

legal doctrine that unfairly penalizes thousands of workers in Connecticut and in other States throughout the country whose only offense is that they sometimes work from home.

Technology has changed the way business is conducted in America. With the use of cell phones, lap-top computers, email, the Internet, mobile networking, and many other telecommunication advancements of the 21st century, Americans have a greater flexibility in where they can work without compromising productivity. Many citizens now choose to work from home or alternative offices when their physical presence is not necessary at their primary place of work.

Telecommuting provides enormous benefits for businesses, families, and communities. It helps businesses lower costs and raise worker productivity. It reduces congestion on our roads and rails, and in so doing it lowers pollution. It helps workers better manage the demands of work and family. And last but not least, it can mean lower income taxes.

Yet, the many benefits to workers of telecommuting are today placed in jeopardy because of current law in New York. Today, New York State requires that workers pay income tax on income even if it is not earned in the State through their "convenience of the employer" rule. While there are several States that have the "convenience of the employer" rule, no other State applies it with the same rigor as New York.

New York's "convenience of the employer" rule requires that by working for a New York employer, all income earned from that employer must be declared in New York so long as the worker "could" perform his or her duties in New York. A worker for a New York employer who works part-time from home in Connecticut or another State is still subject to taxation by New York on 100 percent of his or her income. At the same time, the work done by that worker in a State outside New York is subject to taxation by that State.

This unfairly subjects many workers who telecommute from their homes or from satellite offices outside of New York to a double tax on that part of the income earned from home. According to Connecticut's Attorney General, thousands of Connecticut residents alone are affected by this unfair double taxation.

This potential for double taxation is not only unfair, but it is an incentive for workers not to telecommute, when what we should be doing is providing an incentive to encourage telecommuting.

Legislation is needed to protect these honest workers who deserve fair and equitable treatment under the law. The Telecommuter Tax Fairness Act of 2004 does this specifically by preventing a state from engaging in the current fiction of deeming a nonresident to be in the taxing State when the nonresident

is actually working in another State. In doing so, it will eliminate the possibility that citizens will be double-taxed when telecommuting.

Establishing a "physical presence" test—as this legislation would do—is the most logical basis for determining tax status. If a worker is in a State, and taking advantage of that State's infrastructure, the worker should pay taxes in that State.

Some suggest that the double-taxation quandary can easily be fixed by having other States provide a tax credit to those telecommuters. However, why should Connecticut, or any other State, be required to allow a credit on income actually earned in the State? If a worker is working in Connecticut, he or she is benefiting from a range of services paid for and maintained by Connecticut including roads, water, police, fire protection, and communications services. It's only fair that Connecticut ask that worker to help support the services that he or she uses.

This is not just an issue which deals with a small group of citizens from one small State. Rather, this is an issue which affects workers all over the country. It will only grow more pressing as people and businesses continue to seek to take advantage of new technologies that affect the way we live and work.

I hope our colleagues will favorably consider this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2785

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 "Telecommuter Tax Fairness Act of 2004".

SEC. 2. PROHIBITION ON DOUBLE TAXATION OF TELECOMMUTERS.

(a) IN GENERAL.—Chapter 4 of title 4, United States Code, is amended by adding at the end the following new section:

"§ 127. Prohibition on double taxation of telecommuters and others who work at home

"(a) PHYSICAL PRESENCE REQUIRED.—

"(1) IN GENERAL.—In applying its income tax laws to the salary of a nonresident individual, a State may only deem such nonresident individual to be present in or working in such State for any period of time if such nonresident individual is physically present in such State for such period and such State may not impose nonresident income taxes on such salary with respect to any period of time when such nonresident individual is physically present in another State.

"(2) DETERMINATION OF PHYSICAL PRESENCE.—For purposes of determining physical presence, no State may deem a nonresident individual to be present in or working in such State on the grounds that such nonresident individual is present at or working at home for the nonresident individual's convenience.

"(b) DEFINITIONS.—As used in this section—

"(1) STATE.—The term 'State' includes any political subdivision of a State, the District

of Columbia, and the possessions of the United States.

"(2) INCOME TAX.—The term 'income tax' has the meaning given such term by section 110(c).

"(3) INCOME TAX LAWS.—The term 'income tax laws' includes any statutes, regulations, administrative practices, administrative interpretations, and judicial decisions.

"(4) NONRESIDENT INDIVIDUAL.—The term 'nonresident individual' means an individual who is not a resident of the State applying its income tax laws to such individual.

"(5) SALARY.—The term 'salary' means the compensation, wages, or other remuneration earned by an individual for personal services performed as an employee or as an independent contractor.

"(c) NO INFERENCE.—Nothing in this section shall be construed as bearing on—

"(1) any tax laws other than income tax laws,

"(2) the taxation of corporations, partnerships, trusts, estates, limited liability companies, or other entities, organizations, or persons other than nonresident individuals in their capacities as employees or independent contractors,

"(3) the taxation of individuals in their capacities as shareholders, partners, trust and estate beneficiaries, members or managers of limited liability companies, or in any similar capacities, and

"(4) the income taxation of dividends, interest, annuities, rents, royalties, or other forms of unearned income."

(b) CLERICAL AMENDMENT.—The table of sections of such chapter 4 is amended by adding at the end the following new item:

"127. Prohibition on double taxation of telecommuters and others who work at home."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 420—RECOMMENDING EXPENDITURES FOR AN APPROPRIATE VISITORS CENTER AT LITTLE ROCK CENTRAL HIGH SCHOOL NATIONAL HISTORIC SITE TO COMMEMORATE THE DESEGREGATION OF LITTLE ROCK CENTRAL HIGH SCHOOL

Mr. PRYOR (for himself and Mrs. LINCOLN) submitted the following resolution; which was referred to the Committee on Energy and Natural Resources:

S. RES. 420

Whereas the United States recognizes that in September 1957, 9 young students changed the course of American history by claiming the right to receive an equal education;

Whereas Ernest Green, Elizabeth Eckford, Jefferson Thomas, Terrence Roberts, Carlotta Walls, Minnijean Brown, Gloria Ray, Thelma Mothershed, and Melba Pattillo, known as the "Little Rock Nine", and their parents had the courage necessary to break the bonds of prejudice and desegregation and venture onto the world stage, with full knowledge of the perils and complexities inherent in their endeavor;

Whereas despite their effort to enroll at Little Rock Central High School and receive an education, the Little Rock Nine were met with severe adversity;

Whereas Little Rock Central High School became not only a crucial battleground in

the struggle for civil rights, but symbolic of the United States Government's commitment to eliminating separate systems of education for African-Americans and Caucasians;

Whereas the enrollment of the Little Rock Nine was recognized by Dr. Martin Luther King, Jr. as such a significant event in the struggle for civil rights that he attended the graduation of the first African-American from Little Rock Central High School;

Whereas the sacrificial accomplishments that were made in September 1957 have continuing benefits for the United States today;

Whereas the United States will always revere the accomplishments that 9 young high school students made by showing the Nation and the world that "all men are created equal" and the rule of law is paramount in the democracy of the United States;

Whereas the Little Rock Nine were forced to obtain the blessings of liberty that are inherent in the United States Constitution through the intervention of the judicial branch and executive branch of the United States Government;

Whereas existing visitor facilities at Little Rock Central High School are inadequate, resulting in limited opportunities for citizens to learn about civil rights and our Nation's heritage; and

Whereas the legislative branch of the United States Government has the opportunity to appropriately commemorate the legacy that these heroic individuals left by fully funding the design and construction of an informative memorial: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the courage displayed by the Little Rock Nine should be commemorated as an example of American sacrifice through extreme adversity;

(2) Congress should fully fund the design and construction of a visitor center at Little Rock Central High School National Historic Site; and

(3) the new facilities should open by September 2007 in order to commemorate the 50th anniversary of the historic events that occurred at Little Rock Central High School.

Mr. PRYOR. Mr. President, this year marks the 50th anniversary of Brown v. The Board of Education of Topeka, Kansas, easily one of the most significant legal decisions in American history. But today I want to talk about another anniversary that is rapidly approaching, and that is an anniversary that flows directly from the Brown decision. I am speaking of the Little Rock Central High desegregation crisis which occurred in 1957. The 50th anniversary will be here in a couple of years, 2½ years, in 2007.

I come to the floor today to speak on behalf of the so-called Little Rock Nine and to share their story of determination and opportunity. I come to the floor also to urge my colleagues to join me in this effort to help fully support the planned Little Rock Central High Museum and Visitors Center and get it back on track so it will be up and running to host the 50th anniversary of the Little Rock Central High crisis.

Let me remind my colleagues that it is just as important today that we spend time understanding the civil rights struggle and the civil rights movement in this country as it was in 1957. I am thrilled to have the support, the encouragement, and the assistance

of the Congressional Black Caucus chairman, Elijah Cummings.

As you know, Brown did not erase the hatred and the prejudice that Black families face in this country. One of the most dramatic examples of that occurred on September 24, 1957, when President Dwight Eisenhower ordered Federal troops to Little Rock, AR, to allow nine Black children to attend the all-White Little Rock Central High School.

In fact, if one looks back on 1957, the two largest world news stories that year were Sputnik and the events surrounding Central High School in Little Rock. The Little Rock Nine changed the course of American history by claiming their right to receive an equal education.

These students were Ernest Green, Elizabeth Eckford, Gloria Ray Karlmark, Carlotta Walls Lanier, Minnijean Brown Trickey, Terrence Roberts, Jefferson Thomas, Thelma Mothershed Wair, and Melba Pattillo Beals.

Of her experience, Melba Pattillo Beals recalls:

I had to become a warrior. I had to learn not how to dress the best, but how to get from that door to the end of the hall without dying.

These are very serious times. Another one of the Little Rock Nine, Ernest Green, explains why the Little Rock Nine sacrificed their innocence for a chance at a better education. He said:

We wanted to widen options for ourselves and later for our children.

Well, Mr. Green went on to become the first black student to graduate from Arkansas Central High. He later served as Assistant Secretary of Housing and Urban Affairs under President Jimmy Carter and as vice president of Lehman Brothers.

Without his courage and determination and those of the Little Rock Nine in 1957, those opportunities would never have been available to him.

Turning opportunity into achievement is what civil rights pioneer Daisy Bates had in mind for the Little Rock Nine when she encouraged them to do the unthinkable. As a story, Little Rock Central High has all the elements of a great story, starting with the premise in the Declaration of Independence where it says all men are created equal.

Those words, penned by Thomas Jefferson, resonate throughout American history, but in 1954 the U.S. Supreme Court came down with the Brown decision where it said that separate but equal is not constitutional, and we need to change our American educational system "with all deliberate speed."

There was a Governor in my State who was committed to States rights, and he was determined to stop any changes at Little Rock Central. There was a President who was seeing his duty as one of having to enforce Federal law even against a State's will.

There was a nation torn apart by race and searching for a new and sound public policy and public philosophy for civil rights for all Americans. There was a city, a State, and a region that got caught up in the events, and the emotions oftentimes, and there were dozens of local leaders who were working at odds and at cross-purposes, many with their own personal and political agendas, some trying to build and some trying to destroy.

Then, of course, in the center of the hurricane there were the nine black children, showing superhuman courage, facing incalculable odds but striking a severe blow at one of the worst injustices in American history.

I recommend to my colleagues that if they want to read more about this crisis, they can read Harry Ashmore's history of Arkansas, or Roy Reed's "Faubus." Both give an excellent coverage.

Little Rock Central High School today is a symbol. It at the same time symbolizes the best and the worst in American history. It simultaneously stands as a living monument to our dark past and to our bright future. It also stands for progress because Little Rock Central High School has been a remarkable school since 1957. It is consistently acknowledged as one of the best American high schools that we have in this country today.

In fact, I had the privilege in the late 1970s of attending Little Rock Central High School. I think I am the only Member of Congress who actually went to that school. I am very proud of being there and proud of all of the things that school stands for.

Little Rock Central High was designated as a unit of the National Park Service in 1998. In fact, in 2002 more than 24,000 people visited this historic site. They expect probably 60,000 by the year 2007. Unfortunately, the interim visitors center is only 500 square feet. One can slice it or dice it however they want to say it, but it is simply too small to house the significant history there and tell all the stories. In fact, if it was jam packed, it would only have room for about 35 people.

I was there for the 40th anniversary of the Central High crisis when President Bill Clinton and Governor Mike Huckabee symbolically opened the door for the Little Rock Nine. We are going to have another commemoration in 2007, the 50th anniversary of the crisis. I want to invite my colleagues to help join me in making sure we get the extra \$5.8 million necessary to make this museum and visitors center a reality.

The last thing I would like to say is it took nine young high school students to prove to our Nation that all men are created equal and that the rule of law is paramount in democracy of the United States. Today, children all over America have the right to learn because of the courage and sacrifice the Little Rock Nine made, and I am here today asking for my colleagues to help us all recognize what

the Little Rock Nine did and acknowledge them by allowing this visitors center to be built.

I am submitting a resolution as we speak, and I ask my colleagues to sign on if they would like to. Also, I ask unanimous consent that Senator LINCOLN be added as the first original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 421—EXPRESSING OUTRAGE AT THE RECENT TERRORIST ATROCITIES IN BESLAN, RUSSIAN FEDERATION, AND CONDOLENCES TO THE FAMILIES OF THE FAMILIES

Mr. DASCHLE (for himself, Mr. BIDEN, Mr. SANTORUM, Mr. MCCONNELL, and Mr. LOTT) submitted the following resolution; which was considered and agreed to:

Whereas on Wednesday, September 1, 2004, a group of approximately 30 terrorists took control of School No. 1, located in Beslan, North Ossetia, Russian Federation, and held approximately 1,200 Russians hostage;

Whereas the terrorists reportedly infiltrated the school and stockpiled weapons and explosives during the ongoing renovation of the school;

Whereas the terrorists held the captives for more than 50 hours, and denied the captives, including the children, access to food, water, and medicine;

Whereas the terrorists rigged the school with explosives, including a large bomb in the center of the gymnasium where the hostages were being held, and strapped suicide bombs to themselves;

Whereas children, parents, and teachers who attempted to flee, or to assist the hostages that attempted to escape, were shot by the terrorists;

Whereas on September 3, 2004, Russian troops and the Beslan hostage-takers exchanged gun fire, a bomb exploded that collapsed the roof of the school, the terrorists began killing the hostages, and massive loss of life ensued;

Whereas this horrendous terrorist action left more than 300 people dead, many of them children, as well as hundreds more who are severely wounded or unaccounted for;

Whereas the Russian people, as a result of this and other attacks in recent weeks, have experienced incredible loss and are experiencing immense grief as they begin the process of burying their loved ones killed by the actions of these terrorists; and

Whereas the United States has sent medical supplies and has offered its moral support to the Russian people in response to the terrorist attack at School No. 1: Now, therefore, be it

Resolved, That the Senate—

(1) condemns in the strongest possible terms this despicable act;

(2) expresses its condolences to the Russian people and in particular to those families who lost loved ones in the Beslan school tragedy; and

(3) commends the efforts of the United States Government to provide humanitarian and medical assistance to the people of the Russian Federation.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3594. Mrs. MURRAY submitted an amendment intended to be proposed by her

to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table.

SA 3595. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3596. Mrs. MURRAY (for herself, Mr. NELSON, of Florida, Mrs. CLINTON, Mr. SCHUMER, Ms. MIKULSKI, Mr. KENNEDY, Mrs. BOXER, Ms. CANTWELL, Mr. GRAHAM, of Florida, Ms. LANDRIEU, Mr. DODD, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by her to the bill H.R. 4567, supra.

SA 3597. Mr. BYRD (for himself, Mr. LEAHY, Mr. REID, Mrs. CLINTON, Mr. ROCKEFELLER, Mr. DASCHLE, Mr. LIEBERMAN, Mr. KENNEDY, and Mr. CORZINE) proposed an amendment to the bill H.R. 4567, supra.

SA 3598. Mr. ENSIGN (for himself, Mr. BOND, Mr. REID, Mr. KYL, Mr. CORNYN, Mrs. HUTCHISON, Mr. CORZINE, Mr. NELSON, of Florida, Mr. CHAMBLISS, Mr. MILLER, Mr. GRAHAM, of Florida, Mr. BURNS, Mr. ROBERTS, Mrs. FEINSTEIN, Mrs. BOXER, Mrs. CLINTON, Mr. WARNER, Mr. DURBIN, Ms. LANDRIEU, Mr. CAMPBELL, and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3599. Mr. ALEXANDER (for himself and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3600. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3601. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3602. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3603. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3604. Mr. DODD (for himself, Ms. STABENOW, Mr. KENNEDY, Mr. LEVIN, Mr. DASCHLE, and Mr. CORZINE) proposed an amendment to the bill H.R. 4567, supra.

SA 3605. Mr. REED submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3606. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3607. Mr. NELSON, of Florida (for himself and Mr. GRAHAM, of Florida) proposed an amendment to the bill H.R. 4567, supra.

SA 3608. Mr. ALEXANDER (for himself, Mr. COLEMAN, Mr. ENSIGN, Mr. ENZI, Mr. ALLEN, Mr. BUNNING, Mr. SCHUMER, and Ms. LANDRIEU) proposed an amendment to the bill H.R. 4567, supra.

SA 3609. Mrs. BOXER (for herself, Mrs. FEINSTEIN, Mr. REID, Mr. LEVIN, Mrs. CLINTON, Mr. ROCKEFELLER, and Mr. CORZINE) proposed an amendment to the bill H.R. 4567, supra.

SA 3610. Mr. ALLEN (for himself and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra.

SA 3611. Ms. MIKULSKI submitted an amendment intended to be proposed by her to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3612. Mr. HARKIN (for himself and Mr. BIDEN) proposed an amendment to the bill H.R. 4567, supra.

SA 3613. Mr. VOINOVICH (for himself, Ms. SNOWE, Mr. HARKIN, Mr. DEWINE, Mr. FEINGOLD, and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3614. Ms. COLLINS (for herself and Mr. PRYOR) submitted an amendment intended to be proposed by her to the bill H.R. 4567, supra; which was ordered to lie on the table.

SA 3615. Mr. SCHUMER (for himself, Mrs. CLINTON, and Mr. CORZINE) proposed an amendment to the bill H.R. 4567, supra.

TEXT OF AMENDMENTS

SA 3594. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table; as follows:

On page 21, line 7, strike “not to exceed 10 percent of”.

SA 3595. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, between lines 5 and 6, insert the following:

SEC. 515. Of the amount appropriated by title II for the Office of the Under Secretary for Border and Transportation Security under the heading “AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT”, \$5,000,000 shall be available for a pilot project to test interoperable communications between the first Northern Border Air Wing, Bellingham, Washington, and local law enforcement personnel.

SA 3596. Mrs. MURRAY (for herself, Mr. NELSON, of Florida, Mrs. CLINTON, Mr. SCHUMER, Ms. MIKULSKI, Mr. KENNEDY, Mrs. BOXER, Ms. CANTWELL, Mr. GRAHAM, of Florida, Ms. LANDRIEU, Mr. DODD, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by her to the bill H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; as follows:

On page 39, between lines 5 and 6, insert the following new section:

SEC. 515. The total amount appropriated by title III for the Office of State and Local Government Coordination and Preparedness under the heading “STATE AND LOCAL PROGRAMS” is hereby increased by \$300,000,000. Of such total amount, as so increased, \$1,500,000,000 shall be available for discretionary grants for use in high-threat, high-density urban areas, as determined by the Secretary of Homeland Security, of which \$450,000,000 shall be available for port security grants.

SA 3597. Mr. BYRD (for himself, Mr. LEAHY, Mr. REID, Mrs. CLINTON, Mr. ROCKEFELLER, Mr. DASCHLE, Mr. LIEBERMAN, Mr. KENNEDY, and Mr. CORZINE) proposed an amendment to the bill H.R. 4567, making appropriations for the Department of Homeland