decreasing. Four years later, the Treasury and the General Accounting Office [GAO] admitted something was wrong. The intended revenues were not being generated.

In fact, certain large mutual insurance companies have been paying no tax on earnings from business activity since approximately 1986. Obviously, this was contrary to congressional intent. Congress asked the insurance industry 5 years ago to come up with a solution to the shortfall. Our request is still valid, Mr. Speaker, and we can no longer wait for a response.

We must get to the bottom of this matter by having a congressional hearing that lays all of the facts on the table and presents all sides of the issue. This legislation will lead to full disclosure of all relevant material—and settle what the U.S. Treasury and other tax experts agree is the fundamental fairness involved.

There has been considerable interest in our legislation, including national columns supporting the goals of the bill. There is bipartisan support across the political spectrum. The national Coalition to Close the Loophole and Put Our Kids First brings 173 grass-roots groups to this effort.

Mr. Speaker, the state of the current budget deficit threatens our Nation's fiscal security and requires immediate and decisive action. Of all the difficult choices Congress faces, none are more agonizing than those involving taxpayer dollars. The loss of $2 billion in annual revenue makes the choices between military spending, middle class tax cuts, welfare reform, veterans' programs, and social services even more difficult than need be. Our legislation is about the ability of this Nation to tax all citizens equally, and making sure that Federal dollars are spent on programs that are truly in the national interest.

Closing the section 809 loophole makes a lot of sense—and it would be a courageous decision. It would show the Nation that Congress has its priorities back in order.

I urge the bill's careful consideration through the congressional process.

I ask that an information sheet entitled ''What is Section 809 and Why Is It an Issue?'' and a recent editorial from the San Diego Union-Tribune be included in the RECORD.

[From the San Diego (CA) Union-Tribune, Mar. 26, 1995]

CORPORATE WELFARE—MUTUAL INSURANCE AVOIDS FEDERAL TAXES

Historian Richard Hofstadter pointed out in his Pulitzer Prize-winning book ''The Age of Reform'' that special interests are especially adept at evading the spirit and intent of government reforms directed at them.

That certainly seems to be the case with the mutual insurance industry, which has managed for the last 11 years to evade paying its fair share of federal taxes.

In 1984, Congress rewrote the tax code to ensure that mutual insurance companies were taxed at the same level as stock insurance firms. Both companies sell the same type of policies. The difference between them is that mutuals are owned by policyholders, while stock companies are owned by stockholders.

But a funny thing happened on the way to implementing this equitable change in the tax code: The mutuals figured out a way around the revision.

By simply altering the way they accounted for their assets, the mutual firms discovered they could pay much less in taxes than the reform intended. Some mutuals, moreover, have been able to avoid paying any federal taxes on their earnings.

Not long after arriving in Washington in 1993, Rep. Bob Filner, D-San Diego, introduced a bill to remedy the situation. His measure was intended to close the tax loophole that enables mutual companies to avoid coughing up what Congress intended them to pay.

As a former history professor, Filner should have known from the beginning what he was up against. Even so, he was shocked at the ease with which his bill was stonewalled in committee and ultimately buried by the politically powerful insurance lobby.

In 1989, the mutual insurance lobby blocked House Ways and Means Committee Chairman Dan Rostenkowski from trying to close the same loophole. Instead, the industry assured lawmakers that it would come up with a tax proposal to solve the problem.

Nearly six years have passed, and still there is no plan from the industry. Nor is one likely soon, because the mutuals are content with the status quo.

Not so for Filner. He intends to reintroduce his measure, and with bipartisan support this time.

Problem is, there is little enthusiasm on Capitol Hill these days for any tax increase. What's more, the Republican majority in the House is preoccupied with passing the ''Contract With America.'' And many lawmakers on both sides of the aisle are loath to take on the insurance lobby.

But the insurance industry's evasion of the clear intent of Congress should not go unchallenged. Filner's reform would recoup nearly $2 billion in taxes that the mutual companies avoid paying each year.

Republicans have taken a great deal of flak for their efforts to pare runaway welfare benefits. Here's an opportunity for them to go after one of the many abuses in ''corporate welfare'' that also are a drain on the federal treasury.

WHAT IS SECTION 809 AND WHY IT IS AN ISSUE?

Section 809 is a provision of the Federal Tax Code authorized by Congress in 1984 to limit the deduction of dividends paid by mutual life insurance companies.

While both mutual and stock companies sell identical products (life insurance), mutual companies are owned by their policyholders and stock companies are owned by their shareholders. Congress recognized a separate provision of tax code was needed to account for this difference in ownership that distinguishes these two corporate structures. Congress intended that Section 809 would make the tax treatment of mutual life insurance companies equal to that of stock life insurance companies.

Mutual life insurance companies are among the largest financial services corporations in the United States. Like the rest of corporate America, shareholder owned life insurance companies pay dividends to their owners after federal income tax. Section 809 was enacted to treat part of the dividends that mutual life insurers pay to their owners in the same way.

Insurance companies gather income from two sources. One is income from current operations (wages and salary) and the other is from capital gains, or the appreciation in value of property held by the taxpayer that occurs from general economic conditions.

Since 1984, large mutual life insurance companies have been able to manipulate their treatment of capital gains income in an unintended way. Section 809 allows large mutual life insurers to drive their tax on operating income to zero by claiming enough income from capital gains to offset the operating income. Any other corporation or individual tax payer, however, would have to pay federal income taxes on both sources of income. This result was not anticipated by Congress in 1984, as mutual life insurance historically recognized very little capital gains income before 1984.

This unique provision allows large mutual life insurance companies to escape an estimated $2 billion in income taxes on corporate earnings annually, a unique form of corporate entitlement and a gross example of corporate welfarism.

The American public will be outraged if they learn of this loophole before Congress has the courage to stand up and close it. This is particularly understandable since Congress is cutting the benefits and programs of millions of ordinary American citizens. Closing this loophole—this gross example of corporate welfare—would mean $10 billion dollars toward deficit reduction over the next five years.

HELSINKI COMMISSION HEARINGS MARK THIRD YEAR OF WAR IN BOSNIA

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. SMITH of New Jersey. Mr. Speaker, this week marked the third anniversary of the war in Bosnia-Herzegovina. At this time, in 1992, Serb militants in the hills surrounding Sarajevo began their shelling of the people of the cosmopolitan and culturally rich Bosnian capital.

On the one hand, it seems like this war—with the constant, almost daily reports of the senseless slaughter of innocent people—has been going on forever. On the other hand, when the war began, no one would have imagined that it would get as bad as it subsequently did, or that we would allow it to continue that way for so long.

This week, the Helsinki Commission, of which I am chairman, held two hearings to note Bosnia's 3-year agony. At the first hearing, we heard witnesses explain that this may not even be classified as a war. Yes, there are opposing sides, but, instead of direct, military engagements, most of the violence can be characterized as a heavily armed group of Serb thugs committing genocide against those in Bosnia, and particularly the Moslem population.

Yes, Mr. Speaker, genocide. Our hearing on Tuesday focused on the extent to which ethnic cleansing, the destruction of cultural sites, and associated war crimes and crimes against humanity constitute genocide in Bosnia and other parts of former Yugoslavia. Our witnesses included Cherif Bassiouni, a law professor at DePaul University who chaired the U.N. War Crimes Commission, who discussed the ethnic cleansing that has taken place in the former Yugoslavia, and Bosnia-Herzegovina in particular. Andras Riedlmayer, a bibliographer at Harvard University, followed with a fascinating slide presentation of how the reminders of Bosnian Moslem culture—mosques, libraries, and historic sites—have been targeted for destruction in an attempt to deny the earlier existence of those who were

ethnically cleansed. Roy Gutman of Newsday and author David Reiff presented us with first-hand accounts of what happened in Bosnia beginning in 1992.

We learned at the hearing that the atrocities appear to follow such a similar pattern, from region to region, that one simply has to conclude that they were carried out systematically. These crimes, as they were being committed, were at least known to, and perhaps ordered by, the Bosnian Serbs and maybe even Serbia's political and military leadership.

A prime example—the eastern Bosnian town of Foca, with its slight Moslem majority, was seized by Serb paramilitaries early in the conflict under the direction of three of Bosnian Serb leader Radovan Karadzic's close associated, Velibor Ostojic, Vojislav Maksimovic, and Petar Cancar. The sports hall, located right next to the police station, was a rape camp for about 2 months soon thereafter. About 50 women were subjected to multiple and gang rape night after night. An isolated incident, out of the view of Bosnian Serb authorities? Do not count on it.

There is, however, no real smoking gun—like the files left by the Nazis documenting the Holocaust—what has happened. The Bosnian Serb leadership, and their leaders in Belgrade, made sure there was what Professor Bassiouni called ''plausible deniability.'' But, what has happened in Bosnia is genocide, without a doubt. The systematic way the Bosnian genocide has been carried out, and the openness with which concentration and rape camps have operated, leave no question of its orchestrated nature. We also learned that the genocide extended into Croatia. Each victim has a dramatic and tragic account to relate, but the dry statistics—200,000 killed, 800 prison camps with at least 500,000 prisoners, over 50,000 torture victims, 151 mass graves, and over 20,000 rape victims—where sobering in themselves.

As a result of the hearing, the Helsinki Commission will help ensure that all evidence of war crimes and crimes against humanity held by the United States Government are made available to the International Criminal Tribunal for the former Yugoslavia, based in The Hague. We will also seek to increase U.S. financial support for the tribunal and the prosecutor's office, so that justice is not forfeited due to a lack of resources.

Genocide is directed toward people in a collective sense, but the gruesome acts are committed against individuals, moms, dads, sons, and daughters, friends and colleagues. I have tried to imagine daily life for Bosnians, being forced out of their homes, being publicly and repeatedly raped, being tortured in a camp, facing execution in the next second, or—perhaps worst of all—watching these things happen to loved ones. It is hard for us to imagine what has been the reality for the people of Bosnia and Herzegovina for these last 3 years. One year before that, people in Croatia faced the same thing.

There is also the question of who is guilty of these crimes, and who is innocent. A recently released CIA report confirmed that Serb militants have been responsible for nearly 90 percent of the atrocities committed during Yugoslavia's violent breakup. There crimes also were most likely to have been orchestrated, in order to carry out a policy directed from above.

This does not translate into the popular notion that the Serbs are an evil people. Indeed, in previous decades, others were infected by the same evil intentions, and innocent Serbs were at times the victims. Similarly, deeds of Serbian political and military leaders, as carried out by their militant minions, do not make Serbs collectively guilty. I made this point at the hearing for two reasons. First, should we engage in the now popular Serb-bashing, we ignore the vulnerability of all peoples in this world to fall into the trap of racist ideology that has ensnared so many Serbs today. Second, Serbs in the former Yugoslavia and around the world, including in the United States, can do no more to defend their national heritage than to face squarely what their militant brethren have done, to condemn them for actions which cannot be justified by history or anything else, and to seek a reconciliation between Serbs and their neighbors in the former Yugoslavia. They should place the guilt squarely on the Serbian leadership, not share the guilt with those leaders.

Indeed, the hearing noted examples of Serbs of conscience. Professor Bassiouni relayed a story of a Bosnian Serb commander who, upon taking a new position, released several women being held captive. As his men approached the women, hoping to have their last chance to rape them, the commander stood in front of the door, with machine gun in hand, and warned his own soldiers he would shoot any who dared touch these women again. Roy Gutman quoted a recent article in Nasa Borba, a Belgrade-based Serbian opposition paper, calling the war a senseless and ''unoriginal product of the unbridled Serb view of things,'' and bemoaned that Serbs ''are obviously still far away from realizing that they have to take certain moral responsibility for evil deeds committed by their compatriots in this war.'' Andras Riedlmayer informed the Commission of a Serbian architect and former Belgrade mayor who condemned the destruction of beautiful cities like Osijek, Vukovar, and Dubrovnik simply because that they were not Serbian.

Mr. Speaker, this hearing on genocide was of critical importance. We on the outside have become fatigued by the daily developments there, and the endless discussion of policy options. It is perhaps human nature that explains why, in the end, we look at Bosnia in terms of percentage of territory lost and casualty figures. Similarly, our desire is to bring those fighting together—at the negotiating table—to work out a mutually acceptable compromise. In the meantime, we work to get a humanitarian aid convoy to this town or that town, or to deploy U.N. peacekeepers here or there, with this or that mandate.

As admirable as these efforts may be, they miss the central fact that what we are confronting here is something inherently evil, a racist force so irrational that it cannot be satisfied by a positive gesture. Genocide must be condemned, confronted and stopped, not tolerated and appeased. Until then, we will continue to see more fighting, more death, and more destruction in the Balkans.

That brings me to the second hearing, which focused on policy questions regarding the former Yugoslavia, and specifically issues surrounding the international presence there. U.N. peacekeeping efforts in Bosnia and Herzegovina, Croatia, and Macedonia, and NATO assistance to U.N. efforts are of utmost importance, but efforts of other organizations merit attention as well.

Assistant Secretary of State Richard Holbrooke appeared before the Commission to present the current views of the Clinton administration on these missions and the realistic prospects for a just peace. I told the Ambassador that one thing the Helsinki Commission has learned at its 16 hearings on the former Yugoslavia, since the conflict began there in 1991, is that the conflict could have been stopped. Witness after witness, with experience on the ground, has told the Helsinki Commission that credible military threats continually caused the Serb militants to back off and be more cooperative. Had they faced international resolve, during the Bush or the early Clinton administration, we would not have needed these hearings this week. Opportunities were lost, one after another, as our ultimatums were revealed only as political bluffs.

The Commission does not say this only after the fact, as the Monday morning quarterback. From the beginning, we called for strong action to get humanitarian aid convoys through the lines, no matter what, to stop the bombardment of large, vulnerable civilian centers—to stop the war. We always met opposition. And now, our Government and those of Europe, seem to suggest that damage perpetrated against Bosnia has been so great that the reestablishment of a unified, multiethnic state is, at best, a dream. Even a 51/49 split, as proposed by the contact group, is out of reach. Military options are now riskier. What concerns me is the fact that the same officials who now find it too late to act, had other excuses when it was not too late. One can conclude that at least some of them simply never had the courage to act in the first place, or the foresight to see how American interests were affected by all of this.

To be clear, Mr. Speaker, I do not oppose finding solutions to problems at a negotiating table, but the parties involved should be given no choice but to find solutions at the table, and not from the hills surrounding defenseless Bosnian towns and cities. No parameters for acceptable behavior were established and upheld, and negotiations continue to be a dismal failure.

And what frustrates me most is that governments, and European governments in particular, are unwilling to acknowledge their incredible error, and to change course.

It was with some regret that I had to express these views before Ambassador Holbrooke, who, since becoming Assistant Secretary last August, has shown a personal interest in getting something done in the Balkans. I highlighted, in particular, the seriousness with which he has pursued the development of the Bosnian Federation, which perhaps, along with the Sarajevo ultimatum of February 1994, is the most innovative and positive effort undertaken by the Clinton administration in Bosnia. While I question the viability of the federation absent a real response to Serb aggression, I see no choice but to move forward with the federation as best we can.

Ambassador Holbrooke reported that international efforts leading to a new peacekeeping mandate in Croatia ''have helped prevent, at least for the moment, the wider war we all

feared.'' He expressed disappointment, however, that diplomacy has been unable to prevent the likely resumption of the tragic conflict in Bosnia. ''I bring you no optimism on Bosnia.'' Following Holbrooke, two expert witnesses—John Lampe of the Woodrow Wilson Center for International Scholars, and Steve Walker of the Action Council for Peace in the Balkans—presented views on various policy options. While they disagreed on what to do, they both expressed dismay that a full and fair settlement remains so elusive.

INTRODUCTION OF THE INVESTMENT COMPANY ACT AMENDMENTS OF 1995

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. FIELDS of Texas. Mr. Speaker, today I introduce legislation amending the Investment Company Act of 1940. Entitled the Investment Company Act Amendments of 1995, this legislation will promote more efficient management of mutual funds. It will result in reduction of operating costs that will save investors money, and allow a greater percentage of the assets of the fund to work on their behalf. This legislation will also provide for more effective and less burdensome regulation of mutual funds by the Securities and Exchange Commission, and it will increase and improve investor protection.

Enacted in 1940 and amended in 1970, the Investment Company Act built the foundation for a system that regulators and regulated entities alike agree has protected investors. For the most part it has not interfered with the development of new products and the creation of investment opportunities. There is a need, however, to reexamine the operation of the act, as our financial markets have expanded in size, complexity, and investment opportunities.

The goal of this legislation is to revise the provisions of the law that no longer reflect the demands of modern markets. We must be vigilant in our efforts to relieve mutual funds of the remaining unnecessary and duplicative regulatory burdens that remain in the current law. The operating costs of mutual funds represent the expenditure of moneys that reduce the pool of assets owned by the shareholders, and a reduction in the capital that is at work earning a return for them. Government imposed regulations that do not increase investor protection fail the cost/benefit analysis to which all regulations should be subjected. They mandate the waste of potentially productive resources. They represent, in effect, an undesirable tax on capital, the most pernicious form of tax. Unnecessary regulations do nothing except reduce the wealth of American citizens.

To this end, the Securities and Exchange Commission conducted its own review of the operation of the Investment Company Act. On the occasion of the 50th anniversary of the adoption of the statute, the SEC produced a comprehensive and valuable report. Entitled ''Protecting Investors: A Half Century of Investment Company Regulation,'' the legislation introduced today is based, in part, on a number of its recommendations.

For example, the SEC report recommended amending the act to expand exemptions for private investment companies, pools of money from sophisticated investors, from its registration requirements. This legislation will do that, but in a way that will insure that only pools of the most sophisticated investors, people who are not in need of the protection of registration under the act, are exempted. Regulation imposes costs, and sophisticated investors not in need of or desiring the protection of the act should be free to voluntarily accept greater risk return for the opportunity of greater reward. Exemptions from registration and regulation, however, will not be made available for those products that will be sold, perhaps, to less sophisticated investors. There is no intention in this legislation to allow a generation of unregistered investment companies to be offered to the general public.

This bill also proposes to implement the SEC recommendations for improving and modernizing mutual fund governance. This will include requiring a majority of the boards of directors of mutual funds to be composed of independent directors, and increasing the authority and responsibility of independent directors in running the fund.

The legislation will also make mutual fund regulation more efficient by eliminating requirements that are expensive to comply with and which do not increase investor protection. This includes eliminating the requirements of the existing law for shareholder ratification of certain routine corporate actions, including approval of the selection of auditors.

Provisions of this legislation will stimulate a reexamination of the rules governing investment company advertising. As introduced, it will break existing regulatory restraints on promotion and sales literature of investment companies. Current law requires the contents of fund advertising to be keyed exclusively to information which is either specifically or ''the substance of which'' is in the prospectus. This requirement is so inflexible it stifles the development of effective investor communications by those who market mutual funds. Although advertising puffery will never be tolerated in the sale of these important investments, and the antifraud provisions of the Act will remain in force and unchanged to govern statements made in connection with the sale of these investments, a new era of generally improved communications to mutual fund investors will begin with the enactment of this legisation.

Finally, in 1970 Congress adopted restrictions on the investment in mutual funds by other funds. This arose from concerns about the possibility of investors paying duplicative expenses and layers of fees. Restrictions on ''fund of fund'' investments may not be necessary in the modern markets of the 21st century which include negotiated commissions, technological oversight of the markets, increased competition, and improved Government regulation of mutual funds.

Reexamination of fund of funds restrictions is necessary because professional money management should be available to all investors, including those who themselves invest on behalf of mutual fund investors; that is, professional money managers. Fund managers may wish to benefit, on behalf of the investors in their mutual fund, from the expertise of other professionals in investments with which they themselves may not be familiar. With the opening of new markets around the world, and the constant development of new and often complex instruments for investment and hedging, it is unrealistic to believe that every fund manager can be knowledgeable in every product offered in every market. Fund managers should have available to them the opportunity to commit moneys to investments which are managed by individuals with particular expertise in certain instruments or markets. Mutual funds allow this to be done in a manner which provides for the diversification of risk. The decision of whether a mutual fund is a worthwhile investment should be left to the investor, whether individual or professional, and not be artificially restrained by statutory provisions the reasons for which may no longer be valid.

The legislation introduced today is a work in progress, intended to stimulate discussion of these proposals for modernization. Our subcommittee will actively seek input from investors, regulators, and the financial service industry for additional reforms as this bill moves through the legislative process. Inevitably there will be refinements of the specific proposals of the bill as introduced.

I encourage my colleagues, on behalf of their constituents, Government regulators, and the affected industries to offer their suggestions for improving the efficiency of the mutual fund market by removing unnecessary regulatory burdens. Efficient markets create additional opportunities for investors to earn returns on their savings. This is how the American people, a nation of investors, provide for their general welfare, the education and needs of their children, and the security of their retirements. The legislation I introduce today will help them accomplish their goals.

CONGRATULATIONS SHELBYVILLE HIGH SCHOOL RAMS

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, April 7, 1995

Mr. POSHARD. Mr. Speaker, I rise today to congratulate the Shelbyville High School Rams on their ''Elite Eight'' season. Shelbyville has historically been the place to be in central Illinois during basketball season. This year was no different, and when the Rams made it to Champaign for the big dance no one was surprised.

Led by freshman Head Coach Sean Taylor, and his assistant coaches, Bob Herdes and Jarret Brown, the Rams were able to compile a new all-time season high record of 28 and 4, win their first regional title in 6 years, and only their second sectional and super-sectional titles in the school's history.

You might think that this is the season of a veteran basketball team, but each of the Rams' starting five were underclassman. The future of Shelbyville basketball looks brighter than ever and I commend this fine group of young people on their accomplishments.

The roster of Shelbyville cagers is one of the best to ever hit the hardwood and includes: Kevin Herdes, Roger Jones, Rich Beyers, Mike Steers, Todd Wilderman, Joshua Forsythe, Alex Miller, James Brix, Tim Hardy, Harlan Kennell, Aaron Rohdemann, Ryan Shambo, Ben Short, Aaron Clark, Derk Williams, Jefrey White, Dirk Herdes, and Tom