

Section 8. Whistleblower Protection for Employees of Publicly Traded Companies who Provide Evidence of Fraud—provides whistleblower protection to employees of publicly traded companies, similar to those currently available to many government employees. It specifically protects them when they take lawful acts to disclose information or otherwise assist criminal investigators, federal regulators, Congress, supervisors (or other proper people within a corporation), or parties in a judicial proceeding in detecting and stopping fraud. Since the bill's provisions only apply to "lawful" actions by an employee, it does not protect employees from improper and unlawful disclosure of trade secrets. In addition, a reasonableness test is also set forth under the information providing subsection of this section, which is intended to impose the normal reasonable person standard used and interpreted in a wide variety of legal contexts. *See generally Passaic Valley Sewerage Commissioners v. Department of Labor*, 992 F. 2d 474, 478. Certainly, although not exclusively, any type of corporate or agency action taken based on the information, or the information constituting or leading to admissible evidence would be strong indicia that it could support of such a reasonable belief. If the employer does take illegal action in retaliation for lawful and protected conduct, subsection (b) allows the employee to elect to file an administrative complaint or to bring a case in federal court, with a jury trial available in cases where the case is an action at law. *See United States Constitution, Amendment VII; Title 42 United States Code, Section 1983.* Subsection (c) would require both reinstatement of the whistleblower, double backpay, compensatory damages to make a victim whole, and would allow punitive damages in extreme cases where the public's health, safety or welfare was at risk.

Section 9. Establishment of a Retirement Security Fraud Bureau—establishes a Bureau within DOJ that, among other things, will advise the Assistant Attorney General of the Criminal Division on matters pertaining to pension and securities fraud, and assist federal, state and local law enforcement authorities in combating pension and securities fraud-related activities.

#### JOHN BRADEMAs ON SCIENCE ADVICE TO CONGRESS

#### HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 9, 2002

Mr. ROEMER. Mr. Speaker, one of my distinguished predecessors in Congress was the Honorable John Brademas, who represented Indiana's Third Congressional District in the House for 22 years from 1959–81. During his service here, John established himself as one of our leading experts in the fields of education, the arts and humanities, and serving the needs of our nation's children, the elderly and the disabled.

From 1981–92, John served as President of New York University, our nation's largest private university. He is the former chairman of the President's Committee on the Arts and Humanities and the National Endowment for Democracy. John also served as a member of the Carnegie Commission on Science, Technology and Government and chaired the Commission's Committee on Congress.

John recently wrote a very interesting and provocative article entitled: "The Provision of

Science Advice to Policymakers: a US Perspective," which appears in the December 2001 issue of The EPTS Report, a publication of The Institute for Prospective Technological Studies, published by the Joint Research Center of The European Commission. I am pleased to offer this article for your review and consideration.

#### THE PROVISION OF SCIENCE ADVICE TO POLICYMAKERS: A U.S. PERSPECTIVE

(By John Brademas, President Emeritus of  
New York University)

The horrific attacks of September 11, 2001, on the World Trade Center in New York City and the Pentagon outside Washington, D.C., demonstrated how products of Western science and technology—Jet aircraft and avionics—could be employed to assault citadels of American economic and military power.

Clearly, the consequences of September 11 for makers of U.S. policy—economic, foreign and military—are deep and wide-ranging. The nation's intelligence and law enforcement agencies, for example, have come under criticism for weaknesses in tracking the September terrorists, who were obviously not technologically illiterate.

In Washington, D.C., an envelope containing anthrax was targeted at the Majority Leader of the U.S. Senate, Tom Daschle (D-SD), while in both Florida and New York City, anthrax was apparently aimed at leading television and newspaper journalists, one of whom, Judith Miller, is co-author, with her New York Times colleagues, Stephen Engelberg and William Broad, of a new book, *Germes: Biological Weapons and America's Secret War* (Simon & Schuster). A recent study by the General Accounting Office found the Federal government as well as state and local health departments unprepared for this latest threat. Meanwhile Senators and Representatives are holding hearings in Washington on the challenge of bioterrorism.

Although in office only a year, President George W. Bush is confronted with decisions he surely did not anticipate. But if reacting effectively to September 11 must now be his overriding concern, there are other judgments the new president and his team must make that are, like making war, also laden with scientific and technological dimensions.

Here is only a partial list of such issues: global warming, missile defense, stem cell research, wireless technology proliferation, energy, AIDS epidemics in Africa and India.

Not only are the policy challenges the Bush Administration must face complex and contentious but to meet them, the President of the United States lacks the decision making authority of a British Prime Minister. For in the American separation-of-powers constitutional system characterized as well, in contrast to European arrangements, by relatively undisciplined political parties, in making national policy, Congress counts! This is a lesson President Bush is learning every day.

All the more is the power of the elected Senators and Representatives in Congress to shape policy made obvious by the current political configuration in Washington, D.C.: a Republican in the White House, a Republican majority (narrow) in the House of Representatives, and a Democratic majority (one vote) in the Senate.

#### INSTRUMENTS OF CONGRESS

In influencing policy, the U.S. Congress has three principal instruments: writing the laws that authorize the activities of the government, appropriating (or not appropriating) funds necessary to carry out the laws, and overseeing their implementation.

Although Senators and Representatives wield great and often decisive authority in

setting policy, and despite the ballooning relevance of scientific and technological factors to more and more of the questions on which Congress votes, very few legislators have been educated as scientists or engineers. Given the kinds of persons attracted to campaigning for election to public office, this observation should surprise no one.

Nearly thirty years ago, in 1972, Congress responded to its perceived need for science and technology advice by creating the Office of Technology Assessment (OTA).

Governed by a Technology Assessment Board, consisting of six Senators and six Representatives, evenly divided between Democrats and Republicans, OTA was advised by, in addition to its professional staff, a group of ten experts from the public. During its lifetime, OTA produced evaluations requested by Congress to help the legislature "understand and plan for the short- and long-term consequences of the applications of technology. . ."

In 1995, however, following the elections of 1994, with Republican victories in both Senate and House of Representatives, Congress, by refusing it funds, killed OTA. Said Lord (Wayland) Kennet, a British leader in technology assessment, "The Office of Technology Assessment (OTA) was the trailblazer for all the later European institutions. . ."

"The disappearance of OTA has not only been of sad importance to all who work in parliamentary technology assessment in Europe: it has been a bit baffling. That the leading technological state in the world, a democracy like us, should have abolished its own main means of democratic assessment left us agast. . ."

The demise of OTA has obviously not resolved the question of how Congress gets S&T advice. Indeed, last June, a group of scholars, Congressional staffers and leaders of industry met in Washington to explore prospects for filling the knowledge gap left by the death of OTA.

#### A NEW OTA?

Suggestions for enabling Congress to obtain S&T advice developed at the June meeting as well as from other quarters are even now under consideration on Capitol Hill. Congressman Amo Houghton (R-NY); John H. Gibbons, former Science Advisor to President Clinton and former director of OTA; and M. Granger Morgan, Professor and head of the Department of Engineering and Public Policy at Carnegie-Mellon University, Pittsburgh, joined recently to propose in effect a new OTA, also bipartisan and bicameral, but in response to criticisms of the old OTA, one with "strategies" to perform studies more rapidly, to ensure that the needs of the minority are well served, and to supply technical advice . . . to other congressional support organizations. . ."

Representative Rush D. Holt (D-NJ), one of two physicists in Congress, has introduced legislation to re-establish OTA; since September 11, prospects for action have dimmed. Senator Jeff Bingaman (D-NM), however, is still pressing for \$1 million for a technology assessment pilot project in the General Accounting Office.

Given that Members of the House of Representatives serve terms of but two years, some lawmakers had charged that OTA took too much time to complete its studies. Many Republicans also criticized OTA analyses of defense and environmental issues as too "liberal".

Conversations with former OTA leaders cast a different light on such complaints. Requests for rapid response reports were, indeed, answered but with caveats. On the allegation of "liberal" bias, OTA directors countered that the objections were often to the substance of OTA's conclusions, for example,

to OTA's skepticism about the technological feasibility of missile defense proposals.

"People want science-based decisions, and they're all for that until the scientific consensus is politically inconvenient," House Science Committee Chairman Sherwood Boehlert (R-NY), has observed.

Certainly the issues Congress confronts that are freighted with scientific or technological considerations are often politically volatile—stem cell research, genetically produced foods, alternative energy sources, missile defense policy, global warming, nuclear power.

#### THE CARNEGIE COMMISSION

A revived-and-reformed-OTA is not the only vehicle to which Congress could turn for S&T counsel. Ten years ago, while serving on the Carnegie Commission on Science, Technology, and Government and, having previously been a member of the House of Representatives (D-IN) for twenty-two years (1959–1981), the author chaired the Commission's Committee on Congress. The Carnegie Commission produced a series of reports on how all three branches of the Federal government—executive, legislative and judicial—could more wisely and effectively deal with issues with scientific or technological dimensions. This article will only cover the aforementioned committee concerning Congress.

One of our reports addressed the question of expert S&T advice from outside Congress while another focused on the analysis and advice Congress received from OTA, the Congressional Research Service of the Library of Congress, General Accounting Office and Congressional Budget Office.

The third report focused on organizational and procedural reforms, with particular attention to long-range planning and goal setting, committee structure and the budget process.

Although recommending several reforms in its operation, our Committee found the activity of the Office of Technology Assessment resulted in a product, "full-scale assessment . . . that is widely used and appreciated by Congress, the scientific community, the public, and individuals and organizations in other nations."

We also pressed the National Academy of Sciences complex to communicate more regularly, and deeply, with members of Congress and their staffs.

We said, too, that scientists and engineers should become more active in policy making and that Federal agencies, academic institutions, corporations and professional societies should encourage such involvement.

#### FEDERAL FUNDS FOR S&T

Just one indicator of the S&T universe to which the President and Congress today direct their decisions is that in the Fiscal Year 2001, the Federal government will spend over \$90 billion on Research and Development (R&D), a figure some observers estimate could next year easily exceed \$100 billion.

With expenditures of tax dollars of such magnitude, it is not surprising that in his recent book, *Science, Money and Politics*, the nation's leading science journalist, David S. Greenberg, has written a brilliant, irreverent but powerfully documented study of the ties that bind American science to money and politics.

Greenberg's sharply critical analysis demonstrates how the ability of American scientists to win Federal funds is brought to bear with great effectiveness not only on the executive branch but also on Congress.

Indeed, Greenberg warns:

" . . . Science is too powerful, too potent in its effects on society, and too arcane to be entrusted to the expanding alliance between a profession that has retreated into a ghetto

and the commercial sector, with their shared focus on making money. While this relationship flourishes, a deadening complacency has settled over the institutions that should be protecting and advancing the public interest in science: the research agencies of the executive branch of government, Congress, the press, and, within science, leaders who should be stewards of scientific tradition, rather than apologists for its neglect. Science finds advantage and claims virtue in its detachment and aloofness from politics. But politics is the medium through which a society decides upon and implements its values and its choices. That the political system frequently goes awry and fails to work to its full potential of beneficial effects is a reason for involvement, not withdrawal. And this is especially so for an enterprise that draws heavily on the public purse and radiates powerful effects in all directions and on all things . . . "

One obvious example of Congressional muscle is the practice of Senators and Representatives taking advantage of appropriations bills to earmark funds for specific institutions and facilities in their own constituencies. This practice, under which Congress votes monies for buildings and research projects without peer-reviewed competition, spurred President Bush's Director of the Office of Management and Budget, in the hope of ending the phenomenon, a few weeks ago to bring together science policy and university leaders to discuss the question.

Most observers, however, agree that achieving success in persuading politicians no longer to look to the interests of their own constituencies is an unlikely development.

A dramatic demonstration of congressional power to affect science is the response of the Senate and House of Representatives to the call in 1992 of Nobel Laureate Harold Varmus, former Director of the National Institutes of Health, to double the funds for science in over a decade—and that's happening. For, as a former OTA director told me, "When individual citizens believe that basic research and science can lead to life-saving cures, Senators and Representatives will continue to vote to increase appropriations for the National Institutes of Health".

It may be tempting to throw up one's hands in despair or acknowledge with cynicism that elected politicians engage in politics. Yet experience demands that we keep pressing the case for finding ways and means of making it possible for legislators, especially those who serve in assemblies that are more than rubber stamps for the Executive, to have effective access to the best possible information, intelligence and counsel on issues crucial to the future of their country, indeed, to the future of all humankind. This means advice on issues of science and technology.

#### 10TH ANNUAL LABOR AWARDS DINNER HONORING GOVERNOR JAMES MCGREEVEY, STEVE ROSENTHAL AND AL KOEPPE

#### HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 9, 2002

Mr. PALLONE. Mr. Speaker, I rise today to join the New Jersey State AFL–CIO in honoring three individuals who have demonstrated extraordinary leadership in labor relations. NJ Governor James McGreevey, AFL–CIO Political Director Steve Rosenthal, and PSE&G

CEO Al Koepp have dedicated their lives to ensuring that New Jersey's workers are provided fair compensation, benefits and safe working conditions. It is individuals like these who allow working families in the State of New Jersey to continue to thrive during these tough economic times.

Governor McGreevey. As the mayor of Woodbridge, the Senator and Assemblyman for the 19th legislative district and now as our Governor, Jim McGreevey has been one of the best friends NJ labor has ever seen. Throughout his tenure in public service Jim McGreevey has been a persistent fighter for the rights of workers, their families, and the labor movement.

While Governor McGreevey has a long list of accomplishments and accolades, none can surpass that of his first executive order as Governor. Before even moving into the Governor's mansion, Jim McGreevey made it one of his first official acts to declare that all large public construction jobs must use unionized labor.

By requiring that all state funded large construction jobs enter into project labor agreements (PLAs), New Jersey is assured that all work is done by qualified individuals, who are receiving a fair wage and quality benefits. PLAs have long been proven an effective way to get work done in a timely fashion, without work stoppages.

By making Project Labor Agreements one of his first official acts, Jim McGreevey once again proved his utmost commitment to the working men and women of our state. His outstanding record and commitment to working families should be applauded and viewed as a model for all public servants. I look forward to continuing work with our newly elected Governor in furthering the labor movement and the rights of all workers.

Steve Rosenthal. As political director of the AFL–CIO, Steve Rosenthal has taken the labor fight to the political spectrum and has fought to ensure that the issues of utmost concern of working families are heard by the American political establishment. Steve has worked long and hard in making workers rights a focus of Congressional, State, County and Local races for office.

Steve Rosenthal was appointed to the position of political director soon after John Sweeney was elected president of the AFL–CIO in 1995. Steve has been tasked to direct the AFL–CIO, and the greater labor movement's, political organization. He has been instrumental in recruiting pro-labor candidates, organizing national voter registration drives, and mobilizing their grassroots campaigns. Steve has been taking an active role in building a long term political infrastructure that not only elects officials that are supportive of labor issues but encourages union members to take active roles in all levels of government.

I am also proud that Steve Rosenthal cut his teeth in our great State of New Jersey. Steve is a member of Communication Workers of America (CWA) Local 1032 and served as the New Jersey CWA Legislative/Political Coordinator. In these roles and currently as the national political director, Steve Rosenthal has truly provided an invaluable service to all working families in the state of New Jersey.

Al Kolpe: For the past 13 years I have had the pleasure and honor to work with a businessman that epitomizes how our public utilities should do business. As the current CEO