

their marriage deserves to be saluted and recognized.●

#### CONGRATULATIONS TO FRANK PYTEL CELEBRATING HIS 100TH BIRTHDAY

● Mr. ASHCROFT. Mr. President, I rise today to encourage my colleagues to join me in congratulating Frank Pytel of Kansas City, MO, who celebrated his 100th birthday on Friday, October 4, 1996. Frank is a truly remarkable individual. He has witnessed many of the events that have shaped our Nation into the greatest the world has ever known. The longevity of his life has meant much more, however, to the many relatives and friends whose lives he has touched over the last 100 years.

Frank's celebration of 100 years of life is a testament to me and all Missourians. His achievements are significant and deserve to be recognized. I would like to join Frank's many friends and relatives in wishing him health and happiness in the future.●

#### TRIBUTE TO NANCY ELKIS

● Mr. LAUTENBERG. Mr. President, a few days ago, New Jersey lost a very special woman and I lost a good friend when Nancy Elkis passed away.

Mr. President, few people in New Jersey have touched more lives, or made a greater contribution to their community than Nancy Elkis. Nancy was a woman of amazing energy and incredible warmth. Over the years, she involved herself in a very broad range of civic and philanthropic initiatives, and held a variety of positions of responsibility in government and community organizations. Yet throughout her life, Nancy always was able to find the time to help people on an individual basis. And, quietly and with little fanfare, she improved the lives of countless numbers of others who were in need.

Mr. President, Nancy Elkis was the first woman elected to the Woodbury City Council, and she served as a councilwoman for 22 years. Although she was a Democrat in an area of the city dominated by Republicans, she won the respect of her constituents and her colleagues because of her unselfish, caring attitude, and her dedication to her community and the public interest.

On the city council, she was especially active in overseeing the city's water department, and she continually worked to ensure that the city's water quality remained high. She also was vice chair of the Gloucester County Housing Authority. In that capacity, she came down to Washington regularly to discuss our State's housing needs, and we talked often. In all of those visits, it was obvious that Nancy cared deeply about publicly assisted housing, and was motivated by a deep commitment to improving the lives of residents.

Nancy also was a member of the county economic development committee, the human resources committee,

the commission on women, and the parks and recreation committee. Additionally, she was a State Democratic committeewoman for Gloucester County and past chair of the Woodbury Democratic Committee.

Mr. President, Nancy's contributions extended well beyond the realm of government and politics. She also played a major role in several charitable organizations. For more than 20 years, she was active with the Gloucester County unit of the American Heart Association, and she was chairwoman of the board of the New Jersey affiliate division of the American Heart Association at the time of her death. Recently, she was named State Volunteer of the Year.

In addition, Nancy was on the board of the United Way of Gloucester County, and had served as former president of the Gloucester County Visiting Nurse Association. She also volunteered at Underwood-Memorial Hospital in Woodbury.

Mr. President, beyond her long list of accomplishments and contributions, Nancy Elkis was a woman of great warmth. She really cared about other people, especially her own family. But her love of others extended to her entire community, and she continually was looking for ways to help others in need.

Mr. President, I attended a memorial service for Nancy yesterday, and was struck by the exceedingly large number of people who attended. The chapel was literally overflowing. People recounted stories of how Nancy had helped them over the years and each one was a memorial to a service she performed. Nobody could come away from that service, Mr. President, without appreciating just how deeply Nancy was loved and respected throughout her community, and how many lives she touched.

Mr. President, I have a special personal connection to Nancy Elkis because her daughter, Karin Elkis, is the director of my Barrington, NJ, office. And as I attended yesterday's memorial service, I came to appreciate more than ever how Karin's boundless energy and tremendous warmth—and her deep commitment to her family and her community—is a reflection of her own mother. It would be hard to find two more special people, Mr. President. And if there is a personal testament to the kind of person Nancy was, it is Karin along with her three other children.

Mr. President, I want to express my appreciation for the contribution Nancy Elkis made to her community and our State and offer my deepest condolences to Karin, her father, Preston, her sisters, Lisa and Emily, her brother, Tony, Nancy's mother, Irene Zibelman, and the other members of Nancy's family. Although their loss is painful, I know they will be nourished by their wonderful memories of Nancy.

Mr. President, Nancy Elkis was an uncommon person whose legacy will

live on for many years. I know I speak for literally hundreds of others in expressing my sorrow over her passing, and my deep appreciation for everything she did for her community. She will be greatly missed.●

#### TRIBUTE FOR CONNIE WOODRUFF

● Mr. LAUTENBERG. Mr. President, New Jersey recently lost a remarkable woman, Connie Woodruff, who passed away on October 20. A veteran leader of New Jersey's African-American community, she will be remembered by many as a friend, mentor and supporter. And her work on behalf of the women of our state constitutes a permanent legacy.

Mr. President, if Connie Woodruff had a motto, it was, undoubtedly, that we make a living by what we gain, but we make a life by what we give. And her life was an example of generosity and compassion which should serve as a benchmark for all of us. In West Orange, she was chairwoman of the Human Rights Commission. And she was active in the Essex County "Stamp Out Hate" campaign, sponsored by the American Jewish Committee. She was appointed to various commissions by six governors, including the state's Commission on Judicial Review and the New Jersey Martin Luther King Commemorative Commission. Governor Whitman also appointed her an Essex County Tax Court Judge.

Over the years, Connie served on the board of more than 20 organizations, including the NAACP, the Urban League of Essex County Guild, The Leaguers, Newark YMWCA and New Jersey Cities in Schools. For several years, she was chairwoman of the University of Medicine and Dentistry of New Jersey's Board of Concerned Citizens.

Mr. President, although everyone in New Jersey benefited from her compassion and caring, she will be especially missed by the women of our State. During her 20 years with the Ladies Garment Workers Union, she battled to improve the working conditions for thousands of workers, mostly women. Later, she was an adjunct professor of labor studies at Rutgers-Newark, before moving on to Essex County College, where she spent the last 10 years of her career in education. At ECC, she was credited with helping to turn the dream of a Women's Center into reality. The Center's Director has remarked that Woodruff's life was dedicated to helping women become personally and financially self-sufficient. She also established the Connie Woodruff Nursing Scholarships at Essex County College.

Mr. President, Connie Woodruff served 16 years as chairwoman of the New Jersey Commission on the Status of Women, and she won two terms as president of the National Association of Commissions on Women, becoming president emeritus by acclamation.

As a writer for the City News, one of the most important voices of the African-American community in New Jersey, she married her special wit and biting insight into all the black political players. And she was one of the most astute political minds I have ever known.

Mr. President, New Jerseyans will miss Connie Woodruff's scholarship and leadership, and I will also miss her friendship. Countless individuals were helped by her and touched by her. And she made a difference in the lives of thousands of ordinary people. A champion for women's rights, human rights and civil rights, Connie Woodruff proved that good and great can exist in the same individual.●

#### UNFAIR NONPROFIT COMPETITION

● Mr. SHELBY. Mr. President, language included in the Senate report of the Subcommittee on Treasury, Postal Service and General Government appropriations, and included by reference in the fiscal year 1997 Omnibus Appropriations bill, directs the Department of the Treasury to review the problem of unfair nonprofit competition with small firms. The language also directs the Treasury to take "steps, if necessary, to develop regulations clarifying the substantially related test as it applies to tax-exempt travel and tour activities." I want to speak briefly to the need for such regulatory clarification.

Mr. President, the travel and tour industry in this Nation is comprised predominantly of the smallest entrepreneurial firms—tour operators and promoters, travel agents, hotel and motel owners, bus owners and operators. Small businesses that organize tours, small businesses that conduct tours, and small marketers that sell tours combined comprise one of the largest sectors of our economy. Although not often thought of as such, these entrepreneurs are vital exporters. By providing a large flow of service to foreign visitors they constitute one of the most successful exporting blocs in the United States. They export America and an understanding of America, from the national parks to our many other great attractions.

Mr. President, I raise these points not only to recognize the immense size and contribution of this industry, but to help us appreciate how important it is to ensure that our policies support and nurture a vibrant, competitive travel and tour industry. To an increasing extent these small businesses have been besieged by a source of unfair competition from nonprofit organizations, who now comprise more than 10 percent of our GDP. Some of the Nation's wealthiest tax-exempt organizations have discovered that travel and tour activities, albeit primarily a commercial venture, are an easy way to supplement income.

Now, Mr. President, small businesses support nonprofits in financing many

of their endeavors. Small businesses recognize the important work of many nonprofits. They are partners with nonprofits. Indeed, while their contributions are not often publicized in the Conference Board, the U.S. Small Business Administration has determined that small firms are the largest contributors to nonprofits on an employee-by-employee basis. Small firms also do not fear competition from tax-exempt organizations, any more than they do from large firms, foreign firms, or any other entity. They embrace competition as a necessary part of their daily routine.

But what small businesses do resent, however, is competition where one party has been given an unfair advantage. And the competitive playing field between small firms and nonprofits has not been level for some time. Today, nonprofits make extensive use of privileged franking on mail, and they often cross-subsidize their travel activities using capital acquired for other purposes. And last but not least, when they directly compete against small firms they frequently enjoy the largest benefit taxpayers can bestow upon them—complete absolution from the income tax.

Mr. President, my concerns and the concerns expressed by this Congress are not new. Congress has tried to address this concern of unfair competition in the past. Indeed, more than 45 years ago, the Congress passed what is known as the unrelated business income tax, which taxes income that is not substantially related to the tax-exempt's mission. And, in 1986, the Supreme Court in *U.S. v. American Bar Endowment*, 477 U.S. 105, reiterated that "[t]he undisputed purpose of the unrelated business income tax was to prevent tax-exempt organizations from competing with businesses whose earnings were taxed."

However, growth in the number of nonprofits, an increased emphasis on commercial as opposed to donative sources of revenue, and most importantly, a paucity of guidance over what is meant by substantially related have combined to make that standard virtually meaningless.

The Congress is not alone in its concern over the failure of the law to prevent unfair competition. Even the IRS itself believes the substantially related standard, without adequate definition, is virtually unenforceable. And equally important, the U.S. Small Business Administration believes that guidance is necessary. I offer for inclusion in the RECORD a recent letter sent by the SBA chief counsel to the Department of the Treasury urging a regulation.

For many small tour operators, the discernible distinction between their activities and that of the nonprofit is not in the markets they serve or in the services they market, but rather in the inexplicable and unjustifiable distinction that, on the income predicted, one pays taxes and the other does not. And to make matters worse, a rationale for

this cross-subsidization does not exist. As businesses point out, rather than enabling nonprofits to serve the needy for which an exemption is warranted, the exemption enables nonprofit travel and tour promoters to tap and maintain access to the high-end, most lucrative part of the market—the segment with the greatest disposable income, the greatest number of professionals, and the highest component of educated customers. When this competition occurs, there is a distinct and quantifiable competitive advantage nonprofits enjoy from total relief from the income tax.

Mr. President, for these reasons, the Senate report which accompanied the appropriations bill for the Treasury, Postal Service and General Government Appropriations Subcommittee, directed the IRS to review this situation. Action on this issue is requested by Congress. It is being requested by the U.S. Small Business Administration. It is sought by the IRS field agents. And last but not least, it is urged by the millions of small businesses that suffer from unfair competition.

The letter follows:

U.S. SMALL BUSINESS ADMINISTRATION,

Washington, DC, June 27, 1996.

Re unrelated business income tax travel and tour-related services—need for clarification.

Hon. DONALD C. LUBICK,

Acting Assistant Secretary for Tax Policy, U.S. Department of the Treasury, Washington, DC.

DEAR ASSISTANT SECRETARY LUBICK: This office has heard from numerous small business groups for more than a decade about the problems that taxpaying small businesses have when they are in competition with tax exempt organizations. As you know, resolving this issue was a recommendation of the White House Conference on Small Business and, we believe, the intent of the unrelated business income tax (UBIT) was to maintain an equitable business environment when tax-exempt organizations produced income from activities that are beyond the activities on which their exemption status is based. Most recently, a concern has been expressed within the travel and tourism industry (an industry made up predominantly of small businesses) that the line has become so imprecise that their industry is being damaged. They fear that the area will be regulated or is being regulated in a manner which prevents their participation in the regulation drafting process. We share their concern.

I am writing to urge the Treasury Department to incorporate a rule-making into the 1997 IRS Business Plan that would clarify the "substantially related" test for purposes of determining unrelated business income arising from the travel and tour activities of tax-exempt entities. A regulation would provide guidance where there is little existing guidance and would address an important, persistent and growing concern of small businesses over an issue of fundamental fairness. It would raise additional revenue through greater compliance in an area of known non-compliance, and standardize inconsistent application of the law by clarifying a hazy area of the law.

As you know, whether or not income from a commercial travel and tour activity by a university, a museum or other nonprofit is taxable depends upon whether or not the activity is "substantially related" to the organization's exempt function.