

work on this important bill and for including two specific provisions I described earlier regarding SSI benefits for blind veterans and penalty-free withdrawals by National Guardsmen and Reservists.

Even more importantly, I want to thank my chairman and ranking member for working so hard to cultivate a true spirit of bipartisanship when we deal with issues where we can find common ground.

□ 1700

Today on this legislation, which is very important for both Guardsmen and Reservists and veterans who are serving our country and have served our country, and for our first responders and our firefighters, today is one where we have worked hard to take a number of bills and put them together and make it an opportunity to get results in 2007 that will be the Heroes Earnings Assistance and Relief Tax Act. I urge a "yes" vote.

I yield back the balance of my time. Mr. LARSON of Connecticut. Mr. Speaker, let me rise and join the sentiment expressed by the gentleman from New York (Mr. REYNOLDS), and I think everybody on our committee, in expressing not only the sheer joy and delight of having a ranking member and the chairman of the committee work as closely as they have throughout the year, whether we agreed or disagreed. It is quite a contrast from previous years. I think that Mr. RANGEL deserves an incredible amount of credit for the manner in which he has conducted himself, as does Mr. MCCREARY, as evident by the concern that has been expressed by both sides as we take up this important legislation today.

Further, let me add, as has been expressed here by many, we should make sure that this bill is taken up in the Senate. They have a responsibility over in that body to make sure that they address the concerns of so many in our military, as eloquently expressed here today by so many Members on and off the committee who care deeply about issues that impact veterans and our volunteer firefighters as well.

I also want to thank the members of the Ways and Means staff, and especially Eileen Shatz, who is serving for her last week on the Ways and Means Committee; Janice Mays; John Buckley; Aruna Kalyanam, who has been here throughout the day; Kase Jubboori; Mildeen Worrell, who have all done great work on behalf of the committee; Chairman NEAL, who also has been outstanding with this legislation and the hearings that he conducted in our committee; Melissa Mueller from the subcommittee staff, who was key. And also from my staff, I want to thank Amy O'Donnell. We call her the tax missionary. And also John Renfrew and Jackie Primeau, who have done such an outstanding job.

Mr. RAMSTAD. Mr. Speaker, I rise in strong support of the Defenders of Freedom Tax Relief Act, which provides important tax relief to

the heroes who are defending our country, both abroad and here at home.

I also appreciate that the bill includes a one-year extension of the 1996 mental health parity law, which prohibits insurers from discriminating against mental health treatment with aggregate lifetime or annual dollar limits.

But we must go much further to end insurance discrimination and expand access to treatment for mental illness and chemical addiction. We must knock down the barriers of higher copays and deductibles, limited treatment stays, and the lack of out-of-network benefits that do not apply to any other disease. We must pass the Paul Wellstone Mental Health and Addiction Equity Act.

It's a national disgrace that 270,000 Americans were denied addiction treatment last year. It's a national tragedy that 150,000 of our fellow Americans died last year from chemical addiction and 30,000 Americans committed suicide from depression. And it's a national crisis that untreated addiction and mental illness cost our economy over \$550 billion last year.

And think of the costs that can't be measured in dollars and cents—human suffering, broken families, shattered dreams; ruined careers and destroyed lives.

Passing mental health parity is not only the right things to do; it's the cost-effective thing to do. We have all the empirical data to prove that equity for mental health and addiction treatment will save billions of dollars nationally while not raising premiums more than two-tenths of one percent.

This legislation has 273 cosponsors and passed three House committees with wide bipartisan support. It must absolutely be one of the first orders of business when Congress reconvenes in January.

It's time to end the discrimination against people who need treatment for mental illness and addiction. It's time to prohibit health insurers from placing discriminatory restrictions on treatment. It's time to provide greater access to treatment. It's time to pass the Paul Wellstone Mental Health and Addiction Equity Act.

The American people cannot afford to wait any longer for Congress to act.

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

The SPEAKER pro tempore (Mr. SNYDER). The question is on the motion offered by the gentleman from Connecticut (Mr. LARSON) that the House suspend the rules and agree to the resolution, H. Res. 884.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. LARSON of Connecticut. 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.

OPEN GOVERNMENT ACT OF 2007

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the Senate

bill (S. 2488) to promote accessibility, accountability, and openness in Government by strengthening section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), and for other purposes.

The Clerk read the title of the Senate bill.

The text of the Senate bill is as follows:

S. 2488

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 "Openness Promotes Effectiveness in our National Government Act of 2007" or the "OPEN Government Act of 2007".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Freedom of Information Act was signed into law on July 4, 1966, because the American people believe that—

(A) our constitutional democracy, our system of self-government, and our commitment to popular sovereignty depends upon the consent of the governed;

(B) such consent is not meaningful unless it is informed consent; and

(C) as Justice Black noted in his concurring opinion in *Barr v. Matteo* (360 U.S. 564 (1959)), "The effective functioning of a free government like ours depends largely on the force of an informed public opinion. This calls for the widest possible understanding of the quality of government service rendered by all elective or appointed public officials or employees.";

(2) the American people firmly believe that our system of government must itself be governed by a presumption of openness;

(3) the Freedom of Information Act establishes a "strong presumption in favor of disclosure" as noted by the United States Supreme Court in *United States Department of State v. Ray* (502 U.S. 164 (1991)), a presumption that applies to all agencies governed by that Act;

(4) "disclosure, not secrecy, is the dominant objective of the Act," as noted by the United States Supreme Court in *Department of Air Force v. Rose* (425 U.S. 352 (1976));

(5) in practice, the Freedom of Information Act has not always lived up to the ideals of that Act; and

(6) Congress should regularly review section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), in order to determine whether further changes and improvements are necessary to ensure that the Government remains open and accessible to the American people and is always based not upon the "need to know" but upon the fundamental "right to know".

SEC. 3. PROTECTION OF NEWS MEDIA.

Section 552(a)(4)(A)(ii) of title 5, United States Code, is amended by adding at the end the following:

"In this clause, the term 'a representative of the news media' means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. In this clause, the term 'news' means information that is about current events or that would be of current interest to the public. Examples of news-media entities are television or radio stations broadcasting to the public at large and publishers of periodicals (but only if such entities qualify as disseminators of 'news') who

make their products available for purchase by or subscription by or free distribution to the general public. These examples are not all-inclusive. Moreover, as methods of news delivery evolve (for example, the adoption of the electronic dissemination of newspapers through telecommunications services), such alternative media shall be considered to be news-media entities. A freelance journalist shall be regarded as working for a news-media entity if the journalist can demonstrate a solid basis for expecting publication through that entity, whether or not the journalist is actually employed by the entity. A publication contract would present a solid basis for such an expectation; the Government may also consider the past publication record of the requester in making such a determination.”.

SEC. 4. RECOVERY OF ATTORNEY FEES AND LITIGATION COSTS.

(a) IN GENERAL.—Section 552(a)(4)(E) of title 5, United States Code, is amended—

- (1) by inserting “(i)” after “(E)”; and
- (2) by adding at the end the following:

“(ii) For purposes of this subparagraph, a complainant has substantially prevailed if the complainant has obtained relief through either—

“(I) a judicial order, or an enforceable written agreement or consent decree; or

“(II) a voluntary or unilateral change in position by the agency, if the complainant’s claim is not insubstantial.”.

(b) LIMITATION.—Notwithstanding section 1304 of title 31, United States Code, no amounts may be obligated or expended from the Claims and Judgment Fund of the United States Treasury to pay the costs resulting from fees assessed under section 552(a)(4)(E) of title 5, United States Code. Any such amounts shall be paid only from funds annually appropriated for any authorized purpose for the Federal agency against which a claim or judgment has been rendered.

SEC. 5. DISCIPLINARY ACTIONS FOR ARBITRARY AND CAPRICIOUS REJECTIONS OF REQUESTS.

Section 552(a)(4)(F) of title 5, United States Code, is amended—

- (1) by inserting “(i)” after “(F)”; and
- (2) by adding at the end the following:

“(ii) The Attorney General shall—

“(I) notify the Special Counsel of each civil action described under the first sentence of clause (i); and

“(II) annually submit a report to Congress on the number of such civil actions in the preceding year.

“(iii) The Special Counsel shall annually submit a report to Congress on the actions taken by the Special Counsel under clause (i).”.

SEC. 6. TIME LIMITS FOR AGENCIES TO ACT ON REQUESTS.

(a) TIME LIMITS.—

(1) IN GENERAL.—Section 552(a)(6)(A) of title 5, United States Code, is amended by inserting after clause (ii) the following:

“The 20-day period under clause (i) shall commence on the date on which the request is first received by the appropriate component of the agency, but in any event not later than ten days after the request is first received by any component of the agency that is designated in the agency’s regulations under this section to receive requests under this section. The 20-day period shall not be tolled by the agency except—

“(I) that the agency may make one request to the requester for information and toll the 20-day period while it is awaiting such information that it has reasonably requested from the requester under this section; or

“(II) if necessary to clarify with the requester issues regarding fee assessment. In either case, the agency’s receipt of the re-

quester’s response to the agency’s request for information or clarification ends the tolling period.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect 1 year after the date of enactment of this Act.

(b) COMPLIANCE WITH TIME LIMITS.—

(1) IN GENERAL.—

(A) SEARCH FEES.—Section 552(a)(4)(A) of title 5, United States Code, is amended by adding at the end the following:

“(viii) An agency shall not assess search fees (or in the case of a requester described under clause (ii)(II), duplication fees) under this subparagraph if the agency fails to comply with any time limit under paragraph (6), if no unusual or exceptional circumstances (as those terms are defined for purposes of paragraphs (6)(B) and (C), respectively) apply to the processing of the request.”.

(B) PUBLIC LIAISON.—Section 552(a)(6)(B)(ii) of title 5, United States Code, is amended by inserting after the first sentence the following: “To aid the requester, each agency shall make available its FOIA Public Liaison, who shall assist in the resolution of any disputes between the requester and the agency.”.

(2) EFFECTIVE DATE AND APPLICATION.—The amendment made by this subsection shall take effect 1 year after the date of enactment of this Act and apply to requests for information under section 552 of title 5, United States Code, filed on or after that effective date.

SEC. 7. INDIVIDUALIZED TRACKING NUMBERS FOR REQUESTS AND STATUS INFORMATION.

(a) IN GENERAL.—Section 552(a) of title 5, United States Code, is amended by adding at the end the following:

“(7) Each agency shall—

“(A) establish a system to assign an individualized tracking number for each request received that will take longer than ten days to process and provide to each person making a request the tracking number assigned to the request; and

“(B) establish a telephone line or Internet service that provides information about the status of a request to the person making the request using the assigned tracking number, including—

“(i) the date on which the agency originally received the request; and

“(ii) an estimated date on which the agency will complete action on the request.”.

(b) EFFECTIVE DATE AND APPLICATION.—The amendment made by this section shall take effect 1 year after the date of enactment of this Act and apply to requests for information under section 552 of title 5, United States Code, filed on or after that effective date.

SEC. 8. REPORTING REQUIREMENTS.

(a) IN GENERAL.—Section 552(e)(1) of title 5, United States Code, is amended—

(1) in subparagraph (B)(ii), by inserting after the first comma “the number of occasions on which each statute was relied upon.”;

(2) in subparagraph (C), by inserting “and average” after “median”;

(3) in subparagraph (E), by inserting before the semicolon “, based on the date on which the requests were received by the agency”;

(4) by redesignating subparagraphs (F) and (G) as subparagraphs (N) and (O), respectively; and

(5) by inserting after subparagraph (E) the following:

“(F) the average number of days for the agency to respond to a request beginning on the date on which the request was received by the agency, the median number of days for the agency to respond to such requests, and the range in number of days for the agency to respond to such requests;

“(G) based on the number of business days that have elapsed since each request was originally received by the agency—

“(i) the number of requests for records to which the agency has responded with a determination within a period up to and including 20 days, and in 20-day increments up to and including 200 days;

“(ii) the number of requests for records to which the agency has responded with a determination within a period greater than 200 days and less than 301 days;

“(iii) the number of requests for records to which the agency has responded with a determination within a period greater than 300 days and less than 401 days; and

“(iv) the number of requests for records to which the agency has responded with a determination within a period greater than 400 days;

“(H) the average number of days for the agency to provide the granted information beginning on the date on which the request was originally filed, the median number of days for the agency to provide the granted information, and the range in number of days for the agency to provide the granted information;

“(I) the median and average number of days for the agency to respond to administrative appeals based on the date on which the appeals originally were received by the agency, the highest number of business days taken by the agency to respond to an administrative appeal, and the lowest number of business days taken by the agency to respond to an administrative appeal;

“(J) data on the 10 active requests with the earliest filing dates pending at each agency, including the amount of time that has elapsed since each request was originally received by the agency;

“(K) data on the 10 active administrative appeals with the earliest filing dates pending before the agency as of September 30 of the preceding year, including the number of business days that have elapsed since the requests were originally received by the agency;

“(L) the number of expedited review requests that are granted and denied, the average and median number of days for adjudicating expedited review requests, and the number adjudicated within the required 10 days;

“(M) the number of fee waiver requests that are granted and denied, and the average and median number of days for adjudicating fee waiver determinations.”.

(b) APPLICABILITY TO AGENCY AND EACH PRINCIPAL COMPONENT OF THE AGENCY.—Section 552(e) of title 5, United States Code, is amended—

(1) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(2) by inserting after paragraph (1) the following:

“(2) Information in each report submitted under paragraph (1) shall be expressed in terms of each principal component of the agency and for the agency overall.”.

(c) PUBLIC AVAILABILITY OF DATA.—Section 552(e)(3) of title 5, United States Code, (as redesignated by subsection (b) of this section) is amended by adding at the end “In addition, each agency shall make the raw statistical data used in its reports available electronically to the public upon request.”.

SEC. 9. OPENNESS OF AGENCY RECORDS MAINTAINED BY A PRIVATE ENTITY.

Section 552(f) of title 5, United States Code, is amended by striking paragraph (2) and inserting the following:

“(2) ‘record’ and any other term used in this section in reference to information includes—

“(A) any information that would be an agency record subject to the requirements of this section when maintained by an agency in any format, including an electronic format; and

“(B) any information described under subparagraph (A) that is maintained for an agency by an entity under Government contract, for the purposes of records management.”.

SEC. 10. OFFICE OF GOVERNMENT INFORMATION SERVICES.

(a) IN GENERAL.—Section 552 of title 5, United States Code, is amended by adding at the end the following:

“(h)(1) There is established the Office of Government Information Services within the National Archives and Records Administration.

“(2) The Office of Government Information Services shall—

“(A) review policies and procedures of administrative agencies under this section;

“(B) review compliance with this section by administrative agencies; and

“(C) recommend policy changes to Congress and the President to improve the administration of this section.

“(3) The Office of Government Information Services shall offer mediation services to resolve disputes between persons making requests under this section and administrative agencies as a non-exclusive alternative to litigation and, at the discretion of the Office, may issue advisory opinions if mediation has not resolved the dispute.

“(i) The Government Accountability Office shall conduct audits of administrative agencies on the implementation of this section and issue reports detailing the results of such audits.

“(j) Each agency shall designate a Chief FOIA Officer who shall be a senior official of such agency (at the Assistant Secretary or equivalent level).

“(k) The Chief FOIA Officer of each agency shall, subject to the authority of the head of the agency—

“(1) have agency-wide responsibility for efficient and appropriate compliance with this section;

“(2) monitor implementation of this section throughout the agency and keep the head of the agency, the chief legal officer of the agency, and the Attorney General appropriately informed of the agency's performance in implementing this section;

“(3) recommend to the head of the agency such adjustments to agency practices, policies, personnel, and funding as may be necessary to improve its implementation of this section;

“(4) review and report to the Attorney General, through the head of the agency, at such times and in such formats as the Attorney General may direct, on the agency's performance in implementing this section;

“(5) facilitate public understanding of the purposes of the statutory exemptions of this section by including concise descriptions of the exemptions in both the agency's handbook issued under subsection (g), and the agency's annual report on this section, and by providing an overview, where appropriate, of certain general categories of agency records to which those exemptions apply; and

“(6) designate one or more FOIA Public Liaisons.

“(l) FOIA Public Liaisons shall report to the agency Chief FOIA Officer and shall serve as supervisory officials to whom a requester under this section can raise concerns about the service the requester has received from the FOIA Requester Center, following an initial response from the FOIA Requester Center Staff. FOIA Public Liaisons shall be responsible for assisting in reducing delays,

increasing transparency and understanding of the status of requests, and assisting in the resolution of disputes.”.

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

SEC. 11. REPORT ON PERSONNEL POLICIES RELATED TO FOIA.

Not later than 1 year after the date of enactment of this Act, the Office of Personnel Management shall submit to Congress a report that examines—

(1) whether changes to executive branch personnel policies could be made that would—

(A) provide greater encouragement to all Federal employees to fulfill their duties under section 552 of title 5, United States Code; and

(B) enhance the stature of officials administering that section within the executive branch;

(2) whether performance of compliance with section 552 of title 5, United States Code, should be included as a factor in personnel performance evaluations for any or all categories of Federal employees and officers;

(3) whether an employment classification series specific to compliance with sections 552 and 552a of title 5, United States Code, should be established;

(4) whether the highest level officials in particular agencies administering such sections should be paid at a rate of pay equal to or greater than a particular minimum rate; and

(5) whether other changes to personnel policies can be made to ensure that there is a clear career advancement track for individuals interested in devoting themselves to a career in compliance with such sections; and

(6) whether the executive branch should require any or all categories of Federal employees to undertake awareness training of such sections.

SEC. 12. REQUIREMENT TO DESCRIBE EXEMPTIONS AUTHORIZING DELETIONS OF MATERIAL PROVIDED UNDER FOIA.

Section 552(b) of title 5, United States Code, is amended in the matter after paragraph (9)—

(1) in the second sentence, by inserting after “amount of information deleted” the following: “, and the exemption under which the deletion is made.”; and

(2) in the third sentence, by inserting after “amount of the information deleted” the following: “, and the exemption under which the deletion is made.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri (Mr. CLAY) and the gentleman from Virginia (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Missouri.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

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

I rise today in support of final passage of S. 2488, the Openness Promotes Effectiveness in Our National Government Act of 2007, or the OPEN Government Act.

This bill is a companion measure to legislation that I introduced earlier this session, H.R. 1309, the Freedom of Information Act Amendments of 2007, which was passed by the House in March. After months of negotiations between both Chambers, S. 2488 provides a strong, reasonable and bipartisan approach to streamlining the FOIA process and increasing transparency in government.

Two key provisions within the OPEN Government Act include expanding access to attorneys' fees for citizens who successfully challenge an agency's denial of information, along with the creation of a new FOIA tracking system for pending requests.

In addition, the bill will require agencies to disclose the type of FOIA exemptions used to redact specific information sought after in many requests.

Lastly, the bill will establish a government-wide ombudsman to help reduce the number of requests that are eventually resolved through costly and time-consuming litigation.

S. 2488 provides actual access to government information to which the American people are entitled. I want to thank all of the Members and staff who have contributed to the development of this legislation. I urge my colleagues to support its passage.

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

Mr. DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of S. 2488, legislation to reform the process for the public to request and receive information under the Freedom of Information Act.

For 40 years, FOIA has ensured the public's access to government records. The 1966 act replaced the old need-to-know standard with today's right-to-know practice, placing the burden on the government to justify any need for secrecy.

However, the FOIA process has recently struggled to keep up with the public's demand for documents. Since 2002, FOIA requests have increased dramatically. This additional volume has delayed processing and created backlogs.

Legislation designed to streamline and improve the FOIA process was championed last Congress by Mr. SMITH from Texas. His bill moved through subcommittee to the full committee with the assistance of the chairman of the Government Management Subcommittee, Mr. PLATTS.

In addition, President Bush issued an executive order in December 2005 which adopted many of the process improvements contained in Mr. SMITH's legislation, making FOIA operations more citizen-centric and results oriented.

This Congress, the majority took this bill and made additional changes but moved beyond process reforms and into substantive changes to FOIA policy. Although I had a number of concerns

with the House legislation, I supported it in an effort to improve FOIA overall. In the intervening months since the House passed its version, we have been able to work with the Senate and the administration to improve the House bill and make it more balanced. I urge my colleagues to support this compromise legislation.

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

Mr. CLAY. Mr. Speaker, I would like to thank the gentleman from Virginia, the ranking member, for working with the majority on this important piece of legislation and getting this product to the floor.

At this time, Mr. Speaker, I would also like to thank our esteemed chairman of the Oversight and Government Reform Committee, Mr. WAXMAN, for his leadership on shepherding this bill through the Congress and would like to recognize the gentleman from California for such time as he may consume.

Mr. WAXMAN. Mr. Speaker, I thank the gentleman for yielding to me and I want to congratulate him on this accomplishment. This is a very good bill. Many people have played an important role in getting this bill to us today, and none any less than the chairman of the subcommittee who has shepherded it through to this point.

I rise in support of the OPEN Government Act. The bill contains important provisions to improve public access to government records. This year the House of Representatives passed a series of good government bills to improve openness and accountability in the executive branch. These bills include legislation to increase access to Presidential records, improve contractor accountability, strengthen whistleblower protections, disclose information about donors to Presidential libraries, and enhance the independence of agency inspectors general.

This bill, S. 2488, is the first part of this reform agenda that Congress will enact into law.

The Senate bill is not as strong as the House-passed bill. It does not include a provision which I thought was a key one establishing a presumption that government records should be released to the public unless there is a good reason to keep them secret. But the legislation does include important reforms to the Freedom of Information Act, our Nation's best-known and most widely used open government law.

The provisions in this bill will help FOIA requesters obtain responses to their requests, reduce backlog at all agencies, and increase transparency in agency compliance, improve access to attorneys' fees for requesters who are improperly denied information, and provide an alternative to litigation for requesters who are facing delay or denials.

The Bush administration has an obsession with secrecy. Over the last 7 years, it has systematically undermined our open government laws, while

radically expanding its powers to operate in secret. Government today has more power than ever to peer into the private lives of American citizens; yet American citizens know less and less about what their government is actually doing.

It will take a concerted effort over many years to peel back this curtain of secrecy. We need to restore the presumption that government records belong to the taxpayer. We need more certain deadlines and stronger penalties if this legislation makes little headway in reducing FOIA delays. And we still need to enact the other good government reforms that this body has already passed but that remain stalled in the Senate.

But this bill is a good first step. I am proud that this Congress is fighting for the public's right to know and urge adoption of this legislation.

Mr. DAVIS of Virginia. Mr. Speaker, before I yield to my friend from Texas, I also want to thank Mr. CLAY, the subcommittee chairman, for helping to mold this and bring it to the floor; Mr. TURNER from Ohio, who is the ranking member; Mr. PLATTS; and of course Chairman WAXMAN for his leadership on this issue.

Let me also add, on the majority staff, Anna Laitan has taken a lead role, and we appreciate the work of she and other staff members. And on the minority staff, Mason Allinger, Chas Phillips and Ellen Brown for their work on this.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. I thank the gentleman from Virginia (Mr. DAVIS) not only for yielding me time, but also for his favorable mention a few minutes ago when he was speaking.

Mr. Speaker, I strongly support the Openness Promotes Effectiveness in our National Government Act of 2007.

This legislation gives the public more information and better insight into the workings of the government by strengthening the Freedom of Information Act, called FOIA. FOIA performs a vital check and balance on the Federal branch. It protects our open system of government and ensures that the government responds as it should to the American people. Unfortunately, the process for obtaining information is overly burdensome and Federal agencies have become less and less responsive to the requests for information. This deters citizens from obtaining information to which they are entitled.

Taxpayers should have the opportunity to obtain information from the Federal Government quickly and easily. This legislation contains several provisions similar to those in a bill I introduced last March. These include provisions regarding recovery of attorneys' fees, penalties for agencies that do not comply within the specified FOIA time limits, and additional agency reporting requirements.

I am pleased that the bill under consideration today creates a more open

government without threatening national security or invading personal privacy. The ability to obtain records from the Federal Government is one of the fundamental rights of the American people. When the government closes the doors on information, the people cannot monitor their government. Democracy is based on the people's right to know. That is why I support the Freedom of Information Act.

Mr. Speaker, this bill rightly makes it easier for citizens to get answers to their requests for information, and that's why I hope all of my colleagues will support it.

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

□ 1715

Mr. DAVIS of Virginia. Mr. Speaker, I want to just take a moment to highlight some of the improvements that have been made to this legislation since the House-passed version last March.

First, we clarified the definition of news media for purposes of fee waiver requests. New methods for gathering and delivering news are constantly developing. The definition of news, indeed, the definition of a journalist is evolving rapidly. We provided a balanced framework for making that determination, one that we think makes sense in the era of new media.

Second, this legislation raises the threshold for the recovery of attorneys' fees, compared to what was included in the House-passed bill. The new threshold is a step in the right direction, but I remained concerned the threshold in S. 2488 is still too low. I hope we'll continue to take a close look at the substance of this provision because ultimately attorneys' fees come out of the taxpayers' pockets.

Finally, I am pleased to note the provision repealing the so-called Ashcroft memorandum was eliminated, and I know this was also of concern to the gentleman from Texas. The Ashcroft memorandum established that the administration would defend agency decisions to withhold records under a FOIA exemption if the decision was supported by a sound legal basis, replacing the pre-9/11 Janet Reno standard of always releasing information absent foreseeable harm. I think preservation of the Ashcroft policy is the right policy to adopt in the current environment.

As I've stated since we began work on this legislation, improving the procedural aspects of FOIA should be our goal. It's something we all agree on, and this bill moves us closer to that. Although the debate on the appropriate balance between open access and protected records will go on, I trust we'll continue to try to balance national security with the vital principles of open government.

Once again, I urge my colleagues to support this legislation. I again want to commend the gentleman from Missouri for his work on this.

Mr. Speaker, I yield back.

Mr. CLAY. Mr. Speaker, in closing, let me thank all of my colleagues too for the work that they did to craft this piece of legislation that I think goes a long way in improving FOIA. And S. 2488 provides a strong, reasonable, and bipartisan approach to streamlining the FOIA process and increasing transparency in our government. It also provides actual access to government information to which the American people are entitled.

Again, let me thank all of my colleagues for their support and help and effort on this legislation. And I urge my colleagues to support its passage.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. CLAY) that the House suspend the rules and pass the Senate bill, S. 2488.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

RESIGNATION AS MEMBER OF COMMITTEE ON SCIENCE AND TECHNOLOGY

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Science and Technology:

December 18, 2007.

Hon. NANCY PELOSI,
Speaker of the House,
Washington, DC.

DEAR SPEAKER PELOSI: This letter serves as my intent to resign from the Committee on Science and Technology, effective today.

Sincerely,

ROBERT J. WITTMAN,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON SCIENCE AND TECHNOLOGY

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Science and Technology:

CONGRESS OF THE UNITED STATES,

HOUSE OF REPRESENTATIVES,
Washington, DC, December 18, 2007.

Hon. NANCY PELOSI,
Speaker of the House,
Washington, DC.

DEAR SPEAKER PELOSI: This letter serves as my intent to resign from the Committee on Science and Technology, effective today.

Sincerely,

ROBERT E. LATTA,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

U.S. CAPITOL POLICE AND LIBRARY OF CONGRESS POLICE MERGER IMPLEMENTATION ACT OF 2007

Mr. BRADY of Pennsylvania. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 3690) to provide for the transfer of the Library of Congress police to the United States Capitol Police, and for other purposes.

The Clerk read the title of the bill.

The text of the Senate amendment is as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "U.S. Capitol Police and Library of Congress Police Merger Implementation Act of 2007".

SEC. 2. TRANSFER OF PERSONNEL.

(a) TRANSFERS.—

(1) LIBRARY OF CONGRESS POLICE EMPLOYEES.—Effective on the employee's transfer date, each Library of Congress Police employee shall be transferred to the United States Capitol Police and shall become either a member or civilian employee of the Capitol Police, as determined by the Chief of the Capitol Police under subsection (b).

(2) LIBRARY OF CONGRESS POLICE CIVILIAN EMPLOYEES.—Effective on the employee's transfer date, each Library of Congress Police civilian employee shall be transferred to the United States Capitol Police and shall become a civilian employee of the Capitol Police.

(b) TREATMENT OF LIBRARY OF CONGRESS POLICE EMPLOYEES.—

(1) DETERMINATION OF STATUS WITHIN CAPITOL POLICE.—

(A) ELIGIBILITY TO SERVE AS MEMBERS OF THE CAPITOL POLICE.—A Library of Congress Police employee shall become a member of the Capitol Police on the employee's transfer date if the Chief of the Capitol Police determines and issues a written certification that the employee meets each of the following requirements:

(i) Based on the assumption that such employee would perform a period of continuous Federal service after the transfer date, the employee would be entitled to an annuity for immediate retirement under section 8336(b) or 8412(b) of title 5, United States Code (as determined by taking into account paragraph (3)(A)), on the date such employee becomes 60 years of age.

(ii) During the transition period, the employee successfully completes training, as determined by the Chief of the Capitol Police.

(iii) The employee meets the qualifications required to be a member of the Capitol Police, as determined by the Chief of the Capitol Police.

(B) SERVICE AS CIVILIAN EMPLOYEE OF CAPITOL POLICE.—If the Chief of the Capitol Police determines that a Library of Congress Police employee does not meet the eligibility requirements, the employee shall become a civilian employee of the Capitol Police on the employee's transfer date.

(C) FINALITY OF DETERMINATIONS.—Any determination of the Chief of the Capitol Police under this paragraph shall not be appealable or reviewable in any manner.

(D) DEADLINE FOR DETERMINATIONS.—The Chief of the Capitol Police shall complete the determinations required under this paragraph for all Library of Congress Police employees not later than September 30, 2009.

(2) EXEMPTION FROM MANDATORY SEPARATION.—Section 8335(c) or 8425(c) of title 5, United States Code, shall not apply to any Library of Congress Police employee who becomes a member of the Capitol Police under this subsection, until the earlier of—

(A) the date on which the individual is entitled to an annuity for immediate retirement under section 8336(b) or 8412(b) of title 5, United States Code; or

(B) the date on which the individual—

(i) is 57 years of age or older; and
(ii) is entitled to an annuity for immediate retirement under section 8336(m) or 8412(d) of title 5, United States Code, (as determined by taking into account paragraph (3)(A)).

(3) TREATMENT OF PRIOR CREDITABLE SERVICE FOR RETIREMENT PURPOSES.—

(A) PRIOR SERVICE FOR PURPOSES OF ELIGIBILITY FOR IMMEDIATE RETIREMENT AS MEMBER OF CAPITOL POLICE.—Any Library of Congress Police employee who becomes a member of the Capitol Police under this subsection shall be entitled to have any creditable service under section 8332 or 8411 of title 5, United States Code, that was accrued prior to becoming a member of the Capitol Police included in calculating the employee's service as a member of the Capitol Police for purposes of section 8336(m) or 8412(d) of title 5, United States Code.

(B) PRIOR SERVICE FOR PURPOSES OF COMPUTATION OF ANNUITY.—Any creditable service under section 8332 or 8411 of title 5, United States Code, of an individual who becomes a member of the Capitol Police under this subsection that was accrued prior to becoming a member of the Capitol Police—

(i) shall be treated and computed as employee service under section 8339 or section 8415 of such title; but

(ii) shall not be treated as service as a member of the Capitol Police or service as a congressional employee for purposes of applying any formula under section 8339(b), 8339(q), 8415(c), or 8415(d) of such title under which a percentage of the individual's average pay is multiplied by the years (or other period) of such service.

(c) DUTIES OF EMPLOYEES TRANSFERRED TO CIVILIAN POSITIONS.—

(1) DUTIES.—The duties of any individual who becomes a civilian employee of the Capitol Police under this section, including a Library of Congress Police civilian employee under subsection (a)(2) and a Library of Congress Police employee who becomes a civilian employee of the Capitol Police under subsection (b)(1)(B), shall be determined solely by the Chief of the Capitol Police, except that a Library of Congress Police civilian employee under subsection (a)(2) shall continue to support Library of Congress police operations until all Library of Congress Police employees are transferred to the United States Capitol Police under this section.

(2) FINALITY OF DETERMINATIONS.—Any determination of the Chief of the Capitol Police under this subsection shall not be appealable or reviewable in any manner.

(d) PROTECTING STATUS OF TRANSFERRED EMPLOYEES.—

(1) NONREDUCTION IN PAY, RANK, OR GRADE.—The transfer of any individual under this section shall not cause that individual to be separated or reduced in basic pay, rank or grade.

(2) LEAVE AND COMPENSATORY TIME.—Any annual leave, sick leave, or other leave, or compensatory time, to the credit of an individual transferred under this section shall be transferred to the credit of that individual as a member or an employee of the Capitol Police (as the case may be). The treatment of leave or compensatory time transferred under this section shall be governed by regulations of the Capitol Police Board.

(3) PROHIBITING IMPOSITION OF PROBATIONARY PERIOD.—The Chief of the Capitol Police may not impose a period of probation with respect to the transfer of any individual who is transferred under this section.

(e) RULES OF CONSTRUCTION RELATING TO EMPLOYEE REPRESENTATION.—

(1) EMPLOYEE REPRESENTATION.—Nothing in this Act shall be construed to authorize any labor organization that represented an individual who was a Library of Congress police employee or a Library of Congress police civilian