

“(2) METHODS.—An agency may use such methods as the agency determines are appropriate to achieve the target established by paragraph (1), including—

- “(A) telework;
- “(B) carpooling;
- “(C) bicycling and walking to work;
- “(D) fuel-efficient trip planning;
- “(E) public transportation use; and
- “(F) limiting travel days for vehicle travel outside the office.

“(3) MEASUREMENT.—An agency may use such measures as the agency determines are appropriate to determine whether the agency has achieved the target established by paragraph (1), including—

- “(A) a reduction in travel vehicle travel miles reimbursed by the agency; and
- “(B) certification of the methods described in paragraph (2).”.

S. 1854

*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 “Treat Emergency Victims Fairly Act of 2005”.

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) Price gouging in emergencies, including natural disasters and other emergencies, is reprehensible commercial activity.

(2) Emergencies place great strains on commercial and consumer relationships in the areas affected.

(3) Emergencies can strain commercial and consumer relationships in areas beyond those directly damaged or affected by the emergency.

(4) It is an unfortunate truth that some will try to take advantage of others in emergency situations by price gouging for consumer and other commercial goods or services.

(5) Price gouging can take place prior to, during, and following natural disasters and other emergencies.

(6) Price gouging in commercial and consumer settings affects interstate commerce.

(7) Price gouging—

(A) distorts markets without regard to State lines;

(B) disturbs and interferes with the flow of commodities and services across State lines; and

(C) creates or exacerbates shortages and interruptions of supplies of materials across State lines.

(8) It is in the interest of the United States to prohibit and deter price gouging.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) EMERGENCY.—The term “emergency” means a natural disaster or other circumstance or event that is formally declared to be an emergency by Federal or State authorities. An emergency may be associated with a designated area.

(2) GOODS OR SERVICES.—The term “goods or services” means goods or services of any type, including food, transportation, housing, and energy supplies.

(3) PERSON.—The term “person” means a natural person, corporation, governmental body, or other entity.

(4) PRICE GOUGING.—

(A) IN GENERAL.—The term “price gouging” means charging an unreasonable and unconscionable price for a good or service immediately prior to, during, or following an emergency.

(B) PRESUMPTION.—

(i) AFFIRMATIVE.—A price for a good or service is presumed to be unreasonable and unconscionable—

(I) in the designated area of an emergency if it reflects a price increase at least 10 per-

cent greater than the average price for the good or service charged by the seller in the designated area during the 30 days prior to the formal declaration of the emergency; and

(II) outside the designated area of an emergency if the price is affected by the emergency and if the price reflects a price increase at least 10 percent greater than the average price for the good or service charged by the seller in the area of the sale during the 30 days prior to the formal declaration of an emergency.

For purposes of subclause (II), a price is presumed to be affected by the emergency if, within 30 days following the declaration of the emergency, the price is at least 25 percent greater than the average price for the good or service charged by the seller in the area of the sale during the 30 days prior to the formal declaration of the emergency.

(ii) NEGATIVE.—A price for a good or service is not unreasonable and unconscionable if it reflects only the cost of the good or service to the seller prior to the emergency, the average profit margin of the seller during the 30 days prior to the formal declaration of an emergency, and the increased costs actually incurred by the seller to sell the good or service during or following the emergency.

#### SEC. 4. CAUSE OF ACTION.

(a) IN GENERAL.—It shall be unlawful for any seller of goods or services to engage in price gouging.

(b) LITIGATION.—A cause of action under this section may be brought—

(1) in Federal or State court; and

(2) by the Federal Government, through the Attorney General, or a State Government acting through its attorney general.

(c) VENUE AND PROCEDURE.—

(1) FEDERAL COURT.—An action in Federal court under this section may be brought in any court whose jurisdiction includes—

(A) the geographic area in which price gouging is alleged to have occurred; or

(B) the State which is a plaintiff in the action.

(2) STATE COURT.—An action in State court under this section shall conform to State rules of procedure.

(d) EXPEDITED FEDERAL CONSIDERATION.—An action under this section in Federal court shall receive expedited review.

(e) INVESTIGATIONS.—

(1) IN GENERAL.—During the course of an investigation under this section by the Attorney General of the United States or a State attorney general, whether prior to filing an action or during such an action, the investigating attorney general may—

(A) order any person to file a statement, report in writing, or answer questions in writing, under oath or otherwise, concerning facts or circumstances reasonably related to alleged price gouging;

(B) order any person to provide data or information the attorney general reasonably deems to be necessary to an investigation; and

(C) issue subpoenas to require the attendance of witnesses or the production of relevant documents, administer oaths, and conduct hearings in aid of the investigation.

(2) ENFORCEMENT.—A subpoena issued under this subsection may be enforced in Federal or State court.

(3) PENALTY.—Failure to comply with an order or subpoena under this subsection is subject to a civil penalty of up to \$10,000.

(f) LIMITATION.—An action under this section shall be brought not later than 3 years of the date of the sale of the goods or services at issue.

#### SEC. 5. DAMAGES AND PENALTIES.

(a) IN GENERAL.—A prevailing plaintiff shall be entitled to—

(1) plaintiff's damages incurred as a result of the price gouging, including without limi-

tation a refund of all prices paid by the plaintiff in excess of conscionable and reasonable prices;

(2) injunctive relief prohibiting the defendant from price gouging or mandating action; and

(3) attorneys fees and costs incurred by the plaintiff.

(b) RESTITUTION.—The Attorney General of the United States and a State attorney general, in an action brought on behalf of the citizens of the United States or a State, respectively, may recover restitution or disgorgement of excess profits on behalf of those citizens.

#### (c) CIVIL PENALTIES.—

(1) IN GENERAL.—A person who violates section 4(a) shall be subject to civil penalties of up to \$10,000 per incident.

(2) DISPOSITION OF PENALTIES.—Civil penalties collected through an action by the United States Attorney General shall be deposited in the United States Treasury. Civil penalties collected through an action by an attorney general of a State shall be deposited in the State's treasury. The court may apportion the deposit of civil penalties as appropriate in the circumstances.

#### SEC. 6. ATTORNEY GENERAL AUTHORITIES.

The Attorney General of the United States shall—

(1) provide assistance to and cooperate with the States in State investigations of price gouging and in State litigation brought under this Act;

(2) create and disseminate guidelines designed to assist the public to recognize and report price gouging and establish a system to gather and disseminate information about instances of reported price gouging; and

(3) provide grants to offices of the State attorneys general of not greater than \$50,000 in order to support the pursuit of price gouging investigations and other activities.

#### SEC. 7. SAVINGS PROVISION.

This Act shall not preempt or otherwise affect any State or local law.

### SUBMITTED RESOLUTIONS

SENATE RESOLUTION 268—EXPRESSING THE SENSE OF THE SENATE THAT A COMMEMORATIVE POSTAGE STAMP SHOULD BE ISSUED TO HONOR SCULPTOR KORCZAK ZIOLKOWSKI

Mr. JOHNSON (for himself, Mr. THUNE, and Mr. LEVIN) submitted the following resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

S. RES. 268

Whereas Korczak Ziolkowski was born in Boston, Massachusetts on September 6, 1908, the 31st anniversary of the death of Lakota leader Crazy Horse;

Whereas, although never trained in art or sculpture, Korczak Ziolkowski began a successful studio career in New England as a commissioned sculptor at age 24;

Whereas Korczak Ziolkowski's marble sculpture of composer and Polish leader Ignace Jan Paderewski won first prize at the 1939 New York World's Fair and prompted Lakota Indian Chiefs to invite Ziolkowski to carve a memorial for Native Americans;

Whereas in his invitation letter to Korczak Ziolkowski, Chief Henry Standing Bear wrote: “My fellow chiefs and I would like the white man to know that the red man has great heroes, also.”;

Whereas in 1939, Korczak Ziolkowski assisted Gutzon Borglum for a brief time in carving Mount Rushmore;

Whereas in 1941, Korczak Ziolkowski met with Chief Henry Standing Bear who taught Korczak more about the life of the brave Lakota leader Crazy Horse;

Whereas at the age of 34, Korczak Ziolkowski temporarily put his sculpturing career aside when he volunteered for service in World War II, later landing on Omaha Beach;

Whereas after the war, Korczak Ziolkowski turned down other sculpting opportunities in order to accept the invitation of Chief Henry Standing Bear and dedicate the rest of his life to carving the Crazy Horse Memorial in the Black Hills of South Dakota;

Whereas on June 3, 1948, when work was begun on the Crazy Horse Memorial, Korczak Ziolkowski vowed that the memorial would be a nonprofit educational and cultural project, financed solely through private, nongovernmental sources, to honor the Native Americans of North America;

Whereas the Crazy Horse Memorial is a mountain carving-in-progress, and once completed it will be the largest sculpture in the world;

Whereas since his death on October 20, 1982, Korczak's wife Ruth, the Ziolkowski family, and the Crazy Horse Memorial Foundation have continued to work on the Memorial and to continue the dream of Korczak Ziolkowski and Chief Henry Standing Bear; and

Whereas on June 3, 1998, the Memorial entered its second half century of progress and heralded a new era of work on the mountain with the completion and dedication of the face of Crazy Horse: Now, therefore, be it

*Resolved, That—*

(1) the Senate recognizes—

(A) the admirable efforts of the late Korczak Ziolkowski in designing and creating the Crazy Horse Memorial;

(B) that the Crazy Horse Memorial represents all North American Indian tribes, and the noble goal of reconciliation between peoples; and

(C) that the creation of the Crazy Horse Memorial, from its inception, has been accomplished through private sources and without any Federal funding; and

(2) it is the sense of the Senate that the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that a commemorative postage stamp be issued in honor of sculptor Korczak Ziolkowski and the Crazy Horse Memorial, commemorating his 100th birthday.

**SENATE RESOLUTION 269—EX-PRESSING THE SENSE OF THE SENATE THAT A “WELCOME HOME VIETNAM VETERANS DAY” SHOULD BE ESTABLISHED**

Mrs. BOXER submitted the following resolution; which was referred to the Committee on Veterans' Affairs:

S. RES. 269

Whereas the Vietnam War took place in Vietnam from 1961 to 1975 in which North Vietnam and the Viet Cong were in conflict with the United States and South Vietnam;

Whereas the United States became involved in Vietnam because policy makers in the United States believed that if South Vietnam fell to a communist government then communism would spread throughout the rest of Southeast Asia;

Whereas members of the United States Armed Forces began serving in an advisory role to the people of South Vietnam in 1961;

Whereas, as a result of the Gulf of Tonkin incidents on August 2, 1964 and August 4, 1964, Congress overwhelmingly passed the Joint Resolution entitled “Joint Resolution

to promote the maintenance of international peace and security in southeast Asia”, approved August 10, 1964 (Public Law 88-408; 78 Stat. 384), which effectively granted war-making powers to President Johnson until such time as “peace and security” had returned to Vietnam;

Whereas, in 1965, ground combat units of the United States Armed Forces arrived in Vietnam;

Whereas, by the end of 1965, there were 80,000 troops of the United States Armed Forces in Vietnam, and by 1969 the number of troops reached a peak of approximately 543,000;

Whereas, on January 27, 1973, the Paris Peace Accords were signed, which required the release of all United States prisoners-of-war held in North Vietnam and the withdrawal of all members of the United States Armed Forces from South Vietnam;

Whereas, on March 30, 1973, the United States Armed Forces completed the withdrawal of combat troops from Vietnam;

Whereas more than 58,000 members of the United States Armed Forces lost their lives in Vietnam and more than 300,000 members of the United States Armed Forces were wounded;

Whereas, in 1982, the Vietnam Veterans Memorial was dedicated in the District of Columbia to commemorate those members of the United States Armed Forces who died or were declared missing-in-action in Vietnam;

Whereas, as of 2005, more than 1,800 members of the United States Armed Forces remain unaccounted for in Vietnam and Southeast Asia and the Department of Defense continues efforts to recover these members;

Whereas the Vietnam War was an extremely divisive issue among the people of the United States;

Whereas members of the United States Armed Forces who served bravely and faithfully for the United States during the Vietnam War were caught, upon their return home, in the middle of public debate about the involvement of the United States in the Vietnam War;

Whereas the Department of Veterans Affairs estimates that 250,000 veterans are homeless every night and that 47 percent of all homeless veterans served during the Vietnam era;

Whereas veterans of the Vietnam War continue to be at risk for post-traumatic stress disorder and health problems related to Agent Orange exposure;

Whereas veterans of the Vietnam War, and all veterans, are entitled to the best care and treatment the Government of the United States can provide;

Whereas the establishment of a “Welcome Home Vietnam Veterans Day” would be an appropriate way to honor those members of the United States Armed Forces who served in Vietnam during the Vietnam War; and

Whereas March 30, 2006 would be an appropriate day to establish as “Welcome Home Vietnam Veterans Day”: Now, therefore, be it

*Resolved, That* it is the sense of the Senate that a “Welcome Home Vietnam Veterans Day” should be established to honor those members of the United States Armed Forces who served in Vietnam.

Mrs. BOXER. Mr. President, I am pleased to submit a resolution today expressing the sense of the Senate that a “Welcome Home Vietnam Veterans Day” should be established. I join Representative LINDA SÁNCHEZ in this effort and applaud her for previously submitting this resolution in the House of Representatives. Establishing this day would be an appropriate way to honor

members of the United States Armed Forces who bravely and faithfully served during the Vietnam War.

During the course of the Vietnam War, over 58,000 U.S. troops lost their lives. In addition, more than 300,000 were wounded. To date, more than 1,800 members of the United States Armed Forces remain unaccounted for in Vietnam and Southeast Asia.

Those who did return home from Vietnam did not have the traditional welcome home ceremonies. And they continue to face many problems, including health problems related to Agent Orange exposure, prolonged risk for post-traumatic stress disorder, and homelessness. Of the 250,000 veterans who are homeless every night, the Department of Veterans Affairs estimates that 47 percent of them served during the Vietnam era.

Veterans of the Vietnam War, and all veterans, are entitled to the best care and treatment the U.S. Government can provide. It is important that we honor and respect their service. It is especially important to do so now, at a time when we have so many new veterans returning home from the wars in Iraq and Afghanistan.

By honoring those who have served before, we show these new veterans how committed we, as a country, are to them and how much we value the sacrifices they make on our behalf. Establishing a “Welcome Home Vietnam Veterans Day” is one way we can accomplish this. I urge my colleagues to support this resolution.

**SENATE RESOLUTION 270—EX-PRESSING THE SENSE OF THE SENATE THAT THE INTERNATIONAL MONETARY FUND SHOULD INVESTIGATE WHETHER CHINA IS MANIPULATING THE RATE OF EXCHANGE BETWEEN THE CHINESE YUAN AND THE UNITED STATES DOLLAR**

Mr. BAYH (for himself, Ms. STABENOW, and Mr. SCHUMER) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 270

Whereas the global current account deficit of the United States has already reached almost \$800,000,000,000 and is growing rapidly;

Whereas the global current account surplus of the People's Republic of China is likely to reach \$150,000,000,000 and is also growing very rapidly;

Whereas China has intervened massively in the exchange markets to artificially block appreciation of China's currency;

Whereas China has been increasing its competitiveness by riding the dollar down against other currencies, therefore achieving a trade-weighted depreciation of about 10 percent over the past 3 years;

Whereas it is the responsibility of the International Monetary Fund to take the lead in promoting correction of such huge, costly, and potentially destabilizing imbalances in the world economy;

Whereas the International Monetary Fund's Articles of Agreement enjoin member countries to “avoid manipulating exchange rates or the international monetary system

in order to prevent effective balance-of-payments adjustments or to gain unfair competitive advantage over other member countries";

Whereas the International Monetary Fund has identified "protracted, large-scale interventions in one direction in the exchange markets" as indicating a need for International Monetary Fund discussion with the offending country; and

Whereas the People's Republic of China has engaged in such manipulation and intervention: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that the President should instruct the United States Executive Director to the International Monetary Fund to bring a general complaint under the International Monetary Fund's Articles of Agreement against the People's Republic of China for not complying with Article IV of the Articles of Agreement and manipulating the rate of exchange of its currency against other currencies to gain an unfair trade advantage and to prevent effective balance of payment adjustments.

**SENATE CONCURRENT RESOLUTION 57—RECOGNIZING THE CONTRIBUTIONS OF AFRICAN-AMERICAN BASKETBALL TEAMS AND PLAYERS FOR THEIR ACHIEVEMENTS, DEDICATION, AND CONTRIBUTIONS TO THE SPORT OF BASKETBALL AND THE NATION**

Ms. STABENOW (for herself and Mr. LEVIN) submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 57

Whereas, even though African-Americans were excluded from playing in organized White-only leagues, the desire of African-Americans to play basketball could not be repressed;

Whereas, unlike baseball, which had Negro leagues, basketball had no organized Black leagues, thus forcing Blacks to take to the road out of necessity;

Whereas among the most well-known black barnstorming teams that found their beginnings in the 1920s were the New York Renaissance (or Rens), the Harlem Globetrotters, the New York Enforcers, the Harlem Clowns, the Harlem Road Kings, the Harlem Stars, the Harlem Ambassadors, and the Philadelphia Tribunes;

Whereas, despite the racism they faced, Negro basketball teams overcame great obstacles to play the game before Black players were allowed to play in the National Basketball Association in the early 1950s;

Whereas the New York Rens became one of the first great basketball dynasties in the history of the game, compiling a 2,588-539 record in its 27-year existence, winning 88 straight games in the 1932-33 season, and winning the 1939 World Professional Championship;

Whereas the Harlem Globetrotters proved that they were capable of beating professional teams like the World Champion Minneapolis Lakers led by basketball great George Mikan in 1948;

Whereas the barnstorming African-American basketball teams included exceptionally talented players and shaped modern-day basketball by introducing a new style of play predicated on speed, short crisp passing techniques, and vigorous defensive play;

Whereas among the pioneers who played on Black barnstorming teams included players such as Tarzan Cooper, Pop Gates, John Isaacs, Willie Smith, Sweetwater Clifton,

Ermer Robinson, Bob Douglas, Pappy Ricks, Runt Pullins, Goose Tatum, Marques Haynes, Bobby Hall, Babe Pressley, Bernie Price, Ted Strong, Inman Jackson, Duke Cumberland, Fat Jenkins, Eddie Younger, Lou Badger, Zachary Clayton, Jim Usry, Sonny Boswell, and Puggy Bell;

Whereas the struggles of these players and others paved the way for current African-American professional players, who are playing in the National Basketball Association today;

Whereas the style of Black basketball was more conducive to a wide open, fast-paced, spectator sport;

Whereas, by achieving success on the basketball court, African-American basketball players helped break down the color barrier and integrate African-Americans into all aspects of society in the United States;

Whereas, during the era of sexism and gender barriers, barnstorming African-American basketball was not limited to men's teams, but included women's teams as well, such as the Chicago Romas and the Philadelphia Tribunes;

Whereas only in recent years has the history of African-Americans in team sports begun receiving the recognition it deserves;

Whereas basketball is a uniquely modern and uniquely American sport;

Whereas the Black Legends of Professional Basketball Foundation, established by former Harlem Globetrotter Dr. John Kline of Detroit, Michigan, honors and highlights the significant contributions of these pioneers and their impact on professional basketball today; and

Whereas the hard work and efforts of the foundation have been instrumental in bringing African-American inductees into the Naismith Memorial Basketball Hall of Fame in Springfield, Massachusetts: Now therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That

(1) Congress recognizes the teams and players of the barnstorming African-American basketball teams for their achievement, dedication, sacrifices, and contribution to basketball and to the Nation prior to the integration of the White professional leagues;

(2) current National Basketball Association players should pay a debt of gratitude to these great pioneers of the game of basketball and recognize them at every possible opportunity; and

(3) a copy of this resolution be transmitted to the Black Legends of Professional Basketball Foundation, which has recognized and commemorated the achievements of African-American basketball teams, the National Basketball Association, and the Naismith Basketball Hall of Fame.

**AMENDMENTS SUBMITTED AND PROPOSED**

SA 2053. Mr. STEVENS proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

SA 2054. Mr. STEVENS (for Mr. FRIST) proposed an amendment to the bill H.R. 2863, supra.

SA 2055. Mr. STEVENS (for Mr. BYRD) proposed an amendment to the bill H.R. 2863, supra.

**TEXT OF AMENDMENTS**

SA 2053. Mr. STEVENS proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending

September 30, 2006, and for other purposes; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ INCREASE IN RATE OF BASIC PAY OF THE ENLISTED MEMBER SERVING AS THE SENIOR ENLISTED ADVISOR FOR THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF.**

(a) INCREASE.—Footnote 2 to the table on Enlisted Members in section 601(b) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 37 U.S.C. 1009 note) is amended by striking "or Master Chief Petty Officer of the Coast Guard" and inserting "Master Chief Petty Officer of the Coast Guard, or Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff".

(b) PERSONAL MONEY ALLOWANCE.—

(1) ENTITLEMENT.—Section 414(c) of title 37, United States Code, is amended by striking "or the Master Chief Petty Officer of the Coast Guard" and inserting "the Master Chief Petty Officer of the Coast Guard, or the Senior Enlisted Advisor for the Chairman of the Joint Chiefs of Staff".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on April 1, 2005.

SA 2054. Mr. STEVENS (for Mr. FRIST) proposed an amendment to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ SUPPORT FOR YOUTH ORGANIZATIONS.**

(a) SHORT TITLE.—This Act may be cited as the "Support Our Scouts Act of 2005".

(b) SUPPORT FOR YOUTH ORGANIZATIONS.—

(1) DEFINITIONS.—In this subsection—

(A) the term "Federal agency" means each department, agency, instrumentality, or other entity of the United States Government; and

(B) the term "youth organization"—

(i) means any organization that is designated by the President as an organization that is primarily intended to—

(I) serve individuals under the age of 21 years;

(II) provide training in citizenship, leadership, physical fitness, service to community, and teamwork; and

(III) promote the development of character and ethical and moral values; and

(ii) shall include—

(I) the Boy Scouts of America;

(II) the Girl Scouts of the United States of America;

(III) the Boys Clubs of America;

(IV) the Girls Clubs of America;

(V) the Young Men's Christian Association;

(VI) the Young Women's Christian Association;

(VII) the Civil Air Patrol;

(VIII) the United States Olympic Committee;

(IX) the Special Olympics;

(X) Campfire USA;

(XI) the Young Marines;

(XII) the Naval Sea Cadets Corps;

(XIII) 4-H Clubs;

(XIV) the Police Athletic League;

(XV) Big Brothers—Big Sisters of America; and

(XVI) National Guard Youth Challenge.

(2) IN GENERAL.—

(A) SUPPORT FOR YOUTH ORGANIZATIONS.—

(i) SUPPORT.—No Federal law (including any rule, regulation, directive, instruction, or order) shall be construed to limit any Federal agency from providing any form of support for a youth organization (including the