

workers compensation insurance, withholding income taxes and providing benefits such as vacation, sick and family leave, health and life insurance, pensions, and so forth. Most employers are honest, but the law-abiding employer is put at a serious disadvantage since he or she cannot compete on a level playing field with those who illegally cut their labor costs by misclassifying workers. Law-abiding employers will not be able to compete fairly until we provide more clear, objective standards by which businesses and the Government can determine whether an individual is an employee or an independent contractor.

Mr. Speaker, employers who have unintentionally misclassified workers should be given the incentive to come into compliance. Our legislation offers a 1-year amnesty to employers who have misclassified workers on the basis of a good faith interpretation of common law or of section 503. This provision removes the devastating possibility of large assessments for back taxes, interest and penalties and insures compliance in the future.

Misclassification can also have a devastating effect on the unsuspecting worker. As a contractor, he or she may receive a higher take-home pay and may be allowed to deduct more business expenses from income taxes. But the loss of financial benefits and of the many protections which are provided to employees can be catastrophic in cases of illness, unemployment and retirement. For example, there is no unemployment compensation for the independent contractor to fall back on between jobs. Health insurance is an individual responsibility and is usually far more costly than an employer's group policy. In the case of work-related injury or illness, there is no worker's compensation available. Our legislation would require prime contractors to notify legitimate independent contractors of all their tax obligations and other statutory rights and protections.

Mr. Speaker, as you know, many Federal entitlement programs hinge on the number employees that an employer has on its books. Thus, misclassifying employees as independent contractors also can enable employers to either escape responsibility for, or allow their workers to fall within coverage of, these entitlement programs. For example, the Health Insurance Portability Act of 1996 contains a much-heralded provision allowing medical savings accounts [MSA's]. However, MSA's are not available to an employee unless that employee works for a small employer, which is defined as an employer which employed 50 or fewer employees during either of the preceding calendar years. Additionally, the Health Insurance Portability and Accountability Act only allows a total of 750,000 taxpayers to have an MSA. Under liberal worker classification proposals, it would not be at all difficult for a dishonest employer with 60 employees to reclassify 10 of them as independent contractors so that the business now qualifies as a small employer. Moreover, by doing so, this type of dishonest employer may end up causing the 750,000 MSA participant ceiling to be reached much sooner than it otherwise would be, thereby bumping out of the MSA Program employees in other small businesses who lawfully would be entitled to their own MSA's. H.R. 771 would eliminate such distortion of the system by dishonest employers.

Last, Mr. Speaker, billions of dollars in Federal and State tax revenues are being lost as

a result of the intentional misclassification of workers. This is one of the few remaining areas where we can help reduce the Federal budget deficit without further cutting Government services or levying new taxes. A recent Coopers and Lybrand study found that at least \$35 billion in legitimate tax revenue over the next 9 years will be lost by the Federal Government due to the misclassification of employees. At a time when critical services are on the chopping block, we can no longer allow this waste and abuse to continue. We must take steps to curb the continued misclassification of employees.

The advantages of our legislation over more lax worker classification proposals are clear. Our legislation would clarify existing law, while other worker classification proposals seek a radical change to the worker classification principles that businesses have operated under to date. Our legislation would create a level playing field, while other worker classification proposals actually encourage unfair competition between employers and dishonest employers to cheat millions of unsuspecting workers out of employee benefits. Finally, our legislation would save the Federal Government billions of dollars in lost revenues, while other worker classification proposals would cost the Government billions more in lost tax revenues.

Mr. Speaker, misclassification, and especially intentional misclassification, has continued as a festering problem in this country for too long, and it is time for Congress to finally do something about it. I urge my colleagues to support the Misclassification of Employees Act.

#### TRIBUTE TO RUSSELL SWINDELL

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 1997

Mr. ETHERIDGE. Mr. Speaker, I rise today to mark the passing of a great North Carolinian. Russell Swindell served his State and its people in many capacities during his 90 years, and he will surely be missed by all.

Russell Swindell was born in Swan Quarter, NC, and represented Hyde County in the North Carolina House from 1951 to 1955. He loved to spend time outdoors, and was a long-time member of the First United Methodist Church in Cary.

But his greatest accomplishment, and the one that has undoubtedly impacted the lives of countless North Carolinians, was his help in creating the State's community college system.

Mr. Speaker, there is a lot of talk these days in our Nation's Capital and throughout this country about the value and importance of a quality education. Russell Swindell knew that long ago, and with his help and hard work, North Carolina set up a quality community college system that educates our young people and provides necessary training for workers still today. His vision helped thousands receive an education and vocational skills that has allowed them a brighter future in our society.

After leaving his job with the State Department of Education, he maintained his interest in the community colleges during the 20 years he was the executive director of the North Carolina Railroad Association.

We are all thankful for his wisdom and vision and for the contributions he made to our lives.

I wish to pass on my condolences to those who survive him: His wife, Martha, his daughters Sue Martin and Mary Anne Brannon, and his son A.B. Swindell, and all his grandchildren.

#### DELAURO HONORS JEAN HANDLEY FOR HER WORK IN NEW HAVEN

HON. ROSA L. DELAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 6, 1997

Ms. DELAURO. Mr. Speaker, on Thursday, November 14, 1996, Columbus House will hold its annual benefit. This year the benefit is entitled "It's a Small World" and is honoring two people who have given so much of themselves and have brought so much to the city of New Haven; Jean Handley and Timothy Shriver. I have known Jean for many years and her life and work embodies the benefit theme of bringing the global community to the city of New Haven.

Jean's professional life has always kept her in close contact with the people of New Haven. From 1984 through 1989, Jean was the vice president of Personnel and Corporate Relations for Southern New England Telephone Co. However, nothing speaks to Jean's character more than her dedicated patronage of the arts. Jean has lent her support to a number of local artistic organizations. She is currently serving as vice president of the New Haven Symphony Orchestra and is on the Board of Long Wharf Theater and the Creative Arts Workshop. Of particular note however, is her part in the production of the first annual International Festival of Arts and Ideas in New Haven. The brainchild of Anne Calabresi, Jean was one of the original founders and key organizers. It was Jean who brought the festival to life and made it a reality that will continue for years. The festival was a truly unique event that exhibited a rich array of talent from storytelling and puppetry to experimental theater. Perhaps the greatest achievement of the festival was the way it showcased the city of New Haven.

Jean has continually focused on promoting art in New Haven while also importing great art into the city. This is one of her focuses in her capacity on the Board of the Creative Arts Workshop. Founded in 1960, the Creative Arts Workshop holds classes for children and adults in everything from pottery and painting to weaving. Every year the workshop sponsors a holiday show that features craftspeople from all over the country. Jean understands that the creative process must involve sharing and communication between artists and she strives to facilitate these exchanges. Never satisfied to be just a name on a committee, Jean has immersed herself in every endeavor she undertakes. She is currently on the Board of Long Wharf Theater and is involved in the search for a new artistic director. She is always looking forward to the future of every organization she patronizes and her vision, time, and talent are invaluable.

I am very proud to join Columbus House in honoring Jean Handley. Jean is committed to keeping the arts vital and allowing the artistic