Additionally, the Corporation shall create criteria for African governments to establish matching funds based upon ability to pay and to demonstrate a national commitment to combating HIV/AIDS by establishing, for example, a national HIV/AIDS council or agency.

Additionally, Mr. Speaker, the administrative costs, or overhead associated with the AMPFA Corporation, are mandated to be no more than 8 percent of the Corporation's overall budget. The AMPFA Act authorizes the appropriation of $200 million for each of the fiscal years 2001 through 2005. Also, for each of the fiscal years 2002 through 2005, the Act authorizes an appropriation to fund an additional amount equal to 25 percent of the total funds contributed to the Corporation.

Mr. Speaker, in a June 1999 lecture entitled ''The Global Challenges of AIDS'', United States Secretary General Kofi Annan stated that ''no company and no government can take on the challenge of AIDS alone. What is needed is a new approach to public health—combining all available resources, public an private, local and global''. It is my intent that the AIDS Marshall Plan for Africa serve as a replicable model for addressing this crisis globally. Already, this proposed legislation has received the support of over 40 Members of Congress and has caught the interest of the African diplomatic corps, African and African-American organizations, AIDS activists, and global health organizations that are interested in providing assistance to pass the legislation.

In closing, Mr. Speaker, I am committed to seeing this legislation through to final passage and encourage my colleagues to review the legislation and to contact me or my staff with questions. This bill will support Africa in a substantive and meaningful manner.

ABUSES BY STATE TAXING AUTHORITIES

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1999

Mr. WELLER. Mr. Speaker, I submit for the RECORD the following letter:

Hon. DAVID WALKER,
Comptroller General of the United States, Washington, DC.

DEAR MR. WALKER: I am writing to request an investigation by the United States General Accounting Office (''GAO'') of alleged abuses by State taxing authorities against former residents.

As a Member of the Oversight Subcommittee of the House Ways and Means Committee, I spent significant time last year addressing the issue of taxpayer abuses by the Internal Revenue Service. As a result of our work, and Congressional and GAO investigations, many serious tax violations and wrongdoings were uncovered within the IRS. Last year, Congress held a series of hearings on the issue and addressed these serious problems by passing significant reforms and taxpayer protections as part of the ''Internal Revenue Service Restructuring and Reform Act of 1998.''

I am, therefore, disturbed to learn that while we addressed taxpayer abuses at the federal level, there may be just as many oppressive actions occurring throughout the country at the State level. A recent Forbes Magazine article entitled ''Tax torture, local style'' (July 6, 1998), highlights the fact that ''[T]here are at least half as many revenue agents working for the states as the federal government'' and ''[C]ollectively, they are just as oppressive as the feds.'' See, Attached Article. In another recent article, the Los Angeles Times reported that the state taxing authority, the California Franchise Tax Board, ''is second in size and scope only to the Internal Revenue Service—and by all accounts the state agency is the more efficient, more aggressive and more relentless of the two'' and ''there is little to stop the agency from becoming more aggressive.'' See, attached article, ''State Agency Rivals IRS in Toughness,'' Los Angeles Times (August 2, 1999, page 1).

The Forbes article lists a number of state tax department problems including: (1) privacy violations by California, Connecticut, and Kentucky; (2) criminal or dubious activities by Connecticut, Indiana, Kentucky, New Mexico, North Carolina, Oklahoma, and Wisconsin; and (3) mass erroneous tax-due bills by Arizona, California, Indiana, Michigan, and Ohio. In addition, my office has recently received materials from taxpayers alleging abuse by State taxing agencies (e.g., materials from Mr. Gil Hyatt alleging a number of abuses by the California Franchise Tax Board (''FTB'') against former residents of the State of California). See, Attachment.

I believe this issue is important and deserves study and a full investigation by the GAO. Should taxpayer abuses exist at the State level against former residents, I would consider recommending any and all appropriate legislation to address these deplorable activities and encourage State's Attorney Generals to begin separate investigations into such actions. We should do whatever we can to protect the rights of our citizens against overzealous Federal or State tax agencies.

I look forward to working with you and your staff on this important investigation.

Sincerely,

JERRY WELLER,
Member of Congress.

THE WIDESPREAD ABUSE

When Congress passed the Internal Revenue Service Restructuring and Reform Act of 1998, an era of tyranny at the IRS came to an end. Congressional hearings revealed story after story of taxpayer abuse by the IRS. The stories of abuse so inflamed the public and Congress that sweeping reform soon followed. But taxpayers abuse is still as prevalent as ever—only the perpetrators of this abuse are the state taxing agencies. In its rush to reform the IRS, Congress overlooked a whole other level of taxpayer abuse at the state level. This type of abuse by state taxing agencies has received attention from the press. In the article ''Tax torture, local style,'' William Barrett discusses the ''extortion,'' ''sweepingly false declarations of taxes,'' ''false notices,'' ''[p]rivacy violations,'' and ''criminal or dubious activities'' by state taxing agencies. (William Barrett, *Forbes,* July 6, 1998). Many states have resorted to the same type of abusive tactics for which their federal counterpart—the IRS—was reprimanded by Congress.

In many cases, a state taxing agency has even exceeded the IRS in its recklessness and abusiveness. In a front-page LA Times article entitled ''State Agency Rivals IRS in Toughness'', Liz Pulliam compares the FTB unfavorably with the IRS—''the Franchise Tax Board is second in size and scope only to the Internal Revenue Service—and by all accounts the state agency is the more efficient, more aggressive and more relentless of the two''. (Liz Pulliam, ''State Agency Rivals IRS in Toughness'', L.A. Times, August 2, 1999, at A1). She also quotes Mr. Dean Andal, a former FTB Board member, who criticizes the FTB as ''brutal'' and ''hard and sometimes arbitrary'' and states that ''there is little to stop the agency from becoming more aggressive'' (Pulliam, *supra*).

States are particularly abusive towards former residents who have moved to another state. Moving to another state is a common occurrence in the U.S., where citizens have the constitutional right to travel to and establish residency in any state in the United States. In 1996, Congress passed legislation which prevents states from taxing the pensions of retirees living in other states. This congressional legislation illustrates the need for federal intervention in order to prevent states from overreaching in their pursuit of tax revenue. Unfortunately, this action by Congress only focused on one small avenue in which states illegally pursue nonresidents for additional taxes. Another tactic is to assess a tax on citizens leaving the state by contesting when the former resident moved out of the state. Years after a citizen has relocated to another state, the state taxing agency will open a ''residency audit'' to extort a former resident.***HD***The Abuse Exemplified: The California Franchise Tax Board

The abusive taxing tactics used by states is best illustrated by the California Franchise Tax Board (FTB), as indicated in the LA Times article *supra:*

''[The FTB] is tainted by arrogance and a stubborn unwillingness to compromise.''

''For two years in a row, corporate tax executives have ranked California's [FTB] among the toughest, least fair and least predictable state tax agencies in the country.''

STATE IS RANKED MOST AGGRESSIVE

Many corporate taxpayers agree. In both 1997 and 1998, company tax executives ranked California at the top of a 'worst offenders' list compiled by CFO magazine to rate the tax agencies of the 50 states. . . . The state [California] was described as among the least predictable in administering tax policy and among the most likely to take a black-and-white stance on unclear areas of tax law. (Pulliam, *supra*).

The FTB particularly targets for abuse Nevada residents who formerly resided in California. The FTB agents are well trained in targeting such nonresidents. For example, the FTB targets wealthy and famous people living in gated affluent communities of Las Vegas. Agents develop a list of potential victims compiled from property rolls, tax records, and newspaper accounts. This list is supplemented by trips into the wealthy neighborhoods of Las Vegas in order to survey former California residents. Wealthy and famous individuals are the preferred targets because they are particularly vulnerable to threats of violating their privacy and causing them bad publicity. The FTB then audits the victim's financial and personal affairs. This includes agents making periodic trips across state lines in order to secretly survey victims. The agents trespass onto the victim's property, record the victim's movements, and even probe the victim's garbage and mail all while making sure to avoid contact with the victim. All of this is done stealthily, without the

knowledge of the Nevada authorities. If the agents are caught in the act, they falsely claim immunity for their auditing tactics under color of authority and they claim a false constitutional right to collect taxes in Nevada—all while violating the constitutional rights of their victims and the sovereignty of Nevada. This is not a legitimate investigation, but a covert operation to uncover private information for what is best characterized as extortion of the victim.

The FTB hires inexperienced and unsuccessful recruits as auditors. Many of these auditors are untrained and unsupervised. They are given training manuals that they do not study. The training materials are illustrated with such sadistic cartoons as a skull-and-crossbones on the cover of the penalties section (which is to illustrate how to pirate an additional 75% override on the tax assessment). They have little or no legal background or training and do not know nor do they care about the victim's Constitutional rights. They except legal cliches and case law from other audits and insert them throughout their workpapers indiscriminently. They mimic comments that they read that supports the FTB's position and they ignore information about supports the victim's position. Some auditores are so inept that they actually use pseudonyms from ''boilerplate'' and training manuals audits (e.g., Marie Assistant) in their own audits because they do not understand such an obvious step as the need to replace the pseudonyms in the ''boilerplate'' audits with the actual names of the individuals in the particular case under audit. These are the kind of people that California has charged with the awesome power of auditing taxpayers—''the power to tax is the power to destroy.''

The FTB gathers large quantities of private information about the victim during the audit. The FTB goes to the victim's adversaries, who are not privy to the victim's private information, and offer them a way to help dispose of their adversary, the FIB's victim, by concocting damaging victims evidence against the FTB's victim. A bitter ex-spouse or ex-girlfriend, an estranged relative, or a vengeful former employee are preferred. The FTB avoids contacting the victim's friends, and close relatives who are privy to the victim's private information because such witnesses would undermine the FTB's attack on the victim. The FTB has actually sent out intimidating and harassing letters to the victim's friends, colleagues, and business associates and has even gone so far as to audit these people apparently to intimidate and harrass them, to isolate the victim, and to deprive the victim of the support that he or she needs at such a crucial time. The FTB's apparent intent is to have the victim embattled by adversaries and separated from supporters. ''They tend to look at every audit as a battle. In the gray areas, they push the evelope rather than work out a reasonable compromise.'' (Pulliam, *supra*).

The FTB auditors boldly admit to emphasizing bad evidence for the taxpayer and ignoring good evidence for the taxpayer. In one of the FTB's largest residency audits, the auditor trumped-up a large assessment with penalties based on false affidavits from the victim's adversaries while completely ignoring all of the victim's close relatives, friends, and associates. Also in this same audit, the auditor relied on about the fifty false California connections while ignoring a thousand solid Nevada connections and preempted submission of thousands-more solid Nevada connections by the victim. Even more significant, the thousands of Nevada connections involved thousands-of-times more value (purchase offers on custom homes,

The California Legislature was so suspicious of and concerned about the FTB that it passed the Taxpayer's Bill of Rights statute, which among other things, forbids the FTB from evaluating employees based upon revenue collected or assessed or upon revenue collected or assessed or upon production quotas. The law also states that the head of the FTB must certify in writing annually to the California State Legislature that the FTB has not evaluated employees based upon revenue collected or assessed or quotas. But this certification is misleading since, by an indications, promotions and rewards still go to those FTB employees who bring in the most revenue. And quotas by different names abound in the FTB. Once FTB employee rapidly progressed from a low-ranking auditor to a high-prestigage position for making one of the FTB's largest residency assessments ever. FTB auditors must generate over $1,000 of revenue for every hour charged to an audit. A quota system is indicated in the LA Times article *supra*: ''The agency [FTB] added 362 auditors between 1992 and 1996, promising the legislative that the new positions would boost collections.''

Furthermore, there is little supervising of FTB auditors. Instead, this type of auditing and tax collection appears to be encouraged by management. The FTB claims to have layers of review in order to ensure accuracy and fairness; however, these layers actually proliferate the fraud of the FTB auditors. The auditor's supervisors do not get involved in the audits, instead relying completely on an auditor's self-serving narrative report in reviewing an audit without any regard for the victim's evidence or arguments. Unbelievably, FTB auditors and management get credit for assessments and get promotions and rewards immediately after the audit even though the assessments may never be collected at all and any collection may be decades away. This encourages excessive tax assessments for immediate promotions and rewards, but the feedback that it was a bad audit may be more than a decade away.

The legal department gets involved in reviewing penalties, but indications are that the lawyers encourage unwarranted penalties to force a settlement rather than provide an independent review. This is confirmed by the fact that the FTB audit and protest proceedings are expressly exempted from the California administrative proceedings act to permit the FTB to proceed in violation of the victim's Constitutional right to due process. The FTB implies that the ''protest' proceeding is an independent review of an objective protest officer, when it fact it is a contination of the investigation to gather more information, to attempt to force the victim into an extortionate settlement, and to prepare the FTB's case for any appeal by the victim to the next stage of the administrative proceeding. The victim tells his case to a wolf-in-sheep's-clothing, misleading the victim into presenting his or her case to an independent reviewer when in fact the protest officer is an important part of the FTB's abuse. The FTB's denial of due process to a victim under the sham that the audit and the protest are merely investigations is untenable and will be easily declared unconstitutional when challenged. The FTB has deprived victims of their Constitutional rights for too long.***HD***THE FTB'S PLOT—FALSIFY THE OFFICIAL RECORDS

By contesting the residency of former California residents who have moved from the state, the FTB assesses additional taxes on money earned *after* the former resident moved from California. This type of treatment of nonresidents is a blatant violation of the victim's Constitutional right to move between states. Despite overwhelming evidence to the contrary from the victim, the FTB will often allege a residence date that allows it to encompass as much additional tax revenue as possible. In order to support its outlandish residency date, the FTB will disregard the victim's substantial Nevada connections, will overly emphasize and rely upon minimal (and often erroneous) California connections, will distort Nevada connections into California connections, and will devise nonexistent California connections.

The FTB maintains, for example, that a six-month lease on an apartment in Nevada and opening escrow on a custom home purchased in Nevada are not Nevada residency connections. The FTB has gone so far as to actually maintain that, for purposes of residency, a former California resident can only claim to have resided in a Nevada apartment if: 1) the apartment complex has security gates, 2) the apartment is left ''trashed'' after moving out, 3) the apartment managers can provide information on the movements of the tenant (even after several years have passed since the tenant lived there), and 4) poor people do not reside in the apartment complex.

Furthermore, the FTB maintains that a former California resident is only permitted to sell a California house to a stranger and that a former California resident is only permitted to reside in a Nevada house if he can prove the Nevada house was not purchased for investment or appreciation and only if the Nevada house has security gates. The FTB asserts that California voter registration and obtaining a California driver's license are significant California residency connections, but disregards the same actions when taken in Nevada as mere formalities that are easy to do and not relevant to the issue of Nevada residency despite the FTB's own regulations and decades of case law to the contrary. All of these holdings can be found in the FTB's own audit files.

Unbelievably, the FTB relies on the following considerations as supporting California residency:

An overnight stay in a California motel is a California residency connection while a six-month lease on an apartment in Nevada is not a Nevada residency connection.

A bank account in a Nevada bank is a California residency connection because the Nevada bank also has a California branch.

A mail-order purchase made from Nevada to a California mail order provider for delivery of merchandise to a Nevada home is a California residency connection even though the mail order purchase was made from Nevada by a Nevadan and was delivered to a Nevada address.

This type of California mail-order purchase is a sham purchase because, the FTB argues, the Nevadan could have bought the product in Nevada and saved the cost of freight.

The FTB uses circular reasoning by concocting a late Nevada residency date and then

alleging that purchases made in Nevada *after* the concocted Nevada residency date are California residency connections for the period *before* this concocted Nevada residency date in order to attempt to support this date.

Actual Nevada receipts are not Nevada connections while false California receipts that the FTB concocts are California connections.

A credit-card purchase made in Nevada for use in a Nevada house is a California residency connection if the credit-card charge, unknown to the Nevadan, is cleared through a California credit-card office.

A California driver's license, surrendered to the Nevada DMV upon obtaining a Nevada driver's license, is a California residency connection because the surrendered California driver's license had not yet expired while the Nevada driver's license is not a Nevada residency connection because it is easy to get.

Gifts sent by a Nevadan to an adult child or a grandchild living in California constitutes a California residency connection.

Checks drawn on a Nevada bank are California residency connection even though the checks were written in Nevada by a Nevada resident to Nevada workers for work done on a Nevada house and where the checks were even cashed in Nevada; and a regulated investment company open-ended fund (a mutual-fund money-market account) was deemed by the FTB auditor to be a California bank account constituting a California residency connection and a basis for a fraud determination even though the FTB Legal branch gave a legal opinion stating that the regulated investment company is not a bank and normally not a California residency connection.

This is only a partial list of the kind of absurd considerations that the FTB will use to rationalize its residency determinations. Such far-fetched and concocted California connections are what the FTB relies upon to support its residency determinations—the FTB must make the most of what it has available and what it can concoct in order to extort California income taxes from nonresidents.

CELEBRATING THE SERVICE OF MS. EMILY AMOR

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1999

Mr. HALL of Ohio. Mr. Speaker, I rise today to recognize a wonderful woman and exemplary citizen of the District of Columbia. Ms. Emily A. Amor is now 96 years old and has just been named the ''Volunteer of the Century'' by the Central Union Mission. She has been an active volunteer for almost 20 years.

Her dedication to God, to her country and to those in need has been proven through a lifetime of service. She has served by praying, working and volunteering. Her commitment has led her to join me every Wednesday morning at 7 am to pray for the city of Washington, DC, its leaders and its residents. She has served meals to the homeless on every major holiday for years. And before retiring at age 70, she worked with the Department of Housing and Urban Development.

She is truly an amazing example of a selfless servant. She has a heart-felt compassion for others, especially those who are poor and hurting. Her life has truly exemplified Jesus Christ's example of loving one's neighbor, no matter who they might be. I only hope that I can have half as much life in me as she does when I reach age 96.

I ask my colleagues to join me in commending Emily for all of her great work. I am glad to be able to call her a friend and am humbled by her servant's heart. I wish her the best for many years to come.

THE NUCLEAR WEAPONS DE-ALERTING RESOLUTION

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1999

Mr. MARKEY. Mr. Speaker, 54 years ago tomorrow a single bomb in a single city changed our world. The atomic bomb dropped on Hiroshima leveled the city, engulfed the rubble in a fireball, and killed 100,000 people. Three days later another 70,000 people died at Nagasaki, and people are still dying today from leukemia and other remnants of those explosions.

The victims of Hiroshima cast shadows from the explosion's blinding light that were permanently etched not only in the remaining buildings but also in our souls. Since August 6th, 1945 we have lived in fear that such nuclear destruction would happen again, perhaps in the United States. Today, the accidental launch of a single missile with multiple warheads could kill 600,000 people in Boston, or 3,000,000 people in New York, or 700,000 people in San Francisco or right here in Washington, DC. If that missile sparked a nuclear exchange, the result would be worldwide devastation.

For 40 years of Cold War we played a game of nuclear chicken with the Soviet Union, racing to make ever more nuclear bombs, praying that the other side would turn aside. During the Cuban missile crisis and many other times we came perilously close to going over the cliff. Then in 1991 the Cold War and the Soviet Union ended. Yet today we not only keep hundreds of nuclear missiles with nowhere to point them, we keep many of them ready to fire at a moment's notice.

This threat from this ''launch-on-warning'' policy is real. On January 25, 1995, when Russia radar detected a launch off the coast of Norway, Boris Yeltsin was notified and the ''nuclear briefcase'' activated. It took eight minutes—just a few minutes before the deadline to respond to the apparent attack—before the Russian military determined there was no threat from what turned out to be a U.S. scientific rocket. The U.S. is not immune: on November 9, 1979 displays at four U.S. command centers all showed an incoming full-scale Soviet missile attack. After Air Force planes were launched it was discovered that the signals were from a simulation tape.

And the danger of an accidental nuclear war is growing. The Russian command and control system is decaying. Power has repeatedly been shut off in Russian nuclear weapons facilities because they couldn't afford to pay their electricity bills. Communications at their nuclear weapons centers have been disrupted because thieves stole the cables for their copper. And at New Year's the ''Y2K'' bug in computers that are not programmed to recognize the year 2000 could cause monitoring screens to go blank or even cause false signals.

There is no reason to run the terrible risk of an accidental nuclear war. It is hard today to imagine a ''bolt out of the blue'' sudden nuclear attack. And even if the U.S. was devastated by an attack, the thousands of nuclear warheads we have on submarines would survive unscathed. Keeping weapons on high alert is an intemperate response to an implausible event.

Mr. Speaker, it is time to take a large step away from the brink of nuclear war, to take our nuclear weapons off of hair-trigger alert. Today I an introducing a resolution that expresses the sense of Congress that we should do four things:

We should immediately remove some nuclear weapons from high alert.

We should study methods to further slow the firing of all nuclear weapons.

We should use these unilateral measures to jump-start an eventual agreement with Russia and other nuclear powers to take all weapons off of alert.

And we should quickly establish a joint U.S.-Russian early warning center before the Year 2000 turnover.

These are not new or radical ideas. President George Bush in 1991 ordered an immediate standdown of nuclear bombers and took many missiles off of alert. President Gorbachev reciprocated a week later by deactivating bombers, submarines, and land-based missiles. Leading security experts including former Senator Sam Nunn, former Strategic Air Command chief Gen. Lee Butler, and a National Academy of Sciences panel have endorsed further measures to take weapons off of high alert. Two-third of Americans in a 1998 poll support taking all nuclear forces off alert, and this week I received a petition signed by 270 of my constituents from Lexington, MA calling on the President to de-alert nuclear missiles.

I urge my colleagues to join together to cosponsor this resolution. The best way we can commemorate the anniversary of the nuclear explosion at Hiroshima is to make sure we will never blunder into an accidental nuclear holocaust.

INTRODUCTION OF LEGISLATION

HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 5, 1999

Mr. PICKERING. Mr. Speaker, I rise today to address one of the many reforms I believe are necessary to improve the administrative processes of the Federal Communications Commission (FCC). The issue that I believe needs to be addressed immediately relates to the proliferation of merger activity in the telecommunications industry.

Since passage of the Telecommunications Act of 1996, the industry has seen massive upheaval as companies try to position themselves for the new Information Age economy. Many of these companies are attempting to combine their strengths to better position themselves to compete in a deregulated marketplace. One of the problems these companies have faced recently is the regulatory uncertainty of the FCC's merger review process.