

being held up. Good legislation, such as anti-counterfeiting and film preservation, is also not moving forward again, for reasons completely unrelated to the substance of the bills.

As disappointed as I am about this, I am encouraged by the good faith bipartisan work that has occurred among my staff and the staffs of my colleagues. I want to thank Senators FEINSTEIN, LEAHY, HATCH and BIDEN for their assistance and support, and mostly, I want to thank their staffs for their dedication, hard work and long hours devoted to this effort.

I especially would like to note Senator LEAHY's diligence and dedication to this cause, and willingness to pass over legislation he introduced and believes to be important in deference to the greater cause of passing a larger bipartisan package that would have protected copyrighted works, but for the senseless and unneeded obstacles placed before it.

I am confident that when we take this legislation up in the 109th Congress, we will pass it and I look forward to working with these Senators and others to accomplish that goal.

#### ELECTION REFORM

Mr. DODD. Mr. President, yesterday the Leadership Conference on Civil Rights, along with Common Cause and the Century Foundation, sponsored the first comprehensive public review of election day issues, including a review of the implementation of certain provisions of the Help America Vote Act, HAVA, bipartisan legislation I was pleased to coauthor in the 107th Congress. Numerous other organizations are also planning similar reviews, including the distinguished ranking member of the House Judiciary Committee, Congressman JOHN CONYERS, who is hosting a forum on election day issues today on the House side. As the primary Senate author of HAVA, I welcome these reviews and believe that Congress can learn much from them in terms of whether HAVA is working as intended.

Following the debacle of the 2000 Presidential election, I sought the input and counsel of the Leadership Conference and countless other civil rights, disability, language minority, and voting rights groups to fashion legislation which would ensure that every eligible American voter would have an equal opportunity to cast a vote and have that vote counted. Our efforts, and the efforts of others, produced the Help America Vote Act. HAVA has been hailed as the first civil rights law of the 21st century, and I am committed to ensuring that it is fully implemented as such.

The results of the 2004 Presidential election have not been contested in the same manner as those of the 2000 election. However, the jury is still out on whether HAVA successfully addressed the problems that arose in the 2000 election. While I believe there is still

much work to do to ensure the franchise for all Americans, I am confident that without HAVA, thousands of eligible American voters would not have been able to cast a vote, nor have their vote counted, in the November 2004 Presidential election.

It is important to remember that HAVA is not yet fully implemented. In some respects, the most important reforms have yet to be implemented by the States. These reforms include mandatory uniform and nondiscriminatory requirements that all voting systems provide second-chance voting for voters, be fully accessible to the disabled, provide for a permanent paper record for manual audits, and establish standards for what constitutes a vote and how such a vote will be counted for each type of voting system used by a State.

Additional reforms, which must be implemented by 2006, include the establishment of a computerized statewide voter registration list which must contain the name and registration information for every eligible voter in a State. Most importantly, the statewide database must be available electronically to every State and local election official, ensuring access to voter information at the polling place on election day. Had these additional reforms been in place this November, many of the election day problems that arose across the country could have been avoided or resolved at the polling place.

But what we do know is that HAVA's requirement that all States shall provide a provisional ballot to voters who are challenged at the polls, for any reason, ensured the franchise for thousands of Americans on November 2 this year. Although many States had forms of provisional ballots, HAVA requires that any voter who is willing to affirm that he or she is registered in the jurisdiction where they want to vote, and are eligible to vote in that election, must be allowed to cast a provisional ballot for the Federal offices in that jurisdiction. In Ohio alone, 155,000 voters cast provisional ballots, of which an estimated 77 percent were counted. That represents over 119,000 thousand American voters who otherwise might not have been able to cast a vote or have their vote counted, but for HAVA.

Some States, including Ohio, attempted to restrict the right to a provisional ballot, but were ultimately unsuccessful. The Federal Court of Appeals for the 6th Circuit of the United States affirmed the absolute right to receive a provisional ballot, without any additional requirements, in the decision of *Sandusky vs. Blackwell* decided on October 26, just one week prior to the election. That decision upheld the right of an individual voter to seek judicial redress of the rights conferred by HAVA and confirmed the absolute right of a challenged voter to receive a provisional ballot. I was pleased to file an *amici curiae* brief, along with my distinguished colleague, Congressman STENY HOYER, in this

case in which we urged the court to affirm and enforce these rights.

As with any comprehensive civil rights legislation, HAVA's reach and effectiveness will have to be hammered out by the courts. As that process plays out, coupled with the States' implementation of the remaining HAVA reforms, we will be in a better position to assess whether this landmark legislation hit the mark or needs further reform.

In order to assist Congress in assessing the effectiveness of HAVA, specifically with regard to the implementation of the provisional ballot requirement, I have requested that the GAO conduct and compile a nationwide review of state implementation of this provision. In particular, I have asked the GAO to compile data on the number of provisional ballots cast in the 2004 election, the number of provisional ballots counted, the number not counted and the reasons such provisional ballots were not counted. While it is already clear that the States are implementing this provision in significantly differing manners, it is troublesome that whether a Federal ballot is counted or not depends upon State law.

Efforts such as the conference and forum this week, and others to occur in the coming weeks, are vital to understanding the full impact of HAVA and its limitations. Although some weaknesses in HAVA are already apparent, and it would be my intent to introduce legislation early in the 109th Congress to address these weaknesses to better ensure HAVA's effectiveness, it is through conferences and forums such as these that Congress can assess what further reforms are needed.

At some point, we must ask ourselves whether we can ever truly ensure an equal opportunity to cast a vote and have our votes counted for all Americans when our elections are administered by 55 different State and territorial governments through over 10,000 local jurisdictions in a decentralized manner. Even in light of HAVA's farreaching reforms, this Nation is almost unique in its administration of Federal elections at the local level. Even under HAVA, States and localities have broad, but not absolute, discretion in how they implement HAVA. Similarly, the voting system standards which the Federal Election Assistance Commission will issue, pursuant to HAVA, remain voluntary only.

This discretion played out quite differently across this Nation with respect to whether provisional ballots, once cast, were actually counted. It is time to consider whether, for Federal elections, there is a national responsibility to ensure that no matter where and how a ballot is cast for the Office of the President of the United States, all Americans will have confidence that their vote was cast and counted in a uniform and nondiscriminatory way.

The Help America Vote Act is historic landmark legislation that comprehensively defines, for the first time

in this Nation's history, the role of the Federal Government in the conduct of Federal elections. It was an important first step. I look forward to working with my colleagues and the civil rights, disability, language minority, and voting rights communities, as well as State and local election officials, to continue our work to ensure that all Americans have access to the most fundamental right in a representative democracy: the right to cast a vote and have that vote counted.

#### RETIREMENT OF SENATOR ERNEST F. HOLLINGS

Mr. INOUE. Mr. President, I rise to join my colleagues in tribute to Senator ERNEST "FRITZ" HOLLINGS. I will miss my good friend from South Carolina, who in 2003, at the age of 81, finally became his State's senior senator—after 36 years as a junior Senator.

In addition to being remembered as a coauthor of the Gramm-Rudman-Hollings legislation that cut tens of billions of dollars from the Federal budget deficit, FRITZ HOLLINGS has left an indelible mark on our nation in the areas of health care, environmental protection, resource conservation, technology development, job creation, transportation security, and law enforcement, to name a few.

Immediately after the September 11, 2001, terrorist attacks on America, Senator HOLLINGS worked to protect the safety of our traveling public by authoring the Aviation Security Act which created the Transportation Security Administration. Similarly, recognizing that America's ports and borders were our Nation's weak security links, Senator HOLLINGS championed legislation to increase security at America's ports.

As the father of the National Oceanic and Atmospheric Administration, Senator HOLLINGS recognized the extent to which the ocean environment sustains us—from human uses in commerce and recreation to being the original cradle of life on our planet. He knew the importance of taking appropriate steps to be responsible stewards of this rich, yet fragile resource.

His oceans legacy includes authorship of the National Coastal Zone Management Act of 1972, which established Federal policy for protecting coastal areas, and the Marine Mammal Protection Act, which also became the model for other countries, for the protection of dolphins, sea otters and other mammals. In a continuing effort to do what is best for our ocean environment, Senator HOLLINGS created the U.S. Commission on Ocean Policy in 2000, to review the accomplishments of the last 30 years, and recommend actions for the future. Upon the issuance of the report, Senator HOLLINGS laid the groundwork for legislation to adopt the recommendations of the Ocean Commission. I am the proud cosponsor of two of those measures, S. 2647, the

Fritz Hollings National Ocean Policy and Leadership Act, and S. 2648, the Ocean Research Coordination and Advancement Act.

Beyond the oceans, Senator HOLLINGS worked to make our communities and schools safer, through programs such as Community Oriented Policing Services, COPS, that put more than 100,000 police officers on the streets in 13,000 communities across the country. The COPS program is also the largest source of dedicated funding for interoperable communications for public safety officers.

Senator HOLLINGS brought competition to the telecommunications arena which resulted in new services to consumers at affordable rates.

I will miss Senator HOLLINGS' wisdom, vision, and wit, but mostly his friendship.

I wish FRITZ and his wife Peatsy a fond aloha.

Mr. DODD. Mr. President, I rise to discuss the FY 2005 omnibus appropriations bill, which the Senate passed late last month and the President signed into law earlier today.

When this legislation was considered by the Senate, I cast my vote in opposition. At that time, I stated several reasons for my vote. I rise today to state several additional reasons for my vote—reasons which have come to light only upon a more thorough examination of this legislation.

First, the omnibus appropriations bill underfunds educational activities in the No Child Left Behind Act by approximately \$8 billion relative to authorized funding levels. It underfunds activities under Title I—which assist low-income school districts—by over \$7.7 billion. The bill also underfunds activities authorized in the Individuals with Disabilities Education Act by over \$10 billion. By denying localities adequate Federal support with which to raise school standards, student achievement, and infrastructure standards, we are denying millions of children and their families across the country the educational resources they need to succeed in a competitive world. We are denying them teachers. We are denying them tutors. We are denying them important components of the academic curricula—components that include art, foreign language, physical education, and music. Without these resources, our children are going to continue to struggle to keep up with children of other nations in educational achievement and proficiency.

Moreover, this legislation freezes the maximum Pell grant for low-income students who plan to attend college to \$4,050 for the third year in a row. It also does not include a necessary recalculation of eligibility requirements—an oversight that will cause up to 90,000 low-income students across this country to lose this vital resource for paying tuition costs. That oversight will also reduce the amount of a Pell Grant by an average of \$300 for about one million students. The Pell Grant is the

cornerstone of the Federal financial aid system that provides affordable college access for thousands of American students who otherwise could not advance their education. In an era of growing inflation and skyrocketing tuition costs, we should be encouraging and not denying our students' chances of achieving the American dream through education and hard work.

Second, the bill does a poor job of making the needs of disadvantaged children and families a priority. Head Start, for example, has received \$6.9 billion—a slight increase over the previous year, but only enough to reach and meet the needs of 60 percent of eligible young children. Inadequate investment levels have also been provided for important initiatives, such as the Child Care Development Block Grant and Community Health Centers, both of which provide vital services that ensure the health and well-being of disadvantaged families and their children. We all know that high-quality child care and health services for the poor continue to be in scarce supply or simply unavailable, unaffordable, and of dubious quality. Instead of trying to rectify these growing challenges, we are only exacerbating the problems faced by millions of Americans in urban, suburban, and rural areas.

Third, the omnibus bill severely cuts important housing and community development services—particularly those services that assist low-income and elderly individuals. While the Department of Housing and Urban Development has received a meager 2 percent increase, the Section 8 voucher initiative has received inadequate investment, the Fund for Elderly Housing has been cut by \$30 million over last year's funding level, Housing for People with AIDS has been cut by \$11 million over last year's funding level, and the Community Development Block Grant—an important initiative that has assisted dozens of distressed municipalities in my State—has been slashed by \$212 million over the fiscal year 2004 level. In addition, the HOPE VI initiative, which has assisted in the redevelopment of public housing complexes across the country, has been cut by 75 percent over the past 4 years. Many municipalities in my State, including Danbury, Hartford, Middletown, New Haven, and Stamford have benefitted from HOPE VI resources totaling over \$142 million to demolish deficient facilities and build quality affordable housing. Without this vital support, many of my constituents would have been denied the opportunity to live in decent and safe housing. I find it shameful that this bill fails to provide the resources that help Americans fulfill one of their most basic needs: a decent shelter over their heads.

Fourth, the omnibus bill, in my view, discourages positive job growth and business expansion. This administration and Congress have talked endlessly about helping people find work