

Redeveloping our rare-earth capabilities will be no easy task—in fact, the hurdles for financing such a refinery are significant.

The cost to construct a modern rare-earth refinery capable of supplying a U.S. consumption of 20,000 tons per year is estimated at more than \$1 billion.

I do not believe it is practical or desirable for the United States to depend upon any single rare-earth mining company to supply our Nation's rare-earth production or supply chain requirements.

This is why our legislation will require a feasibility study on building a U.S. cooperative refinery to process rare-earth ores from mines in the United States or other allied countries.

Such a cooperative, similar to our successful agricultural co-ops all across rural America, will set the stage for the U.S. Government to establish reserves and protect national security.

To brag on my home State for a minute—Missouri would be ideally suited for the location of a cooperative refinery, given the importance of the Pea Ridge deposit.

Missouri's experienced mining and minerals-processing workforce, its favorable access and costs to the utilities needed to operate a refinery and central location and transportation infrastructure all make Missouri well positioned to help preserve our Nation's strategic and economic security.

In dealing with the tremendous costs of establishing a production and refining facility, the legislation would also provide the Department of Defense \$20 million to support the defense supply chain and also \$30 million for the development of rare Earth magnets.

The time has come for our country to act and for this Congress—certainly the next Congress—to take the necessary steps to secure our economic and strategic future. By ensuring that our Nation has its own domestic supply of rare Earths and the ability to process them, we should be able to compete in the 21st century.

The bill Senator BAYH and I have introduced will do just that. While introducing legislation during the last days of the lameduck may seem like a "Hail Mary," this issue is too important to continue to ignore, and we felt it was necessary to launch a "Hail Mary" in hopes there will be others of our colleagues who will catch it and run with the ball in the next session of Congress—to mix up the metaphors badly.

In fact, ignoring our growing rare Earth needs and the overseas dominance and China's monopoly is how we got into this mess. Senator BAYH and I have laid the groundwork for this bill, and I hope my colleagues in January will call it back up and see it passed.

The bottom line is this: Just as we cannot afford to be dependent solely on foreign oil cartels for our Nation's energy, counting on any one or a few countries to supply all of America's rare Earth needs crucial to our techno-

logical innovation and national security needs is too risky a bet.

I thank my colleagues for listening. I hope they will take up the ball in the next Congress and make sure we begin to deal with this very important problem very seriously.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, let me just say, at this point, to the Senator from Missouri, that I greatly appreciate the comments he made. This question of our dependence on a whole series of things which matter to our national security, including these rare minerals, is an enormously important one, and I think he has done a good service to the Senate to bring it to our attention. So I thank him for that.

Let me also say we are open for business. We would love to get going on some amendments on the START treaty, and I look forward to the opportunity to debate those amendments and, hopefully, have some votes on them in the course of the afternoon.

Until such time as that may become a reality, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### LEGISLATIVE SESSION

Mr. KERRY. Mr. President, I ask unanimous consent to proceed as if in legislative session for the purpose of processing some cleared legislative items.

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

#### REAL ESTATE JOBS AND INVESTMENT ACT OF 2010

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 505, H.R. 5901.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5901) to amend the Internal Revenue Code of 1986 to exempt certain stock of real estate investment trusts from the tax on foreign investment in United States real property interests, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. KERRY. Mr. President, I ask unanimous consent that the amendment at the desk be considered and agreed to, the bill, as amended, be read a third time, passed, and the motion to reconsider be laid upon the table; that the title amendment which is at the desk be considered and agreed to, and that any statements relating to the measure be printed in the RECORD.

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

The amendment (No. 4834) was agreed to as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

#### SECTION 1. AUTHORITY OF TAX COURT TO APPOINT EMPLOYEES.

(a) IN GENERAL.—Subsection (a) of section 7471 of the Internal Revenue Code of 1986 (relating to employees) is amended to read as follows:

“(a) APPOINTMENT AND COMPENSATION.—

“(1) CLERK.—The Tax Court may appoint a clerk without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The clerk shall serve at the pleasure of the Tax Court.

“(2) JUDGE-APPOINTED EMPLOYEES.—

“(A) IN GENERAL.—The judges and special trial judges of the Tax Court may appoint employees, in such numbers as the Tax Court may approve, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Any such employee shall serve at the pleasure of the appointing judge.

“(B) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—A law clerk appointed under this subsection shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code. Any unused sick leave or annual leave standing to the law clerk's credit as of the effective date of this subsection shall remain credited to the law clerk and shall be available to the law clerk upon separation from the Federal Government.

“(3) OTHER EMPLOYEES.—The Tax Court may appoint necessary employees without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such employees shall be subject to removal by the Tax Court.

“(4) PAY.—The Tax Court may fix and adjust the compensation for the clerk and other employees of the Tax Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5, United States Code. To the maximum extent feasible, the Tax Court shall compensate employees at rates consistent with those for employees holding comparable positions in courts established under Article III of the Constitution of the United States.

“(5) PROGRAMS.—The Tax Court may establish programs for employee evaluations, incentive awards, flexible work schedules, premium pay, and resolution of employee grievances.

“(6) DISCRIMINATION PROHIBITED.—The Tax Court shall—

“(A) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

“(B) promulgate procedures for resolving complaints of discrimination by employees and applicants for employment.

“(7) EXPERTS AND CONSULTANTS.—The Tax Court may procure the services of experts and consultants under section 3109 of title 5, United States Code.

“(8) RIGHTS TO CERTAIN APPEALS RESERVED.—Notwithstanding any other provision of law, an individual who is an employee of the Tax Court on the day before the effective date of this subsection and who, as of that day, was entitled to—

“(A) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

“(B) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code,

“(C) appeal a prohibited personnel practice described under section 2302(b) of title 5, United States Code, to the Merit Systems Protection Board under chapter 77 of that title,

“(D) make an allegation of a prohibited personnel practice described under section 2302(b) of title 5, United States Code, with the Office of Special Counsel under chapter 12 of that title for action in accordance with that chapter, or

“(E) file an appeal with the Equal Employment Opportunity Commission under part 1614 of title 29 of the Code of Federal Regulations,

shall continue to be entitled to file such appeal or make such an allegation so long as the individual remains an employee of the Tax Court.

“(9) **COMPETITIVE STATUS.**—Notwithstanding any other provision of law, any employee of the Tax Court who has completed at least 1 year of continuous service under a non-temporary appointment with the Tax Court acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

“(10) **MERIT SYSTEM PRINCIPLES, PROHIBITED PERSONNEL PRACTICES, AND PREFERENCE ELIGIBLES.**—Any personnel management system of the Tax Court shall—

“(A) include the principles set forth in section 2301(b) of title 5, United States Code;

“(B) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code; and

“(C) in the case of any individual who would be a preference eligible in the executive branch, provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date the United States Tax Court adopts a personnel management system after the date of the enactment of this Act.

The amendment (No. 4835) was agreed to, as follows:

Amend the title so as to read: “An Act to amend the Internal Revenue Code of 1986 to authorize the tax court to appoint employees.”.

The amendments were ordered to be engrossed and the bill, as amended, to be read a third time.

The bill (H.R. 5901), as amended, was read the third time and passed.

## NATIONAL WILDLIFE REFUGE VOLUNTEER IMPROVEMENT ACT OF 2010

Mr. KERRY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 693, H.R. 4973.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4973) to amend the Fish and Wildlife Act of 1956 to reauthorize volunteer programs and community partnerships for national wildlife refuges, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. KERRY. Mr. President, I ask unanimous consent that the bill be

read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The bill (H.R. 4973) was ordered to be read a third time, was read the third time, and passed.

## FRANK MELVILLE SUPPORTIVE HOUSING INVESTMENT ACT OF 2009

Mr. KERRY. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 689, S. 1481.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1481) to amend section 811 of the Cranston-Gonzalez National Affordable Housing Act to improve the program under such section for supportive housing for persons with disabilities.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing and Urban Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 1481

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; REFERENCES.

(a) **SHORT TITLE.**—This Act may be cited as the “Frank Melville Supportive Housing Investment Act of [2009]2010”.

(b) **REFERENCES.**—Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, section 811 or any other provision of section 811, the reference shall be considered to be made to section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013).

### SEC. 2. TENANT-BASED RENTAL ASSISTANCE THROUGH CERTIFICATE FUND.

[(a) **TERMINATION OF MAINSTREAM TENANT-BASED RENTAL ASSISTANCE PROGRAM.**—Section 811 is amended—

[(1) in subsection (b)—

[(A) by striking the subsection designation and all that follows through the end of subparagraph (B) of paragraph (2) and inserting the following:

[(“(b) **AUTHORITY TO PROVIDE ASSISTANCE.**—The Secretary is authorized to provide assistance to private nonprofit organizations to expand the supply of supportive housing for persons with disabilities, which shall be provided as—

[(“(1) capital advances in accordance with subsection (d)(1), and

[(“(2) contracts for project rental assistance in accordance with subsection (d)(2).”]; and

[(B) by striking “assistance under this paragraph” and inserting “Assistance under this subsection”];

[(2) in subsection (d), by striking paragraph (4); and

[(3) in subsection (l), by striking paragraph (1).

[(b) **RENEWAL THROUGH SECTION 8.**—Section 811 is amended by adding at the end the following new subsection:

[(“(p) **AUTHORIZATION OF APPROPRIATIONS FOR SECTION 8 ASSISTANCE.**—

[(“(1) **IN GENERAL.**—There is authorized to be appropriated for tenant-based rental assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for persons with disabilities in fiscal year 2009 the amount necessary to provide a number of incremental vouchers under such section that is equal to the number of vouchers provided in fiscal year 2008 under the tenant-based rental assistance program under subsection (d)(4) of this section (as in effect before the date of the enactment of the Frank Melville Supportive Housing Investment Act of 2009).

[(“(2) **REQUIREMENTS UPON TURNOVER.**—The Secretary shall develop and issue, to public housing agencies that receive voucher assistance made available under this subsection and to public housing agencies that received voucher assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for non-elderly disabled families pursuant to appropriation Acts for fiscal years 1997 through 2002 or any other subsequent appropriations for incremental vouchers for non-elderly disabled families, guidance to ensure that, to the maximum extent possible, such vouchers continue to be provided upon turnover to qualified persons with disabilities or to qualified non-elderly disabled families, respectively.”.]

### SEC. 2. TENANT-BASED RENTAL ASSISTANCE.

(a) **RENEWAL THROUGH SECTION 8.**—Section 811(d)(4) is amended to read as follows:

[(“(4) **TENANT-BASED RENTAL ASSISTANCE.**—

[(“(A) **IN GENERAL.**—Tenant-based rental assistance provided under subsection (b)(1) shall be provided under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)).

[(“(B) **CONVERSION OF EXISTING ASSISTANCE.**—There is authorized to be appropriated for tenant-based rental assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for persons with disabilities an amount not less than the amount necessary to convert the number of authorized vouchers and funding under an annual contributions contract in effect on the date of enactment of the Frank Melville Supportive Housing Investment Act of 2010. Such converted vouchers may be administered by the entity administering the vouchers prior to conversion. For purposes of administering such converted vouchers, such entities shall be considered a “public housing agency” authorized to engage in the operation of tenant-based assistance under section 8 of the United States Housing Act of 1937 .

[(“(C) **REQUIREMENTS UPON TURNOVER.**—The Secretary shall develop and issue, to public housing agencies that receive voucher assistance made available under this subsection and to public housing agencies that received voucher assistance under section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) for non-elderly disabled families pursuant to appropriation Acts for fiscal years 1997 through 2002 or any other subsequent appropriations for incremental vouchers for non-elderly disabled families, guidance to ensure that, to the maximum extent possible, such vouchers continue to be provided upon turnover to qualified persons with disabilities or to qualified non-elderly disabled families, respectively.”.]

(b) **PROVISION OF TECHNICAL ASSISTANCE.**—The Secretary is authorized to the extent amounts are made available in future appropriations Acts, to provide technical assistance to public housing agencies and other administering entities to facilitate using vouchers to provide permanent supportive housing for persons with disabilities, help States reduce reliance on segregated restrictive settings for people with disabilities to meet community care requirements, end chronic homelessness, as “chronically homeless” is defined in section 401 of the