

funding to the District, but also, through the enactment of its budget, allows the city to obligate and spend its own local revenues. We should act on behalf of the citizens of D.C. to allow the District to implement the budget sent forth to us by its elected leaders.

I ask unanimous consent that a table displaying the budget committee scoring of the conference report to H.R. 2944 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

H.R. 2944, CONFERENCE REPORT TO THE DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2002

(Spending comparisons—Conference Report (in millions of dollars))

	General purpose	Mandatory	Total
Conference report:			
Budget Authority	408		408
Outlays	418		418
Senate 302(b) allocation: ¹			
Budget Authority	408		408
Outlays	418		418
President's request:			
Budget Authority	342		342
Outlays	362		362
House-passed:			
Budget Authority	398		398
Outlays	408		408
Senate-passed:			
Budget Authority	408		408
Outlays	416		416
CONFERENCE REPORT COMPARED TO:			
Senate 302(b) allocation: ¹			
Budget Authority			
Outlays			
President's request:			
Budget Authority	66		66
Outlays	56		56
House-passed:			
Budget Authority	10		10
Outlays	10		10
Senate-passed:			
Budget Authority			
Outlays	2	0	2

¹ For enforcement purposes, the budget committee compares the conference report to the Senate 302(b) allocation.

Notes: Details may not add to totals due to rounding. Totals adjusted for consistency with scorekeeping conventions.

Prepared by SBC Majority Staff, 12-6-01.

CONCERN FOR THE INTEGRITY AND REPUTATION OF THE UNITED STATES CIVIL RIGHTS COMMISSION

Mr. HATCH. Madam President, I rise today to address an unfortunate situation that has come to my attention concerning the United States Civil Rights Commission. One might even say that it is unbelievable.

There is no one in this body that has greater appreciation for the work and history of the United States Civil Rights Commission than I do, and for the need of having a body such as this that can review issues that may arise in the area of civil rights without the taint of partisanship or ideologies. It is comforting to know that there is such a body that gathers disinterested public servants of unimpeachable integrity with a passion for the great work of securing the freedoms which belong to all citizens, without discrimination.

As you know, the Congress has taken a great interest in the appointment of the Commission's eight members. In fact, four of the eight are appointed by

the Congress, two by the Senate and two by the House. The President appoints the other four. In each case, whether appointed by the President or by the Congress, the Commission must have an equal number of Commissioners from each party.

It appears that there is a controversy brewing as to when the term of a Commissioner expires. I believe that this controversy could do severe harm to the reputation of the Civil Rights Commission and the trust that is placed in it by the American people. I hope that this is a matter that will have an immediate resolution.

Apparently, one of the presidential appointees of the previous administration, Victoria Wilson, is refusing to accept the expiration of her term. Ms. Wilson claims that she was appointed for a six-year term, although it appears that President Clinton expressly appointed her for only one year to complete the unexpired term of Judge Leon Higgenbotham, who died before his term expired. It appears also that the Chairwoman of the Committee, Mary Frances Berry, has told the White House that she refuses to recognize the President's new appointee, a person, by the way, of impeccable credentials who is an attorney with a distinguished career. Chairwoman Berry has indicated that it would take federal marshals to seat the President's appointee when the Commission next meets.

As if the American people did not have enough drama in their lives, we hardly need something like this to further erode the public's confidence in the Civil Rights Commission. I think many of us are already concerned with the work of the Commission in recent years. They have taken on rather partisan issues, or at very least they have prosecuted issues in what often appears to be partisan ways, and arguably injudicious ways. I will not get into these concerns, but I am afraid that the Commission is doing great harm to the trust of the American people.

Rather, I would like to comment on the current situation, which is a matter of existing law. What is especially troubling is that it appears that Chairwoman Berry and Ms. Wilson are refusing to comply with the legal opinion of the White House Counsel, Judge Gonzales, as well as the independent opinion of the Justice Department.

In 1994 Congress amended the provisions governing the appointment of the Civil Rights Commissioners. Congress' intent was to ensure that the terms of the Commissioners would not expire all at once. We made provision for staggered terms for the Commissioners, adopting what is universally deemed good practice in the private corporate and nonprofit arenas. Staggered terms preserve institutional memory and experience. To have staggered terms requires that an appointee named to fill an unexpired term serve for only the

remainder of that term. To do otherwise would completely eviscerate the staggering that Congress intended. The argument that Ms. Wilson, and Chairwoman Berry, is making—that all appointments, and Ms. Wilson's appointment in particular, are always for terms of six years—would create the untenable opportunity for mischief if Commissioners were to resign at the end of a particular administration. Commissioners could resign as a group, allowing a departing Administration to fill several seats for six year terms, and denying the incoming administration the right to name any Commissioners.

This argument, not only makes no sense, but I am also afraid that this sort of confrontational approach does very real harm to the reputation of the Commission and its individual members who the American people expect to be disinterested, apolitical public servants. I invite my colleagues to urge the immediate resolution of this matter.

I ask unanimous consent that Judge Gonzales' letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,

Washington, December 5, 2001.

The Hon. MARY FRANCES BERRY,
Commission on Civil Rights, 624 Ninth Street,
NW., Washington, DC.

DEAR MADAM CHAIRWOMAN: I am writing to confirm our conversation yesterday about the recent expiration of Commissioner Victoria Wilson's term of service on the U.S. Commission on Civil Rights and the President's forthcoming appointment of her replacement.

As we discussed, Ms. Wilson was appointed to the Commission on January 13, 2000. Official White House records and Ms. Wilson's commission issued by President Clinton, which explicitly states that she was appointed by President Clinton to fill the unexpired term of the late Judge Leon Higginbotham, document that Ms. Wilson's term ended November 29, 2001. To be sure, in our conversation you stated that, when Ms. Wilson received her commission, she attempted to contact the White House Clerk to ask that her commission be reissued to provide for the six year term she is now claiming. However, the Clerk has no record of any such request. In any event, the commission was never reissued, a fact that can only be viewed as confirming the conclusion that Ms. Wilson's term expired on November 29, 2001 in accordance with her commission.

The Office of Legal Counsel of the Department of Justice has issued a legal opinion confirming that Ms. Wilson's term expired on November 29, 2001. The opinion rests on an analysis of the Commission's organic statute, in particular the intent of Congress expressed therein to provide for staggered terms of commissioners. The legislative history of the 1994 amendments to the statute also makes plain that Congress intended to preserve the system of staggered terms. As you yourself noted in 1983 in testimony before Congress, the staggered terms system was proposed by commission members to limit the degree of political influence over the commission. H.R. 98-197, 1983

U.S.C.A.A.N. 1989, 1992. Of course, the orderly staggering of terms intended by Congress would be frustrated if vacancies created through death or resignation could be filled with commissioners appointed for new six year terms. Ultimately, the balance between continuity and change sought by Congress in allowing a fixed number of new members to be appointed at regular intervals would give way to a process in which Presidents and commissioners alike could "game the system" by timing resignations and appointments.

In our conversation yesterday, I explained the legal position of the White House and the Department of Justice. I also explained, that President Bush has selected an individual—Peter Kirsanow—whom he intends to appoint to succeed Ms. Wilson. Mr. Kirsanow is an extraordinarily well-qualified individual. He is a partner with a major Cleveland law firm and has served as chair of the Center for New Black Leadership and as labor counsel for the City of Cleveland. Because there is a vacancy on the Commission, the President intends to appoint Mr. Kirsanow as a commissioner as soon as possible.

You maintained, however, that you support Ms. Wilson in her decision to purport not to vacate her position and to continue service and to attend the Commission's upcoming meeting on December 7. Moreover, you informed me that you do not consider yourself to be bound by opinions of the Department of Justice nor do you intend to abide by them or to follow the directives of the President in this matter. You further informed me that you will refuse to administer the oath of office to the President's appointee. I advised you that any federal official authorized to administer oaths generally could swear in Mr. Kirsanow.

Finally, you stated that, even if Ms. Wilson's successor has been lawfully appointed and has taken the oath of office, you will refuse to allow him to be seated at the Commission's next meeting. You went so far as to state that it would require the presence of federal Marshals to seat him.

I respectfully urge you to abandon this confrontational and legally untenable position. As to questions regarding Ms. Wilson's status, we view these as a matter between Ms. Wilson and the White House. With respect to Mr. Kirsanow, any actions blocking him from entering service following a valid appointment would, in my opinion, violate the law. The President expects his appointee to take office upon taking the oath and to attend upcoming meetings as a duly appointed commissioner. The President also expects all sworn officers of the United States government to follow the law.

In sum, the law and official documents make clear that Ms. Wilson's term expired last week, November 29, 2001, and that she is no longer a member of the U.S. Commission on Civil Rights. As soon as Mr. Kirsanow takes the statutory oath, the incumbent commissioners and staff should treat the President's new appointee as a full member of the Commission.

Sincerely,

ALBERTO R. GONZALES,
Counsel to the President.

OUR CONSTITUTION

Mr. CARPER. Madam President, let me begin by saying plainly and unabashedly that I love our flag. I wear an American flag lapel pin to work every single day. We fly "Old Glory" at

our home throughout the year and display it proudly in each of my Senate offices. The American flag is even displayed on the minivan that I drive all over our State. It is the symbol of our freedom and a reflection of our pride in our great Nation.

But while our flag is the symbol of our freedom, our Nation's Constitution is its guarantee. It is the foundation on which was built the longest living experiment in democracy in the history of the world. Though written by man, I believe it to be divinely inspired. Before beginning 23 years of service as a naval flight officer, I took the same oath as each of the men and women now fighting overseas. We swore to protect our Nation's safety and honor and defend our Constitution against all enemies both foreign and domestic. The men and women of our armed forces past and present each pledged to lay down their lives in defense of the freedoms our Constitution provides. I can think of no greater honor, no more solemn a commitment, than this pledge.

On a cold December 7, 214 years ago, Delawareans stood proudly and declared their belief in the right of self-government by becoming the first to ratify the United States Constitution. Each year we celebrate this act of leadership, courage, and wisdom. While our constitution has proved the most durable model for democracy, at the time, it was a revolutionary and some thought risky step forward. For the power of its words and the brilliance of its logic is matched only by the astounding scope of what it sought to achieve, to "establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity."

It was truly a miraculous undertaking, and we celebrate that Delaware had the courage to lead the world in embracing this new standard excellence in self-government.

But as we reflect on this bold step towards freedom, there is a stain on our celebration.

After the Constitution's ratification, the Bill of Rights sought to provide greater and more lasting liberties than any single document before or since. In 1789, the Federal Government sent the articles that would make up the Bill of Rights to States for ratification. While other States sent their approval of ratification back to the Federal Government on separate parchment, in their enthusiasm, Delaware's leaders signed their approval directly on their copy of the document and returned it to the Federal Government. While other states are now able to display their copies of the original Bill of Rights, Delaware's is locked in a drawer in the National Archives near College Park, Maryland. Our State and this document deserve better. I call

today on the National Archives to return this copy of the Bill of Rights to its place of ratification. I ask that in the spirit of celebration surrounding Delaware Day, the National Archives return to us this important part of our State's history.

We are witnessing a time of renewed respect for our Nation at home and abroad. In fact, in all of my life, I've never witnessed a warmer embrace of our flag or a greater sense of pride for our country than we've seen since September 11. Almost everywhere we turn, we see signs of this renewed national pride on our homes, office buildings, factories, schools, construction sites, on the vehicles we drive, and as well at thousands of sporting events, parades and gatherings across our country. A spirit of patriotism has swept across our Nation in a way that I've never seen. It is both comforting and inspiring to me and, I know, to Americans everywhere.

This December, let us pause in thanks to those wise Delawareans who started our Nation along the road to becoming the most successful and long-lasting democracy in world history. They gave us a great gift for which we, and much of the world, will be forever thankful.

BRADY ACT SUCCESSES

Mr. LEVIN. Madam President, November 30 was the eighth anniversary of the signing of the Brady Handgun Violence Prevention Act. The passage of that legislation was a watershed event in the fight against gun violence. According to the Centers for Disease Control statistics cited by the Brady Campaign to Prevent Gun Violence, since the Brady Law went into effect, the number of gun deaths in the United States has dropped 27 percent, from 39,595 in 1993 to 28,874 in 1999. Even more dramatically, the number of gun homicides dropped by more than 40 percent from 18,253 in 1993 to 10,828 in 1999.

While the Brady Law is not the only reason for the decrease, its impact on gun violence cannot be overlooked. Keeping guns out of criminal hands saves lives. The law's requirement that gun purchasers undergo a criminal background check before they can buy a firearm has stopped literally hundreds of thousands of criminals and others prohibited by law from purchasing a gun.

The obvious success of the Brady Law should spur us to do more to stop gun violence. A logical step would be to extend the Brady Law's mandatory criminal background check provisions. As it stands, the law only applies to guns sold by Federal firearms licensees. It does not cover gun sales by unlicensed private sellers at gun shows. Despite the evidence that background checks save lives, lobbyists from the National Rifle Association and their allies have fought against legislation to