

early 1960's. That commitment remains to this day.

Mr. Speaker, I think you will agree with me that we are indeed losing someone special with the retirement of Mr. Robinson. His skill and devotion and love for his work are qualities we would all do well to emulate. I congratulate George H. Robinson on a job well done.

HONORING DOUGLASS W. WILHOIT, JR.

**HON. RICHARD W. POMBO**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 9, 1995*

Mr. POMBO. Mr. Speaker, I rise today to recognize an outstanding public servant who has recently left distinguished public service in the 11th Congressional District of California. Douglass W. Wilhoit, Jr., of Stockton has personified the highest ideals of openness, honesty and courage as a San Joaquin County supervisor for the past 16 years.

His support as an elected official resulted in re-election every 4 years without opposition, and he has achieved the respect of his fellow supervisors through four terms as chairman of the board of supervisors.

Mr. Wilhoit, who retired at the end of December, was elected for several prestigious assignments while a county supervisor, including the 1994 presidency of the California State Association of Counties. He also was chosen at the State level by three Governors for leadership positions dealing with job training, corrections, and criminal justice.

Mr. Wilhoit assumed leadership positions locally in such areas as criminal justice, youth programs, parks and recreations, aviation, and public works. His community involvement spans a wide range of service, such as the United Way, Boys and Girls Club, American Cancer Society, Rotary International, Boys Scouts, and the Chamber of Commerce.

Prior to his election to the county board, he served the community for 12 years as a Stockton police officer.

Mr. Wilhoit has been recognized through the years with honors as "Who's Who in California," "Outstanding Young Man of America," "Community Leaders of America," and a Paul Harris Rotary Fellowship.

Please join with me in recognizing Douglass W. Wilhoit as a great American who has served his community as the consummate public servant for more than a quarter of a century.

INTRODUCTION OF DISASTER TAX RELIEF LEGISLATION

**HON. HOWARD L. BERMAN**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 9, 1995*

Mr. BERMAN. Mr. Speaker, today I am proposing legislation that would permit disaster victims to deduct 100 percent of their casualty losses when calculating their Federal personal income taxes.

I first introduced this bill in the last Congress after seeing the destruction caused by the Northridge earthquake and after talking with

hundreds of its victims. I realized then that present tax law is clearly inadequate in disaster of this magnitude. The Tax Code acknowledges that it is appropriate to deduct uninsured property losses, but the deduction doesn't kick in until losses exceed 10 percent of adjusted gross income.

Since this legislation was first introduced, I have received hundreds of phone calls and letters from people who are still reeling from the earthquake. Nearly a year has passed, but victims are still finding it difficult to find the money to repair the damages suffered.

The legislation I am introducing would particularly help middle-class taxpayers who suffer substantial damage, but who earn too much to qualify for Federal grants and face tens of thousands of dollars in repair bills.

The bills would apply only in cases of federally declared disasters. When an emergency is great enough to prompt the President to declare a disaster and to determine that aid from the Federal Government is warranted, then stricken taxpayers surely deserve this break on their Federal income taxes.

The Joint Committee on Taxation estimates that this legislation would cost approximately \$22 million annually.

Congress appropriated more than \$8.6 billion to help defray the estimated \$15 to 20 billion cost of the earthquake. The estimated revenue loss to the Treasury is very small compared to the significant middle class tax relief this bill would provide to tens of thousands of taxpayers who have to dip into their savings or go into additional debt to repair their homes.

The bipartisan task force on disasters, appointed by the leadership of the House to recommend improvements in the Nation's disaster strategy recognized the importance of improving the ability of individuals, businesses, and communities to recover from disasters by providing resources needed to rebuild. The task force's report included a recommendation that Congress consider this legislation.

Every dollar taxpayers have to send to Washington is a dollar not spent in their devastated local communities. They could spend that money putting contractors and builders to work, or they could use it in local stores to buy items to replace damaged possessions.

It's both good economic policy and good sense to put every possible dollar to work to help ravaged areas rebound from disaster. I will continue to work very hard to pass this important tax relief legislation.

LEGISLATION TO EXTEND MANDATORY COVERAGE OF THE INDEPENDENT COUNSEL LAW TO JUSTICE DEPARTMENT ATTORNEYS

**HON. JAMES A. TRAFICANT, JR.**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, January 9, 1995*

Mr. TRAFICANT. Mr. Speaker, today I am reintroducing legislation to add a new section to the act that would require the Attorney General to call for the appointment of an independent counsel to investigate allegations that Justice Department attorneys engaged in prosecutorial misconduct, corruption, or fraud. I introduced identical legislation in the last Congress.

The independent counsel provisions of the Ethics in Government Act of 1978 require the

Attorney General to conduct a preliminary investigation when presented with credible information alleging criminal wrongdoing by high ranking executive branch officials. If the Attorney General finds that further investigation is warranted or makes no finding within 90 days, the act requires the Attorney General to apply to a special division of the U.S. Court of Appeals for the appointment of an independent counsel. The act also gives the Attorney General of the United States broad discretionary authority to seek the appointment of independent counsel with regard to individuals other than high executive branch officials. However, the Attorney General is not required to do so in such cases.

My bill would amend the act to treat allegations of misconduct, corruption or fraud on the part of Justice Department attorneys in the same manner as allegations made against high ranking Cabinet officials. In effect, the amendment would require the Attorney General to follow the procedures of the independent counsel law when presented with specific and credible allegations of criminal wrongdoing on the part of Justice Department attorneys. My goal is to ensure that, when there is credible evidence of criminal wrongdoing in such cases, these cases are aggressively and objectively investigated.

I am very concerned over the growing number of cases in which Justice Department attorneys have been accused of misconduct, corruption or fraud. In several cases I have personally investigated, innocent men fell victim to overzealous or corrupt Federal prosecutors. The Justice Department has a poor record of aggressively and objectively investigating these cases. The only way to uncover all the facts and guarantee that innocent lives are not destroyed, is to have a truly independent counsel appointed to investigate. The American people expect that the Justice Department—more than any other Federal agency—conduct its business with the highest level of ethics and integrity. Unfortunately, there are instances where this is not always the case. It is imperative that the Independent Counsel Act be amended to require that allegations of criminal misconduct on the part of Justice Department attorneys be treated with the same seriousness as allegations made against high ranking cabinet officials.

I hope to work with the members of the Judiciary Committee to have the measure reviewed and approved as soon as possible. I urge all of my colleagues to support this bill, the text of which is as follows:

H. R. —

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

**SECTION 1. ADDITIONAL AUTHORITY FOR APPOINTMENT OF INDEPENDENT COUNSEL.**

Section 592(c) of title 28, United States Code, is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting "; or", and by adding after subparagraph (B) the following:

"(C) the Attorney General, upon completion of a preliminary examination under this chapter, determines that there are reasonable grounds to believe that—

"(i) attorneys of the Department of Justice have engaged in prosecutorial misconduct, corruption, or fraud, and

"(ii) further investigation is warranted."

FAIR HEALTH INFORMATION  
PRACTICES ACT OF 1995

**HON. GARY A. CONDIT**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 9, 1995

Mr. CONDIT. Mr. Speaker, I have today introduced the Fair Health Information Practices Act of 1995. The purpose of this bill is to establish a uniform Federal code of fair information practices for individually identifiable health information that originates or is used in the health treatment and payment process.

In the last Congress, I introduced a similar bill (H.R. 4077) that was the subject of several days of hearings. In August 1994, that bill was reported by the Committee on Government Operations and became the confidentiality part of the overall health care reform effort. While my bill died along with the rest of health care reform, it was one of the only noncontroversial parts of health reform.

The bill that I have introduced today is identical to the version reported by the Committee on Government Operations last year. There were some changes made later in the legislative process, but I thought that the committee bill was the best starting point for now. A lengthy explanation of the bill can be found in the Government Operations Committee report, House Report 103-601, part V.

The need for uniform Federal health confidentiality legislation is clear. In a report titled "Protecting Privacy in Computerized Medical Information," the Office of Technology Assessment found that the present system of protecting health care information is based on a patchwork quilt of laws. State laws vary significantly in scope, and Federal laws are applicable only to limited kinds of information or to information maintained only by the Federal Government. Overall, OTA found that the present legal scheme does not provide consistent, comprehensive protection for privacy in health care information, whether that information exists in a paper or computerized environment. A similar finding was made by the Institute of Medicine in a report titled "Health Data in the Information Age."

A public opinion poll sponsored by Equifax and conducted by Louis Harris and Associates documents the importance of privacy to the American public. Eighty-five percent agree that protecting the confidentiality of people's medical records is absolutely essential or very important in national health care reform. The poll shows that most Americans believe protecting confidentiality is a higher priority than providing health insurance to those who do not have it today, reducing paperwork burdens, or providing better data for research. The poll also showed that 96 percent of the public agrees that it is important for an individual to have the right to obtain a copy of their own medical record.

Health information is a key asset in the health care delivery and payment system. Identifiable health information is heavily used in research and cost containment, and this usage will only grow over time. It is too early to predict what type of health reform legislation will be considered in the new Congress, but rules governing the use and disclosure of health information are certain to be a key ele-

ment. My legislation is flexible enough to fit into any health reform legislation, large or small, or to stand on its own as a separate bill. Regardless of how the health delivery and payment system is structured, there is and will continue to be a need for a code of fair information practices.

By establishing fair information practices in statute, the long-term costs of implementation will be reduced, and necessary protections will be built in from the outset. This will assure patients and medical professionals that fair treatment of health information is a fundamental element of the health care system. Uniform privacy rules will also assist in restraining costs by supporting increased automation, simplifying the use of electronic data interchange, and facilitating the portability of health coverage.

Today, few medical professionals and fewer patients know the rules that govern the use and disclosure of medical information. In a society where patients, professionals, and records routinely cross State borders, it is rarely worth anyone's time to attempt to learn the rules of any one jurisdiction, let alone several jurisdictions. One goal of my bill is to change the culture of health records so that professionals and patients alike will be able to understand the rights and responsibilities of all participants. Common rules and a common language will facilitate broader understanding and better protection. Professionals will be able to learn the rules once with the confidence that the same rules will apply wherever they practice. Patients will learn that they have the same rights in every State and in every doctor's office.

There are two basic concepts that are essential to an understanding of the new approach. First, identifiable health information that is created or used during the medical treatment or payment process becomes protected health information, or individually identifiable patient information relating to the provision of health care or payment for health care. This new terminology emphasizes the sensitivity of the information and connotes an obligation to safeguard the data. Protected health information generally remains subject to statutory restriction no matter how it is used or disclosed.

The second basic concept is that of a health information trustee. Anyone who has access to protected health information under the bill's procedures becomes a health information trustee. Trustees have different sets of responsibilities and authorities depending on their functions. The authorities and responsibilities have been carefully defined to balance legitimate societal needs for data against each patient's right to privacy and the need for confidentiality in the health treatment process. Of course, every health information trustee has an obligation to maintain adequate security for protected health information.

The term trustee was selected in order to underscore that those in possession of identifiable health information have obligations that go beyond their own needs and interests. A doctor who possesses information about a patient does not own that information. It is more accurate to say that both the record subject and the recordkeeper have rights and responsibilities with respect to the information. My legislation defines those rights and responsibilities. The concept of ownership of personal information maintained by third party record

keepers is not particularly useful in today's complex world.

A key element of this system is the specification of the rights of patients. Each patient will have a bundle of rights with respect to protected health care information about himself or herself that is maintained by a health information trustee. In general, a patient will have the right to inspect and to have a copy of that information. A patient will have the right to seek correction of information that is not timely, accurate, relevant, or complete. A patient also has a right to expect that any trustee will use and maintain information in accordance with the rules in the act. A patient will have a right to receive a notice of information practices. The bill establishes standards and procedures to make these rights meaningful and effective.

I want to emphasize that I have not proposed a pie-in-the sky privacy code. This is a realistic bill for the real world. I have borrowed ideas from others concerned about health records, including the American Health Information Management Association, the Workgroup for Electronic Data Interchange, and the National Conference of Commissioners on Uniform State Laws. Assistance provided last year by the American Health Information Management Association was especially valuable.

I believe that everyone recognizes that we do not have the luxury of elevating each patient's privacy interest above every other societal interest. Such a result would be impractical, unrealistic, and expensive. The right answer is to strike an appropriate balance that protects each patient's interests while permitting essential uses of data under controlled conditions. This should be happening today, but recordkeepers do not know their responsibilities, patient rights are not always clearly defined, and there are large gaps in legal protections for health information. My bill recognizes necessary patterns of usage and combines it with comprehensive protections for patients. There will be no loopholes in protection for information originating in the health treatment or payment process. As the data moves to other parts of the health care system and beyond, it will remain subject to the Fair Health Information Practices Act of 1995. This novel requirement may be the single most important feature of my bill.

The legislation includes a variety of remedies that will help to enforce the new standards. For those who willfully ignore the rules, there are strong criminal penalties. For patients whose rights have been ignored or violated by others, there are civil remedies. There will also be administrative sanctions and arbitration to provide alternative, less expensive, and more accessible remedies.

The Fire Health Information Practices Act of 1995 offers a complete and comprehensive plan for the protection of the interests of patients and the needs of the health care system in the complex modern world of health care. More work still needs to be done, and I am committed to working with every group and institution that will be affected by the new health information rules. I remain open to new ideas that will improve the bill.

In closing, I want to acknowledge the limits of legislation. We must recognize and accept the reality that health information is not completely confidential. It would be wonderful if we