

Disaster Assistance Nonprofit Fairness Act of 2013. The bill was introduced in the House of Representatives on Friday, February 8, 2013. It would amend Sections 102(10)(B) and 406(a)(3) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(10)(B) and 5172(a)(3)), to clarify that houses of worship are eligible for disaster relief and emergency assistance on the same terms as other nonprofit facilities providing certain defined essential services to the public. Stated differently, houses of worship that are otherwise eligible for relief and assistance are not to be discriminated against because of their religious character.

FEMA's current policy is set forth in its memorandum captioned "Houses of Worship—FEMA Public Assistance Eligibility." Concerning multiple-use facilities, FEMA denies relief and assistance to otherwise eligible houses of worship unless the primary use of the space in a facility is for essential services of a governmental nature. FEMA converts "primary use" into a simple fifty-percent (50%) rule, but it does not state the legal authority for the rule.

The matter of interest is compliance with the Establishment Clause in the First Amendment to the U.S. Constitution. The United States Supreme Court has formulated a neutrality principle to assess general programs of aid to the nongovernmental sector. The principle requires: (i) that the program have a secular purpose, and (ii) that the recipients of the aid be eligible without regard to religion. Under the above-referenced bill, Section 102(10)(B) defines an eligible private nonprofit (PNP) as a facility that provides: (a) essential services; (b) while not by government, of that "nature;" and (c) available to the public. The three-part definition is secular in purpose. True, the bill expressly mentions houses of worship as eligible. But that makes sense and is secular in purpose, because in the past they were sometimes excluded by FEMA. So Congress, in passing this amendment, is just bringing matters back from a discriminatory situation to one of religious neutrality.

A parenthetical in 102(10)(B) gives several examples of such eligible PNP facilities providing essential services. If a private "museum" is an essential service in the "nature" of "governmental," the eligible recipients are not as narrowly limited as might at first appear. "Community centers" are expressly named as eligible, and this bill has "houses of worship" as a type of community center. The findings in Section 2(5) of the bill further help to define how houses of worship serve as a type of community center. The findings also help to explain how a community center provides "essential services," namely activities central to community rebuilding and reconstruction after a natural disaster.

Several U.S. Supreme Court cases prepared the way for the neutrality principle as we presently recognize it. In *Bowen v. Kendrick*, 487 U.S. 589 (1988), the Court upheld a congressional program funding counseling centers targeting adolescent sexuality that was available to religious as well as secular providers. In *Zobrest v. Catalina Foothills Sch. Dist.*, 509 U.S. 1 (1993), the Court held that a public school district had to provide the same special education services to a student when he switched enrollment from a public to a religious high school. In *Witters v. Washington Dep't of Servs. for the Blind*, 474 U.S. 481 (1986), the Court upheld a state vocational rehabilitation program, available without regard to religion, even when it resulted in aid to a student to attend a seminary.

The neutrality principle became fully grounded with the Court's decision in *Agostini v. Felton*, 521 U.S. 203 (1997). Agostini

involved the implementation of federal funding for K-12 special educational services in schools in the State of New York. The special educational services were rendered by special education teachers employed by the local public school district. For those special education students in religious schools, it was more effective and less costly to have the teachers travel to the religious school campus to deliver the services. But this had been barred by prior case law. In *Agostini*, the Court overruled its prior precedent and approved the delivery of services to all special needs students on a basis neutral as to religion. The services were secular, and there was no reason because of the Establishment Clause to discriminate against children enrolled in the religious schools.

The *Agostini* secular-purpose/religion-neutral analysis was carried forward by the Supreme Court in *Mitchell v. Helms*, 530 U.S. 793 (2000). The case involved a challenge to a part of the Primary and Secondary Education Act of 1965, which provide educational materials and services to all K-12 schools without regard to religion. The challengers wanted the aid denied to religious schools. The nature of the educational materials was secular. Accordingly, the Court upheld the practice of treating all schools neutrally. These religious schools were intensely religious, but that was no reason to discriminate against them. Care should be exercised so that no governmental aid is diverted from its intended secular purpose, in particular that the aid not be diverted to an explicitly religious purpose.

It is my opinion that the above-referenced proposed amendment to the Robert T. Stafford Disaster Relief and Emergency Assistance Act is consistent with the Establishment Clause of the First Amendment to the U.S. Constitution.

Thank you for your kind consideration of this letter opinion.

Sincerely,

CARL H. ESBECK,  
R.B. Price Professor of  
Law and Isabelle  
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#### HONORING NATHAN CONRAD STAHL

#### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 14, 2013

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize Nathan Conrad Stahl. Nathan is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 314, and earning the most prestigious award of Eagle Scout.

Nathan has been very active with his troop, participating in many scout activities. Over the many years Nathan has been involved with scouting, he has not only earned 31 merit badges, but also the respect of his family, peers, and community. Most notably, Nathan has led his troop in various positions including Troop Guide and has earned the rank of Warrior in the Tribe of Mic-O-Say. Nathan has also contributed to his community through his Eagle Scout Project. Nathan built a handrail along concrete steps in the parking lot at Hillcrest Transitional Housing in Kansas City, Missouri.

Mr. Speaker, I proudly ask you to join me in commending Nathan Conrad Stahl for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

#### RECOGNIZING TIME WARNER CABLE

#### HON. TOM REED

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 14, 2013

Mr. REED. Mr. Speaker, I rise today to recognize Time Warner Cable for its Connect a Million Minds (CAMP) initiative. This program is designed to inspire the next generation of problem solvers by connecting young people to the wonders of science, technology, engineering, and math (STEM) outside of the classroom.

This campaign includes original public service announcements and programming, grants to support nonprofit organizations that introduce students to STEM, and the creation of "The Connector," a one-of-a-kind resource that allows parents to find kid-centric STEM learning opportunities in their own backyards. The CAMP initiative also encourages Time Warner Cable employees to volunteer at science fairs, robotics competitions, and local Connect a Million Minds events.

The STEM fields have become increasingly important for the development of our country as the world continues to modernize at a rapid pace. The performance of U.S. students in STEM subjects has fallen behind their international peers. Today, more and more employers report having a difficult time finding qualified applicants for STEM jobs. This problem will continue to grow as it is estimated that the number of jobs in STEM fields will increase 17% by 2018. Given this figure, it is difficult to understate the importance of STEM education for both our nation's collective economic future and the future of our nation's students.

The CAMP program has focused resources across several Congressional Districts, including the 23rd District of New York. With increased attention and support from community and industry leaders that will someday hire students in STEM fields, programs like CAMP are critical to building a pool of future qualified employees. I commend Time Warner Cable for its CAMP initiative; and I want my colleagues to understand the importance of such initiatives and their positive impact on all of our communities.

#### REINTRODUCTION OF THE LENA HORNE RECOGNITION ACT

#### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 14, 2013

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to reintroduce the Lena Horne Recognition Act. This bill would award Lena Horne with a Congressional Gold Medal in recognition of her achievements and contributions to American culture and the Civil Rights Movement. A symbol of elegance and grace, Lena