

a President of the United States is raising money for their library, that at no time will their actions, or public actions, be influenced by those who are willing to support their library. In the same way that we are trying to make sure later this week when we vote on the no-bid contracts, that in no way should those contracts be renewed automatically for those who have gotten their business, no-bid contracts, and somehow had the influence to get that legislation, and the whistleblower legislation, all attempted to protect the public trust.

President Bush plans on raising about \$500 million for his Presidential library. President Clinton's library has cost about \$165 million, and President Bush's, the 41st President, library cost approximately \$80 million, slightly more than that, and there are no questions asked about where the money comes from.

We do not know who is raising these funds, who is donating them, and if the donors are looking for any other favors in return. This process is overdue for sunlight, and we are reforming that practice here today.

I am proud to have worked with Congressman WAXMAN, Congressman CLAY, Congressman PLATTS, and Congressman DUNCAN in drafting this bill, which would require the disclosure of any contribution of \$200 and above for a Presidential library. This information will be available online so that every American can see who is sending money to the Oval Office.

Mr. Speaker, change is good. Last November, the American people voted for change and that is exactly what we are doing this week and this year. We are changing the way business is done in Washington and restoring integrity to government.

In the first weeks, when we were here, we initiated change on banning gifts, banning meals by lobbyists, making sure earmarks had reform, and this is part of that step-by-step process. You will not change the ways of Washington overnight, but you must have a dedicated step-by-step process to bring reform to the way business is done in Washington. This is an important step, as will be the whistleblower protection we take on today and vote on, and the no-bid contracts for those who are trying to enact contracting reform in the areas of Iraq, Katrina and other places.

As you just saw last week, the taxpayers are getting back only 40 cents on the dollar for the trailers they built for the protection of hurricane victims because we did not use it. We have got to reform the way Washington does work, and this is an important piece of legislation in doing that as part of our overall process.

I thank all my colleagues for their work on this legislation.

Mr. TURNER. Mr. Speaker, I do not have any other speakers for the moment, and I reserve the balance of my time.

□ 1100

Mr. MURPHY of Connecticut. Mr. Speaker, I yield myself so much time as I may consume.

I want to thank both sides of the aisle, Mr. DUNCAN, Mr. WAXMAN and Mr. CLAY, who have done such great work on this issue. They have constructed a bill which will allow the development of these facilities to move forward in an expeditious manner, but done so in a way that gives people faith in that process.

So much of our ability to build and rebuild faith in this government is connected to whether or not people believe that things we do here are done in the open light of day. Today is going to be a very good day to restore part of people's faith in this government, and this bill is an important first step.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in strong support of the public's right to know. I rise in support of H.R. 1254, the "Presidential Library Donations Reform Act of 2007," which requires the disclosure of donors to presidential libraries.

Mr. Speaker, Presidential libraries are built using private funds raised by an organization or foundation working on behalf of the President. It costs a lot of money to construct and endow a Presidential library. The first Presidential library, housing the papers of Franklin D. Roosevelt, cost less than \$400,000 to build, about \$5 million adjusted for inflation. But since that time, Presidential libraries have grown more and more ambitious and costly. The \$26 million Carter library was succeeded by the \$57 million Reagan library, followed in turn by the \$83 million library complex for former President George H.W. Bush, and the \$165 million Clinton library complex. George W. Bush's Presidential library complex may cost as much as \$500 million.

To erect these major complexes is going to take more than the \$25 to \$50 donations that built Harry Truman's modest Presidential library. Donations from individual donors can and have amounted to several million dollars. Under current law, Presidents may raise unlimited funds for their libraries while in office, which raises concerns about conflicts of interest, corruption or the appearance of corruption. This is because donations for the Presidential library can be unlimited in size but are not required to be disclosed.

Mr. Speaker, H.R. 1254 greatly enhances the public's access to information because it requires that contribution information be made available in a timely manner on the Internet in a searchable, sortable, downloadable database, without any fee or access charges. This proposal would ensure, for the first time, the public knows the source of contributions to the Presidential libraries intended to serve them.

Typically, fundraising to construct a Presidential library is done through a nonprofit foundation or group, which is free to seek donations from corporations, individuals, even foreign nationals and foreign governments. Sitting presidents may be actively involved in soliciting these contributions. And there is no limit on the size of the donations, and no requirement that they be disclosed.

Mr. Speaker, a Presidential library complex has become one of the vehicles for Presidents to shape and perpetuate their legacy. They also provide a platform for Presidents to con-

tinue work on issues they care about. But if sitting Presidents are raising money in undisclosed, unlimited amounts for projects in which they are personally invested, wealthy special interests have unprecedented opportunities to seek access and influence at the White House and evade all public scrutiny. At the very least, the public deserves to know the amount of donations, the names, addresses and occupations of the donors, and the dates donations were made.

H.R. 1254 requires that all organizations established for the purpose of raising funds for Presidential libraries or their related facilities report on a quarterly basis all contributions of \$200 or more.

Under H.R. 1254, organizations fundraising for Presidential libraries would be required to disclose their donations while the President is in office and during the period before the Federal government has taken possession of the library. The bill sets a minimum reporting period of 4 years after the end of a President's term.

The bill injects sunshine in government by making public information about donations to presidential libraries made during the term of the president in question. Under the bill, presidential library fundraising organizations would be required to disclose to Congress and the Archivist the amount and date of each contribution, the name of the contributor, and if the contributor is an individual, the occupation of the contributor. As noted previously, the National Archives would be required to make the information available to the public through a free, searchable, and downloadable database on the Internet.

For all of these reasons, Mr. Speaker, I strongly support H.R. 1254. As Justice Brandeis famously observed, "sunshine is the best disinfectant." I urge all my colleagues to join me in supporting this important and necessary legislation.

Mr. MURPHY of Connecticut. Mr. Speaker, I yield back the balance of my time.

Mr. TURNER. Mr. Speaker, I want to congratulate, again, Mr. DUNCAN of Tennessee, and urge all Members to support the passage of H.R. 1254.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut (Mr. MURPHY) that the House suspend the rules and pass the bill, H.R. 1254.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. MURPHY of Connecticut. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

PRESIDENTIAL RECORDS ACT AMENDMENTS OF 2007

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1255) to amend chapter 22 of title

44, United States Code, popularly known as the Presidential Records Act, to establish procedures for the consideration of claims of constitutionally based privilege against disclosure of Presidential records, as amended.

The Clerk read as follows:

H.R. 1255

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Presidential Records Act Amendments of 2007".

SEC. 2. PROCEDURES FOR CONSIDERATION OF CLAIMS OF CONSTITUTIONALLY BASED PRIVILEGE AGAINST DISCLOSURE.

(a) IN GENERAL.—Chapter 22 of title 44, United States Code, is amended by adding at the end the following:

"§ 2208. Claims of constitutionally based privilege against disclosure

"(a)(1) When the Archivist determines under this chapter to make available to the public any Presidential record that has not previously been made available to the public, the Archivist shall—

"(A) promptly provide notice of such determination to—

"(i) the former President during whose term of office the record was created; and

"(ii) the incumbent President; and

"(B) make the notice available to the public.

"(2) The notice under paragraph (1)—

"(A) shall be in writing; and

"(B) shall include such information as may be prescribed in regulations issued by the Archivist.

"(3)(A) Upon the expiration of the 20-day period (excepting Saturdays, Sundays, and legal public holidays) beginning on the date the Archivist provides notice under paragraph (1)(A), the Archivist shall make available to the public the record covered by the notice, except any record (or reasonably segregable part of a record) with respect to which the Archivist receives from a former President or the incumbent President notification of a claim of constitutionally based privilege against disclosure under subsection (b).

"(B) A former President or the incumbent President may extend the period under subparagraph (A) once for not more than 20 additional days (excepting Saturdays, Sundays, and legal public holidays) by filing with the Archivist a statement that such an extension is necessary to allow an adequate review of the record.

"(C) Notwithstanding subparagraphs (A) and (B), if the period under subparagraph (A), or any extension of that period under subparagraph (B), would otherwise expire after January 19 and before July 20 of the year in which the incumbent President first takes office, then such period or extension, respectively, shall expire on July 20 of that year.

"(b)(1) For purposes of this section, any claim of constitutionally based privilege against disclosure must be asserted personally by a former President or the incumbent President, as applicable.

"(2) A former President or the incumbent President shall notify the Archivist, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate of a privilege claim under paragraph (1) on the same day that the claim is asserted under paragraph (1).

"(c)(1) The Archivist shall not make publicly available a Presidential record that is

subject to a privilege claim asserted by a former President until the expiration of the 20-day period (excluding Saturdays, Sundays, and legal public holidays) beginning on the date the Archivist is notified of the claim.

"(2) Upon the expiration of such period the Archivist shall make the record publicly available unless otherwise directed by a court order in an action initiated by the former President under section 2204(e).

"(d)(1) The Archivist shall not make publicly available a Presidential record that is subject to a privilege claim asserted by the incumbent President unless—

"(A) the incumbent President withdraws the privilege claim; or

"(B) the Archivist is otherwise directed by a final court order that is not subject to appeal.

"(2) This subsection shall not apply with respect to any Presidential record required to be made available under section 2205(2)(A) or (C).

"(e) The Archivist shall adjust any otherwise applicable time period under this section as necessary to comply with the return date of any congressional subpoena, judicial subpoena, or judicial process."

(b) RESTRICTIONS.—Section 2204 of title 44, United States Code (relating to restrictions on access to presidential records) is amended by adding at the end the following new subsection:

"(f) The Archivist shall not make available any original presidential records to any individual claiming access to any presidential record as a designated representative under section 2205(3) if that individual has been convicted of a crime relating to the review, retention, removal, or destruction of records of the Archives."

(c) CONFORMING AMENDMENTS.—(1) Section 2204(d) of title 44, United States Code, is amended by inserting " , except section 2208," after "chapter".

(2) Section 2207 of title 44, United States Code, is amended in the second sentence by inserting " , except section 2208," after "chapter".

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 22 of title 44, United States Code, is amended by adding at the end the following:

"2208. Claims of constitutionally based privilege against disclosure."

SEC. 3. EXECUTIVE ORDER OF NOVEMBER 1, 2001.

Executive Order number 13233, dated November 1, 2001 (66 Fed. Reg. 56025), shall have no force or effect.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri (Mr. CLAY) and the gentleman from Ohio (Mr. TURNER) each will control 20 minutes.

The Chair recognizes the gentleman from Missouri.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

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

There was no objection.

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

As chairman of the Oversight Subcommittee on Information Policy, Census, and National Archives and an original cosponsor of the Presidential Records Act Amendments of 2007, I strongly support H.R. 1255 and urge its passage by the House. It is appropriate

that the House should consider H.R. 1255 during Sunshine Week, when we can call attention to the importance of transparency and open government.

Introduced by Representative WAXMAN, this bipartisan bill is intended to promote the timely release of Presidential records under the Presidential Records Act of 1978, by rescinding Executive Order 13233. Issued by President Bush in November 2001, the executive order granted new authority to Presidents, former Presidents, their heirs and designees and Vice Presidents, allowing them to withhold information from public view unilaterally and indefinitely.

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

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

When it comes to the records of a President, we need to ensure that the public's interest remains paramount. As I noted in the subcommittee, it is important that we distinguish the Nation's interest from that of a former President's interest. We need to achieve that critical balance between the President's constitutional privilege and the public's right to know.

The bill is one step toward preserving and protecting the constitutional prerogatives of Presidents while preserving public access to important and historic Presidential records. The legislation before us established a process whereby incumbent and former Presidents could, within specified time limits, review records prior to their release and determine whether to assert constitutional privilege claims against release of the records.

This legislation is identical to H.R. 4187, introduced in the 107th Congress and approved by the committee under the leadership of the gentleman from Indiana (Mr. BURTON). I want to commend him for his work in this area.

In addition, I want to highlight an amendment which was approved by the full committee. This provision will close a loophole in the Presidential Records Act which would have allowed individuals previously convicted of a crime relating to the mishandling of Archives records to continue to have special access to Presidential records. The amendment to the bill states that the Archivist shall not make available any Presidential records to any individual claiming access as a designated representative under section 2205(3) of title 44 if that individual has been convicted of a crime relating to the review, retention, removal or destruction of Archives records.

If you are convicted of mishandling Archives records, you should not have special access to original Presidential records. You are a proven risk, and we are obligated to mitigate this type of risk. Given the critical importance of Presidential records to the public, to researchers and to the press, we must ensure no one is able to tamper with history. This bill today includes this important amendment.

I also want to commend the Chair of our subcommittee, Mr. CLAY, for his leadership on the subcommittee, and his thoughtful hearings held by the subcommittee in support of this bill.

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

Mr. CLAY. Mr. Speaker, at this time I now yield 3 minutes to the distinguished Chair of the full Committee on Oversight and Government Reform, the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. I thank the chairman of the subcommittee for yielding to me and the fine work he and his subcommittee have done with this legislation. I also want to commend the gentleman from Ohio, the ranking member of that subcommittee.

Mr. Speaker, this bill also builds on a bipartisan proposal that came to light in the last Congress, and I think it fits well within the theme of many of the bills that we are pursuing this week, openness in government.

The bill has a straightforward goal. It ensures that future historians have access to Presidential records as the Presidential Records Act intended.

This law was adopted after the Watergate scandals to underscore the fact that Presidential records belong to the American people, not to the President, not to his family, but to the American people. It has been a bipartisan proposal from the very beginning. In fact, this bill had bipartisan support not only from Mr. CLAY and others, but Mr. PLATTS and Mr. BURTON.

The act said that these records would be available to researchers and the general public in a timely manner. This was the rule for over two decades, but in 2001, President George W. Bush issued an executive order that turned the Presidential Records Act on its head and gave Presidents the authority to keep their records out of the public eye.

The Bush order gives both current and former Presidents nearly unlimited authority to withhold Presidential records from public view or to delay their release indefinitely. It allows a designee of former Presidents to assert executive privilege after the President's death, and for the first time, it gives former Vice Presidents the authority to assert privilege over their own documents. In short, this gives former Presidents and their heirs the ability to control their legacy and determine what information will be available to history.

That undermines the entire purpose of the Presidential Records Act. Historians and scholars need access to Presidential records so that there is an accurate record of a President's term in office and not an alleged version based on what the President chooses to share.

During Sunshine Week this bill fits in so well, because it would make sure that information about government and government activities is open to public scrutiny. It is an essential com-

ponent of this open government agenda.

I urge my colleagues to support this legislation, protect historical research, and vote for this bill.

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

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

Mr. Speaker, during subcommittee hearings last week, the Archivist of the United States, Allen Weinstein, testified that Executive Order 13233 has "added to the endemic problem of delay that NARA faces from the PRA in the processing of Presidential records."

Tom Blanton of the National Security Archive testified that the order already has added 5 years to the response time for records from the Reagan library and violates the letter and spirit of the PRA.

Presidential historian Robert Dallek urged Congress to rescind the order, stating, "President Bush's order carries the potential for an incomplete and distorted understanding of past Presidential decisions, especially about controversial actions with significant consequences."

"It is understandable," said Dr. Dallek, "that every President and his heirs wants to put the best possible face on his administration, but an uncritical or limited reconstruction of our Nation's history does nothing to serve its long-term national interest."

Mr. Speaker, the long-term national interest demands that the American people know how and why important decisions are made at the highest level of our government. This straightforward and bipartisan legislation would ensure that this will be the case by requiring that Presidential records will be treated as the property of the American people.

Mr. Speaker, I urge all of my colleagues to support the bill as reported by the Committee on Oversight and Government Reform.

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

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

Mr. CLAY. Mr. Speaker, I yield such time as the gentleman from California (Mr. WAXMAN) may consume.

Mr. WAXMAN. Thank you very much for yielding to me.

Mr. Speaker, history is important because it informs us of events of the past, so we can learn from those events, not to make the same mistakes or to follow good examples that turned out to be successful. History always is an ongoing process. It is a process of looking at facts and reinterpreting those facts, often in light of current events and matters that are before the researchers at the present time.

But there are those who would like to rewrite history for their own purposes, and to the extent that we can keep that from happening, I think this bill goes a long way. It would allow the records, the raw information, to be

available, let those who want to interpret those events do so as they see fit; and in doing so, by making these records available to scholars and the public, we can find out the information that we didn't know at the time the events were taking place: what motivated certain decisions, what other factors were being considered, what was going on that led to certain conclusions.

There are books now being written about the present day, how we got into Iraq, what we had hoped to do, what we still hope we can accomplish, what the thinking was of those who led us into the adventure. Many of the books have been praiseworthy, and most of them have been quite critical. But it won't be until the judgment of history that we will be able to fill in many of the gaps that remain.

So, at some point, Presidential records help scholars fill in those gaps. That is why I think it is so worthwhile to have this information available, at least at a time when there is some historical perspective. Many times it is after the President has passed on, but certainly long after the President's administration.

During the Nixon period, President Nixon thought that the records belonged to him, and he sought, as I recall, a tax break for donating his records to a nonprofit organization. He felt he could control those records.

Well, I think the American people looked at that and said, wait a minute, some things are his, the President's, to do with as he sees fit, but some things don't really belong to him.

□ 1115

They belong to the American people. They belong to scholars. They belong to history. And the Presidential Records Act was adopted because of that concern. It has worked well for several decades, and it is only when we saw the executive order presented by President George W. Bush that some of the concerns have been raised because that Presidential order overturned the one that was put into effect by President Reagan implementing the post-Watergate legislation.

So I wanted to use this additional time to give some historical background to this matter. We heard from many scholars, as the chairman of the subcommittee indicated, who set out the reasons why they thought it was important to be able to get this information, the Archivist, Mr. Weinstein, Presidential scholars like Mr. Dallek and Mr. Reeves, particularly, who have written about recent Presidents, urged us to adopt this legislation. And I am pleased that now we are considering it. And it is important, it is a good government bill, and we are doing it in the appropriate way, in a bipartisan spirit where we vote together on the committee. And I commend all those involved. And I know now, because I have just been informed, that the next bill is ready for consideration of the House.

Mr. CLAY. Mr. Speaker, I want to thank the chairman of our committee for those anecdotes and his knowledge of history.

I also want to thank the ranking member from Ohio for his cooperative spirit of allowing the sunshine in on this bill and the other bills that we have been discussing today.

And I just want to close by urging all of my colleagues to vote in support of H.R. 1255, the Presidential Records Act Amendments of 2007.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in strong support of H.R. 1255, the "Presidential Records Act Amendments of 2007," which vitiate an Executive order issued in 2001 by President Bush that unreasonably and severely restricts public access to Presidential records. By negating that Executive order, we win a great victory for open government.

Under the Presidential Records Act, Presidential records are supposed to be released to historians and the public 12 years after the end of a Presidential administration. Shortly after taking office in 2001, President Bush issued Executive Order 13233, which overturned President Reagan's Executive order and gave current and former Presidents and Vice Presidents broad authority to withhold Presidential records or delay their release indefinitely. H.R. 1255 will nullify the Bush Executive order and establish procedures to ensure the timely release of Presidential records.

Under the Bush Executive order, the Archivist of the United States must wait for both the current and former President to approve the release of Presidential records, a review process that can continue indefinitely. Under the bill, the current and former President would have a set time period of no longer than 40 business days to raise objections to the release of these records by the Archivist.

Mr. Speaker, another salutary feature of H.R. 1255 is that it limits the authority of former Presidents to withhold Presidential records. To prevent the release of his records under the regime established by President Reagan's Executive order, a former President was required to request the incumbent President to assert the claim of executive privilege. If the incumbent President decided not to assert executive privilege, however, the records would be released unless the former President succeeded in obtaining a court order upholding the assertion of privilege and enjoining disclosure.

The regime established by President Bush's Executive order turned this process on its head. It requires the incumbent President to sustain the executive privilege claim of the former President unless a person seeking access could persuade a court to reject the claim. In effect, the Bush order gave former Presidents virtually unlimited authority to withhold Presidential records through assertions of executive privilege. H.R. 1255 restores the Reagan approach, giving the incumbent President the discretion to reject ill-founded assertions of executive privilege by former Presidents.

Mr. Speaker, under President Bush's Executive order regime, claims of executive privilege could be asserted to defeat disclosure even after the death of a former President by his heirs, assigns, and descendants. The practical effect of eliminating the requirement that the

former President had to assert the privilege personally is to extend the time in which Presidential records may be withheld in perpetuity. H.R. 1255 makes clear that the right to claim executive privilege is personal to current and former Presidents and does not survive the death of the former President.

Mr. Speaker, perhaps the most egregious aspect of President Bush's Executive order is that it authorized former Vice Presidents to assert executive privilege claims over Vice Presidential records. If the authority to assert such a claim is left undisturbed, the public will never learn what really went on behind the closed doors of Vice President CHENEY's secret energy task force or the White House Iraq Group's marketing campaign to sell the Iraq War to the Congress and the American people. That is why I support the provision in H.R. 1255 limiting the right to assert executive privilege over Presidential records only to Presidents and former Presidents.

Mr. Speaker, I strongly support H.R. 1255 and urge all my colleagues to join me in supporting this legislation amending the Presidential Records Act to nullify the Bush Executive order and establish procedures to ensure the timely public release of Presidential records.

Mr. UDALL of Colorado. Mr. Speaker, as a proud cosponsor of this bill—and of similar legislation since shortly after I was first elected to Congress—I strongly support its approval by the House.

The bill amends the Presidential Records Act of 1978 to establish a clear and equitable process enabling incumbent and former Presidents to review records prior to their public release under the act and determine whether to assert constitutional privilege claims against release of the records.

Importantly, it would revoke an Executive order issued by President George W. Bush in 2001 that overturned rules set by President Ronald Reagan. By that order, President Bush has sought to give himself and Vice President CHENEY—as well as former Presidents and Vice Presidents—broad authority to withhold Presidential records or delay their release indefinitely. I do not think that order should be allowed to stand.

The Presidential Records Act was enacted in 1978 after the Watergate scandal and the subsequent resignation of President Nixon. It makes clear that Presidential records belong to the American people, not to the President, and required the Archivist of the United States—who was given custody of the records—to make the records available to the public as rapidly and completely as possible consistent with the provisions of the law.

The act first applied to the records of former President Ronald Reagan. In 1989, he issued an Executive order requiring the Archivist to give the incumbent and former Presidents 30 days notice before releasing Presidential records, with the records to be released after that unless the incumbent or former President claimed executive privilege, or unless the incumbent President instructed the Archivist to extend the period indefinitely. If the incumbent President decided to invoke executive privilege, the Archivist would withhold the records unless directed to release them by a final court order. If the incumbent President decided not to support a former President's claim of privilege, the Archivist would decide whether or not to honor the claim.

Before he left office, President Reagan used his authority under the act to restrict access to some of his records for 12 years, a period that expired in January 2001.

In February 2001, the Archivist provided the required 30-day notice of his intent to release about 68,000 pages of former President Reagan's records. In March, June, and August of 2001, the counsel to President Bush instructed the Archivist to extend the time for claiming executive privilege. And then, in November 2001, President Bush issued a new Executive order extending the review period for former Presidents to 90 days and allowing a former President to extend it indefinitely. In addition, that order allows an unlimited review period for the current President and requires the Archivist to honor the assertions of executive privilege made by either the incumbent or a former President—even if an incumbent President disagrees with the former President's claim. And, while the Reagan order said records were to be released on a schedule unless action occurred, the Bush Executive order says records will be released only after actions by the former and current Presidents have occurred—so, secrecy, not disclosure, is the rule. Also, the Bush Executive order allows designees of a former President to assert privilege claims after that President's death and authorizes former vice Presidents to assert executive privilege claims over their records.

Mr. Speaker, when we think what difference the release of the Kennedy, Johnson, and Nixon tapes has made in our understanding of the decision-making on Vietnam we can see how much could be lost if representatives of the Reagan, Clinton, and current Bush administrations in the future can hold back any and all documents related to Iran-contra, the first gulf war, the way the Clinton administration responded to intelligence about a potential Al Qaeda attack, or the current administration's decisions about Iraq.

It is understandable that every President and his or her heirs wants to put the best possible face on his administration, but an edited and airbrushed version of history is not something that will serve our long-term national interest.

H.R. 1255 would nullify Executive Order 13233 and establish procedures to ensure the timely release of Presidential records.

It requires the Archivist to give advance notice to former and incumbent Presidents before records are released so they can review the records and decide whether to claim privilege and provides for withholding of material for which the incumbent President claims privilege. The bill also clarifies that the incumbent and former Presidents must make privilege claims personally and that a right to claim executive privilege cannot be bequeathed to assistants, relatives, or descendants. And the bill eliminates executive privilege claims for vice Presidents, restoring the long-standing doctrine that the right to executive privilege over Presidential records is held only by Presidents.

Mr. Speaker, this is a fair, balanced, and essential bill. I strongly urge its approval.

Mr. CLAY. Mr. Speaker, I yield back the balance of my time.

Mr. TURNER. Mr. Speaker, I urge all Members to vote in support of passage of H.R. 1255, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. CLAY) that the House suspend the rules and pass the bill, H.R. 1255, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. CLAY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

FREEDOM OF INFORMATION ACT AMENDMENTS OF 2007

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1309) to promote openness in Government by strengthening section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), and for other purposes, as amended.

The Clerk read as follows:

H.R. 1309

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 "Freedom of Information Act Amendments 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. Protection of fee status for news media.
- Sec. 4. Recovery of attorney fees and litigation costs.
- Sec. 5. Disciplinary actions for arbitrary and capricious rejections of requests.
- Sec. 6. Time limits for agencies to act on requests.
- Sec. 7. Individualized tracking numbers for requests and status information.
- Sec. 8. Specific citations in exemptions.
- Sec. 9. Reporting requirements.
- Sec. 10. Openness of agency records maintained by a private entity.
- Sec. 11. Office of Government Information Services.
- Sec. 12. Accessibility of critical infrastructure information.
- Sec. 13. Report on personnel policies related to FOIA.
- Sec. 14. Promotion of public disclosure.
- Sec. 15. Requirement to describe exemptions authorizing deletions of material provided under FOIA.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Freedom of Information Act was signed into law on July 4, 1966, because the American people believe that—

(A) our constitutional democracy, our system of self-government, and our commitment to popular sovereignty depends upon the consent of the governed;

(B) such consent is not meaningful unless it is informed consent; and

(C) as Justice Black noted in his concurring opinion in *Barr v. Matteo* (360 U.S. 564

(1959)), "The effective functioning of a free government like ours depends largely on the force of an informed public opinion. This calls for the widest possible understanding of the quality of government service rendered by all elective or appointed public officials or employees.";

(2) the American people firmly believe that our system of government must itself be governed by a presumption of openness;

(3) the Freedom of Information Act establishes a "strong presumption in favor of disclosure" as noted by the United States Supreme Court in *United States Department of State v. Ray* (502 U.S. 164 (1991)), a presumption that applies to all agencies governed by that Act;

(4) "disclosure, not secrecy, is the dominant objective of the Act," as noted by the United States Supreme Court in *Department of Air Force v. Rose* (425 U.S. 352 (1976));

(5) in practice, the Freedom of Information Act has not always lived up to the ideals of that Act; and

(6) Congress should regularly review section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), in order to determine whether further changes and improvements are necessary to ensure that the Government remains open and accessible to the American people and is always based not upon the "need to know" but upon the fundamental "right to know".

SEC. 3. PROTECTION OF FEE STATUS FOR NEWS MEDIA.

Section 552(a)(4)(A)(ii) of title 5, United States Code, is amended by adding at the end the following:

"In making a determination of a representative of the news media under subclause (II), an agency may not deny that status solely on the basis of the absence of institutional associations of the requester, but shall consider the prior publication history of the requester. Prior publication history shall include books, magazine and newspaper articles, newsletters, television and radio broadcasts, and Internet publications. If the requester has no prior publication history or current affiliation, the agency shall consider the requestor's stated intent at the time the request is made to distribute information to a reasonably broad audience."

SEC. 4. RECOVERY OF ATTORNEY FEES AND LITIGATION COSTS.

(a) IN GENERAL.—Section 552(a)(4)(E) of title 5, United States Code, is amended by adding at the end the following: "For purposes of this section only, a complainant has substantially prevailed if the complainant has obtained relief through either—

"(i) a judicial order, administrative action, or an enforceable written agreement or consent decree; or

"(ii) a voluntary or unilateral change in position by the opposing party, in a case in which the complainant's claim or defense was not frivolous."

(b) LIMITATION.—Notwithstanding section 1304 of title 31, United States Code, no amounts may be obligated or expended from the Claims and Judgment Fund of the United States Treasury to pay the costs resulting from the amendments made by this section. Any such amounts shall be paid only from funds annually appropriated for the Federal agency against which a claim or judgment has been rendered.

SEC. 5. DISCIPLINARY ACTIONS FOR ARBITRARY AND CAPRICIOUS REJECTIONS OF REQUESTS.

Section 552(a)(4)(F) of title 5, United States Code, is amended—

(1) by inserting "(i)" after "(F)"; and

(2) by adding at the end the following:

"(ii) The Attorney General shall—

"(I) notify the Special Counsel of each civil action described under the first sentence of clause (i); and

"(II) annually submit a report to Congress on the number of such civil actions in the preceding year.

"(iii) The Special Counsel shall annually submit a report to Congress on the actions taken by the Special Counsel under clause (i)."

SEC. 6. TIME LIMITS FOR AGENCIES TO ACT ON REQUESTS.

(a) TIME LIMITS.—

(1) IN GENERAL.—Section 552(a)(6)(A)(i) of title 5, United States Code, is amended by striking "determine within 20 days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request" and inserting "within the 20-day period commencing on the date on which the request is first received by the agency (excepting Saturdays, Sundays, and legal public holidays), which shall not be tolled without the consent of the party filing the request, determine".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect 1 year after the date of enactment of this Act.

(b) APPLICABILITY OF AGENCY FEES.—

(1) LIMITATION.—Section 552(a)(4)(A) of title 5, United States Code, is amended by adding at the end the following:

"(viii) An agency shall refund any fees collected under this subparagraph if the agency fails to comply with any time limit that applies under paragraph (6). Such refunds shall be paid from annual appropriations provided to that agency."

(2) EFFECTIVE DATE AND APPLICATION.—The amendment made by this subsection shall take effect 1 year after the date of enactment of this Act and shall apply to requests for information under section 552 of title 5, United States Code, filed on or after that effective date.

SEC. 7. INDIVIDUALIZED TRACKING NUMBERS FOR REQUESTS AND STATUS INFORMATION.

(a) IN GENERAL.—Section 552(a) of title 5, United States Code, is amended by adding at the end the following:

"(7) Each agency shall—

"(A) establish a system to assign an individualized tracking number for each request for information under this section;

"(B) not later than 10 days after receiving a request, provide each person making a request with the tracking number assigned to the request; and

"(C) establish a telephone line or Internet service that provides information about the status of a request to the person making the request using the assigned tracking number, including—

"(i) the date on which the agency originally received the request; and

"(ii) an estimated date on which the agency will complete action on the request."

(b) EFFECTIVE DATE AND APPLICATION.—The amendment made by this section shall take effect 1 year after the date of enactment of this Act and apply to requests for information under section 552 of title 5, United States Code, filed on or after that effective date.

SEC. 8. SPECIFIC CITATIONS IN EXEMPTIONS.

Section 552(b) of title 5, United States Code, is amended by striking paragraph (3) and inserting the following:

"(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute—

"(A) if enacted after the date of enactment of the Freedom of Information Act Amendments of 2007, specifically cites to this section; and

"(B)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or