of interstate banking in 1994.

While each provision of this bill may not be supported by every organization of the Alliance, nor members within the organizations, this comprehensive effort certainly demonstrates that groups can come to the table and work constructively together for modernization. I'm hopeful that we can build upon this strong base a still broader coalition and act to modernize our laws in this complex financial marketplace.

In the last Congress, Chairman ROUKEMA and I worked together on charter conversion as part of the BIF-SAIF bill (H.R. 2363) that finally evolved into the House position last year and became the basis for provisions enacted into law. Importantly, the comprehensive Depository Institution Affiliation and Thrift Charter Conversion Act we now introduce includes thrift charter conversion and the many attendant issues of thrift conversion. This bill is a comprehensive approach that establishes a policy of functional regulation involving all the regulators, Glass Steagall reform, and the affiliations issues. I am confident we will continue to work together to make improvements in the legislation so that it will not only modernize financial systems, but will also protect the safety and soundness of the deposit insurance funds and better serve and preserve our economic role in the world.

Changes have been made to the bill since it was introduced last fall. Several amendments were suggested by the American Council of Life Insurance. Others were incorporated at the suggestion of the thrift industry which continues to prefer an even broader approach to affiliations. As we move forward with the necessary subcommittee hearings and proceed to a markup, we will continue to modify the legislation. Even as we have introduced this legislation this week, I have reservations about several aspects of the bill including the regulatory framework for financial services holding companies. This more SEC-like structure will certainly require further scrutiny as we evaluate its appropriateness and its fit with the structure of insured depository institutions.

As this broad legislation moves forward, I am able to envision a number of improvements as questions are resolved. We will be looking to ensure that any measure we bring to the full House will provide assurance that tough firewalls are intact and that the measure will not expose the taxpayers to new costs from activities with more risk potential. Congress must also ensure that a proper focus is kept clear for service and responsibilities to local communities and consumers. As the U.S. strives to be more competitive internationally, financial institutions must remain active and viable in our localities even as the law provides and prepares U.S. financial institutions for competition in the global marketplace.

This bill's overall approach reflects a compromise between a substantial portion of the players active in providing financial services—key banking, thrift, and securities participants

with input from some in the insurance industry. This bill represents positions that they, too, have tried to bring into harmony for the purpose of shaping a policy for the future. It is a sound framework, a base, not necessarily the final product or policy. By placing this bill on the agenda, it is my hope to advance this debate and dynamic to a successful change in policy in the near future which will serve American enterprises and consumers in our mixed economy today and tomorrow.

TRIBUTE TO THE GREENPOINT GAZETTE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mrs. MALONEY of New York. Mr. Speaker, today I rise in tribute to the Greenpoint Gazette, a local newspaper which celebrates its 25th anniversary on Saturday, January 11, 1997. This newspaper has made a major contribution to the Williamsburg-Greenpoint community of Brooklyn, NY, and deserves honor for its many years of dedicated service.

The Greenpoint Gazette started publication in 1971. At that time, local residents had experienced frustration with the existing newspaper for its uneven reporting on local candidates. A few of these residents, Ralph Carrano and Adelle Haines, among them, launched the Greenpoint Gazette. It began out of Adelle Haines' house. Revenue for the paper came from advertisements, paid notices, and the newsstand price of 10 cents a copy.

The Greenpoint Gazette has always been responsive to and involved in the community it serves. Residents of Greenpoint use the paper to celebrate birthdays, births, and anniversaries; to announce weddings, engagements, graduations, job promotions, and deaths; and to voice opinions about issues of the day. Each year, the Gazette sponsors the Miss Polonia event, a beauty contest to select the young woman who will be chosen to represent the community in Manhattan's Pulaski Day Parade. The Gazette regularly publishes press releases submitted by elected officials to keep voters informed of Federal, State, and local issues. Finally, in keeping with its 25-year tradition as the voice of all of Greenpoint, the paper welcomes submissions with opinions that differ from those of the editors.

Mr. Speaker, I am proud to pay tribute to the Greenpoint Gazette, a paper which takes pride in its service to the Williamsburg-Greenpoint community. I ask that my colleagues join with me in honoring the Gazette for 25 years of dedicated and reliable service.

INTRODUCTION OF A CONSTITUTIONAL AMENDMENT TO ABOLISH THE ELECTORAL COLLEGE

HON. RAY LAHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. LAHOOD. Mr. Speaker, Today, I am proud to introduce, along with Congressman WISE from West Virginia, a constitutional amendment that seeks to end the arcane and

obsolete institution known as the electoral college.

It is no accident that this bill is being introduced today, the day that the electoral ballots are opened and counted in the presence of the House and Senate. I hope that the timing of this bill's introduction will only underscore the fact that the time has come to put an end to this archaic practice that we must endure every 4 years.

Only the President and the Vice President of the United States are currently elected indirectly by the electoral college—and not by the voting citizens of this country. All other elected officials, from the local officeholder up to U.S. Senator, are elected directly by the people.

Our bill will replace the complicated electoral college system with the simple method of using the popular vote to decide the winner of a Presidential election. By switching to a direct voting system, we can avoid the result of electing a President who failed to win the popular vote. This out come has, in fact, occurred three times in our history and resulted in the elections of John Quincy Adams, 1824, Ruth-erford B. Hayes, 1876, and Benjamin Harrison, 1888.

In addition to the problem of electing a President who failed to receive the popular vote, the electoral college system also allows for the peculiar possibility of having Congress decide the outcome should a Presidential ticket fail to receive a majority of the electoral college votes. Should this happen, the 12th amendment requires the House of Representatives to elect a President and the Senate to elect a Vice President. Such an occurrence would clearly not be in the best interest of the people, for they would be denied the ability to directly elect those who serve in our highest offices.

This bill will put to rest the electoral college and its potential for creating contrary and singular election results. And, it is introduced not without historical precedent. In 1969, the House of Representatives overwhelmingly passed a bill calling for the abolition of the electoral college and putting a system of direct election in its place. Despite passing the House by a vote of 338 to 70, the bill got bogged down in the Senate where a filibuster blocked its progress.

So, it is in the spirit of this previous action that we introduce legislation to end the electoral college. I am hopeful that our fellow members on both sides of the aisle will stand with us by cosponsoring this important piece of legislation.

THE FREEDOM OF CHOICE FOR WOMEN IN THE UNIFORMED SERVICES ACT

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Ms. HARMAN. Mr. Speaker, among the more extreme laws put in place by the last Congress is the policy banning privately funded abortions performed at overseas military hospitals. This policy means that women serving overseas in our Nation's Armed Forces cannot exercise the same constitutional rights afforded women living in the continental United States. These servicewomen and their de-

pendents could be forced to seek illegal and unsafe procedures or could be forced to delay the procedure until they can return to the United States.

This is an issue of fundamental fairness. Servicewomen and military dependents stationed abroad do not expect special treatment, only the right to receive the same constitutionally protected medical services that women in the United States receive.

That's why today, as the senior Democratic woman on the House National Security Committee, I am introducing the "Freedom of Choice for Women in the Uniformed Services Act." This bill simply repeals the statutory prohibition on abortions in overseas military hospitals and restores the law to what it was during most of the Reagan administration. If enacted, women would be permitted to use their own funds to obtain abortion services. No Federal funds would be used and health care professionals who are opposed to performing abortions as a matter of conscience or moral principle would not be required to do so.

I would like to thank my colleagues CONNIE MORELLA, ROSA DELAURO, SUE KELLY, RON DELLUMS, JOHN BALDACCIO, EVA CLAYTON, JOHN CONYERS, SAM FARR, BARNEY FRANK, MARTIN FROST, LYNN RIVERS, LUCILLE ROYBAL-ALLARD, and LOUISE SLAUGHTER for joining me as original cosponsors.

I urge the House to take up and pass this important legislation restoring the right of freedom of choice to women serving overseas in our Nation's Armed Forces.

THE PURSUIT OF PROFIT: NON-PROFIT HOSPITALS BECOME THE BIG PUBLIC GIVEAWAY OF THE NINETIES

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. STARK. Mr. Speaker, today along with Mr. LEWIS of Georgia, Mr. McDERMOTT, Mr. WAXMAN, Mr. FILNER, Mr. KENNEDY of Rhode Island, and Mr. BROWN of Ohio, I am pleased to introduce the Medicare Non-profit Hospital Protection Act of 1997 in response to the fast-growing number of hospital conversions. Conversion refers to the process by which a nonprofit entity opts to change its nonprofit status and forgo its tax exemption. In a conversion, investor-owned, for-profit companies buy community, nonprofit hospitals in deals that usually are secret, with costs and details not disclosed. Proceeds of the sales are suppose to establish charitable foundations.

HEALTH CARE IS A SERVICE, IT IS NOT A COMMODITY TO BE BOUGHT AND SOLD

Some how we've reached the point where our society thinks of the medical system not in terms of keeping patients well or helping them get better but instead as a fiercely competitive business in which survivors concentrate on making tremendous amounts of money.

The late Cardinal Bernadin, Archbishop of Chicago, had it right in his speech to The Harvard Business School Club of Chicago, He said:

Health care . . . is special. It is fundamentally different from most other goods because it is essential to human dignity and the character of our communities. It is . . .

one of those goods which by their nature are not and cannot be mere commodities. Given this special status, the primary end or essential purpose of medical care delivery should be a cured patient, a comforted patient, and a healthier community, not to earn a profit or a return on capital for shareholders.

The goal isn't health care anymore—the goal has become the care of the stockholder interest.

THE PROBLEM

Historically, the nonprofit hospital has, in general, assured that necessary services are available, that all populations are cared for, and that there is always a place to go for care. The goal of a for-profit hospital is just that—profit. The for-profits allegiance is to their shareholder, not the community—and certainly not the uninsured or poor. The for-profit hospital chains have the minds of piranha fish and the hearts of Doberman pinschers.

Whereas for-profit hospitals are accountable to their shareholders, nonprofit hospitals have another kind of accountability—to patients, to providers of care, to payers and to the communities in which they operate. Instead of producing a return on investments to shareholders, nonprofit hospitals have the inherent motivation and deep obligation to produce a different kind of return—that of quality care to their patients and overall good for the community.

The need to show a profit focuses the for-profit hospital on cost structure rather than on the structure of care. Their decisionmaking cannot help but be skewed toward shareholders rather than patients. Whereas nonprofit hospitals manage care because doing so improves health outcomes, for-profit hospitals manage the cost of care because it is the cheapest, most profitable thing to do. Their primary legal and fiduciary duty—to return a profit to the shareholders—puts patients and public welfare in second place.

In 1993, there were 18 conversions of nonprofit hospitals and health care plans. In 1995, there were 347. In the past 18 months, for example, Columbia HCA, the largest of the for-profit hospital chains, has completed, has pending, or is in the process of negotiating more than 100 acquisitions or joint ventures with nonprofit hospitals.

I have many concerns about the sale of nonprofit hospitals to for-profit corporations: too often the terms of the sale are secret; there are often conflicts of interest among the parties; the mission of the nonprofit foundation that results from the conversion may not be consistent with the original mission of the hospital—the funds in the resulting foundation are sometimes used for things like sports training facilities, flying lessons, or foreign language programs in schools; and the valuation price is often much less than it should be. Perhaps most important, quality and access to health care in the community is often significantly diminished.

COLUMBIA HCA—THE PAC-MAN OF THE INDUSTRY

Columbia HCA, the largest of the for-profit hospital chains, is characterized as the PAC-MAN of the industry—gobbling up nonprofit hospitals as it expands its market share in communities across the United States. Nationwide, Columbia HCA is riding high from dozens of acquisitions of hospitals that have made it not only the biggest—with 355 hospitals—but also one of the wealthiest for-profit chains with \$18 billion in annual revenue.

The political muscle of Columbia is legendary. When it enters a community in pursuit of an acquisition, Columbia lines up blue-chip legal talent, identifies allies among local civic, political, and medical leaders, and spreads around lots of money. In 1995, for example, Columbia had 33 lobbyists in Tallahassee, FL. It also leads the list of corporate campaign contributors in Florida.

The questionable practices of Columbia HCA are numerous, but one issue is particularly important. In Florida, health care officials cited the possibility that Columbia hospitals engage in cream-skimming. They allege that doctors, who own stakes in Columbia facilities, send the most profitable patients there—and steer less-profitable patients to the public and charity hospitals. The practice of physician self-referral in many instances is illegal, and I have asked the Health Care Financing Administration to investigate Columbia's investment structure and referral patterns.

Columbia HCA and its doctor affiliates are in the business of building medical trusts and destroying public and nonprofit hospitals who take the tougher, less profitable cases. Columbia and similar for-profit entities are not in the business of health care. They're in the business of mergers and acquisitions. It wouldn't matter if their product was can openers or chairs. They run the business like a Walmart is run—I firmly believe that hospitals shouldn't be run that way.

LEGISLATION

For the past three Congresses, I have worked on legislation to ensure that the advantages of tax exempt status ultimately benefit the community and not private individuals. My bills have imposed excise taxes—based on the foundation rules—as intermediate sanctions on 501(c)(3) and 501(c)(4) organizations engaging in transactions with insiders resulting in private inurement. Bills have also made private inurement a statutory prohibition for 501(c)(4) organizations, the social welfare organizations which include many health nonprofits.

The bill I am introducing today protects the public interest in conversions and is modeled after Nebraska and California laws. It makes sure that conversions are carried out in the sunshine of public information and debate and that the conversion price is fair, without sweetheart deals or private party gain. The legislation would deny Medicare payment to any hospital that did not demonstrate the fairness of the conversion process to the Secretary of Health and Human Services.

LORING JOB CORPS CENTER
OPENS ITS DOORS

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. BALDACCI. Mr. Speaker, on January 2, State of Maine Governor Angus King proclaimed the week of January 5, 1997, as "Job Corps Week" in recognition of the outstanding education and training opportunities provided by the Penobscot Job Corps Center in Bangor, ME, and in anticipation of the opening of the Loring Job Corps Center of Innovation in Limestone, ME. The State of Maine has had a very positive experience with the Job Corps

Program, and I am very proud of the fine work this program does with at-risk students from my State and throughout New England.

I am pleased to announce that the first group of students to utilize the new Loring Job Corps Center will be arriving this week. Some of these students have been waiting since July to begin their work at this new facility, which has been designated by the Department of Labor as a "center of innovation." This is significant, in that it will offer students from disadvantaged backgrounds advanced programs that have not been available through the traditional Job Corps Program.

The Loring Center will provide vocational training a grade above that which is normally provided. It will also have the benefit of being able to work in conjunction with its sister facility, the Penobscot Job Corps Center. Both the Penobscot and Loring Job Corps Centers, designated as alternative schools, are part of the State of Maine's School to Work transition plan.

As a tool for economic development, the Loring Center will provide a highly skilled workforce for Maine and New England. It will also play a crucial role in the area's educational and economic development strategies in conjunction with the University of Maine at Presque Isle, the Northern Maine Development Corporation, the Northern Maine Technical College, the Maine School for Science and Mathematics, the Aroostook County Action Program and the Caribou Adult Education Program. Working together, these entities will position the region as a center for educational innovation and excellence.

I'm pleased that students will now have the opportunity to get the technologically relevant skills they will need to move forward in today's job market. I am also proud to have the Loring Center as a pilot for new educational concepts and technologies that may later be used in Job Corps facilities throughout the country. Congratulations to Don Ettinger, the Loring Center's director, his staff, and TDC for their fine work with the students.

TRIBUTE TO THE SUFFOLK ALLIANCE
OF SPORTSMEN INC. AND
ITS FOUNDER, WILLIAM W.
SHABER

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. FORBES. Mr. Speaker, I rise today to pay tribute to the Suffolk Alliance of Sportsmen, Inc. [SASI] and its founder William W. Shaber. Thanks, in large part, to Mr. Shaber's leadership, SASI has emerged as the leading voice among sportsmen in Suffolk County. Mr. Shaber's vision of achieving a balance between game life and sportsmen has made him a pioneer in his field.

SASI was founded in 1978 on 7 basic principles: (1) to preserve and improve the rights of hunters, sport-shooters, salt and fresh water fishermen, and trappers; (2) to promote and encourage laws for the protection of fish, game life and forests in the State of New York; (3) to encourage and promote the propagation of fish and game in Suffolk County and elsewhere; (4) to encourage the passing of legislation to protect sportsmen and game

life; (5) to promote and encourage better understanding among the members and general public as to the proper use of hunting and fishing equipment and the proper use of boats and other related equipment as well as proper use of our natural resources and good conservation practices; (6) to promote, encourage and educate its members and the general public in the principles of safety in the use of arms, and; (7) to promote, encourage and provide social and friendly intercourse among its members.

From 1978 to 1993, Mr. Shaber served as President of SASI for all but 2 years. In addition to serving as president, Mr. Shaber was a prominent writer of sportsmen interests. He was a correspondent for the New York Sportsman magazine, a long-time member of the Rod and Gun Editors Association of Metropolitan New York, and a past president of the Outdoor Writers Association. I commend SASI and Mr. Shaber on taking the lead in promoting sportsmen interests while also preserving fragile wildlife.

LEGISLATION AMENDING POSTAL
SERVICE POLICY

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. YOUNG of Alaska. Mr. Speaker, today I rise to introduce legislation that will ameliorate problems stemming from the U.S. Postal Service policy that prohibits the users of commercial mail receiving agents [CMRA's] from submitting a standard change of address form to expedite routine mail delivery service.

In nearly all cases when an individual changes residency, the U.S. Postal Service facilitates prompt and accurate mail delivery by encouraging the postal customer to file a mail forwarding change of address form. Atypically, when a CMRA customer relocates, that individual is responsible for informing all potential mailers of any change of address. This policy creates delays and may exacerbate mail fraud as testimony has shown that the first line of defense against fraud is accurate information regarding postal addresses.

Current policy is contradictory to the Postal Service's charge to ensure prompt, accurate mail delivery service. This important legislation will benefit all parties in this particular mail delivery chain: the U.S. Postal Service, the CMRA's, and most important, the postal customer.

THE NEED FOR FDA
MODERNIZATION

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. BARTON of Texas. Mr. Speaker, in this last election cycle, many of us campaigned on the need for the Federal Government to use a common sense approach in dealing with private industry. The regulatory yoke placed upon the medical device industry in the United States by the Food and Drug Administration is a prime example of how a bureaucratic agency can destroy small business, as well as the entrepreneurial spirit.

My goal, which I believe is shared with many of my colleagues on both sides of the aisle, is to modernize the Food and Drug Administration. This is to be distinguished from terminating or eliminating the FDA, which I have also been accused of, and I want to make it clear that I believe there is a legitimate need for the FDA. However, it is imperative that this Congress lead the charge to bring the FDA into the 21st century. The current FDA approval process is slow and unpredictable, while at the same time costing the United States jobs, technology, and most importantly—lives.

We held numerous hearings in the 104th Congress in my subcommittee and others detailing the need to change the manner in which our domestic device industry is regulated. In the 104th Congress I introduced H.R. 3201 to reform the medical device industry. With the help of many of my Democrat colleagues, especially BILL RICHARDSON and ANNA ESHOO, we were able to get 162 cosponsors on H.R. 3201, both Republican and Democrat. This strongly indicates that there is support for FDA reform. I intend to continue refining H.R. 3201 in hopes of obtaining more support. Under the leadership of JIM GREENWOOD, and with the great deal of help from RICHARD BURR and SCOTT KLUG, our FDA reform team was able to make amazing strides and I fully intend to maintain this momentum.

I will be introducing the Medical Device Modernization Act of 1997 shortly, which will insure the safety and effectiveness of medical devices, assure a predictable approval process for our companies and insure that U.S. patients are receiving the best available medical technology in the world. I will be asking for your cosponsorship and support of this bill.

Again it is imperative that we pass reform for the medical device industry. Small business is the nerve center of this county's current economic growth. Sixty-five percent of the companies in the medical device industry have less than 20 employees and 98 percent of medical device firms have less than 500 employees. These are the companies involved in high technology which is fueling economic expansion, these are the companies hiring your constituents, these are the companies doing the research and development that can lead to saving your constituent's lives. These small companies have been more vocal on FDA modernization in the last 2 years and I applaud them in their efforts.

We spent a great deal of time laying the groundwork for reform in the 104th Congress for FDA reform by educating Members, conducting oversight hearings, and working with various segments of the industry. It is now time for the 105th Congress to implement the solution. I look forward to working with House Commerce Committee Chairman BLILEY, subcommittee Chairman BILIRAKIS, Congressman DINGELL, and Senate Majority Leader LOTT in arriving at an acceptable solution to all.

THE ENTERPRISE CAPITAL
FORMATION ACT OF 1997

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. MATSUI. Mr. Speaker, I am pleased to join my House colleagues and fellow members

of the Ways and Means Committee, Congressman PHIL ENGLISH, and Congressman JIM MCCRERY in a bipartisan effort to promote economic growth and job creation through targeted capital gains incentives. This legislation is designed to be complimentary to a broad-based capital gains proposal similar to that passed by the House in the 104th Congress.

I have worked for many years to enact legislation which provides critical incentives for high-risk, high-growth firms. In 1993, I was able to work with Senator BUMPERS to enact the Enterprise Capital Formation Act of 1993. This new, bipartisan proposal is built upon that 1993 legislation and will greatly improve its effectiveness by:

Shortening the holding period for qualified stock from 5 years to 3 years.

Increasing the size of companies whose stock is eligible for the exclusion from \$50 million to \$100 million.

Revising certain limitations to make the provision more attractive to investors.

Biotech and high-technology companies are particularly dependent upon direct equity investments to fund research and to grow. A targeted capital gains incentive is crucial for encouraging investors, including venture capital investors, to purchase the stock of these companies, thus putting their capital at risk with a long-term speculative investment. These small venture-backed companies provide high-skilled jobs, grow very quickly to create more jobs and are aggressive exporters. Venture capital-backed firms have a much higher rate of growth than Fortune 500 firms. From 1990 to 1994, venture firms grew at an annual rate of 20 percent while Fortune 500 firms are powerful engines for job creation. In their first year, these firms typically have 18 employees, by their sixth year they have over 200. Finally, these firms perform 2 times the amount of research and development compared to nonventure-backed firms.

Now more than ever, small companies need better access to investment capital in order to grow into productive enterprises. The risks associated with small firms has often been too great for venture capitalist. By giving a capital gains cut for investment in small, startup firms, the higher risks are offset by additional financial benefit to the investor.

A POINT OF LIGHT FOR ALL
AMERICANS: THE BROOKLYN
CHINESE-AMERICAN ASSOCIA-
TION

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. OWENS. Mr. Speaker, I rise to honor the Brooklyn Chinese-American Association [BCA] during their Ninth Anniversary Celebration. The members of this organization have tirelessly dedicated themselves to addressing the growing needs of the Asian immigrant population in Brooklyn and to providing residents of this community accessible bilingual and multicultural services. BCA is a great Point-of-Light whose contributions to the community must not go unappreciated or unnoticed.

On January 19, 1988, BCA was formally established in response to the expanding Asian-

American community in the Sunset Park, Borough Park, Bay Ridge, Bensonhurst, and Sheepshead Bay neighborhoods in Brooklyn. At its inception, the association received no funding and nearly single-handedly, Mr. Paul P. Mak, the president and CEO of BCA, worked on a voluntary basis to initiate and provide a bilingual social service program for the Asian immigrant community.

With 9 years of hard work, intense exploration and struggle, BCA has grown from a one-person service project to the borough's most comprehensive bilingual, multi-human service and community development organization. Currently, BCA delivers services at various centers in Brooklyn such as the Main Community Services Center; Senior, Youth and Cultural Center; Employment Training Center; Day Care Center; Avenue U District Community and Senior Center; and at numerous school sites. In the past few years, because of the lack of Government funding and personnel, BCA has undergone several crises and struggles to keep the organization afloat. It is the dedication, enthusiasm and painstaking efforts of BCA's staff, its board members and the community that have sustained BCA and enabled it to develop rapidly.

Today, BCA serves over 500 clients a day. BCA's many human services and programs include social services; senior services; day care and youth services; adult education programs; adult and senior employment programs; services for the mentally retarded and developmentally disabled [MR/DD]; and community economic development programs.

The past year has marked another turning point in BCA's expansion. BCA's work force has remained the same but the association has expanded, reaching a much wider community than ever before. In May 1996, BCA opened a new District Community and Senior Center delivering bilingual multi-human services to the increasing Asian immigrant population in the Sheepshead Bay neighborhood, an area that is becoming the second largest Asian community of Brooklyn. BCA has also been actively involved in registering voters and in educating the community on voting policies and procedures.

1996 is also the year in which BCA initiated the Community Revitalization Project that serves as a master development scheme for the community. This summer, 10 traffic lights were installed as a result of BCA's constant lobbying efforts. In addition, BCA is working with the New York City Police Department to prepare and distribute educational materials on crime prevention, the CAT Auto Program and business residential security surveys. These are major steps toward making a better and much safer community in which to live.

One of BCA's accomplishments this year is the educational Neighborhood Clean-Up Project. More than 150 youth participated in cleaning up the 8th Avenue neighborhood and providing informative materials to community residents and merchants. Recently, BCA also assisted in upgrading a garment factory in the neighborhood and has long supported promoting the economic progress and stability of the garment industry in Brooklyn. Moreover, a Tree Planting project was implemented to further beautify Brooklyn. Two hundred trees are scheduled to be planted along 8th Avenue in the spring of 1997. In a further attempt to improve the living environment, a Graffiti Removal Campaign will also be initiated in the

spring 1997 with the community Boy Scouts. Two town hall meetings were sponsored in November, one at Sunset Park, Borough Park, and the Bay Ridge Chinatown area and the other at the Sheepshead Bay and Bensonhurst neighborhood, to provide an opportunity for the communities to voice their concerns.

In recognition of its many contributions to the Brooklyn community, the Brooklyn Chinese-American Association received the 1996 Welcome Back to Brooklyn Award for Outstanding Civic Leadership and Economic Development in Brooklyn. This honor was presented to both BCA and the 1996 Nobel Prize winning scientist. In the past, this age old annual award has always been presented to distinguished individuals and celebrities; however this is the first time in history that an Asian organization received the prestigious honor. Furthermore, the Brooklyn Historical Society also honored BCA this year with the Brooklyn History Maker Award.

As we approach the 21st century, this Nation is becoming more ethnically and racially diverse. Any endeavor that maximizes the participation of immigrants into society is worthy of commendation. The Brooklyn Chinese-American Association's efforts to address the needs of the Asian population of Brooklyn deem it a great Point-of-Light not only for the people of Brooklyn, NY, but for all of America.

TRIBUTE TO THE CORAL GABLES SENIOR HIGH SCHOOL RUEDA KIDS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity to express my congratulations to the Coral Gables Senior High School Rueda Kids for their fantastic dancing abilities and their desire to keep our Hispanic heritage alive through their performances in Cuban salsa music—Rueda Casino. Their exceptional talent and dedication to this art has brought much happiness to all those who have been privileged enough to witness their dances.

The Gables Rueda Kids started only last year as an informal group and has since then received two awards from the U.S. Postal Service and won first prize and a special award at the Dade County Youth Fair in March. Among the group's future plan is to compete in a State competition to be held next spring and the member's participation in the Calle Ocho festival held yearly in Miami honoring their Cuban heritage.

The dancers are 13 students, 10 of whom were born in Cuba, 2 of Cuban parents and 1 that is originally from Honduras. Michael Alonso, Kathleen Andino, Yurlaimes Caballero, Anyer Cruz, Niviys Diaz, David Espinosa, Yulaidy Lopez, Eddy Gamayo, Evelyn Gonzalez, David Hernandez, Jesus Moreno, Carlos Osle and Alicia Reyes-Quesada, who is also their teacher, compose the group. All 13 demonstrate their love for salsa music through their dances and prove that America's teenagers are aware of their cultural background and display it with pride.

I commend them not only on their desire to keep their Hispanic heritage alive, but also in their spirit and commitment to share it with everyone else.

KIDS, POVERTY, AND THE NEED FOR HEALTH INSURANCE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. STARK. Mr. Speaker, this Congress must stop the rise in poverty among the Nation's children and—a related issue—stop the rise in the number of children who are uninsured.

Two reports in December point to the magnitude of the problem—and to some of the solutions.

On December 11, the Center on Budget and Policy Priorities reported that nearly 2.7 million low-income children were eligible for Medicaid, but went without health insurance for all of 1994. In addition, 2.1 million children who qualified for Medicaid, but were not enrolled, had some form of private insurance at some point in the year, but either were uninsured for part of the year or had inadequate private coverage that could have been supplemented by Medicaid.

Mr. Speaker, surely this Congress can find ways to make the Medicaid program more usable and more automatic for the families of needy children. If Medicaid eligible children could be brought into the program, the rolls of the Nation's 10 million uninsured children could be easily and quickly reduced by 27 percent.

In a second report, Columbia University's National Center for Children in Poverty found that nearly half—45 percent—of young children—those under 6—were in poverty or near poverty. Poverty among children = bad health and a lifetime of social and personal problems. As the report said: "Young children in poverty are more likely to: be born at a low birthweight; be hospitalized during childhood; die in infancy or early childhood; receive lower quality medical care;" along with numerous other problems. The list of problems facing our Nation's children of poverty could be addressed in some part if their parents had decent health insurance and could at least ensure that their children were not disadvantaged for life by an unhealthy start.

We need health insurance for kids, so that their parents can ensure a better life for them—and for our Nation's future citizens.

TRUTH IN BUDGETING ACT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. GILMAN. Mr. Speaker, I rise in strong support of the Truth in Budgeting Act and commend its sponsor, the gentleman from Pennsylvania [Mr. SHUSTER] for bringing this important measure to the floor.

This legislation transfers the Highway, Aviation, Inland Waterways and Harbor Maintenance Trust Funds off budget and provides that trust fund balances will not be used in calculations by the Congressional Budget Office regarding the Federal budget.

This bill guarantees that transportation taxes such as the taxes that our constituents pay when they fill up their gas tank or when they buy an airline ticket are used for their stated purpose, to improve and reinforce our country's transportation infrastructure.

Currently cash balances in the transportation trust fund total \$30 billion. It is wrong that this funding is being used to mask portions of our Nation's budget deficit as opposed to upgrading our country's transportation infrastructure. This bill is a positive step forward ensuring that our highways and airports get the help they need and according to the Congressional Budget Office is an action that is budget neutral.

Accordingly, Mr. Speaker, I urge our colleagues to support this worthy legislation.

THE MEDICARE MAMMOGRAPHY ENHANCEMENT ACT

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mrs. KENNELLY of Connecticut. Mr. Speaker, the facts on breast cancer are well known: 44,000 women die from the disease every year in this Nation. The tragedy of this loss is escalated by the fact that some and perhaps even many of these deaths are preventable.

In short, mammography can and does save lives. As any doctor will tell you, the earlier you find breast cancer, the less likely it is to be fatal. A mammogram can find 85 to 90 percent of breast cancer tumors in women as much as 2 years before they can be detected by self-examination. Routine screening for breast cancer is therefore vitally important, especially for older women. Both the American Cancer Society and the National Cancer Institute recommend annual mammograms for women over 50 years of age.

Unfortunately, Medicare only covers mammograms every other year. Furthermore, the 20 percent copayment for the service and the annual Medicare deductible deter many women from getting the screening. The Medicare Mammography Enhancement Act would eliminate these barriers to women receiving life-saving mammograms. The legislation would require Medicare to cover annual mammograms and would waive the 20-percent copayment and any deductible costs for the screening.

Mr. Speaker, a few years ago many of us in Congress fought to make sure Medicare included coverage for at least biannual mammograms. We argued that it made good sense for Medicare to cover a test that could save so many lives at such little expense. The same can be said of this legislation. I urge all of my colleagues to support this effort to save lives.

INTRODUCING A CONCURRENT
RESOLUTION ON THE SIGNIFI-
CANCE OF CORAL REEF
ECOSYSTEMS

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. SAXTON. Mr. Speaker, I—along with my colleague from Hawaii, Mr. ABERCROMBIE—am pleased to introduce a concurrent resolution declaring the significance of maintaining the health and stability of coral reef ecosystems.

Coral reefs have been called the tropical rainforests of the oceans, and rightfully so—they are among the world's most biologically diverse and productive marine habitats. They are also vitally important to coastal economies, providing as the basis for subsistence and commercial fishing as well as coastal and marine tourism. Finally, reefs serve as natural protection to the coastlines of several U.S. States and territories, such as Florida, Hawaii, Puerto Rico, the U.S. Virgin Islands, Guam, and American Samoa.

For these reasons, and in honor of the fact that 1997 has been declared the "International year of the Reef," I urge swift and favorable consideration of this resolution.

LEGISLATION TO REQUIRE CON-
SIDERATION OF A BALANCED
BUDGET

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. BENTSEN. Mr. Speaker, the first priority of the 105th Congress is to finish the job of restoring fiscal responsibility and balancing the Federal budget.

We must balance the budget fairly and responsibly by the year 2002, protecting vital investments such as Medicare, Medicaid, education, and environmental protection.

Balancing the budget by the year 2002 is not enough. We must enact into law an enforcement mechanism that requires the President and the Congress to work toward a balanced budget every year, while providing necessary fiscal flexibility in times of emergency such as military conflict and recession.

To achieve these goals, today I am reintroducing legislation that I filed in the last Congress to require the President to submit and the Congress to vote on a balanced budget every year.

I believe my proposal is a better enforcement mechanism than an amendment to the Constitution requiring a balanced budget because it provides both for fiscal responsibility and necessary flexibility in times of emergencies; it involves the American people by fully disclosing the options for and consequences of balancing the budget; and it does not entangle the judicial branch in our Nation's fiscal policies, with the potential for endless litigation.

My bill takes a commonsense approach that does not tamper with the Constitution. It requires the President to submit a balanced budget each year, beginning in fiscal year

1999. However, if in any fiscal year the President determines that a balanced budget is not in the Nation's best interests, he is allowed to submit two budgets, one balanced and one with a deficit, with written justification for his determination. The bill also requires the Congress to vote on a balanced budget each year, with the same flexibility given to the President to protect the Nation's security and fiscal health.

Most importantly, my bill would bring the American people into the debate on balancing the budget. A balanced budget amendment would tell us only to balance the budget—and includes huge loopholes to avoid it—it does not tell us what an actual balanced budget would look like. My bill would present to the American people the actual numbers—what programs would be cut, by how much, and what it would mean for our families, our businesses, and our Nation. We cannot succeed in balancing the budget without such full disclosure and thorough, honest debate.

In summary, my bill simply states that the President should submit a balanced budget, the American people should review it, and the Congress should debate and vote on it—not just talk about it. I urge my colleagues to join me in cosponsoring this legislation.

A TRIBUTE TO DR. GEORGE D.
HARRIS

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. COYNE. Mr. Speaker, I rise today with sadness to note the death of one of my constituents, Dr. George D. Harris. Dr. Harris died recently at the age of 51. His early death is a great loss for our community.

Dr. Harris, a resident of the Point Breeze neighborhood in Pittsburgh, was the kind of individual upon whom every community depends. He spend his entire professional career helping at-risk young people meet the challenges encountered in adolescence and young adulthood. He believed passionately in the importance of getting a good education, and he dedicated his life to inculcating his faith in education in the young people of Pittsburgh and Allegheny County.

At the time of his death, Dr. Harris was the manager of the Bethesda Center, where he worked to promote independence, family stability, and child welfare through motivation and education. Prior to that, he was executive director of Pittsburgh New Futures, where he worked to reduce dropout rates and teen pregnancy rates, and where he worked to help young people find jobs. From 1969 until 1988, when he left to join Pittsburgh New Futures, he developed and oversaw a program at Duquesne University that successfully reduced the dropout rate for Duquesne's African-American students. He was also a cofounder of Bell-Harr Associates, an educational consulting firm. He earned his doctorate in education from the University of Pittsburgh.

Individuals like George Harris—people who make helping others their life's work—are all too rare. Dr. Harris' personal warmth, energy, and enthusiasm—as well as his effectiveness—made him rarer still. Countless people understood and appreciated his special gifts,

and that knowledge makes his loss all the more deeply felt.

Dr. Harris is survived by his wife, Judith Harris, his son, Ebon Lee, and his sister, Sheila Ways. I want to express my condolences to them on their unexpected loss.

IRS BURDEN OF PROOF BILL

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. TRAFICANT. Mr. Speaker, yesterday I introduced legislation to change the burden of proof in a civil tax case. This bill is similar to legislation I have introduced in past Congresses to right a serious injustice against taxpayers: In civil tax court, taxpayers are considered guilty until proven innocent. That's un-American and flat out wrong.

Last year, Congress finally passed, and President Clinton signed into law, the Taxpayer Bill of Rights II. That was an important step toward protecting American taxpayers against Internal Revenue Service abuses. However, it didn't go far enough. Far too many Americans still fear the IRS—and with good reason.

The IRS is the only agency of the Federal Government that affects every American. We all hear complaints from constituents about overregulation by OSHA, the EPA, or the Department of Justice. These regulations affect only small businessmen or manufacturers or farmers. However, the IRS hits each and everyone of us. Anyone who's received a notice in the mail from the IRS knows how it can cause the blood pressure to rise.

Americans should not fear their Government. Sadly, too many Americans don't trust the IRS. This has clouded their view of the entire Government. Congress could go a long way toward reinstating the American people's faith in the Federal Government by reigning in powers of the IRS. Mending this broken relationship should be Congress' No. 1 priority. Shifting the burden of proof will do that.

My bill specifies that in the administrative process leading up to a court case, the burden of proof is on the taxpayer, but once the case goes to tax court, the burden of proof is squarely on the IRS.

During the administrative process or any audit, the burden of proof should be on the IRS. The taxpayer should provide all pertinent data to support their claims and deductions including receipts, W-2 forms, and letters. Should the taxpayer and the IRS not come to an agreement, the process moves to the tax court. There the burden of proof should be on the IRS. A taxpayer should be innocent until proven guilty in tax court, not the other way around.

Mr. Speaker, my bill has three more sections to protect Americans from IRS abuses. First, a section requiring judicial consent and a 15-day notice before the IRS can seize property. It also includes a provision to call for an independent report detailing ways to offset potential revenue losses from a shift of the burden of proof. Finally, damages awarded by a judge for an unauthorized collection by the IRS are excluded from gross income.

Mr. Speaker, an accused mass murderer has more rights than a taxpayer fingered by

the IRS. Jeffrey Dahmer and the "Son of Sam" were considered innocent until they were proven guilty. Regular taxpaying Americans, however, are not afforded this protection.

Mr. Speaker, during the last Congress, I highlighted the need for this legislation on the House floor by reading letters and cases I have received from people around the country. You may remember the case of David and Millie Evans from Longmont, CO. The IRS refused to accept their canceled check as evidence of payment even though the check bore the IRS stamp of endorsement. Or how about Alex Council, who took his own life so his wife could collect his life insurance to pay off their IRS bill? Months later, a judge found him innocent of any wrongdoing. I have heard hundreds of stories of IRS abuses like these on radio and television talk shows. Thousands of Americans have written to me personally with their horror stories.

Opponents argue that my bill will weaken IRS's ability to prosecute legitimate tax cheats. This bill will not affect IRS's ability to enforce tax law, it only forces them to prove allegations of fraud. My bill will ensure that IRS agents act in accordance with the Standards of Conduct required of all Department of Treasury employees. Most importantly, it will force the IRS to act in accordance with the Constitution of the United States of America where all citizens are considered innocent until proven guilty.

Mr. Speaker, I am hopeful that this is the year that Congress passes this bill. It is an important piece of legislation.

HONORING ROSANNE FISHER ON THE OCCASION OF HER RETIREMENT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to an outstanding citizen of Ohio. Williams County Commissioner Rosanne H. Fisher is retiring after years of service to the people of Ohio.

I have had the privilege of representing Williams County in the U.S. House of Representatives through much of the time Rosanne has served as commissioner. It has been a privilege working with her to help Northwest Ohio. I can tell you Rosanne has been a strong advocate and outstanding friend of our area. Rosanne's aggressive leadership was crucial in securing funding for the Hillside Assisted Living Complex, establishment of Solid Waste District and Recycling, implementation of 911 system, remodeling the senior center and the establishment of a records center.

She is member of the Ohio County Commissioner Association Board of Trustees, State OCCA Legislative Board, and the State of Ohio Board of Adult Detention. A graduate of Libby High School and the University of Toledo, Rosanne was first elected Commissioner in 1989. Throughout her distinguished tenure with the County Commissioners, Rosanne has demonstrated her deep faith in, and dedication to, upholding the principles of American democracy.

Mr. Speaker, we have often heard that America works because of the unselfish con-

tributions of her citizens. I know that Ohio is a much better place to live because of the dedication and countless hours of effort given by Commissioner Rosanne Fisher. While Rosanne may be leaving her official capacity in Williams County, I know she will continue to be actively involved in those causes dear to her.

I ask my colleagues to join me in paying special tribute to Rosanne H. Fisher's record of personal accomplishments and wishing her and her family all the best in the years ahead.

THE UNREMUNERATED WORK ACT OF 1997 INTRODUCED

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mrs. MORELLA. Mr. Speaker, today, I am introducing the Unremunerated Work Act, which would direct the Commissioner of the Bureau of Labor Statistics to conduct time-use surveys to measure the unwaged work women and men do inside and outside of the home. Household, agricultural, volunteer, and child care duties are considered unremunerated work, the value of which would be included in the gross national product [GNP] under this act.

Unpaid work in the home is the full-time, lifelong occupation for many Americans, mostly women. For both men and women who work for pay in the marketplace, household work absorbs many hours per week. Yet, little is known about the value of household work.

The only national survey that measures the value of household work for the adult population was conducted in the 1970's by the University of Michigan. Government statistics have overlooked the amount of time spent on housework, child care, agricultural work, food production, volunteer work, and unpaid work in family businesses. This visible work is often a full-time job for many men and women, and is also done by men and women who hold paid jobs in the marketplace.

Women continue to enter the work force in record numbers. They also continue to serve in many unpaid roles, from hours caring for their children, running their households, and volunteering their time to charitable organizations. None of this "unpaid" work is counted when Government gathers statistics on the productivity of Americans. The collection of data about unpaid work would more accurately reflect the total work that Americans contribute to society, and would give greater value to the roles played by both women and men as volunteers, household engineers, and caregivers.

INTRODUCTION OF THE DEPOSITORY INSTITUTIONS AND THRIFT CHARTER CONVERSION ACT

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mrs. ROUKEMA. Mr. Speaker, I am reintroducing The Depository Institution Affiliation

and Thrift Charter Conversion Act, legislation that represents a significant step toward crafting meaningful financial reform legislation that will take us into the 21st Century and put us on sound footing to compete in the global marketplace.

As I have said in the past, it is the responsibility of Congress after due diligence to make the important policy decisions giving statutory authority for the structure of financial institutions. It is not in the best interest of the system to continue to let the financial regulators make these decisions in a piecemeal, and arbitrary fashion. For Congress to not act would be a serious abdication of our responsibility.

In anticipation of resuming my role as Chairwoman of the Financial Institutions and Consumer Credit Subcommittee, financial modernization will be on the top of my agenda. With that in mind, I am planning early and comprehensive hearings to commence as soon as the committee completes its organization process.

For those of us that serve on the Banking Committee, we are painfully aware of how controversial the issues surrounding the financial services industry can be. To say the least, various sectors of the financial services industry have had different and often conflicting views on how best to go about modernization. The legislation we are reintroducing today represents the work of a coalition of 10 industry organizations representing a broad cross-section of the financial services industry. Participants in the Alliance group include: American Bankers Association; ABA Securities Association; American Financial Services Association; America's Community Bankers; Consumers Banker Association; Financial Services Council; Investment Company Institute; Securities Industry Association; and The Bankers Roundtable.

I am pleased to see the American Council of Life Insurance [ACLI] has also begun participating in these discussion. In fact, several of the new provisions included in this package were at the ACLI's suggestion.

This legislation represents a concrete effort to break the current logjam that has blocked financial services reform legislation in the past. The bill incorporated many significant compromises between those competing interests. For this reason, I believe it represents an important starting point for us to begin the debate on financial modernization.

This legislation is a comprehensive approach that addresses affiliation issues, Glass-Steagall reform, functional regulation, insurance issues and thrift charter conversion by melding together key elements of the major reform bills introduced previously in Congress.

While this latest "Alliance" bill is the product of a great deal of good faith negotiation and compromise by the major trade groups, it is nonetheless a work in progress that will require more discussion and development. While each member of the Alliance for Financial Modernization has participated in redrafting the legislation I am introducing today, they do not necessarily endorse all the provisions in the current product. In addition, there are several key elements missing from this bill.

For example, a clear definition of what is meant by the terms "banking", "securities", and "insurance" as well as a fair means to resolve any disputes that may arise between regulators over the proper characterization of

novel or hybrid products is an area of great sensitivity for all financial service providers—and one that still lacks a consensus among the industries. For this reason, this bill does not include such a provision.

In addition, America's Community Bankers would like to see a much broader approach, and have urged that permissible holding company affiliations be expended from financial activities to all businesses. This would extend the unitary thrift holding company authority to all holding companies—a view that is supported by the securities and insurance companies and other diversified financial companies as well. However, this bill does not address the so-called “chartering up” approach which would allow thrifts and commercial banks to engage in insurance and real estate activities. Currently, commercial banks are now prohibited in most cases from fully engaging in these activities; and thrift institutions, under this Alliance proposal, would be forced to divest of these activities and to recharter the thrift charter and requires thrifts to convert to banks.

I, too, have serious reservations regarding many of the provisions included in this bill. The least of which is the holding company regulation structure and the regulatory oversight authority.

Last year's Alliance bill included a new regulation and oversight of holding companies based on similar requirements to the structure currently applied to Unitary Holding Companies. With the introduction of this legislation today, I have, at the Alliance's request, included a different regulatory structure which mirrors the current Securities industry risk assessment model.

Let me be clear that I have reservations about both the previous model in last year's Alliance bill and the one included in the bill I am introducing today. A fundamental question of financial reform is to determine the most appropriate means of regulating the system to preserve the safety and soundness of the financial services industry and the taxpayers dollars. As I begin hearings on this bill, this will be a major focus. While I agree that the current holding company structure needs reform, I am not convinced that the model included in this bill is the most appropriate and efficient means.

The key elements of the bill include:

Financial Services Holding Company [FSHC]: creation of a new, optional structure allowing financial companies to affiliate with banks similar to the D'Amato-Baker approach. A company could choose to own a bank through a new “financial services holding company” that would not be subjected to the Bank Holding Company Act, but subject to a new regulatory structure.

Permissible Affiliations: FSHCs could own or affiliate with companies engaged in a much broader range of activities than is permitted for bank holding companies under current law. The bill would not, however, eliminate all current restrictions on affiliations between banks and commercial firms. A financial services holding company would have to maintain at least 75 percent of its business in financial activities or financial services institutions, which would include such institutions as banks, insurance companies, securities broker dealers, and wholesale financial institution.

FSHCs are restricted from entering the insurance agency business through a new affiliate unless it bought an insurance agency that had been in business for at least 2 years.

This bill includes lists of activities that are deemed to be “financial” and entities that are deemed to be “financial services institutions.” A new National Financial Services Committee, chaired by the Treasury Department and including the bank regulators, the SEC, and a representative state insurance commissioner would be created.

Holding Company Oversight: The regulation and oversight of the new Financial Services Holding Companies would be based on the holding company risk assessment model that currently is applied to the Securities Industry. This represents a change from the original Alliance bill that I introduced last year. As we consider provisions that address the regulation of various institutions, I will be taking special care to assure that all institutions are regulated in such a way as to preserve the safety and soundness and the integrity of the insurance funds.

Securities Activities: Provisions for certain securities activities such as asset-backed securities and municipal revenue bonds could be offered in a new, separate securities affiliate. These provisions are similar to provisions included in the Leach bill and agreed to by the Commerce Committee.

Elimination of the Thrift Charter: With the new financial services holding company structure in place, the thrift charter would be eliminated; thrifts would generally be converted to banks, with grandfathering-transition provisions; and unitary thrift holding companies would be required to convert to either bank holding companies or financial services holding companies, also with grandfather-transition provisions. The statutory language for the charter conversion is similar to the language included in the last version of my Thrift Charter Conversion bill, H.R. 2363.

I want to again reiterate that I do have serious concerns with several of the provisions included in this bill. However, I believe this draft proposal is an important document because it includes many compromises between the various financial services industry. Clearly, there are issues associated with this legislation that are yet to be discussed. However, with the introduction of this legislation we are advancing the debate on financial services modernization, and setting the stage for action in the 105th Congress that will take this industry into the 21st Century and beyond.

There is no doubt that Congress has always had at its disposal the tools to modernize our Depression-era banking codes. What it has lacked is the will. The pressures of competing interests have made this task all but impossible and resulted in gridlock. This bill is a significant first step toward breaking that logjam. It includes major areas of compromise between the various competing industries. Again, I am planning for early and comprehensive hearings in my subcommittee on the issues of financial modernization.

Again, let me stress that I will proceed with great care. My primary goal will be to preserve the safety and soundness of our financial system while protecting the American taxpayer and the business and consumers that rely on their services.

SUMMARY SECTION BY SECTION

The Draft bill is an effort to break the current logjam that is blocking financial services reform legislation. It is a comprehensive approach that addresses affiliation issues, Glass-Steagall reform, functional regulation,

insurance issues, and thrift charter conversion. It does this by melding together key elements of the major reform bills that were considered by the last Congress. The purposes of this approach are to (1) build on the constructive efforts of Chairmen D'Amato and Leach and Representatives McCollum, Baker, and Roukema, among others, during the past two years; (2) provide a comprehensive framework for addressing the major concerns of the broadest possible range of industry participants; and (3) address legitimate concerns of the regulators that were reflected in both legislative and regulatory proposals that emerged during the last several years.

1. FINANCIAL SERVICES HOLDING COMPANIES

Using modified language from the D'Amato-Baker bills, the draft bill creates a new and entirely optional structure for financial companies to affiliate with banks. A company could choose to own a bank through a new “financial services holding company” that would not be subject to the Bank Holding Company Act. Instead, the financial services holding company would be subject to a new regulatory structure established by a newly-created section of financial services law called the “Financial Services Holding Company Act.” Any company that owns a bank but chooses not to form a financial services holding company would remain subject to the Bank Holding Company Act to the same extent and in the same manner as it is under existing law. However, an affiliate of a bank that is not part of a financial services holding company generally could not engage in securities activities to a greater extent than has been permitted under existing law.

Permissible Affiliations.—A financial services holding company could own or affiliate with companies engaged in a much broader range of activities than is permitted for bank holding companies under current law (with contrary state law preempted). The bill would not, however, eliminate all current restrictions on affiliations between banks and commercial firms. A financial services holding company would have to maintain at least 75 percent of its business in financial activities or financial services institutions, which would include such institutions as banks, insurance companies, securities broker dealers, and wholesale financial institutions. In addition, a bank holding company that became a financial services holding company could not enter the insurance agency business through a new affiliate unless it bought an insurance agency that had been in business for at least two years. Finally, foreign banks could also choose to become financial services holding companies.

The bill includes lists of activities that are deemed to be “financial” and entities that are deemed to be “financial services institutions.” A new National Financial Services Committee, which would be chaired by the Treasury Department and include the bank regulators, the SEC, and a representative state insurance commissioner, would (1) determine whether additional activities should be deemed to be “financial” or additional types of companies should be deemed to be “financial services institutions”; and (2) issue regulations describing the methods for calculating compliance with the 75 percent test. Other than these limited circumstances, a financial services holding company would not be subject to the cumbersome application and prior approval process that currently applies to bank holding companies.

Holding Company Oversight.—Because it would own a bank, a financial services holding company would be subject to certain supervisory requirements, but only to the extent necessary to protect the safety and

soundness of the bank. These supervisory requirements are virtually identical to those that currently apply to companies that own regulated securities broker dealers, and companies that own regulated futures commission merchants—the so-called “holding company risk assessment provisions.” In the past six years, Congress has twice embraced this model for gathering information on potential risk to regulated entities by affiliated companies, once in the Market Reform Act of 1990 (securities firms), and once in the Futures Trading Practices Act of 1992 (futures traders). While the National Financial Services Committee would establish uniform standards for these requirements as they apply to depository institutions, the appropriate Federal banking agency that regulate the lead depository institution of the financial services holding company would implement and enforce them.

Apart from these general requirements, financial services holding companies would not be subject to the bank-like regulation that currently applies to the capital and activities of bank holding companies. However, as in the D’Amato-Baker bills, financial services holding companies would be subject to the following additional safety and soundness requirements:

Affiliate transaction restrictions, including but not limited to the requirements of Sections 23A and 23B of the Federal Reserve Act.

Prohibition on credit extensions to non-financial affiliates.

Change in Control Act restrictions.

Insider lending restrictions.

A “well-capitalized” requirement for subsidiary banks.

Civil money penalties, cease-and-desist authority, and similar banking law enforcement provisions applicable to violation of the new statute.

New criminal law penalty provisions for knowing violations of the new statute.

Divestiture requirement applicable to banks within any financial services holding company that fails to satisfy certain safety and soundness standards.

Cross-Marketing Provisions.—As with the D’Amato-Baker bills, the bill would preempt cross-marketing restrictions imposed on financial services holding companies by state law or any other federal law.

Securities Activities.—The draft bill includes principal elements of the last-introduced version of the Leach bill in the previous Congress, H.R. 2520, as it related to Glass-Steagall issues. These include statutory firewall, “push-out,” and “functional regulation” provisions, with some modifications. These new restrictions would apply only to financial services holding companies; they would not apply to the securities or investment company activities of banks that remained part of bank holding companies.

Wholesale Financial Institutions.—Financial services holding companies (but not bank holding companies) could also form un-insured bank subsidiaries called wholesale financial institutions or “WFIs.” Such WFIs could be either state or nationally chartered, and there would be no restrictions on the ability of a WFI to affiliate with an insured bank. A WFI would not be subject to the statutory securities firewalls applicable to insured banks and their securities affiliates, but the WFI could not be used to evade such statutory firewalls.

2. ELIMINATION OF THRIFT CHARTER

With the new financial services holding company structure in place, the thrift charter would be eliminated; thrifts would generally be required to convert to banks, with grandfathering/transition provisions; and unitary thrift holding companies would be

required to convert to either bank holding companies or financial services holding companies, also with grandfathering/transition provisions. The statutory language for the charter conversion is similar to the language included in the last version of the Roukema bill, which is the one that was used in the House’s offer in the Budget Reconciliation conference in late 1995.

3. NATIONAL MARKET FUNDED LENDING INSTITUTIONS

Unlike the D’Amato-Baker bills, the draft bill generally precludes a commercial firm from owning an insured depository institution. However, the bill recognizes the important role that nonfinancial companies play in other aspects of the financial services industry by allowing such companies to own “national market funded lending institutions.” This new kind of OCC-regulated institution would have national bank lending powers, but would have no access to the federal safety net: it could not take deposits or receive federal deposit insurance, and it would have no bank-like access to the payments system or the Federal Reserve’s discount window. In addition, the institution could not use the term “bank” in its name. By owning a national market funded lending institution, a nonfinancial company could provide all types of credit throughout the country using uniform lending rates and terms.

SPECIAL TRIBUTE TO U.S. SENATOR ROBERT C. BYRD OF WEST VIRGINIA ON A HALF-CENTURY OF SERVICE TO THE NATION AND TO HIS STATE

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. RAHALL. Mr. Speaker, 50 years ago yesterday, January 8, 1997, the senior Senator from West Virginia, ROBERT C. BYRD, began his service in the U.S. House of Representatives where he served for 11 years, moving to the Senate in 1958 where he has served for the past 39 years.

As we all know, Senator BYRD celebrated having cast his 14,000th vote in the U.S. Senate last year, at which time he had a 98.7 percent voting average.

Senator ROBERT C. BYRD is the nationally recognized historian in residence in the Senate—the uncontested expert on the Senate as an institution, and the leading, nationally recognized expert on parliamentary procedures.

West Virginia’s citizens recognize Senator BYRD and applaud his achievements as a researcher, lecturer, writer, and parliamentary magician. That is all well and good, they say. It makes them very proud.

But what makes Senator BYRD’s people in West Virginia most proud is that he is also one of them—that he is someone they can go to, take their troubles, trials and tribulations to, and know that he will hear them and he will intervene on their behalf at every opportunity to make things better. West Virginians know that Senator BYRD’s every waking moment of service in the U.S. Senate is in their service—their best interests, their well being—and they know this without one single iota of doubt.

Residents of West Virginia can name with pride the many accomplishments of Senator BYRD—those noted above first of all. But, in

addition, West Virginians can tell you that during his Senate tenure he has served as secretary of the Senate Democratic Conference, Senate majority whip, Senate majority leader, Senate minority leader, and President pro tempore.

Further, Senator BYRD has served his State and his country throughout an integral part of the high drama and history of the second half of the 20th century—including the cold war, Vietnam, Watergate, Iran-Contra, the collapse of the Soviet Union, and the gulf war. He has served under nine Presidents, one of whom was assassinated, the other forced to resign the highest office in the land.

Senator BYRD is widely recognized for having achieved many milestones during his career, among them being only one of three U.S. Senators in history to have been elected to seven 6-year terms; being the first sitting Member of either House of Congress to begin and complete the study of law and obtain a law degree while serving in the Congress; being the first person in the history of West Virginia ever to serve in both chambers of his State Legislature and both Houses of the U.S. Congress; obtaining the greatest number, the greatest percentage, and the greatest margin of votes cast in statewide, contested elections in his State; being the first U.S. Senator in West Virginia to win a Senate seat without opposition in a general election; and having served longer in the U.S. Senate than anyone else in West Virginia history.

Mr. Speaker, these are remarkable achievements for one man, and we honor Senator BYRD for them.

His greatest feat, in my estimation, is that he has brought dignity and civility to the U.S. Senate every day of his life, throughout his tenure there.

Senator ROBERT C. BYRD is a gentle but firm leader, who has the ability to share, in his writing and vocally, his deep and abiding reverence for the Senate as an institution. He constantly lectures, through his weekly history lessons, on the importance of knowing and observing, and above all else, respecting, the traditions of the Senate, its rules of engagement and the parliamentary procedures that govern it as an institution.

And so it is with great personal honor that I rise on the occasion of his 50th anniversary year of U.S. Senate service, to pay tribute to the well cherished and beloved senior Senator from West Virginia ROBERT C. BYRD, and to wish God’s blessings upon himself personally, and upon the important work he will do in the coming years on behalf of his institution, his countrymen nationwide, and his especial work on behalf of his fellow West Virginians.

SUPPORT FOR H.M.O. PATIENT REFORM

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. STARK. Mr. Speaker, on Tuesday, January 7, I introduced legislation to provide a comprehensive set of consumer protections for people in managed care plans.

One of my proposals is that Medicare and Medicaid should not start monthly payments—which can amount to somewhere between

\$300 and \$700 a month—for a new HMO enrollee until that HMO actually meets with the enrollee, shows them how to use the system, and establishes a basic health profile on the individual. Today, an HMO can receive thousands of dollars in payments before it ever sees a patient or tries to maintain their health.

How can an HMO truly be a health maintenance organization, if it doesn't know what the health of the person is, whether the person is overweight, smokes, needs inoculations, has high blood pressure or diabetes, et cetera, et cetera?

Last August, the Public Policy Institute, part of the Division of Legislation and Public Policy of the American Association of Retired Persons, issued an excellent paper entitled, "Managed Care and Medicare." The paper—which does not necessarily represent formal policies of the association—recommended:

Health plans should be required to conduct a comprehensive health assessment of new patients upon enrollment, followed by specific provisions for improved access to primary and specialty care on a routine basis.

This is precisely the idea in my legislation, and I hope other senior and patient advocacy groups will consider this proposal and how it would help eliminate many of the abuses in the current enrollment of Medicare and Medicaid beneficiaries.

TRANSPORTATION COMMITTEE
PROCEDURES FOR ISTEA REAUTHORIZATION

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. PETRI. Mr. Speaker, on behalf of NICK RAHALL, the ranking democratic member of the Subcommittee on Surface Transportation, BUD SHUSTER, the chairman of the Transportation and Infrastructure Committee, and JAMES OBERSTAR, the committee's ranking democratic member, I would like to outline the subcommittee's procedure for identifying items of concern to members as it takes up the reauthorization of the Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA]. This legislation authorizes over \$150 billion for our nation's highway, transit, motor carrier, safety, and research programs for 6 years and is due to expire on September 30, 1997.

The importance of the surface transportation system cannot be overstated. There is ample evidence documenting the link between careful infrastructure investment and increases in this nation's productivity and economic prosperity. For instance, between 1980 and 1989, highway capital investments contributed almost 8 percent of annual productivity growth. A recent study demonstrated that the costs of highway investments are recouped through production cost savings to the economy after only 4 years. Another study concluded that transit saves at least \$15 billion per year in congestion costs.

Despite the critical importance of our transportation systems to our Nation's economic health, investment has fallen short of what is needed. The Department of Transportation estimates that simply maintaining the current conditions on our highway, bridge, and transit systems will require investment of \$57 billion

per year from Federal, State, and local governments, an increase of 41 percent over current levels. To improve conditions to optimal levels would require doubling our current investment to \$80 billion per year. Meeting these needs will require a variety of strategies, including better use of existing systems, application of advanced technology, innovative financing, and public-private partnerships. It is our goal to develop a bill that will meet these needs and maintain this world class system.

Reauthorization is the top priority of the Subcommittee on Surface Transportation. In the second session of the 104th Congress, the subcommittee held a series of 12 ISTEA oversight hearings and received testimony from 174 witnesses. The hearings gave many interested Members, the administration and affected groups the opportunity to testify and present their views. There was strong interest in these hearings and they covered the programs which need to be reauthorized in this coming bill. We would be happy to make copies of these hearing transcripts available to any interested Members.

We anticipate that the bipartisan legislation we develop this year will be based largely on the information obtained at last year's extensive programmatic hearings. As we begin this process, we would like to offer Members the opportunity to inform the subcommittee about any policy initiatives or issues that Members want the subcommittee to consider including or addressing in the reauthorization of ISTEA. Members having such specific policy requests should inform the subcommittee in writing no later than February 25, 1997.

Many Members have already contacted the subcommittee to inquire about, or to request, specific funding for critical transportation needs in their districts. With the convening of the new Congress, we anticipate that these requests will continue. Therefore, if you are intending to request funding for these projects, we will require that the request include the information set forth below. Although the subcommittee has not yet decided how such requests will be handled, the information provided will allow the subcommittee to thoroughly evaluate each request as we determine the appropriate action to take in this regard. Any requests should be submitted no later than February 25, 1997. Such submissions should be in writing and must include responses to each of the 14 evaluation criteria listed at the end of this statement.

We will also be holding a series of subcommittee hearings in late February and early March at which time Members and local officials will have an opportunity to testify on behalf of those requests. While these hearings are intended to give Members an opportunity to present information about specific project needs, it is not necessary for Members to testify.

We look forward to working with all Members of the House as we prepare this important legislation which will set the course for our Nation's surface transportation programs.

TRANSPORTATION PROJECT EVALUATION CRITERIA, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, SUBCOMMITTEE ON SURFACE TRANSPORTATION

1. Name and Congressional District of the primary Member of Congress sponsoring the project, as well as any other Members supporting the project (each project must have a single primary sponsoring Member).

2. Identify the State or other qualified recipient responsible for carrying out the project.

3. Is the project eligible for the use of Federal-aid funds (if a road or bridge project, please note whether it is on the National Highway System)?

4. Describe the design, scope and objectives of the project and whether it is part of a larger system of projects. In doing so, identify the specific segment for which project funding is being sought including terminus points.

5. What is the total project cost and proposed source of funds (please identify the federal, state or local shares and the extent, if any, of private sector financing or the use of innovative financing) and of this amount, how much is being requested for the specific project segment described in item #4?

6. Of the amount requested, how much is expected to be obligated over each of the next 5 years?

7. What is the proposed schedule and status of work on the project?

8. Is the project included in the metropolitan and/or State transportation improvement plan(s), or the State long-range plan, and if so, is it scheduled for funding?

9. Is the project considered by State and/or regional transportation officials as critical to their needs? Please provide a letter of support from these officials, and if you cannot, explain why not.

10. Does the project have national or regional significance?

11. Has the proposed project encountered, or is it likely to encounter, any significant opposition or other obstacles based on environmental or other types of concerns?

12. Describe the economic, energy efficiency, environmental, congestion mitigation and safety benefits associated with completion of the project.

13. Has the project received funding through the State's federal aid highway apportionment, or in the case of a transit project, through Federal Transit Administration funding? If not, why not?

14. Is the authorization requested for the project an increase to an amount previously authorized or appropriated for it in federal statute (if so, please identify the statute, the amount provided, and the amount obligated to date), or would this be the first authorization for the project in federal statute? If the authorization requested is for a transit project, has it previously received appropriations and/or received a Letter of Intent or has FTA entered into a Full Funding Grant Agreement for the project?

INTRODUCTION OF THE INTELLECTUAL PROPERTY ANTITRUST PROTECTION ACT OF 1997

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. HYDE. Mr. Speaker, today I am introducing the Intellectual Property Antitrust Protection Act of 1997. I am pleased to be joined by my colleagues on the Judiciary Committee, Mr. SENSENBRENNER, Mr. GEKAS, Mr. SMITH, Mr. GALLEGLY, Mr. CANADY, Mr. BONO, and Mr. FRANK who are original cosponsors of this legislation.

Because of increasing competition and a burgeoning trade deficit, our policies and laws must enhance the position of American businesses in the global marketplace. This concern should be a top priority for this Congress.

A logical place to start is to change rules that discourage the use and dissemination of existing technology and prevent the pursuit of promising avenues of research and development. Some of these rules arise from judicial decisions that erroneously create a tension between the antitrust laws and the intellectual property laws.

Our bill would eliminate a court-created presumption that market power is always present in a technical antitrust sense when a product protected by an intellectual property right is sold, licensed, or otherwise transferred. The market power presumption is wrong because it is based on false assumptions. Because there are often substitutes for products covered by intellectual property rights or there is no demand for the protected product, an intellectual property right does not automatically confer the power to determine the overall market price of a product or the power to exclude competitors from the marketplace.

On May 14, 1996, the Judiciary Committee held a thorough hearing on H.R. 2674, an identical bill that was introduced in the last Congress. At the hearing, the bill received support from the Intellectual Property Owners, the American Bar Association, and the Licensing Executives' Society. The administration agreed that the bill reflected the proper antitrust policy, but hesitated to endorse a legislative remedy.

Despite the administration's reluctance to endorse the bill fully in last year's hearing, the recent antitrust guidelines on the licensing of intellectual property—issued jointly by the antitrust enforcement agencies, the Department of Justice and the Federal Trade Commission—acknowledge that the court-created presumption is wrong. The guidelines state that the enforcement agencies "will not presume that a patent, copyright, or trade secret necessarily confers market power upon its owner. Although the intellectual property right confers the power to exclude with respect to the specific product, process, or work in question, there will often be sufficient actual or potential close substitutes for such product, process, or work to prevent the exercise of market power." Antitrust guidelines for the Licensing of Intellectual Property, April 6, 1995, p. 4 (emphasis in original).

For too long, Mr. Speaker, court decisions have applied the erroneous presumption of market power thereby creating an unintended conflict between the antitrust laws and the intellectual property laws. Economists and legal scholars have criticized these decisions, and more importantly, these decisions have discouraged innovation to the detriment of the American economy.

The basic problem stems from a lower Federal court decision that construed patents and copyrights as automatically giving the intellectual property owner market power. *Digidyne Corp. v. Data General Corp.*, 734 F.2d 1336, 1341-42 (9th Cir. 1984), cert. denied, 473 U.S. 908 (1984). The sheer size of the Ninth Circuit and its location make this holding a serious problem, even though some other courts have not applied the presumption. *Abbott Laboratories v. Brennan*, 952 F.2d 1346, 1354-55 (Fed. Cir. 1991), cert. denied, 505 U.S. 1205 (1992); *A.I. Root Co. v. Computer/Dynamics, Inc.*, 806 F.2d 673, 676 (6th Cir. 1986). The Ninth Circuit covers nine States and two territories, and it has a population of more than 45 million people. In addition, it contains a signifi-

cant portion of the computer industry, including Silicon Valley in California and Microsoft in Washington.

So, in this very important area, the law says one thing in the Ninth Circuit, a different thing in other circuits, and in still other circuits, the courts have not spoken. See Antitrust Guidelines for the Licensing of Intellectual Property, p. 4 n. 10. This lack of clarity causes uncertainty about the law which, in turn, stifles innovation and discourages the dissemination of technology.

For example, under Supreme Court precedent, tying is subject to per se treatment under the antitrust laws only if the defendant has market power in the tying product. However, the presumption automatically confers market power on any patented or copyrighted product. Thus, when a patented or copyrighted product is sold with any other product, it is automatically reviewed under a harsh per se standard even though the patented or copyrighted product may not have any market power. As a result, innovative computer manufacturers may be unwilling to sell copyrighted software with unprotected hardware—a package that many consumers desire—because of the fear that this bundling will be judged as a per se violation of the prohibition against tying. The disagreement among the courts only heightens the problem for corporate counsel advising their clients as to how to proceed. Moreover, it encourages forum shopping as competitors seek a court that will apply the presumption. Clearly, intellectual property owners need a uniform national rule enacted by Congress.

Very similar legislation passed the Senate during past Congresses with broad, bipartisan support. S. 438 passed the Senate once as separate legislation and twice as an amendment to House-passed legislation during the 100th Congress. S. 270, a similar bill, passed the Senate again during the 101st Congress.

During the debate over that legislation, opponents of this procompetitive measure made various erroneous claims about this legislation—let me dispel these false notions at the outset. First, this bill does not create an antitrust exemption. To the contrary, it eliminates an antitrust plaintiff's ability to rely on a demonstrably false presumption without providing proof of market power. Second, this bill does not in any way affect the remedies, including treble damages, that are available to an antitrust plaintiff when it does prove its case. Third, this bill does not change the law that tying arrangements are deemed to be per se illegal when the defendant has market power in the tying product. Rather, it simply requires the plaintiff to prove that the claimed market power does, in fact, exist before subjecting the defendant to the per se standard. Fourth, this bill does not legalize any conduct that is currently illegal.

Instead, this bill ensures that intellectual property owners are treated the same as all other companies under the antitrust laws, including those relating to tying violations. The bill does not give them any special treatment, but restores to them the same treatment that all others receive.

In short, the time has come to reverse the misdirected judicial presumption. We must remove the threat of unwarranted liability from those who seek to market new technologies more efficiently. The intellectual property and antitrust laws should be structured so as to be complementary, not conflicting. This legislation

will encourage the creation, development, and commercial application of new products and processes. It can mean technological advances which create new industries, increase productivity, and improve America's ability to compete in foreign markets.

I urge my colleagues in the House to join us in cosponsoring this important legislation. If you would like to join as a cosponsor, please call Joseph Gibson of the Judiciary Committee staff at extension 5-3951.

INTRODUCTION OF THE MARINE
RESOURCES REVITALIZATION
ACT OF 1997

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. SAXTON. Mr. Speaker, today I am pleased to introduce the Marine Resources Revitalization Act of 1997, a bill to reauthorize the National Sea Grant College Program.

By way of background, the National Sea Grant College Program was established by Congress in 1966 in an effort to improve our Nation's marine resource conservation efforts, to better manage those resources, and to enhance their proper utilization. Housed within the National Oceanic and Atmospheric Administration, Sea Grant is modeled after the highly successful Land Grant College Program created in 1862.

Over the past 30 years, Sea Grant has dramatically defined our capabilities to make decisions about marine, coastal, and Great Lakes resources—vast, publicly owned resources which are of vital economic, social, and cultural importance to our rapidly growing coastal populations. In doing so, Sea Grant promotes high quality, peer-reviewed scientific research. Furthermore, Sea Grant distributes scientific results regionally and locally through educational and advisory programs at over 300 universities and affiliated institutions nationwide. Twenty-nine of these are specifically designated as Sea Grant colleges or institutional programs, and they serve to coordinate Sea Grant activities on a State-by-State basis.

The Marine Resources Revitalization Act of 1997 authorizes funding for Sea Grant through fiscal year 2000; simplifies the definition of issues under Sea Grant's authority; clarifies the responsibilities of State and national programs; consolidates and clarifies the requirements for the designation of Sea Grant colleges and regional consortia; repeals the post-doctoral fellowship and international programs, both of which have never been funded; and makes several minor clerical or conforming amendments.

I would like to acknowledge three of my distinguished colleagues—DON YOUNG of Alaska, NEIL ABERCROMBIE of Hawaii, and SAM FARR of California—for their leadership in this reauthorization effort. We firmly believe that this legislation represents a realistic approach to reauthorizing the Sea Grant Program—the bill is inherently noncontroversial and has been fully endorsed by the administration. By enacting this legislation, we send a clear message supporting the protection and wise use of our marine and coastal resources.

INTRODUCTION OF INDIVIDUAL
RETIREMENT ACCOUNT (IRA)
LEGISLATION

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. NEAL of Massachusetts. Mr. Speaker, today Mr. Thomas and I are introducing the Super IRA bill. This bill is comprehensive individual retirement account [IRA] legislation. The main purpose of this legislation is to make it easier for individuals to save for retirement.

Saving for retirement is an issue which we must address. The Super IRA legislation will help with retirement and we can do this in a bipartisan manner. The phrase "economic security" has become part of our vocabulary. During this session of Congress, we should do as much as possible to make individuals more secure in their retirement.

Statistics about retirement and our savings are not promising. Chairman Alan Greenspan of the Federal Reserve once stated that our low national savings rate is our No. 1 economic problem. Our national savings rate is only 1 percent of GDP.

We are beginning to face what has been commonly referred to as the "graying of America." Within 30 years 1 out of every 5 Americans will be over 65. In 15 years, the baby boomers will begin turning 65. The baby boomers generation consists of 76 million people and this will result in Social Security beneficiaries doubling by the year 2040. Less than half of American workers are covered by private sector pensions.

The Super IRA legislation provides incentives for individuals to save for their own retirement. This legislation makes it easier for individuals to become personally responsible for their retirement. It will make all Americans eligible for fully deductible IRA's by the year 2001. Current law only allows those taxpayers who are not covered by any other pension arrangement and whose income does not exceed \$40,000 to be eligible for a fully deductible IRA.

The 10-percent penalty on early withdrawals would be waived if the funds are used to buy a first home, to pay educational expenses, or to cover any expense during periods of unemployment. These are necessary legitimate purposes. Otherwise these savings should just be used for retirement.

The legislation creates a new type of IRA called the IRA plus Account. Contributions would not be tax deductible, but earnings can be withdrawn tax-free if the account is open for at least 5 years and the IRA holder is at least age 59½. These accounts provide another savings vehicle for individuals.

Super IRA legislation is not a panacea for the social insecurity that we will inevitably face, but is a reasonable, concrete solution to make retirement savings easier. I urge you to become a cosponsor of this legislation. I look forward to working on the passage of the Super IRA legislation during this session of Congress.

INTRODUCTION OF INDIVIDUAL
RETIREMENT ACCOUNT [IRA]
LEGISLATION

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. THOMAS. Mr. Speaker, today I am introducing the 105th Congress version of the Super IRA legislation we expect to restore real savings incentives to the Internal Revenue Code. This year's bill, the Savings and Investment Incentive Act of 1997, represents the best selection of options for restoring and improving the Individual Retirement Accounts that have been so popular with taxpayers. All taxpayers will ultimately be able to choose between having an Individual Retirement Account that allows them to deduct contributions for their retirement savings and an IRA Plus account allowing them to earn tax-free income.

An outline of the bill follows. In addition, I want to note that Senate Finance Chairman ROTH and Senator BREAUX, with whom I have worked closely in developing the bill, will be introducing the Savings and Investment Incentive Act later this month. All of us agree that taxpayers need and deserve the savings incentives this bill provides.

It is obvious that the American taxpayer needs and wants the savings incentives this bill will provide. Studies indicate that today's "baby boomer" workers are only saving 36 percent of the funds they will need to maintain their standards of living after retirement. In fact, people aged 60 to 64, those closest to retirement, only have about \$1,700 in financial assets in the form of savings, checking, and similar kinds of accounts. We need to give taxpayers control of their funds so they can better prepare for the future.

The Super IRA bill makes critical changes in the law so taxpayers will have plenty of options to choose from in saving for their future. The income caps that prevent many people from making deductible contributions to IRA's are eliminated over a 5-year period. A new kind of account called an IRA Plus account would be offered so taxpayers could earn tax-free income. The bill makes all IRA's easier for taxpayers to use because it eliminates the need to coordinate contributions with other kinds of retirement arrangements. This bill gives taxpayers the liquidity they want. Funds could be withdrawn from either type of IRA to fund family needs such as education, the purchase of a first home, or family support during periods of long-term unemployment.

IRA's enjoy a good deal of popularity among taxpayers. A number of surveys show just how popular they are. One poll found 74 percent of the respondents would increase their savings if they had tax incentives to do so, precisely what the Super IRA bill provides. Another survey conducted in 1995 found that 77 percent of those contacted supported letting everyone have deductible IRA's while 69 percent like the idea of penalty-free withdrawals for purchasing a first home, to provide education, or meet family needs during extended unemployment.

IRA's are a savings incentive that everyone can support. Republicans and Democrats can support this bill and I hope my House colleagues will join me in seeking to have the

Savings and Investment Incentive Act enacted this year.

SUPER INDIVIDUAL RETIREMENT ACCOUNT
LEGISLATION

DESCRIPTION OF PROVISIONS

Makes tax deductible IRAs available to all Americans

Under the legislation, all Americans would be eligible for fully deductible IRAs by the year 2001. Current law only allows those taxpayers who are not covered by any other pension arrangement and whose income does not exceed \$40,000 (\$25,000 for singles) to be eligible for a fully deductible IRA. These income limits would be gradually eliminated over a four year period beginning 1997.

The \$2,000 contribution limit would be indexed for inflation in \$500 increments.

Homemakers and other workers without employer pensions would be permitted to make up to a \$2,000 tax deductible IRA contribution regardless of whether their spouses have an employer pension. This provision builds on the homemaker IRA provisions in the "Small Business Job Protection Act of 1996" signed into law in 1996.

New kind of IRA—"IRA Plus Account"

Taxpayers will be offered a new IRA choice called the "IRA Plus Account." Under the IRA Plus Account, contributions would not be tax deductible. However, earnings on IRA Plus Account assets can be withdrawn tax-free if the account is open for at least 5 years and the IRA holder is at least age 59½. A 10% penalty would apply to early withdrawals unless they meet one of three special purpose distributions described below.

Taxpayers can contribute up to \$2,000 to either a tax deductible IRA or a non-tax deductible IRA Plus Account. They can also allocate any portion of the \$2,000 limit between these two IRA accounts, (e.g., \$1,000 to a tax deductible IRA and \$1,000 to the IRA Plus Account).

Penalty-free IRA withdrawals for special purposes

The 10% penalty on early withdrawals would be waived if the funds are used to buy a first home, to pay educational expenses or to cover any expense during periods of unemployment (after collecting unemployment compensation for at least 12 weeks). Participants in 401(k) plans and 403(b) annuities could also receive penalty-free withdrawals for these purposes under the legislation. Taxpayers will still be liable for the income tax due on the withdrawal, but no penalty tax would apply. Note: penalty-free withdrawals from IRAs for medical expenses were provided under the "Health Insurance Portability and Accountability Act of 1996" signed into law in 1996.

Conversion of IRAs into IRA Plus Accounts

Taxpayers will be allowed to "convert" their old IRA savings into IRA Plus Accounts without incurring an early withdrawal penalty or an excess distribution penalty. However, individuals must pay income tax on previously deducted contributions and corresponding earnings. If the conversion is made before January 1, 1999, the taxpayer can spread the tax payments over a four-year period.

Other features of the Thomas/Neal legislation

IRA and 401(k) contributions would not have to be coordinated.

IRA funds could be invested in certain coins and bullion.

TRIBUTE TO JOHN DUFFEY, AN
AMERICAN MUSICAL PIONEER

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 9, 1997

Mr. OBEY. Mr. Speaker, it is a tradition of the House to take note of milestones and passages in our Nation. Mid-last year the world of music lost Bill Monroe, who was widely regarded as the founder of bluegrass. I take this occasion to call attention to the fact that sadly on December 10 we lost another giant in that musical tradition with the passing of John Duffey.

He was a remarkable singer of bluegrass, possessed of a powerful vocal instrument, one that could soar to impossibly high notes or become the soul of harmony and touch the heart. He was a good performer with mandolin and guitar, and he was the prince of wit and laughter.

He was a founding member of two bands that influenced string band musicians and singers across the Nation and around the world—the Country Gentlemen and the Seldom Scene. For more than 20 years, John Duffey and the Seldom Scene could be heard Thursday nights at the Birchmere in Alexandria. I had the pleasure of hearing them perform there often. When my constituents would come to town and asked me if there was something different they could see, I would always tell them if they wanted to see the people's music at its finest they should head down to the Birchmere and see John Duffey and his friends perform.

John Duffey did not like being boss and he liked being bossed even less, so these bands were composed of partners. A John Duffey comment about band structure can be applied to other aspects of life. He said, "Democracy doesn't work all that well, but it keeps a group happy longer than any other way of doing business." He knew that from spending almost 40 years in just two bands.

A flamboyant performer famed for spoofs of whatever needed spoofing and a general irreverence on stage, John was modest, genial, and almost shy off stage.

Like all great artists, John Duffey was aware of the beauty around him. He grew up in a family with a father who was a professional singer, performing at one point for the Metropolitan Opera. John seems to have never rejected any music that was in tune, and he had a good ear.

He heard and was attracted to the music of Appalachian migrants to the Washington area from the upland South. Music is judged as often for its social connection as its sound, and this music had no status. But Duffey was not concerned about such things and he gave this music a new milieu. Here was a tall man with a crew cut and rapier wit performing brilliant bluegrass and able to put any heckler in North America in his seat.

Duffey loved the Appalachian sound, but he was not from the area and did not care to pretend that he was. So he helped enlarge the reach of the music. He chose songs from modern and ancient sources; he worked on vocal harmonies new to the genre. Thousands of younger players were impressed.

In an interview on Washington's great WAMU radio station, host Jerry Gray recently

asked Duffey how he wished to be remembered. The answer was Duffeyesque: "Well, I hope no one will think I was a klutz."

When the passage of time allows a broader perspective, I believe John Duffey will be considered one of the most important creators of this music. Through his wit, laughter, extraordinary musical gifts and passionate performance, he said, "this is a great American working class music."

I extend condolences to his family, his fellow members of the Seldom Scene, and the thousands who will miss him as I will.

Mr. Speaker, I am inserting in the RECORD at this point four articles. The first, the obituary for John Duffey, written by Bart Barnes, which appeared in the Washington Post. Second, the accompanying newspaper article, written by Richard Harrington, which appeared in the Post that same day. Third, an article written for Bluegrass Unlimited by Dick Spottswood. And fourth, a tribute to John Duffey written by Dudley Connell for Sing Out! magazine. Mr. Connell is lead singer in The Seldom Scene, which was cofounded by Mr. Duffey.

[From the Washington Post, Dec. 11, 1996]

MUSICIAN JOHN DUFFEY DIES; LED THE GROUP
SELDOM SCENE

(By Bart Barnes)

John Duffey, 62, a singer and mandolin player who founded and led the Seldom Scene bluegrass group for 25 years, died Nov. 10 at Arlington Hospital after a heart attack.

Mr. Duffey, who was known to music lovers for a high, lonesome and lusty tenor voice that was once described as "one in a million," had been a fixture in Washington's musical community since the 1950s. The Seldom Scene was probably the premier bluegrass band in the Washington area, according to Pete Kuykendall, the publisher of Bluegrass Unlimited magazine and a former bandmate of Mr. Duffey's.

For 22 years, the Seldom Scene has played regularly at the Birchmere in Alexandria. The group also has toured overseas, played in most of the 50 states and produced dozens of recordings, tapes and compact discs.

The group's most recent album is "Dream Scene," released this fall. The Seldom Scene played with other bluegrass bands on the Grammy Award-winning "Bluegrass: The World's Greatest Show." Over the last quarter-century, the group has played for the likes of President Jimmy Carter and Vice President Gore, as well as for members of Congress.

The group was formed in 1971 by Mr. Duffey and four others: Tom Gray, who worked for National Geographic; Ben Eldridge, a mathematician and computer expert; Mike Auldridge, a graphic artist with the Washington Star; and John Starling, a physician and ear, nose and throat specialist.

The five men initially intended to sing and play together only occasionally, hence the name, Seldom Scene. "They started as a fun thing, like a Thursday night poker game or a bowling night," Kuykendall said.

But the group soon progressed from occasional basement gettogethers to regular Thursday night appearances at the Red Fox Inn in Bethesda, where they played to standing-room-only crowds, and, from there, to the Birchmere, where they became a weekly fixture.

The Seldom Scene's 15th-anniversary concert was held at the Kennedy Center, and it included a presidential citation from Ronald Reagan, whose press secretary, James Brady, was a regular at the Birchmere. It featured guest appearances by the likes of Linda Ronstadt and Emmylou Harris.

Mr. Duffey, a resident of Arlington, was born in Washington and graduated from Be-

thesda-Chevy Chase High School. His father had been a singer with the Metropolitan Opera, and the son inherited an exceptional singing voice with a range said to be three of four octaves.

As a high school student, the young Mr. Duffey developed a love for the bluegrass music he heard on the radio. His father taught him the voice and breathing techniques of a classical opera singer, despite what was said to have been the elder Duffey's lack of enthusiasm for "hillbilly music."

As a young man, Mr. Duffey worked at a variety of jobs, including that of printer and repairer of stringed instruments. But his avocation was music, and it soon became his vocation as well.

In 1957, with Bill Emerson and Charlie Waller, Mr. Duffey founded the Country Gentlemen, a bluegrass and folk music group that for about 10 years rode the wave of folk music enthusiasm that surged through the 1960s. The group disbanded in the late 1960s, and Mr. Duffey went to work as an instrument repairman at a music store in the Cherrydale section of Arlington, which was how he was making a living when the Seldom Scene was formed.

"When we started the Seldom Scene, we all had jobs and we didn't care if anybody liked what we did or not," Auldridge told The Washington Post's Richard Harrington last year. "We just said, 'We're going to do some bluegrass because we love it, and some James Taylor or Grateful Dead, and if people buy it, great. If they don't, what do we care?'"

Mr. Duffey was a large and imposing man with a precise and soulfully expressive voice, and his singing was invariably moving. But he also had an engaging, irrepressible and sometimes off-the-wall style of stage chatter and a superb sense of timing that could break up an audience with a one-liner.

"What people love about him is that you know he's one of these guys stuck in the '50s, but he's so happy with himself, so confident, and he's also nuts," Auldridge said in 1989.

In the quarter-century since its formation, the Seldom Scene built its reputation on flawless harmony, instrumental virtuosity and a repertoire that included traditional bluegrass and modern popular music, rock tunes, swing and country, gospel and jazz.

Over the years, there would be changes in the group's composition, but until last year, the instrumental core remained the same: Mr. Duffey on mandolin, Eldridge on banjo and Auldridge on dobro. But Auldridge left the group in December, leaving only two original members.

In September, Mr. Duffey was inducted along with the original Country Gentlemen into the International Bluegrass Music Association's Hall of Fame.

Survivors include his wife, Nancy L. Duffey of Arlington.

[From the Washington Post, Dec. 11, 1996]

JOHN DUFFEY: A MANDOLIN FOR ALL SEASONS
(By Richard Harrington)

The National Observer once dubbed John Duffey "the father of modern bluegrass," a paternity that suited the muscled, buzz-cut mandolinist and high tenor who was cofounder of both the Country Gentlemen in 1957 and the Seldom Scene in 1972. Those two seminal acts not only helped popularize bluegrass worldwide but made Washington the bluegrass capital of the nation in the '60s and '70s.

Already reeling from the recent death of bluegrass patriarch Bill Monroe, the music and its fans may be excused for feeling orphaned right now. Duffey who died yesterday at the age of 62 after suffering a heart attack

at his home in Arlington, was, like Monroe, a towering figure, physically and historically.

Duffey was also one of the most riveting and riotous personas in bluegrass, as famous for his (generally politically incorrect) jokes and onstage shenanigans as for ripping off fiery mandolin solos and then flinging his instrument behind his back when he was done—because, well, he was done.

"John was one of the half-dozen most important players ever in this industry," fellow musician Dudley Connell said yesterday. "He helped redefine how people looked at bluegrass, made it acceptable to the urban masses by his choice of material and style of performance."

Connell, founder of the critically acclaimed Johnson Mountain Boys, joined the Seldom Scene just a year ago when several of that band's longtime members left to devote themselves to a band called Chesapeake. That changeover represented a third act for John Duffey, the Washington-born son of an opera singer whose forceful and unusually expressive voice was once described—quite accurately—as "the loudest tenor in bluegrass."

"John Duffey had such a presence onstage you just had to watch him," noted bluegrass and country music radio personality Katie Daley. "It wasn't just that high tenor, either. He had such flair that he made the music a joy to watch . . . at a time when so many bluegrass groups would just stand straight-faced at the mike."

In terms of stubbornness and steel will, Duffey was not unlike Bill Monroe, but where Monroe was a tireless proselytizer for bluegrass, Duffey chose a different course that left him far less famous.

"He was proud but didn't want to pay any of the prices—interviews, travel, rehearsing, recording," says Gary Oelze, owner of the Birchmere, the Virginia club put on the world entertainment map by virtue of the Seldom Scene's 20-year residency there on Thursday nights.

"He hated to rehearse, and would only pull out his mandolin when it was time to play," Oelze recalled yesterday. "And he hated the studio, where his theory was, 'If I can't do it right in one take, then I can't do it right at all.' He's like Monroe in that both were set in their own ways. John was a big dominating character and cantankerous old fart. It's hard to imagine the big guy gone."

John Starling, a Virginia surgeon who was for many years the Seldom Scene's lead singer, concedes that Duffey was "sometimes difficult to deal with from a professional standpoint, but he was also true to himself and he never changed. John was one of a kind."

Starling first encountered Duffey while in medical school at the University of Virginia in the mid-'60s; at the time, Duffey was with the Country Gentlemen and Starling would venture to Georgetown to catch them at the Shamrock on M Street. "I never dreamed one day I'd play in the same band," Starling says, adding that "everything I know about the music business—especially to stay as far away from it as possible—I learned from John."

"Left to our own devices, the Seldom Scene would have cleared a room in 10 minutes without John," Starling says with a chuckle. "He was the entertainer, the rest of us were players and singers. He did it all."

Duffey's career began with a care wreck in 1957 that injured a mandolin player, Buzz Busby, who fronted a bluegrass group. Busby's banjo player, Bill Emerson, quickly sought substitutes so the band could fulfill a major club date.

Emerson found a young guitar player named Charlie Waller and a young mandolin player named John Duffey. And so on July 4

1957, what would soon be the Country Gentlemen played their first date, at the Admiral Grill in Bailey's Crossroads. They liked their sound, and decided to strike out on their own. It was Duffey who came up with the name, noting that a lot of bluegrass bands at the time were calling themselves the so-and-so Mountain Boys. "We're not mountain boys," he said. "We're gentlemen."

And scholars. At least Duffey was, spending hours at the Library of Congress's vast Archive of Folk Song, looking for unmined musical treasures. Duffey was a product of the first American folk revival, which had introduced urbanites to rural culture. And he in turn passed it on. "John was one of those people who brought rural music to the city," says Joe Wilson, head of the National Council for the Traditional Arts. "He was concerned with authenticity even though he didn't share the [rural] background."

What came to be known as the "classic" Country Gentlemen lineup was settled in 1959 with the addition of guitarist-singer Eddie Adcock. Duffey (high tenor), Waller (low tenor) and Adcock (baritone) created one of the finest vocal trios in bluegrass history. The band's repertoire deftly melded bluegrass, folk and country tunes in a way that was both tradition-oriented and forward-looking. And they began adapting popular songs in the bluegrass style.

Duffey "gave bluegrass accessibility to lawyers and accountants and people who worked on Capitol Hill," says Wilson. "He was an interpreter in the finest sense of the word, bringing grass-roots culture to an elite."

Along with Flatt and Scruggs—a duo introduced to mass television audiences by the "Beverly Hillbillies" theme song—the Country Gentlemen probably made more bluegrass converts in the '60s than Bill Monroe himself. They were criticized in traditional bluegrass circles for being too "progressive"—for playing what was dismissively dubbed "newgrass." But on the emerging bluegrass festival circuit and in venues as un-Shamrock-like as Carnegie Hall, their approach made them the music's most successful ambassadors.

By 1969, however, John Duffey was frustrated with traveling, terrified of flying, and generally down on the music business. He retired to an instrument-building and repair business in Arlington. In weekly gatherings at Bethesda's tiny Red Fox Inn, he played with other gifted musicians who didn't want to give up their day jobs. These sessions blossomed, in 1972, into a band with a modest name: the Seldom Scene.

The Country Gentlemen survived Duffey's departure, enduring 40 years around Waller, its lone survivor. Perhaps the Seldom Scene will go on, too. But John Duffey was so much the focus, the showman, the entertainer—that huge man with his fingers flying over his tiny mandolin—that it's hard to imagine the band, or bluegrass, without him.

[From *Bluegrass Unlimited*, Dec. 10, 1996]

JOHN H. DUFFEY

March 4, 1934—December 10, 1996

John Humbird Duffey died today. He was 62.

I had to write that down and stare at it for a few seconds to clear my mind and force myself to acknowledge that unthinkable and, for now, unacceptable fact of life. His death came from a massive heart attack at 10:20 a.m. at Arlington Hospital, after being taken in early this morning following some breathing problems. Though he had a history of minor heart problems, his health had otherwise been good—good enough for a successful Seldom Scene performance in the New York City area this past weekend.

Those are the simple, immediate facts, the ones we enumerate when grief makes it difficult to think beyond them. John was a commanding presence in the Washington, D.C. area, where he was born, raised and hardly ever left. His sheer size and bulk would have made him stand out in any crowd. On stage, when he went to work on that comparatively tiny mandolin, it never looked like a fair match, especially since John always made music look so deceptively easy.

John also played resonator guitar on a number of early Starday singles, including his notable "Traveling Dobro Blues." He was good at it too, but one can manage just so much, and John abandoned the instrument early. Not so his finger-style guitar, which has replaced or supplemented the mandolin in John's arrangements many times over the years.

John Duffey's voice was his other superb instrument. His father had been a professional singer, serving for a time in the Metropolitan Opera chorus. John learned a few vocal secrets from him, especially the arts of breathing and singing from the diaphragm. They served John well. His vocal agility, remarkable range, distinctive vocal harmonies, and lovely intonation remained with him right up to the end, and his voice was as instantly recognizable as any on the planet.

Many will remember John's incredible gift for comedy, which grew out of the bad boy persona he cultivated on stage. He was a child of the suburbs and his wit was hip and urbane rather than country. John's irreverence never served to diminish his music, but he could and did ad-lib as skillfully as a professional comic. It was an attitude which had been foreign to bluegrass. Before the Country Gentlemen appeared in 1957, hillbilly comedy had been the provenance of bass-players who specialized in rube routines, blackened teeth, and ill-fitting costumes. Their comedy at its best was crude and wonderful but it was no match for John Duffey, whose unrepentantly loud, tasteless clothes and flat-top haircut made him look like a comic relic in the '90s, much as Cousin Mort, Chick Stripling and Kentucky Slim appeared to be rural leftovers in the '50s.

The Country Gentlemen formed as a result of a 1957 auto accident involving the band of another bluegrass veteran, singer/mandolinist Buzz Busby. Buzz's band had contracted a July 4th engagement; to fill it, banjo player Bill Emerson engaged Charlie Waller, John Duffey and a temporary bass player. The result pleased everyone so much that they gave themselves a new name and kept right on working, even after Bill bequeathed the banjo chair to Pete Kuykendall, who subsequently turned it over to Eddie Adcock in 1959. Pete and John became fast friends, and Pete continued to work behind the scenes for the Gentlemen, composing new songs for them, introducing them to old ones, and producing their records for several years. Bass player Tom Gray joined the group later creating the Classic Country Gentlemen.

This unique combination of skills transformed the band virtually overnight. Charlie Waller had always been at home with mainstream country music as well as bluegrass. John and Bill Emerson's knowledge extended to country, pop, jazz, blues and classical music. The Country Gentlemen's first Starday release in 1958 clearly showed the way: "It's The Blues," neither blues nor bluegrass, was an experimental song which would have then seemed challenging even to Nashville professionals. Its reverse, "Backwoods Blues," was a jazzy reprise of the 1920s pop standard "Bye Bye Blues" (which wasn't blues either).

Marshall McLuhan once defined art as "anything you can get away with," which

precisely matched John Duffey's attitude towards bluegrass. John's respect for the classic Monroe model was exceeded by no one's but the Monroe musical constraints which defined classic bluegrass were only one option for him. The Country Gentlemen's eclectic LP collections proceeded to span the gap from ancient hymns and tragic songs to Ian and Sylvia, Tom Rush, Lefty Frizzel, and Bob Dylan pieces, woven into a broad and usually seamless fabric by a versatile and inspired group of musicians.

It turned out to be a perfect formula for those times. Mike Seeger pitched the Gents to Moe Asch, whose Folkways label published four LPs by them. Those recordings quickly wound up in the hands of urban folk music buffs, becoming bluegrass primers for many in northern cities and on college campuses. This new audience in turn was receptive to John's adventurous music, and it helped pave the way for the Gentlemen's growing international following in the 1960s.

As their career heated up, John grew tired of the necessary travel and retired from music in 1969. But the hiatus proved brief; in 1971 he joined Tom Gray, Mike Aldridge, and Ben Eldridge to form the Seldom Scene, whose name indicated that it was a group whose ambitions were limited. But lightning struck again. With John Starling, a singer whose abilities matched John's, the group quickly achieved the status and respect previously accorded the Country Gentlemen.

By then, the Duffey approach had been labeled "progressive bluegrass," a label which encouraged others to follow John's example and even exceed it, with pop tunes and rock arrangements which often became tangential to the classic models. John's selections and arrangements sought to take alien material and bring it towards bluegrass rather than force bluegrass to conform to other popular musics. It was the right approach; the "newgrass" bands have come and gone while the Seldom Scene has prospered and endured.

John Duffey wasn't a sentimental person, and he'd probably be embarrassed by an outpouring of emotion. But it's hard to envision bluegrass without him, hard for those of us of his generation and beyond not to remember many evenings at the Crossroads, the Shamrock, the Cellar Door, the Red Fox and the Birchmere, local joints which may not have been up to the standard of the downtown cocktail lounges, but where John, the Gents and the Scene enjoyed extended engagements over the past 40 years. That's not to say that John wasn't influential beyond his home environs. He traveled when he had to, to many parts of the globe, sharing the stage with everyone from Linda Ronstadt to Bill Monroe—who uncharacteristically, rarely failed to crack a smile in John's presence. John Duffey offstage was a modest and unassuming person, who nevertheless was a loyal friend to many, professionals and fans alike. Even those of us who weren't close to him can attest to the way his art touched our lives and made them better. His death will be hard for the many music professionals whom he inspired, informed and befriended. There hasn't been much that's taken place in bluegrass since the 1950s that he hasn't influenced one way or another.

Survivors include John's wife Nancy who, among other things, has been a loyal, appreciative spouse, a daughter, Ginger Allred and three stepchildren: Donald Mitchell, Richard Mitchell and Darci Holt.

Goodbye, John, and thank you from the bottom of our hearts. Like the ads say, your gifts will keep on giving.

[From Sing Out!]

The following tribute to John Duffey written by Dudley Connell for Sing Out! maga-

zine. Mr. Connell is lead singer in the Seldom Scene, co-founded by Mr. Duffey.

When John Duffey died on December 10, 1996, he left an imposing and very important forty year musical legacy.

John was a big guy with commanding stage presence. With his 1950s style flattop hair cut, multicolored body builder paints and unmatched bowling shirt, he left an indelible impression. When he arrived at the stage with his trademark mandolin and home made cup holder, complete with a special clip ready to attach to an unattended microphone stand, you knew John was ready to go to work.

His huge hands flew expertly across the neck of his tiny mandolin at a speed that seemed impossible. He made it look so easy. John would occasionally invite other players in the audience to sit and play his mandolin. They invariably found its high and tight action intimidating. Akira Otsuka, a long time Washington area player and John Duffey disciple, once looked at me after attempting a break on John's mandolin and asked, "How does he play this thing?"

John's most remarkable instrument, however, was his powerhouse tenor voice. There has never been any voice in bluegrass more unmistakable or capable of such range as that of John Duffey's. It seemed to ignore human bounds. His voice could range from the soft and delicate, "Walk Through This World With Me", to the aggressive and powerful, "Little Georgia Rose". Even at age 62, his voice was both challenging and inspiring to accompany.

John Duffey was as well known for his entertaining stage swagger as for his incomparable musical abilities. He was like a loose cannon on stage. Unlike many performers who have been entertaining for a long period of time, John did not work from scripted stage patter. Anything and anybody was fair game. There were many times John would hook onto a unsuspecting heckler in the audience and send the rest of the band members scurrying for cover. But with that unpredictable tension came a certain excitement and unpredictability that was fuel for the fire of all Seldom Scene stage shows.

In his forty years in the bluegrass music, John was unique and fortunate to have been the catalyst in forming two landmark bands. The first came by accident, literally.

On July 4th, 1957, Buzz Busby, a legendary Washington area mandolin player and tenor singer, was contracted to play a gig at a local night spot. When he was involved in an automobile accident and was unable to make the show, the group's banjo player, Bill Emerson, started making phone calls and arranged for Charlie Waller and John to fill in. The resulting sound was pleasing to everyone that they decided to give themselves a new name and continue playing together.

Never one to follow trends, John felt that a band from Washington DC should choose a name that reflected its own heritage and not use a "So and So and the Mountain Boys" or some other name that suggested they were from somewhere they were not. The name John chose was The Country Gentlemen, then a very urbane name for a bluegrass band. His former colleague in that group, Charlie Waller, continues to tour and perform with that band.

Due to the interest of Bill Emerson and John, tunes that were country, pop, blues, jazz, and classical became fair game for the Country Gentlemen who became noted for pushing the envelope of the existing bluegrass repertoire. John said, "There were enough versions of 'Blue Ridge Cabin Home' and 'Cabin in Caroline' to go around." He was looking for something different. Hence the Country Gentlemen's song bag included John's jazzy mandolin interpretation of

"Sunrise", Bob Dylan's "Its All Over Now Baby Blue", and a mandolin version of the theme from the movie "Exodus".

John also recognized the importance of the Folk Revival in the early 1960s and spent a considerable amount of time at the Library of Congress, researching material and achieving considerable success in composed melodies for old poems he found during his research. Songs entering the Country Gentlemen's repertoire in this manner include the classic, "Bringing Mary Home" and "A Letter to Tom". In addition to collecting and arranging old songs and poems, John composed and dedicated to his wife Nancy, "The Traveler", and the haunting "Victim to the Tomb", along with many others.

But by the late 1960s John had tired of all the traveling necessary to sustain a bluegrass band. "I just got tired of saving up to go on tour," he said. In 1969 Duffey left the Country Gentlemen with no intentions of performing again. During the 1969 to 1971, John operated a musical instrument repair shop.

But in 1971 John again found himself involved with music business, and again, by accident. He was joined in a informal group by former Country Gentlemen bassist Tom Gray, and by Ben Eldridge, Mike Aldridge and John Starling. This band would go on to be known as the Seldom Scene.

As the name implies, this group of musicians did not form with the intention of touring and playing music for a living. All the members had day jobs and simply wanted an outlet for their music. John said it was, "Sort of a boy's night out, like a weekly card game." The group started out in a member's basement, playing for fun, and then moved to the small Red Fox Inn outside Washington, DC. The group would later move across the Potomac River to a weekly Thursday night time slot at the Birchmere, in Northern Virginia.

Not being driven by the financial constraints to adhere to any of the rules normally associated with a professional touring group, the Seldom Scene did the music they wanted to do the way they wanted to do it. John's feeling was that "If people enjoy what we do, fine. If they don't, that's okay, too." With this freewheeling attitude, the group continued to stretch their musical reach by recording tunes from the Eric Clapton catalog, "Lay Down Sally" and "After Midnight", to long improvisational numbers with extended jams like "Rider".

This continuing tendency to incorporate influences from outside of the traditional sources made it easier for the urban audiences around Washington to identify with bluegrass. It also expanded the group's popularity to far beyond the doors of the local DC club scene. And the experimentation continued. In the weeks before his death, the current band was in rehearsals for their next recording project and were working on an arrangement to the Muddy Waters classic, "Rollin' and Tumblin'". John Duffey and the Seldom Scene continued to be active up to the end, playing in Englewood, New Jersey, just days before John's death.

John Duffey's influence on generations of musicians cannot be overstated. Noted music historian, Dick Spottswood, said, "There hasn't been much that's taken place in bluegrass since the 1950s that he hasn't influenced one way or another."

John Duffey is survived by his wife Nancy and daughter, Ginger Allred. He also has three stepchildren: Donald Mitchell, Richard Mitchell, and Darci Holt.