

care, skill, prudence, and diligence that a prudent person familiar with such matters would use in similar circumstances.

The responsibilities of fiduciaries are very clear in ERISA. I know these rules exist and the ERISA lawyers know it too—The problem is that oftentimes the actual fiduciaries are not aware of or do not understand these strict rules governing their behavior.

What the Enron debacle has brought to light is that this carefully crafted law of fiduciary responsibility is not always followed with the due diligence that is expected. Many people who are charged with operating employee benefit plans do not understand what their fiduciary roles require. Even worse, many do not understand the consequences for violating their fiduciary obligations.

This was a problem at a large company like Enron, as we learned from the testimony of one Enron fiduciary, Cindy Olson. We can be assured that the fiduciaries for other companies are likewise not adequately informed about their responsibilities in managing a pension plan.

Dr. Norman Stein testified in front of the Education and Workforce Committee that during a pension-counseling clinic at the University of Alabama, a personnel manager "indicated that she did not know what a fiduciary was, did not know what rules governed a fiduciary behavior, and did not, of course, realize that she herself was a fiduciary."

This is what is happening in the real world. How can we, in good conscience, tell American workers to entrust their retirement security to fiduciaries who do not understand the rules that govern their behavior? How can we ensure that fiduciaries are acting in the sole interest of participants and beneficiaries if they don't even know this requirement exists?

I believe that this provision is a modest first step in addressing this lack of knowledge. The Secretary is directed "to establish a program under which information and educational resources are made available on an ongoing basis to persons serving as fiduciaries under employee benefit plans so as to assist them in diligently and effectively carrying out their fiduciary duties."

This provision is just common sense. It addresses an issue that most of us thought was a given in the implementation of ERISA. The Enron case has demonstrated that we were incorrect in making that assumption. The Department of Labor must ensure that fiduciaries understand their responsibilities under the law. Information dissemination is a necessary first step in preventing breaches of fiduciary duties.

I am pleased that my amendment was accepted unanimously by the Committee and thank the Chairman for ensuring that it is contained in the bill that we are voting on today.

#### INDEPENDENT ADVISORS FOR FIDUCIARIES

The second amendment that was unanimously accepted by the Committee and is included here requires a study of the implications of requiring an independent advisor to provide investment guidance to fiduciaries regarding the management or disposition of plan assets.

I am very concerned about the inherent problems of conflict of interest when a firm must both manage a pension plan and maximize profit. This conflict of interest is particularly acute when the employer has exclusive control over retirement plans.

As we learned all too well from our hearings on the Enron crisis, this conflict of interest is

real and can be detrimental to plan participants. Outside experts would be able to give independent advice to the plan fiduciaries because they are not beholden to the employer.

It makes sense that competent professional advisors should assist with retirement plan investment management. Employers' strict fiduciary responsibilities should necessitate consultation with competent investment managers. Some employers do this. However, as we saw with Enron, others do not. In fact, in the case of Enron, the Department of Labor has taken steps to replace Enron's fiduciaries with independent experts. Every day we talk about the lessons we have learned from the Enron fiasco. This sounds like a lesson to me. How can we correct the situation of Enron and ignore the case of all other workers? Must we wait for other companies to reach the disaster point of Enron before we ensure that independent advisors assist with plan management? Every plan should have the benefit of an independent advisor to assist with plan management. If it makes sense for Enron after-the-fact, it makes sense for all businesses before there is a problem! What we saw in Enron is that when the interest of the plan participants was pitted against company interests, the participants lost.

As such, we should seriously study the implications of requiring employers to hire an independent advisor to assist in the management of plan assets. Rather than requiring that a new trustee board be created or requiring that the independent advisor serve as a plan manager, I believe we should investigate the implications of requiring that plan managers seek advice and guidance from an independent source regarding the management or disposition of plan assets. This is a common sense approach.

I do understand that some employers may be concerned about the implications of such a proposal. This bill requires a study of the issue so we can better understand the specific impact on retirement savings of requiring fiduciary consultants for individual account plans. Specifically, the study would assess:

(1) The benefits to plan participants and beneficiaries of engaging independent fiduciary advisers to provide investment advice regarding the assets of the plan to persons who have fiduciary duties.

(2) The extent to which independent advisers are currently retained by plan fiduciaries.

(3) The availability of assistance to fiduciaries from appropriate Federal agencies.

(4) The availability of qualified independent fiduciary consultants to serve the needs of accounts in individual account plans in the United States.

(5) The impact of the additional fiduciary duty of an independent advisor on the strict fiduciary obligations of plan fiduciaries.

(6) The impact of consulting fees, additional reporting requirements, and new plan duties to prudently identify and contract with qualified independent fiduciary consultants on the availability of individual account plans.

(7) The impact of a new requirement on the plan administration costs per participant for small and mid-size employers and the pension plans they sponsor.

#### CONCLUSION

In sum, I am committed to strengthening the retirement security of workers and their families. I believe that this bill takes important steps to further protect plan participants and I urge my colleagues to support this legislation.

#### PENSION SECURITY ACT OF 2002

##### SPEECH OF

**HON. RODNEY P. FRELINGHUYSEN**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 11, 2002*

Mr. FRELINGHUYSEN. Mr. Speaker, today, I rise in strong support of H.R. 3762 the Pension Security Act of 2002. I believe the time to update Federal pension law is now! I also believe this legislation could have prevented the tragic financial consequences of the Enron collapse, which is why I strongly support H.R. 3762.

This legislation will help ensure the safety of the American workers' pension fund savings through the following ways:

First, this legislation holds businesses to a higher standard of accountability. Specifically, it clarifies that company pension officials who do not act in the best interests of pension beneficiaries, can be held liable for breaching their fiduciary duty; it requires that workers be given 30 days advance notice of any blackout period affecting their pensions; and it forbids employers to sell their stock during "black out" periods when employees are not permitted to sell their stock. Thus, this legislation ensures that the Ken Lay's of the world, do not get rich at the expense of the American workers' pension fund savings.

Second, this legislation empowers the American worker by protecting employees against future abuses by giving them more control over their investments. Specifically, the American worker is empowered with the right to diversify employer stock contributions and the option to sell company stock three years after receiving it.

Third, this legislation also empowers the American worker by increasing their access to quality investment advice and by providing them with more information about their pensions. Specifically, it encourages employers to make investment advice available to their employees; it allows workers to use a tax-free payroll deduction to purchase investment advice on their own; and it requires companies to give quarterly reports that include account information, as well as their rights to diversify.

Notably, the Democrat's alternative for pension reform does not address the current shortcomings in the pension system. Instead, the Democratic alternative increases mandates and regulations that will result in increased costs, which will ultimately discourage employers from offering retirement plans altogether.

Finally, this legislation will help restore confidence in America's pension fund system.

A generation of American workers have enjoyed a safe and secure retirement. By passing H.R. 3762 today, we will ensure future generations enjoy the same safe and secure retirement.

**WE THE PEOPLE—THE CITIZEN  
AND THE CONSTITUTION**

**HON. MICHAEL N. CASTLE**

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 16, 2002*

Mr. CASTLE. Mr. Speaker, it is with great pride that I rise today to congratulate the

young scholars of Lake Forest High School in Felton, Delaware who will represent my home state of Delaware in the We the People . . . The Citizen and the Constitution program. They are part of a group of 1200 students from across the country who will come to Washington, D.C. from May fourth to the sixth to compete in the national finals of this program. These young scholars worked diligently and persistently to reach the national finals and through this program will gain a deeper knowledge and understanding of the fundamental principles and values of our constitutional democracy.

The names of the honored students are: Corinne Bartley, Codi Canasa, Jeffery Chambers, Nicole Cosey, Heather Crouse, Lena Ewing, Michael Field, Danielle Galyean, Davis Gannon, Rebecca Grevis, Darron Johnson, Katie Kindig, Andrea Lewis, Michelle Makdad, Kathryn McClister, Jennifer Petrucci, Jason Schulties, Warren Thomas Smith, Ann Marie Strobe, Leah West, Ashley Wilson and Holly Wilson.

I would also like to extend my congratulations to their teachers, Mrs. Amy Reed-Moore and Ms. Betty Wyatt-Dix, who deserve much of the credit for the success of the team.

The We the People . . . The Citizen and the Constitution program is the most extensive educational program in the country developed specifically to educate young students about the Constitution and the Bill of Rights. The three-day final competition they will participate in consists of hearings modeled after those in the United States Congress. The students made oral presentations before a panel of adult judges and testify as constitutional experts before a "congressional committee." A panel of adult judges represent various regions of the country and a variety of appropriate professional fields served on the congressional committees. These judges follow up the testimonies with a series of questions designed to test the students' depth of understanding and their ability to apply constitutional knowledge to given situations.

The We the People program is administered by the Center for Civic Education, and has provided curricular materials at upper elementary, middle and high school levels for more than 26.5 million students nationwide. This program has promoted civic competence and responsibility among young students as well as awareness for contemporary relevance of the Constitution and Bill of Rights.

The team from Lake Forest High School conducted much research in preparation for the national competition here in Washington, D.C. I congratulate them for their fine work that enabled them to come so far in this competition and to visit our nation's capital.

#### IN TRIBUTE TO LARRY BROWN

#### HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 16, 2002*

Mr. ENGEL. Mr. Speaker, to have a true community we must have a safe community. During the 1990s the rate of crime has been dropping to rates we haven't seen since the

1960s. For this we can thank the police officers of our communities who work hard and dangerous jobs so our lives will not be dangerous.

One such police officer is Larry Brown of the White Plains Police Department. He graduated from White Plains High School, where he excelled at track and field. He attended Bradley University and then worked at what is now Westchester Medical Center. After a short stint as a Corrections Officer he joined the police department twenty years ago.

Since then he has enjoyed a varied career in law enforcement working in the Detective Division, Records Division, and Warrants Division. He has done background checks and has assisted in recruitment for the Department. He currently works in the Patrol Division. He has also attended a number of training courses to better enable him to perform as a police officer. He has also received a number of citations and acknowledgments for his work.

For the past four years he has served as President of the Westchester/Rockland Guardians and represents that worthy organization at national conferences.

He is a member of the Union Baptist Church and the proud father of Komaphi, Shaahid, a sergeant in the U.S. Marine Corps, Allana, and Christina.

For his good work and leadership in the law enforcement community, we all owe him our thanks and I am proud to be able to honor him in this small way.

#### IN HONOR OF FATHER PETER SAMMON

#### HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 16, 2002*

Ms. PELOSI. Mr. Speaker, I rise to honor the life and work of a remarkable man, Father Peter Sammon, who died peacefully on March 21, 2002 in San Francisco surrounded by loved ones. Father Sammon was an inspiration and a friend to so many people, and we are all forever grateful for his work. We will miss him terribly. The following are my remarks from his funeral on March 25th at St. Mary's Cathedral in San Francisco:

It is with great personal sadness and official recognition of their loss that I extend my deepest sympathy to Tom Sammon and his entire family. All who loved Peter thank you for sharing him with us and for giving him so much happiness.

To Sister Kathleen and Sister Lucia I extend condolences and appreciation to you for helping Father Sammon reach his fulfillment on earth and giving him the joy of a happy death. We can all hear him say: "Here I am Lord."

It should be a source of comfort to you at this very, very sad time that so many people mourn your loss and are praying for you. So many people were blessed by knowing Father Sammon. I want to express my appreciation for being allowed to bear witness to the life of Peter Sammon.

Throughout his life Father Sammon carried on the legacy established by his namesake

the Apostle Peter whose mission was bestowed upon him by Christ himself when he said "Thou art Peter and upon this rock I will build my church." Peter Sammon was our rock and in his 50 years as a priest he continued to build Christ's Church. In doing so he touched so many lives. Whether as the Archdiocesan Director of Family Life counseling young couples, as the Chaplain of Newman Center at San Francisco State, or by forming the parish ministry with Presentation Sisters Kathleen and Lucia, he built the Church to do the Lord's work.

This was pioneering work, a priest working with the sisters to form a parish ministry and training leadership among the laity; this was groundbreaking. Peter Sammon was a pioneer who broke new ground but never left the ground broken.

He made the church the center of movements. Early on, he and Saint Teresa's Parish took up the cause of the Farm Workers and then the Salvadoran refugees. Four years and one day before his death, his friend and comrade in arms Jimmy Herman passed away. They were partners in many pursuits. We will all long remember their work together to turn back the ships carrying Salvadoran coffee, their refusal to unload the coffee. Fred Ross just reminded me this morning as we were crying of the sight of Father Sammon and Jimmy Herman on the docks refusing to unload the coffee from El Salvador.

We take pride, but we must remember, those actions took courage.

Father Sammon was our leader; he not only preached justice, he lived it. Injustice had an impact on Father Sammon that was palpable and he acted upon it. Whether in his leadership in the Sanctuary movement or working for immigrant rights or working for a living wage, Father Sammon always lived justice.

Father Sammon considered himself lucky to be the son of Irish immigrants. It was through his understanding of the courage and determination of his parents, who came to America as teenagers, met here and raised their wonderful family, that he understood the magnificent contribution that Immigrants make to our country.

Where some saw people in need, Father Sammon saw newcomers who constantly invigorate America with their courage, their hopes and their dreams. He saw their commitment to family values, to work and community. And he saw a spark of divinity worthy of respect in every one of them.

Peter brought to his struggles the vision, the knowledge, a plan of action and the ability to attract supporters to his causes. He was a true leader and a great politician. All who were blessed to know him learned from him—not only what to do but how to do it. I certainly did and I know I speak for others who were so blessed. Father Sammon challenged the conscience of our society. We look at his work with pride but must remember that it took tremendous courage.

The Bible tells us that to minister to the needs of God's creation is an act of worship, to ignore those needs is to dishonor the God who made us all. By that measure Father Sammon's entire life is an act of worship.

In his life Father Sammon worked on the side of the angels. Now he is with them. Thanks be to God.