

minute and to revise and extend her remarks.)

Ms. SANCHEZ. Mr. Speaker, today I rise to honor the life of Benny Hernandez, a man who lived life to the fullest and touched the lives of many in Orange County and southern California.

Benny began his career as a social worker, but teaching was where his heart was. Benny was always fighting to keep kids in school. He helped to inspire young children from the beginning of their educational careers through the program "Kinder-Caminata." Through this program, thousands of kindergarteners throughout Orange County were exposed to college campuses, instilling in them a desire to work for a college degree.

A modest man, Benny once said that he won his election for the Anaheim City School Board on \$8.13 and a prayer, referring to the money he used to buy wire to hang his election signs. He won because of all of the students he inspired who, in turn, went out door to door to get him elected. In fact, my husband, on seeing such a scene, referred to him as "Benny and the Jets."

On Thursday, July 11, Benny lost a hard-fought battle against brain cancer; and although he was taken away from us at an early age, he will certainly not be forgotten.

God bless you, Benny.

#### HONORING THE MEMORY OF EMILY CANADAY PHILLIPS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, on Sunday morning, South Carolina lost one of its finest first ladies. She was not first lady as the wife of a Governor, but qualifies as a first lady who courageously worked for the two-party system to be established in South Carolina, and she made a difference.

Emily Canaday Phillips of Columbia and Cope began her service in the Republican Party in the 1960 Presidential race, and she was a devoted volunteer in the 1961 race of State Representative Charlie Boineau of Richland County, who was the first successful Republican legislative candidate of the 20th century in South Carolina. Emily served in numerous positions with the new Party and Republican Women, achieving Second District Congressional Republican chairmanship for 10 years, and 5 years on the State Ethics Commission. Her integrity was recognized by twice being awarded the State's highest honor by two Governors, the Order of Palmetto.

She is survived by her loving husband of 49 years, E.D. Phillips, and their five children: Becky Phillips, Deedie Belangia, Jackie Finch, Hal Phillips, and Steve Phillips, along with seven grandchildren.

Emily will be missed; but her warm smile, her love for her family, and her

dedication to governmental reform will never be forgotten.

#### DEFEAT PRESIDENT'S PLAN TO PRIVATIZE SOCIAL SECURITY

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, it has been a week since President Bush went to Wall Street to restore investor confidence in our capital markets. Unfortunately, the response from investors has been dismal. Since the President's trip, the two major stock indices have lost 7½ percent of their value. Last year alone, America's markets lost \$2.4 trillion of their value, more than the gross domestic product of Germany.

Most Americans probably think that because of these massive stock market losses the President has reconsidered his plan to privatize Social Security. They would be wrong.

Even though our country is in the throes of the worst financial crisis of confidence in decades, President Bush is pressing forward with his program to privatize Social Security. The President's plan to privatize Social Security should be defeated, now more than ever.

#### CORPORATE ACCOUNTABILITY

(Mr. REHBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REHBERG. Mr. Speaker, I rise today to urge my colleagues to shine a bright light into the darkness that has prevailed in some of America's largest corporate boardrooms.

Last week, President Bush went to New York to put America's corporate leaders on notice: the United States Government will not sit back and allow greed and dishonesty to bring down our economy. President Bush was right when he said that at this moment in time America's greatest economic need is higher ethical standards.

Today, we have an opportunity to answer the President's call by returning stability to the American economy and accountability to the corporate board room. The Corporate Fraud Accountability Act of 2002 is a strong bill that closes corporate loopholes, increases penalties for fraud, and bans for life any CEO or other company officer found to abuse power from ever serving in a corporate leadership position again.

Mr. Speaker, I urge my colleagues to shine the light of responsibility into the corporate boardrooms of America by supporting H.R. 5118.

#### SENSE OF PERSPECTIVE ON CORPORATE ACCOUNTABILITY

(Ms. HOOLEY of Oregon asked and was given permission to address the

House for 1 minute and to revise and extend her remarks.)

Ms. HOOLEY of Oregon. Mr. Speaker, I believe it is important to bring a sense of perspective to this debate on corporate accountability. Our economy is fundamentally solid. It is productive, and inflation is low. As I am speaking, Alan Greenspan is delivering those same sentiments to our colleagues in the other Chamber, and he will do the same tomorrow to the Committee on Financial Services in the House. Hopefully, his remarks will inject a sense of calm into our capital markets and do what even the President could not do: staunch the hemorrhaging on Wall Street.

Our colleagues in the other body should be commended. They have done what our leadership in this House has failed to do: empathize with anyone who is too scared to even open their monthly 401(k) statement.

Mr. Speaker, it is time for us to act. We need to go to conference committee on a bill to clean up corporate America, and we need to do it now.

#### CONGRATULATING THE GRADUATING CLASS OF CITY COLLEGE

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I congratulate the graduating class of City College, a 4-year, private institution with three Florida campuses, including one in my hometown of South Miami.

City College was established in Kentucky more than 70 years ago as a branch of a junior business college. Today it provides degrees in 12 areas of study and remains committed to the quality of education in an atmosphere of personalized instruction.

City College's motto remains "Your job tomorrow is our job today," and it can be your job tomorrow, and even improve it.

The dedicated faculty at City College ensures academic preparedness and provides career assistance, as well as training for a full life and a successful career.

On July 19, just a few days from today, City College will proudly graduate approximately 350 students, all of whom are undoubtedly excited to brave today's working world. As they do, I wish each and every one of them the best for triumphant success, and I ask that my colleagues also wish them a hearty congratulations with their motto, "Your job tomorrow is our job today."

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#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 8 of rule

XX, the Chair will postpone further proceedings on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

RECORD votes may be taken in two groups, the first occurring after debate has concluded on H.R. 5118, and the second after debate has concluded on the remaining motions to suspend the rules.

#### CORPORATE FRAUD ACCOUNTABILITY ACT OF 2002

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5118) to provide for enhanced penalties for accounting and auditing improprieties at publicly traded companies, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5118

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Corporate Fraud Accountability Act of 2002".

#### SEC. 2. HIGHER MAXIMUM PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 of title 18, United States Code, is amended by striking "five" and inserting "20".

(b) WIRE FRAUD.—Section 1343 of title 18, United States Code, is amended by striking "five" and inserting "20".

(c) SECURITIES FRAUD.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

##### "§ 1348. Securities fraud

"Whoever knowingly executes a scheme or artifice—

"(1) to defraud any person in connection with any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78l, 78o(d)) or section 6 of the Securities Act of 1933 (15 U.S.C. 77f); or

"(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the purchase or sale of any security registered under section 12 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78l, 78o(d)) or section 6 of the Securities Act of 1933 (15 U.S.C. 77f), shall be fined under this title, or imprisoned not more than 25 years, or both."

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1348. Securities fraud."

#### SEC. 3. TAMPERING WITH A RECORD OR OTHERWISE IMPEDING AN OFFICIAL PROCEEDING.

Section 1512 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Whoever corruptly—

"(1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

"(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so,

shall be fined under this title or imprisoned not more than 20 years, or both."

#### SEC. 4. AMENDMENT TO THE FEDERAL SENTENCING GUIDELINES.

(a) REQUEST FOR IMMEDIATE CONSIDERATION BY THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission is requested to—

(1) promptly review the sentencing guidelines applicable to securities and accounting fraud and related offenses;

(2) expeditiously consider the promulgation of new sentencing guidelines or amendments to existing sentencing guidelines to provide an enhancement for officers or directors of publicly traded corporations who commit fraud and related offenses; and

(3) submit to Congress an explanation of actions taken by the Sentencing Commission pursuant to paragraph (2) and any additional policy recommendations the Sentencing Commission may have for combating offenses described in paragraph (1).

(b) CONSIDERATIONS IN REVIEW.—In carrying out this section, the Sentencing Commission is requested to—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of securities, pension, and accounting fraud and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) assure reasonable consistency with other relevant directives and with other guidelines;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements;

(4) ensure that guideline offense levels and enhancements for an obstruction of justice offense are adequate in cases where documents or other physical evidence are actually destroyed or fabricated;

(5) ensure that the guideline offense levels and enhancements under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) are sufficient for a fraud offense when the number of victims adversely involved is significantly greater than 50;

(6) make any necessary conforming changes to the sentencing guidelines; and

(7) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553 (a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The United States Sentencing Commission is requested to promulgate the guidelines or amendments provided for under this sections as soon as practicable, and in any event not later than the 120 days after the date of enactment of this Act, in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not expired.

#### SEC. 5. DEBTS NONDISCHARGEABLE IF INCURRED IN VIOLATION OF SECURITIES FRAUD LAWS.

Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking "or" after the semicolon;

(2) in paragraph (18), by striking the period at the end and inserting "; or"; and

(3) by adding at the end, the following:

"(19) that—

"(A) is a claim for—

"(i) the violation of any of the Federal securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), any of the State securities laws, or

any regulation or order issued under such Federal or State securities laws; or

"(ii) common law fraud, deceit, or manipulation in connection with the purchase or sale of any security; and

"(B) results, in relation to any claim described in subparagraph (A), from—

"(i) any judgment, order, consent order, or decree entered in any Federal or State judicial or administrative proceeding;

"(ii) any settlement agreement entered into by the debtor; or

"(iii) any court or administrative order for any damages, fine, penalty, citation, restitutionary payment, disgorgement payment, attorney fee, cost, or other payment owed by the debtor."

#### SEC. 6. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

##### "§ 1349. Failure of corporate officers to certify financial reports

"(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chairman of the board, chief executive officer, and chief financial officer (or equivalent thereof) of the issuer.

"(b) CONTENT.—The statement required under subsection (a) shall certify that those financial statements fairly and accurately represent, in all material respects, the operations and financial condition of the issuer.

"(c) CRIMINAL PENALTIES.—Whoever—

"(1) knowingly violates this section shall be fined not more than \$1,000,000, or imprisoned not more than 10 years, or both; or

"(2) willfully violates this section shall be fined not more than \$5,000,000, or imprisoned not more than 20 years, or both."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1349. Failure of corporate officers to certify financial reports."

#### SEC. 7. ATTEMPTS AND CONSPIRACIES TO COMMIT CRIMINAL OFFENSES.

(a) IN GENERAL.—Chapter 1 of title 18, United States Code, is amended by inserting before section 2 the following:

##### "§ 1. Attempt and conspiracy

"Any person who attempts or conspires to commit any offense against the United States shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of title 18, United States Code, is amended so that the item relating to section 1 reads as follows:

"1. Attempt and conspiracy."

#### SEC. 8. INCREASED CRIMINAL PENALTIES UNDER SECURITIES EXCHANGE ACT OF 1934.

Section 32(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff(a)) is amended—

(1) by striking "\$1,000,000, or imprisoned not more than 10 years" and inserting "\$5,000,000, or imprisoned not more than 20 years"; and

(2) by striking "\$2,500,000" and inserting "\$25,000,000".

#### SEC. 9. TEMPORARY FREEZE AUTHORITY FOR THE SECURITIES AND EXCHANGE COMMISSION.

(a) IN GENERAL.—Section 21C(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3(c)) is amended by adding at the end the following: