

the Smithsonian in the same manner they are applied to other federal agencies.

The Smithsonian Institution is a unique and irreplaceable cultural, historical, educational and artistic complex without any public or private counterpart in the world. Since its founding, the Smithsonian has developed an extraordinary array of world-class museums, galleries, educational showplaces and unique research centers, including 19 museums and galleries, nine research facilities, the National Zoo, and a pending National Museum of African American History and Culture, which has been approved by Congress and is now seeking funding from the private sector for construction. The Smithsonian has grown with donations from American culture and life, and financial contributions, but most of its funding continues to come from federal appropriations. Despite receiving 70 percent of its support from the federal government, the Smithsonian has long had serious and unmet infrastructure and other financial needs.

Congress must help the Smithsonian Institution strengthen its ability to build resources beyond what taxpayers are able to provide. The most important step that Congress could take today is to rescue the Smithsonian from the 19th Century governance structure that keeps it from accessing needed and available private resources and limits close and critical internal oversight. This bill provides a governance structure befitting an agency of the unique complexity of the Smithsonian.

In no small part, the difficulty the Smithsonian has faced results from limitations inherent in its antiquated governance structure. The existing structure may have fit the Smithsonian over 170 years ago, but today the structure has proven to be a relic that does a disservice to the Smithsonian. The present governance structure places immense responsibility on dedicated but overextended Members of the House and Senate, the Vice President of the United States and the Chief Justice of the United States Supreme Court. These federal officials comprise almost half of the Smithsonian Board of Regents, and must perform their fiduciary duties as board members while giving first priority to their sworn responsibilities as important federal officials.

In 2007, an independent review committee found that the Smithsonian Board had violated principles of good management during the tenure of Lawrence Small, the former Secretary of the Smithsonian, and had allowed him to create an "insular culture." The report indicated that the Board had failed to provide desperately needed oversight and had overcompensated Mr. Small. The report also found that Sheila P. Burke, the Smithsonian's then-deputy secretary and chief operating officer, had frequent absences from her duties because of outside activities, including service on corporate boards for which she earned more than \$1.2 million in six years. Further, the Smithsonian's Business Ventures Chief, Gary Beer, was dismissed for financial indiscretions. This unprecedented crisis caused by unprecedented controversies and irresponsible risks put into sharp dual-focus the need for new revenue streams and for a modern governance structure. The first full-blown scandal in the Smithsonian's history, replete with embarrassing coverage, has damaged its reputation and perhaps the confidence of potential con-

tributors. The poor judgment and overreaching of Smithsonian personnel require new and concentrated oversight by citizens for whom the Smithsonian would command priority attention.

The Board of Regents, of course, has taken some important action on its own. After irregularities were uncovered by the media, the Board responded to the controversies by creating a Governance Committee, chaired by Patty Stonesifer, a Regent and former chief executive officer of the Bill & Melinda Gates Foundation, with a mandate to comprehensively review the policies and practices of the Smithsonian and how the Board conducts its oversight of the institution. The Board also established an Independent Review Committee (IRC), chaired by former U.S. Comptroller General Charles A. Bowsher, to review the issues arising from an Inspector General's reports, the Board of Regents' response, and related Smithsonian practices.

The IRC was forthright in its investigation and recommendations. The IRC stated explicitly that the root cause of the current problems at the Smithsonian was an antiquated governance structure that led to failures in governance and management. According to the IRC, the Board must assume a fiduciary duty that carries a "major commitment of time and effort, a reputational risk, and potentially, financial liability." The IRC further argued that the Smithsonian, with a budget of over \$1 billion a year, must have a Board of Regents who "act as true fiduciaries and who have both the time and the experience to assume the responsibilities of setting strategy and providing oversight." The IRC cited lack of clarity of the roles of the U.S. Vice President and Chief Justice of the U.S. Supreme Court on the Board, and said that "it is not feasible to expect the Chief Justice to devote the hours necessary to serve as a fiduciary agent." The same observation could be made of Members of the House and Senate who serve on the Board. The IRC recommended increasing the level of expertise and the number of board members to ensure that the Regents have sufficient time and attention to dedicate to the Smithsonian.

The Smithsonian's own Governance Committee identified several board weaknesses and concluded that the Regents did not receive or demand the reports necessary for competent decision making, that the staff whom the Regents depended upon for oversight inquiries did not have direct access to information, and that the inability of staff to communicate red flag issues "crippled" internal compliance and oversight mechanisms.

Only Congress, with the concurrence of the president, can amend the Smithsonian Charter. The last change to the Board's structure occurred over 30 years ago, but only to increase the number of private citizens on the Board from six to nine.

The number of Regents, however, is not the root problem. Although this bill expands the Board of Regents from 17 to 21, it most importantly brings the board into alignment with modern public and private boards by requiring all Regents to be private citizens. The search for private funds by Smithsonian management was a major cause of the recent controversy. Faced with crippling budget problems, the Regents must be free to give new and unprece-

dent attention and energy to finding and helping to raise substantially more funds from private sources. The new structure envisioned by the bill will improve oversight and the capacity for fundraising from private sources. Unlike federal officials, private citizens are entirely free to assist in private fundraising. Most important, private citizens will have sufficient time and expertise to serve on the Board of Regents, and will be able to devote the personal time and attention necessary to fulfill the fiduciary responsibility that comes with serving such a venerable and complex institution.

The bill preserves and strengthens the traditional role of the Speaker of the House and the President of the Senate in selecting members of the Regents, while eliminating the self-perpetuating role of the Board of Regents in selecting private citizens for the Board. The Speaker of the House and the President of the Senate will each send 12 recommendations to the President of the United States, who will select the 21 members of the Board of Regents.

Considering the seriousness of the findings of the Board of Regents' own Governance Committee and of the IRC, the changes prescribed by this bill are nothing short of necessary. The reform of the fiduciary and governance issues that have brought public criticism to this iconic American institution must begin with the indispensable step of a making its governance consistent with that of similar institutions today. Only congressional attention can reassure the public that the controversies that recently have besieged the Smithsonian will not recur. In the face of an unprecedented public controversy, Congress would be remiss if it left the Smithsonian to its own oversight and devices alone for improvement.

I urge my colleagues to support this bill.

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TRIBUTE TO SARAH CARTER  
PERRY BROWN ON THE CELEBRATION OF HER 105TH BIRTHDAY

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**HON. DONALD M. PAYNE**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, March 4, 2010*

Mr. PAYNE. Madam Speaker, it is indeed a pleasure for me to add my congratulations to that of her family and friends as Sarah Carter Perry Brown celebrated her 105th birthday at a Book Discussion and Tribute in her honor on Saturday, February 13, 2010, at The Newark Public Library. For all the contributions she has made over the years, Sarah Carter Perry Brown deserves to be feted on this marvelous occasion.

Sarah was born and raised in Jefferson, Georgia, to Reverend Thomas Gray Carter, and his wife, Channie Louisa Tatman Carter. Sarah was a witness to the cruelty African Americans faced as a result of the enforced Jim Crow Laws. She migrated north to Philadelphia, Pennsylvania, for better opportunities, later settling in Sicklerville, New Jersey.

A strong and dedicated woman, Sarah Carter Perry Brown has always had faith when

facing difficult challenges. Mount Olive Baptist Church was founded in 1928 by Sarah and her brother, Reverend Hezekiah Carter in Philadelphia. Sarah has a gift for healing oth-

ers whether it is with her kind words or her use of natural remedies. She proves to be the matriarch of her family, serving as a mother figure to all those who know her.

As Sarah Carter Perry Brown celebrates another year, I want to join all those gathered in wishing her a very Happy Birthday and many more!