

of orders for sales. However, like the economy of its time, the scope of Public Law 86-272 was limited to tangible personal property. Our Nation's economy has changed dramatically over the past forty years, and this outdated statute needs to be modernized.

That is why we are introducing this important legislation today. The Business Activity Tax Simplification Act both modernizes and provides clarity in an outdated and ambiguous tax environment. First, the legislation updates the protections in PL 86-272. Our legislation reflects the changing nature of our economy by expanding the scope of the protections in PL 86-272 from just tangible personal property to include intangible property and all types of services.

In addition, our legislation sets forth clear, specific standards to govern when businesses should be obliged to pay business activity taxes to a state. Specifically, the legislation establishes a "physical presence" test such that an out-of-state company must have a physical presence in a state before the state can impose franchise taxes, business license taxes, and other business activity taxes.

The clarity that the Business Activity Tax Simplification Act will bring will ensure fairness, minimize litigation, and create the kind of legally certain and stable business climate that encourages businesses to make investments, expand interstate commerce, grow the economy and create new jobs. At the same time, this legislation will ensure that states and localities are fairly compensated when they provide services to businesses with a physical presence in the state.

I urge each of my colleagues to support this very important bipartisan legislation.

SALUTING ANTHONY DEION  
BRANCH

**HON. CHARLES W. "CHIP" PICKERING**

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 28, 2005*

Mr. PICKERING. Mr. Speaker, Mississippi's community and junior college system produces some of the top football players in the Nation. They are always targets of recruitment from universities around the country seeking to bolster their football programs. From time to time, we produce a truly great player who can compete at the highest level with the leadership and poise necessary to be the top player in the top game. Anthony Deion Branch from Jones County Junior College—in my home county—was named Super Bowl XXXIX Most Valuable Player. Today I'd like to salute that achievement and speak a little about his road to that success.

Deion's career began in Albany, Georgia where he excelled in track, football and enjoyed soccer in high school. After graduating he made the long drive to Ellisville, Mississippi where he competed and earned a spot on the Jones County Junior College football team. There he grabbed 37 passes for 639 yards and five touchdowns as a freshman on the Bobcat squad. The following year he took 69 receptions for 1,012 yards and nine touchdowns, earning second-team All-American honors and leading JCJC to a 12-0 mark and a victory at the Golden Isles Bowl to bring home the junior college national championship.

The University of Louisville recruited Deion who hauled in 143 passes for 2,204 yards and 18 touchdowns in his two years there. He became only the second player in school history to record multiple 1,000 yard seasons and is listed fourth and sixth respectively in the school records for career touchdown catches and receptions with the Cardinals—and that in just two years.

The New England Patriots used their Number 65 pick in the 2002 Draft to bring in Deion to what many are now describing as a dynasty—three Super Bowl Victories in four years, two with Deion on the team.

Deion's first Super Bowl ring came without the MVP award; his colleague and football legend Tom Brady won it that year. But while many of us fans thought he should be considered, we didn't have to wait long to be satisfied. The following year, despite an injury in his second game which kept him on the sidelines for the next seven matches, Deion finished the season with 35 receptions for 454 yards and four touchdowns.

Deion had trained and focused and coming into the end of the season from an injury, he was still ready for the premier football event in the world. Finishing the night with an NFL record-tying 11 receptions for 133 yards in the Super Bowl, he became just the fourth receiver in NFL history to receive the MVP award and is already being listed with greats like Jerry Rice and Dan Ross.

Mr. Speaker, Deion's team-first attitude and strong work ethic has paid off and we in Mississippi are proud of him and salute his continuing achievements. I know we will continue to see him excel in the future and all of us from Jones County, Mississippi will remember him for his years with us and salute his determination, skill and triumphs.

SERGEANT KEVIN BENDERMAN

**HON. CYNTHIA MCKINNEY**

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 28, 2005*

Ms. MCKINNEY. Mr. Speaker, I speak with you today about one of America's heroes, Sgt. Kevin Benderman. Sgt. Benderman is not a hero because he served a tour of duty in the Occupation of Iraq, though he did. He is not a hero because of the medals he was awarded, nor his ten years of honorable service in the U.S. Army.

No, Sgt. Kevin Benderman is a hero because when all around him are pressing forward to prosecute a violent war against the people of Iraq, Kevin Benderman had the courage to stand up and assert his heartfelt opposition to war.

Sgt. Benderman's opposition is not the theoretical if sincere opposition of a student peace activist. Kevin Benderman has seen things that none of God's children should have to endure. He was present when his superior ordered his unit to open fire on small children who were throwing rocks at the soldiers of his unit. He chased the hungry dogs from an open mass grave filled with the bodies of young children, old men and women. Kevin saw the burned child, crying in pain, while all around her ignored her injuries.

As he reflected on what he had experienced, he chose to not re-enlist, to not partici-

pate in a war and an institution that he could no longer square with his evolving yet sincerely held beliefs. But stretched by an immoral war, based on lies, beyond the limits of the resources afforded them, our military adopted a "stop loss order" policy to arbitrarily breach the contracts our nation made with those who serve in its military services.

So Kevin did what was necessary. He applied for Conscientious Objector status. His officers up the chain of command refused their duty to accept his application. His commander called him a coward. His unit chaplain refused to meet with him, writing by email that he was "ashamed" of Kevin. He was charged with "Desertion with Intent to Avoid Hazardous Duty" and "Missing Movement by Design". His preliminary hearings methodically violated every precept of substantive due process. He now faces a Court Martial on May 11 and the possibility of seven years in the stockade.

Every member of our Armed Forces raises their hands, as do we, and take an oath, as do we, to "defend the Constitution of the United States". That Constitution protects the "Right of Conscience", including the right to conscientiously object to war as an instrument of public policy. But given the climate we face right now, asserting such a right takes real courage. And it is the exercise of that courage which makes Sgt. Benderman a hero in my book.

It is a crime and a shame that while we are so busy working to expand freedom to other nations, we can't slow down to protect our precious freedoms among ourselves.

[From the Savannah Morning News, March 28, 2005]

DEFENSE LAWYER, INVESTIGATOR SQUARE OFF  
OVER BENDERMAN'S CONSCIENTIOUS OBJECTOR APPLICATION

(By John Carrington)

Filings and e-mails show that a 'non-adversarial' hearing over Sgt. Kevin Benderman's conscientious objector status was anything but cordial.

Sgt. Kevin Benderman poses with his wife Monica following Article 32 proceedings, a military court process similar to a preliminary hearing. Benderman, who has applied for conscientious objector status, has been charged with desertion for not deploying to Iraq with his unit.

The defense lawyer and the investigating officer for Sgt. Kevin Benderman's conscientious objector application apparently attended different hearings last month.

Both sides maintain they kept their cool during the hearing, saying the other side lost theirs, according to written recommendations and rebuttals released to the Savannah Morning News.

One thing is clear: a hearing that was, according to Army regulations, supposed to be a "non-adversarial" proceeding was anything but that.

Capt. Victor Aqueche, the Fort Stewart-appointed investigating officer, wrote in a recommendation memo following the hearing that Benderman was "argumentative" at times, and his demeanor "untactful" at others.

In his rebuttal, Maj. S. Scot Sikes, Benderman's military lawyer, said Aqueche at times became "agitated, snide and hostile" toward Benderman.

Sikes argued that Aqueche's "incestuous appointment" as investigating officer set the tone for this type of ill-willed ping-pong.

"(Aqueche) is assigned to the same battalion command," and consequently "was placed in the position of making a critical

determination regarding a soldier assigned to one of his colleague captain's own units," Sikes wrote.

In an interview Monday, Sikes said, "That bothered me. You know they're buds."

Aqueche did not respond to requests for comment.

Sikes also said Monday he knew the command looked at the timing of Benderman's request—just before he was scheduled to deploy—with suspicion. "But it should have not been so hostilely received."

That goes against the "non-adversarial" tone and tenor the application review is supposed to have, he said.

Sikes asked for a new hearing, a request he says was denied. He now has until Friday to file another rebuttal to Aqueche's response to the defense's initial rebuttal.

In early February, Sikes and Aqueche squared off almost immediately over the hearing's timing. It was scheduled the day after an Article 32 hearing to determine whether Benderman would face a general court-martial on charges he deserted and missed the January movement of his troops as they deployed to Iraq.

Sikes wanted a delay of a "mere" week. "Sgt. Benderman is very concerned that he cannot be adequately prepared for a hearing," Sikes wrote in a Feb. 3 e-mail attached to the rebuttal. "Preparations for the Article 32 cannot be overstated; it's very important."

Aqueche shot down the request with the following e-mail: "Sgt. Benderman made a conscious decision to take 14 days of leave prior to his Article 32 . . . A delay as such could be considered 'insincerity' on the part of Sgt. Benderman."

The investigation officer also said, "There is no preparation needed on Sgt. Benderman's behalf in order to answer questions regarding this application."

Yet Aqueche, in his March 23 recommendation memo, wrote, "I firmly believe Sgt. Benderman was not prepared for the in-depth questions presented during the CO hearing."

Aqueche's memo also said that, during the hearing, Benderman would consult with Sikes and then either refuse to answer questions—and question their relevancy to the application—or offer "vague" or delayed answers.

Sikes pointed out that, as Benderman's lawyer for both the court-martial charges and the conscientious objector application, he had to keep the sergeant from saying anything that could create more legal problems in the criminal case.

"And Aqueche made that out to be a negative thing," Sikes said Monday. "Anything Benderman says can be used against him in the court-martial. That puts me in a precarious position. There are some things I just could not let him answer."

The court-martial is scheduled for May 12. Sikes likes Benderman's chances on the desertion charges.

"It seems kind of silly to say he deserted over a weekend," the lawyer said Monday. "He was right there at his house, only 2 to 3 miles from the post."

Despite Aqueche's characterization of Benderman's demeanor during the hearing—and the captain's recommendation to deny the sergeant's application—Sikes also thinks Benderman will have better luck higher up the chain of command.

#### WHAT'S NEXT

Maj. S. Scot Sikes, Benderman's military lawyer, asked for a new hearing, a request he says was denied. He now has until Friday to file another rebuttal to Capt. Victor Aqueche's response to the defense's initial rebuttal.

## INTRODUCTION OF A RESOLUTION CELEBRATING THE 15TH ANNIVERSARY OF THE LAUNCH OF THE HUBBLE SPACE TELESCOPE

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 2005

Mr. UDALL of Colorado. Mr. Speaker, I rise today to introduce a resolution with my colleagues Mr. EHLERS, Chairman BOEHLERT, Ranking Member GORDON, Mr. ROSCOE BARTLETT, Mr. MCDERMOTT, and Mr. RUPPERSBERGER recognizing the contributions to science resulting from the Hubble Space Telescope and congratulating all those who have helped make Hubble one of the most important astronomical instruments in history.

On April 25, 1990, the Hubble Space Telescope was launched into orbit. In the years since the launch, Hubble has sent back images that have expanded our understanding of the universe beyond anyone's expectation. For the last fifteen years, school children, scientists, and interested citizens around the world have eagerly welcomed new images from Hubble—images that have provided an exciting keyhole into the wonders of our universe.

Hubble's scientific contributions have amazed us all for fifteen years. Just this week, NASA and the European Space Agency released images taken by Hubble of the largest and sharpest images of the Eagle Nebula and the Whirlpool Galaxy. Last year Hubble detected oxygen and carbon in the atmosphere of a distant planet, the first time the elements have been found at a world outside our solar system. Hubble also contributed to the finding of new evidence about recently discovered "dark energy." Hubble measured properties of light from 16 exploding stars, or supernovas, to find that the dark energy that pervades the universe might be what Einstein originally called the "cosmological constant." This discovery supports the theory that instead of ripping apart, the cosmos will continue expanding very slowly for at least the next 30 billion years.

These are just recent discoveries. Hubble remains one of the most productive scientific instruments in history, and certainly NASA's most productive scientific mission, accounting for 35 percent of all its discoveries in the last 20 years. The Hubble has provided proof of black holes, insights into the birth and death of stars, spectacular views of Comet Shoemaker-Levy 9's collision with Jupiter, the age of the universe, and evidence that the expansion of the universe is accelerating. In short, Hubble has become a symbol of scientific excellence.

In addition to its past and potentially future scientific discoveries, Hubble provides information used by approximately one million teachers per year across the U.S. Hubble has also opened up the wonders of space to our youth and to all our citizens. As we struggle to keep our students interested in the sciences, images from Hubble inspire our youth to continue to believe that they can become astronauts and astronomers. Hubble images have brought the wonders of space down to the level of the classroom.

Of course, Hubble could not have been the success it has been without the countless scientists, engineers, civil servants, contractors

and other individuals and organizations that built and launched Hubble and then utilized its images to great effect. They have all contributed to making Hubble the national treasure it is today. So this resolution is intended to honor them and their commitment to science and the benefits it brings to our country and our world.

The Hubble has provided inspiration worldwide to young and old, scientists and non-scientists alike. I hope my colleagues will join me in celebrating the 15th anniversary of the launch of the Hubble Space Telescope and the knowledge we have gained about our universe from this important astronomical instrument.

### RECOGNIZING JULIUS HARPER DAVIS

### HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 28, 2005

Mr. PICKERING. Mr. Speaker, recently, Millsaps College in Jackson, Mississippi dedicated Harper Davis Field to a man who coached there for 25 years, and who has built a lifetime legacy of service to sport and his fellow man across the state. Coach Harper Davis called the rededication of Millsaps' Alumni Field to him the "greatest honor of my life." And while leading the Millsaps Majors he built a record of 138–79–4 including an undefeated season in 1980, his life has much more to honor.

At age 17, Harper Davis left his Delta home in Clarksdale, Mississippi and enlisted in the U.S. Marines Air Corps as a pilot to serve his Nation in World War II. After the War was over, he was met at Texas Grand Prairie Air Station by Mississippi State University assistant coach Phil Dickens who had the Bulldogs' playbook in hand. Two days later they arrived in Starkville for two practices before his first game where Davis scored two touchdowns as MSU defeated Auburn 20–0. Two days of study and 2 days of practice were followed by 2 touchdowns. In addition, during those 2 days, Harper Davis met Camille, his future wife. He would go on to be named to the All-SEC team while at State where he also ran on the school's track team. He was co-captain of the football team, voted Best Athlete, President of the "M" Club and named "Mr. Mississippi State University." Additionally he was a member of the Kappa Sigma Fraternity, Omicron Delta Kappa, Blue Key and the Colonels Club.

He graduated from Mississippi State with a bachelor of science degree in business finance and mathematics in 1948, in 1962 earned a master's degree in education administration.

After leaving Mississippi State University, Harper Davis was a first-round draft choice of both the Chicago Bears of the National Football League and the Los Angeles Dons of the All-American League. Harper Davis played one year with the Dons before the league folded and then went on to play with the Bears as well as the Green Bay Packers. Many considered him the fastest man in the NFL.

Over the years, Harper Davis has coached the backfield at his alma mater as well as head coach at West Point High School, and