

Georgia, local governments, private foundations, corporate entities, private individuals, and other sources. The cost to the federal government will be less than half of the estimated cost of the effort and will almost certainly be much less.

I am very pleased to introduce a proposal that will promote private/public partnerships in protecting vital natural resources and in increasing recreational opportunities for citizens. Expanding the Chattahoochee National Recreation Area will ensure that future generations will have clean water to drink and will be able to enjoy the beauty of this nationally significant resource.

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TRIBUTE TO NICK BACA

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**HON. BOB FILNER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 25, 1998*

Mr. FILNER. Mr. Speaker and colleagues, I rise today to honor a hero and a pillar of our community—Nick Baca, who died in January, 1998 at the age of 76.

Although Nick served honorably in World War II and narrowly escaped death, he rarely spoke of his service and kept the memories buried for many years. In June of 1944, as a Ranger scout with the Second Ranger Battalion, he scaled the cliffs of Pointe du Hoc on the Normandy coast of France to destroy enemy bunkers. He was one of 24 out of 120 who reached the top in a barrage of gunfire and grenades.

He fought in the Battle of the Bulge and was taken prisoner. In December of 1944, he was lined up with his fellow prisoners in a column three men deep to be shot, but miraculously escaped a bullet in the massacre by the German guards. Covered with bodies, Nick lay still so the soldiers with bayonets did not notice him. The man on top of him was stabbed to death by a bayonet and Nick's leg was cut. He hid for several days before making his way back to friendly lines—one of only a handful who survived this massacre of American prisoners of war in Malmedy, Belgium.

After the war, he returned as an Army sergeant to his life in Los Lentes, New Mexico where his family had lived since the 1600s. When jobs became scarce, he became the first of his family to leave this area, and he moved to National City, California. Here he established himself in the construction industry and became a leader in the community. He was especially active in the Veterans of Foreign Wars. He was president of an Hispanic social organization in the 1970s.

His was a wonderful life. He was a man who did his duty to his country, who contributed to his community, and who raised his family well. He is survived by Eloise, his wife of 56 years, and his children, Rosalie Ortega, George Baca, Robert Baca and Herman Baca, who is a prominent Mexican-American activist in San Diego County—along with 18 grandchildren and 11 great grandchildren.

My thoughts and prayers go out to his wife and children and to the larger community who was touched by his presence. We will all miss him.

IN SUPPORT OF H.R. 3905, FAIRNESS IN ASBESTOS COMPENSATION ACT OF 1998

**HON. JOHN CONYERS, JR.**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 25, 1998*

Mr. CONYERS. Mr. Speaker, today I have agreed to cosponsor H.R. 3905, the "Fairness in Asbestos Compensation Act of 1998," legislation originally introduced by Chairman HYDE.

I have done so because litigation over asbestos claims may have reached a crisis point. Hundreds of thousands of American workers who were exposed to asbestos, and who have suffered or are suffering from serious diseases as a result, have to wait for years to have their legitimate claims paid. In some cases, innocent victims are in danger of not receiving any compensation at all, because the liable corporations have protected themselves, or will protest themselves, under the bankruptcy laws.

In 1994, negotiators between labor unions representing the bulk of the asbestos worker victims, on one side, and asbestos manufacturers, on the other side, resulted in a settlement agreement that was designed to alleviate the crisis. This agreement, known as the "Georgine Settlement" after Robert Georgine, President of the Building and Construction Trades Department of the AFL-CIO and the lead negotiator for labor in the settlement talks, would have established an administrative procedure for resolving asbestos claims. The U.S. District Court that oversees much of the federal class-action asbestos litigation approved the settlement as fair and reasonable. *Georgine v. Amchem Products, Inc.*, 157 F.R.D. 246 (E.D. Pa 1994).

Last year, however, in *Amchem Products, Inc. v. Windsor*, 117 S. Ct. 2231 (1997), the Supreme Court invalidated the Georgine Settlement, not on grounds of unfairness, but because the settlement agreement did not fit within the technical requirements of Rule 23 of the Federal Rules of Civil Procedure, which governs class-action lawsuits. The Court held that the federal courts lacked statutory authority to order so sweeping a settlement. Writing for the Supreme Court majority, Justice Ruth Bader Ginsburg stated: "The argument is sensibly made that a nationwide administrative claims processing regime would provide the most secure, fair, and efficient means of compensating victims of asbestos exposure. Congress, however, has not adopted such a solution."

Given the Supreme Court's decision, I believe that the relevant parties should again come to the table to work out a legislative solution if at all possible. That is why I have agreed to cosponsor H.R. 3905. I do want to note, however, that I have some specific concerns about the language of the bill as it is currently drafted. I am concerned the bill would eliminate the availability of punitive damages in those cases in which asbestos victims choose to pursue ordinary tort remedies instead of the administrative claims procedure. I have always believed, and I continue to believe strongly, that punitive damages must be available to sanction outrageous wrongdoing by corporate defendants. Otherwise, some unscrupulous businesspeople will simply choose to treat the damage caused by

unsafe products as a cost of doing business. This in no way means that I believe those defendants in the Georgine Settlement engaged in such conduct, but I do believe that such judgments should be left to the judicial process.

In addition, it is my position that any legislation we enact in the asbestos area should hew as closely as possible to the terms of the Georgine Settlement. To the extent H.R. 3905 may depart from those terms, I believe we should examine such departures very closely.

I look forward to working with Chairman HYDE on a bipartisan basis on this important legislation.

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THE MEDICARE+CHOICE PHARMACEUTICAL MANAGEMENT ACT

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**HON. FORTNEY PETE STARK**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, June 25, 1998*

Mr. STARK. Mr. Speaker, I am pleased to introduce the Medicare+Choice Pharmaceutical Management Act of 1998.

This bill would provide important protections for Medicare beneficiaries receiving prescription drug benefits through Medicare+Choice plans. These plans would be required to disclose important information about how they manage their drug benefits to cut costs, including any incentives offered to doctors to get them to switch to cheaper, but sometimes less effective, medications.

While many health plans still manage their own drug benefits, an increasing number of plans are hiring a new breed of management consultants known as pharmaceutical benefit managers (PBMs) to do their work for them. These companies currently manage prescriptions for some 115 million Americans and the number is expected to reach 200 million by the year 2000.

Plans have turned to PBMs in the hopes that they will be able to cut rising prescription drug costs. PBMs accomplish that goal by setting up lists of approved drugs (known as formularies), requiring specific authorization of non-formulary drugs, and urging doctors—often by providing financial and other incentives—to switch prescriptions for less expensive medications.

Of greater concern is the fact that PBMs are often given free reign to manage benefits through their own programs, with little oversight from the health plan. And, PBMs are neither licensed health care providers nor subject to federal regulation by the Food and Drug Administration (FDA).

Several of the largest PBMs are now owned by drug manufacturers and many independent PBMs have formed "strategic alliances" with drug manufacturers, exchanging preferential treatment on a formulary with millions of dollars in rebate payments from the drug companies. Since 1993, the three largest PBMs, serving fully 80% of covered enrollees, have been acquired by drug manufacturers at a total cost of \$12.8 billion. And, a January 1998 study showed that drug-company-owned PBMs covered 41% of the lives enrolled in PBM programs.

Drug companies that own PBMs say that they have "firewalls" in place to prohibit the two companies from sharing proprietary information or conducting joint marketing efforts