## MEDICALLY UNDERSERVED ACCESS TO CARE ACT

### HON. DONNA MC CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 1999*

Mrs. CHRISTENSEN. Mr. Speaker, yesterday I along with 38 of my colleagues on the Congressional Black Caucus introduced H.R. 1860, the Medically Underserved Access to Care Act which seeks to address the needs of minorities in the managed care system. As a physician, I have seen the problems that minorities—both patients and healthcare providers—can face within the managed care system. This bill seeks to ameliorate some of these difficulties by proposing some concrete solutions to overcome these problems.

A key provision of H.R. 1860 would require managed care organizations to contract with providers in medically underserved communities who are ethnically representative of the population of those communities. This will help to ensure that these providers have the cultural sensitivity needed to interact with their patients in an understanding manner that will directly cater to their specific medical needs and concerns as minorities.

To make this lofty goal a reality, H.R. 1860 establishes a program of outreach grants to underserved communities that will help patients locate culturally sensitive providers within their managed care plan. The bill also creates a similar outreach grant program for doctors that will be operated through a national private non-profit organization in conjunction with the Department of Health and Human Services. The specific goal of this program will be to assist minority physicians and other health care providers to convert their practices and internal administrative procedures to best access the managed care system for both private insurance plans and Medicaid insurance plans.

Ultimately, this bill seeks to redress the many grievances that minority physicians and patients have expressed regarding the managed care system. Addressing the problems that minorities face within the managed care system will take us one step closer to realizing the goal of Members of Congress on both sides of the aisle to ensure that all Americans have access to quality care delivered in an appropriate manner.

I want to express my thanks to the National Medical Association and its President, Dr. Gary Denis, for their invaluable help in developing the language of this bill and assisting in getting it ready for introduction. I also want to thank my colleagues on the CBC for their support in joining me as cosponsors of this important bill.

## H.R. 1858, THE CONSUMER AND INVESTOR ACCESS TO INFORMATION ACT OF 1999

### HON. TOM BLILEY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 1999*

Mr. BLILEY. Mr. Speaker, we hear the phrase quite often that "we live in the Information Age." This is true because of advances in technology in recent years. Digital technology—and more specifically, the Internet—has brought a world of libraries and magazines and newspapers and on-line stock trading to consumers' living rooms.

And while technology played a critical role in paving the way for the Information Age, it's clear that access to the information itself is just as important. Consumers use the Internet to price shop, to compare mortgage rates, to buy stocks, and for a variety of other commercial activities. The underlying ingredient to all of these activities is information. Without it, electronic commerce would still be a twinkle in Bill Gates' eye.

It is therefore critical that Congress take great care when it enacts laws that relate to consumers' access to information. Along with my colleagues on the Committee on Commerce, Messrs. Dingell, Tauzin, Markey, Oxley, and Towns, I am introducing legislation that ensures that consumers and investors will continue to have full access to information when they surf the Web.

H.R. 1858, the Consumer and Investor Access to Information Act of 1999, provides new protection to publishers of electronic databases, while ensuring that public access to information will not be limited by publishers' asserting a proprietary right over facts and information, which historically have been part of the public domain. The bill's anti-theft protections will also protect institutions like the stock exchanges from hackers and pirates seeking to undermine the integrity of the data they disseminate to the public.

Mr. Speaker, we live in the Information Age. We must keep information—like stock quotes—readily available to consumers on the information superhighway. Millions of Americans depend on information they obtain over the Internet to help them make important investment decisions. This bill will ensure that consumers and investors continue to have access to this information.

Mr. Speaker, Americans should not have to pay tolls for public information obtained on the information superhighway. Facts and information should remain toll-free on the information superhighway. Facts and information like stock quotes have been, and under H.R. 1858, will continue to remain readily available to the public.

Mr. Speaker, in addition to my statement, I am submitting for the RECORD a background piece on, as well as a section-by-section analysis of, H.R. 1858. I urge my colleagues to join me, along with the rest of the bipartisan leadership of the Committee on Commerce, in supporting this legislation.

#### H.R. 1858, THE CONSUMER AND INVESTOR ACCESS TO INFORMATION ACT OF 1999

#### THE IMPORTANCE OF INFORMATION TO ELECTRONIC COMMERCE

Economists have long recognized that one of the great obstacles to the efficient operation of markets is imperfect information. A consumer might pay too much for an item because he or she was unaware of the lower price being charged for the item at another store, and the transaction cost of visiting all the stores to determine which charged the least exceeded the savings of buying at the least expensive store. This problem has become more significant as markets have become more complex. The need for information on which to base economic decisions is greater now than ever before.

One of the great virtues of electronic commerce is that it has the potential to provide its participants with much more information at much lower cost than is available in more traditional forms of commerce. This additional information will allow for the much more efficient operation of markets for capital, labor, and goods. If a small businessman is seeking a loan, the Internet will allow him to learn the terms offered by banks all over the country. If a computer programmer is looking for a job, the Internet will allow him to learn about opportunities in distant cities. And if a homeowner needs to buy a new refrigerator, the Internet will provide him with the prices in stores throughout the region. This information will obviously benefit both the purchaser and the seller of goods and services. We have seen some of these benefits in the last five years, and they will only accelerate in the years to come.

One of the most explosive areas of growth that consumers have benefitted from through the Internet is in the area of securities investing. According to a recent study, the number of households with people trading on the Internet has nearly tripled, to 6.3 million in the last 16 months. And the same study reported that 20 million households use the Internet for investment news, quotes and ideas. This access to information about the stock market has empowered investors and given them greater control over their finances. Studies have reported that investors feel increasingly secure about their investment decisions as they use the Internet to monitor their portfolios, follow news about their holdings and obtain other information about their investments.

Indeed, the Internet will make it so much easier for people to access information that they will be confronted with a new problem—too much information. Accordingly, people will need tools for locating and organizing the information into useful forms. Otherwise, the information will be overwhelming. Such tools already exist in the form of databases, search engines, and webcrawlers, and these tools are becoming more sophisticated to keep up the information that is flooding the Internet.

The basic information policy of this country—a policy that has existed since the writing of the Constitution—has served many communities, including the Internet and electronic commerce, extremely well. Our long-standing policy says that facts cannot be "owned." Instead, they are in the public domain. Accordingly, a database publisher can visit the site of every bank in a state, extract data concerning each bank's loan programs, and construct a larger database with loan information for all the banks. Another database publisher can then extract some of that information, and combine it with other information—for example, loan programs from out-of-state banks, or customer service ratings of the banks)—to create a new, more useful database which promotes commerce.

This information policy facilitates electronic commerce at an even more fundamental level. The culture of science involves combining new data with existing databases to create more powerful research tools. Allowing scientists to reuse facts, rather than requiring them to "reinvent the wheel," ensures that research moves forward. Research and development is the foundation of all commercial activity.

#### THE NEED FOR LIMITED LEGISLATION

Although the existing information policy generally functions well in the context of the Internet and electronic commerce, there is one potential problem. Digital technology, which makes the Internet and electronic commerce possible, also increases the likelihood of unfair competition in the database

publishing marketplace. Current law provides some protection against unfair competition. For example, the selection, coordination, and arrangement of facts in a database are often protected by copyright. In addition, databases may be protected by license, technological measures (e.g., encryption and watermarks), the state common law of misappropriation, trademark, and trade secret.

But notwithstanding these many legal remedies, there are complaints that systematic unauthorized commercial copying of databases, particularly comprehensive databases stored in digital form, may sometimes go unremedied because of gaps in current law. H.R. 1858, the Consumer and Investor Access to Information (CIAI) Act of 1999, is designed to plug a hole that exists in current law.

Because databases are items of commerce in their own right, and are critical tools for facilitating electronic commerce—indeed, in all commerce—Congress must assure that database publishers have sufficient protection against unfair competition. At the same time, the protection for databases must not go so far as to protect the individual facts contained in the database. These must be available for a variety of second generation uses. Otherwise, those engaged in second generation uses—from a value-added publisher, to a research scientist, to the consumer who compiles his own database when comparing characteristics of different cars—would have to either pay a license fee, or somehow "re-discover" the facts themselves. This would amount to "a tax on information." Moreover, it would represent a radical departure from our information policy that has made us the most technologically advanced nation in world history.

Accordingly, Title I of H.R. 1858 prohibits a person from selling or distributing a duplicate of a database collected and organized by another person that competes in commerce with the original database. The legislation defines a duplicate of a database as a database which is substantially the same as the first database. Further, a discrete section of a database may also be treated as a database. Thus, H.R. 1858 prevents the distribution of pirated databases which could threaten investment in database creation. At the same time, it does not prevent reuse of information for purposes of creating a new database.

The issue of protecting databases is especially significant to the securities markets, an issue that is addressed in Title II of H.R. 1858. This is because of the proliferation and growing importance of on-line investing. Recent statistics have shown that on-line trading now accounts for nearly 1 out of every 7 equity trades (about 14%) and is growing rapidly, with an increase of over 34% in on-line activity in the last quarter over the previous quarter.

Having access to real-time stock quotes is essential to on-line investors. Investors cannot make informed buy-and-sell decisions without knowing the price of the stock they are trying to buy or sell. The way on-line investors get this information is generally through the website of their on-line broker. Investors typically do not pay for this service. The brokers who provide this information to their on-line investing customers, however, do pay a fee. They pay the stock exchanges for recess to the "feed" of real-time stock quotes. ("Real-time" stock quotes are to be distinguished from those provided on a delayed basis, for which stock exchanges typically do not charge a fee.)

While the Federal securities laws provide the regulatory structure under which the dissemination of securities transaction data to the public is governed, they do not provide protection for the exchanges or other market information processors against pirates of that market data. In order to protect the exchanges and other market information processors against hackers or others who would undermine the integrity of the data they disseminate or threaten their ability to disseminate that data, Title II of H.R. 1858 provides a limited cause of action that enables market information processors to stop, and collect damages from, a person who disseminates data that he has obtained from a market information processor without that market information processor's authorization.

Because market information processors provide market data to parties by means of contractual arrangements, and thus have the ability to seek redress under contract law in the event that a contracting party disseminates the market data in a manner that is noncompliant with the contract, the cause of action that the bill provides is limited to actions against parties with whom the market information processors do not have a contract or other agreement (such as hackers). Title II of H.R. 1858 also ensures that independently gathered real-time market data can be disseminated without triggering the bill's protections—thus ensuring that individuals who develop a new database that they have not gleaned from a market information processor will be free to disseminate that database.

Title II's limited scope provides necessary protection to market information processors, without creating a new property right over market data that would enable market information processors to inappropriately limit the dissemination of market data to public investors, such as on-line investors. These investors need market data, such as real-time stock prices, in order to make their investment decisions.

SECTION-BY-SECTION ANALYSIS OF H.R. 1858

Section 1: Short Title. The short title of H.R. 1858 is the "Consumer and Investor Access to Information Act of 1999."

TITLE I—COMMERCE IN DUPLICATED DATABASES PROHIBITED

Section 101: Definitions. Section 101(1) defines a "database" as a collection of discrete items of information (information is defined *in Section 101(3)) that have been collected* and organized in a single place, or in such a way as to be accessible through a single source. The collection and organization must *have required investment of substantial* monetary or other resources, and it must have been performed for the purpose of providing access to those discrete items of information by users of the database. The term database does not include textbooks, articles, biographies, histories, scientific articles, other works of narrative prose, specifications, and other works that include items of information combined and ordered in a logical progression or other meaningful way in order to tell a story, communicate a message, represent something or achieve a result.

Section 101(1) also makes clear that a discrete section of a database may also be treated as a database. For example, if a directory of restaurants in the District of Columbia is organized by type of food, the section comprising Italian restaurants could constitute a database within the meaning of the statute, even though it is part of a larger database (i.e., the D.C. restaurant directory).

Section 101(2) defines "a duplicate" of a database as a database which is substantially the same as the original database, and was made by extracting information from the original database. A database need not be identical to another database in order to be considered "substantially the same as" the original database.

Section 101(3) defines "information" as facts, data, or other intangible material capable of being collected and organized in a systematic way. Works of authorship are excluded from the definition of information. Such works—both individually and collectively—are adequately protected by copyright. Section 101(4) defines "commerce" to mean all commerce which may be lawfully regulated by the Congress.

The definition of "in competition with" in Section 101(5) has two components. First, the *database must displace substantial* sales of the database of which it is a duplicate. Second, the database must significantly threaten the opportunity to recover a return on the investment in the collecting or organizing of the duplicated database. Thus, a duplicate of a database uploaded onto the Internet without authorization could be in competition with the underlying database (even if the Internet duplicate is available without charge) if it displaces substantial sales and threatens the opportunity to recover a return on the investment in the first database.

Section 101(6) defines two types of "government databases." First, the term includes databases collected and maintained by the United States of America, or any agency or instrumentality thereof. Second, the term also includes a database that is required by Federal statute or regulation to be collected or maintained, to the extent so required.

Section 102: Prohibition Against Distribution of Duplicates. Section 102 sets forth the core prohibition against the sale or distribution to the public of duplicated databases. Under Section 102, it is unlawful for any person, by any instrumentality or means of interstate or foreign commerce or communications, to sell or distribute a database that is a duplicate of a database collected and organized by another person, and that is sold or distributed in commerce in competition with that other database. Section 102 is intended to achieve a necessary balance between (1) promoting fair competition in the database publishing market, and (2) ensuring consumers have unfettered access to facts and information.

Section 103: Permitted Acts. Section 103 sets forth a variety of permitted acts. Section 103(a) clarifies that nothing in Title I of the DFCA restricts a person from selling or distributing to the public a database consisting of information obtained by means other than by extracting it from a database collected and organized by another person.

Subsection 103(b) limits the application of this title to news reporting. It provides that nothing in the title shall restrict any person from selling or distributing to the public a duplicate of a database for the sole purpose of news reporting, including news gathering and dissemination, or comment, unless the information duplicated in time sensitive and has been collected by a news reporting entity, and the sale or distribution is part of a consistent pattern engaged in for the purpose of direct competition.

Subsection 103(c) specified that nothing in Title I shall prohibit an officer, agent, or employee of the United States, a state, or a political subdivision of a State, or a person acting under contract of such officers, agents, or employees, from selling or distributing to the public a duplicate database as part of lawfully authorized investigative, protective, or intelligence activities.

Subsection 103(d) provides that no person or entity who, for scientific, educational, or research purposes, sells or distributes to the public a duplicate of a database, shall incur liability under this title so long as the conduct is not part of a consistent pattern engaged in for the purpose of direct commercial competition.

Section 104: Exclusions. Section 104 provides for exclusions to Section 102's prohibition. Subsection 104(a)(1) provides that protection for databases under Section 102 does not extend to government databases, as such databases are defined in Section 101(6). Subsection 104(a)(2) clarifies that the incorporation of all or part of a government database into a non-government database does not preclude protection for the portions of the non-government database which came from a source other than the government database. Section 104(a)(3) provides that Title I does not prevent Federal, state, or local government from establishing by law or contract that a database funded by Federal, state, or local government shall not be subject to the protections of this title.

Subsection 104(b) excludes databases related to Internet communications. In particular, under Subsection 104(b), protection does not extend to a database incorporating information collected or organized to perform (1) the function of addressing, routing, forwarding, transmitting or storing Internet communications, or (2) the function of providing or receiving connections for telecommunications.

Most databases stored in digital form require computer programs for their use. Paragraph 104(c)(1) therefore provides that protection for databases under Section 102 shall not extend to computer programs (as defined in 17 U.S.C. §101), including computer programs used in the manufacture, production, operation or maintenance of a database. Further, any element of a computer program necessary for its operation is not protected.

At the same time, Paragraph 104(c)(2) explains that a database that is otherwise subject to protection under Section 102 does not lose that protection solely because it resides in a computer program. However, the incorporated database receives protection only so long as it functions as a database within the meaning of Title I (i.e., a collection of discrete items of information collected for the purpose of providing access to those discrete items by users), and not as an element necessary to the operation of the computer program.

Subsection 104(d) provides that protection for databases under Section 102 does not prohibit the sale or distribution to the public of any individual idea, fact, procedure, system, method of operation, concept, principle, or discovery. Finally, under subsection 104(e), provides that protection for databases under Section 102 does not extend to subscriber list information.

Section 105: Relationship to Other Laws. Section 105 explains the relationship of the DFCA to other laws. Subsection 105(a) makes clear that, subject to the preemption under Subsection 105(b), nothing in Title I affects a person's rights under the laws of copyright, patent, trademark, design rights, antitrust, trade secrets, privacy, access to public documents, misuse, and contracts. Subsection 105(b) preempts state laws inconsistent with the DFCA's prohibition in Section 102.

Section 105(c) provides that, subject to the provisions on misuse in Subsection 106(b), nothing in Title I shall restrict the rights of parties freely to enter into licenses or any other contracts with respect to the use of information. Subsection 105(d) makes clear that Title I of the DFCA does not affect the operation of the Communications Act of 1934, or the authority of the Federal Communications Commission.

Section 106: Limitations on Liability. Section 106 sets forth limitations on liability for violations of Section 102. Subsection 106(a) provides that a provider of telecommunications or information services (within the meaning of Section 3 of the Communications Act of 1934 (47 U.S.C. 153)), or the operator of facilities therefore, shall not be liable for a violation of Section 102 if such provider or operator did not initially place the database that is the subject of the violation on a system or network controlled by the provider or operator.

Subsection 106(b) limits the liability of a person for a violation of Section 102 if the person benefiting from the protection afforded by Section 102 misused that protection. Subsection 106(b) sets forth six non-exclusive factors a court should consider in determining whether a person has misused the protection provided by Section 102.

Section 107: Enforcement. Section 107 authorizes the Federal Trade Commission to take appropriate actions under the Federal Trade Commission Act to prevent violations of Section 102.

Section 108: Report to Congress. Section 108 directs the Federal Trade Commission to report to Congress within 36 months of enactment on the effect Title I has had on electronic commerce and the domestic database industry.

Section 109: Effective Date. Section 109 provides that Title I of H.R. 1858 shall take effect on the date of enactment of this Act, and shall apply only to the sale or distribution after that date of a database that was collected and organized after that date.

TITLE II—SECURITIES MARKET INFORMATION

Section 201: Misappropriation of Real-Time Market Information. Section 201 of H.R. 1858 amends Section 11A of the Securities Exchange Act of 1934 by adding a new Subsection 11A(e), entitled "Misappropriation of Real-Time Market Information." Subsection 11A(e) prohibits the misappropriation of real-time market information from a market information processor, establishes liability on the part of any person who violates the prohibition, and provides a market information processor with a variety of remedies against the violator. This provision expressly permits certain acts that are not included in the prohibition, namely independent gathering of market information and news reporting of market information. The subsection also limits the cause of action provided by the bill to apply only to parties with whom the market information processor does not have a contract regarding the real-time market information or other right the market information processor is seeking to protect.

Paragraph 11A(e)(1) imposes liability on any person who obtains, directly or indirectly, real time market information from a market information processor, and directly or indirectly extracts, sells, distributes or redistributes, or otherwise disseminates such real-time market data without the authorization of the market information processor. The prohibition in Paragraph 11A(e)(1) would not apply to a person who merely obtained, directly or indirectly, real-time market information from a market information processor, but did not disseminate the information in any way.

Paragraph 11A(e)(2) sets forth the remedies that a market information processor is authorized to assert against any person who misappropriates real-time market information in violation of Paragraph (1). In particular, under Subparagraph 11A(e)(2)(A), an injured person would be authorized to bring a civil action in an appropriate United States district court, except that any action against a State governmental entity may be brought in any court that has jurisdiction over claims against such entity. Subparagraph 11A(e)(2)(B) authorizes any court having jurisdiction of a civil action under Section 11A(e) to grant temporary and permanent injunctions, according to principles of equity and upon such terms as the court may deem reasonable, to prevent a violation of Paragraph 11A(e)(1). Under Subparagraph 11A(e)(2)(C), a plaintiff would be permitted to recover money damages sustained by the plaintiff when a violation of Paragraph (1) was established in a civil action. And under Subparagraph 11A(e)(2)(D), a court, in its equitable discretion, would be authorized to order disgorgement of the amount of defendant's monetary gain directly attributable to a violation of Paragraph (1) if the plaintiff is not able to prove recoverable damages to the full extent of the defendant's monetary gain.

Paragraph 11A(e)(3) would exclude two types of legitimate activity from the scope of the bill—the independent gathering of real-time market information and news reporting. Under Subparagraph 11A(e)(3)(A), no person would be restricted from independently gathering real-time market information, or from redistributing or disseminating such independently gathered information. A person would be considered to obtain real-time market information "independently" only to the extent that such information was not obtained, directly or indirectly, from a market information processor. In addition, under Subparagraph 11A(e)(3)(B), no news reporting entity would be restricted from extracting real-time market information for the sole purpose of news reporting, including news gathering, dissemination, and comment, unless the extraction was part of a consistent pattern of competing with a market information processor in the distribution of real-time market information. Thus, news organizations that limit their use of real-time market information to legitimate reporting of the news would not be subject to liability.

Paragraph 11A(e)(4) establishes the relationship of Subsection 11A(e) with a variety of other Federal and State laws that also may address the dissemination of real-time market information. Subparagraph 11A(e)(4)(A) provides that Subsection 11A(e) would exclusively govern the unauthorized extraction, sale, distribution or redistribution, or other dissemination of real-time market information and would supersede any other Federal or State law, whether statutory or common law, to the extent that such other Federal or State law is inconsistent with Subsection 11A(e). This subparagraph would not preempt State law that is not inconsistent with Subsection 11A(e) (e.g., State law governing trademark or trade dress). In addition, under Subparagraph 11A(e)(4)(B), Subsection 11A(e) would not limit or otherwise affect the application of any provision of the federal securities laws or the rules or regulations thereunder, and would not impair or limit the authority of the Securities and Exchange Commission. Thus, the Commission's existing authority over distributors of market information, including its authority over fees charged for market information, would continue unchanged.

Subparagraph 11A(e)(4)(C) provides that the constraints that are imposed by Federal and State antitrust laws on the manner in which products and services may be provided to the public, including those regarding the single suppliers of products and services, would not be limited in any way by Subsection 11A(e). In addition, under Subparagraph 11A(e)(4)(D), the rights of parties to enter freely into licenses or any other contracts with respect to the extraction, sale, distribution or redistribution, or other dissemination of real-time market information would not be restricted. Thus, the bill preserves all rights under state contract law.

Paragraph 11A(e)(5) limits the actions that may be maintained pursuant to section 11A(e). Pursuant to Subparagraph 11A(e)(5)(A), a civil action under Subsection 11A(e) would have to be commenced within

one year after the cause of action arises or the claim accrues. And under Subparagraph 11A(e)(5)(B), a civil action for the dissemination of market information would be precluded if such information was not real-time market information. Thus, the bill does not limit in any way, or provide any cause of action regarding, the use and dissemination of delayed market data. Finally, Subparagraph 11A(e)(5)(C) precludes a civil action by a market information processor against any person to whom such processor provides real-time market information pursuant to a contract between the two parties, but only with respect to any real-time information or any right that is provided pursuant to the contract. Market information processors would continue to have available their contractual remedies regarding persons with whom they have a contract, but would not be afforded new remedies under Subsection 11A(e) against these persons with respect to rights covered by that contract.

Paragraph 11A(e)(6) defines several terms used in section 11A(e) that are not defined elsewhere in the Exchange Act. The term "market information" is defined in Subparagraph 11A(e)(6)(A) to mean information with respect to quotations and transactions in any security, the collecting, processing, distribution, and publication of which is subject to the Exchange Act. Under Subparagraph 11A(e)(6)(B), the Securities and Exchange Commission may, consistent with the protection of investors and the public interest, prescribe by rule the extent to which market information shall be considered to be real-time market information for purposes of Subsection 11A(e), but in promulgating any such rule, the Commission must take into account the present state of technology, different types of market data, how market participants use market data, and other relevant factors. This requirement is designed to ensure that any rule that the Commission promulgates regarding real-time market data does not hinder access by investors to such data, and maximizes the access by investors to all market data, including real-time and delayed market data. In the absence of Commission action, the determination of whether market information is real-time market information would be left to the courts with jurisdiction over civil actions under Subsection 11A(e) to interpret the plain language of the term "real-time."

Finally, the term "market information processor" with respect to any market information is defined in Subparagraph 11A(e)(6)(C) to mean the securities exchange, self-regulatory organization, securities information processor, or national market system plan administrator that is responsible under the Exchange Act or the rules or regulations thereunder for the collection, processing, distribution, and publication of, or preparing for distribution or publication, of such market information.

Section 202: Effective Date. This section provides that the new Subsection 11A(e) shall take effect on the date of the enactment of H.R. 1858, and shall apply to acts committed on or after that date. Furthermore, no person shall be liable under Subsection 11A(e) for the extraction, sale, distribution or redistribution, or other dissemination of real-time market information prior to the date of enactment of this bill, by that person or by that person's predecessor in interest.

## EXPOSING RACISM

### HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, May 20, 1999*

Mr. THOMPSON. Mr. Speaker, in my continuing efforts to document and expose racism in American, I submit the following articles into the CONGRESSIONAL RECORD.

### WHITE MAN SENTENCED TO PRISON FOR PUNCHING WOULD-BE BLACK NEIGHBOR

BIRMINGHAM, AL (AP).—A judge sentenced a white man to 2 years in federal prison and ordered him to pay more than $30,000 for punching a black man who wanted to be his next-door neighbor.

Wendell Johnson, 33, was convicted in February of violating the Fair Housing Act by hitting Kenneth Ray Coleman, who suffered a broken nose in the assault.

"I want to apologize," Johnson, choking back tears, told Coleman during a hearing Wednesday. "I know you went through a lot of hard times because of it."

Coleman, 35 said he believed the apology was sincere and accepted it.

Johnson hit Coleman in the face last June after Coleman came to his house and asked where he could find the local water company.

Coleman testified he has since had breathing difficulties, and a doctor has recommended surgery to fix the problem. But, Coleman said, he lacks the $3,500 for the operation.

U.S. District Judge U.W. Clemon ordered Johnson to pay Coleman $30,911 for pain, suffering, lost wages and other expenses related to the assault. Johnson also was ordered to pay $1,300 to the Alabama Crime Victims' Compensation Commission.

Clemon said he would consider a request to let Johnson remain free during a possible appeal.

### TAFT SCORES POINTS AT MEETING WITH BLACK DEMOCRATS WITH BC-OH

(by Paul Souhrada)

COLUMBUS, OH (AP).—The honeymoon continues for Gov. Bob Taft. Taft, who smoothed relations with labor leaders last month, scored points with black lawmakers during a wide-ranging meeting over issues important to minorities.

The members of the all-Democratic Ohio Legislative Black Caucus on Wednesday asked Taft, a Republican, for more money for Central State University, a more aggressive state affirmative action program and a commitment to appoint more minorities to state agencies.

"We had a very fruitful meeting with the governor," Sen. C.J. Prentiss, D-Cleveland, told reporters afterward.

Taft impressed the group with his sincerity, Prentiss said. Taft also found the meeting useful and said he wants to meet with the group again, said spokesman Scott Milburn.

Taft was particularly interested in looking for ways to increase literacy among schoolchildren, said Prentiss, president of the black caucus. She said she told Taft that her 18-member group was concerned that the cornerstone of his literacy program—the high-profile OhioReads campaign to recruit 20,000 volunteer reading tutors—falls short of what is needed.

Milburn said Taft assured the lawmakers that OhioReads was only the first step in the governor's effort to make sure all children learn to read.

Prentiss also pressed Taft to ask lawmakers for another $3.5 million for Central State, the only state-funded, historically black college in Ohio. The money would be used to expand the urban education program at the school in Wilberforce, for recruiting and to pay back debt from the school's financial troubles in the 1980s and early part of the 1990s.

Taft already asked for an extra $2 million for Central State, Milburn said. He wants to meet with Central State President John Garland before making any other moves.

Taft is interested in a suggestion from Rep. Otto Beatty, D-Columbus, to study how successful minority businesses are in getting state contracts, Milburn said.

The issue of minority set-asides has been at the center of conflicting rulings recently from the Ohio Supreme Court and a federal district judge. But until the matter is decided, Taft wants to resume Ohio's programs without raising new legal issues, Milburn said.

Taft also will consider another Beatty proposal: an order dealing with affirmative action statewide.

Taft might be interested in expressing support for reaching out to women and minority businesses and encouraging them to seek state contracts, but he opposes quotas, Milburn said.

Among the other ideas suggested by the legislators:—Adding more money for education to stop the spread of AIDS, particularly among young blacks and women.

Creating an independent watchdog agency to oversee state contracts.

Making sure that minorities and inner city residents get their fair share of the money from the state's settlement with the tobacco industry.

Including more minorities in state government jobs and on state boards and commissions.

### UNIVERSITY OF TEXAS ASKS COURT TO RECONSIDER ITS HOPWOOD RULING

JIM VERTUNO

(BY AUSTIN, TX (AP).—The University of Texas has asked a federal appeals court to reconsider a decision that led to the elimination of affirmative action policies at the state's public colleges and universities.

School officials asked the 5th U.S. Circuit Court of Appeals on Tuesday to reconsider its so-called Hopwood ruling.

"This case addresses one of the most important issues of our time . . . and it deserves the fullest possible hearing and a most careful decision by the federal courts," said Larry Faulkner, president of the university.

The Hopwood ruling came in a lawsuit against the University of Texas law school's former affirmative-action admissions policy.

The ruling, which found that the policy discriminated against whites, was allowed to stand in 1996 by the U.S. Supreme Court.

Former Attorney General Dan Morales then issued a legal opinion directing Texas colleges to adopt race-neutral policies for admissions, financial aid and scholarships.

Legislators asked new Attorney General John Cornyn for a second opinion. His office helped university officials write the appeal submitted Tuesday.

According to University of Texas System Regent Patrick Oxford, the Hopwood ruling left Texas at a competitive disadvantage with other public universities in recruiting students.

The appeal argues that limited consideration of race in admissions is necessary to overcome the effects of past discrimination. It also says the school has a compelling interest in a racially and ethnically diverse student body.

A state Comptroller's Office study released in January showed a drop in the number of

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