

on the occasion of this day and to call to the attention of the Members of the House the great progress which the region as a whole has made toward peace, stability, and democracy.

The historic signing of the Guatemala Peace Accords last December 29 ushered in a period in which for the first time in almost 40 years, the entire Central American region is at peace. Even more significant is the fact that democracy is taking hold as evidenced by the fact that every current government in the region has been elected in what have been determined to be free and fair elections by both domestic and international observers. The economies of these nations seem to be making solid progress as growth, albeit slow, is being achieved through a combination of liberalization, modernization, and privatization. Further, it would appear that in general, an awareness and respect for human rights is on the increase and that the militaries of several of these nations are accepting their new roles under civilian leadership.

Nowhere are these last two issues more evident than in Guatemala. A recent subcommittee staff visit there found very encouraging signs that the peace process is taking hold thanks to the total commitment of President Arzu and the representatives of the URNG. And, the Guatemalan Congress is about to begin a historic debate on amending their Constitution to accommodate the political and economic reforms mandated by the accords. In the 9 months since the peace accords were signed, more than 3,000 former URNG combatants have been reintegrated into Guatemalan society. A Historical Clarification Commission has begun looking into 36 years of human rights abuses and atrocities committed against the general populace during the conflict years. And, the U.N. Verification Mission, MINUGUA, has stepped up its work in helping to strengthen organizations dealing with human rights issues. The significant U.S. financial commitment to this process as well as to programs we are funding in Nicaragua and El Salvador are clearly helping make these efforts successful.

This is not to say that there are not problems. Drug use and crime seem to be on the increase everywhere and nagging problems of poverty, unemployment, illiteracy, and infant mortality persist. But on the whole, Central America has moved beyond the crisis period of the past 15 years and has given us great cause for optimism.

So, Mr. Speaker, on the occasion of the celebration of the independence of these nations, I want to congratulate each of these nations for the progress they are making and to express my hope that they continue on this impressive path.

TAX RELIEF FOR SMALL BUSINESSES

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1997

Mr. PACKARD. Mr. Speaker, no one ever said that running a business was supposed to be easy. But Washington seems to want to make it more difficult. Small businesses need a break. And for the first time in 16 years, they

will get this long-awaited and much-deserved relief—a serious tax cut. The Taxpayer Relief Act is looking out for small businesses across the Nation.

Higher taxes and burdensome regulations are hurting America's small business community. Our Taxpayer Relief Act will relieve the tax burden on working Americans while simplifying the small business tax code. By offering estate tax relief as well as capital gains tax relief, we will ensure that businesses grow and prosper, while providing jobs and opportunities to many.

Mr. Speaker, not only do small businesses need a real break, they deserve one. They employ 53 percent of the private work force, contribute 47 percent of all sales in the country, and create millions of jobs each year. But yet Washington tax-and-spend values have led to the demise of many small businesses across the Nation. It doesn't have to be this way. Our plan ensure that this will not be the case in the future.

We want to see as many small businesses succeed as possible. They are critical to our economy. The Taxpayer Relief Act is good for small businesses and self-employed entrepreneurs. Under our plan, businesses will not only succeed, but will thrive and prosper for many years to come. Hard-working, tax-paying citizens have finally won a major victory. Relief is becoming a reality because the American people have spoken loudly and we have listened.

CONGRATULATING MICAH MORGAN, PACIFIC AREAS WINNER, VFW VOICE OF DEMOCRACY BROADCAST SCHOLARSHIP PROGRAM

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1997

Mr. UNDERWOOD. Mr. Speaker, each year, the Veterans of Foreign Wars of the United States and its ladies auxiliary conduct the Voice of Democracy broadcast scriptwriting contest. Entries for this year's theme, "Democracy—Above and Beyond," were received from more than 109,000 secondary school students. Fifty-four national scholarships were distributed among the 54 national winners.

Mr. Micah Morgan is this year's Pacific areas winner. He is the recipient of a \$1,000 USS Battleship Maine Memorial Scholarship Award. Micah is a senior at Morrison Academy in Taichung, Taiwan. He is the son of Mr. and Mrs. Keith Morgan and he plans a career in architecture.

As I congratulate Micah for being this year's Pacific areas winner, I would like to submit his speech for the CONGRESSIONAL RECORD:

"DEMOCRACY-ABOVE AND BEYOND"

Deep in the jungle, a soldier fights. But he is not the first. He is the newest warrior in a battle that men have been fighting for centuries. Just as those soldiers did long ago, he fights against tyranny and oppression backed by brothers in his own country, as well as sympathizers around the world. He is not fighting in their name, however, nor is he fighting for any kingdom or revered leader, nor even his own comrades in arms. He is fighting for himself. He is fighting for the opportunity to provide for his family. He is

fighting so his children won't have to grow up in fear. He is fighting so that he and his wife will be able to express their opinions openly. He is fighting so that he can have a voice in who governs him. He is fighting for his right to be a man. He is fighting for an idea which began centuries ago, but one which has survived while so many other great ideas have passed away. He is fighting for Democracy. The only government in the world that will give him and his family the hope to keep going, the freedom to express their opinions and the opportunities to do something about it.

Democracy gives people hope because it listens to them and helps them and allows them to succeed. Hope: something that everyone wants and needs to keep going. It can come through a baby's smile, an encouraging word from a friend, or even just a beautiful day. Not much to ask, really, but still people in many countries don't even have hope. Millions of immigrants fled to America during the 1820's and 1830's because it gave them this hope. In their own countries, no matter how hard they worked, they could never overcome the lot that they have been dealt in life. But, in America, their work would be rewarded and they could see that their children started off better in life than they had. The hope of a brighter future is one factor which makes democracy a step ahead of the rest.

Freedom, something which many take for granted, but something for which many people are willing to give their lives. Hope is a wonderful thing but is a short-lived thing if there is no freedom in which to enjoy it. People can experience life more when they have freedom because they can develop their own thoughts, express their own opinions, and pick their own direction in life without worrying about somebody looking over their shoulder. Freedom is something people respond well to, but most governments in the world haven't realized this. They don't realize that allowing people to make their own choices can only aid the government, because people work better when they know that they are doing it for themselves. Democracy, on the other hand, gives people freedom and it takes advantage of the work that people are doing for their own sakes. Freedom unlocks spirit and, by giving its people freedom, Democracy takes one more giant leap ahead of the rest.

Opportunities are essential to a good government. Hope and freedom are wonderful but they only breed discontentment if the people are not given the opportunities to do something about it. Giving people hope and freedom without opportunities is like grooming, encouraging, and aiding a pitcher to become amazing, but then never putting him into a game. People with hope and freedom will exercise their opportunities to improve government, technology, society, and countless other things. No other form of government is willing, however, to give up the little bit of power that it takes to give people opportunities, in order to gain the great advancements that they will bring to the nation.

BLACK LUNG COMPENSATION

HON. ANNE M. NORTHPUP

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1997

Mrs. NORTHPUP. Mr. Speaker, I rise today to voice my opposition to regulations proposed by the Department of Labor regarding black lung compensation.

I strongly believe injured parties should be compensated, and the current black lung program has provided much needed relief to many coal miners. However, the regulations proposed by the Department of Labor go far beyond necessary retribution and would effectively eliminate the coal mining industry in my State of Kentucky and other States that are home to small coal operators.

As a member of the Kentucky State Assembly, I participated in a special session in December where we revamped the workers compensation system to ensure the solvency of a program that was bankrupt. Now the Labor Department is proposing changes to the Federal Black Lung Program that are moving directly in the opposite direction.

On January 22, 1997, the Department of Labor—Employment Standards Administration—issued proposed changes to the Black Lung Benefits Program. These regulations would change the legal definition of pneumoconiosis—black lung—to include other lung abnormalities. The regulations would also declare the disorder progressive, so if someone who worked in coal mines for even a short time and was a smoker and developed lung cancer, the cause of the cancer would be job related, even if the prevailing medical information concluded it was smoking related. Furthermore, there would be the presumption that any sign of lung problem, even an x ray that showed a shadow on the lung of a smoker, would be progressive and eventually result in disability and death. This is true even in cases where there is no current physical limitation. Such a presumption is simply inaccurate.

In addition, the Department would allow all cases to be reopened and reconsidered under the new guidelines. In some cases, even the widow or survivors of the claimant would be entitled to reopen cases. This is about 80,000 cases.

About 230,000 miners, survivors, or dependents receive either compensation and/or medical benefits under the Federal Black Lung Program. To date, more than \$32 billion have been spent providing black lung benefits to miners and their survivors. The current program is supported by Congress. I am not arguing that this program should be cut or eliminated. Rather, I believe the program should be left alone.

The authorizing committee agrees that the Department of Labor should not implement the proposed changes to this program. In fact, the committee wrote Secretary Herman with their concerns earlier this year. Summarizing, the committee believes that the regulation changes go directly against the will of the Congress, which considered similar changes in the 103d Congress—but did not pass.

What's more, thorough economic impact studies have not been performed. As such, information on the costs of the proposed changes to the Federal Government and the coal companies is insufficient to allow these regulations to be implemented. While the Department of Labor concludes that the proposed regulations will result in an increased cost of only \$28 to \$40 million to the Federal Government, this conclusion is based on an inaccurate assumption that the claims approval rate will increase only from 7.5 to 9 percent. The conclusion does not account for any change in the initial filing rate or refiling rate and ignores the fact that many lawyers are

waiting for a chance to refile their clients' claims. Analyses of the legislation considered in the 103d Congress—which was similar to the proposed regulations—indicated that as many as 80,000 previously denied claims could be refilled and could cost as much as an additional \$30 billion.

In addition, the proposed regulations will not only directly cost taxpayers through costs to the Black Lung Program. They also will severely impact small coal operators. These costs could effectively eliminate small coal operators in such States as Kentucky and have an enormous impact on rural communities that depend on the coal industry.

The Department of Labor failed to provide appropriate information to substantiate the basis for the claim that the proposed rules will not have a significant impact on a substantial number of small businesses. In fact, the Small Business Administration [SBA] Office of Advocacy has filed formal complaint regarding the failure of the Department of Labor to comply with the Regulatory Flexibility Act [RFA] as amended by the Small Business Regulatory Enforcement Fairness Act [SBREFA]. The goal of these laws is to require agencies during consideration of regulations to analyze the impact on small businesses. The Department of Labor has failed to follow the guidelines set in law and consider the impact of these proposed regulations on small businesses.

The proposed regulations have also been opposed by the American Bar Association [ABA], which adopted a resolution expressing its opposition to any principle in the new regulations.

I am submitting documents by both SBA and ABA for the RECORD.

In short, the new regulations would have a terrible impact on Kentucky and other States which are home to small coal operators. While I strongly believe injured parties should be compensated, these proposed regulations go far beyond necessary retribution and would effectively eliminate the coal mining industry in my State of Kentucky at huge economic cost to taxpayers nationally.

U.S. SMALL BUSINESS ADMINISTRATION, OFFICE OF CHIEF COUNSEL FOR ADVOCACY,

Washington, DC, August 21, 1997.

Hon. BERNARD E. ANDERSON,
Assistant Secretary, Employment Standards Administration, Department of Labor, Washington, DC.

Re: RIN 1215-AA99: Regulations Implementing the Federal Coal Mine Health and Safety Act of 1969, as Amended.

DEAR MR. ANDERSON: This letter is the official comments of the Small Business Administration's (SBA) Office of Advocacy on the Employment Standards Administration's (ESA) rule for implementing the Black Lung Benefits Act.¹ These comments are to be placed on the public docket.

The Office of Advocacy was established by Congress under Public Law No. 94-305 to represent the views of small businesses before Federal agencies and Congress. Advocacy is required by §612 of the Regulatory Flexibility Act (RFA)² to monitor agencies' compliance with the RFA.

Advocacy has two primary concerns with the proposal. (1) Advocacy will address the ESA's failure to use established SBA size standards. The ESA is required by the RFA to use the SBA definitions when determining the economic impact of the rule or to follow

the appropriate statutory process for selecting an alternative size standard. (2) Advocacy will also address the agency's economic impact analysis. Advocacy believes that the ESA's RFA certification³ is inadequate because the agency has failed to provide appropriate data to substantiate a factual basis for this certification.⁴ Based on a preliminary assessment and information received from mining industry employers, Advocacy is convinced that the proposed changes to the black lung regulations may have a significant impact on a substantial number of small entities. The agency should complete an initial regulatory flexibility analysis detailing the potential impact of this rule on small businesses.

SMALL BUSINESS DEFINITION

When determining if a proposed rule will have a significant economic impact on a substantial number of small entities,⁵ the RFA requires that agencies comply with the size standards established by the SBA.⁶ If an agency decides to deviate from the pre-established size standard for the purposes of a particular rule, the agency must consult with the SBA prior to publishing the proposed rule. The agency also must publish the alternative size standard for public comment.

For the purposes of the proposed rule, ESA defines a small mine as a mine with a net worth of less than \$10 million or has been in operation for less than three years. The SBA defines a small mine as a mine which employs less than 500 employees. Although the preamble discusses the use of SBA and Mine Safety and Health Administration (MSHA) definitions, there is no indication that ESA contacted SBA to discuss alternatives. For the purposes of determining the economic impact of the proposed rule on small businesses, ESA must use the SBA definition or follow the statutory procedure for developing an alternative. ESA's decision to deviate from SBA's standards for the economic analysis was made independent of any consultation with the Office of Advocacy. Such a decision, without consultation with Advocacy, is a violation of the law.

QUANTITATIVE DATA ON THE MINING INDUSTRY

Advocacy contends that the agency has not provided the quantitative data necessary to substantiate the agency's certification that this rule will not have a substantial impact on small businesses. In fact, the agency has not provided the public with estimates on the number of small mines which will be affected by this rule, either as a whole or by mining sector (e.g., surface and underground bituminous and anthracite). Data available to Advocacy indicate that the coal mining industry includes 1,811 small firms, 95 percent of the mines in the industry.⁷ Therefore, Advocacy maintains that there are a substantial number of small firms affected by this rule and an initial regulatory flexibility analysis must be completed.

ECONOMIC IMPACT ANALYSIS

Determining a rule's impact on small businesses and other small entities is an important part of the rulemaking process.⁸ It is the burden of the agency to conduct a complete analysis of the affected industry and publish its findings for public comment. The analysis should provide a detailed breakdown of the economic impact proposed changes by various sizes, types of operations, and practices within the small mining industry.

The economic impact data provided by the ESA on small coal mining firms is not sufficient to substantiate the agency's assertion that "small firms are not expected to be disproportionately affected by these changes."⁹ First, the criteria for RFA is a significant impact (not a "disproportionate" burden).

See footnotes at end of article.

After evaluating the preliminary information provided by ESA in the preamble, the Office of Advocacy concludes that the impact on small firms likely would be both significant and disproportionate.

For instance:

The agency predicts that in a maximum impact scenario, the total costs for the coal industry would be an additional \$3.65 per \$100 of payroll. This would be an 84 percent increase over current costs (\$4.33 per \$100 of payroll).¹⁰

The agency projects that approval rates for claims will increase and result in an increase in the premium rate of less than 75 cents per \$100 of payroll for underground bituminous miners. Using ESA estimates of the average annual per employee wage cost of \$38,355, the increase in premium rates for this industry sector would be \$287 per employee each year. This would be a 17 percent increase in insurance costs.

Advocacy examined just one sector of this industry to demonstrate just how significant the cost of this rule will be for small firms. For an anthracite mine with 20 employees, the costs of labor represents 37 percent of revenue value. ESA indicates that average labor costs in the industry equal less than one fourth of the value of its product output. Assuming that receipts are equal to output, this size and type of mine does not enjoy the economies of scale and higher productivity per employee of larger mines. Therefore, the insurance costs based on payroll will be significantly greater. We estimate that similar costs will be discovered for many or all of the small mines affected by this rule.¹¹

Given the rule's potential economic impact on small mines, Advocacy is making several suggestions for improving the agency's economic data. Generally, the process of preparing an economic analysis requires an ample amount of due diligence on the part of the agency. In order to provide the public with the necessary economic information to solicit constructive public comment, the ESA's process of analyzing the impact of the black lung regulations should be transparent, clearly illustrating the cost of implementing the rule on the various segments which comprise the small mining industry. Economic assumptions and methodologies should be made known so that the analysis can be reviewed actuarially. If costs are determined to be significant in a particular industry sector and/or in a particular small business size range, this would justify a full analysis with regulatory alternatives for small entities.

The following are specific recommendations to improve the data to determine economic impact more realistically.

The agency is using the criteria of one percent of payroll as the threshold for determining "significant." However, Advocacy believes that this threshold is inappropriate and essentially meaningless. First, small firms' costs may be concentrated in payroll and not other operating costs. Therefore, the percentage of costs will be much greater for small mines relative to larger, mechanized mines. Second, with payroll cost increases, there is no indication of correlating revenue or profit increases. Our preliminary investigation of the industry shows that the product prices are fixed, established by long-term contract. Larger firms may be able to absorb the costs in the short term with some measure of profitability. Smaller firms, however, may not be able to assume the added costs and remain competitive. Sector specific profit margins and standard industry practices, like long-term contracting, must be discussed in the analysis.

The analysis should use SBA size standards to determine the impact of the proposed changes by various size ranges. Cost projections by size range is fundamental to deter-

mining economic impact. An example of how economic impact can vary by size is illustrated by the anthracite industry. Based on 1994 U.S. Census data, anthracite mines with fewer than 20 employees had estimated annual receipts of \$821,000, mines with 20-24 employees had estimated receipts of \$2.07 million and mines with 25-29 employees had estimated receipts of \$2.99 million. Clearly, increased insurance premiums would have a significantly different economic impact depending on the size of the anthracite firm.

The rule is anticipated to have a \$40 million¹² impact on the entire coal mining industry. The agency's use of aggregate numbers to determine anticipated economic impact is not particularly useful. The analysis should explore how the regulation will impact specific sectors (e.g., anthracite and bituminous) within the industry by various sized firms. The analysis should also examine the rule's impact on different mining practices, e.g. surface and underground mining.

The agency's economic data has concentrated on the rule's impact to commercially-insured coal mines. The agency should also estimate the impact of the rule on self-insured mines. In addition, the analysis should compare the potential impact of the rule between self-insured and commercial-insured firms.

To assist the agency, Advocacy has provided 1994 U.S. Census Bureau data detailing industry specific firm size by number of employees and company receipts. (The ESA indicated that the lack of such data was a reason not to use established SBA size standards in its economic impact study.¹³) For future reference, this information can be easily retrieved from Advocacy's homepage at <http://www.sba.gov/ADVO/>.

OUTREACH

As we have indicated, Advocacy is convinced that this rule could have significant impact on small mines. Therefore, Advocacy recommends that the agency conduct extensive outreach to small mines to solicit information on the economic impact of this rule. Within the U.S. Government, several sources of information are available. For instance, the ESA's sister agency, the MSHA, maintains detailed industry data and mining company mailing lists. This information could be used for outreach purposes. The Office of Advocacy is also available to assist ESA identify small mining business organizations.

The RFA suggests that direct communication with the regulated industry can be beneficial for complying with the law.¹⁴ Advocacy encourages ESA to incorporate the expertise of the mining business community, input from the regulated community is crucial to the development of an analysis which accurately reflects the industry.

CONCLUSION

In 1996 Congress and the President enacted the SBREFA, thus, renewing a public policy commitment to small businesses by reminding agencies of RFA obligations and by allowing by small businesses (through judicial review) to challenge agencies that fail to comply with the law. Good public policy and the law dictate that agencies provide the public a factual basis for an agency determining whether a rulemaking will have "a significant impact on a substantial number of small entities."

Advocacy has been contacted by several organizations representing various sectors of small coal mines concerned that these proposed changes were substantially understated by the agency and would significantly increase the cost and availability of black lung workers' compensation insurance. Advocacy encourages the agency to review the record for small businesses comments made

on all aspects of the proposal. Aggressive outreach to the small mining industry will help determine the true economic impact of this proposed rule and any information on alternatives which would meet the agency's public policy objectives while mitigating the impact of the rule on small business.

In order for the ESA to meet its requirements under the RFA, the agency must develop a meaningful economic analysis which can be defended upon critical review. In the analysis, the agency also must use the SBA definition of small business or follow the statutory procedure for proposing an alternative definition.

If you have any questions about our comments, please contact me or Sarah Rice of my staff at (202) 205-6532.

Sincerely,

JERE W. GLOVER,
Chief Counsel for Advocacy.

Enclosure.

AMERICAN BAR ASSOCIATION,
Chicago, IL, August 15, 1997.

Via Federal Express

The Honorable ALEXIS HERMAN,
Secretary of Labor, U.S. Department of Labor,
Washington, DC.

Re: Proposed Regulations to Restructure the
Black Lung Program

DEAR SECRETARY HERMAN: As President of the American Bar Association, I am transmitting to you the enclosed resolution that was adopted by the House of Delegates of the American Bar Association during the ABA's Annual meeting in San Francisco last week. The resolution comments on the proposed regulations at 62 Federal Register 3337 et seq. that pertain to the Federal Black Lung compensation program. The resolution now constitutes the official policy of the ABA.

The ABA appreciates this opportunity to submit its views to you. If you should have any questions, please feel free to call me directly at 215-977-2290.

Sincerely,

JEROME J. SHESTACK,
President, American Bar Association.
Enclosure.

RESOLUTION OF THE AMERICAN BAR ASSOCIATION—ADOPTED BY THE HOUSE OF DELEGATES, AUGUST 1997

Resolved, That the American Bar Association expresses its opposition in principle to any revisions of the Code of Federal Regulations (20 CFR Part 725) recommended by the United States Department of Labor on Wednesday, January 22, 1997 [62 Federal Register 3337 et seq.] pertaining to the Federal Black Lung compensation program which are contrary to the requirements of the Federal Administrative Procedure Act or the Black Lung Benefit Act.

Further resolved, That the American Bar Association expresses its opposition to the following proposed revisions of the Code of Federal Regulations (20 CFR Part 725) recommended by the United States Department of Labor on Wednesday, January 22, 1997 [62 Federal Register 3337 et seq.] which pertain the Federal Black Lung compensation program:

Section 725.103—Burden of Proof: asserts authority to adopt burden-shifting presumptions.

Section 725.309—Additional Claims: revises the extent to which the common law concepts of res judicata, or claim preclusion, and collateral estoppel, or issue preclusion, apply to the adjudication of black lung benefits claims.

Section 725.401—Claims Development—General: transfers adjudicative functions from administrative law judges to district director.

Section 725.405—Development of Medical Evidence: fails to account for district director obligation to develop evidence other than medical evidence.

Section 725.405(c)—Medical Examination and Tests: limits the development of medical evidence.

Section 725.408—Operator's Response to Notification: requires potentially liable operators to respond to notification of its status within thirty days, research up to 27 years of employment data within sixty days of notification to submit evidence to claims examiner to support its position that it is not a potentially responsible operator.

Section 725.413(c)—Initial Adjudication by the District Director: transfers adjudication functions from the ALJ to the district director, limits development of medical evidence.

Section 725.414—Development of Evidence: defines the amount and type of medical evidence which each party may submit.

Section 725.415—Action by the District Director After Development of Operator's Evidence: provides for adjudication at an informal hearing before the district director that is not an on-the-record proceeding under oath.

Section 725.416—Conferences: permits sanctions, including abandonment or waiver of the right to contest issues, for failure to appear at an informal conference and permits the conference procedures to be within the discretion of the district director.

Section 725.454—Time and Place of Hearing: Transfer of Cases: deletes language permitting the ALJ to reopen the hearing or admit additional evidence for good cause shown.

Section 725.456—Introduction of Documentary Evidence: deletes authority of the ALJs to perform certain functions and denies all parties, rights to fully cross-examine adverse evidence and witnesses.

Section 725.457—Witnesses: denies all parties, rights to fully cross-examine adverse evidence and witnesses; denies full development of a record at the hearing; limits expert witness testimony.

FOOTNOTES

¹ Fed. Reg., Vol. 62, No. 14 (January 22, 1997), p.p. 3338-3435.

² 5 U.S.C. §§601 *et seq.*

³ Fed. Reg., Vol. 62, No. 14 (January 22, 1997), p. 3373.

⁴ 5 U.S.C. §605(b).

⁵ 5 U.S.C. §601.

⁶ 13 C.F.R. part 121.

⁷ See 13 C.F.R. part 121 and U.S. Bureau of the Census data 1994.

⁸ In the preamble, the agency appears to indicate that economic impact to small business can be correlated to the \$100 million per year impact used for the Unfunded Mandates Reform Act of 1995. The use of the \$100 million threshold is not relevant for determining the economic impact of the regulation to a particular size or a particular type of coal mine.

⁹ Fed. Reg., Vol. 62, No. 14 (January 22, 1997), p. 3373.

¹⁰ Fed. Reg., Vol. 62, No. 14 (January 22, 1997), p. 3372.

¹¹ Using data from the U.S. Bureau of the Census on firm revenues and the ESA. Advocacy calculated that an anthracite mine with 20 employees would have annual revenues of \$2,069,000. This amount divided by 20 employees indicates that the firm has revenues of \$103,450 per employee. With an average employee salary of \$38,355, the firm is incurring 37 percent labor costs. If the agency challenges this assertion, then ESA should provide additional information on industry salaries.

¹² Fed. Reg., Vol. 62, No. 14 (January 22, 1997), p. 3373.

¹³ Fed. Reg., Vol. 62, No. 14 (January 22, 1997), p. 3371.

¹⁴ 5 U.S.C. §609.

GEN. HUGH SHELTON'S APPOINTMENT AS CHAIRMAN OF THE JOINT CHIEFS OF STAFF

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1997

Mr. ETHERIDGE. Mr. Speaker, I rise to praise President Clinton's appointment of Army Gen. Hugh Shelton as Chairman of the Joint Chiefs of Staff and the U.S. Senate's Armed Services Committee's vote to confirm the nomination.

General Shelton's career is the embodiment of North Carolina values: hard work, service to country, respect, and commitment to excellence. He has earned the opportunity to serve as the highest ranking member of the U.S. Military, Chairman of the Joint Chiefs of Staff.

General Shelton grew up with his hand in the dirt as we say in North Carolina, and is head in the books. He comes from the small town of Speed, in Edgecombe County in eastern North Carolina, a county I have the honor of representing as the Representative of the Second Congressional District of North Carolina.

As a veteran myself of the U.S. Army and a farm boy from eastern North Carolina, I have the utmost respect for General Shelton, who grew up working tobacco as a school boy, days on end. He went on to earn his degree in textile engineering from North Carolina State University in Raleigh, and his commission through the University's ROTC program.

General Shelton is a leader, his distinguished career of leadership and service to our Nation began in 1963, when he joined the U.S. Army. He served with the 5th Special Forces Group from 1966 to 1967 and from 1969 to 1970 with the 173d Airborne Brigade. His service in the campaign against the Viet Cong and Communist North Vietnamese in the highly volatile back country of Vietnam won him the respect of his colleagues for his personal sacrifice and service to our Nation.

In the Persian Gulf war, our largest military confrontation since Vietnam, General Shelton served as assistant commander of the 101st Airborne Division (air assault) "when it made the largest, longest helicopter assault in history."

He has commanded Fort Bragg and the 18th Airborne Corps and the 82d Airborne Division at Fort Bragg, NC. Currently, he serves as commander of U.S. Special Forces at MacDill Air Force Base in Tampa, FL, which is home to the Army's Green Berets and the Navy's Seals.

One of his greatest attributes has been his experience and effectiveness in bringing together the Armed Forces as he did at the Pentagon and as the task force commander for Haiti.

He has sacrificed, served, and fought to keep our Nation free. God has blessed him with these great skills which will serve him and the United States well as Chairman of the Joint Chiefs of Staff.

I commend the President for appointing General Shelton to this most important position, and I congratulate the general on this outstanding accomplishment. I urge the full Senate to complete his confirmation as soon as possible.

EXTENSION OF REMARKS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 11, 1997

Mr. SOLOMON. Mr. Speaker, who would not love to have been a fly on the wall when President Clinton, as the Wall Street Journal noted in its September 11 editorial, "unleashed John Huang at a meeting on September 13, 1995, approving his transfer from the Commerce Department to work as a fundraiser at the Democratic National Committee."

Now that I think of it, Mr. Speaker, we also would like to know what in the first place Mr. Huang was doing at Commerce, where he had access to sensitive information he allegedly shared with a foreign government and a foreign company which once employed him. It would take a wall-sized chart to show the constellation of quid-pro-quo and money trails.

But that is another story, Mr. Speaker, and for right now we are concentrating on how so many bright, Ivy League educated lawyers could allegedly break the law, do so knowingly, and then suffer such memory lapses about it.

The Journal suggests that Vice President GORE is being set up as the administration's sacrificial lamb. It also suggests that justice would not be served if it went no further than the Vice President's office.

I proudly place the Journal editorial in today's RECORD.

TOSSING GORE

On the eve of new hearings by the Thompson committee, Attorney General Janet Reno felt forced to relax her hard-line stance against an independent counsel in the campaign contributions scandal, starting a review of phone calls by Vice President Al Gore. Conceivably Ms. Reno is edging toward facing the real issue, which is not the Vice President but the President. More likely this is another stall, reflecting a Martha's Vineyard decision by Bill Clinton to divert the pursuing wolves once again by throwing another child from the sled. Sorry, Al.

The Justice Department pre-hearing statement promised to review whether "allegations that the vice president illegally solicited campaign contributions on federal property should warrant a preliminary investigation under the independent counsel act." But the central issue is not whether Mr. Gore's phone calls broke some quaint statute. Nor whether he was sentient at the Hsi Lai Temple fund-raiser. Nor whether there is some metaphysical distinction, as in the latest collapsed excuse by Ms. Reno and her mysterious "career prosecutors," between "hard money" and "soft money." Nor whether Democratic National Chairman Don Fowler knew he was talking to the CIA when he talked to the CIA on behalf of Roger Tamraz, a rogue Mr. Fowler had already been warned shouldn't have White House access.

The issue that needs to be investigated is whether all of these various fund-raising outrages are the result of a conspiracy set in motion by the President of the United States. As detailed July 7 by our Micah Morrison, Mr. Clinton unleashed John Huang at a meeting on September 13, 1995, approving his transfer from the Commerce Department to work as a fundraiser at the Democratic National Committee. Also at this significant meeting were three members of Mr. Clinton's inner circle: senior aide Bruce Lindsey, Arkansas wheeler-dealer Joseph Giroir and Indonesian financier James Riady. White