

of education for all children. Furthermore, privately-funded scholarships raise none of the concerns of state entanglement raised by publicly-funded vouchers.

There is no doubt that Americans will always spend generously on education, the question is, "who should control the education dollar—politicians and bureaucrats or the American people?" Mr. Speaker, I urge my colleagues to join me in placing control of education back in the hands of citizens and local communities by sponsoring the Education Improvement Tax Cut Act.

**FAMILY SMOKING PREVENTION
AND TOBACCO CONTROL ACT**

SPEECH OF

HON. LAMAR SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 1, 2009

Mr. SMITH of Texas. Mr. Speaker, H.R. 1256 directs the Secretary of HHS to promulgate an interim final rule that is identical to the FDA's 1996 rule, which legal experts from across the political spectrum have stated would violate the First Amendment.

While these experts' views should carry great weight, even more persuasive is the fact that the U.S. Supreme Court also has weighed in on various provisions of the rule, finding them unconstitutional.

In *Lorillard Tobacco Co. v. Reilly*, the U.S. Supreme Court struck down a Massachusetts statute that was similar in many ways to the FDA's proposed rule. The statute banned outdoor ads within 1,000 feet of schools, parks and playgrounds and also restricted point-of-sale advertising for tobacco products.

The Court held that this regulation ran afoul of the test established in the *Central Hudson* case, which defines the protection afforded commercial speech under the First Amendment, as it was not sufficiently narrowly tailored, and would have disparate impacts from community to community.

The Court then noted that since the Massachusetts statute was based on the FDA's rule, the FDA rule would have similar constitutional problems.

As Justice Sandra Day O'Connor wrote for the Court, "the uniformly broad sweep of the geographical limitation demonstrates a lack of tailoring."

Additionally, the proposed rule in H.R. 1256 would require ads to use only black text on a white background. The U.S. Supreme Court found a similar provision unconstitutional in *Zauderer v. Office of Disciplinary Counsel*. In that case, dealing with advertising for legal services, the Court held that the use of colors and illustrations in ads is entitled to the same First Amendment protections given verbal commercial speech.

Justice Byron White, in his opinion for the Court, wrote that pictures and illustrations in ads cannot be banned "simply on the strength of the general argument that the visual content of advertisements may, under some circumstances, be deceptive or manipulative."

So there are numerous speech restrictions in this legislation that raise serious First Amendment concerns. This will create a swarm of lawsuits that will only divert us from trying to develop more effective approaches to tobacco use in the United States.

To include speech restrictions that a broad range of legal experts have stated are almost certain to be unconstitutional fatally taints this bill.

I know the bill is well-intentioned but I hope my colleagues will support the alternative offered by the gentleman from Indiana, Mr. BUYER.

**INTRODUCTION OF A BILL TO
BRING PARITY TO TSA EMPLOYEES**

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 2, 2009

Ms. JACKSON-LEE of Texas. Madam Speaker, I am pleased today to join the Honorable NITA M. LOWEY and the Honorable BENNIE G. THOMPSON, in introducing a bill that will bring parity to Transportation Security Administration (TSA) employees and ensures security. This legislation would provide the same rights to all TSA employees, including the Transportation Security Officers (TSOs) (i.e., screeners), as those already enjoyed by employees at the Department of Homeland Security (DHS) and numerous front-line security agencies throughout the country, including state law enforcement agencies.

In the 110th Congress, The Committee on Homeland Security worked to give a broad range of rights to the Transportation Security Administration workforce in H.R. 1, Implementing the Recommendations of the 9/11 Commission Act of 2007. Basic workplace protections and collective bargaining rights were a key part of this effort. While the House passed these important measures and the Senate followed suit, to avoid a veto from the Bush Administration, these protections were stripped from the conference report. This bill renews and improves upon this effort by increasing the quality of the entire TSA workforce and not just a smaller part of it. This bill will increase security by improving workforce morale and employee retention, and will put workers in a position to expose security gaps and put TSA on par with other DHS components.

In 2001, when TSA was created, Congress provided discretionary authority allowing TSA to create different classes of employees, each with different rights and protections. Specifically, the 107th Congress and President Bush gave the TSA Administrator the discretionary authority to set up two different TSAs. One group of TSA employees would be given one set of rights and the other group, the TSOs (i.e., screeners), could be treated differently, with respect to conditions and benefits of employment, discipline, compensation, leave, and other basic employment rights.

Under then TSA Administrator, Admiral James Loy, the Bush Administration exercised discretionary authority to create two classes of TSA employees by denying the TSOs certain employment rights. While this discretionary authority helped quickly establish and stand-up TSA, as intended by the 107th Congress and the Bush Administration, it was, and continues to be the impetus for low employee morale and diminished transportation security.

From survey results to testimony over the past several years, we have seen that the

TSA workforce is frustrated by the lack of recognition and rewards for performance and promotion practices, confused by different policies and procedures on leave, training, and other administrative matters.

On March 5, 2009, a House Homeland Security Subcommittee received testimony from employee representatives of the workforce. All of TSA operates under a separate personnel system than other DHS components. Further, the TSO workforce is not allowed to collectively bargain in contrast with the CBP workforce and others across the federal government, including state law enforcement. These discrepancies and differences lead to confusion, frustration and further erode morale.

The time for personnel experiments is now over. The employees of TSA deserve to be treated like their fellow employees in the DHS and across the Federal government—fairly and equitably. Providing basic employment protections and rights is critical to instill confidence in the workforce. The time for two classes of TSA employees is over—this bill eliminates this dichotomy.

This legislation brings parity to the TSA workforce. The bill affords the workforce the same rights and protections their colleagues across the federal government and the Department enjoy under Title 5 of the United States Code and other civil service laws such as provisions of the Federal Labor Standards Act, Equal Pay Act, Age Discrimination in Employment Act and the Rehabilitation Act, among others.

The legislation aims to transition the 60,000 plus TSA workforce in a responsible way from its current and varied personnel systems to that of Title 5. It provides the Secretary and Assistant Secretary the discretion on how and when to move to the new system, although not later than 60 days after the date of enactment. It also provides a window for the transition to allow for consultation with employee representatives and communication with the workforce. Further, it ensures that no employee will lose any pay, accrued leave or health benefit that is currently afforded to them.

To truly provide comprehensive transportation security, it must start with those who provide the security—in this case all TSA employees, including the TSOs. We must set up a system where all TSA employees are protected, otherwise we will have a system that treats colleagues differently and remains inefficient to the extent of hindering transportation security. In the end, by creating one TSA as a part of a one DHS the American public truly receives national security.

We look forward to working with our colleagues to put the TSA workforce in a system that has stood the test of time and shown itself to be fair and equitable.

**INTRODUCTION OF A BILL TO
BRING PARITY TO TSA EMPLOYEES**

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

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Mrs. LOWEY. Madam Speaker, I am pleased to join Chairman THOMPSON and Congresswoman JACKSON-LEE in introducing today

a bill that will bring parity to Transportation Security Administration (TSA) employees and ensures security. This legislation would provide the same rights to all TSA employees, including the Transportation Security Officers (TSOs) (i.e., screeners), as those already enjoyed by employees at the Department of Homeland Security (DHS) and numerous front-line security agencies throughout the country, including state law enforcement agencies.

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We look forward to working with our colleagues to put the TSA workforce in a system that has stood the test of time and shown itself to be fair and equitable.

RECOGNIZING THE NORTHLAND
HIGH SCHOOL BOYS BASKETBALL TEAM

HON. PATRICK J. TIBERI

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 2, 2009

Mr. TIBERI. Madam Speaker, I rise today to honor and pay tribute to Northland High School in Columbus, Ohio. Northland High School is in my congressional district, and as a Northland graduate, I am proud to recognize a school that not only excels in academics but also distinguishes itself on the basketball court. The Northland High School basketball team recently won the 2009 Ohio Division I Boys Basketball Championship. In the championship game, Northland defeated Cincinnati Princeton 60 to 58.

The basketball team is an outstanding example of hard work, determination and perseverance. They had 27 wins and only one loss in the 2008–2009 season, and have earned the first boys basketball title in school history.

They are led by their top scorer, Jared Sullinger, who was recently named the Associated Press “Mr. Basketball” for Ohio, Junior

James “JD” Weatherspoon, Seniors Sam Belisle, Dimonde Hale, Ricky Bennett and Javon Cornley, along with teammates Charles Edgerton, Quentin Henderson, Trey Burke, Lavante Justice, Ke’Chaun Lewis, Jordan Potts, Devon Scott, Jakyl Cornley, and Roberto Pierre.

The team is led by Head Coach J. Satch Sullinger; Assistants Frank Smith, Michael Clouse, Leigh Horston and Jerome White.

It is an honor to represent such a fine group of young people who have a strong dedication to team work and academics. I know each one of them will treasure the memories of their championship season and I commend them, and the Northland community, for this truly great achievement.

HONORING LEON FLEISHER

HON. JOHN P. SARBANES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 2, 2009

Mr. SARBANES. Madam Speaker, I rise today to honor pianist and conductor Leon Fleisher on the occasion of his 80th birthday. His musical contributions have touched the people of Maryland for many years, and the story of Leon’s life is a testament to both the inspirational power of music and the indomitable nature of the human spirit. As a young man, Leon was acclaimed as a once-in-a-generation musical talent, and by his mid-twenties, Leon had become one of the world’s most-respected and sought-after piano soloists, creating a number of timeless interpretations of classic works that are admired to this day.

When a rare neurological condition stripped him of the use of his right hand, he refused to allow the condition to limit his work and continued to contribute to classical music. As a conductor and director, Leon inspired and energized other musicians from such distinguished organizations as the Baltimore Symphony, the Annapolis Symphony Orchestra, the Peabody Conservatory, the Royal Conservatory of Toronto, and the Kennedy Center’s Theater Chamber Players. As a teacher, Leon imparted his own knowledge, passion, and skill to many musicians who now carry the weight of his musical legacy. As a performer, Leon performed the definitive left-handed interpretations of numerous works, inspiring many composers to create new works for the previously underutilized left hand.

After years of special treatments, Leon returned to Carnegie Hall in a truly inspiring culmination of years of determined effort. The recipient of countless awards and accolades, Leon Fleisher has been a true gift to the people of the 3rd district of Maryland, and the field of classical music in general. His performances and personal story remain powerful, and on the occasion of his 80th birthday, I thank him for all he has done, and all he will continue to do, to advance both the world of music and the capacity of the human spirit.