

10, the Sebewaing Veterans of Foreign Wars Post 4115 celebrated its 50th anniversary as a chartered Post.

There is a proud tradition of military service among the residents of Sebewaing and Huron County. They have always responded to Uncle Sam's call, demonstrating time and time again how great the people of this community are. This Post which currently has 97 members who meet the requirement of military service on foreign soil or in hostile waters in a campaign for which the United States Government has authorized a medal. They proudly continue to serve their community with several annual activities, including teen dances, participation in the annual sugar festival, participation in a scholarship program, the poppy sale in support of the Veterans' Hospital, and its ceremonial drill team.

As many of our colleagues know, the Veterans of Foreign Wars works to promote the welfare of veterans, patriotic activities, and to positively influence veterans' legislation. The strength of any organization depends upon the commitment of its members, and it has been by experience that VFW members, including those of Post 4115, are among the most committed and concerned people I have ever met. They know duty and obligation. They know loyalty. They fought for it. They demonstrated it. They deserve it. That is why I have said before and I will say again that veterans' programs are the wrong place to cut when we assess our Nation's spending priorities. One of the greatest threats to our way of life would be the creation of the impression that our Nation is not serious about taking care of the veterans who have taken care of our Nation.

Among the real sadnesses experienced by Post 4115 has been the loss of some of its members who have passed on to their eternal rewards. The memories that have been shared, the dependency on one another that has been exhibited in the height of battle will live on forever. I am sure that everyone of these veterans appreciated the valor of the current members of our Armed Forces who joined together in the best of traditions to effect the rescue of Capt. Scott O'Grady who had been shot down in Bosnia, and likened it to the demonstrations of courage they personally witnessed in their own participation in World War II, Korea, Vietnam, and the other conflicts to which our forces have been called. The loss of a friend is one of life's hardest demands, and the call to service is one of its most precious demands. Our veterans have the proud heritage of responding to both with honor and conviction.

As we remember our many veterans in this 50th anniversary of the end of World War II, I invite all of our colleagues to join me in this special thanks and tribute to the members of Sebewaing Veterans of Foreign Wars Post 4115. We owe you much.

#### FLAG DAY

### HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 14, 1995*

Mr. KIM. Mr. Speaker, I rise today in celebration of Flag Day and to express my strong support for the immediate passage of House Joint Resolution 79, a constitutional amend-

ment to protect this Nation's most valuable symbol—the American flag.

As a legal immigrant, I came to the United States in the hope of finding freedom, equal opportunity, religious tolerance and good will—all of which are symbolized by the American flag. It represents our place in the world, wherever Americans are around the globe. There is no other American icon more revered as the flag and it should be protected as such.

For more than 200 years, the American flag has been used to express all that is good and just about our Nation. Many have sacrificed their lives protecting Old Glory. It was unfortunate, therefore, that the Supreme Court ruled to reduce this great symbol to nothing more than a piece of cloth with could be desecrated at any time. We must do something to save our Nation's symbol of hope, which shines as a beacon to those around the world that this is the land of opportunity and freedom. Over two-thirds of our States have risen in support of our flag and this Congress must do the same.

In that regard, I call on all of my colleagues—Democrat or Republican—to join together in support of our Nation's symbol of truth. I look forward to passing House Joint Resolution 79 on June 28 to immediately place our Nation's symbol of truth out of reach from unnecessary desecration.

#### TRIBUTE TO WLEN RADIO ON ITS 30TH ANNIVERSARY

### HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 14, 1995*

Mr. SMITH of Michigan. Mr. Speaker, this month, WLEN Radio in Adrian, MI celebrated their 30th anniversary.

I would like to pay tribute to the people of WLEN and their fine service to Lenawee County.

Lead by President Julie Koehn, WLEN, called the voice of Lenawee County, boasts the talents of Bob Butler who, with 32 continuous years on the air, is the county's veteran broadcaster. Additionally, WLEN's stable of stars includes: Angel Millet and Doug Spade.

WLEN's award-winning news department is headed by Mike Clement.

Mr. Speaker, for the past 30 years, the people of Lenawee County have been well served by the able people and programming at WLEN.

As a Lenawee County farmer, I look forward to another 30 years of excellent community service by WLEN.

Good communications are critical to maintain a vibrant democratic society. Congratulations, WLEN, on your 30th anniversary.

#### SAFETY AND HEALTH IMPROVEMENT AND REGULATORY REFORM ACT

### HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, June 14, 1995*

Mr. BALLENGER. Mr. Speaker, today I, along with over 60 of my colleagues, am intro-

ducing the Safety and Health Improvement and Regulatory Reform Act of 1995. The legislation will comprehensively change the Federal Occupational Safety and Health Act. Few Federal programs are in need of change as much as this one.

Ensuring and promoting the basic safety and health protections for workers in this country is a moral as well as an economic imperative. Safe and healthful working conditions for our Nation's workers is not and should not be a partisan matter, nor is it exclusively the interest or responsibility of any one group or special interest. Society, through government, employers, and employees themselves, have responsibilities in helping to make sure that life and limb are not the price for being employed.

Mr. Speaker, I am an employer and a businessman myself. I know that for most employers, the phrase "our employees are our most valuable resource" is not mere rhetoric, but the way in which we view our businesses. For too long, the Federal Government, particularly in programs like OSHA, has viewed employers as adversaries, to be policed and watched over with all kinds of rules and penalties if those rules should be broken in any detail. I know that there are people in business who try to take shortcuts, and there are some who are just plain crooks. There needs to be enforcement. But heavy enforcement should be the last resort, not the first resort.

To be committed to worker safety and health does not mean to be committed to the way in which OSHA has been operating. President Clinton recently stated it quite well:

\*\*\* frankly sometimes the rules have simply become too complex, too specific for even the most diligent employer to follow, and that if the government awards inspections for writing citations and levying fines more than ensuring safety, there's a chance you could get more citations, more fines, more hassle, and no more safety.

That is the problem we are trying to address with this legislation: Too often OSHA has had too little to do with promoting basic safety and health for workers, and too much to do with promoting Government rules.

In my view nothing illustrates how OSHA has gone off on the wrong track more clearly than the fact that today few if any employers would ever call OSHA and ask for assistance or advice on workplace safety or health. That is not because employers don't want assistance, or are not aware of the importance and cost savings from avoiding workplace accidents and injuries. It is because OSHA's mission has become misdirected into a simply finding violations of regulations and issuing penalties.

We believe that a more fair and more effective workplace safety and health program would rely primarily on nonenforcement efforts, with enforcement reserved for those situations and employers where the circumstances show that enforcement is necessary and justified. Our bill reserves, after a 3-year phase-in period, one-half of OSHA's funds for nonenforcement efforts. Those funds would be used:

To expand the State consultation grants program which provides on-site assistance to small businesses in high hazard industries. In many States, the shortage of resources has meant waiting periods of up to 2 years for employers who seek these services.

To expand OSHA's Voluntary Protection Program [VPP], which recognizes and grants exemption from enforcement inspections for employers with exemplary safety records and programs.

To support additional training, education, and outreach programs, designed to promote safe work practices with employers and employees.

To establish and oversee a new certification program for private individuals to conduct workplace safety and health reviews. Once underway this program would allow employers the opportunity to be free of OSHA inspections as long as the employer had no reportable accidents—fatalities or multiple injuries—and no employee complaints.

The use of private individuals to conduct workplace safety and health reviews in lieu of OSHA inspections was part of Vice President GORE's proposed reinvention of the Federal Government. It died in the hands of an agency that is unwilling to give up the notion that but for OSHA employees have no protection against their employers. That notion is not only false, it is silly. The fact is, as many of my Democratic colleagues frequently point out, OSHA inspects only a small number of worksites and employers every year—around 40,000 in recent years. Many employers avoid inspection for years—in fact, it is this inequity of inspections, in which some employers are inspected nearly every year and their competitors may never be inspected, that along with the arbitrariness of citations and fines, often fuels the rage of employers against OSHA. Vice President GORE's National Performance Review rightly recognized that "an army of OSHA inspectors" was neither necessary nor, in light of the Federal budget situation, likely. The use of private individuals to conduct workplace reviews provides a means of extending expertise and attention to workplace safety and health, while allowing us to reduce the role of the Federal Government.

Our bill makes one other important change in regards to putting the emphasis of the program back on safety and health, rather than on collecting penalties. OSHA's interpretation of the current statute is and has long been that an inspector who observes a violation of any regulation, unless the violation itself can be classified as *de minimis*, must issue a citation for that violation. It does not matter whether the violation is not threatening to any employees. Nor does it matter whether the employer knew of the regulation—he or she is presumed to know all of what is printed in the Federal Register and in unending compliance directives from Washington.

OSHA has announced that it will soon begin a program to reduce penalties for alleged violations that are corrected immediately, while the inspection is still underway. While this may seem like only common sense, it at least takes OSHA a step in the right direction. But it certainly does not go far enough. Under our bill, the general rule would be that OSHA will work with employers to identify and correct hazards, and that only if the employer fails to do so, or if a violation has caused a serious injury or death, a fine would be issued. OSHA's mission should be abatement of safety and health hazards and safer workplaces, not collecting revenues for the Federal Government. When the employer corrects the problem, and no one has been injured or killed as a result of a violation, the Federal Govern-

ment's interest in safety and health is satisfied.

In addition to refocusing OSHA on what should be its mission—safety and health, this bill implements two pieces of legislation already passed by the House. First, with regard to how regulations will be issued, the bill includes the reforms overwhelmingly passed by the House earlier this year and incorporated into H.R. 9.

Second, consistent with the House-passed budget resolution, the bill includes the merger of the Mine Safety and Health Administration with the Occupational Safety and Health Administration and the elimination of the National Institute on Occupational Safety and Health [NIOSH] as a separate agency within the Department of Health and Human Services. Although we are merging MSHA and OSHA, I do want to emphasize to my colleagues that the bill specifically directs the newly merged agency to continue to enforce mining regulations in mines, and to maintain its corps of specialized mine inspectors. In fact, the bill requires that the kind of specialized and expert inspectors that have been the strength of the mine safety program also be the model for how OSHA's inspectorate should be improved.

Mr. Speaker, following is a section-by-section description of our legislation. I would welcome my colleague's support and cosponsorship and I look forward to working with my colleagues in helping to pass this much needed legislation.

#### SECTION-BY-SECTION DESCRIPTION OF THE SAFETY AND HEALTH IMPROVEMENT AND REGULATORY REFORM ACT OF 1995—JUNE 14, 1994

Section 1. Short Title, Table of Contents, Reference.

Section 2. Standards.

Requires that standards issued by OSHA be based on risk assessment, regulatory impact and cost-benefit analysis, similar to proposals already adopted by the House. Requires that the risk assessment and cost-benefit analysis be industry-specific.

Requires that benefits be "justified by and be reasonably related" to be costs of the standard.

Requires that standards be "feasible" and "practical."

Prohibits OSHA from citing an employer under a standard if a request from the employer for a variance on the standard involved has been pending for more than 90 days.

Requires that each standard in effect at the time of enactment be reviewed within 7 years for compliance with the new risk assessment and cost-benefit criteria. Creates a petition process whereby affected parties can obtain review of existing standards for compliance with the new criteria. Requires the Secretary to accept or reject the petition regarding a standard within 120 days.

Requires independent peer review of the economic and scientific data which forms the basis for the standard, including the relevance of the data to industries and workers affected by the standard. Requires the panel to be broadly representative and balanced.

Section 3. Notice of Violation.

Requires that OSHA issue a warning to employers and specifies a reasonable time frame to fix the alleged violation. If the violation is not corrected within 30 days (or shorter if it constitutes a direct threat to employees) a citation may be issued. Exceptions to this policy would be allowed if a fatality or serious injury occurred.

Eliminates penalties for posting, record-keeping, reporting, or notification unless

there is a direct threat or injury or intent to mislead or deceive employees or OSHA.

Section 4. Consultation, Incentives for Voluntary Action, and Technical Assistance.

Creates a new program allowing certified individuals to conduct safety and health reviews for employers. Exempts employers who utilize such individuals from random OSHA inspections.

Expands the Small Business Consultation program.

Codifies the Voluntary Protection Program (VPP) which recognizes and provides an exemption for employers with exemplary programs and safety records.

Transfer NIOSH training functions to OSHA.

Targets at least 50 percent of OSHA funds (after a three year phase-in) for non-enforcement activities (small business consultation, training, education, and compliance assistance programs).

Section 5. Removal of Barriers to Voluntary Safety and Health Activities.

Provides that an employee participation program which deals in whole or in part with safety and health is not a violation of section 8(a)(2) of the National Labor Relations Act.

Provides a legal "privilege" for safety and health audits which are done voluntarily by an employer.

Section 6. Inspections.

Requires that an employee bring a complaint over an alleged violation of a safety or health standards to attention of the employer before filing with OSHA. If the employer fails to correct the violation, the employee may then file a complaint with OSHA. Requires that a copy of the complaint be provided to the employer no later than the time of the inspection.

Creates a legal requirement that OSHA inspections be conducted by at least one individual who has technical expertise by training or experience in the industry under inspection.

Requires OSHA to enter agreements with other enforcement agencies to check for fire hazards and report them to OSHA if necessary.

Exempts small businesses (fifty or fewer employees) that have below average injury rates from random safety inspections.

Codifies appropriation exemption for small farms (employing 10 or fewer workers and not maintaining a labor camp) from random safety inspections.

Section 7. Employer Defense.

Provides a defense against citation for "employee misconduct."

Creates a defense for employers who have utilized alternative methods which are equally or more protective of an employee's safety and health in the workplace.

Provides a defense against any regulatory action of an employer is in compliance with another federal requirement which overlaps or is in conflict.

Section 8. Penalties.

Repeals separate penalties for "willful" and "repeat" violations.

Lists seven criteria to be used in assessing penalties.

Creates a special assessment which allows higher penalties in cases where violations cause a death or an excessive number of serious injuries.

Provides that no penalties may be issued unless a standard or regulation exists.

Clarifies that state or local law enforcement agencies may conduct criminal prosecutions for conduct falling under state criminal laws.

Section 9. Review by the Commission.

Extends the time an employer may contest a citation from 15 to 30 days.

Gives deference to interpretations of standards by the Commission (overturns the CF&I case).

Increases the number of members of the Commission from 3 to 5 and specifies that one member of the Commission should have experience in mining.

Allows parties to waive formal proceedings before the Commission.

Section 10. NIOSH Repealed.

Repeals the National Institute of Occupational Safety and Health.

Section 11. State Workmen's Compensation Commission Repealed.

Repeals this Commission which has completed its function.

Section 12. State Programs.

Encourages state OSHA programs to follow federal standards when applicable to products or labeling.

Provides additional flexibility to state OSHA programs by allowing states to adopt alternative methods of enforcement that are at least as effective as the Federal program.

Section 13. Discrimination.

Extends time for filing complaints to 60 days. Requires that DOL notify the person named in the complaint and investigate within 60 days. Provides that if DOL does not decide to prosecute the case within 60 days, the complainant may take the case directly to the Review Commission for a hearing and a decision. Provides for an appeal of the Commission decision to the Court of Appeals. Encourages the use of mediation in all disputes.

Section 14. Coverage of Federal Agencies.

Covers all federal agencies under the federal OSHA requirements.

Section 15. Federal Agency Safety Programs.

Repeals Section 19 of current law which requires federal agencies to maintain their own safety and health programs (repealed because of changes described in Section 14).

Section 16. Prevention of Alcohol and Substance Abuse.

Provides "safe harbor" for employers conducting drug and alcohol testing which follows HHS (drug) and DOT (alcohol) guidelines. Authorizes OSHA to conduct drug and alcohol testing when investigating workplace deaths and serious injuries.

Section 17. Mine Safety and Health.

Merges the Mine Safety and Health Administration (MSHA) with OSHA.

Transfers all MSHA standards to OSHA.

Requires all underground mines to be inspected at least once per year.

Requires all mining inspectors to have 5 years of practical mining experience.

Authorizes closure orders in cases of imminent danger and requires that such order be reviewable in court within one day.

Authorizes fines against miners who violate the mandatory safety standard related to smoking in the mine.

Section 18. Recordkeeping and Reporting.

Modifies recordkeeping requirements to insure that recordable injuries and illnesses are work-related, involve medical treatment, and include one or more days of lost work or restricted work.

Specifies that any records of injuries and illnesses submitted to the Secretary may not be disclosed in any manner that identifies individual employers or workplaces.

Section 19. Definitions.

Defines "serious injury" and "industry."

Section 20. Miscellaneous Technical Amendments.

Requires the Secretary to provide recommendations for legislation to avoid unnecessary duplication and coordination between this Act and other federal laws.

Requires OSHA to establish a program for certification of equipment and specifies that it be conducted by nongovernmental entities unless such facilities are not available.

Although not specifically referenced in this legislative language, it is assumed that

NIOSH research activities will be transferred to another governmental agency.

Section 21. Effective Date.

This Act become effective 120 days after the date of enactment.

## A SALUTE TO ENERGY RESEARCH IN AMERICAN SCHOOLS

**HON. JAMES T. WALSH**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1995

Mr. WALSH. Mr. Speaker, today I rise to commend a schoolteacher in my home district who has done a quite remarkable thing. He has led a team of high school students who built a solar-powered vehicle to become national winners of the 1995 American Tour de Sol for the best student car in the open class presented by the U.S. Department of Energy.

The teacher is Earl Billings, technology instructor at Cato-Meridian High School, a 340-student school in Cato, NY. The accomplishments don't start with the 1995 Tour de Sol title. I will list a few others in a moment. But I don't want the most important point to be lost here. That point is, research into the future is being done in our schools. It is being done all over America, in rural communities such as Cato as well as in larger cities where universities and foundations often support student teams in research the use of solar power in the future and other important projects.

And, once again, a teacher is at the helm, is the inspiration, is the guiding force—not only by giving instruction but by leading, by communicating, by relating. By planting seeds of self-worth and pride and by literally building something tangible from something abstract—an idea.

Today is Earl Billings Day in Cayuga County, as proposed by County Legislator Ralph Stanbrook, a true civic leader with whom I have worked on several community projects. In recognizing Mr. Billings, we both hope to once again draw attention to what is good in American schools—and to give credit where it is due.

And in this instance it is most definitely due.

Mr. Billings teaches a course entitled Energy, a subject which has been identified by the New York State Education Department as a highly important area of learning for high school students. Forms of energy are discussed, and their relation to our environment is presented. To get the C-M students more interested, Mr. Billings proposed the class take on the ambitious goal of designing, constructing, and testing a full-size, solar-powered electric vehicle.

That was in 1990, and what began as a teaching tool quickly came to be an unusual nonclassroom success story for the students and their vehicle, Sunpacer.

Sponsored by the North East Sustainable Energy Association from May 22 to May 26, the 1995 American Tour de Sol ran from Waterbury, CT, to Portland, ME, a total of 330 miles through five States. Sunpacer finished first in its division.

Winning was not new for the team. Students from Cato-Meridian have been racing Sunpacer since 1991. That is when they first qualified for the Tour de Sol but had to pull out to honor an earlier commitment to show the vehicle at a New York State event. That

event represented their third-place ranking out of 750 projects submitted to the Student Energy Research Competition that year.

They were back in the Tour de Sol in 1992 to win the national championship; in 1993 they placed third and in 1994 they placed second before regaining the national title this year.

As outlined by Mr. Billings, there were five goals, among them to "help reduce the millions of barrels of oil we use daily"; to heighten public awareness of electric vehicles; to show that if high school kids can build a solar-powered car, business can; to develop student skills in critical thinking, problem solving, research, and engineering; and, listed No. 1 on the important goal list, "I wanted to excite my students about energy."

I join the Cayuga County Legislature in saluting Mr. Earl Billings today. I encourage him to continue with this project and I congratulate him on excelling in his chosen profession.

I might add that I will look for Earl Billings and the students who work on the 1996 Tour de Sol next May. The planned route starts in New York City and ends right here in the Nation's capital, Washington, DC.

Best of luck to all the students involved with this fascinating and productive project.

HONORING ANJILA J. LEBSOCK

**HON. ED PASTOR**

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 15, 1995

Mr. PASTOR. Mr. Speaker, I would like to take this opportunity to congratulate Ms. Anjila J. Lebsock who recently was 1 of 10 students to receive the All-American Vocational Student Awards.

A Cibola High School senior in Yuma, AZ, Anjila's special talents and determination were recognized early on by her teachers. After expressing an interest in the field of electronics, she was immersed in a special curriculum to meet her needs. During the day, she completed advanced placement courses while maintaining her rank as 1 of the top 10 students in her class. After school hours, Anjila pursued vocational studies at Arizona Western College, studying servo robotics, programmable controllers and computer-integrated manufacturing. These led her to special training programs with Weyerhaeuser Paper Co., the United States Bureau of Reclamation and Allied Signal. Her robotics projects earned her numerous awards at the local, State and National Levels.

In addition to displaying leadership in the classroom and the robotics lab, Anjila has also excelled as a community leader. She has represented the State of Arizona as a national VICA delegate, and held offices as regional vice president and as parliamentarian. She has also devoted many years as a Girl Scout leader and as a volunteer in the Yuma Crossing Park. Anjila's goal is to pursue a career as a manufacturing engineer.

Anjila's accomplishments point not only to the value of vocational education, but to the courage and spirit of our Nation's youth. She serves as an inspiration to us all. Again, I send my sincerest congratulations to Anjila for this deserved recognition and wish her even greater success in the future.