Utilities are capital intensive industries. Historically, they have received the capital for the construction of a utility extension directly from new customers—typically through the developer or small municipality. The customer contributes this property, or a cash equivalent, equaling the cost of the extension to the utility. In this manner, existing customers will not face rate increases every time the utility gains new customers.

Prior to enactment of the Tax Reform Act of 1986, CIAC were not included in the gross income of an investor-owned utility and therefore were not subject to Federal income tax. On the other hand, utilities could not take tax depreciation or investment tax credits on CIAC.

The 1986 act repealed Internal Revenue Code section 118(b) and thus forced utilities to include CIAC in gross income and pay Federal income tax on them. Removing the exclusion from gross income of CIAC was intended as a tax on utilities. In practice and by regulation in most States, the CIAC tax is not a tax on utilities, but a tax on utility customers, primarily developers, home buyers, small municipalities, and even the Federal Government.

State utility regulatory bodies, referred to as PUC's, generally require utilities to pass tax costs onto their customers. This is done in one of two ways. The most common approach is to require the new customer to pay the cost of the tax, plus the tax on the tax known as the gross-up. Depending on the State, a gross-up can add as much as 70 percent to a customer's cost of the contribution. Alternatively, the PUC's may allow the utility to recover the tax cost over a period of time from the new rate base.

Whichever method is chosen, utilities do not pay the tax, they pass it on. But passing the tax on has detrimental effects, not only on the utility's ability to bring in new business, but on the environment and—most significantly—on the price of new housing.

A developer ultimately will pass the cost of the CIAC and the gross-up on to the new home buyer. The National Association of Home Builders has estimated that the CIAC tax can increase the cost of new housing by as much as $2,000 per unit. This additional cost is enough to end the dream of homeownership for a young couple.

The CIAC tax also has some important environmental effects. New customers can avoid paying the CIAC tax by building their own independent water systems. This leads to a proliferation of systems that may not have the financial, technical, or managerial ability to comply with the rigorous requirements of the Safe Drinking Water Act. Such systems are referred to as nonviable. According to the EPA, in fiscal year 1990, over 90 percent of the violations of Safe Drinking Water Act were made by systems serving fewer than 3,300 individuals. By encouraging the proliferation of nonviable systems, the CIAC tax frustrates the environmental policy goal of consolidating these systems into exiting, professionally managed systems.

Mr. Speaker, repeal of the tax on CIAC for water and wastewater utilities will have a noticeable effect on both housing prices and environmental policy. It is supported by the National Association of Water Companies, the National Association of Regulatory Utility Commissioners, and the National Association of Home Builders. I urge my colleagues to cosponsor this important legislation.

50TH ANNIVERSARY OF THE BATTLE OF IWO JIMA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 15, 1995

Mr. GILMAN. Mr. Speaker, I want to take this opportunity to call to the attention of my colleagues the upcoming 50th Anniversary of the Battle of Iwo Jima.

Fifty years ago this month, our American Marines from the Third, Fourth, and Fifth United States Marine Divisions courageously battled in a struggle which lasted 30 days, to capture the Japanese occupied island of Iwo Jima. With over 25,000 American casualties, including over 6,000 killed, the Battle of Iwo Jima was one of the bloodiest battles in all of American history. This Pacific island later provided bases for fighter support for raids over Japan, as well as an emergency landing field for damaged aircraft. It was planned that Iwo Jima would be used as a major launching facility for the Allied invasion of Japan. The invasion, of course, never took place because the atomic bomb brought about a rapid surrender of Japan prior to any invasion being necessary.

However, I can attest from my own personal experience that the capture of Iwo Jima, although extremely dear, resulted in the saving of countless American lives and hastened the end of the war.

Joe Rosenthal's Pulitzer Prize winning photograph of five men raising the American flag on Suribachi summarizes the spirit of the battle. Some authorities believe that this is the most duplicated photograph in all of history. In the classic words of Fleet Admiral Chester Nimitz: ''Uncommon Valor Was a Common Virtue''.

As a World War II staff sergeant stationed at Guam, I flew many missions over Tokyo. On several of these missions our aircraft was hit by enemy fire. We were forced on several occasions to make emergency landings, and were extremely grateful that the base on Iwo Jima was available to use. If these courageous Marines had not captured this island from Japan, myself and thousands of other American Marines would not have survived.

The capture of Iwo Jima made it possible for the United States to successfully protect bombers flying from Saipan, Tinian, Guam and other points to Japan. The airfields at Iwo Jima provided an important emergency landing field for 2,251 damaged Superforts carrying 24,761 crewmen. Thousands of American veterans, including myself, owe our lives to those who courageously captured the island of Iwo Jima.

Few battles in our history have captured the imagination of the public as has Iwo Jima. Immortalized in movies, novels, and other productions, all Americans are well aware that the name of Iwo Jima is emblazoned forever in the pantheon of glory. Unfortunately, few Americans are aware of why the courage of the Iwo Jima heroes was so significant to all of us.

It is in the spirit of gratitude and patriotism, Mr. Speaker, that I would like to call to the attention of my colleagues a Reunion of Honor for the 50th Anniversary of Iwo Jima. The reunion will take place March 10–16, 1995. The surviving veterans of Iwo Jima, among the greatest heroes in our history, will be returning to Iwo Jima, Guam, and Saipan.

Mr. Speaker, this is an appropriate time to salute the brave dedicated men who fought in the Battle of Iwo Jima.

OPEN FOREIGN CAPITAL MARKETS TO U.S. AIRLINES

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 15, 1995

Mr. CLINGER. Mr. Speaker, during the three previous Congresses I served as the ranking member of the Aviation Subcommittee. While in that role it became very clear to me that U.S. carriers had tremendous difficulty raising capital to sustain their operations as well as meeting the high cost of acquiring expensive new equipment. Over the past 5 years the commercial air carrier industry has lost $12.5 billion. That number far exceeds all profits earned by the industry since the Wright Brothers first flew.

High taxes, fare wars, burdensome regulations have all taken their toll. A lingering aftereffect of this bloodletting has been an inability on the part of most carriers to attract new capital. One of the biggest problems now facing the airlines is the dearth of available capital. This is a capital intensive industry. One step we can take to help assure their future is to address this capital crisis.

Under current law, foreign investors cannot hold more than a 25 percent stake in the voting stock of a U.S. carrier. The bill I am introducing today would be more favorable to foreign investment while retaining enough discretion with the Secretary of Transportation so that deals that were clearly not in the public interest could still be blocked.

Under my bill, foreign investments below the current 25 percent threshold could continue as before without restriction. Investments above 25 percent would be permitted as long as: first, the key officers and two-thirds of the airline's board of directors would still be U.S. citizens; second, U.S. citizens would still control at least 51 percent of the airline's stock; and third, the Secretary found that the investment would be in the public interest.

The first two requirements are objective standards that should be easy to apply in specific cases and would give some assurance of continued U.S. control. The third requirement, the public interest test, is intended to give continued discretion to the DOT Secretary.

In applying the public interest test, the Secretary is directed to consider seven factors. No one factor is meant to be an absolute bar to the transaction. Rather, the Secretary is to give the proper weight to each factor in each individual case in deciding whether the deal should be consummated.

Under the bill, the Secretary would be expected to look favorably upon an investment that would help a weak carrier survive and effectively compete, that would help preserve U.S. jobs, or that would enhance domestic or international competition.

In addition, the Secretary would consider whether the foreign country would allow a similar investment in one of its airlines. If so, that would be a plus. On the other hand, if the foreign investor was controlled or subsidized by a foreign government, that would be a minus as it could tend to distort competition.

Another factor the Secretary must consider is the issue of foreign control. I share the desire of many of my colleagues to prevent our airlines from falling under the control of foreign nationals. But I am also mindful that a recent GAO report indicated that continuing the current control restrictions would discourage foreign investment and limit the benefits that might otherwise be achieved by this legislation. The issue of foreign control would be one factor among the others mentioned for the Secretary to consider.

The final factor for DOT to consider would be whether the foreign investor's home country has a procompetitive bilateral with the United States. While this is clearly important, it should not be the controlling factor as it seems to have been in recent transactions. Proponents of open skies should keep in mind that more liberal foreign investment rules may be the best way to achieve their goal. Only when the nationality lines of carriers are blurred so that it is not clear which nation is benefiting from a negotiation will some of the protectionist countries be willing to remove their aviation trade barriers and allow free competition on international routes.

In evaluating these factors, the bill gives the Secretary 90 days. A time limit is important so that investors do not have to deal with the uncertainties of Government approved for an unreasonable length of time.

The issue of national security has also been raised with respect to foreign investment. Clearly we do not want an enemy of the United States taking control of one of our airlines. Moreover, our experience with Operation Desert Shield and Desert Storm demonstrated that U.S. carriers play an important role by ferrying troops and supplies to a war zone under the Civil Reserve Air Fleet (CRAF) program. It is important that the viability of this program be preserved.

My bill would address the national security issue by giving the President 30 days to review a DOT-approved foreign investment. The President could disapprove an investment only on national security grounds such as a transaction that would undermine the CRAF program. Limiting the President's authority in this way is similar to his role in the awarding of international routes under section 801 of the Federal Aviation Act. This portion of my bill is patterned after that provision.

Mr. Speaker, I am aware that there are airlines who would like to close the door on foreign investment. Some have already themselves taken advantage of that source of capital and would now deny it to others. Others can still access the U.S. capital markets and would probably be just as happy to see their competitors wither and die.

But I believe they are being short-sighted. The airline industry is becoming increasingly global. I do not think an arbitrary 25 percent limit on foreign investment in U.S. carriers any longer makes sense in a worldwide economy where capital flows freely across borders.

Moreover, it should be noted that foreign investment is nothing new in the airline industry. Several foreign airlines now have substantial financial stakes in U.S. airlines. In addition, there are foreign banks, leasing companies, and other entities that hold debt obligations or other financial interests in our airlines. In some cases, these interests may be substantial. So we have already crossed the bridge on the foreign investment issue. Now it is time to raise the artificial limit on foreign investments in U.S. airline voting stock so that capital can more freely flow to U.S. airlines.

Accordingly, I am pleased to introduce this bill that would allow foreign investment in airlines up to 49 percent. Perhaps some day we can go further. For now I invite my colleagues to join me in supporting this measure.

INTRODUCTION OF THE CLEAN WATER AMENDMENTS OF 1995

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 15, 1995

Mr. SHUSTER. Mr. Speaker, with several of my colleagues, I introduce the Clean Water Amendments of 1995.

The bill is based on last year's draft legislation known as the bipartisan alternative. As many of you know, a large coalition of Members of the Public Works and Transportation Committee developed this alternative in response to other Clean Water Act proposals that were either unnecessary or unnecessarily prescriptive. We worked closely with State and local officials and the regulated community to develop the alternative bill.

Original cosponsors of today's bill include some of the key supporters of the bipartisan alternative. We envision adding many more cosponsors after the bill's introduction and after our series of hearings with the Water Resources and Environment Subcommittee of the Transportation and Infrastructure Committee.

Let me emphasize the legislation to be introduced today is only a starting point. It does not represent extensive negotiation among or input from all the key interests to reflect new developments or positions since circulation of the bipartisan alternative last year. Nor is it meant to frame the debate in such a way as to prevent other issues or initiatives from arising. Instead, its purpose is merely to start the debate and to focus testimony and input from Members and interests over the coming weeks.

For example, we anticipate significant revisions to the bill's provisions on unfunded mandates, risk assessment, and cost benefit analysis. We developed these provisions before circulation of the Contract With America, H.R. 5, and other proposals pending in Congress. We will certainly want to revisit some of these issues to reflect more current thinking.

We also anticipate significant revisions to last year's provisions on nonpoint source pollution and stormwater. In fact, Mr. Speaker, some of the provisions could be viewed as unfunded or unfounded mandates. We plan to review more comprehensive proposals to overhaul the programs, remove redtape and unnecessary requirements, and increase flexibility for State and local governments.

With regard to wetlands, we have followed the same approach as in last year's bipartisan alternative: Include as a separate title provisions from H.R 1330, the Comprehensive Wetlands Conservation and Management Act. This, too, is not meant as the final, consensus approach. We anticipate debate over various alternative approaches and revisions. However, we do not expect meaningful debate over the bill's underlying premise: The current section 404 wetlands program is broken and needs to be fixed.

We also anticipate new proposals and initiatives in other areas. For example, we want to maximize flexibility for State and local governments, minimize Federal redtape and command-and-control regulations, and pursue market-based and risk-based approaches to efficient and effective water quality measures. Innovative technologies and pollution prevention efforts, as well as nonregulatory approaches to watershed planning and protection, also offer great promise.

In the area of funding, we expect various proposals and revisions. We all know the value of clean water and the public and private costs in not having it. We also know the Federal Government has an important role in providing and maintaining this Nation's clean and safe drinking water infrastructure. What we don't know at this point is how best to meet those needs when Federal fiscal constraints are greater than ever before. We hope today's bill will serve as a starting point to identify answers in the end.

I urge my colleagues to cosponsor this legislation and to become actively involved in the debate. Congress needs to renew and reform the Clean Water Act this year. The Clean Water Amendments of 1995 will get us started. Let me reiterate again, however, that we are not embracing any particular provisions in the bill. We are simply using today's bill as a starting point. All reasonable suggestions and revisions, both large and small, are on the table for consideration.

INTRODUCTION OF HOME OFFICE DEDUCTION LEGISLATION

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 15, 1995

Mrs. JOHNSON of Connecticut. Mr. Speaker, today, I am introducing legislation to restore the home office deduction for taxpayers who work out of their homes. I am pleased to note that this measure is included in the Republican Contract With America and, additionally, has been introduced in the other body of Senator ORRIN HATCH—S. 327.

This legislation is made necessary by a 1993 Supreme Court decision, *Commissioner* v. *Soliman* (113 S.Ct. 701), that greatly reduced the availability of the deduction. Previously, home office expenses were deductible if the space in the home was devoted to the ''sole and exclusive use'' of the office; the taxpayer used no other office of business; and, the business generated enough income to cover the deduction. The Court, in effect, added two additional conditions: the customers of the home-based business must physically visit the home office, and the business revenue must be produced within the home office itself.

Clearly, these requirements are excessive and prior law must be reinstated and clarified.