

with building and maintaining the aviary. In fact, they are so proud of their accomplishment that they provide tours. West Hernando sixth graders contact elementary schools, set up dates and times, conduct tours, and actually teach younger students about the importance of the environment in our lives.

The imagination and determination of West Hernando Middle School has not stopped there. Students and faculty are currently working on a "Birds and Beyond" unit which involves students in plant and bird care as well as developing a market for the sale of young birds raised in the aviary. The project also is meant to serve as an adoption agency for unwanted birds. Other projects undertaken by the Gemini Team included an iguana habitat and a prairie dog encounter.

The success of the Gemini Team has inspired other teams such as the Saturn Team and the seventh grade Navigator Team to undertake such projects as a butterfly garden encircling a 2,500 gallon koi fish pond. That project increases student knowledge of drought tolerant plants and water consumption. The garden has been dedicated to the memory of a former West Hernando student whose life was taken by a drunk driver. A new hoop greenhouse supplies plants and bushes used to landscape the campus and there are plans to implement a working nursery to teach entrepreneurship and economics. Through other projects, students can learn about hydroponic gardening and aqua farming. A group of seventh graders is constructing a live coral reef and the eighth grade Voyager Team has designed and constructed a memorial garden in memory of children who died in the Holocaust.

This innovative approach to teaching has carried over from academics to the physical education department as well. The department now offers alternative activities, such as the design and construction of a 25x100-foot climbing wall, a mountain bike trail and a kayaking program.

Ken Pritz, along with his assistant principals, Mary Krabel and Joseph Clifford, and the rest of the faculty at West Hernando Middle School, firmly believe that the instructional changes which they have implemented have had a profound influence on the students. They have witnessed an increase in knowledge and enthusiasm that could not have been imagined at the outset of "Dream Extreme." The results are evident. West Hernando Middle School students have shown a lower failure rate, lower retention rate and fewer disciplinary problems as a result of innovative changes in the school's instructional methods.

Mr. Speaker, please join me in honoring West Hernando Middle School for its exceptional and creative efforts to connect students with important learning experiences. The school's clear commitment to enhancing the quality of education for all of its students is really making a significant difference.

TRIBUTE TO COLE KUGEL

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 2001

Mr. UDALL of Colorado. Mr. Speaker, I would like today to pay tribute to Cole Kugel.

At the age of ninety-nine, Cole is the oldest certified pilot in the nation. For over half a century, Cole sat side by side in the cockpit with his wife Mildred, soaring in one of the six planes he has owned. Flying safely at any age is a challenge. To have done it for as long as Cole has is truly an accomplishment. Cole began flying in 1929 and never once crashed or even damaged a plane.

Many people might say that flying for over seventy years without a scratch to show for it is just plain lucky. I'm told that while luck might keep you flying, it is good judgment that brings you home at the end of the day. Cole Kugel has been blessed with an abundance of good judgment. For over seventy years he has used his head to safely bring back every plane he has taken off in. Today, he continues to use that judgment. He has said that when his certificate comes up for renewal by the FAA this year, he probably will not renew it. To willingly walk away from something you love when you realize that you may not be able to do it like you used to I believe is the epitome of good judgment. I applaud Cole for loving flying so much yet still walking away from it while he is on top.

Mr. Speaker, I am attaching an article about Cole from a recent edition of the Denver Post. I ask my colleagues to join me in saluting this heroic individual and to wish him a safe landing wherever the winds shall take him.

OLDEST U.S. PILOT FACES END OF ERA

(By Kevin Simpson)

Monday, September 10, 2001—LONGMONT—Throughout the rambling house where Cole Kugel lives alone, airplanes still take flight—images in photographs, models on pedestals, even a replica constructed entirely of 7-Up cans that dangles from a perch on the patio.

But Kugel let go of the plane he cared for most—the single-engine Cessna Skylane hangared at nearby Vance Brand Airport—last spring, just about the same time he lost the bigger love of his life, his wife, Mildred.

Together, the events signaled the end of an era.

Kugel, who at 99 is the oldest certified pilot in America—and one of only 30 over the age of 90, according to the Federal Aviation Administration—figures that maybe he has soared long enough. The man who helped lay down the gravel that formed the city's first airstrip may not try to renew his certification when it expires in a few weeks.

And he sold the plane emblazoned with the registration 29CM.

"Twenty-nine Charlie-Mike," Kugel says wistfully, echoing the words he'd radio to the airport tower. "But the letters really meant Cole and Mildred."

As early members of a group of aviation enthusiasts called the Colorado Flying Farmers, they sat side by side in the cockpit for more than half a century before a succession of strokes finally took her in June at age 97.

"It just indicates that plane was their baby," says Warren Rempel, who has known the couple for 40 years. "They were in the flying game together. Then came the day she couldn't get out anymore. And he said if she couldn't go, then he wouldn't be doing a lot of it either."

Mildred never was certified, but took enough lessons to know how to put the plane down safely if anything ever happened to her husband in mid-flight. In the last year and a half, though, her health declined to the point where she could no longer take her accustomed seat in the Cessna.

"She told him on many occasions, 'Don't you sell that plane until I'm gone,'" Rempel

says. "I heard her say it. And he didn't sell it."

The transaction happened almost by chance, when local veterinarian Lynn Ferguson, whose grandparents had flown with the Kugels, called to talk flying. Ferguson had offered to buy the plane three years earlier, but Kugel, citing his wife's admonition, had declined.

But in May, as Mildred's health failed in a nursing home—and Kugel would go nowhere without his flying partner—Ferguson found that things had changed.

"He said, 'Maybe we ought to take it up and see if you like it,'" Ferguson says. They struck a deal just days before Mildred died.

Kugel has tried not to dwell too much on the sale of the Cessna and the larger loss that accompanied it. But he takes some solace in the fact that the plane will remain nearby, where he can still go see it.

And a stipulation in the sale agreement provides that he be allowed to take it up next March 14—"if I'm still here"—on his 100th birthday.

The FAA requires a physical exam every two years for medical certification for a third-class pilot's license, and some minor vision trouble with one eye gives Kugel pause, although he doesn't think that would necessarily keep him from passing the exam.

"But as old as I am, maybe I ought not to be flying anyway," he says. "I feel competent, but as you get older, everything about you gets out of order and slows down. And a plane is an expensive item to have sitting around and not use it."

If he doesn't get recertified, he said, he'll still take his century flight with Ferguson. Kugel embraced aviation as a young man for the most prosaic of reasons: "Because I wanted to go someplace."

In 1943, Kugel and his wife left their Oklahoma farm to farm cheap land near Longmont. He remained a farmer most of his life, resuming the flights of fancy that had been grounded by the Depression. He bought his first plane in 1946, 17 years after he learned to fly in an open-cockpit biplane. Over the years, he owned six before selling the Cessna.

"I never busted one up," Kugel says. "I miss it, but maybe it's better."

Rempel tries to put it in perspective. "When a guy goes to 99 before he sells his plane, and still has his physical certification, he's done pretty well," he says. "At this point, I'd have to say Cole represents the goal we'd all like to attain in terms of longevity and mental acuity. He's alone at the top."

TRIBUTE TO LUCY CARLTON

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 2001

Ms. LOFGREN. Mr. Speaker, today I rise to congratulate Los Altos Police Chief Lucy Carlton, who will be retiring on September 28, 2001 after 32 years of service. Chief Carlton began her law enforcement career in 1969 with the Milpitas Police Department. Chief Carlton served in a variety of assignments, which included Patrol, Criminal Investigation and Community Relations.

Lucy Carlton was the first female in the organization to be assigned to patrol duty and during her tenure, promoted through the ranks to Police Captain in 1988. In 1991, Ms. Carlton was appointed Chief of Police for the City of Los Altos, becoming the second

woman in the State of California to serve as a Chief of Police for a municipality. Chief Carlton has been a trailblazer throughout her career, breaking the "glass ceiling" for every one of her promotions. Lucy Carlton's efforts have paved the road, so that others might follow.

Police Chief Carlton holds a Bachelor of Arts Degree in Administration of Criminal Justice from San Jose State University and has completed graduate work in Public Administration at California State University, Hayward. also holds a lifetime Teaching Credential from the State of California and has taught classes at San Jose State University, and Evergreen, Gavilan, San Jose City and Chabot Colleges. Ms. Carlton has lectured throughout the United States in the field of adult and child sexual abuse investigation. During her assignment in the investigation bureau, she was certified as an expert witness in the area of child sexual abuse.

Lucy Carlton is the past chair of the Santa Clara County Domestic Violence Council, the Santa Clara County Police Chiefs Association and the Administration of Justice Foundation at San Jose State University. Ms. Carlton has served on the board of the California Peace Officers' Association and currently serves on the board of the California Police Chiefs' Association. During her career, Chief Carlton has worked on a number of Peace Officer Standards and Training (POST) projects, which resulted in the development of training guidelines for officers in the area of sexual assault and child abuse investigations. She also served on the Department of Justice task force, which developed State guidelines for the implementation of Megan's Law.

Lucy Carlton has mentored dozens of men and women preparing for entry into law enforcement, as well as those preparing for promotional exams. In 1998 she assisted in the development of a series of classes for both men and women on the subject of Women's Issues in Law Enforcement. Chief Carlton has taught in the program since its inception.

Lucy Carlton has volunteered hundreds of hours to the Milpitas-Berryessa YMCA and served on their board for eight years. In 1995 she was named their volunteer of the year. She also serves on the advisory boards of WATCH (a transitional housing program for battered women and their children) and the Support Network for Battered Women. In 1990, she was named "Woman of the Year" by former Assemblywoman Delaine Eastin and honored for her outstanding service and dedication to the people of the State of California. In 1996, the Women's Fund of Santa Clara County and the San Jose Mercury News honored her as a "Woman of Achievement" in the category of Public Service. In 1998 she was honored as a "Distinguished Alumni" from San Jose State University's Department of Administration of Justice. The Los Altos Kiwanis Club honored her last year as their 2000 "Kiwanian of the Year."

Police Chief Lucy Carlton has been a valuable asset to the State of California and to our district. Though her commitment and dedication will be sorely missed, I am grateful to her for her years of service and wish her the best in the next phase of her life.

BIPARTISAN PATIENT PROTECTION ACT

SPEECH OF

HON. W.J. "BILLY" TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 2001

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2563) to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage:

Mr. TAUZIN. Mr. Chairman, the Ganske-Dingell bill does not guarantee a right to sue for patients. Indeed, the bill makes it difficult for states to create or maintain a cause of action because such causes of action must meet pages of very complicated requirements. A State could, in the future, pass a law consistent with these many requirements. Until they did so, however, patients who were harmed may have no recourse for damages at all. The preemption language under Ganske-Dingell is so fraught with ambiguity that it may take decades to determine whether patients in certain states even have a cause of action and can hold HMO's responsible for negligence.

Professor Larry Alexander, Warren Distinguished Professor at the University of San Diego Law School, has reviewed the bill and concludes: "... state common law is quite unlikely to contain these specific features, and state judges are unlikely to possess the authority to read them without legislative assent ... Professor Alexander also states that the literal reading of the provisions of the bill appear to be "... an attempt to directly impose Federal conditions on state law ..." without offering state governments a choice. Professor Alexander states such a reading would be a Constitutional problem.

Professor A.J. Bellia of Notre Dame Law School in a letter dated August 1, 2001 reviewed the Ganske-Dingell approach and stated: "... H.R. 2563 raises substantial constitutional issues. I anticipate, that if enacted, these provisions will spawn significant constitutional litigation ... He cites several courts and several reasons for these findings.

The Ganske-Dingell approach also forces employers, plans and issuers to follow conflicting definitions, rules, and standards of conduct. The resulting uncertainty and litigation will not help patients, will drive costs, and will increase the number of uninsured.

As drafted, the Ganske-Dingell bill also preempts State law to reduce liability for negligent or reckless conduct by health professionals and treating hospitals. That means reducing the liability for health care professionals who issue faulty diagnoses, leave an instrument in during surgery, or inject the wrong medicine. Indeed, virtually any medical error would be shielded from a state cause of action where employers or the plan seek recovery or contribution.

The Department of Justice (DOJ), Congressional Budget Office (CBO) and Congressional Research Service (CRS) all confirm this interpretation. A DOJ memorandum dated July 25, 2001 states: "... This provision is broadly drafted to apply to claims arising out of 'any

care provided' or 'any treatment decision made'. ... as such, it would appear to foreclose, for example, a contribution or indemnity claim by a group health plan or health insurance issuer for negligent treatment by a physician or hospital which was the sole cause of a patient's injury. ... " (emphasis added)

The Congressional Budget Office Cost Estimate of H.R. 2563 states "... It would prevent any recovery by plans from doctors or hospitals resulting from medical malpractice. ... " (emphasis added). A memorandum from the Congressional Research Service further confirms this point. It says: "... This language appears to supersede all causes of action under state law, arising from state statutory or common law. ... Presumably, causes of action for recovery, indemnity or contribution arising from a contract between the health plan and the physician would also be superseded. ... " (emphasis added)

The CRS memorandum continues: "... Based on this preemption, health plans or health insurance issuers providing health insurance coverage would not be able to seek contribution from a treating physician or hospital for damages incurred as a result of [a] cause of action brought against the plans pursuant to the provisions of this legislation or under common law based upon the quality of care received. Nor would they be able to recover costs incurred in the form of benefits paid due to the negligence of a treating health care professional or hospital. ... " (emphasis added)

It is for these and other policy reasons that I support the Norwood Amendment as a better liability proposal.

THE SOLIDARITY FLAG RESOLUTION

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 2001

Mrs. EMERSON. Mr. Speaker, today, the men and women of the United States are facing a tragic loss. But in that adversity we see men, women, and children who possess an unbreakable, unwavering, and unshakable spirit and a commitment to preserving freedom and democracy, said Emerson. So, in a unified show of support, Congress is asking that for the next 30 days everyone, in every community across America, fly their American flags. Whether it is at home, work, in public buildings, schools, or places of worship, this is a symbolic gesture to remember those individuals who have been lost and to show the solidarity, resolve, and strength of the greatest nation on earth—the United States of America.

JOYCE MESKIS—A CHAMPION OF INTELLECTUAL FREEDOM

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 11, 2001

Mr. UDALL of Colorado. Mr. Speaker, I rise today to pay tribute to Joyce Meskis.

Owner of Denver's famous Tattered Cover Bookstores, Joyce is an ardent supporter of