



Office of Senate President Pro Tempore Del Marsh
Press Clips
Monday, April 19, 2010

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[Final count is in: 11,375 students spent the night in Alabama schools Tuesday; almost all students have been reunited with families \(al.com\)](#)

BIRMINGHAM, Alabama -- More than 11,000 students and hundreds of faculty members were trapped inside Alabama schools Tuesday night, and 1,686 still remain -- the majority of whom are in Hoover city schools.

State Superintendent Tommy Bice said in a telephone interview this afternoon that an earlier state count of 5,000 students statewide who spent the night was incorrect, and said state officials inadvertently left Hoover and Shelby County schools out of the count, which made up the majority of students.

All together, he said, 11,375 students spent the night in Alabama schools.

As of 2 p.m. Wednesday, Hoover still had 1,089 students stranded at schools, Bice said, but the district is working hard to get the children home safely. More than 4,000 Hoover students stayed overnight.

Jefferson County schools still have 300 students trapped at 10 schools, he said, and they, too, hope to have all children home tonight. Jefferson County Sheriff's deputies worked earlier with the district to get students home from Gresham Elementary.

Birmingham has 271 students and 218 staff members still in its schools, Bice said. Birmingham Superintendent Craig Witherspoon said earlier that he hopes to have all students home safely today.

Alabaster, Bice said, has 10 students still in its schools that likely will have to spend another night.

Shelby County, which had about 2,000 students overnight, has just 50 left and are planning a caravan to deliver the remaining students home safely, he said.

In all, Bice said, teachers, principals and other faculty were able to turn a terrible situation into a tolerable one.

"They're just heroes," he said. "It shows where their hearts are, and the dedication they have to their students."

All Birmingham area school systems are closed Thursday.

Updates:

As of 5:25, Hoover schools spokesman Jason Gaston said the district was rapidly getting kids out of the schools this evening. Hoover High, Simmons Middle and several other schools already are closed, and "we might have everyone home tonight," Gaston said.

As of 3:45 p.m., Jefferson County Sheriff's Office deputies had delivered the majority of students trapped in county schools home safely. According to spokesman Randy Christian, just 63 students remain at four schools: Clay-Chalkville Middle, Gresham Elementary, Clay Elementary and Erwin Middle.

Christian said deputies are using four-wheel drive vehicles and cars with snow chains, and expect to have all children reunited with their families by nightfall. More than 1,000 students spent the night in Jefferson County schools Tuesday.

Updated at 4:09 p.m. to include information provided by the Jefferson County Sheriff's Office and 5:42 p.m. to include more information from Hoover City Schools.

Update at 7 p.m.:

All students in Jefferson County schools have been reunited with their parents, after the Sheriff's Office and EMA worked with the school system to transport children home. Other districts, including Hoover, are still working on getting students home safely.

Update at 7:15 p.m.:

All students in Birmingham city schools are home safely, with the help of Birmingham Fire and Rescue, Birmingham Police Department and school system security.

Updated at 8:10 p.m.:

The remaining students in Alabaster city schools are safely home.

Updated at 8:57 p.m.:

According to Bice's Twitter feed, all students have now been reunited with their families.

Updated at 10:38 p.m.:

Not all students around the state are back home. At the Alabama School of Fine Arts, there are still 10 non-residential students staying at the school, according to executive director Michael Meeks. The building has dorms, and the students are staying in empty dorms, he said.

Alabama troopers say 5 traffic fatalities possibly weather related (AP)

WETUMPKA (AP) — State troopers have identified five people killed in traffic accidents that they say may have been weather-related.

Two people were killed at 11:35 a.m. Tuesday when a pickup and a train collided two miles north of Cottondale. Troopers identified the victims as 57-year-old Charles Kelly Meiklejohn of Gulf Shores and 39-year-old Nahum Terrance Mickles of Foley.

They say 29-year-old Tyrell Harris of Wetumpka and his 2-year-old son, Rayne Harris, were killed shortly before 8 a.m. Tuesday in a seven-vehicle collision on Alabama 14 west of Wetumpka. Troopers say their preliminary investigation indicates ice on a bridge was a factor.

A two-vehicle crash about 11 a.m. Tuesday in Perry County killed one of the drivers, 64-year-old Emma Evans of Birmingham. The accident occurred 12 miles north of Marion on Alabama Highway 5.

Doctor walks six miles in snow to perform life-saving brain surgery at Trinity Medical Center (al.com)

BIRMINGHAM, Alabama -- Dr. Zenko Hrynkiw was at Brookwood Medical Center Tuesday morning when he was needed for emergency brain surgery at Trinity Medical Center.

The problem was the sudden snowstorm had locked down traffic, and the neurosurgeon didn't get farther than a few blocks.

"The cell service was bad so we were fading in and out," said Steve Davis, charge nurse in the neuro intensive care unit at Trinity. "At one point, I heard him say, 'I'm walking.'"

Davis had alerted authorities, and they were looking for him. There were supposed sightings, but no one could find him.

"The police were looking for him," Davis said.

Hours had gone by since the initial contact in the morning.

"He finally called me and said where's the patient? What's the status?" Davis said. "He spoke to the family and went off to surgery."

It was an emergency surgery for a traumatic brain injury. Hrynkiw is Trinity's only brain surgeon, Davis said.

"Without the surgery, the patient would have most likely died," Davis said. "But he is doing well."

Davis said he and colleagues at Trinity were estimating the hike to the Montclair Road hospital at about eight miles, although Google Maps puts it at about six. The extreme weather Tuesday has been blamed for five deaths statewide and it stranded untold thousands away from their homes.

"This just speaks volumes to the dedication of the man," Davis said. "When I saw him, all I could say is 'you are a good man.' "

Davis said Hrynkiw takes good care of himself and frequently walks for exercise.

Heroic Alabama woman drives 104 people home during Snowmageddon (Yellowhammer News)

According the Trussville Tribune, Beverly Elders Cross had never even used the four-wheel drive setting on her Chevrolet Suburban until Tuesday.

"I thought there would be that one time I may need it and I'd be glad I had it," Cross told Tribune reporter Gary Lloyd.

Truer words have never been spoken.

On Tuesday, as the entire state of Alabama descended into the chaos of Snowmageddon, Cross started by giving a man a ride home from the Trussville Sports Complex. Then she took a couple home to another area of the city. Then, after making sure her daughters were safely home from school at around 4 p.m., she decided to go out and see if there were other people she could help.

6 hours later she had transported an incredible 104 people from abandoned cars to their homes.

Cross finally stopped at 10 p.m. when a gauge on her Suburban informed her that she only had one mile left before running out of gas.

"I was just a small part," she said, in the understatement of the year.

Cross was awoken at 5 a.m. this morning by a friend who'd managed to reach her home by foot.

Unsurprisingly, she let him drive her Suburban home "as long as he didn't drive more than the one mile of gas left in the tank."

Bentley changes emergency propane to help state's poultry farmers: Shortage of fuel said caused by Ky. firm's refusal to refill tanks in Ala. (Montgomery Advertiser)

WASHINGTON — Gov. Robert Bentley has amended an emergency order in response to a propane shortage caused partly by an out-of-state company's decision to stop delivering propane to Alabama poultry farmers.

The change, sent to the propane industry Tuesday night, eliminates the red tape required when one propane company is asked to fill a tank belonging to a different company.

Alabama's propane industry already was struggling to meet high demand caused by frigid temperatures. When Kentucky-based United Propane Gas stopped refilling its customers' tanks, those homeowners and poultry farmers were forced to find alternatives.

The amended order allows propane dealers in Alabama "to fill any container belonging to another propane gas dealer which cannot or will not supply a customer."

A representative of the Alabama propane industry said companies are laboring to take care of the customers abandoned by United Propane Gas, although she did not identify the company by name.

"They are scrambling to take care of their own customers on top of doing anything they possibly can to take on that company's customers," said Lisa Fountain, executive director of the Alabama Propane Gas Association.

Alabama Agriculture Commissioner John McMillan said Tuesday that the propane crisis in Alabama was caused in part by United Propane's decision to no longer deliver propane to its poultry customers. He also did not identify the company by name. MacMillan said the company served about one-third of the poultry business in the state.

The governor's declaration doesn't solve the problem for everyone. There's no guarantee that every customer will be able to find another provider that has propane to sell — or that they can deliver it on icy roads.

And while a homeowner may need only 200 gallons, a poultry farm may need to fill a 1,000-gallon tank for each chicken house. Fountain said the extra demand on the remaining propane dealers is eating up an already low supply, and they're having trouble getting their trucks moving in ice and snow.

"It's breaking my heart," Fountain said. "In my 18 years, I've never heard a propane guy pray for 70-degree weather, but that's what's happening."

Kentucky's attorney general took United Propane to court and a Kentucky judge ordered Tuesday that the company's customers can receive propane from another supplier without a written release from United Propane until Feb. 3.

United Propane President Eric Small said Wednesday he notified his approximately 200 poultry customers in Alabama about a month ago, when the first freeze hit, that he no longer had enough propane to service their chicken houses. He said his residential and commercial customers are getting rationed amounts.

"I had to make a choice between baby chicks or humans, so I decided to take care of homes," Small said.

Small blames his supplier for cutting back on the number of truckloads he could take from the two pipeline terminals in Demopolis and Opelika. And he blames state officials for allowing too many trucks to service propane companies in other states.

He said he has about 26 percent of his normal supply, and he didn't know how other propane companies are able to maintain their supply.

"We're still struggling," Small said. "We've never experienced anything like this."

With persistently low temperatures predicted for the next few days in Alabama, poultry farmers are worried about losing chicks that need a steady 90 degrees during their first few days. The Alabama Farmers Federation said between 21.5 million and 23 million chicks are placed in Alabama farms each week.

"While we are most concerned with making sure people are kept warm and safe, our farmers are also concerned about how the frigid temperatures are affecting livestock and poultry," Federation President Jimmy Parnell said in a statement. "The amount of propane available in the state is unclear, however, and extreme cold and a nationwide shortage are likely to continue impacting availability and price."

Alabama Attorney General Luther Strange said price-gouging laws are in effect as part of the governor's emergency declaration, and his office has received complaints of huge price increases for propane.

Rep. Robert Aderholt, R-Haleyville, whose district includes several poultry farms, has been fielding complaints for several days.

"Propane in rural America can be life or death for people as well as the livelihood (of) those who own and operate poultry houses," Aderholt said through a spokesman. "Once the cold snap is over, there will be time for the governor and Attorney General Luther Strange to look in to pricing irregularities and access issues. Until then, the focus has to be on just keeping the heat on."

Fountain encouraged people with concerns about price gouging or difficulty with their contracts for prepaid gas to call the consumer protection office of the Alabama attorney general. But she warned that not every price increase is considered gouging. She said wholesale prices for propane have doubled in the past several days, and dealers pass that extra cost along to customers.

Editorial: Giving chief examiner's duties to state auditor is worth considering (Montgomery Advertiser)

Quick, name the state auditor of Alabama. No peeking on Google.

If you can do it, you're in a small group, as Alabamians seldom hear much about this constitutional office and have heard next to nothing in the near-silent tenure of the current auditor (dramatic pause as the answer is revealed) — Samantha Shaw.

That is not to say that Shaw has not done her job; she has. However, Alabamians are well justified in asking whether an expansion of the office's responsibilities would be a good idea, and whether the people would be better served by having critical auditing functions in the hands of an individual they elect, rather than one named by a committee of the Legislature and thus at least potentially beholden to that body.

The state auditor's work consists largely of property audits, keeping track of all the stuff the state owns — cars, computers, furnishings, office equipment, etc. — that is valued at more than \$500. That is not unimportant, of course; the taxpayers have a right to expect that the property their tax money purchases for state use is properly accounted for.

However, the really serious auditing work, the sort of auditing that could uncover improprieties in expenditures or contracts or detect other forms of official misuse, falls to the state Department of Examiners of Public Accounts, under the direction of the chief examiner.

Under current law, the chief examiner is appointed by the Legislature's Committee on Public Accounts for a seven-year term. He or she may be reappointed as many times as the committee chooses. The current chief examiner, Ronald Jones, has held the job since 1982.

The chief examiner's "actions shall be supervised and controlled" by the committee. That's not empty language; the committee has considerable power. It can remove the chief examiner through impeachment proceedings it is empowered to institute. In fact, any group of at least 15 legislators can bring charges and start the impeachment process.

A bill by Rep. Ed Henry, R-Decatur, would place the department within the auditor's office. The auditor would "perform the duties and assume the authority of the Chief Examiner," the bill states.

We think there's a lot to be said for this approach. The auditor is elected by the people in a statewide vote, not hand-picked by a committee of the Legislature. An auditor who performed poorly, who failed to fairly but aggressively examine the stewardship of the taxpayers' money, would have to answer to the voters.

Changing the responsibilities of one of the state's constitutional offices is not something to be done casually, but in this case it makes a lot of sense.

Editorial: An Alabama workhouse system (Anniston Star)

"And the Union workhouses, are they still in operation." -- Ebenezer Scrooge, A Christmas Carol

It was illegal to be poor, unemployed and visible in Victorian England. (The visible poor have always been a problem. The poor one cannot see are easily ignored.) To address this situation, Parliament, through a series of "Poor Laws," created the workhouse system.

Thus, the English state took over the responsibility of caring for the poor and the poor, in turn, were expected to work to repay the state for its generosity.

State Sen. Bryan Taylor, R-Prattville, saw some of Alabama's visible poor "just sitting on the porch" and decided that "if they're on public assistance ... they should be doing something."

No, Taylor is not proposing that our state build workhouses where the poor can be put out of sight and labor for their sustenance like they did in Charles Dickens' day. However, he is motivated by the same belief that if the poor are going to get help from the state, they should be required to work for it.

Despite sounding punitive, the plan is not without its merits. Hark back to the 1930s and you will find that many of the programs of the New Deal were designed to put people to work doing needed jobs and getting paid for it. Honest labor would replace the dole. That modern conservatives blame the New Deal for creating a culture of dependency is a striking irony in what Sen. Taylor proposes. Equally ironic is that putting people to work through government programs has been a hallmark of liberal economics for decades.

But irony aside, Taylor has introduced a bill that would require the able-bodied unemployed to do community-service labor for nonprofit organizations in order to receive government benefits.

So far the only objections are in the bill's details, and we all know that is where the Devil lurks.

Taylor's plan would require the Alabama Department of Labor to set up and administer the program, but that department has endured cutbacks from the state government. How, it is reasonable to ask, can it accomplish the task without additional funding?

Taylor says the cost will be offset by money saved on the benefits lost by the non-complying unemployed. Many are skeptical. There also is the possibility that there will not be enough nonprofits taking part to absorb all the workers who are told to work.

In short, this bill needs a thorough rethinking.

However, if the state can find a way to put people to work doing jobs that need to be done -- without turning the plan into punishment rather than service -- Sen. Taylor might have something that would make Franklin D. Roosevelt, John F. Kennedy and Lyndon B. Johnson proud.

OUR VIEW: Tougher welfare rules (Gadsden Times)

We have mixed feelings about efforts by two state senators to toughen the rules for Alabama's Temporary Assistance to Needy Families program, colloquially known as welfare.

A package of four bills by Sen. Trip Pittman, R-Daphne, and Arthur Orr, R-Decatur, were approved last week by the Senate Fiscal Responsibility and Accountability Committees.

They now will go to the full Senate, where Pittman and Orr, as chairmen of the budget committees, carry a lot of clout.

Pittman's bill would mandate drug testing for any welfare applicant who has had a misdemeanor or felony drug conviction in the past five years (current law only covers felony convictions).

Any applicant who flunks three tests would be permanently barred from receiving benefits, although any family members wouldn't be affected.

We don't have a problem here. A five-year window and three strikes offer plenty of opportunities for someone to get clean — a legitimate, justified prerequisite for receiving benefits from the state's taxpayers and no child will suffer for its parents' sins.

We don't have a problem with two of Orr's bills, either. One adds stronger penalties for lying to get welfare benefits, which speaks for itself. The other expands a federal mandate that by February, states bar the use of electronic welfare benefit cards at liquor stores, casinos and bars. Orr would add tattoo parlors, psychic networks and strip clubs.

Some criticize those restrictions as cruel and unfair to people who ought to have the chance at a little fun and diversion. We have no problem with welfare recipients having fun and diversion, just with it being on the taxpayers' collective dime through a safety net program that's supposed to help meet basic needs.

Orr's other bill would require welfare applicants to have applied for three jobs before they can receive benefits. The sentiment there is fine, but we wonder how this will work in practice in an environment where jobs remain scarce.

People might gain some experience in filling out applications and compiling résumés, but if all that's required is turning in sheets of paper or hitting "submit" on a computer screen just to meet a quota, it's no more than busy work.

It's futile busy work when someone applies for a job he or she is completely unqualified for and has no chance of getting, again just to meet a quota.

Why not ask welfare applicants to show evidence that they haven't just consulted, but actually have explored the educational and job resources available at their local Career Center office? There's still no guarantee they'll get a job, but it's likely to be a more productive experience than just filling in the blanks.a

Escambia County tax assessor's filing with Alabama Supreme Court states he plans to audit Poarch Band lands (Montgomery Advertiser)

In a filing with the Alabama Supreme Court on Tuesday, Escambia County Tax Assessor Jim Hildreth said he would move ahead with an audit of Poarch Band of Creek Indian lands in the county, citing a recent federal court ruling in California on Indian tribal lands.

The land in question in Escambia County includes the Wind Creek Casino in Atmore.

The move is the latest skirmish in an ongoing fight between the tribe and the county over whether Escambia County can assess and tax Poarch Band land, following a 2009 U.S. Supreme Court that reopened questions on the status of land held in trust by the federal government for federally-recognized Indian tribes.

The filing cites *Big Lagoon Rancheria v. State of California*, a decision handed down by the U.S. Ninth Circuit Court of Appeals on Jan. 21. In the case, involving a dispute between the state of California and an Indian tribe over a gaming compact, the court ruled 2 to 1 that property at the heart of the dispute did not constitute Indian land because the tribe was not federally recognized in 1934.

In the 2009 U.S. Supreme Court case, *Carcieri v. Salazar*, the high court ruled that the federal government could not take land into trust from tribes that received federal recognition after that date. The Poarch Band, which also operates gaming facilities in Montgomery and Wetumpka, received federal recognition in 1984.

In the filing with the Alabama Supreme Court, Sen. Bryan Taylor, R-Prattville, who represents Escambia County as a private attorney, wrote that the Ninth Circuit's decision settled a question left open in the *Carcieri* case as to whether "past entrustments" of land to tribes by the U.S. Department of the Interior after 1934 were valid, even after statutes of limitations ran out.

"If the Poarch Band, like the Big Lagoon tribe, is not a tribe that was 'under federal jurisdiction' in 1934 for which the Interior secretary was authorized to take land into trust, and consequently, the Poarch Band's lands are not 'Indian lands,' then the tax assessor has a clear legal duty to assess the property for taxation, and this state's courts must be open for the judicial enforcement of such assessments," Taylor wrote.

Taylor wrote that Hildreth "has notified the Poarch Band of his initiation of an audit for the purpose of assessing all the real and personal property of the Poarch Band in Escambia County for escaped taxes for the years 2009 through 2013."

Robert McGhee, the director of governmental relations for the Poarch Band, said Wednesday the tribe does not comment on pending litigation. The Poarch Band has argued in the past that the *Carcieri* decision applied only to pending trust land applications and not those that have already taken place.

The filing, called a supplemental authority, is part of a case known as *Rape v. Poarch Band*, brought by Jerry Rape, who said he was denied a \$1.3 million jackpot at the Poarch Band's Montgomery facility in 2010. Rape, citing the *Carcieri* decision, argues he can sue the tribe in Montgomery County Circuit Court over the jackpot; the tribe claims sovereign immunity from such actions.

The Bureau of Indian Affairs, which oversees trust land for the U.S. Department of Interior, ruled in 2012 that the Poarch Band land in Escambia County constituted land in trust, though the Escambia County argued that BIA had sidestepped their inquiry as to the disposition of the land. The U.S. government has also filed a brief on behalf of the Poarch Band, saying that the statute of limitations for challenging trust cases has run out.

The federal government holds title to trust land, but the tribe on the land has control over use and improvements. Federally-recognized tribes are considered sovereign nations, though subject to some federal regulations.

Alabama Attorney General Luther Strange has also filed suit against the Poarch Band, claiming the tribally-operated casinos constitute a public nuisance, with gaming machines that violate state and federal law. The tribe says the claims are without merit.

RSA meeting to discuss Bronner's role canceled (TimesDaily)

MONTGOMERY — A Retirement Systems of Alabama board meeting scheduled for Thursday to discuss CEO David Bronner's role in making the state retiree fund's investments has been canceled.

According to an email to board members late last week, the meeting was canceled at the request of board Vice Chairwoman Jackie Graham to "allow more time to work with the investment procedures committee and RSA staff on the investment policy."

Employees' Retirement System board member Steve Williams said Wednesday he hasn't been told of a new meeting date. The employees' retirement system board's next regular meeting is in March.

Thursday's meeting was supposed to iron out the details related to a resolution approved by the board in December. It said RSA's three-member investment committee should "independently consider all investment recommendations made by (Bronner) and independently decide whether to approve or disapprove each investment recommendation."

For decades, that approval has been done by proxy, and committee members reviewed the investments later, but board members have questioned the legality of that under state law.

Bronner said requiring pre-approval would slow the process and hurt RSA.

The change is supposed to go into effect Saturday, but its finer points have yet to be worked out.

Graham is the state's personnel director. Most of state government was shut down Wednesday because of the weather, and Graham could not be reached at her office.

Similarly, phones at RSA weren't answered.

Some, including north Alabama Democratic lawmakers, said the board's vote last month was an attack on Bronner and a Republican grab for the billions of dollars RSA controls.

Others, including Gov. Robert Bentley, dispute that claim. Bentley, the official chairman of the board, said he knew nothing about the resolution beforehand but supports it.

Some Republican Statehouse leaders have said they want more information about RSA's investments, which are partially funded by taxpayers.

In 2012, The Pew Charitable Trust said the long-term liabilities of the retirement system were cause "for serious concern." In 2010, the system was about 70 percent funded and had a \$13 billion funding gap, Pew reported.

A retirement system should be at least 80 percent funded, Pew said. That same year, Mississippi was 64 percent funded; Georgia was 85 percent; Tennessee was 90 percent, and Florida was 82 percent.

The Employees' Retirement System is a roughly \$10 billion fund; the Teachers' Retirement System is at nearly \$20 billion. In 2012, RSA paid out more than \$2 billion in benefits to retirees. Those benefits are funded through employee contributions, state contributions and investment returns.

According the Legislative Fiscal Office, state contributions have risen significantly in the past 10 years. In the employees' system, state contributions increased from \$46 million in 2002 to \$152 million in 2012. In the teachers' system, the increase was from \$266 million to \$621 million.

[House Approves Farm Bill, Ending a 2-Year Impasse \(New York Times\)](#)

WASHINGTON — The House of Representatives on Wednesday passed a bill authorizing nearly \$1 trillion in spending on farm subsidies and nutrition programs, setting the stage for final passage of a new five-year farm bill that has been stalled for more than two years.

Negotiators from the House and Senate spent several weeks working out their differences on issues in the legislation, including cuts to food stamps, income caps on farm subsidies and a price support program for dairy farmers. The bill is expected to save about \$16.6 billion over the next 10 years.

The bill passed the House by a vote of 251 to 166. The Senate is expected to take up the bill later this week.

Compared with earlier, more contentious votes on the farm bill, Wednesday's vote was largely bipartisan. Many Democrats who had opposed it because of cuts to the food stamp program supported it on Wednesday. A number of Republicans, including many who wanted deeper cuts to the food stamps, also voted for passage.

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The House speaker, John A. Boehner of Ohio, and the majority leader, Eric Cantor, Republican of Virginia, had endorsed the bill and urged Republicans to support it, even though they said they would have liked to see more changes.

"This is legislation we can all be proud of because it fulfills the expectations the American people have of us," said Representative Frank D. Lucas, Republican of Oklahoma, who led House efforts to pass the farm bill.

House leaders are now expected to turn their attention to other issues, including the Affordable Care Act, ahead of the 2014 midterm elections.

It is unclear where the Obama administration stands on the new farm bill. Mr. Obama had signaled his opposition to any bill that cut food stamps and expanded crop insurance.

The new farm bill, which had been mired in partisan gridlock, makes fundamental changes to both nutrition and farm programs. It cuts the food stamp program by \$8 billion, and about 850,000 households will lose about \$90 in monthly benefits under the change.

Anti-hunger groups called the food stamp cuts draconian. Feeding America, a coalition of food banks across the country, said the change would result in 34 lost meals per month for the affected households.

The bill does provide a \$200 million increase in financing to food banks, though many said the money might not be enough to offset the expected surge in demand for food.

Farm programs were not spared from the cuts in the new bill. The most significant change to farm programs is the elimination of a subsidy known as direct payments. These payments, about \$5 billion a year, are paid to farmers whether or not they grow crops, and the issue had become politically toxic over the last several years as farm income has risen to record levels.

The new bill cuts this subsidy and adds some of the money to the government-subsidized crop insurance. The government pays 62 percent of premiums for the \$9 billion-a-year insurance program.

Lawmakers said the elimination of the direct payments ensured that only those who actually farm would receive subsidies and only when affected by a disaster such as drought. Budget watchdog groups called it a bait-and-switch, and said it replaced one subsidy with an even more generous one.

"This bill is so bad, they literally stripped reform from the title," said Steve Ellis, vice president of Taxpayers for Common Sense, based in Washington.

Although most agriculture groups generally supported the new farm bill, several were left disappointed.

The seafood industry expressed disappointment that a contentious seafood inspection program at the Agriculture Department remained in the bill, despite bipartisan efforts to repeal it. Meat and poultry industry groups also expressed their concern with the bill because it did not include language to delay a labeling program that requires retailers to list the country of origin of meat. The industry said the labeling was too costly.

The bill does not address the changes to the international food aid program sought by the Obama administration, but it does give an increase of about \$80 million to the United States Agency for International Development to buy food closer to disaster areas, rather than shipping food from the United States.

Anti-hunger groups, including the World Food Program, support the proposal. Several environmental groups, such as Ducks Unlimited, also expressed their support for the new farm bill because it includes new soil and water conservation measures.

[Rep. Robert Aderholt named to House Appropriation's Defense Subcommittee \(al.com\)](#)

An Alabama lawmaker has been named to the U.S. House subcommittee that sets spending levels for the military.

On Wednesday, Rep. Robert Aderholt, R-Haleyville, was named to the House Appropriations Committee's Defense Subcommittee. The subcommittee, currently chaired by Rep. Rodney Frelinghuysen, R-NJ, sets annual appropriation levels and has spending oversight for the Departments of Army, Navy, Air Force and Marines, as well as the Central Intelligence Agency.

Aderholt, whose district includes Morgan, Cullman and Marshall counties, said the position will allow him to convey the unique role the state plays in national defense.

"Given the history of working with Redstone Arsenal over the years I have seen first-hand the important role northern Alabama and the entire state plays in our national defense, particularly as it relates to missile defense," Aderholt said. "This is particularly important as the Department of Defense continues to transition to meet new threats."

Aderholt is currently in his ninth term representing the Fourth Congressional District. He also serves as chairman of the House Appropriations Subcommittee on Agriculture.

Describing Aderholt as a "strong believer in fiscal responsibility," Frelinghuysen said he was confident Aderholt would work to "ensure that our men and women in uniform, and their families, have everything they need.

"I look forward to working with him on the subcommittee to improve military readiness and by making every dollar of defense spending count."

[Four words in the ACA could spell its doom \(Washington Post\)](#)

By George F. Will, Published: January 29

Someone you probably are not familiar with has filed a suit you probably have not heard about concerning a four-word phrase you should know about. The suit could blow to smithereens something everyone has heard altogether too much about, the Patient Protection and Affordable Care Act (hereafter, ACA).

Scott Pruitt and some kindred spirits might accelerate the ACA's collapse by blocking another of the Obama administration's lawless uses of the Internal Revenue Service. Pruitt was elected Oklahoma's attorney general by promising to defend states' prerogatives against federal encroachment, and today he and some properly litigious people elsewhere are defending a state prerogative that the ACA explicitly created. If they succeed, the ACA's disintegration will accelerate.

Because under the ACA, insurance companies cannot refuse coverage because of an individual's preexisting condition. Because many people might therefore wait to purchase insurance after they become sick, the ACA requires a mandate to compel people to buy insurance. And because many people cannot afford the insurance that satisfies the ACA's criteria, the ACA mandate makes it necessary to provide subsidies for those people.

The four words that threaten disaster for the ACA say the subsidies shall be available to persons who purchase health insurance in an exchange "established by the state." But 34 states have chosen not to establish exchanges.

So the IRS, which is charged with enforcing the ACA, has ridden to the rescue of Barack Obama's pride and joy. Taking time off from writing regulations to restrict the political speech of Obama's critics, the IRS has said, with its breezy indifference to legality, that subsidies shall also be dispensed to those who purchase insurance through federal exchanges the government has established in those 34 states. Pruitt is challenging the IRS in the U.S. District Court for the Eastern District of Oklahoma, and there are similar challenges in Indiana, Virginia and Washington, D.C.

The IRS says its "interpretation" — it actually is a revision — of the law is "consistent with," and justified by, the "structure of" the ACA. The IRS means that without its rule, the ACA would be unworkable and that Congress could not have meant to allow this. The ACA's legislative history, however, demonstrates that Congress clearly — and, one might say, with malice aforethought — wanted subsidies available only through state exchanges.

Some have suggested that the language limiting subsidies to state-run exchanges is a drafting error. Well.

Some of the ACA's myriad defects do reflect its slapdash enactment, which presaged its chaotic implementation. But the four potentially lethal words were carefully considered and express Congress's intent.

Congress made subsidies available only through state exchanges as a means of coercing states into setting up exchanges.

In Senate Finance Committee deliberations on the ACA, Chairman Max Baucus (D-Mont.), one of the bill's primary authors, suggested conditioning tax credits on state compliance because only by doing so could the federal government induce state cooperation with the ACA. Then the law's insurance requirements could be imposed on states without running afoul of constitutional law precedents that prevent the federal government from commandeering state governments. The pertinent language originated in the committee and was clarified in the Senate. (See "Taxation Without Representation: The Illegal IRS Rule To Expand Tax Credits Under The PPACA," by Jonathan H. Adler and Michael F. Cannon in *Health Matrix: Journal of Law-Medicine*.)

Also, passage of the ACA required the vote of every Democratic senator. One, Nebraska's Ben Nelson, admirably opposed a federal exchange lest this become a steppingstone toward a single-payer system.

If courts, perhaps ultimately including the Supreme Court, disallow the IRS's "interpretation" of the law, the ACA will not function as intended in 34 states with 65 percent of the nation's population. If courts allow the IRS's demarche, they will validate this:

By dispensing subsidies through federal exchanges, the IRS will spend tax revenues without congressional authorization. And by enforcing the employer mandate in states that have only federal exchanges, it will collect taxes — remember, Chief Justice John Roberts saved the ACA by declaring that the penalty enforcing the mandate is really just a tax on the act of not purchasing insurance — without congressional authorization.

If the IRS can do neither, it cannot impose penalties on employers who fail to offer ACA-approved insurance to employees.

If the IRS can do both, Congress can disband because it has become peripheral to American governance.