

and we have no objection to its passage.

However, I am concerned that this House has the time to debate this legislation, yet has been unable to pass a Labor-HHS-Education appropriations bill. H.R. 5331 focuses on protecting the educational records of home-schooled students. Unfortunately, by our inaction on the education budget, we have failed to provide vital funding that benefits the remaining 99 percent of our children, those who attend public schools.

President Bush's fiscal year 2003 budget provides for the smallest increase in education funding in the past 7 years. His budget provides only a 2.8 percent increase.

Mr. Speaker, Congress has increased the education budget by 15 percent annually over the past 7 years. President Bush's proposal is absolutely unacceptable, and our time today could be much better spent if we address that issue instead of an issue we all agree on. I support passage of this legislation, but believe that the American people would be better served by the passage of an education budget.

Mr. Speaker, I reserve the balance of my time.

Mr. TIBERI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, again I want to reiterate what the sponsor of this legislation, the gentleman from Minnesota (Mr. KENNEDY), has already said, and that is H.R. 5331 makes a technical correction to FERPA to ensure that the records of home-schooled students are treated in the same manner as all other public school students today. H.R. 5331 requires local school districts to treat the records of all students in the same manner and protect the privacy rights of all students. I urge Members to pass the Kennedy-sponsored bill, H.R. 5331.

Mr. Speaker, I yield back the balance of my time.

Ms. WOOLSEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing, I would like to remind Members that the President had a bipartisan vote on a bill called Leave No Child Behind. It was a good bill, but what the President forgot is we have to fund good bills. He is leaving 99 percent of our children behind by not including full funding for his bill in this budget.

Mr. BOEHNER. Mr. Speaker, I rise in support of H.R. 5331, which would extend educational and privacy rights currently available to families of public school students to home schooled children. I want to applaud my colleague from Minnesota, Representative MARK KENNEDY, for sponsoring this legislation and his continued commitment to the education of our nation's children. This bill provides an important opportunity for Congress to correct an oversight in the federal Family Educational Rights and Privacy Act of 1974 (FERPA) that has resulted in some school districts and states being unable to maintain the privacy of information collected from families who home school their children.

Under current law, FERPA protects the privacy of students who attend public school. However, many school districts and numerous States hold the private records of home-schooled students because these students are required by State law to register either with their State or local school district. A privacy problem arises from FERPA's definition of a student, which "does not include a person who has not been in attendance at such agency or institution." Therefore, under current law, the information of a home-schooled student who has never attend a public school is not protected under FERPA. Unless States or local school boards create their own rules restricting the release of home-schooled student information, public schools can freely disseminate a home-schooled student's private information.

By closing this loophole in the law, home-school student's records nationwide would be protected, including in Representative KENNEDY's home state of Minnesota, which classifies such information as public. FERPA should treat all students the same and not permit districts to disseminate publicly the records of some children, while protecting the records of others.

H.R. 5331 exemplifies the commitment that this Congress has shown to parents who choose to home school their children. I am proud to be a co-sponsor and urge my colleagues to vote yes on this legislation extending privacy protections to families of home-schooled students.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BROWN of South Carolina). The question is on the motion offered by the gentleman from Ohio (Mr. TIBERI) that the House suspend the rules and pass the bill, H.R. 5331.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### BLACK LUNG CONSOLIDATION OF ADMINISTRATIVE RESPONSIBILITY ACT

Mrs. BIGGERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5542) to consolidate all black lung benefit responsibility under a single official, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5542

*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 "Black Lung Consolidation of Administrative Responsibility Act".

#### SEC. 2. TRANSFER OF PART B BLACK LUNG BENEFIT RESPONSIBILITIES FROM COMMISSIONER OF SOCIAL SECURITY TO SECRETARY OF LABOR.

(a) IN GENERAL.—Part B of the Black Lung Benefits Act (30 U.S.C. 921 et seq.) other than section 415(b) (30 U.S.C. 925(b)) is amended by striking "Commissioner of Social Security" each place such term appears and inserting "Secretary".

#### (b) CONFORMING AMENDMENTS.—

(1) Section 402 of such Act (30 U.S.C. 902) is amended—

(A) in subsection (c), by striking "where used in part C" and inserting "except where expressly otherwise provided,";

(B) in subsection (f)(1), by inserting after "Secretary of Health, Education, and Welfare" the following: "which were in effect on the date of enactment of the Black Lung Consolidation of Administrative Responsibilities Act,";

(C) in subsection (f)(2)—

(i) by striking "which is subject to review by the Secretary of Health, Education, and Welfare," and inserting "arising under part B"; and

(ii) by striking the comma after "Secretary of Labor"; and

(D) in subsection (i), by amending paragraph (1) to read as follows:

"(1) for benefits under part B that was denied by the official responsible for administration of such part; or".

(2) Section 413(b) of such Act (30 U.S.C. 923(b)) is amended by striking "In carrying out the provisions of this part" and all that follows through "Social Security Act, but no" and inserting "No".

(3) Section 415 of such Act (30 U.S.C. 925) is amended—

(A) in subsection (a)—

(i) by striking paragraph (2);

(ii) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(iii) in paragraph (4) (as so redesignated), by striking "paragraph 4" and inserting "paragraph (2)"; and

(B) in subsection (b), by striking "after consultation with the Commissioner of Social Security,".

(4) Section 426 of such Act (30 U.S.C. 936) is amended—

(A) in subsection (a), by striking "the Commissioner of Social Security,"; and

(B) in subsection (b), by amending the first sentence to read as follows: "At the end of fiscal year 2003 and each succeeding fiscal year, the Secretary of Labor shall submit to the Congress an annual report on the subject matter of parts B and C of this title.".

(5) Public Law 94-504 (30 U.S.C. 932a) is amended by striking "under part C" and inserting "under part B or part C".

(c) REPEAL OF OBSOLETE PROVISIONS.—The following provisions of law are repealed:

(1) Section 435 of the Black Lung Benefits Act (30 U.S.C. 945).

(2) Sections 11 and 19 of the Black Lung Benefits Reform Act of 1977 (30 U.S.C. 924a, 904).

#### SEC. 3. TRANSITIONAL PROVISIONS.

(a) APPLICABILITY.—This section shall apply to the transfer of all functions relating to the administration of part B of subchapter IV (30 U.S.C. 901 et seq.) from the Commissioner of Social Security (hereinafter in this section referred to as the "Commissioner") to the Secretary of Labor, as provided by this Act.

(b) TRANSFER OF ASSETS, LIABILITIES, ETC.—

(1) The Commissioner shall transfer to the Secretary of Labor all property and records that the Director of the Office of Management and Budget determines relate to the functions transferred to the Secretary of Labor by this Act or amendments made by this Act.

(2) Section 1531 of title 31, United States Code, shall apply in carrying out this Act and amendments made by this Act, except that, for purposes of carrying out this Act and amendments made by this Act, the functions of the President under section 1531(b)

shall be performed by the Director of the Office of Management and Budget unless otherwise directed by the President.

(C) CONTINUATION OF ORDERS, DETERMINATIONS, ETC.—

(1) This Act shall not affect the validity of any order, determination, rule, regulation, operating procedure (to the extent applicable to the Secretary of Labor), or contract that—

(A) relates to a function transferred by this Act; and

(B) is in effect on the date this Act takes effect.

(2) Any order, determination, rule, regulation, operating procedure, or contract described in paragraph (1) shall—

(A) apply on and after the effective date of this Act to the Secretary of Labor; and

(B) continue in effect, according to its terms, until it is modified, superseded, terminated, or otherwise deprived of legal effect by the Secretary of Labor, a court of competent jurisdiction, or operation of law.

(d) CONTINUATION OF ADMINISTRATIVE PROCEEDINGS.—

(1) Any proceeding before the Commissioner involving the functions transferred by this Act that is pending on the date this Act takes effect shall continue before the Secretary of Labor, except as provided in paragraph (2).

(2) Any proceeding pending before an Administrative Law Judge or the Appeals Council pursuant to part B and the applicable regulations of the Secretary of Health and Human Services shall continue before the Commissioner consistent with the following provisions:

(A) Any proceeding described in this paragraph shall continue as if this Act had not been enacted, and shall include all rights to hearing, administrative review, and judicial review available under part B and the applicable regulations of the Secretary of Health and Human Services.

(B) Any decision, order, or other determination issued in any proceeding described in this subsection shall apply to the Secretary of Labor and continue in effect, according to its terms, until it is modified, superseded, terminated, or otherwise deprived of legal effect by the Secretary of Labor, a court of competent jurisdiction, or operation of law.

(C) Nothing in this paragraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(3) Any proceeding before the Secretary of Labor involving the functions transferred by this Act shall be subject to the statutory requirements for notice, hearing, action upon the record, administrative review, and judicial review that apply to similar proceedings before the Commissioner conducted prior to the enactment of this Act.

(e) CONTINUATION OF ACTIONS AND CAUSES OF ACTION.—

(1) Except as provided in paragraphs (2) and (3), this Act shall not abrogate, terminate, or otherwise affect any action or cause of action, that—

(A) relates to a function transferred by this Act; and

(B) is pending or otherwise in existence on the date this Act takes effect.

(2) Any action pending before the Commissioner or any court on the date this Act takes effect that involves a function transferred by this Act shall continue before the Commissioner or court consistent with the following provisions:

(A) Any proceeding described in this paragraph shall continue as if this Act had not been enacted.

(B) Any decision, order, or other determination issued in any proceeding subject to this paragraph shall apply to the Secretary of Labor and continue in effect, according to its terms, until it is modified, superseded, terminated, or otherwise deprived of legal effect by the Secretary of Labor, a court of competent jurisdiction, or operation of law.

(3) Any cause of action by or against the Commissioner that exists on the date this Act takes effect and involves any function transferred by this Act may be asserted by or against the Secretary of Labor or the United States.

(f) CONTINUATION OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Social Security Administration, and relating to a function transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against the Social Security Administration, or by or against any officer thereof in his official capacity, relating to a function transferred by this Act, shall abate by reason of enactment of this Act.

(g) PRESERVATION OF PENALTIES, ETC.—The transfer of functions under this Act shall not release or extinguish any penalty, forfeiture, liability, prosecution, investigation, or right to initiate a future investigation or prosecution involving any function transferred by this Act.

SEC. 4. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect 90 days after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Illinois (Mrs. BIGGERT) and the gentlewoman from California (Ms. WOOLSEY) each will control 20 minutes.

The Chair recognizes the gentlewoman from Illinois (Mrs. BIGGERT).

GENERAL LEAVE

Mrs. BIGGERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous information on H.R. 5542.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

Mrs. BIGGERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 5542, a bill to consolidate all of the administrative responsibilities related to the black lung benefits program within the Department of Labor. By eliminating overlapping and duplicative responsibilities between agencies, the bill will improve efficiency and ensure a continued high level of customer service for all beneficiaries.

Currently, the black lung benefits program is administered by the Division of Coal Mine Workers' Compensation in the United States Department of Labor. The bill provides monetary and medical benefits to former coal mine workers who are completely disabled by pneumoconiosis, a crippling respiratory condition.

When the program was enacted in 1969, the Social Security Administra-

tion, SSA, was given the initial responsibility for processing and paying claims. In 1972, however, amendments to the Act transferred responsibility for all new claims to the Department of Labor. Then, under a 1997 memorandum of understanding between DOL and SSA, all claims, including those filed with SSA prior to July 1, 1973, became the responsibility of the Department of Labor. The bill we consider today will formalize what has been the current practice and procedure since 1997.

I want to point out this program enjoys a high level of customer satisfaction. In fact, recent survey results and joint audits by the Offices of the Inspector General at SSA and DOL confirmed the quality of service provided to program beneficiaries.

While eliminating the confusion that can result when administrative responsibilities are divided between two agencies, this legislation will ensure that the beneficiaries continue to receive the highest quality of service. The legislation also implements a long-standing recommendation by the Inspectors General of SSA and DOL that the administrative responsibility for the program should be consolidated with DOL.

It is important to note, Mr. Speaker, that the legislation would retain all the regulations currently applicable to the beneficiaries' entitlement. In addition to the specific provisions regarding the transfer, the legislation provides that the Director of the Office of Management and Budget, in consultation with the heads of SSA and DOL, is authorized to make such determinations as may be necessary to accomplish the purposes of the bill.

Mr. Speaker, I would like to commend my colleague and sponsor of this bill, the gentlewoman from Pennsylvania (Ms. HART), for her work on this legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5542, the sole purpose of which is to consolidate the responsibility for the administration of the black lung benefits program in the Department of Labor.

Historically, the Social Security Administration has handled claims filed prior to 1973, while the DOL has handled claims filed since 1973. As the population served by the Social Security Administration has decreased because of age, the Department of Labor has, pursuant to memorandum of understanding, undertaken increased responsibility for the program. At this point it make sense to consolidate responsibility for the program in the Department of Labor.

Mr. Speaker, while I support this bill, I am disappointed that we are failing to deal with other issues, issues that would be more meaningful and benefit American workers. We have failed to increase an inadequate minimum wage.

We have failed to protect workers from abuses by managed care companies. We are impoverishing families who have exhausted their unemployment benefits by failing to provide extended benefits. In short, Mr. Speaker, we are not taking the steps we need to in order to protect working Americans.

While we should be doing much more, I have no objections to this very modest bill. I urge the adoption of H.R. 5542.

Mr. Speaker, I reserve the balance of my time.

Mrs. BIGGERT. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Pennsylvania (Ms. HART), the sponsor of this bill.

Ms. HART. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I am pleased to be the sponsor of H.R. 5542, the Black Lung Consolidation of Administrative Responsibilities Act, on behalf of the administration and on behalf of the Department of Labor. Initially outlined in the President's 2003 budget for the Department of Labor, this legislation will consolidate, as was said earlier, all of the responsibility for the administration of black lung benefits under one agency.

The black lung benefits program was enacted as part of the Coal Mine Health and Safety Act of 1969, the first comprehensive Federal legislation to regulate health and safety in the coal industry. The law created a temporary system to compensate victims of dust exposure in the mines with public funds administered by the Social Security Administration.

In 1972, the Coal Mine Health and Safety Act was amended to require the use of simplified interim eligibility for all claims filed with the Social Security Administration and to transfer new claims to the Department of Labor in 1973. The Office of Workers' Compensation Programs in the Department of Labor assumed responsibility for the processing and the paying of these new claims on July 1, 1973. Most of the claims filed prior to that date remained in the jurisdiction of the Social Security Administration until 1997.

On September 26, 1997, officials from the Social Security Administration and the Department of Labor signed a memorandum of understanding transferring the responsibility for managing all active Social Security Administration black lung claims to the Department of Labor. This change was aimed at eliminating any confusion about which Federal agency should handle the claims and also enhancing customer service to all black lung beneficiaries.

At present, the Department of Labor manages all Federal black lung claims, while formal appeals on Part B claims are referred to the Social Security Administration.

Mr. Speaker, there are a number of people who are beneficiaries of this program, a number in Pennsylvania, West Virginia and States surrounding

mine. In fact, I am a descendant of coal miners, as are many of my constituents in Western Pennsylvania. The goal for us is to make sure that this program continues to be administered in a very efficient way.

The Black Lung Consolidation of Administrative Responsibilities Act would simply transfer all of the responsibilities for the administration of claims under Part B of the Act to the Department of Labor, while retaining all regulations currently applicable to the beneficiaries' entitlements.

Besides improving administrative efficiency, this transfer of responsibilities will ensure the continuation of a high level of customer service to beneficiaries. Joint audits by the Office of the Inspector General of the Social Security Administration and the Department of Labor, as the gentlewoman from Illinois (Mrs. BIGGERT) stated, have confirmed the high quality of claims-related services provided by the Department of Labor. It only makes sense to consolidate these services under the Department of Labor.

Last year, in fact, the University of Michigan released the results of a customer satisfaction survey of beneficiaries receiving the services under the DOL and found the highest level of customer satisfaction of any Federal benefits program surveyed.

Finally, the legislation implements a long-standing recommendation by the Inspectors General of the Department of Labor and the Social Security Administration that the administrative responsibility for the Black Lung Benefits Act should be consolidated within the Department of Labor. This change would ensure the continuation of this high level of service to program beneficiaries, many of whom are elderly and unwell.

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While eliminating confusion and duplication of administration functions, it will also make sure that these beneficiaries continue to receive a high level of service. The Black Lung Consolidation of Administrative Responsibility Act is simply common sense and good government. In times like these when we find our budget is tight and we need to be very careful about our spending, this measure will continue to help us achieve that. I urge my colleagues to support this legislation.

Ms. WOOLSEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to remind my colleagues that although this is a good thing we are doing for Pennsylvania and co-workers that there are steps we are not taking to protect American workers. First of all, we have an inadequate minimum wage. We also have failed to reform managed care, and we have exhausted unemployment benefits for many, many of our workers who are part of this horrific economy that we are faced with. We must deal with the big picture also.

Mr. Speaker, I yield back the balance of my time.

Mrs. BIGGERT. Mr. Speaker, I yield myself such time as I may consume.

In closing, I would like again to commend my colleague and sponsor of this bill, the gentlewoman from Pennsylvania (Ms. HART), for her work on the legislation and to thank the chairman of the Committee on Education and the Workforce. And I urge my colleagues to support this commonsense bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BROWN of South Carolina). The question is on the motion offered by the gentlewoman from Illinois (Mrs. BIGGERT) that the House suspend the rules and pass the bill, H.R. 5542, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. BIGGERT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### RECOGNIZING THE CONTRIBUTIONS OF PATSY T. MINK

Mr. ISAKSON. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 113) recognizing the contributions of Patsy T. Mink, as amended.

The Clerk read as follows:

H.J. RES. 113

Whereas Patsy Takemoto Mink was one of the country's leading voices for women's rights, civil rights, and working families and was devoted to raising living standards and providing economic and educational opportunity to all Americans;

Whereas Patsy Takemoto Mink was a passionate and persistent fighter against economic and social injustices in Hawaii and across America;

Whereas Patsy Takemoto Mink was one of the first women of color to win national office in 1964 and opened doors of opportunity to millions of women and people of color across America;

Whereas Patsy Takemoto Mink won unprecedented legislative accomplishments on issues affecting women's health, children, students, and working families; and

Whereas Patsy Takemoto Mink's heroic, visionary, and tireless leadership to win the landmark passage of title IX of the Education Amendments of 1972 opened doors to women's academic and athletic achievements and redefined what is possible for a generation of women and for future generations our Nation's daughters: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.; P.L. 92-318) may be cited as the "Patsy Takemoto Mink Equal Opportunity in Education Act".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. ISAKSON) and the gentlewoman from California (Ms. WOOLSEY) each will control 20 minutes.