XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

## NICS IMPROVEMENT AMENDMENTS ACT OF 2007

Mr. CONYERS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2640) to improve the National Instant Criminal Background Check System, and for other purposes.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2640

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

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''NICS Improvement Amendments Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—TRANSMITTAL OF RECORDS

Sec. 101. Enhancement of requirement that Federal departments and agencies provide relevant information to the National Instant Criminal Background Check System.
Sec. 102. Requirements to obtain waiver.
Sec. 103. Implementation assistance to States.
Sec. 104. Penalties for noncompliance.
Sec. 105. Relief from disabilities program required as condition for participation in grant programs.

TITLE J—FOCUSING FEDERAL ASSISTANCE ON THE IMPROVEMENT OF RELEVANT RECORDS

Sec. 201. Continuing evaluations.

TITLE K—GRANTS TO STATE COURT SYSTEMS FOR THE IMPROVEMENT IN AUTOMATION AND TRANSMITTAL OF DISPOSITION RECORDS

Sec. 301. Disposition records automation and transmittal improvement grants.

TITLE L—GAO AUDIT

Sec. 401. GAO audit.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) Approximately 916,000 individuals were prohibited from purchasing a firearm for failing a background check between November 30, 1998, (the date the National Instant Criminal Background Check System (NICS) began operating) and December 31, 2004.

(2) From November 30, 1998, through December 31, 2004, nearly 49,000,000 Brady background checks were processed through NICS.

(3) Although most Brady background checks are processed through NICS in seconds, many background checks are delayed if the Federal Bureau of Investigation (FBI) does not have automated access to complete information from the States concerning persons prohibited from possessing or receiving a firearm under Federal or State law.

(4) Nearly 21,000,000 criminal records are not accessible by NICS and millions of criminal records are missing critical data, such as arrest dispositions, due to data backlogs.

(5) The primary cause of delay in NICS background checks is the lack of—

(A) updates and available State criminal disposition records; and

(B) automated access to information concerning persons prohibited from possessing or receiving a firearm because of mental illness, restraining orders, or misdemeanor convictions for domestic violence.

(6) Automated access to this information can be improved by—

(A) computerizing information relating to criminal history, criminal dispositions, mental illness, restraining orders, and misdemeanor convictions for domestic violence; or

(B) making such information available to NICS in a usable format.

(7) Helping States to automate these records will reduce delays for law-abiding gun purchasers.

(8) On March 12, 2002, the senseless shooting, which took the lives of a priest and a parishioner at the Our Lady of Peace Church in Lynbrook, New York, brought attention to the need to improve information-sharing that would enable Federal and State law enforcement agencies to conduct a complete background check on a potential firearm purchaser. The man who committed this double murder had a prior disqualifying mental health commitment and a restraining order against him, but passed a Brady background check because NICS did not have the necessary information to determine that he was ineligible to purchase a firearm under Federal or State law.

**SEC. 3. DEFINITIONS.**

As used in this Act, the following definitions shall apply:

(1) COURT ORDER.—The term ''court order'' includes a court order (as described in section 922(g)(8) of title 18, United States Code).

(2) MENTAL HEALTH TERMS.—The terms ''adjudicated as a mental defective'', ''committed to a mental institution'', and related terms have the meanings given those terms in regulations implementing section 922(g)(4) of title 18, United States Code, as in effect on the date of the enactment of this Act.

(3) MISDEMEANOR CRIME OF DOMESTIC VIOLENCE.—The term ''misdemeanor crime of domestic violence'' has the meaning given the term in section 921(a)(33) of title 18, United States Code.

**TITLE I—TRANSMITTAL OF RECORDS**

**SEC. 101. ENHANCEMENT OF REQUIREMENT THAT FEDERAL DEPARTMENTS AND AGENCIES PROVIDE RELEVANT INFORMATION TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.**

(a) IN GENERAL.—Section 103(e)(1) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) is amended—

(1) by striking ''Notwithstanding'' and inserting the following:

''(A) IN GENERAL.—Notwithstanding'';

(2) by striking ''On request'' and inserting the following:

''(B) REQUEST OF ATTORNEY GENERAL.—On request'';

(3) by striking ''furnish such information'' and inserting ''furnish electronic versions of the information described under subparagraph (A)''; and

(4) by adding at the end the following:

''(C) QUARTERLY SUBMISSION TO ATTORNEY GENERAL.—If a department or agency under subparagraph (A) has any record of any person demonstrating that the person falls within one of the categories described in subsection (g) or (n) of section 922 of title 18, United States Code, the head of such department or agency shall, not less frequently than quarterly, provide the pertinent information contained in such record to the Attorney General.

''(D) INFORMATION UPDATES.—The agency, on being made aware that the basis under which a record was made available under subparagraph (A) does not apply, or no longer applies, shall—

''(i) update, correct, modify, or remove the record from any database that the agency maintains and makes available to the Attorney General, in accordance with the rules pertaining to that database; or

''(ii) notify the Attorney General that such basis no longer applies so that the National Instant Criminal Background Check System is kept up to date.

''(E) ANNUAL REPORT.—The Attorney General shall submit an annual report to Congress that describes the compliance of each department or agency with the provisions of this paragraph.''.

(b) PROVISION AND MAINTENANCE OF NICS RECORDS.—

(1) DEPARTMENT OF HOMELAND SECURITY.—The Secretary of Homeland Security shall make available to the Attorney General—

(A) records, updated not less than quarterly, which are relevant to a determination of whether a person is disqualified from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States Code, for use in background checks performed by the National Instant Criminal Background Check System; and

(B) information regarding all the persons described in subparagraph (A) of this paragraph who have changed their status to a category not identified under section 922(g)(5) of title 18, United States Code, for removal, when applicable, from the National Instant Criminal Background Check System.

(2) DEPARTMENT OF JUSTICE.—The Attorney General shall—

(A) ensure that any information submitted to, or maintained by, the Attorney General under this section is kept accurate and confidential, as required by the laws, regulations, policies, or procedures governing the applicable record system;

(B) provide for the timely removal and destruction of obsolete and erroneous names and information from the National Instant Criminal Background Check System; and

(C) work with States to encourage the development of computer systems, which would permit electronic notification to the Attorney General when—

(i) a court order has been issued, lifted, or otherwise removed by order of the court; or

(ii) a person has been adjudicated as mentally defective or committed to a mental institution.

(c) STANDARD FOR ADJUDICATIONS, COMMITMENTS, AND DETERMINATIONS RELATED TO MENTAL HEALTH.—

(1) IN GENERAL.—No department or agency of the Federal Government may provide to the Attorney General any record of an adjudication or determination related to the mental health of a person, or any commitment of a person to a mental institution if—

(A) the adjudication, determination, or commitment, respectively, has been set aside or expunged, or the person has otherwise been fully released or discharged from all mandatory treatment, supervision, or monitoring;

(B) the person has been found by a court, board, commission, or other lawful authority to no longer suffer from the mental health condition that was the basis of the adjudication, determination, or commitment, respectively, or has otherwise been found to be rehabilitated through any procedure available under law; or

(C) the adjudication, determination, or commitment, respectively, is based solely on a medical finding of disability, without a finding that the person is a danger to himself

or to others or that the person lacks the mental capacity to manage his own affairs.

(2) TREATMENT OF CERTAIN ADJUDICATIONS, DETERMINATIONS, AND COMMITMENTS.—

(A) PROGRAM FOR RELIEF FROM DISABILITIES.—Each department or agency of the United States that makes any adjudication or determination related to the mental health of a person or imposes any commitment to a mental institution, as described in subsection (d)(4) and (g)(4) of section 922 of title 18, United States Code, shall establish a program that permits such a person to apply for relief from the disabilities imposed by such subsections. Relief and judicial review shall be available according to the standards prescribed in section 925(c) of title 18, United States Code.

(B) RELIEF FROM DISABILITIES.—In the case of an adjudication or determination related to the mental health of a person or a commitment of a person to a mental institution, a record of which may not be provided to the Attorney General under paragraph (1), including because of the absence of a finding described in subparagraph (C) of such paragraph, or from which a person has been granted relief under a program established under subparagraph (A), the adjudication, determination, or commitment, respectively, shall be deemed not to have occurred for purposes of subsections (d)(4) and (g)(4) of section 922 of title 18, United States Code.

(d) INFORMATION EXCLUDED FROM NICS RECORDS.—

(1) IN GENERAL.—No department or agency of the Federal Government may make available to the Attorney General, for use by the National Instant Criminal Background Check System (nor may the Attorney General make available to such system), the name or any other relevant identifying information of any person adjudicated or determined to be mentally defective or any person committed to a mental institution for purposes of assisting the Attorney General in enforcing subsections (d)(4) and (g)(4) of section 922 of title 18, United States Code, unless such adjudication, determination, or commitment, respectively, included a finding that the person is a danger to himself or to others or that the person lacks the mental capacity to manage his own affairs.

(2) EFFECTIVE DATE.—Paragraph (1) shall apply to names and other information provided before, on, or after the date of the enactment of this Act. Any name or information provided in violation of paragraph (1) before such date shall be removed from the National Instant Criminal Background Check System.

**SEC. 102. REQUIREMENTS TO OBTAIN WAIVER.**

(a) IN GENERAL.—Beginning 3 years after the date of the enactment of this Act, a State shall be eligible to receive a waiver of the 10 percent matching requirement for National Criminal History Improvement Grants under the Crime Identification Technology Act of 1988 (42 U.S.C. 14601) if the State provides at least 90 percent of the information described in subsection (c). The length of such a waiver shall not exceed 2 years.

(b) STATE ESTIMATES.—

(1) INITIAL STATE ESTIMATE.—

(A) IN GENERAL.—To assist the Attorney General in making a determination under subsection (a) of this section, and under section 104, concerning the compliance of the States in providing information to the Attorney General for the purpose of receiving a waiver under subsection (a) of this section, or facing a loss of funds under section 104, by a date not later than 180 days after the date of the enactment of this Act, each State shall provide the Attorney General with a reasonable estimate, as calculated by a method determined by the Attorney General, of the number of the records described in subparagraph (C) applicable to such State that concern persons who are prohibited from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States Code.

(B) FAILURE TO PROVIDE INITIAL ESTIMATE.—A State that fails to provide an estimate described in subparagraph (A) by the date required under such subparagraph shall be ineligible to receive any funds under section 103, until such date as it provides such estimate to the Attorney General.

(C) RECORD DEFINED.—For purposes of subparagraph (A), a record is the following:

(i) A record that identifies a person arrested for a crime that is punishable by imprisonment for a term exceeding one year, and for which a record of final disposition is available electronically or otherwise.

(ii) A record that identifies a person for whose arrest a warrant or process has been issued that is valid under the laws of the State involved, as of the date of the estimate.

(iii) A record that identifies a person who is an unlawful user of or addicted to a controlled substance (as such terms ''unlawful user'' and ''addicted'' are respectively defined in regulations implementing section 922(g)(3) of title 18, United States Code, as in effect on the date of the enactment of this Act) and whose record is not protected from disclosure to the Attorney General under any provision of State or Federal law.

(iv) A record that identifies a person who has been adjudicated mentally defective or committed to a mental institution (as determined in regulations implementing section 922(g)(4) of title 18, United States Code, as in effect on the date of the enactment of this Act) and whose record is not protected from disclosure to the Attorney General under any provision of State or Federal law.

(v) A record that is electronically available and that identifies a person who, as of the date of such estimate, is subject to a court order described in section 922(g)(8) of title 18, United States Code.

(vi) A record that is electronically available and that identifies a person convicted in any court of a misdemeanor crime of domestic violence, as defined in section 921(a)(33) of title 18, United States Code.

(2) SCOPE.—The Attorney General, in determining the compliance of a State under this section or section 104 of this Act for the purpose of granting a waiver or imposing a loss of Federal funds, shall assess the total percentage of records provided by the State concerning any event occurring within the prior 30 years, which would disqualify a person from possessing a firearm under subsection (g) or (n) of section 922 of title 18, United States Code.

(3) CLARIFICATION.—Notwithstanding paragraph (2), States shall endeavor to provide the National Instant Criminal Background Check System with all records concerning persons who are prohibited from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States Code, regardless of the elapsed time since the disqualifying event.

(c) ELIGIBILITY OF STATE RECORDS FOR SUBMISSION TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.—

(1) REQUIREMENTS FOR ELIGIBILITY.—

(A) IN GENERAL.—From information collected by a State, the State shall make electronically available to the Attorney General records relevant to a determination of whether a person is disqualified from possessing or receiving a firearm under subsection (g) or (n) of section 922 of title 18, United States Code, or applicable State law.

(B) NICS UPDATES.—The State, on being made aware that the basis under which a record was made available under subparagraph (A) does not apply, or no longer applies, shall, as soon as practicable—

(i) update, correct, modify, or remove the record from any database that the Federal or State government maintains and makes available to the National Instant Criminal Background Check System, consistent with the rules pertaining to that database; or

(ii) notify the Attorney General that such basis no longer applies so that the record system in which the record is maintained is kept up to date.

(C) CERTIFICATION.—To remain eligible for a waiver under subsection (a), a State shall certify to the Attorney General, not less than once during each 2-year period, that at least 90 percent of all information described in subparagraph (A) has been made electronically available to the Attorney General in accordance with subparagraph (A).

(D) INCLUSION OF ALL RECORDS.—For purposes of this paragraph, a State shall identify and include all of the records described under subparagraph (A) without regard to the age of the record.

(2) APPLICATION TO PERSONS CONVICTED OF MISDEMEANOR CRIMES OF DOMESTIC VIOLENCE.—The State shall make available to the Attorney General, for use by the National Instant Criminal Background Check System, records relevant to a determination of whether a person has been convicted in any court of a misdemeanor crime of domestic violence. With respect to records relating to such crimes, the State shall provide information specifically describing the offense and the specific section or subsection of the offense for which the defendant has been convicted and the relationship of the defendant to the victim in each case.

(3) APPLICATION TO PERSONS WHO HAVE BEEN ADJUDICATED AS A MENTAL DEFECTIVE OR COMMITTED TO A MENTAL INSTITUTION.—The State shall make available to the Attorney General, for use by the National Instant Criminal Background Check System, the name and other relevant identifying information of persons adjudicated as mentally defective or those committed to mental institutions to assist the Attorney General in enforcing section 922(g)(4) of title 18, United States Code.

(d) PRIVACY PROTECTIONS.—For any information provided to the Attorney General for use by the National Instant Criminal Background Check System, relating to persons prohibited from possessing or receiving a firearm under section 922(g)(4) of title 18, United States Code, the Attorney General shall work with States and local law enforcement and the mental health community to establish regulations and protocols for protecting the privacy of information provided to the system. The Attorney General shall make every effort to meet with any mental health group seeking to express its views concerning these regulations and protocols and shall seek to develop regulations as expeditiously as practicable.

(e) ATTORNEY GENERAL REPORT.—Not later than January 31 of each year, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the progress of States in automating the databases containing the information described in subsection (b) and in making that information electronically available to the Attorney General pursuant to the requirements of subsection (c).

**SEC. 103. IMPLEMENTATION ASSISTANCE TO STATES.**

(a) AUTHORIZATION.—

(1) IN GENERAL.—From amounts made available to carry out this section and subject to section 102(b)(1)(B), the Attorney

General shall make grants to States and Indian tribal governments, in a manner consistent with the National Criminal History Improvement Program, which shall be used by the States and Indian tribal governments, in conjunction with units of local government and State and local courts, to establish or upgrade information and identification technologies for firearms eligibility determinations.

(2) GRANTS TO INDIAN TRIBES.—Up to 5 percent of the grant funding available under this section may be reserved for Indian tribal governments, including tribal judicial systems.

(b) USE OF GRANT AMOUNTS.—Grants awarded to States or Indian tribes under this section may only be used to—

(1) create electronic systems, which provide accurate and up-to-date information which is directly related to checks under the National Instant Criminal Background Check System (referred to in this section as ''NICS''), including court disposition and corrections records;

(2) assist States in establishing or enhancing their own capacities to perform NICS background checks;

(3) supply accurate and timely information to the Attorney General concerning final dispositions of criminal records to databases accessed by NICS;

(4) supply accurate and timely information to the Attorney General concerning the identity of persons who are prohibited from obtaining a firearm under section 922(g)(4) of title 18, United States Code, to be used by the Federal Bureau of Investigation solely to conduct NICS background checks;

(5) supply accurate and timely court orders and records of misdemeanor crimes of domestic violence for inclusion in Federal and State law enforcement databases used to conduct NICS background checks; and

(6) collect and analyze data needed to demonstrate levels of State compliance with this Act.

(c) ELIGIBILITY.—To be eligible for a grant under this section, a State shall certify, to the satisfaction of the Attorney General, that the State has implemented a relief from disabilities program in accordance with section 105.

(d) CONDITION.—As a condition of receiving a grant under this section, a State shall specify the projects for which grant amounts will be used, and shall use such amounts only as specified. A State that violates this subsection shall be liable to the Attorney General for the full amount of the grant received under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $250,000,000 for each of the fiscal years 2008 through 2010.

(f) USER FEE.—The Federal Bureau of Investigation shall not charge a user fee for background checks pursuant to section 922(t) of title 18, United States Code.

**SEC. 104. PENALTIES FOR NONCOMPLIANCE.**

(a) ATTORNEY GENERAL REPORT.—

(1) IN GENERAL.—Not later than January 31 of each year, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the progress of the States in automating the databases containing information described under sections 102 and 103, and in providing that information pursuant to the requirements of sections 102 and 103.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, such funds as may be necessary to carry out paragraph (1).

(b) PENALTIES.—

(1) DISCRETIONARY REDUCTION.—During the 2-year period beginning 3 years after the date of enactment of this Act, the Attorney General may withhold not more than 3 percent of the amount that would otherwise be allocated to a State under section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) if the State provides less than 60 percent of the information required to be provided under sections 102 and 103.

(2) MANDATORY REDUCTION.—After the expiration of the period referred to in paragraph (1), the Attorney General shall withhold 5 percent of the amount that would otherwise be allocated to a State under section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756), if the State provides less than 90 percent of the information required to be provided under sections 102 and 103.

(3) WAIVER BY ATTORNEY GENERAL.—The Attorney General may waive the applicability of paragraph (2) to a State if the State provides substantial evidence, as determined by the Attorney General, that the State is making a reasonable effort to comply with the requirements of sections 102 and 103.

(c) REALLOCATION.—Any funds that are not allocated to a State because of the failure of the State to comply with the requirements of this title shall be reallocated to States that meet such requirements.

**SEC. 105. RELIEF FROM DISABILITIES PROGRAM REQUIRED AS CONDITION FOR PARTICIPATION IN GRANT PROGRAMS.**

(a) PROGRAM DESCRIBED.—A relief from disabilities program is implemented by a State in accordance with this section if the program—

(1) permits a person who, pursuant to State law, has been adjudicated as described in subsection (g)(4) of section 922 of title 18, United States Code, or has been committed to a mental institution, to apply to the State for relief from the disabilities imposed by subsections (d)(4) and (g)(4) of such section by reason of the adjudication or commitment;

(2) provides that a State court, board, commission, or other lawful authority shall grant the relief, pursuant to State law and in accordance with the principles of due process, if the circumstances regarding the disabilities referred to in paragraph (1), and the person's record and reputation, are such that the person will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest; and

(3) permits a person whose application for the relief is denied to file a petition with the State court of appropriate jurisdiction for a de novo judicial review of the denial.

(b) AUTHORITY TO PROVIDE RELIEF FROM CERTAIN DISABILITIES WITH RESPECT TO FIREARMS.—If, under a State relief from disabilities program implemented in accordance with this section, an application for relief referred to in subsection (a)(1) of this section is granted with respect to an adjudication or a commitment to a mental institution, the adjudication or commitment, as the case may be, is deemed not to have occurred for purposes of subsections (d)(4) and (g)(4) of section 922 of title 18, United States Code.

## TITLE J—FOCUSING FEDERAL ASSISTANCE ON THE IMPROVEMENT OF RELEVANT RECORDS

**SEC. 201. CONTINUING EVALUATIONS.**

(a) EVALUATION REQUIRED.—The Director of the Bureau of Justice Statistics (referred to in this section as the ''Director'') shall study and evaluate the operations of the National Instant Criminal Background Check System. Such study and evaluation shall include compilations and analyses of the operations and record systems of the agencies and organizations necessary to support such System.

(b) REPORT ON GRANTS.—Not later than January 31 of each year, the Director shall submit to Congress a report containing the estimates submitted by the States under section 102(b).

(c) REPORT ON BEST PRACTICES.—Not later than January 31 of each year, the Director shall submit to Congress, and to each State participating in the National Criminal History Improvement Program, a report of the practices of the States regarding the collection, maintenance, automation, and transmittal of information relevant to determining whether a person is prohibited from possessing or receiving a firearm by Federal or State law, by the State or any other agency, or any other records relevant to the National Instant Criminal Background Check System, that the Director considers to be best practices.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2008 through 2010 to complete the studies, evaluations, and reports required under this section.

## TITLE K—GRANTS TO STATE COURT SYSTEMS FOR THE IMPROVEMENT IN AUTOMATION AND TRANSMITTAL OF DISPOSITION RECORDS

**SEC. 301. DISPOSITION RECORDS AUTOMATION AND TRANSMITTAL IMPROVEMENT GRANTS.**

(a) GRANTS AUTHORIZED.—From amounts made available to carry out this section, the Attorney General shall make grants to each State, consistent with State plans for the integration, automation, and accessibility of criminal history records, for use by the State court system to improve the automation and transmittal of criminal history dispositions, records relevant to determining whether a person has been convicted of a misdemeanor crime of domestic violence, court orders, and mental health adjudications or commitments, to Federal and State record repositories in accordance with sections 102 and 103 and the National Criminal History Improvement Program.

(b) GRANTS TO INDIAN TRIBES.—Up to 5 percent of the grant funding available under this section may be reserved for Indian tribal governments for use by Indian tribal judicial systems.

(c) USE OF FUNDS.—Amounts granted under this section shall be used by the State court system only—

(1) to carry out, as necessary, assessments of the capabilities of the courts of the State for the automation and transmission of arrest and conviction records, court orders, and mental health adjudications or commitments to Federal and State record repositories; and

(2) to implement policies, systems, and procedures for the automation and transmission of arrest and conviction records, court orders, and mental health adjudications or commitments to Federal and State record repositories.

(d) ELIGIBILITY.—To be eligible to receive a grant under this section, a State shall certify, to the satisfaction of the Attorney General, that the State has implemented a relief from disabilities program in accordance with section 105.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General to carry out this section $125,000,000 for each of the fiscal years 2008 through 2010.

## TITLE L—GAO AUDIT

**SEC. 401. GAO AUDIT.**

(a) IN GENERAL.—The Comptroller General of the United States shall conduct an audit of the expenditure of all funds appropriated for criminal records improvement pursuant to section 106(b) of the Brady Handgun Violence Prevention Act (Public Law 103–159) to

determine if the funds were expended for the purposes authorized by the Act and how those funds were expended for those purposes or were otherwise expended.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall submit a report to Congress describing the findings of the audit conducted pursuant to subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Texas (Mr. SMITH) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan.

GENERAL LEAVE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

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

There was no objection.

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

The legislation before us today makes important changes to the National Instant Criminal Background Check System designed to help States identify and prevent convicted felons and other dangerous individuals from owning firearms.

As it currently stands, millions of criminal records are not accessible by the instant check system. Millions of additional records fall through the cracks as a result of backlogs and other problems.

The measure before us now will help cure these problems by providing the resources and incentives needed to modernize the system and ensure that the records are up to date.

Instant check improvements legislation has passed through the Judiciary Committee and this House each of the last two Congresses, only to die in the other body, and was on our agenda for the 110th Congress as well.

The need to move legislation was recently highlighted by the tragic Virginia Tech shootings. At the end of that fateful day in April, the alleged gunman, Cho Seung-Hui, had taken a total of 32 lives, wounded an additional 26 individuals. In addition, countless numbers of family members and loved ones of these students and teachers lives were forever changed.

By improving and enhancing the instant check system, the idea is that we will be able to prevent future tragedies where we know the individual should not own a gun.

In order to move the legislation to the floor, it was necessary to make some accommodations to incorporate the concerns of gun owners. The dean of the Congress, among other things, led this effort. Among the things that were changed is section 105 of the bill, which requires all States to adopt a procedure allowing those individuals who have been determined to suffer from a mental illness with an opportunity to purchase or possess a firearm at some point later in life. That's a pretty serious matter.

Section 101 of the bill automatically restores the gun rights of military personnel who have been previously diagnosed with a mental illness, provided they are no longer undergoing any treatment or monitoring.

I have a concern, as you may be able to tell, that these changes to current law may inadvertently permit certain individuals who should not own guns the opportunity to purchase them. As a result, I will be closely monitoring these sections to ascertain if they do, indeed, create an unnecessary loophole.

If they do, I will be the first one back on this floor asking the Congress to remedy the situation.

I thank CAROLYN MCCARTHY of New York; the dean of the Congress, JOHN DINGELL of Michigan, for their extraordinary work in this matter. I know that they are busy on their own committees, and I appreciate them helping the Committee on the Judiciary figure out how to do this.

The time to provide their input on this matter, which falls squarely within the Committee on the Judiciary's jurisdiction, is appreciated. It is truly tragic that violent felons, and even madmen, are able to evade the legal system and acquire guns which do us harm.

Anything which helps update the instant check system is a step forward in our fight against needless and senseless gun violence. I hope that that's what this measure does, and I urge my colleagues' support of this legislation.

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

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I consume.

Mr. Speaker, I rise in support of H.R. 2640, the NICS Improvement Act of 2007. Just 2 months ago, Cho Seung-Hui, a 23-year-old student, killed 32 people and injured 20 others in a horrendous shooting at the Virginia Tech campus. Our Nation was shocked by the senselessness and brutality of this attack.

In addition to our sadness over the identity of the innocent lives lost, we were angry to learn that Cho Seung-Hui should not have obtained the two guns he obtained to commit this act because he had a history of mental illness.

Unfortunately, Virginia State law did not provide for transmittal of records of mental illness to the National Instant Criminal Background Check System database, which would have disqualified him from purchasing firearms. Ambiguities in current Federal law also contributed to the system's failure to stop him from obtaining weapons. Today we take the first step in making sure that this tragedy is not repeated.

I commend Congresswoman MCCARTHY and Congressman DINGELL and the other cosponsors for their commitment to addressing this issue in a way that protects every American's constitutional right to bear arms.

The NICS Improvement Act will ensure that the NICS background check system really is instantaneous and accurate. The act will require Federal agencies to provide relevant criminal mental health and military records for using NICS, create financial incentives for States to provide relevant records for using NICS, improve the accuracy of NICS by requiring Federal agencies and participating States to provide relevant records, require removal of expired, incorrect or otherwise irrelevant records, prohibit Federal fees from NICS checks and to require an audit by the Government Accountability Office of funds already spent for criminal history improvements, since hundreds of millions of dollars intended for NICS were spent on non-NICS programs.

To strike a fair balance on the issue of mental adjudications, the bill clarifies existing law to include involuntary commitments to a mental institution, prevents use of Federal adjudications based on medical diagnoses without a finding of dangerousness or mental incapacity, requires all Federal agencies imposing mental health adjudications or commitments to provide a process for ''relief from disabilities'' and requires States receiving funding to have a relief from disabilities program for mental adjudications and commitments.

The tragedy of April 16 can never be erased, but this bill is a step forward in protecting our country from violence by persons who have no right to possess a firearm.

Mr. Speaker, I support this bill and urge my colleagues to vote in favor of it as well.

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

Mr. CONYERS. Mr. Speaker, it is my pleasure now to recognize the gentlelady from New York, who has probably worked harder on gun regulations and sanity and the licensing of guns than anyone in the House, Mrs. MCCARTHY. I yield her as much time as she may consume.

Mrs. MCCARTHY of New York. I thank you, Mr. CONYERS, for yielding. I want to thank you for your leadership on these issues, and I appreciate the time.

I would like to thank my good friend, Congressman DINGELL, for all the hard work in bringing this bill to the floor. Without his help, we would not be debating this bill today.

I also would like to thank Mr. BOUCHER, the original cosponsor and I would also like to say think you to Mr. LAMAR SMITH for working with us.

Mr. Speaker, the National Instant Criminal Background Check System, or NICS, is deeply flawed. Millions of criminals' records are not accessible by NICS, and millions of others are missing critical data, such as arrest dispositions, due to data backlogs.

The primary cause of delay in NICS background checks is the lack of updates due to funding and technology

issues in the States. Many States have not automated the records concerning mental illness, restraining orders or misdemeanor convictions for domestic violence. Simply put, the NICS system must be updated on both the State and the Federal level.

On March 12, 2002, a senseless shooting took the lives of a priest and a parishioner, Mrs. Tosner, at the Our Lady of Peace Church in Lynbrook, New York. That is part of my district.

This shooting brought attention to the need to improve information sharing, and it would allow and enable Federal and State enforcement agencies to conduct a complete background check on a potential firearm purchaser. The man who committed this double murder had a prior disqualifying mental health commitment and a restraining order against him, but passed a Brady background check because NICS did not have the necessary information to determine that he was ineligible to purchase a firearm under Federal or State law.

This same scenario happens every day. The shooter in the Virginia Tech massacre was prohibited from purchasing a firearm.

Unfortunately, flaws in the NICS system allowed his records to slip through the cracks. He was able to purchase two handguns and use them to brutally murder 32 individuals.

Today, Congress will stand up for the victims and pass commonsense legislation. According to a Third Way report, over 91 percent of those adjudicated for mental illness cannot be stopped by a background check due to flaws in the system. But this issue allows other barred individuals to purchase firearms. Twenty-five percent of felony convictions do not make it into the NICS system. That is why I introduced the NICS Improvement Act with Mr. DINGELL.

My bill will require all States to provide the NICS system with the relevant records needed to conduct effective background checks. It's the State's responsibility to ensure that this information is current and accurate. They must update the records to ensure that violent criminals do not have the right to own firearms.

However, I recognize many State budgets are already overburdened. This legislation would provide grants to States to update their records into the NICS system. States would get the funds they need to make sure records relevant to the NICS are up to date.

While the NICS system does have major flaws, it is responsible for preventing thousands of barred individuals from purchasing firearms. Approximately 916,000 individuals have been prohibited from purchasing a firearm for failing a background check between November 30, 1998, when the NICS system began operating on December 31 of 2004.

During this same period, nearly 49 million Brady background checks were processed through the NICS system. By improving upon the system, we can stop criminals from falling between the cracks. Today we are one step closer to bringing the records of millions of barred individuals into the NICS system. No system will be perfect, but that does not mean we should not make improvements to make it better. This is good policy that will save lives and should be passed by the House.

My legislation imposes no new restrictions on gun owners and does not infringe on the second amendment rights of law-abiding citizens.

I also would like to thank Bob Dobek of my staff and Josh Tzuker of Mr. DINGELL's staff for the tireless hours they put in to have this bill brought to the floor. This policy crosses party lines, and I urge my colleagues to support H.R. 2640.

□ 1045

I think the most important thing that we must all remember, we have an opportunity to save lives. That is why I came to Congress. This has been a long, long journey for me, but it's working with people that, even though I disagree with at times on bringing this together, to make sure that more citizens are safer today than they were yesterday.

This is a good bill. I urge my colleagues to support that.

Mr. SMITH of Texas. Mr. Speaker, I just want to observe that the Dean of the House, the gentleman from Michigan (Mr. DINGELL) has arrived on the House floor. And I just want to say, again, how much I enjoyed our working relationship in the development of this bill and again, appreciate all his contributions to this legislation.

Mr. Speaker, I yield to the gentleman from Delaware (Mr. CASTLE) 3 minutes.

Mr. CASTLE. Mr. Speaker, I thank the gentleman from Texas for yielding. I also thank those who've worked so hard on this, the gentleman from Michigan, the head of the Judiciary Committee, for his great work. Obviously, the extraordinary work of CAROLYN MCCARTHY. We know her personal story and how touching it is; and Mr. DINGELL for his work on this legislation.

I do rise in strong support of H.R. 2640, the NICS Improvement Amendments Act of 2007. As I've indicated, many people have worked hard on this legislation, and for that we owe them a great deal of thanks.

H.R. 2640 would enforce existing laws to help States automate and share disqualifying records like felony criminal convictions, mental disability and domestic violence incidents with the FBI's National Instant Criminal Background Check System database. By increasing the quantity and quality of data available for the background checks of potential gun buyers, we will strengthen a system that has proven vulnerable.

Funding has been provided through the National Criminal History Improvement Program to help States update, automate and improve their records. However, we were reminded of the gaps in the current Federal background check system in the wake of the Virginia Tech tragedy. A lack of reporting of those who are mentally adjudicated allowed the shooter, who should have been barred under Federal regulations from purchasing a firearm because of his history of mental illness, to purchase two handguns. The NICS Improvement Amendments Act of 2007 is critical to strengthen public safety and prevent gun violence.

Consideration of this legislation is long overdue. As an advocate of strengthening the NICS database for many years, I am pleased to lend my support to H.R. 2640. A background check is only as good as the records included in the database, and all relevant records relating to persons disqualified from acquiring a firearm under Federal law must be included in the NICS. It is my hope that the funding provided in bill will help States to act quickly and to improve their reporting.

This legislation represents a true compromise, a public safety measure that will prevent gun violence and protect the second amendment rights of law abiding citizens.

I think it's very important to note that we have two diverse groups coming together, the NRA and the Brady Group, coming together to help work out this legislation, and both had some benefits from it. Hopefully, perhaps a lesson we can all learn here on the floor.

I urge my colleagues to join me in supporting this vital measure, and I hope that we can support it and prevent future tragedies in our country.

Mr. CONYERS. Mr. Speaker, nobody in the House knows more about guns than the Dean of the Congress, the 110th Congress, the gentleman from Michigan, chairman of a major committee, JOHN DINGELL. I yield him as much time as he may consume, not to exceed 2 minutes.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. I want to thank, Mr. Speaker, my dear friend, the chairman of the committee, for yielding this time to me, and express my great affection and respect for Mr. CONYERS.

I also want to thank my dear friend, Mr. SMITH, for the kind words that he made about me, and I want to express my affection and respect for him.

I want to say that this is a good piece of legislation. It has taken a while, but I'm happy to have worked with many of our colleagues, including the distinguished gentlewoman from New York, who has been a fine leader on this matter.

Improving the National Instant Check System is a matter of important national business, and I would urge my colleagues to take a look at the rather curious alliance which brings this matter forward. Not only is the NRA, but the gun control folks are in support of

it. Members on both sides of the aisle, both here and in the Senate, are strongly supporting it.

The bill will require the National Instant Check System to work. It will provide incentives to the States and penalties for those who do not cooperate in terms of making the system work.

This system has the capability of seeing to it that criminals are denied firearms while, at the same time, assuring that we protect the rights of law abiding citizens.

The bill makes the system better for everyone, and assures that there will be better law enforcement and better protection of the rights of all citizens, both under the second amendment and personal security.

The bill also addresses the problems of mishandling of this matter by the Veterans Administration, by making corrections which will make it possible for veterans who have not a disability of mental character or otherwise, to own firearms within the ordinary structure of the law.

It is a good piece of legislation. I want to commend my distinguished friend, Congresswoman MCCARTHY from New York for her leadership and the outstanding work which she has done.

I will tell my colleagues that this is an important matter. I'm delighted to see that we're able to come together, Democrats and Republicans, friends of firearms and hunters and sportsmen, and also those who are concerned about public safety, and who desire to see to it that we have proper protection of persons against criminal misuse of firearms.

We have given this body a good bill. I urge my colleagues to support it.

Mr. Speaker, we've heard many concerns from gun owners, especially my fellow veterans, who are concerned that a person who seeks treatment for a mental problem might be reported to NICS as a "mental defective." I want to lay those concerns to rest right now.

First of all, federal law, the Gun Control Act of 1968 prohibits gun ownership by people who are "adjudicated" as mentally defective. "Adjudication" implies a decision by a court or similar body—not just a doctor's notes on a patient's charts.

Even the regulations of the Bureau of Alcohol, Tobacco, Firearms and Explosives make that clear. They define an "adjudication" as a decision by a "court, board, commission or other lawful authority." They have never treated doctors as a "lawful authority" for this purpose; clearly what they had in mind were legally empowered bodies such as judges, or the county mental health boards that are in place in some states to make decisions at hearings with respect to mental illness.

Second, we in no way intend that this bill should override federal or state medical privacy laws or the basic role of a doctor. The confidentiality between a doctor and patient is sacred and we do not intend to breach it here. We make that clear in section 102 of this bill, where we require the Attorney General to work with the medical and mental health community to develop privacy regulations.

Finally, this is a particular concern for the Veterans' Administration, which examines thousands of veterans every year. Even if we wanted them to, it would be an unreasonable demand on that hard-working agency to expect them to comb every patient's file for any possible finding that the person might be dangerous. I want to be clear that that is not our intent.

It is important that we understand these points because no person should ever be deterred from seeking mental health treatment out of a concern that he might lose his Second Amendment rights due to some record of voluntary treatment being provided for the instant check system.

Mr. SMITH of Texas. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. LUNGREN), a senior member of the Judiciary Committee.

(Mr. DANIEL E. LUNGREN of California asked and was given permission to revise and extend his remarks.)

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, we've heard from the perspective of those who have, unfortunately, suffered tremendous loss in gun violence. We've heard from those who are champions of the second amendment. We've heard from the distinguished chairman of the Judiciary Committee, and the ranking member of the Judiciary Committee.

I would like to bring the perspective of someone who was required to enforce the laws concerning guns in the State of California as Attorney General. Background checks in the State of California go through the California Department of Justice. We have, probably before the Federal law was passed, certain requirements or restrictions from those who ought not to have weapons that I think there is absolutely general agreement on.

Under current law, you cannot do that if you have illegally entered the country, renounced your citizenship, been committed to a mental institution, or been legally declared mentally defective and a danger to others, if you have received a dishonorable discharge from the military, or illegally used drugs or are addicted to illegal drugs.

I think virtually every American can agree that that makes sense. We agreed that that makes sense in California a long time ago.

But the background check is only as good as the information in the system. And while States such as mine can do a very good job with respect to their own records, a huge loophole exists if someone who has been declared mentally deficient in another State moves into your State and you don't have those records. If someone who has a disqualifying felony from another State comes into your State, you don't have those records. And so this allows more accurate information to assist all the States in doing the job that their people have agreed ought to be done. There's very little dispute on this.

For many years, the National Rifle Association has said they supported accurate background checks, so long as there was an ability for people to challenge them if, in fact, they're improperly in those records. And that is in current legislation, strengthened in this legislation.

Some of the States have had difficulty with respect to their funding. This assists in that regard.

It seems to me, this is a responsible way of responding to a serious problem. It is one which is not driven by the extremes. It is not driven by emotion. It is driven by conscious effort to try and find a reasonable response to a continuing problem.

I support this wholeheartedly. I congratulate those on both sides who have done such a good job of working to make sure that this bill came to the floor, and that it was not in some way sidetracked by extraneous arguments.

And so I congratulate the authors. I congratulate the members of the committee leadership, and I urge unanimous support of this bill.

Mr. CONYERS. Mr. Speaker, I rise to recognize the gentleman from Virginia, Mr. RICK BOUCHER, a principal actor on this legislation, and yield him as much time as he may consume.

Mr. BOUCHER. Mr. Speaker, I want to thank my friend the gentleman from Michigan for yielding this time to me.

I rise in support of the legislation, which I'm pleased to be cosponsoring with the gentlelady from New York (Mrs. MCCARTHY) and the gentleman from Michigan Mr. DINGELL. And I want to thank both of my colleagues for their careful and constructive work that has brought this measure to the floor today.

The bill before the House is a well tailored response to the tragedy that occurred earlier this year in the Congressional District which I represent, in which is located Virginia Tech University.

It also meets a nationwide need for better reporting of mental health records to the National Instant Criminal background check system, against which prospective gun purchasers are checked to determine their eligibility to purchase firearms.

Under existing Federal law, which was also in effect at the time of the Virginia Tech tragedy, persons who have been adjudicated to be a risk to others or to themselves because of a mental condition are prohibited from purchasing firearms. The perpetrator of the Virginia Tech tragedy had been adjudicated by a State court in Montgomery County, Virginia, to be a risk to himself and committed for outpatient mental evaluation.

Accordingly, under Federal law that was in effect at the time, he should have been barred from purchasing the firearms that he used. However, at the time the purchases were made, Virginia did not submit to the national background check system mental health records of persons who were committed for outpatient as opposed to inpatient mental health evaluation. Therefore, the disqualifying adjudication that the perpetrator was a risk to

himself was not submitted to the background check system, and he was able to purchase firearms.

Ironically, at the time, our State of Virginia had the best record among all the States in submitting mental health records to the national background check system. And so clearly, there is a large nationwide need for improvement in the submission of these records, both in Virginia, but elsewhere across the country.

Since the tragedy, Virginia's mental health submissions have been made much more thorough by an executive order that was signed by Virginia's governor, Tim Kaine. The bill that we will pass today will improve the submission of mental health records in other States by providing grants to the States which undertake projects to make more thorough record submissions.

The bill also imposes financial penalties on States that elect not to do so. This is a measured response to a truly terrible situation. It will improve the accuracy of the national background check system, and I want to commend Mrs. MCCARTHY, in particular, for her longstanding advocacy of these improvements, my colleague on the House Energy and Committee, JOHN DINGELL, for his outstanding work on the legislation, and the gentleman from Michigan (Mr. CONYERS), who so ably chairs the House Judiciary Committee, for moving this measure rapidly to the House floor today.

Mr. Speaker, I urge passage of the bill.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to my colleague from Texas (Mr. PAUL).

Further, Mr. Speaker, I ask unanimous consent to yield the balance of my time to the gentleman from California (Mr. LUNGREN).

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

There was no objection.

(Mr. PAUL asked and was given permission to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, I rise in opposition to H.R. 2640, the National Instant Criminal Background Check System Improvements Amendments Act, and I urge caution.

In my opinion, H.R. 2640 is a flagrantly unconstitutional expansion of restriction on the exercise of the right to bear arms protected under the second amendment.

H.R. 2640 also seriously undermines the privacy rights of all Americans, gun owners and non-gun owners alike, by creating and expanding massive Federal Government databases, including medical and other private records of every American.

H.R. 2640 illustrates how placing restrictions on the exercise of one right, in this case, the right to bear arms, inevitably leads to expanded restriction on other rights as well. In an effort to make the Brady background check on gun purchases more efficient, H.R. 2640 pressures States and mandates Federal agencies to dump massive amounts of information about the private lives of all Americans into a central Federal Government database.

□ 1100

Among the information that must be submitted to the database are medical, psychological, and drug treatment records that have traditionally been considered protected from disclosure under the physician/patient relationship, as well as records related to misdemeanor domestic violence. While supporters of H.R. 2640 say that there are restrictions on the use of this personal information, such restrictions did not stop the well-publicized IRS and FBI files privacy abuses by both Democratic and Republican administrations. Neither have such restrictions prevented children from being barred from flights because their names appeared on the massive terrorist watch list. We should not trick ourselves into believing that we can pick and choose which part of the Bill of Rights we support.

I urge my colleagues to join me in opposing this bill.

Mr. CONYERS. Mr. Speaker, I now yield 3 minutes to the gentlewoman from Texas, SHEILA JACKSON-LEE, who is one of the most active members on the House Judiciary Committee.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think it is important as we come to the floor this morning to remind our colleagues of the horrible death that this legislation has had over the last two Congresses. Just think how many lives could have been saved had the wisdom of Congresswoman MCCARTHY and certainly her cosponsor Congressman DINGELL and this body prevailed. Maybe the tragedy of Virginia Tech, Seung-Hui Cho, who was already judged someone who was troubled, could have saved the lives of 32 who died and 26 who were wounded.

This bill died Congress after Congress. I rise today to support this legislation because it is an answer partly to the crisis of the massive numbers of murders and death by guns in this country.

I am reminded of the phrase of those who want to see no regulation, and that is that ''people kill, guns don't.'' But it is interesting that they use guns to kill, just like the individual who recently walked into his pregnant wife's office and shot her dead, a pregnant woman.

So I support this legislation for making it easier to secure the instant background checks to get rid of the backlogs and to be able to stand in the way of a Seung-Hui Cho.

Let me thank Congressman CONYERS for his continuing advocacy and the great work of Congresswoman MCCARTHY over the years of expressing her advocacy based upon her experience, and it has been a tribute to her service in America. Let me thank Mr. DINGELL and the ranking member, Mr. SMITH, for their collaboration on moving this legislation forward.

Might I, however, note that I am concerned that there is an allowance for those who have been denied earlier to be able to purchase a gun later in life. I raise a concern about that, whether that person is fully healed and ready to own a gun. And then it also indicates that it automatically restores the gun rights of a military American who may have been diagnosed with military illness, suggesting that he or she may no longer be under a monitoring system or no longer needs care. I raise these loopholes because those are the kinds of cases that will pop up on the Nation's headlines. Why did it happen? Because we had a loophole.

So we have taken some steps, but, frankly, as I look at the numbers of dead in Chicago, young people who have died, now some 31, 32, at the hands of guns, yes, gun violence and gangs, but it still is speaking to the proliferation of guns in America.

I don't have any problem with the second amendment. You can carry a legal gun for legal purposes all you want. Go through the hoops and go through the circles so that we can protect America against the illegal selling of guns that results in 32 dead teenagers as young as 14 years old in Chicago, Illinois.

I ask my colleagues to support this legislation. It is a good step forward. And I thank the leaders for this bill.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, it is my pleasure now to yield 2 minutes to the gentleman from Austin, Texas, the lefthander (Mr. MCCAUL).

Mr. MCCAUL of Texas. I thank the gentleman from California for yielding.

Mr. Speaker, I rise today in support of this bill. I also rise as a former Federal prosecutor who prosecuted, under the Federal firearms statute, gun cases.

I want to commend Chairman DINGELL, Congresswoman MCCARTHY, and the National Rifle Association for reaching what I consider to be a good result on a bill that, in my view, is necessary.

It has been illegal for various individuals to purchase firearms for many years, illegal aliens, mentally defective individuals, those using illegal drugs, and people convicted of crimes of domestic violence. But for too long, in my experience and many of my colleagues whom I worked with in the Justice Department, the system, the background check system was not accurate. The information was not fully put into the system. In my view, if we are going to have a background check system, we ought to do it right. So let's get the system right.

I think that is what this bill does. It gets the system right. It provides the Federal funding necessary to get the

system right. And at the same time, it protects law-abiding citizens, those who are law abiding who want to purchase firearms. It protects their second amendment rights, and it keeps guns out of the hands of the bad guys.

I prosecuted cases under the Exile Program, which was a program sponsored by the National Rifle Association, and what we found was that it was bad guys that possessed firearms that caused the crime in this country. And we found when we locked up the bad guys who possessed these firearms that the crime rate actually went down.

So with that, I, again, give my support to this bill.

Mr. CONYERS. Mr. Speaker, I am delighted to yield the balance of my time to the gentleman from Virginia (Mr. MORAN) to close on our side.

The SPEAKER pro tempore. The gentleman from Virginia is recognized for 2 minutes.

Mr. MORAN of Virginia. I thank the distinguished chairman of the Judiciary Committee for yielding.

I will vote for this. I was a cosponsor of this. And certainly Mrs. MCCARTHY deserves credit for bringing it to the floor.

But I do have concerns, as the chairman does, that this needs to be very tightly regulated because it is quite liable to allow thousands of people who should not have access to guns to be able to do so by dropping their mental health treatment. There are 190,000 veterans who, because of their experience in combat, have had serious mental illness problems, but it appears that if they drop the treatment that they have been in, they can become eligible to purchase guns. Again, much of this is going to be in the regulation and the good judgment of States to make it work properly.

It is not a gun control measure, as Mrs. MCCARTHY, stated. It does nothing about the fact that we have hundreds of millions of guns in circulation and tens of thousands of people die from those guns, the vast majority are innocent victims, every year, more so than any civilized nation. It doesn't address issues with regard to the second amendment where the Supreme Court has made it clear there is really not a right for individuals to own guns but rather for States to have well-regulated militias. These are issues that need to be addressed at some point by our country.

But this bill, hopefully, will address a very egregious situation where the person that the court had determined to be mentally deranged was allowed access to firearms that he never should have gotten. There are other problems in other States that could have allowed such a thing to happen. Hopefully, this bill will clean up this record-keeping system that sufficient resources will be made available.

But, again, Mr. Speaker, this country ought not be allowing people to be buying assault weapons, 50 caliber sniper rifles and weapons that clearly are used for military purposes, not for purposes of recreational hunting.

Mr. Speaker, this bill will pass unanimously and at this point, it should.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a good bill. This is a bipartisan bill. This goes across ideological lines. It goes across lines of organizations that in the past may not have worked together.

There were some comments on the floor with which I disagree. This is not open season on all the medical records of every American citizen. If you are adjudicated, you will find yourself in this system. And I think most Americans believe that if someone has been adjudicated with a mental defect which is a danger to society, they ought not to have a weapon.

There has been an effort to try to reach a reasonable compromise on how we deal with a very difficult situation dealing with veterans, where overreach in the past by the Veterans Administration has caused trouble with respect to those who ought not to be included in the system. But it doesn't automatically allow all these folks to come in. It is not an open door. They have to go through the system. They have to show that they ought not to be disabled from receiving a gun.

Whenever you talk about the second amendment, it seems to me it ought to be done with proper deference and proper respect for the Constitution. At the same time, this is not an unconstitutional deprivation of any right. The courts have been very clear that people can be denied the right to guns in these categories. We are not expanding the categories. As a matter of fact, we are creating in this legislation mechanisms to make it work better.

I can recall being on the floor in the 1980s when we were dealing with very tough debates on gun laws, and at that time the National Rifle Association's position was that they would support an instant background check system. The technology really wasn't there at that time. It really wasn't there. We are not totally there yet, but we are almost there in terms of instantaneous.

This is the kind of background check that we had hoped we could discuss on the floor back in the 1980s. It was sort of a dream, and some people thought it was a ruse at that time to stop legislation. Now it is a reality. It is something that can work, and this legislation makes it work better.

May I just reiterate: when I was the chief law enforcement officer of the State of California, we relied on the accuracy of the information contained in our records at the California Department of Justice. Similarly, the only way we could make sure that our laws work effectively and the Federal laws work effectively within our State is that we have proper information on adjudications from other States. And it is unfair to the citizens of my State to have people disabled from using firearms because they have been adjudicated legally with respect to a mental deficiency and yet others come in from other States, take up residence in our State, and because we don't have the records, they are allowed to have such weapons, which we believe to be a danger to society. So that is what this legislation does.

The other thing is, remember, there is an ability to challenge being placed on these lists, and that is enhanced in this legislation. There is, yes, funding that encourages the States to participate. But isn't that the way we would like it? We want the States to participate. We want the information to be accurate. We want to have a system that actually is accurate, informative, and instantaneously accessible by proper authorities.

So please remember we have not done something which puts Americans' medical records at risk unless you have committed a disqualifying crime or unless you have been adjudicated by a court for having a mental defect which would prove to be a danger to society.

I would ask my colleagues to support this legislation.

Mr. PAUL. Mr. Speaker, in addition the NICS Improvement Amendments Act illustrates how laws creating new infringements on liberty often also impose large financial burdens on taxpayers. In just its first three years of operation, the bill authorizes new yearly spending of $375 million plus additional spending "as may be necessary." This new spending is not offset by any decrease in other government spending.

Mr. EMANUEL. Mr. Speaker, I rise today in support of H.R. 2640, the National Instant Background Check System—NICS—Improvement Act. I am proud to be an original cosponsor of this important legislation, and I urge my colleagues to join me in supporting this vital correction of NICS.

Established by the Brady bill in 1994, NICS is the main point of contact for firearms dealers to determine if an individual is ineligible to purchase a gun. Current law prohibits criminals, drug addicts, those adjudicated as mentally ill, domestic abusers and others from being able to purchase fire arms. The NICS Improvement Act will improve this system by requiring States to update the system with their own lists of individuals who are no longer qualified to buy guns under the 1968 Gun Control Act.

The recent tragedy at Virginia Tech has shown that the data used to conduct background checks clearly needs to be improved. Seung Hui Cho had been adjudicated mentally ill and should not have been able to purchase a weapon, but NICS did not have that information on file, enabling him to pass an instant background check before purchasing his weapons.

No one who is prohibited by law from buying a gun should be able to skirt the law thanks to outdated data. The NICS Improvement Act will require the transmittal of Federal and State records to NICS, as well as create incentives for the States to keep the information accurate and up to date.

During my time in the White House, I was proud to be a part of passing the Brady bill

and I know my friends Jim and Sarah Brady are as proud as I am that we are taking action to improve this system to keep guns out of the hands of dangerous individuals.

Mr. Speaker, nothing can bring back the victims of the tragedy at Virginia Tech, and my heart goes out to the families of those who were lost this past April. We need to learn from this tragedy, and I ask my colleagues to join me in doing just that by passing the NICS Improvement Act today.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I yield back the balance of my time.

□ 1115

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. CONYERS) that the House suspend the rules and pass the bill, H.R. 2640.

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

A motion to reconsider was laid on the table.

## DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2008

The SPEAKER pro tempore. Pursuant to House Resolution 473 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2638.

□ 1119

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2638) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes, with Mr. WEINER in the chair.

The Clerk read the title of the bill.

The Acting CHAIRMAN. When the Committee of the Whole rose on the legislative day of Tuesday, June 12, 2007, the bill had been read through page 2, line 11, and pending was the amendment by the gentleman from North Carolina (Mr. MCHENRY) to amendment No. 33 by the gentlewoman from North Carolina (Ms. FOXX).

Is there further debate on the amendment?

Mr. PRICE of Georgia. Mr. Chairman, I move to strike the last word.

The Acting CHAIRMAN. Has the gentleman from Georgia already spoken on this amendment?

Mr. PRICE of Georgia. No, sir.

The Acting CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. PRICE of Georgia. Mr. Chairman, I look forward again to a spirit of debate today on an issue that's of the highest importance, I believe, to the American people.

Before we get into the substance of the amendment, I thought it might be appropriate to review a few items of discussion as we closed last evening. We had some good friends on the other side who talked about all of this being ''a waste of time.'' Well, Mr. Chairman, I am here to tell you that my colleagues and I believe that any time that we can fight on behalf of the American people for transparency and for accountability and, yes, for democracy, that that is not a waste of time.

We heard last evening that our discussion points on this appropriations bill, which spends billions of hard-earned taxpayer money, that it was long on process and short on policy. Well, Mr. Chairman, our policy regarding the earmark issue, which has now grabbed the attention of the entire Nation, our policy was complete transparency and an opportunity not just to be informed about earmarks, but to have an up or down vote, an up or down vote and the opportunity to vote on each individual special project. That is an apparent novel thought to our new majority, and we would encourage them to visit the rule that we had in place prior to the change in leadership.

We also heard last evening that we weren't hearing any facts by the minority party. Well, Mr. Chairman, the fact is that their earmark policy, the majority party's earmark policy is simply a slush fund to spend money as they or one individual may deem fit.

As we revisit this second-order amendment, I think it's important for the American people to appreciate and for our colleagues to appreciate that what this amendment would do would be to decrease spending by the majority party by about $8.5 million. Mr. Chairman, that's $8.5 million in savings to the American people.

Now, I know to some here in Washington that may seem like a paltry sum, but $8.5 million is a lot of money. It's a lot of money, and it's appropriate for us to be discussing how that money ought be spent.

The chairman of the subcommittee said yesterday what we needed was a reality check about this amount of money that was in the bill. He said that the majority party consulted with the Office of Executive Counsel, and this is exactly the amount of money that they said they needed. Well, Mr. Chairman, we consulted some folks, too. We consulted the American taxpayer. The American taxpayer said that we are spending too much money, and that they want greater oversight on the amount of money that this Congress spends of their hard-earned tax money.

Mr. Chairman, this new majority ran on a policy of openness and honesty and candor, and I would suggest that this is hardly a process that could be considered as embracing openness or honesty or candor. If we examine the process that's proposed by the majority party, it would allow appropriations bills to have a line in them. Every appropriations bill would have a line in it, it would say ''trust us, just trust us.'' Any Member that then wanted a special project or an earmark would write a request to the Appropriations Chair, the Appropriations Chair would then decide if that project had merit, not the House, the Appropriations Chair, and then we would be informed. No opportunity to identify that particular project, projects would simply be disclosed. We would be given information.

Well, Mr. Chairman, this issue isn't about disclosure. It's not just about knowing what's in the bill. It is about having the opportunity, as our constituents would desire, for us to debate the issue, for us to debate each of those special projects, for us to deliberate on them. It would be an opportunity for us to follow the rules of the House. It would be an opportunity for transparency, and a much greater opportunity for accountability.

So, Mr. Chairman, this is about ideology, yes, about who ought to be better able to spend the hard-earned taxpayers' money, whether it's Washington or whether it's our constituents. And it's about a slush fund that we are beginning to get a sense is recurring in bill after bill, and in these appropriations bills, a slush fund in every bill that would allow the majority party to determine where those special projects would be funded.

So what's the solution? What's the solution? We had a long debate yesterday, a long discussion yesterday. And I think it is important that we put on the table the solution that would be most appropriate, and that is, I would suggest, Mr. Chairman, a moratorium. Let's have a moratorium on all earmarks. Let's make it so that we do what the American people, what our constituents would desire, which is to get together and solve this challenge that we have. It's not a Republican challenge or a Democrat challenge, it's an American challenge: How do we most wisely and most responsibly spend the American taxpayer money?

I would support a moratorium. I urge my colleagues to adopt this amendment as we learn and work to responsibly spend taxpayer money.

Mr. RODRIGUEZ. Mr. Chairman, I move to strike the last word.

Let me take this opportunity, first of all, to congratulate the chairman, Congressman PRICE, on this particular piece of legislation. Let me also share with you, as a member of this particular subcommittee, of this particular committee, we had some 22 hearings. The gentleman speaks about the importance of being able to see, in terms of transparency. We had 22 hearings. That is much more than in the previous time.

We had an opportunity, also, to visit the border. We went through Arizona all the way down to San Diego. We had a chance to look in terms of the border and the type of technology that is required in order to safeguard our border, not to mention the fact that we also looked at the different types of fences that are being utilized. And there is no